

TRANS-PACIFIC INDUSTRIAL SUPPLIES, INC., PETITIONER, VS. THE COURT OF APPEALS AND ASSOCIATED BANK, RESPONDENTS.

G.R. No. 109172. August 19, 1994

Ponente: BIDIN, J.

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BIDIN, J.:

In this petition for review on certiorari, petitioner Trans-Pacific Industrial Supplies, Inc. seeks the reversal of the decision of respondent court, the decretal portion of which reads:

"WHEREFORE, the decision of June 11, 1991 is SET ASIDE and NULLIFIED; the complaint is dismissed, and on the counterclaim, Transpacific is ordered to pay Associated attorney's fees of P15,000.00.

"Costs against Transpacific.

"SO ORDERED." (Rollo, p. 47)

Sometime in 1979, petitioner applied for and was granted several financial accommodations amounting to P1,300,000.00 by respondent Associated Bank. The loans were evidenced and secured by four (4) promissory notes, a real estate mortgage covering three parcels of land and a chattel mortgage over petitioner's stock and inventories.

Unable to settle its obligation in full, petitioner requested for, and was granted by respondent bank, a restructuring of the remaining indebtedness which then amounted to P1,057,500.00, as all the previous payments made were applied to penalties and interests.

To secure the re-structured loan of P1,213,400.00, three new promissory notes were executed by Trans-Pacific as follows: (1) Promissory Note No. TL-9077-82 for the amount of P1,050,000.00 denominated as working capital; (2) Promissory Note No. TL-9078-82 for the amount of P121,166.00 denominated as restructured interest; (3) Promissory Note No. TL-9079-82 for the amount of P42,234.00 denominated similarly as restructured interest (Rollo, pp. 113-115).

The mortgaged parcels of land were substituted by another mortgage covering two other parcels of land and a chattel mortgage on petitioner's stock inventory. The released parcels of land were then sold and the proceeds amounting to P1,386,614.20, according to petitioner, were turned over to the bank and applied to Trans-Pacific's restructured loan. Subsequently, respondent bank returned the duplicate original copies of the three promissory notes to Trans-Pacific with the word "PAID" stamped thereon.

Despite the return of the notes, or on December 12, 1985, Associated Bank demanded from Trans-Pacific payment of the amount of P492,100.00 representing accrued interest on PN No. TL-9077-82. According to the bank, the promissory notes were erroneously released.

Initially, Trans-Pacific expressed its willingness to pay the amount demanded by respondent bank. Later, it had a change of heart and instead initiated an action before the Regional Trial Court of Makati, Br. 146, for specific

performance and damages. There it prayed that the mortgage over the two parcels of land be released and its stock inventory be lifted and that its obligation to the bank be declared as having been fully paid.

After trial, the court a quo rendered judgment in favor of Trans-Pacific, to wit:

"WHEREFORE, premises considered and upon a clear preponderance of evidence in support of the stated causes of action, the Court finds for the plaintiffs and against defendant, and

“(a) declares plaintiff's obligations to defendant to have been already fully paid;

“(b) orders defendant to execute and deliver to plaintiffs a release on the i September 11, 1981 mortgage over TCT (50858) S-10086 and TCT (50859) S-109087, and ii December 20, 1983 chattel mortgage, within fifteen (15) days from the finality hereof;

“(c) orders defendant to pay plaintiffs Romeo Javier and Romana Bataclan-Javier the sum of P50,000.00 as and for moral damages; and

“(d) orders defendant to pay plaintiffs the sum of P30,000.00 as attorney's fees, plus expenses of the suit.

"Defendant's counterclaims are dismissed for lack of merit.

"With costs against defendant.

"SO ORDERED." (Rollo, p. 101)

Respondent bank elevated the case to the appellate court which, as aforesaid, reversed the decision of the trial court. In this appeal, petitioner raises four errors allegedly committed by the respondent court, namely:

I

"RESPONDENT APPELLATE COURT ERRED IN HOLDING THAT THE ACCRUED INTEREST IN THE AMOUNT OF P492,100.00 HAS NOT BEEN PAID WHEN ARTICLE 1176 OF THE CIVIL CODE PROVIDES THAT SUCH CLAIM FOR INTEREST UPON RECEIPT OF PAYMENT OF THE PRINCIPAL MUST BE RESERVED OTHERWISE IT IS DEEMED PAID.

II

"RESPONDENT APPELLATE COURT ERRED IN HOLDING THAT WITH THE DELIVERY OF THE DOCUMENTS EVIDENCING THE PRINCIPAL OBLIGATION, THE ANCILLARY OBLIGATION OF PAYING INTEREST WAS NOT RENOUNCED CONTRARY TO THE PROVISIONS OF ART. 1273 OF THE CIVIL CODE AND THE UNDISPUTED EVIDENCE ON RECORD.

III

"RESPONDENT APPELLATE COURT ERRED IN NOT HOLDING THAT PETITIONER HAS FULLY PAID ITS OBLIGATION CONFORMABLY WITH ARTICLE 1234 OF THE CIVIL CODE.

IV

"RESPONDENT APPELLATE COURT ERRED IN AWARDING ATTORNEY'S FEES IN FAVOR OF ASSOCIATED BANK" (Rollo, p. 15).

The first three assigned errors will be treated jointly since their resolution border on the common issue, i.e., whether or not petitioner has indeed paid in full its obligation to respondent bank.

Applying the legal presumption provided by Art. 1271 of the Civil Code, the trial court ruled that petitioner has fully discharged its obligation by virtue of its possession of the documents (stamped "PAID") evidencing its indebtedness. Respondent court disagreed and held, among others, that the documents found in possession of Trans-Pacific are mere duplicates and cannot be the basis of petitioner's claim that its obligation has been fully paid. Accordingly, since the promissory notes submitted by petitioner were duplicates and not the originals, the delivery thereof by respondent bank to the petitioner does not merit the application of Article 1271 (1st par.) of the Civil Code which reads:

"Art. 1271. The delivery of a private document evidencing a credit, made voluntarily by the creditor to the debtor, implies the renunciation of the action which the former had against the latter."

Respondent court is of the view that the above provision must be construed to mean the original copy of the document evidencing the credit and not its duplicate, thus:

"x x x [W]hen the law speaks of the delivery of the private document evidencing a credit, it must be construed as referring to the original. In this case, appellees (Trans-Pacific) presented, not the originals but the duplicates of the three promissory notes." (Rollo, p. 42)

The above pronouncement of respondent court is manifestly groundless. It is undisputed that the documents presented were duplicate originals and are therefore admissible as evidence. Further, it must be noted that respondent bank itself did not bother to challenge the authenticity of the duplicate copies submitted by petitioner. In *People vs. Tan*, (105 Phil. 1242 [1959]), we said:

"When carbon sheets are inserted between two or more sheets of writing paper so that the writing of a contract upon the outside sheet, including the signature of the party to be charged thereby, produces a facsimile upon the sheets beneath, such signature being thus reproduced by the same stroke of pen which made the surface or exposed impression, all of the sheets so written on are regarded as duplicate originals and either of them may be introduced in evidence as such without accounting for the nonproduction of the others."

A duplicate copy of the original may be admitted in evidence when the original is in the possession of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice (Sec. 2 [b], Rule 130), as in the case of respondent bank.

This notwithstanding, we find no reversible error committed by the respondent court in disposing of the appealed decision. As gleaned from the decision of the court a quo, judgment was rendered in favor of petitioner on the basis of presumptions, to wit:

"The surrender and return to plaintiffs of the promissory notes evidencing the consolidated obligation as restructured, produces a legal presumption that Associated had thereby renounced its actionable claim against plaintiffs (Art. 1271, NCC). The presumption is fortified by a showing that said promissory notes all bear the stamp "PAID", and has not been otherwise overcome. Upon a clear perception that Associated's record keeping has been less than exemplary x x x, a proffer of bank copies of the promissory notes without the "PAID" stamps thereon does not impress the Court as sufficient to overcome presumed remission of the obligation vis-a-vis the return of said promissory notes. Indeed, applicable law is supportive of a finding that in interest bearing obligations-as is the case here, payment of principal (sic) shall not be deemed to have been made until the interests have been covered (Art. 1253, NCC). Conversely, competent showing that the principal has been paid, militates against postured entitlement to unpaid interests.

"In fine, the Court is satisfied that plaintiffs must be found to have settled their obligations in full.

"As corollary, a finding is accordingly compelled that plaintiffs (sic) accessory obligations under the real estate mortgage over two (2) substituted lots as well as the chattel mortgage, have been extinguished by the

renunciation of the principal debt (Art. 1273, NCC), following the time-honored axiom that the accessory follows the principal. There is, therefore, compelling warrant (sic) to find in favor of plaintiffs insofar as specific performance for the release of the mortgages on the substituted lots and chattel is concerned." (Rollo, p. 100)

premised by:

"Records show that Associated's Salvador M. Mesina is on record as having testified that all three (3) December 8, 1990 promissory notes for the consolidated principal obligation, interest and penalties had been fully paid (TSN, July 18, 1990, p. 18). It is, moreover, admitted that said promissory notes were accordingly returned to Romeo Javier." (Ibid.)

The above disquisition finds no factual support, however, per review of the records. The presumption created by the Art. 1271 of the Civil Code is not conclusive but merely *prima facie*. If there be no evidence to the contrary, the presumption stands. Conversely, the presumption loses its legal efficacy in the face of proof or evidence to the contrary. In the case before us, we find sufficient justification to overthrow the presumption of payment generated by the delivery of the documents evidencing petitioners indebtedness.

It may not be amiss to add that Article 1271 of the Civil Code raises a presumption, not of payment, but of the renunciation of the credit where more convincing evidence would be required than what normally would be called for to prove payment. The rationale for allowing the presumption of renunciation in the delivery of a private instrument is that, unlike that of a public instrument, there could be just one copy of the evidence of credit. Where several originals are made out of a private document, the intendment of the law would thus be to refer to the delivery only of the original original rather than to the original duplicate of which the debtor would normally retain a copy. It would thus be absurd if Article 1271 were to be applied differently.

While it has been consistently held that findings of facts are not reviewable by this Court, this rule does not find application where both the trial and the appellate courts differ thereon (*Asia Brewery, Inc. v. CA*, 224 SCRA 437 [1993]).

Petitioner maintains that the findings of the trial court should be sustained because of its advantage in observing the demeanor of the witnesses while testifying (citing *Crisostomo v. Court of Appeals*, 197 SCRA 833) more so where it is supported by the records (*Roman Catholic Bishop of Malolos v. Court of Appeals*, 192 SCRA 169).

This case, however, does not concern itself with the demeanor of witnesses. As for the records, there is actually none submitted by petitioner to prove that the contested amount, i.e., the interest, has been paid in full. In civil cases, the party that alleges a fact has the burden of proving it (*Imperial Victory Shipping Agency v. NLRC* 200 SCRA 178 [1991]). Petitioner could have easily adduced the receipts corresponding to the amounts paid inclusive of the interest to prove that it has fully discharged its obligation but it did not.

There is likewise nothing on the records relied upon by the trial court to support its claim, by empirical evidence, that the amount corresponding to the interest has indeed been paid. The trial court totally relied on a disputable presumption that the obligation of petitioner as regards interest has been fully liquidated by the respondent's act of delivering the instrument evidencing the principal obligation. Rebuttable as they are, the court *quo chose* to ignore an earlier testimony of Mr. Mesina anent the outstanding balance pertaining to interest, as follows:

"Court:

"Q Notwithstanding, let us go now specifically to promissory note No. 9077--82 in the amount of consolidated principal of P1,050,000.00. Does the Court get it correctly that this consolidated balance has been fully paid?

"A Yes, the principal, yes, sir.

"Q Fully settled?

"A Fully settled, but the interest of that promissory note has not been paid, Your Honor.

"Q In other words, you are saying, fully settled but not truly fully settled?

"A The interest was not paid.

"Q Not fully settled?

"A The interest was not paid, but the principal obligation was removed from our books, Your Honor.

"Q And you returned the promissory note?

"A We returned the promissory note." (TSN, July 18, 1990, p. 22)

That petitioner has not fully liquidated its financial obligation to the Associated Bank finds more than ample confirmation and self-defeating posture in its letter dated December 16, 1985, addressed to respondent bank, viz.:

"x x x that because of the prevailing unhealthy economic conditions, the business is unable to generate sufficient resources for debt servicing.

"Fundamentally on account of this, we propose that you permit us to fully liquidate the remaining obligations to you of P492,100 through a payment in kind (dacion en pago) arrangement by way of the equipments (sic) and spare parts under chattel mortgage to you to the extent of their latest appraised values." (Rollo, pp. 153-154; underscoring supplied)

Followed by its August 20, 1986 letter which reads:

"We have had a series of communications with your bank regarding our proposal for the eventual settlement of our remaining obligations x x x.

"As you may be able to glean from these letters and from your credit files, we have always been conscious of our obligation to you which had not been faithfully serviced on account of unfortunate business reverses. Notwithstanding these however, total payments thus far remitted to you already exceede (sic) the original principal amount of our obligation. But because of interest and other charges, we find ourselves still obligated to you by P492,100.00. x x x

"x x x We continue to find ourselves in a very fluid (sic) situation in as much as the overall outlook of the industry has not substantially improved. Principally for this reason, we had proposed to settle our remaining obligations to you by way of dacion en pago of the equipments (sic) and spare parts mortgaged to you to (the) extent of their applicable loan values." (Rollo, p. 155; underscoring supplied)

Petitioner claims that the above offer of settlement or compromise is not an admission that anything is due and is inadmissible against the party making the offer (Sec. 24, Rule 130, Rules of Court). Unfortunately, this is not an iron-clad rule.

To determine the admissibility or non-admissibility of an offer to compromise, the circumstances of the case and the intent of the party making the offer should be considered. Thus, if a party denies the existence of a debt but offers to pay the same for the purpose of buying peace and avoiding litigation, the offer of settlement is inadmissible. If in the course thereof, the party making the offer admits the existence of an indebtedness combined with a proposal to settle the claim amicably, then, the admission is admissible to prove such indebtedness (Moran, Comments on the Rules of Court, Vol. 5, p. 233 [1980 ed.]; Francisco, Rules of Court, Vol. VII, p. 325 [1973 ed.] citing *McNiel v. Holbrook*, 12 Pac. (US) 84, 9 L. ed. 1009). Indeed, an offer of settlement is an effective admission of a borrower's loan balance (*L.M. Handicraft Manufacturing Corp. v. Court of Appeals*,

186 SCRA 640 [1990]). Exactly, this is what petitioner did in the case before us for review.

Finally, respondent court is faulted in awarding attorney's fees in favor of Associated Bank. True, attorney's fees may be awarded in a case of clearly unfounded civil action (Art. 2208 [4], CC). However, petitioner claims that it was compelled to file the suit for damages in the honest belief that it has fully discharged its obligations in favor of respondent bank and therefore not unfounded.

We believe otherwise. As petitioner would rather vehemently deny, undisputed is the fact of its admission regarding the unpaid balance of P492,100.00 representing interests. It cannot also be denied that petitioner opted to sue for specific performance and damages after consultation with a lawyer (Rollo, p. 99) who advised that not even the claim for interests could be recovered; hence, petitioner's attempt to seek refuge under Art. 1271 (CC). As previously discussed, the presumption generated by Art. 1271 is not conclusive and was successfully rebutted by private respondent. Under the circumstances, i.e., outright and honest letters of admission vis-a-vis counsel-induced recalcitrance, there could hardly be honest belief. In this regard, we quote with approval respondent court's observation:

"The countervailing evidence against the claim of full payment emanated from Transpacific itself. It cannot profess ignorance of the existence of the two letters, Exhs. 3 & 4, or of the import of what they contain. Notwithstanding the letters, Transpacific opted to file suit and insist(ed) that its liabilities had already been paid. There was thus an ill-advised attempt on the part of Transpacific to capitalize on the delivery of the duplicates of the promissory notes, in complete disregard of what its own records show. In the circumstances, Art. 2208 (4) and (11) justify the award of attorney's fees. The sum of P15,000.00 is fair and equitable." (Rollo, pp. 46-47)

WHEREFORE, the petition is DENIED for lack of merit. Costs against petitioner.

SO ORDERED.

Feliciano, (Chairman), Romero, Melo, and Vitug, JJ., concur.

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