

FLORENTINO ATILLO III, PETITIONER, VS. COURT OF APPEALS, AMANCOR, INC., AND MICHELL LHUILLIER, RESPONDENTS.

G.R. No. 119053. January 23, 1997

Ponente: FRANCISCO, J.

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FRANCISCO, J.:

This is a petition for review on certiorari of the decision of the respondent Court of Appeals in CA-G.R. No. 3677 promulgated on August 4, 1994 affirming in toto the decision of Branch 7 of the Regional Trial Court of Cebu City in Civil Case No. CEB-9801 entitled "Florentino L. Atillo III versus Amancor, Inc. and Michell Lhuillier".

The material antecedents are as follows:

On August 15, 1985, respondent Amancor, Inc. (hereinafter referred to as AMANCOR for brevity), a corporation then owned and controlled by petitioner Florentino L. Atillo III, contracted a loan in the amount of P1,000,000.00 with Metropolitan Bank and Trust Company, secured by real estate properties owned by the petitioner.[1] Before the said loan could be paid, petitioner entered into a Memorandum of Agreement dated June 14, 1988 (Annex "A" of the Complaint) with respondent Michell Lhuillier (hereinafter referred to as LHUILLIER for brevity) whereby the latter bought shares of stock in AMANCOR. As a consequence of the foregoing transaction, petitioner and LHUILLIER each became owner of 47% of the outstanding shares of stock of AMANCOR while the officers of the corporation owned the remaining 6%.[2]

In view of the urgent and immediate need for fresh capital to support the business operations of AMANCOR, petitioner and LHUILLIER executed another Memorandum of Agreement on February 13, 1989 (Annex "B" of the Complaint) by virtue of which LHUILLIER undertook to invest additional capital in AMANCOR.[3] As an addendum to the foregoing, a Supplemental Memorandum of Agreement was entered into by the petitioner and LHUILLIER on March 11, 1989.[4] Relevant to the case at bar is a stipulation in the said Supplemental Memorandum of Agreement which provides as follows:

"4. F.L. Atillo III may dispose off (sic) his properties at P. del Rosario St., Cebu City which may involve pre-payment of AMANCOR'S mortgage loan to the bank estimated at 300,000.00 and while AMANCOR may not yet be in the position to re-pay said amount to him, it shall pay the interests to him equivalent to prevailing bank rate."[5]

Pursuant to this stipulation, petitioner assumed AMANCOR' s outstanding loan balance of P300,000.00 with Metropolitan Bank and Trust Company. After offsetting the amount of P300,000.00 with some of the accounts that petitioner had with AMANCOR, the amount which remained due to the petitioner was P199,888.89. Because of the failure of AMANCOR to satisfy its obligation to repay petitioner, the latter filed a complaint for collection of a sum of money docketed as Civil Case No. Ceb-9801 against AMANCOR and LHUILLIER before Branch 7 of the Regional Trial Court of Cebu City.

At the pre-trial conference, petitioner, AMANCOR and LHUILLIER, assisted by their respective counsels, stipulated on the following:

"1. That the parties admit the due execution and genuineness of the Memorandum of Agreement dated 14 June 1988 (Annex A), the Memorandum of Agreement dated 13 February 1989 (Annex B) and Supplemental Agreement dated 11 March 1989 (Annex C);

2. That the defendants admit that the claim of the plaintiff amounted to P199,888.89 as of October 1, 1990;"[6]

and submitted the following issues to be resolved by the trial court:

"a. From the aforesaid Annexes A, B and C, is Michell J. Lhuillier personally liable to the plaintiff?

b. What rate of interests shall the defendant corporation and Michell J. Lhuillier, if the latter is liable, pay the plaintiff?"[7] (Underscoring supplied.)

On the basis of the stipulation of facts and the written arguments of the parties, the trial court rendered a decision in favor of the petitioner, ordering AMANCOR to pay petitioner the amount of P199,888.89 with interest equivalent to the bank rate prevailing as of March 11, 1989. LHUILLIER was, however, absolved of any personal liability therefor.[8]

It is from the trial court's conclusion of non-liability that petitioner appealed to respondent court, arguing therein that as LHUILLIER signed the Memorandum of Agreement without the official participation nor ratification of AMANCOR, LHUILLIER should have been declared jointly and severally liable with AMANCOR.[9]

The respondent court found petitioner's contention bereft of merit and held in part that:

"Contrary to plaintiffs-appellants (sic) allegation, the indebtedness of P199,888.89 was incurred by defendant AMANCOR, INC., alone. A thorough study of the records shows that plaintiff's cause of action for collection of a sum of money arose from "his payment of the defendant corporation's outstanding loan balance of P300,000.00 with Metropolitan Bank & Trust Company" x x x. Considering the allegations in the complaint and those contained in the Memorandum of Agreement, the respondent court properly ruled that the liability was incurred by defendant AMANCOR, INC., singly. We grant that if plaintiff really believes that the indebtedness was incurred by defendant Lhuillier in his personal capacity, he should not have offsetted (sic) some of his accounts with the defendant corporation, x x x. As it is, plaintiff could have opted (sic) to sue defendant Lhuillier in his personal capacity the whole amount of indebtedness and not implead the defendant corporation as co-defendant.

xxx xxx xxx

x x x [T]he indebtedness was incurred by the defendant corporation as a legal entity to pay the mortgage loan. Defendant Lhuillier acted only as an officer/agent of the corporation by signing the said Memorandum of Agreement."[10]

Aggrieved by the decision of respondent court, petitioner brought this instant petition submitting the following issue for the resolution of this Court:

"When a party, by his judicial admissions, has affirmed that he has personal liability in a certain transaction, may a court rule against such an admission despite clear indications that it was not affected by mistakes palpable or otherwise?"[11]

Petitioner claims that LHUILLIER made a judicial admission of his personal liability in his Answer wherein he stated that:

"3.11. In all the subject dealings, it was between plaintiff and Lhuillier personally without the official participation of Amancor, Inc.

xxx xxx xxx

3.14 . Since the board of Amancor, Inc. did not formally ratify nor acceded (sic) to the personal agreement between plaintiff and Lhuillier through no fault of the latter, the corporation is not bound and the actionable documents are, at most, unenforceable insofar as the subject claim of plaintiff is concerned."[12]

And on the basis of such admission, petitioner contends that the decision of the respondent court absolving LHUILLIER of personal liability is manifest error for being contrary to law, particularly Section 4 of Rule 129 of the Rules of Court which provides that:

"An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made."

Petitioner would want to further strengthen his contention by adverting to the consistent pronouncement of this Court that: "x x x an admission made in the pleadings cannot be controverted by the party making such admission and are conclusive as to him, and that all proofs submitted by him contrary thereto or inconsistent therewith, should be ignored, whether objection is interposed by the party or not x x x."[13]

We find petitioner's contention to be without merit and the reliance on the general rule regarding judicial admissions enunciated by the abovementioned provision of law and jurisprudence misplaced.

As provided for in Section 4 of Rule 129 of the Rules of Court, the general rule that a judicial admission is conclusive upon the party making it and does not require proof admits of two exceptions: 1) when it is shown that the admission was made through palpable mistake, and 2) when it is shown that no such admission was in fact made.[14] The latter exception allows one to contradict an admission by denying that he made such an admission.

"For instance, if a party invokes an 'admission' by an adverse party, but cites the admission 'out of context', then the one making the admission may show that he made no 'such' admission, or that his admission was taken out of context.

This may be interpreted as to mean 'not in the sense in which the admission is made to appear.' That is the reason for the modifier 'such'."[15] [Underscoring supplied.]

Here, petitioner appears to have taken the admissions made by LHUILLIER in paragraph 3.11 of his Answer "out of context". Petitioner is seemingly misleading this Court by isolating paragraph 3.11 of the said Answer from the preceding paragraphs. A careful scrutiny of the Answer in its entirety will show that paragraph 3.11 is part of the affirmative allegations recounting how LHUILLIER was persuaded to invest in AMANCOR which was previously owned and managed by petitioner.[16] Paragraph 3.11 has reference to the fact that in all investments made with AMANCOR through stock purchases, only petitioner and LHUILLIER dealt with each other.[17] It is more than obvious that paragraph 3.11 has nothing to do with the obligation of AMANCOR to petitioner which is the subject of the present case. Contrary to petitioner's allegations, LHUILLIER had categorically denied personal liability for AMANCOR's corporate debts, and in the succeeding paragraphs of the said Answer asserted the following:

"3.12. As evident in the wordings of par. 12 of the Actionable Memorandum of Agreement dated 13 February 1989 (Annex B) and par. 4 of the actionable Supplemental Memorandum of Agreement dated 11 March 1989 (Annex C), Lhuillier did not engage to personally pay the corporate loans secured by plaintiff's property as to release the property to plaintiff. On the contrary, as explicitly stated in the aforesaid par. 4 of Annex C, ". . . while Amancor may not yet be in the position to repay said amount to him, IT shall pay the interests to him equivalent to prevailing bank rate."

"3.13. At most, therefore, Lhuillier x x x only agreed, for the corporation to repay plaintiff the amount of the pre- terminated corporate loans with the bank and, pending improvement of Amancor's finances, for said

corporation to pay interest at prevailing bank rate. x x x."[18] (Underscoring supplied.)

Furthermore, petitioner was well aware that LHUILLIER had never admitted personal liability for the said obligation. In fact, in delineating the issues to be resolved by the trial court, both parties submitted for the determination of the court, the question of whether or not LHUILLIER is personally liable for the obligation of AMANCOR to petitioner.[19] Moreover, as correctly observed by respondent court, if petitioner really believed that the liability was incurred by LHUILLIER in his personal capacity, then he should not have offset his accounts with those of AMANCOR's. The foregoing act of petitioner is a clear indication that he recognized AMANCOR and not LHUILLIER as the obligor.

Granting arguendo that LHUILLIER had in fact made the alleged admission of personal liability in his Answer, We hold that such admission is not conclusive upon him. Applicable by analogy is our ruling in the case of Gardner vs. Court of Appeals which allowed a party's testimony in open court to override admissions he made in his answer. Thus:

"The fact, however, that the allegations made by Ariosto Santos in his pleadings and in his declarations in open court differed will not militate against the findings herein made nor support the reversal by respondent court. As a general rule, facts alleged in a party's pleading are deemed admissions of that party and are binding upon it, but this is not an absolute and inflexible rule. An answer is a mere statement of fact which the party filing it expects to prove, but it is not evidence. As ARIOSTO SANTOS himself, in open court, had repudiated the defenses he had raised in his ANSWER and against his own interest, his testimony is deserving of weight and credence. Both the Trial Court and the Appellate Court believed in his credibility and we find no reason to overturn their factual findings thereon."[20] (Underscoring supplied.)

Prescinding from the foregoing, it is clear that in spite of the presence of judicial admissions in a party's pleading, the trial court is still given leeway to consider other evidence presented. This rule should apply with more reason when the parties had agreed to submit an issue for resolution of the trial court on the basis of the evidence presented. As distinctly stated in the stipulation of facts entered into during the pre-trial conference, the parties agreed that the determination of LHUILLIER's liability shall be based on the Memoranda of Agreement designated as ANNEXES "A", "B" and "C" of the Complaint. Thus, the trial court correctly relied on the provisions contained in the said Memoranda of Agreement when it absolved LHUILLIER of personal liability for the obligation of AMANCOR to petitioner.

Furthermore, on the basis of the same evidence abovementioned, respondent court did not err when it refused to pierce the veil of corporate fiction, thereby absolving LHUILLIER of liability for corporate obligations and deciding the question in this wise:

"The separate personality of the corporation may be disregarded, or the veil of corporation fiction may be pierced and the individual shareholder may be personally liable (sic) to the obligations of the corporation only when the corporation is used as 'a cloak or cover for fraud or illegality, or to work an injustice, or where necessary to achieve equity or when necessary for the protection of the creditors. This situation does not obtain in this case. In the case at bar, plaintiff-appellant failed to show that defendant Lhuillier acted otherwise than what is required of him as an agent of a corporation. It does not appear either that defendant-appellee Michel (sic) Lhuillier is jointly and severally liable with AMANCOR INC. absent an express stipulation to that effect and sans clear and convincing evidence as to his personal liability."[21]

The foregoing pronouncement is based on factual findings of the lower court which were upheld by the respondent court, and which are thus, conclusive upon us pursuant to the well established rule that factual findings of the Court of Appeals, supported by substantial evidence on the record, are final and conclusive and may not be reviewed on appeal.[22]

ACCORDINGLY, finding no reversible error, the decision appealed from is hereby AFFIRMED and this petition is DENIED.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] Complaint dated January 11, 1991, p. 1; Records, p. 1.

[2] Ibid., Annex "A"; Records, p. 5.

[3] Ibid., Annex "B"; Records, p. 9.

[4] Ibid., Annex "C"; Records, p. 12.

[5] Ibid.

[6] Decision dated December 17, 1991, pp. 2-3; Rollo, pp. 14-15.

[7] Ibid.

[8] Ibid., p. 4; Rollo, p. 16.

[9] Petition in G.R. No. 119053 dated February 28, 1995, pp. 6-7.

[10] Decision in CA-G.R. CV No. 36777 dated August 5, 1994, pp. 4-5; Rollo, pp. 16-17.

[11] Supra, p. 1; Rollo, p. 2.

[12] Ibid., pp. 5-6; Rollo, pp. 6-7;

[13] Elayda vs. Court of Appeals, 199 SCRA 349, 353; De Jesus vs. IAC, 175 SCRA 559; Santiago vs. de los Santos, 61 SCRA 146; Sta. Ana vs. Maliwat, 21 SCRA 1018; and Joe's Radio Electric Supply vs. Alto Electronics Corp., 104 Phil. 333.

[14] Supra.

[15] Paras, Rules of Court Annotated, p. 66, citing the Minutes of the Revision Committee.

[16] Answer dated May 31, 1991, pp. 2-7; Rollo, pp. 60-65.

[17] Ibid.

[18] Ibid. at pp. 6-7; Rollo, pp. 64-65.

[19] Supra.

[20] Gardner vs. Court of Appeals, 131 SCRA 585,600.

[21] Supra., p. 5; Rollo, p. 17.

[22] Guinsatao vs. Court of Appeals, 218 SCRA 708; Bustamante vs. Court of Appeals, 193 SCRA 603; Coca-Cola Bottlers Philippines, Inc. vs. Court of Appeals, 235 SCRA 39; Tan Chun Suy vs. Court of Appeals, 229 SCRA 151.

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