

CLARA REYES PASTOR AND OTHER STOCKHOLDERS OF C & C COMMERCIAL CORPORATION AND C & C COMMERCIAL CORPORATION, PETITIONERS, VS. PHILIPPINE NATIONAL BANK AND NATIONAL INVESTMENT & D...

G.R. No. 141316. November 20, 2003

Ponente: TINGA, J.

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TINGA, J.:

This is the third time that a controversy arising from Civil Case No. RQ-18176 has reached this Court. The first was C & C Commercial Corporation, et. al. v. Philippine National Bank, et. al, docketed as G.R. No. 42449,[1] while the second was Philippine National Bank and National Investment Development Corporation v. Court of Appeals, et.al., docketed as G.R. No. 108870.[2] Both cases form part of the factual backdrop of the present petition which is summarized below.

On various dates between the period February 27, 1957 and December 20, 1960, petitioner C&C Commercial Corporation[3] (hereafter, C & C) opened seven (7) letters of credit with the respondent Philippine National Bank (hereafter, PNB) to import machines and equipment for its plants. Since C & C's obligations under the letters of credit totaling P5,451,851.83 as of January 31, 1968 were not paid, PNB instituted on March 13, 1968 a case for collection with a prayer for preliminary attachment before the then Court of First Instance of Manila against C & C, impleading petitioner Clara Pastor, the controlling stockholder of C & C, as joint and solidary debtor.[4]

However, instead of proceeding with the collection case, the PNB and its subsidiary, the National Investment Development Corporation (hereafter, NIDC) as Trustees, and Clara Pastor as Trustor, entered into a Voting Trust Agreement[5] (hereafter, VTA) dated March 5, 1969. The VTA gave PNB and NIDC full authority "to manage the affairs and the accounts and properties of the C & C Commercial Corporation, Inc.; to choose its directors and key officers; to safeguard its interest and those of its creditors; and, in general, to exercise all such powers and discharge such functions as inherently pertain to the ownership and/or management of the corporation"[6] for a period of five (5) years, renewable for another five (5) years in case an unpaid balance remains at the end of the original period.[7] Also included in the VTA was an immunity clause in favor of PNB and NIDC.[8]

The PNB and NIDC immediately took over the management of C & C pursuant to the agreement. On September 6, 1971, C & C executed a chattel mortgage over its personal properties in favor of NIDC as a security for the loan of Seven Hundred Thousand Pesos (P700,000.00) intended to finance the production of asbestos cement products and their exportation to Brunei and to repair/rehabilitate its plant building which had been damaged by typhoon "Yoling." [9]

Meanwhile, the accounting firm of Sycip, Gorres and Velayo (hereafter, SGV) examined the management and operations of C & C for the first three (3) years under the Voting Trust Agreement. On August 27, 1973, SGV submitted a report[10] finding that the C & C was in a serious financial position. The SGV made the following observations relative to the company's financial difficulty:

- Even in 1969, it would appear that the Company had required inflow of funds to support its operations since at that time it had already incurred a 3.4 million capital deficiency. This figure eventually reached P11.5 million by 1972. Exhibit IX shows an analysis of capital deficiency from 1969 to 1972.
- Total assets decreased by 15% from P5.1 million in 1969 to P4.3 million in 1972 mainly due to decreases in current assets amounting to P6 million; although additional investments were made in fixed assets, depreciation more than offset this resulting in a P2 million decrease in the net book values of fixed assets.
- Total current liabilities increased by P6.3 million in 1972 due mainly to the increase in accounts payable amounting to P1.1 million and new liabilities due to banks of P5.2 million which include interests accrued as follows:

Additional Liabilities Due to Banks Incurred in 1970-1972

PNB

NIDC

DBP

Total

Principal

P1.3M

P1.0M

P2.3M

Interest and other charges

1.6

.1

P1.2M

2.9

Total

P2.9M

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P1.1M

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P1.2M

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P5.2M

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- Collections from sales generated from 1969 to 1972 have gone into operations resulting in the non-movement on the Company's liabilities to banks. As a result, interest expense amounted to P.7 million in 1972 compared to P.07 million in 1969. Accrued interest alone increased by 113% from P2.4 million in 1969 to P5.1 million in 1972. (Please refer to Exhibit X for the Funds Flow Analysis for the three (3) years ended December 31, 1972.)

The level of sales that the Company achieved in 1972 after three years of operation accounted only for about 5% utilization of plant capacity. This is traceable to the fact that operations are off and on due not only to lack of raw materials but also to natural calamities like floods and typhoons which have affected sales and operations.

Over the three-year period 1970-1972, the Company generated funds of about P6.3 million from bank loans and other current liabilities. Of this, P2.9 million represented interest. Assuming the 1969 base figures are correct and that no major investment in fixed assets remain unrecorded (as the Company keeps no fixed asset records), the balance could be attributed to cash operating losses, averaging P1.13 million per year. Using 1972 figures which reflect a cash operating deficit of P1.41 million, this conclusion appears to be reasonable.

Reacting to the foregoing report, the petitioners filed on October 16, 1973 before the then Court of First Instance of Rizal, Quezon City Branch, a Complaint[11] for Termination of Voting Trust Agreement, Accounting, and Damages With Injunction and Receivership. The Complaint recited the following alleged causes of action: (1) breach of VTA by mismanagement, negligent management, and/or incompetence; (2) failure to render accounting of management, submit annual financial statements and follow generally accepted accounting procedures; (3) compensatory damages for losses and unrealized profits, and; (4) litigation expenses and attorney's fees.

In their Answer,[12] PNB and NIDC denied the charge of mismanagement and argued that: (1) their competence to manage the corporation could not be questioned as they stood to benefit from normalization of operations; (2) the plaintiffs were not entitled to accounting as the VTA had not yet been terminated but they nevertheless submitted annual financial statements to the plaintiffs and religiously followed accepted accounting procedures in recording transactions; (3) the plaintiffs' claim for damages had no basis; and, (4) the damages suffered by the plaintiffs were due to their own making. They further alleged that C & C's indebtedness to PNB had reached the amount of P11,538,029.63 as of August 31, 1973, excluding daily interest, and to NIDC, P1,219,982.00 as of April 15, 1973, excluding daily interest.

On January 22, 1974, the lower court issued an Order [13] granting C & C's application for receivership, appointing Bayani Barzaga as receiver. This one-man receivership was subsequently converted into a joint receivership composed of three (3) members, pursuant to an agreement reached between C & C, PNB and NIDC to provide a mutually acceptable mechanism for the management of C & C pending the settlement negotiations between them.[14]

In the meantime, during the pendency of the case or on December 19, 1973, the Development Bank of the Philippines (DBP) executed a Deed of Assignment[15] in favor of PNB, assigning to the latter Promissory Notes [16] and Real Estate Mortgage[17] executed by C & C on May 16, 1960 and May 8, 1961, in the principal amounts of P490,000.00 and P796,000.00, respectively.

On March 11, 1974, PNB filed a Petition for Sale Under Act 3135 as Amended[18] before the Provincial Sheriff of Pasig to foreclose the land covered by OCT No. 2224 together with the improvements, buildings, machinery and equipment thereon, on account of the assigned loans of C & C from DBP. The PNB pegged the total amount

of the loans at P2,693,325.18 as of January 18, 1974. It also included the amount of P11,878,411.69 on the account of seven Letters of Credit plaintiffs had opened with it, computed as of January 31, 1974, which brought the total mortgage debt to P14, 571,736. 87.

On September 22, 1975, C & C filed a Complaint [19] docketed as Civil Case No. 22047, for nullification of the extrajudicial foreclosure proceedings with prayer for a writ of injunction against PNB and the Provincial Sheriff of Rizal, contesting PNB's foreclosure of the mortgage and the scheduled auction sale. On September 30, 1975, an Order [20] was issued by the then Court of First Instance (CFI) of Pasig ordering the maintenance of the status quo and restraining the scheduled foreclosure sale.

On the other hand, NIDC filed on September 25, 1975, a Petition [21] for the auction sale of the chattels covered by a Deed of Chattel Mortgage, this time with the Sheriff of the City of Manila. This was pursued on the basis of the P700,000.00 loan under the loan agreement dated September 10, 1971, the balance of which stood at P658, 493.15, inclusive of 10% attorney's fees, as of August 31, 1975. Since the chattel mortgage deed contains an all-embracing mortgage clause,[22] NIDC also sought to collect through the foreclosure sale other accounts which as of August 31, 1975 amounted as follows: (1) accounts receivables pegged at P1,159,272.80; (2) additional advances of P23,943.63; and, (3) guaranty accommodation charges of P3,399.64, leading to a total of P1,845,109.22.

Subsequently, or on October 3, 1975, petitioners filed before the then CFI of Pasig another Complaint[23] for Nullification of the Extrajudicial Foreclosure Proceedings against NIDC. The Complaint was docketed as Civil Case No. 22133. The court issued a similar Order dated October 15, 1975, restraining the scheduled sale and directing the maintenance of the status quo.

On September 17, 1975, on separate Motions to Dismiss filed by PNB and NIDC as defendants in Civil Case Nos. 22047 and 22133, respectively, the CFI of Pasig dismissed both cases in separate decisions for violation of the rule against splitting cause of action and for lack of capacity of C & C to sue, it being under receivership.

On January 5, 1976, the petitioners moved for leave to file a Supplemental Complaint,[24] with an application for the issuance of a writ of preliminary injunction to restrain the threatened foreclosure sale of their properties.

In an Order[25] dated January 15, 1976, the lower court admitted the Supplemental Complaint but denied the application for injunction on account of Presidential Decree No. 385 which prohibited the issuance of restraining orders or injunctions against government financial institutions in any foreclosure action taken by such institutions, in compliance with the mandatory foreclosure provided in said Decree.[26]

Undaunted, the petitioners filed before this Court a Petition for Certiorari docketed as G.R. No. 42449,[27] contesting the denial of their application for injunction. In its decision of July 5, 1989, the Court granted the petition, ruling that petition for the foreclosure sale was "materially defective in that it included in the amount of the total indebtedness to be satisfied by the sale previously incurred unsecured obligations." The decision was "without prejudice however to the right of PNB to petition for an extrajudicial foreclosure sale to satisfy the obligations specifically secured by the DBP- assigned mortgage," so the Court stated.

Accordingly, on January 25, 1990, the defendant PNB once more instituted extrajudicial foreclosure proceedings against the petitioners before the Pasig Sheriff, this time for the reduced mortgage debt of P7,789,193.20, including interest, penalty charges and attorney's fees. On February 15, 1990, petitioners filed a Motion for Issuance of Injunction,[28] arguing that the mortgage debt of P7,789,193. 20 stated in the Notice of Foreclosure was beyond the amount of P1,286,000.00 approved for foreclosure by the Supreme Court as a secured obligation.

On February 19, 1990, the trial court issued an Order [29] temporarily restraining the foreclosure sale to make

way for the reception of evidence on the disputed amount of the mortgage debt. Subsequently, on March 9, 1990, it ordered the issuance, upon the filing of an injunction bond, of a writ of preliminary injunction enjoining PNB and the Pasig Sheriff from foreclosing the petitioner's properties. In the same Order, the trial court directed PNB to seek clarification from this Court whether the obligation approved for satisfaction through the foreclosure sale shall include interest and other charges. The record reveals that no such clarification was sought from this Court.

Trial on the merits ensued. Finally, on January 20, 1992, the lower court rendered its Decision[30] finding PNB & NIDC responsible for the serious financial difficulties of C & C, allegedly on account of their mismanagement, characterized by extravagance, dishonesty, bad faith and incompetence. The trial court drew this conclusion from the massive operational losses, capital deficiency and reduction of corporate assets suffered by C & C during the PNB and NIDC's management under the VTA, as presented in the SGV report. It likewise considered the testimony of Pastor specifying acts of dishonesty and recklessness as follows: "payroll padding to accommodate ghost workers; . . . theft of spare parts which were later sold to NIDC Managers of (C & C); . . . no board meetings in 1972 and 1973; . . . no infusion of capital by PNB and NIDC in 1972 and 1973; . . . no audited financial statements to record ACPPI operations for the years 1970, 1971, and 1972; purchase of raw materials and supplies for maintenance of the machinery and equipment were slow and niggardly; . . . misdelivery of pipes purchased by customers, heavy automatic losses to (C & C); and the supposed samples of asbestos sheets worth of P30,000.00 were actually appropriated for the personal use of PNB Vice President."

The trial court concluded that since PNB and NIDC violated the trust as ordained in the VTA, rescission of the VTA is proper. Corollarilly, it granted damages and attorney's fees in favor of C & C in the total amount of P21,485,848.00. It likewise ruled that aside from the DBP-assigned secured obligation of C & C, all the unsecured obligations of C & C to PNB and NIDC were not sufficiently established. The dispositive portion of the RTC decision reads:

ACCORDINGLY, judgment is hereby rendered as follows:

- Rescinding the Voting Trust Agreement executed on March 5, 1969, by plaintiff Clara Reyes Pastor, a majority stockholder of C & C Commercial Corporation, as Trustor, in favor of the defendants, Philippine National Bank and National Investment Development Corporation, as Trustees;
- Declaring that the secured loan of P490,000.00 and P796,000.00 of the plaintiffs from the Development Bank of the Philippines (DBP), under the promissory notes dated May 16, 1960 and May 8, 1961, secured by real estate mortgages on the same dates, executed by plaintiffs C & C Commercial Corporation and plaintiff Clara Reyes Pastor for herself and as attorney-in-fact of her husband, Antonio Pastor, in favor of DBP, which were assigned by the DBP to defendant PNB are already considered fully paid by the plaintiffs by reason of set off/compensation with the damages and attorney's fees awarded to plaintiffs in this judgment, and, the secured loans are, therefore, no longer payable to defendant PNB from the plaintiffs;
- Canceling thereby the aforesaid real estate mortgages covering the mortgaged twenty (20) parcels of land described therein, together with all the buildings and other improvements existing or which may hereafter be created or constructed thereon, situated at Barrio Napindan, Municipality of Taguig, Province of Rizal (now of Metro Manila), under Original Certificate of Title No. 2224 of the Registry of Deeds of the Province of Rizal (now of Pasig, Metro Manila);
- Making permanent the writ of preliminary injunction issued on March 23, 1990;
- Ordering, as consequence, the Register of Deeds of the Province of Rizal (now of Pasig, Metro Manila) to cancel the mortgage annotations, pertaining to the said real estate mortgages, made at the back of Original Certificate of Title No.2224 of the Registry of Deeds of the Province of Rizal (now of Pasig, Metro Manila);

- Ordering, as well, the Register of Deeds of the Province of Rizal (now of Pasig, metro Manila) to return and deliver to the plaintiffs the owner's duplicate copy of Original Certificate of Title No. 2224 of the Registry of Deeds of the Province of Rizal (now of Pasig, Metro Manila);
- Ordering the defendants to pay to plaintiffs C & C Commercial Corporation, jointly and severally, actual damages in the amounts of : (a) P4,520,000.00, as business losses; (b) P6,599,224.00, as unrealized profits; (c) P8,084,631.00, as capital deficiency; and (d) P781,993.00, representing decrease in assets, including the sum of P1,000,000.00 as exemplary damages as well as P500,000.00, in reasonable attorney's fees, or for the total net amount of P20,199,848.00, in damages and attorney's fees, after deducting from the gross total of the aforesaid awarded damages and attorney's fees, the total secured loans of P1,286,000.00 by way of set off/compensation;
- Ordering the defendants to pay to plaintiff C & C Commercial Corporation, also jointly and severally, interests on the total actual damages of P19,985,848.00, at the rate of 8% per annum from the date of this judgment until fully paid;
- Dismissing the counterclaim of the defendants of lack of merit; and
- With costs against the defendants.

SO ORDERED.

PNB's and NIDC's Notice of Appeal was denied due course for having been filed out of time. On June 11, 1992, they filed a Petition for Certiorari before the Court of Appeals to nullify the order denying their notice of appeal. But the Court of Appeals denied the petition. That prompted the elevation of the case to this Court via a Petition for Review on Certiorari, docketed as G.R. No. L-08870. This Court at first denied the petition on March 3, 1994.[31] However, on a Motion for Reconsideration, the Court ordered the lower court to give due course to the appeal.[32]

After the appeal was reinstated, on February 26, 1999, the Court of Appeals rendered the assailed Decision[33] reversing the decision of the trial court and dismissing Civil Case No. Q-18176. According to the appellate court, the trial court failed to recognize the unsecured obligations of C & C to PNB and NIDC, which were in fact acknowledged in the SGV report and by this Court in C & C Commercial Corporation, v. PNB,[34] as well as the interests due thereon. As to the issue of mismanagement, it ruled that the SGV report presenting the disastrous financial position of C & C does not automatically equate to a finding of mismanagement on the part of PNB and NIDC. This, according to the appellate court, requires deep and thorough business management analysis, none of which was presented before the trial court. The summarized findings and the dispositive portion of the Court of Appeals' decision read:

In sum, We find the causes of action raised by appellees in their Complaint as not having been sufficiently established. The party having the burden of proof must show a preponderance of evidence thereon, with plaintiff having to rely on the strength of his own evidence and not upon the weakness of the defendant's (Francisco v. Tizon, G.R. No. 124853, February 24, 1998). The appellees not having established their case with a preponderance of evidence as is required in civil cases (New Testament Church of God v. Court of Appeals, 246 SCRA 266). We have no other recourse but to order dismissal of appellee's Complaint.

"WHEREFORE, finding error in the Decision appealed from, the same is hereby REVERSED and SET ASIDE. A new judgment is hereby rendered DISMISSING Civil Case No. Q-18176 for lack of merit. No pronouncement as to costs.

SO ORDERED."

Finding the petitioner's Motion for Reconsideration[35] to be without merit, the appellate court denied it in its Resolution [36] dated November 24, 1999.

Petitioners now impugn the Decision and Resolution of the Court of Appeals in this Petition for Review on Certiorari.

The petitioners contend in the main that the Court of Appeals erred in reversing the trial court's findings of fact, specifically on the following points (1) the amount of C & C's indebtedness to PNB and NIDC as proven by evidence on record; (2) the presence of "substantial" evidence on PNB's and NIDC's mismanagement of C & C; and (3) PNB's and NIDC's liability for damages as a consequence of their mismanagement.

The issues raised in this petition are factual. It has been the consistent policy of this Court to review only errors of law from decisions elevated to it from the Court of Appeals in a petition for certiorari under Rule 45 of the Rules of Court.[37] There are however exceptional circumstances that may compel the Court to review the findings of fact of the Court of Appeals, which as summarized in a line of cases[38] are as follows: (1) when the inference made is manifestly mistaken, absurd or impossible; (2) when there is grave abuse of discretion; (3) when the finding is grounded entirely on speculations, surmises or conjectures; (4) when the judgment of the Court of Appeals are based on misapprehension of facts; (5) when the findings of fact are conflicting; (6) when the Court of Appeals in making its findings went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) when the findings of the Court of Appeals are contrary to those of the trial court; (8) when the findings of facts are conclusions without citations of specific evidence on which they are based; (9) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties and which if properly considered would justify a different conclusion; and (10) when the findings of fact by the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.

Clearly, this case falls within the purview of the seventh exception since the appellate court's findings and conclusions are contrary to those of the trial court. However, upon a painstaking review of the records of this case, we are disposed to uphold the findings of fact and conclusions of the Court of Appeals.

On the amount of petitioner's indebtedness to the respondents, the petitioners claim that the trial court was correct in holding: (1) that the DBP-assigned Promissory Notes amounting to P1,286,000.00 was already paid by setting off the amounts awarded as damages; (2) that the respondents' capital infusion to C & C during their management under the VTA should not be considered as loan actually received under the rule enunciated in the case of *Filipinas Marble Corporation v. Intermediate Appellate Court*;^[39] and, (3) that the petitioners' obligations under the 1957 to 1960 Letters of Credit were not valid and demandable for want of competent and convincing evidence.

On the other hand, the respondents asserted before the Court of Appeals that the petitioners' indebtedness (a) for unpaid obligations under the 1957 and 1960 Letters of Credit stood at P5,451,851.83 as of January 1968; (b) the SGV Management Report reflects that the capital infused by PNB and NIDC under the VTA was in the amount of P3,800,578.00 as of July 3, 1972; and (c) for the DBP-assigned Promissory was in the aggregate amount of P1,286,000.00.

In settling the conflicting claims of the parties, the Court of Appeals relied in the SGV report reflecting the following amount of indebtedness on account of loan accommodations, which as of December 31, 1972 amounted to:

11. DUE TO BANKS AND FINANCING INSTITUTION^[40]

Summarized below are the details of liabilities due to banks and financing institution.

Due to Banks and Financing Institution

As of December 31, 1972

PNB DBP NIDC PBTC TOTAL

Loans Payable P4,232,585.83 P1,254,635.32 P 405,479.35 P -- P5,892,700.50

Capitalized interest 2,398,107.19 -- -- -- 2,398,107.19

Fast due acceptances 1,500,640.30 -- -- 5,181.72 1,505,822.02

Short term advances -- 27,698.56 665,392.32 -- 693,090.88

Expenses in litigation -- 229,942.01 -- -- 229,942.01

Accrued interest 1,595,895.26 1,002,527.21 107,117.78 -- 2,705,540.25

Total P9,727,228.58 P2,514,803.10 P1,177,989.45 P5,181.72 P13,425,202.85

The above figures were directly confirmed to us by the banks and financial institution. The differences between amounts as confirmed and per Company's records are as follows:

PNB

Per Books Dec. 31, 1972

Accounts payable P61,789.21 P -- P61,789.21

Marginal fee 327,055.48 -- 327,055.48

Various slight drafts 3,432,585.83 3,432,585.83 --

Loans payable 800,000.00 800,000.00 --

Acceptances payable 1,789,748.55 1,500,640.30 289,108.25

Capitalized interest 2,071,501.71 2,398,107.19 (327,055.48)

Accrued interest 137,303.44 1,595,895.26 (1,458,591.82)

8,619,534.22 9,727,228.58 (1,107,694.36)

NIDC

Short term advances 203,477.74 665,392.32 (361,914.58)

Long-term advances 679,008.61 405,479.35 273,529.26

Accrued interest -- 407,117.78 (107,117.78)

Acceptances payable 38,661.52 -- 38,661.52

1,021,147.87 1,177,989.45 (156,841.58)

The petitioners maintain that the trial court was correct in ruling that these loans were not proven. We disagree. Contrary to what the trial court claimed, the petitioners' liabilities have been proven by the very evidence presented by the petitioners, i.e., the SGV Report. A party who presents an evidence is estopped from questioning the contents thereof. Based on the SGV Report, petitioners' liability to PNB, per corporate books, amounts to P6,022,334.38, exclusive of interest.

As to the petitioner's liability to NIDC, the Court of Appeals pegged the amount at P405,579.35, per the amount acknowledged by the NIDC as reflected above, notwithstanding that the SGV Report enumerated another type of liability, termed as "short-term advances." Nonetheless, we have to follow the appellate court's finding on this matter since the NIDC opted not to appeal the finding.

Thus, together with the DBP assigned Promissory Notes, the petitioners' indebtedness to the respondents, exclusive of interests, stands as follows:

PNB

Various sight drafts

3,432,585.83

Loans payable

800,000.00

Acceptances payable

1,789,748.55

DBP-assigned PNs

1,286,000.00

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P 7,308,334.38

NIDC

Demand Loan

P 405,479.35

(entered as long-term advances)

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Total

P 7,713,813.73[41]

The rates of interests applicable on these loans were exhaustively discussed and computed by the appellate court,[42] which we hereunder reproduce as follows:

- Various sight drafts in the amount of P3,432,585.83

Having no stipulated rate of interest, we shall apply the standard 12% per annum interest rate. Thus, computed from April 1, 1970, the date of the latest of these drafts, the amount of interest would be P11,533,488.39 as of the year 1998.

- Loans payable in the amount of P800,000.00

These loans are covered by six Promissory Notes, (Exhs. "115-120"), all with a stipulated interest rate of 13 ½%

per annum from maturity until paid. The first five (5) Promissory Notes all matured one hundred twenty days after date, to wit --

Promissory Note for P100,000.00, dated 2-24-70, matured 6-24-70;

Promissory Note for P100,000.00, dated 2-26-70, matured 6-26-70;

Promissory Note for P100,000.00, dated 3-2-70, matured 6-30-70;

Promissory Note for P100,000.00, dated 3-13-70, matured 7-11-70;

Promissory Note for P100,000.00, dated 3-30-70, matured 7-28-70;

While the last Promissory Note, dated April 1, 1970, for P300,000.00, matured thirty days after date, or on 1 May 1970.

The interests due on the said Promissory Notes as of the year 1998 would, therefore, appear to be as follows --

P100,000.00

13 ½% 6-24-70 to 6-24-98 P 378,000.00

P100,000.00

13 ½% 6-26-70 to 6-28-98 P 378,000.00

P100,000.00

13 ½% 6-30-70 to 6-30-98 P 378,000.00

P100,000.00

13 ½% 7-11-70 to 7-11-98 P 378,000.00

P100,000.00

13 ½% 7-28-70 to 7-28-98 P 378,000.00

P100,000.00

13 ½% 5-01-70 to 5-01-98 P1,134,000.00

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P3,024,000.00

- Acceptances payable in the amount of P1,789,748.55

Again, with no specified rate of interest clearly presented, We apply the 12% per annum interest rate. Thus, considering that the accrued interest thereon as of August 31, 1973 was P539,851.60, the total interest due on this liability would be P5,909,097.25, adding the amount of P5,369,245.65 as interest from August 31, 1973 to August 31, 1998 at 12% per annum interest rate.

- Demand Loan from appellee NIDC in the amount of P405,479.35

Applying the stipulated 13 ½% interest rate, the interest on this amount, incurred on September 10, 1971, would be P1,479,927.23 as of the year 1998.

- DBP-Assigned Promissory Note in the amount of P1,286,000.00

This obligation is covered by two Promissory Notes. The first, dated May 16, 1960, for the amount of P490,000.00, sets the interest rate at 6% per annum. Thus, computing from its maturity date of June 6, 1970, the interest due thereon would be P823,200.00. The second Promissory Note, May 8, 1961, for the amount of P796,000.00, sets the interest rate at 8% per annum. Thus, computing from its maturity date of May 6, 1971, the interest due thereon would be P1,719,360.00. Added together, the total interest due on these Promissory Notes would be P2,542,560.00.

In sum, therefore, the total interests due on the obligations of appellees in favor of appellants would be as follows --

Principal Interest

Various sight drafts P3,432,585.83 P11,533,488.39

Loans payable P 800,000.00 P 3,024,000.00

Acceptances payable P1,789,748.55 P 5,909,097.25

Demand Loan from appellee NIDC P 405,479.35 P 1,479,972.23

DBP-Assigned Promissory Notes P1,286,000.00 P2,542,560.00

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P7,713,813.73 P24,489,117.87

It must be pointed out at this juncture that the trial court ruled that the respondents' capital infusion to C & C during their management should not be considered as a loan, allegedly following the ruling of C & C enunciated in *Filipinas Marble Corporation v. Intermediate Appellate Court*.^[43] A reading of the case however, shows that no such ruling was laid down in the case. In fact, we precisely remanded the case to the court a quo for hearing to determine whether or not the loan was wisely spent or not. In this case, it appears that the loan accommodations granted by the respondents to the petitioners were not misappropriated but spent on its day-to-day operations.

Having settled the actual amount of the petitioners' indebtedness to the respondents, we now proceed to the issue of whether the respondents were guilty of mismanaging C & C.

In finding mismanagement on the part of the respondents and justifying the award of damages in the amount of P21,485,848.00, the trial court relied heavily on the devastating amount of losses stated in the SGV report. The appellate court rejected this inference. According to the appellate court, "merely because the SGV Management Report, on its face, shows how appellee Corporation is financially distraught does not automatically equate to a finding of mismanagement on the part of the appellants."

We are inclined to agree with the Court of Appeals. To prove the issue of mismanagement, the petitioners need to establish a causal connection between the fault or negligence of the respondents and the damage incurred by them. They need to show that the steps which the management had taken resulted in the company's distraught position, requiring an evaluation of the merits of the management's business policies, and quantifying what the company had lost as a result of management's ineptitude. These petitioners miserably failed to do.

Concededly, the respondents are trustees in the full equitable sense, obliged as they were to administer the trust as fiduciaries. However, we find no evidence to indicate that the respondents had committed any act which constitutes breach of their fiduciary duties. During their management under the VTA, the respondents had sought to rehabilitate the corporation by giving it life-prolonging assistance through the infusion of capital.

It is important to take into consideration the undisputed fact that at the inception of the VTA, the corporation was in a very sorry state such that the respondents were able to put it in operation only after six months following the signing of the VTA. It is not inconceivable therefore that even three years after the signing of the VTA, the corporation could not yet be put back on its feet. Even the SGV Report recognized that "operations are off and on due not only to lack of raw materials but also to natural calamities like floods and typhoons which have affected sales and operations."

The increase in the company's liability is likewise understandable. As the corporation had no funds to finance its operations, all bank loans were channeled into it, resulting in the non-payment of the company's liability. The SGV Report acknowledged that "(E)ven in 1969 (at the start of the Voting Trust Agreement), it would appear that the company had required inflow of funds to support its operations since at that time it has already a P3.4 Million capital deficiency."

Basic is the rule in civil cases that the party having the burden of proof must establish his case by a preponderance of evidence.[44] In the present case, the petitioners as plaintiffs had the burden of proving the fact of mismanagement committed by the respondents as defendants to justify a judgment in their favor. As stated earlier, the evidence adduced by the petitioners, which is mainly the SGV report was insufficient to prove mismanagement on the part of the respondents.

Petitioner Pastor charges the respondents with anomalies. However, as pointed out by the appellate court, the respondents satisfactorily refuted these charges one by one.[45]

The petitioners likewise argue that its sole competitor, Eternit Corporation, generated earnings during the years when C & C was experiencing losses. This apparently persuaded the trial court that there was mismanagement on the part of the respondents. However, the trial court failed to consider that Eternit's financial condition was so far removed from that of C & C. Moreover, the success of an entity's competitor does not equate to its mismanagement.

Petitioner Pastor cites the weakness of the company's accounting system and procedure during the respondent's management as an indication of mismanagement. We are not persuaded. Again, even the SGV report has this to say. "It should be understood that the foregoing deal exclusively with operational, accounting and record-keeping systems and procedures and should not be regarded as reflecting upon the integrity or capabilities of anyone in the organization."

Moreover, the immunity clause embodied in the VTA holds the respondents "harmless from any and all liabilities to third persons, x x x for any action, decision, or exercise of discretion, powers and functions or the discharge of any duties or responsibilities, inherent in, or pertaining to this trusteeship agreement as well as the applicable provisions of law" and binds petitioners "not to file or bring administrative action or suit in court on (matters) pertaining to or relate to this voting trust agreement, to assail or attack or question any act or decision or exercise of discretion made by the trustees, with regards (sic) to the trust." This is a binding contractual commitment which the parties are expected to observe in good faith. A contract has the force of law between the parties, and each is bound to fulfill what has been expressly stipulated therein.[46]

In sum, we cannot find any ground to rescind the VTA which the parties themselves agreed to recognize and

follow until such time that the petitioners' obligations shall have been fully paid. Necessarily, the trial court's exorbitant award of damages becomes groundless.

The facts of this case indicate that the petitioners voluntarily entered into a VTA and accepted the bank's dual role as a trustee of the voting trust and as a creditor of the corporation. There being nothing wrong in the contractual arrangement, the petitioners should not be allowed to obtain judicial relief and prevent the other party from exercising its right under the contract just because they believe they got the shorter end of the bargain. We echo once more what was said in *Vales v. Villa*,^[47] which up to now is a sound doctrine still, thus:

"Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by them -- indeed all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a violation of law, a commission of what the law knows as actionable wrong, before the courts are authorized to lay hold of the situation and remedy it."

WHEREFORE, the petition is DENIED. The assailed decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Puno, (Chairman), Quisumbing, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] G.R. No. 42449, July 5, 1989, 175 SCRA 1.

[2] 316 Phil. 371 (1995).

[3] Now known as Asbestos Cement Products Philippines, Inc. (ACPPI).

[4] See *C & C Commercial Corporation, et.al. v. Philippine National Bank, et.al.*, supra.

[5] Reconstitution Records, pp. 181-189.

[6] Paragraph 9, p. 6A of the VTA, supra.

[7] Paragraph 5, p. 5A of the VTA, supra.

[8] Paragraph 11 of the VTA reads: "11. And in further consideration of this voting trust agreement, the TRUSTOR binds herself to hold the TRUSTEES, as well as their officers, employees, agents and contractee experts and specialists harmless from any and all liabilities to third persons, including but not confined to, the stockholders, whether of the majority or minority group of the C & C Commercial Corporation, Inc. no parties herein, for any action, decision, or exercise of discretion, powers and functions or the discharge of any duties or responsibilities, inherent in, or pertaining to, this trusteeship agreement as well as the applicable provisions of law; the TRUSTOR further binds herself, her successors and assigns, during and beyond the life of this agreement not to file or bring administrative action or suit in court on (matters) pertaining to or relate to this voting trust agreement, to assail or attack or question any act or decision or exercise of discretion made by the TRUSTEES with regards (sic) to the trust."

[9] See *Petition for Extra-Judicial Foreclosure of Chattel Mortgage*, Reconstitution Records, pp. 74-84.

[10] Reconstitution Records, pp. 142-189.

[11] Reconstitution Records, pp. 8-21.

[12] *Id.*, at pp. 22-56.

[13] Reconstitution Records, pp. 57-68.

[14] See *C & C Commercial Corporation v. PNB*, supra.

[15] Records, Vol. II, pp. 81-83.

[16] *Id.*, at pp. 78-79.

[17] *Id.*, at pp. 92, 102.

[18] Reconstitution Records, pp. 69-73.

[19] See *C & C Commercial Corporation v. PNB*, supra.

[20] *Ibid.*

[21] Reconstitution Records, pp. 74-84.

[22] The Deed of Chattel Mortgage provides: "In case of MORTGAGOR (ACPPI) x x x is given any other kind of accommodations, etc., this mortgage shall also stand as security for the payment of said x x x accommodations without the necessity of executing a new contract and this mortgage shall have the same force and effect as if x x x accommodations were existing on the date thereof. This mortgage shall also stand as security for the said obligation and any and all other obligations of the MORTGAGOR (ACPPI) to the MORTGAGEE (NIDC) of whatever kind and nature, whether such obligations have been contracted before, during or after the constitution of this mortgage."

[23] See *C & C Commercial Corporation v. PNB*, supra.

[24] Reconstitution Records, pp. 88-106.

[25] See *C & C Commercial Corporation v. PNB*, supra.

[26] The pertinent provisions of Presidential Decree 385 reads:

Sec. 1. It shall be mandatory for government financial institutions, after the lapse of sixty (60) days from the issuance of this Decree, to foreclose the collaterals and/or securities for any loan, credit, accommodation, and/or guarantees granted by them whenever the arrearages on such account, including accrued interest and other charges, amount to at least twenty percent (20%) of the total outstanding obligations, including interest and other charges, as appearing in the books of account and/or related records of the financial institution concerned. This shall be without prejudice to the exercise by the government financial institutions of such rights and/or remedies available to them under their respective contracts with their debtors, including the right to foreclose on loans, credits, accommodations and/or guarantees on which the arrearages are less than twenty per cent (20%).

Sec. 2. No restraining order, temporary or permanent injunction shall be issued by the court against any government financial institution in any action taken by such institution in compliance with the mandatory foreclosure provided in Section 1 hereof, whether such restraining order, temporary or permanent injunction is sought by the borrower(s) or any third party or parties, except after due hearing in which it is established by the borrower and admitted by the government financial institution concerned that twenty percent (20%) of the outstanding arrearages has been paid after the filing of foreclosure proceedings.

[27] *C & C Commercial Corporation v. PNB*, supra.

[28] See RTC Decision, p. 21.

[29] *Ibid.*

[30] Records, Vol. II, pp. 333-371.

[31] G.R. No. 108870, March 3, 1994, 230 SCRA 674.

[32] Supra.

[33] Penned by Associate Justice Consuelo Ynares-Santiago (now Supreme Court Associate Justice), with Justices B.A. Adefuin-de la Cruz and Presbitero J. Velasco, Jr., concurring.

[34] Supra.

[35] CA Rollo, pp. 189-224.

[36] Rollo, p. 217.

[37] Laza v. Court of Appeals, 336 Phil. 631(1997).

[38] Medina v. Asistio, Jr., G.R. No. 75450, Nov. 8, 1990, 191 SCRA 218; BPI Credit Corporation v. Court of Appeals, G.R. No. 96755, Dec. 4, 1991, 204 SCRA 601; Geronimo v. Court of Appeals, 327 Phil. 255 (1996); Floro v. Llenado, 314 Phil. 715 (1995).

[39] 226 Phil. 109 (1986).

[40] SGV report, supra, pp. 45A-46A.

[41] See Court of Appeals Decision, Rollo, p. 167.

[42] Id., at pp. 168-170.

[43] Supra.

[44] Section 1, Rule 133, Rules of Court.

[45] See Appellant's Brief, pp. 48-49; Rollo, pp. 60-61.

[46] Barons Marketing Corporation v. Court of Appeals, 349 Phil. 769 (1998).

[47] 35 Phil. 769 (1916).

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