

LIM SIO BIO, ALSO KNOWN AS CORA LIM AND CESAR ONG, PETITIONERS, VS. THE COURT OF APPEALS AND PRODUCERS BANK OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 100867. April 07, 1993

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

This is a petition for review of the Decision* of the Court of Appeals dated January 22, 1991, and of its Resolution** dated July 8, 1991 which denied the Motion for Reconsideration of the aforesaid Decision in CA G.R. No. 20880 entitled "Lim Sio Bio, et al. vs. Producers Bank of the Philippines". The respondent Court of Appeals affirmed the decision*** of the lower court which dismissed the complaint for failure of the petitioners to prove their claims by a preponderance of evidence.

In the case[1] which petitioners filed with the Regional Trial Court of Manila, Branch 45, they sought to recover the sums of P2,194,705.86[2] and P74,634.80,[3] constituting the principal and interest of money market placements which petitioner Lim Sio Bio made with the respondent bank. To support their claim, petitioners presented several documents consisting of respondent bank's official receipts, as well as Investment Advices, Confirmation of Purchases and Confirmation Letters.

It appears from the record that sometime in 1981, petitioner Lim Sio Bio, otherwise known as Cora Lim, started making money market placements with respondent bank.[4] Her initial placement is evidenced by respondent bank's Official Receipt No. 237825[5] dated September 3, 1981 and by respondent bank's Investment Advice No. 17852,[6] both in the amount of P120,000.00, the latter bearing the due date of January 31, 1982. Subsequently, said petitioner Lim made several other placements on different dates, for various amounts and due dates. All of these placements were supported by Official Receipts issued specifically to Lim Sio Bio or to Cora Lim, signed by Deborah Dee Santos, a duly authorized officer of respondent bank. These receipts were followed by an Investment Advice[7] specifying the amount of placement, the date of maturity and the rate of interest to be earned. Whenever a placement matured, petitioner Lim would "roll over" the funds[8] i.e., it was renewed for a specific period and the interest earned on the placement would be added to the principal. At times, petitioner Lim would accumulate two or three maturing placements and "roll them over" as one. At such "roll over", an Investment Advice would also be given to her specifying the date of maturity, the amount "rolled over" and the rate of interest. No Official Receipt was issued for the "rolled over" amounts apparently because the funds never left the possession of respondent bank.

Sometime in August, 1982, the Investment Advice usually issued by respondent bank was replaced by a Confirmation of Repurchase, which in turn was later substituted by a Confirmation of Purchase. Despite the difference in nomenclature, all three have substantially the same effect. They all confirm the receipt of the amount from the investor in the form of specified securities, and under all of them, respondent bank obligated itself to pay the investor the principal plus a specified rate of interest.

The last two "roll overs" were made by petitioner Lim on November 8, 1983.[9] One was for the amount of P2,093,124.00 and the other for P71,207.92. Each was supported by a Confirmation of Purchase, the first for P2,194,705.86,[10] and the second for P74,634.80,[11] and both were due on February 6, 1984. These two "roll overs" together combined all of petitioner Lim's placements since she made her first one on September 3, 1981, together with the accumulated interests on all such placements. The difference between the rolled over amounts and those in the Confirmations of Purchase represented the interest which respondent bank was to pay on the principal.

When these two "roll overs" matured, respondent bank refused to pay despite repeated demands by petitioner Lim. Its refusal was based on the fact that petitioner Lim's alleged two "rolled over" placements did not appear in its records and that petitioner Lim did not present sufficient evidence thereof. It alleged that the two Confirmations of Purchase presented by petitioner Lim were merely "preliminary documents" which may not necessarily lead to the perfection of the contract. According to respondent bank, the basic document is its Official Receipt, and since petitioner Lim could not present any such receipt for the "rolled over" placements, she had no legal basis for her claim.[12] It further claimed that since there were apparent alterations on the Investment Advices presented by petitioner Lim to prove her prior placements, they were not binding on respondent bank.

We cannot agree with respondent bank's stand that the Confirmation of Purchase is a mere preliminary document. It may be considered as such by the bank, but an ordinary investor who is not familiar with banking practices, may easily conclude otherwise. The Confirmation of Purchase is in printed form under the heading "Producers Bank of the Philippines". It confirms having purchased specified securities from the investor and provides blanks for the date of issue, maturity date and par value of the securities which represent the amount invested (these securities were not delivered to petitioner Lim but were kept by respondent bank), as well as blanks for the amount of interest in pesos, and the total amount to be paid by respondent bank. Below these blanks are four alternative instructions to be followed by respondent bank, number 4 of which says: "4. Other instructions _____". On the first Confirmation of Purchase, the following is typewritten on this last blank: "We will issue you a Manager's check amounting to P2,194,705.86 on February 6, 1984".[13] On the second Confirmation of Purchase, this last blank is filled in thus, also typewritten: "We will issue you a Manager's check amounting to P74,634.80 on February 6, 1984".[14] Both Confirmations of Purchase are signed by Deborah Dee Santos, who was admitted by respondent bank's own witness to have been an officer of respondent bank during all the time that petitioner Lim dealt with her. Another signature appears beside that of Dee Santos, but is illegible. According to petitioner Lim's undisputed testimony, when she first went to respondent bank's office to inquire about money market placements, she was referred to Deborah Pee Santos, who identified herself as the head of the Money Market Department. Conrado Mañebo, respondent's bank Internal Auditor at that time, testified that Dee Santos was Assistant Manager of the Money Market Department[15] and that she was a highly respected trader of respondent bank, being one of its biggest money market traders.

It is clear from the Confirmations of Purchase that respondent bank admits having purchased the securities therein with stated par value, and that it would issue Manager's checks for the amounts of the total purchase price stated therein, which included the interest. Any ordinary investor, as petitioner Lim was, cannot but interpret this document to mean that respondent bank admits having received her money and that she would get it back with interest on the due date. With respect to the first Confirmation of Purchase, this means that respondent bank would pay her P2,194,705.86 on February 6, 1984 for the P2,093,935.23,[16] the par value of the securities which represent the amount she invested. The difference between the two amounts represents the interest which respondent bank agreed to pay on her investment. From petitioner Lim's point of view then, the Confirmation of Purchase was both a receipt for the funds she invested with respondent bank and a promise by the latter to pay her back the same with interest. There was thus no need for an Official Receipt as alleged by respondent bank.

Furthermore, since the Confirmations of Purchase in question represent "roll overs" and not new funds invested, the funds they cover remained with respondent bank, and therefore, no other receipt was expected by the investor. Since under the two (2) Confirmations of Purchase, respondent bank obligated itself to pay the stated amount on the date of maturity, it cannot now refuse to pay on the ground that it has no record of such Confirmations of Purchase on file or that petitioner Lim had no official receipts for the two "roll overs". The investor has no access to the bank records and would normally never think of even inquiring about it. He has the right to assume that the bank keeps its records faithfully. In this case, petitioner Lim had also the right to assume, as in fact was the case, that Deborah Dee Santos was authorized to issue such Confirmations of Purchase as she knew she was an officer of respondent bank, with whom she had been dealing with since 1981. All the Official Receipts she presented as evidence of her original and subsequent placements were duly signed by Deborah Dee Santos and their authenticity is not questioned. In fact, Carlos Mañebo, respondent bank's Internal Auditor, admitted in his testimony that the signatures of Dee Santos on petitioners' exhibits were genuine. These receipts prove that petitioner Lim did indeed make seventeen (17) placements with respondent bank.

It is true that there were apparent alterations on the various Investment Advices which petitioners presented as evidence, but it is just as clear from a perusal of such evidence that they all have respondent bank's checkwriter imprinted on them stating the exact amount involved in each of such Investment Advice. Although alterations could be made with respect to the typed entries, an alteration of the checkwriter imprint is next to impossible. In fact, respondent bank did not question the authenticity of said imprint. It admitted also that the Investment Advices were actual bank forms, but claimed that since the alterations were apparent, they could not have been missed by petitioner Lim and that she was thus grossly negligent in not questioning the same when she received the Investment Advices. Petitioner Lim, on the other hand testified that she was more concerned about whether the amount imprinted on such Investment Advices tallied with the amount of her investment/placement,^[17] and thus failed to notice the erasures. In all the Investment Advices, the amount stated in place of the erased typewritten amount tallied with the amount imprinted by respondent bank's checkwriter. Neither respondent bank nor petitioner Lim could prove who made the alterations, but petitioner Lim testified, and this was not disputed, that she received the Investment Advices "as is",^[18] meaning that she received each Investment Advice as it appeared at the time of her testimony, with the alterations. We believe that it is possible under the circumstances of the case that petitioner Lim gave no importance to the erasures because she felt secure enough with the fact that the amounts imprinted on the Investment Advices tallied with her placements. Although he was a businesswoman, it does not necessarily follow that she has the same perception of the significance of erasures which a lawyer may have. And even assuming that she was indeed negligent in failing to question the erasures, petitioner Lim's claim is not based merely on the Investment Advices, but mainly on the two (2) Confirmations of Purchase, the binding effect of which We have already discussed earlier. The Investment Advices were presented in evidence to strengthen petitioner Lim's claim and to show that she had repeatedly rolled over her previous placements. Even without the altered Investment Advices, she has a valid cause of action on the two (2) Confirmations of Purchase alone. As We noted earlier, these two (2) Confirmations of Purchase consolidated all her previous placements, and standing alone, prove that she made the placements in the amounts therein stated and that respondent bank had obligated itself to pay her on February 8, 1984 by Manager's check, the full amount stated in said Confirmations of Purchase. The fact that said Confirmations of Purchase were unnumbered is immaterial as far as petitioner Lim is concerned. Perhaps, it was material from the viewpoint of respondent bank but there is no evidence at all to show that petitioner Lim was aware of its materiality. The possibility exists that she did not even notice that they were unnumbered. In any case, the lack of such number cannot prevail over the express promise of respondent bank to pay and cannot affect her right to demand repayment of her placements, plus interest.

On the other hand, the Official Receipts which petitioner Lim presented in evidence were admittedly authentic

forms properly signed by Deborah Dee Santos who as Assistant Manager of the Money Market Department had authority to issue and sign them. These receipts prove petitioner Lim's claim that she made not only the original placement but made several more during the period from 1981 to 1983. Based on these Official Receipts, she made seventeen (17) placements the sum total of which amounted to P1,920,766.70. Interest rates agreed upon ranged from 15% to 19.25%, or an average of 17%. Earnings on the placements computed at 17% would be roughly about P330,000.00. Added to the principal, the sum comes up to P2,247,297.00, very close to the amounts of the last two "roll overs" totaling P2,269,340.66, which petitioner Lim claimed to be the accumulation of her placements and "roll overs", with interest.

Respondent bank also showed that the Investment Advices in their file which are supposed to correspond to the numbers of the Investment Advices presented as evidence by petitioner Lim, contain different amounts and maturity dates, and that the placements indicated in these Investment Advices in their file have all been paid by respondent bank. Cancelled Manager's checks were introduced in evidence to prove these payments. However, there was no proof at all that petitioner Lim ever received any of these payments. In fact, the testimony of respondent bank's Internal Auditor, Conrado Mañebo, was to the effect that respondent bank's records do not show who received the checks in payment nor do these records identify which bank employee delivered such checks in payment.[19]

The probability that all the irregularities in this case were committed by a bank "insider" is certainly strong. According to Mañebo, Deborah Dee Santos went on leave without pay sometime in early 1983 and has never come back. He also testified that soon after she left, respondent bank received complaints from several of its investors about newly discovered irregularities in their placements. These admissions give rise to a strong suspicion that Dee Santos was the person responsible for the irregularities in these transactions, including petitioner Lim's. As an officer of the bank, she had access to its records. She received the funds of petitioner Lim on behalf of respondent bank. The latter had no control over Dee Santos and could not possibly know what Deborah Dee Santos did with her funds and with respondent bank's records. Petitioner Lim had her authentic Confirmations of Purchase and to her mind, that was enough protection for her. On the other hand, respondent bank has the legal responsibility to exercise due diligence not only in the selection but also in the supervision of its employees. A bank, being greatly affected with public interest, should exercise even a higher degree of diligence in the handling of its affairs than that expected of an ordinary business firm. Depositors, and the investing public in general, entrust with it their funds, giving rise to the obligation of the bank to live up to this trust and take all reasonable measures to prevent the dissipation of such funds due to the fault or negligence of its employees. We believe that respondent bank has failed in this duty and it cannot pass on this responsibility to petitioner Lim, who acted in good faith in her dealings with its duly authorized officer. The fact that there were several complaints regarding the placements made with Deborah Dee Santos as respondent bank's representative shows that respondent bank failed to diligently monitor the activities of its money market traders who accept big amounts of money on its behalf. Apparently, the anomalies had been going on for almost two (2) years, since even the first of petitioner Lim's placements was found to have been tainted with irregularity. It was only when Deborah Dee Santos left without notice that the anomalies were discovered. Under these circumstances, the blame can only be laid on respondent bank.

Regarding respondent bank's contention that the Confirmations of Purchase reflect erroneous amounts of interest, We hold that it is now estopped from assailing such error for it became bound to pay the same when these were signed by authorized officer. The petitioners herein had nothing to do with the computation of said interest and it would be unjust to make them suffer for such error, if any.

In resume: The Official Receipts presented by petitioner Lim prove that she has made seventeen (17) placements

in the sum total of P1,920,766.70. The two (2) Confirmations of Purchase held by Lim prove that the bank promised to pay her P2,269,340.66 on February 6, 1984. The difference between these two amounts corresponds roughly to the estimated interest on these earnings. The consideration for respondent bank's promise is furnished by the placements made by petitioner Lim and its use of such funds for legitimate purposes. Although respondent bank claimed payment of these placements, there was no proof at all as to who received the payments or that petitioner Lim received any part of the same. In Our opinion, the preponderance of evidence supports the claim of petitioner Lim.

WHEREFORE, in view of the foregoing, the assailed decision and resolution of the respondent Court of Appeals are hereby REVERSED and a new one is entered ordering respondent Producers Bank of the Philippines to pay petitioners the amount of what was due to them upon the date of maturity of the last renewal of the money market placements, that is, P2,194,705.86 and P74,634.80 as of February 6, 1984, plus twelve per cent (12%) per annum from February 6, 1984, compounded yearly until full payment. As there is no showing that respondent bank acted in a wanton, fraudulent, reckless, oppressive or malevolent manner, no other damages may be awarded. No pronouncement as to costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, and Nocon, JJ., concur.

Padilla, J., no part.

* Penned by Justice Abelardo M. Dayrit, with Justices Reynato S. Puno and Oscar M. Herrera, concurring.

** Penned by Justice Oscar M. Herrera, with Justices Jose A.R. Melo and Reynato S. Puno, concurring.

*** Penned by Judge Andres E. Matias

[1] Civil Case No. 86-37322.

[2] Exhibit "W" for Petitioners, Records, p. 104.

[3] Exhibit "CC" for Petitioners, Records, p. 108.

[4] TSN, September 1, 1987, p. 3.

[5] Exhibit "A" for Petitioners, Records, p. 65.

[6] Exhibit "A-1" for Petitioners, Records, p. 66.

[7] TSN, September 10, 1987, p. 8.

[8] Supra, note 4 at p. 21.

[9] Supra, note 4 at p. 15.

[10] Supra, note 2.

[11] Supra, note 3.

[12] Answer, p. 1; Records, p. 15.

[13] Exhibit "W-2" for Petitioners, Records, p. 104.

[14] Exhibit "C-2" for Petitioners, Records, p. 108.

[15] TSN, November 10, 1987, p. 12.

[16] Supra, note 2.

[17] Supra, note 7 at p. 11.

[18] Ibid., p. 10.

[19] Supra, note 15 at pp. 16-18.

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