

QUIRINO GONZALES LOGGING CONCESSIONAIRE, QUIRINO GONZALES and EUFEMIA GONZALES, PETITIONERS, vs. THE COURT OF APPEALS (CA) and REPUBLIC PLANTERS BANK, RESPONDENTS.

G.R. No. 126568. April 30, 2003

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

In the expansion of its logging business, petitioner Quirino Gonzales Logging Concessionaire (QGLC), through its proprietor, general manager - co-petitioner Quirino Gonzales, applied on October 15, 1962 for credit accommodations[1] with respondent Republic Bank (the Bank), later known as Republic Planters Bank.

The Bank approved QGLC's application on December 21, 1962, granting it a credit line of P900,000.00[2] broken into an overdraft line of P500,000.00 which was later reduced to P450,000.00 and a Letter of Credit (LC) line of P400,000.00.[3]

Pursuant to the grant, the Bank and petitioners QGLC and the spouses Quirino and Eufemia Gonzales executed ten documents: two denominated "Agreement for Credit in Current Account,"[4] four denominated "Application and Agreement for Commercial Letter of Credit,"[5] and four denominated "Trust Receipt." [6]

Petitioners' obligations under the credit line were secured by a real estate mortgage on four parcels of land: two in Pandacan, Manila, one in Makati (then part of Rizal), and another in Diliman, Quezon City.[7]

In separate transactions, petitioners, to secure certain advances from the Bank in connection with QGLC's exportation of logs, executed a promissory note in 1964 in favor of the Bank. They were to execute three more promissory notes in 1967.

In 1965, petitioners having long defaulted in the payment of their obligations under the credit line, the Bank foreclosed the mortgage and bought the properties covered thereby, it being the highest bidder in the auction sale held in the same year. Ownership over the properties was later consolidated in the Bank on account of which new titles thereto were issued to it.[8]

On January 27, 1977, alleging non-payment of the balance of QGLC's obligation after the proceeds of the foreclosure sale were applied thereto, and non-payment of the promissory notes despite repeated demands, the Bank filed a complaint for "sum of money" (Civil Case No. 106635) against petitioners before the Regional Trial Court (RTC) of Manila.

The complaint listed ten causes of action. The first concerns the overdraft line under which the Bank claimed that petitioners withdrew amounts (unspecified) at twelve percent per annum which were unpaid at maturity and that after it applied the proceeds of the foreclosure sale to the overdraft debt, there remained an unpaid balance of P1,224,301.56.

The Bank's second to fifth causes of action pertain to the LC line under which it averred that on the strength of

the LCs it issued, the beneficiaries thereof drew and presented sight drafts to it which it all paid after petitioners' acceptance; and that it delivered the tractors and equipment subject of the LCs to petitioners who have not paid either the full or part of the face value of the drafts.

Specifically with respect to its second cause of action, the Bank alleged that it issued LC No. 63-0055D on January 15, 1963 in favor of Monark International Incorporated[9] covering the purchase of a tractor[10] on which the latter allegedly drew a sight draft with a face value of P71,500.00,[11] which amount petitioners have not, however, paid in full.

Under its third cause of action, the Bank charged that it issued LC No. 61-1110D on December 27, 1962 also in favor of Monark International covering the purchase of another tractor and other equipment[12] and that Monark International drew a sight draft with a face value of P80,350.00,[13] and while payments for the value thereof had been made by petitioners, a balance of P68,064.97 remained.

Under the fourth cause of action, the Bank maintained that it issued LC No. 63-0182D on February 11, 1963 in favor of J.B.L. Enterprises, Inc.[14] covering the purchase of two tractors,[15] and J.B.L. Enterprises drew on February 13, 1963 a sight draft on said LC in the amount of P155,000.00 but petitioners have not paid said amount.

On its fifth cause of action, the Bank alleged that it issued LC No. 63-0284D on March 14, 1963 in favor of Super Master Auto Supply (SMAS) covering the purchase of "Eight Units GMC (G.I.) Trucks"; that on March 14, 1963, SMAS drew a sight draft with a face value of P64,000.00[16] on the basis of said LC; and that the payments made by petitioners for the value of said draft were deficient by P45,504.74.

The Bank thus prayed for the settlement of the above-stated obligations at an interest rate of eleven percent per annum, and for the award of trust receipt commissions, attorney's fees and other fees and costs of collection.

The sixth to ninth causes of action are anchored on the promissory notes issued by petitioners allegedly to secure certain advances from the Bank in connection with the exportation of logs as reflected above.[17] The notes were payable 30 days after date and provided for the solidary liability of petitioners as well as attorney's fees at ten percent of the total amount due[18] in the event of their non-payment at maturity.

The note dated June 18, 1964, subject of the sixth cause of action, has a face value of P55,000.00 with interest rate of twelve percent per annum[19] that dated July 7, 1967 subject of the seventh has a face value of P20,000.00[20] that dated July 18, 1967 subject of the eighth has a face value of P38,000.00[21] and that dated August 23, 1967 subject of the ninth has a face value of P11,000.00.[22] The interest rate of the last three notes is pegged at thirteen percent per annum.[23]

On its tenth and final cause of action, the Bank claimed that it has accounts receivable from petitioners in the amount of P120.48.

In their Answer[24] of March 3, 1977, petitioners admit the following: having applied for credit accommodations totaling P900,000.00 to secure which they mortgaged real properties; opening of the LC/Trust Receipt Line; the issuance by the Bank of the various LCs; and the foreclosure of the real estate mortgage and the consolidation of ownership over the mortgaged properties in favor of the Bank. They deny, however, having availed of the credit accommodations and having received the value of the promissory notes, as they do deny having physically received the tractors and equipment subject of the LCs.

As affirmative defenses, petitioners assert that the complaint states no cause of action, and assuming that it does, the same is/are barred by prescription or null and void for want of consideration.

By Order of March 10, 1977, Branch 36 of the Manila RTC attached the preferred shares of stocks of the spouses Quirino and Eufemia Gonzales with the Bank with a total par value of P414,000.00.

Finding for petitioners, the trial court rendered its Decision of April 22, 1992 the dispositive portion of which reads:

WHEREFORE, judgment is rendered as follows:

- All the claims of plaintiff particularly those described in the first to the tenth causes of action of its complaint are denied for the reasons earlier mentioned in the body of this decision;
- As regards the claims of defendants pertaining to their counterclaim (Exhibits "1", "2" and "3"), they are hereby given ten (10) years from the date of issuance of the torrens title to plaintiff and before the transfer thereof in good faith to a third party buyer within which to ask for the reconveyance of the real properties foreclosed by plaintiff,
- The order of attachment which was issued against the preferred shares of stocks of defendants-spouses Quirino Gonzales and Eufemia Gonzales with the Republic Bank now known as Republic Planters Bank dated March 21, 1977 is hereby dissolved and/or lifted, and
- Plaintiff is likewise ordered to pay the sum of P20,000.00, as and for attorney's fees, with costs against plaintiff.

SO ORDERED.

In finding for petitioners, the trial court ratiocinated:[25]

Art. 1144 of the Civil Code states that an action upon a written contract prescribes in ten (10) years from the time the right of action accrues. Art. 1150 states that prescription starts to run from the day the action may be brought. The obligations allegedly created by the written contracts or documents supporting plaintiff's first to the sixth causes of action were demandable at the latest in 1964. Thus when the complaint was filed on January 27, 1977 more than ten (10) years from 1964 [when the causes of action accrued] had already lapsed. The first to the sixth causes of action are thus barred by prescription. . . .

As regards the seventh and eight causes of action, the authenticity of which documents were partly in doubt in the light of the categorical and uncontradicted statements that in 1965, defendant Quirino Gonzales logging concession was terminated based on the policy of the government to terminate logging concessions covering less than 20,000 hectares. If this is the case, the Court is in a quandary why there were log exports in 1967? Because of the foregoing, the Court does not find any valid ground to sustain the seventh and eight causes of action of plaintiff's complaint.

As regards the ninth cause of action, the Court is baffled why plaintiff extended to defendants another loan when defendants according to plaintiff's records were defaulting creditors? The above facts and circumstances has (sic) convinced this Court to give credit to the testimony of defendants' witnesses that the Gonzales spouses signed the documents in question in blank and that the promised loan was never released to them. There is therefore a total absence of consent since defendants did not give their consent to loans allegedly procured, the proceeds of which were never received by the alleged debtors, defendants herein. . . .

Plaintiff did not present evidence to support its tenth cause of action. For this reason, it must consequently be denied for lack of evidence.

On the matter of [the] counterclaims of defendants, they seek the return of the real and personal properties which they have given in good faith to plaintiff. Again, prescription may apply. The real properties of defendants acquired by plaintiff were foreclosed in 1965 and consequently, defendants had one (1) year to redeem the property or ten (10) years from issuance of title on the ground that the obligation foreclosed was

fictitious.

x x x

On appeal,[26] the Court of Appeals (CA) reversed the decision of the trial court by Decision[27] of June 28, 1996 which disposed as follows:[28]

WHEREFORE, premises considered, the appealed decision (dated April 22, 1992) of the Regional Trial Court (Branch 36) in Manila in Civil Case No. 82-4141 is hereby REVERSED---and let the case be remanded back to the court a quo for the determination of the amount(s) to be awarded to the [the Bank]-appellant relative to its claims against the appellees.

SO ORDERED.

With regard to the first to sixth causes of action, the CA upheld the contention of the Bank that the notices of foreclosure sale were “tantamount” to demand letters upon the petitioners which interrupted the running of the prescriptive period.[29]

As regards the seventh to ninth causes of action, the CA also upheld the contention of the Bank that the written agreements-promissory notes prevail over the oral testimony of petitioner Quirino Gonzales that the cancellation of their logging concession in 1967 made it unbelievable for them to secure in 1967 the advances reflected in the promissory notes.[30]

With respect to petitioners’ counterclaim, the CA agreed with the Bank that:[31]

Certainly, failure on the part of the trial court to pass upon and determine the authenticity and genuineness of [the Bank’s] documentary evidence [the trial court having ruled on the basis of prescription of the Bank’s first to sixth causes of action] makes it impossible for the trial court to eventually conclude that the obligation foreclosed (sic) was fictitious. Needless to say, the trial court’s ruling averses (sic) the well-entrenched rule that ‘courts must render verdict on their findings of facts.’ (China Banking Co. vs. CA, 70 SCRA 398)

Furthermore, the defendants-appellees’ [herein petitioners’] counterclaim is basically an action for the reconveyance of their properties, thus, the trial court’s earlier ruling that the defendants-appellees’ counterclaim has prescribed is itself a ruling that the defendants-appellees’ separate action for reconveyance has also prescribed.

The CA struck down the trial court’s award of attorney’s fees for lack of legal basis.[32]

Hence, petitioners now press the following issues before this Court by the present petition for review on certiorari:

- WHETHER OR NOT RESPONDENT COURT ERRED IN SO HOLDING THAT RESPONDENT-APPELLEES (SIC.) REPUBLIC PLANTERS BANK[’S] FIRST, SECOND, THIRD, FOURTH, FIFTH AND SIXTH CAUSES OF ACTION HAVE NOT PRESCRIBED CONTRARY TO THE FINDINGS OF THE LOWER COURT, RTC BRANCH 36 THAT THE SAID CAUSES OF ACTION HAVE ALREADY PRESCRIBED.
- WHETHER OR NOT RESPONDENT COURT ERRED IN SO HOLDING THAT RESPONDENT-APPELLEES (SIC.) REPUBLIC PLANTERS BANK[’S] SEVENTH, EIGHT AND NINTH CAUSES OF ACTION APPEARS (SIC.) TO BE IMPRESSED WITH MERIT CONTRARY TO THE FINDINGS OF THE LOWER COURT RTC BRANCH 36 THAT THE SAID CAUSES HAVE NO VALID GROUND TO SUSTAIN [THEM] AND FOR LACK OF EVIDENCE.
- WHETHER OR NOT RESPONDENT COURT [ERRED] IN REVERSING THE FINDINGS OF THE REGIONAL TRIAL COURT BRANCH 36 OF MANILA THAT PETITIONERS-APPELLANT (SIC.) MAY SEEK THE RETURN OF THE REAL AND PERSONAL PROPERTIES WHICH THEY MAY HAVE

GIVEN IN GOOD FAITH AS THE SAME IS BARRED BY PRESCRIPTION AND THAT PETITIONERS-APPELLANT (SIC.) HAD ONE (1) YEAR TO REDEEM THE PROPERTY OR TEN (10) YEARS FROM ISSUANCE OF THE TITLE ON THE GROUND THAT THE OBLIGATION FORECLOSED WAS FICTITIOUS.

- WHETHER OR NOT RESPONDENT COURT ERRED IN SO HOLDING THAT PETITIONERS-APPELLANTS [SIC] ARE NOT ENTITLED TO AN AWARD OF ATTORNEY'S FEES.

The petition is partly meritorious.

On the first issue. The Civil Code provides that an action upon a written contract, an obligation created by law, and a judgment must be brought within ten years from the time the right of action accrues.[33]

The finding of the trial court that more than ten years had elapsed since the right to bring an action on the Bank's first to sixth causes had arisen[34] is not disputed. The Bank contends, however, that "the notices of foreclosure sale in the foreclosure proceedings of 1965 are tantamount to formal demands upon petitioners for the payment of their past due loan obligations with the Bank, hence, said notices of foreclosure sale interrupted/forestalled the running of the prescriptive period." [35]

The Bank's contention does not impress. Prescription of actions is interrupted when they are filed before the court, when there is a written extrajudicial demand by the creditors, and when there is any written acknowledgment of the debt by the debtor. [36]

The law specifically requires a written extrajudicial demand by the creditors which is absent in the case at bar. The contention that the notices of foreclosure are "tantamount" to a written extrajudicial demand cannot be appreciated, the contents of said notices not having been brought to light.

But even assuming *arguendo* that the notices interrupted the running of the prescriptive period, the argument would still not lie for the following reasons:

With respect to the first to the fifth causes of action, as gleaned from the complaint, the Bank seeks the recovery of the deficient amount of the obligation after the foreclosure of the mortgage. Such suit is in the nature of a mortgage action because its purpose is precisely to enforce the mortgage contract.[37] A mortgage action prescribes after ten years from the time the right of action accrued.[38]

The law gives the mortgagee the right to claim for the deficiency resulting from the price obtained in the sale of the property at public auction and the outstanding obligation at the time of the foreclosure proceedings.[39] In the present case, the Bank, as mortgagee, had the right to claim payment of the deficiency after it had foreclosed the mortgage in 1965.[40] In other words, the prescriptive period started to run against the Bank in 1965. As it filed the complaint only on January 27, 1977, more than ten years had already elapsed, hence, the action on its first to fifth causes had by then prescribed. No other conclusion can be reached even if the suit is considered as one upon a written contract or upon an obligation to pay the deficiency which is created by law,[41] the prescriptive period of both being also ten years.[42]

As regards the promissory note subject of the sixth cause of action, its period of prescription could not have been interrupted by the notices of foreclosure sale not only because, as earlier discussed, petitioners' contention that the notices of foreclosure are tantamount to written extra-judicial demand cannot be considered absent any showing of the contents thereof, but also because it does not appear from the records that the said note is covered by the mortgage contract.

Coming now to the second issue, petitioners seek to evade liability under the Bank's seventh to ninth causes of

action by claiming that petitioners Quirino and Eufemia Gonzales signed the promissory notes in blank; that they had not received the value of said notes, and that the credit line thereon was unnecessary in view of their money deposits, they citing “Exhibits 2 to 2-B,”[43] in, and unremitted proceeds on log exports from, the Bank. In support of their claim, they also urge this Court to look at Exhibits “B” (the Bank’s recommendation for approval of petitioners’ application for credit accommodations), “P” (the “Application and Agreement for Commercial Letter of Credit” dated January 16, 1963) and “T” (the “Application and Agreement for Commercial Letter of Credit” dated February 14, 1963).

The genuineness and due execution of the notes had, however, been deemed admitted by petitioners, they having failed to deny the same under oath.[44] Their claim that they signed the notes in blank does not thus lie.

Petitioners’ admission of the genuineness and due execution of the promissory notes notwithstanding, they raise want of consideration[45] thereof. The promissory notes, however, appear to be negotiable as they meet the requirements of Section 1[46] of the Negotiable Instruments Law. Such being the case, the notes are prima facie deemed to have been issued for consideration.[47] It bears noting that no sufficient evidence was adduced by petitioners to show otherwise.

Exhibits “2” to “2-B” to which petitioners advert in support of their claim that the credit line on the notes was unnecessary because they had deposits in, and remittances due from, the Bank deserve scant consideration. Said exhibits are merely claims by petitioners under their then proposals for a possible settlement of the case dated February 3, 1978. Parenthetically, the proposals were not even signed by petitioners but by certain Attorneys Osmundo R. Victoriano and Rogelio P. Madriaga.

In any case, it is no defense that the promissory notes were signed in blank as Section 14[48] of the Negotiable Instruments Law concedes the prima facie authority of the person in possession of negotiable instruments, such as the notes herein, to fill in the blanks.

As for petitioners’ reliance on Exhibits “B”, “P” and “T,” they have failed to show the relevance thereof to the seventh up to the ninth causes of action of the Bank.

On the third issue, petitioners asseverate that with the trial court’s dismissal of the Bank’s complaint and the denial of its first to sixth causes of action, it is but fair and just that the real properties which were mortgaged and foreclosed be returned to them.[49] Such, however, does not lie. It is not disputed that the properties were foreclosed under Act No. 3135 (An Act to Regulate the Sale of Property under Special Powers Inserted in or Annexed to Real Estate Mortgages), as amended. Though the Bank’s action for deficiency is barred by prescription, nothing irregular attended the foreclosure proceedings to warrant the reconveyance of the properties covered thereby.

As for petitioners’ prayer for moral and exemplary damages, it not having been raised as issue before the courts below, it can not now be considered. Neither can the award attorney’s fees for lack of legal basis.

WHEREFORE, the CA Decision is hereby AFFIRMED with MODIFICATION.

Republic Bank’s Complaint with respect to its first to sixth causes of action is hereby DISMISSED. Its complaint with respect to its seventh to ninth causes of action is REMANDED to the court of origin, the Manila Regional Trial Court, Branch 36, for it to determine the amounts due the Bank thereunder.

SO ORDERED.

Puno, (Chairman), Panganiban, Sandoval-Gutierrez, and Corona, JJ., concur.

[1] Records at 128.

[2] Id. at 129.

[3] Vide “Complaint,” Records at 100.

[4] Dated December 26, 1962 (Records at 134) and February 10, 1964 (Records at 135).

[5] Records at 136, 143, 149 and 154.

[6] Dated: January 15, 1963, Records at 141; January 15, 1963, Records at 148; February 13, 1963, Records at 151; and March 14, 1963, Records at 159.

[7] Records at 100.

[8] Id. at 103.

[9] Id. at 104.

[10] One unit of used caterpillar D7 tractor, Serial No. 3T10074.

[11] Exhibits “H” and “H-1” (Records at 140).

[12] One unit of used CAT D7 Tractor with Serial No. 3T13002 equipped with Hydraulic Angledozer and D7N Hyster Winch; two pieces of Cat D8 Track Link Assembly; and two pieces of D8 Sprocket Rim (Records at 106-107).

[13] Exhibits “M” and “M-1” (Records at 146).

[14] Records at 108-109.

[15] Two Units D7 Crawler Tractors with Angledozer Blades Bearing Serial Nos. 5T179 and 4T2567.

[16] Records at 157.

[17] The Bank acted as an intermediary or agent of petitioners in the export transactions.

[18] Records at 160, 161, 162 and 163.

[19] Id. at 160.

[20] Id. at 161.

[21] Id. at 162.

[22] Id. at 163.

[23] Id. at 161, 162 and 163.

[24] Id. at 121.

[25] Id. at 323-324.

[26] The Bank filed a notice of appeal on May 13, 1992 (Records at 326) while petitioners filed their own on May

14, 1992 (Records at 328).

[27] CA Rollo at 84-98.

[28] CA Rollo at 98.

[29] Id. at 93.

[30] Id. at 94-95.

[31] Id. at 96-97.

[32] Id. at 98.

[33] Civil Code, Art. 1144.

[34] Records at 323.

[35] Rollo at 95.

[36] Civil Code, Art. 1155.

[37] Caltex Philippines, Inc. v. Intermediate Appellate Court, 176 SCRA 741, 754 (1989).

[38] Civil Code, Article 1142. The right of action accrues when there exists a cause of action, which consists of 3 elements, namely: a) a right in favor of the plaintiff by whatever means and under whatever law it arises or is created; b) an obligation on the part of defendant to respect such right; and c) an act or omission on the part of such defendant violative of the right of the plaintiff (Parañaque Kings Enterprises, Inc. v. Court of Appeals, 268 SCRA 727, 739 [1997]; Español v. Chairman, Philippine Veterans Administration, 137 SCRA 314, 318 [1985] [citations omitted]).

[39] DBP v. Tomeldan, 101 SCRA 171, 174 (1980) (citations omitted); See also Development Bank of the Philippines v. Mirang, 66 SCRA 141, 144-145 [1975], citing Philippine Bank of Commerce v. Tomas de Vera 6 SCRA 1026 (1962).

[40] See id.

[41] Id.

[42] Civil Code, Art. 1144.

[43] Vide, Petition, Rollo at 10.

[44] Rules of Court, Rule 8 Section 8.

[45] Republic v. Court of Appeals, 296 SCRA 171, 181-182 (1998) (citations omitted).

[46] SECTION 1. Form of negotiable instruments. — An instrument to be negotiable must conform to the following requirements:

(a)

It must be in writing and signed by the maker or drawer;

(b)

Must contain an unconditional promise or order to pay a sum certain in money;

(c)

Must be payable on demand, or at a fixed or determinable future time;

(d)

Must be payable to order or to bearer; and

(e)

Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

[47] Negotiable Instruments Law, Section 24.0

[48] Blanks; when may be filled. — Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount. In order, however, that any such instrument when completed may be enforced against a person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. But if any such instrument, after completion, is negotiated to a holder in due course, it is valid and effectual for all purposes in his hands, and he may enforce it as if it had been filled up strictly in accordance with the authority given and within a reasonable time.

[49] Vide Petition, Rollo at 12.

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