

THE INTERNATIONAL CORPORATE BANK (NOW UNION BANK OF THE PHILIPPINES), PETITIONER, VS. SPS. FRANCIS S. GUECO AND MA. LUZ E. GUECO, RESPONDENTS.

G.R. No. 141968. February 12, 2001

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

The respondents Gueco Spouses obtained a loan from petitioner International Corporate Bank (now Union Bank of the Philippines) to purchase a car - a Nissan Sentra 1600 4DR, 1989 Model. In consideration thereof, the Spouses executed promissory notes which were payable in monthly installments and chattel mortgage over the car to serve as security for the notes.

The Spouses defaulted in payment of installments. Consequently, the Bank filed on August 7, 1995 a civil action docketed as Civil Case No. 658-95 for "Sum of Money with Prayer for a Writ of Replevin"[1] before the Metropolitan Trial Court of Pasay City, Branch 45.[2] On August 25, 1995, Dr. Francis Gueco was served summons and was fetched by the sheriff and representative of the bank for a meeting in the bank premises. Desi Tomas, the Bank's Assistant Vice President demanded payment of the amount of P184,000.00 which represents the unpaid balance for the car loan. After some negotiations and computation, the amount was lowered to P154,000.00. However, as a result of the non-payment of the reduced amount on that date, the car was detained inside the bank's compound.

On August 28, 1995, Dr. Gueco went to the bank and talked with its Administrative Support, Auto Loans/Credit Card Collection Head, Jefferson Rivera. The negotiations resulted in the further reduction of the outstanding loan to P150,000.00.

On August 29, 1995, Dr. Gueco delivered a manager's check in the amount of P150,000.00 but the car was not released because of his refusal to sign the Joint Motion to Dismiss. It is the contention of the Gueco spouses and their counsel that Dr. Gueco need not sign the motion for joint dismissal considering that they had not yet filed their Answer. Petitioner, however, insisted that the joint motion to dismiss is standard operating procedure in their bank to effect a compromise and to preclude future filing of claims, counterclaims or suits for damages.

After several demand letters and meetings with bank representatives, the respondents Gueco spouses initiated a civil action for damages before the Metropolitan Trial Court of Quezon City, Branch 33. The Metropolitan Trial Court dismissed the complaint for lack of merit.[3]

On appeal to the Regional Trial Court, Branch 227 of Quezon City, the decision of the Metropolitan Trial Court was reversed. In its decision, the RTC held that there was a meeting of the minds between the parties as to the reduction of the amount of indebtedness and the release of the car but said agreement did not include the signing of the joint motion to dismiss as a condition sine qua non for the effectivity of the compromise. The court further ordered the bank:

- to return immediately the subject car to the appellants in good working condition; Appellee may deposit the Manager's check - the proceeds of which have long been under the control of the issuing bank in favor of the appellee since its issuance, whereas the funds have long been paid by appellants to secure said Manager's Check, over which appellants have no control;
- to pay the appellants the sum of P50,000.00 as moral damages; P25,000.00 as exemplary damages, and P25,000.00 as attorney's fees, and
- to pay the cost of suit.

In other respect, the decision of the Metropolitan Trial Court Branch 33 is hereby AFFIRMED.[4]

The case was elevated to the Court of Appeals, which on February 17, 2000, issued the assailed decision, the decretal portion of which reads:

WHEREFORE, premises considered, the petition for review on certiorari is hereby DENIED and the Decision of the Regional Trial Court of Quezon City, Branch 227, in Civil Case No. Q-97-31176, for lack of any reversible error, is AFFIRMED in toto. Costs against petitioner.

SO ORDERED.[5]

The Court of Appeals essentially relied on the respect accorded to the finality of the findings of facts by the lower court and on the latter's finding of the existence of fraud which constitutes the basis for the award of damages.

The petitioner comes to this Court by way of petition for review on certiorari under Rule 45 of the Rules of Court, raising the following assigned errors:

I

THE COURT OF APPEALS ERRED IN HOLDING THAT THERE WAS NO AGREEMENT WITH RESPECT TO THE EXECUTION OF THE JOINT MOTION TO DISMISS AS A CONDITION FOR THE COMPROMISE AGREEMENT.

II

THE COURT OF APPEALS ERRED IN GRANTING MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES IN FAVOR OF THE RESPONDENTS.

III

THE COURT OF APPEALS ERRED IN HOLDING THAT THE PETITIONER RETURN THE SUBJECT CAR TO THE RESPONDENTS, WITHOUT MAKING ANY PROVISION FOR THE ISSUANCE OF THE NEW MANAGER'S/CASHIER'S CHECK BY THE RESPONDENTS IN FAVOR OF THE PETITIONER IN LIEU OF THE ORIGINAL CASHIER'S CHECK THAT ALREADY BECAME STALE.[6]

As to the first issue, we find for the respondents. The issue as to what constitutes the terms of the oral compromise or any subsequent novation is a question of fact that was resolved by the Regional Trial Court and the Court of Appeals in favor of respondents. It is well settled that the findings of fact of the lower court, especially when affirmed by the Court of Appeals, are binding upon this Court.[7] While there are exceptions to this rule,[8] the present case does not fall under any one of them, the petitioner's claim to the contrary, notwithstanding.

Being an affirmative allegation, petitioner has the burden of evidence to prove his claim that the oral compromise entered into by the parties on August 28, 1995 included the stipulation that the parties would jointly file a motion to dismiss. This petitioner failed to do. Notably, even the Metropolitan Trial Court, while ruling in favor of the petitioner and thereby dismissing the complaint, did not make a factual finding that the compromise agreement included the condition of the signing of a joint motion to dismiss.

The Court of Appeals made the factual findings in this wise:

In support of its claim, petitioner presented the testimony of Mr. Jefferson Rivera who related that respondent Dr. Gueco was aware that the signing of the draft of the Joint Motion to Dismiss was one of the conditions set by the bank for the acceptance of the reduced amount of indebtedness and the release of the car. (TSN, October 23, 1996, pp. 17-21, Rollo, pp. 18, 5). Respondents, however, maintained that no such condition was ever discussed during their meeting of August 28, 1995 (Rollo, p. 32).

The trial court, whose factual findings are entitled to respect since it has the 'opportunity to directly observe the witnesses and to determine by their demeanor on the stand the probative value of their testimonies' (People vs. Yadao, et al. 216 SCRA 1, 7 [1992]), failed to make a categorical finding on the issue. In dismissing the claim of damages of the respondents, it merely observed that respondents are not entitled to indemnity since it was their unjustified reluctance to sign of the Joint Motion to Dismiss that delayed the release of the car. The trial court opined, thus:

'As regards the third issue, plaintiffs' claim for damages is unavailing. First, the plaintiffs could have avoided the renting of another car and could have avoided this litigation had he signed the Joint Motion to Dismiss. While it is true that herein defendant can unilaterally dismiss the case for collection of sum of money with replevin, it is equally true that there is nothing wrong for the plaintiff to affix his signature in the Joint Motion to Dismiss, for after all, the dismissal of the case against him is for his own good and benefit. In fact, the signing of the Joint Motion to Dismiss gives the plaintiff three (3) advantages. First, he will recover his car. Second, he will pay his obligation to the bank on its reduced amount of P150,000.00 instead of its original claim of P184,985.09. And third, the case against him will be dismissed. Plaintiffs, likewise, are not entitled to the award of moral damages and exemplary damages as there is no showing that the defendant bank acted fraudulently or in bad faith.' (Rollo, p. 15)

The Court has noted, however, that the trial court, in its findings of facts, clearly indicated that the agreement of the parties on August 28, 1995 was merely for the lowering of the price, hence -

'xxx On August 28, 1995, bank representative Jefferson Rivera and plaintiff entered into an oral compromise agreement, whereby the original claim of the bank of P184,985.09 was reduced to P150,000.00 and that upon payment of which, plaintiff was informed that the subject motor vehicle would be released to him.' (Rollo, p. 12)

The lower court, on the other hand, expressly made a finding that petitioner failed to include the aforesaid signing of the Joint Motion to Dismiss as part of the agreement. In dismissing petitioner's claim, the lower court declared, thus:

'If it is true, as the appellees allege, that the signing of the joint motion was a condition sine qua non for the reduction of the appellants' obligation, it is only reasonable and logical to assume that the joint motion should have been shown to Dr. Gueco in the August 28, 1995 meeting. Why Dr. Gueco was not given a copy of the joint motion that day of August 28, 1995, for his family or legal counsel to see to be brought signed, together with the P150,000.00 in manager's check form to be submitted on the following day on August 29, 1995? (sic) [I]s a question whereby the answer up to now eludes this Court's comprehension. The appellees would like this Court to believe that Dr. Gueco was informed by Mr. Rivera of the bank requirement of signing the joint motion on August 28, 1995 but he did not bother to show a copy thereof to his family or legal counsel that day August 28, 1995. This part of the theory of appellee is too complicated for any simple oral agreement. The idea of a Joint Motion to Dismiss being signed as a condition to the pushing through a deal surfaced only on August 29, 1995.

'This Court is not convinced by the appellees' posturing. Such claim rests on too slender a frame, being inconsistent with human experience. Considering the effect of the signing of the Joint Motion to Dismiss on the appellants' substantive right, it is more in accord with human experience to expect Dr. Gueco, upon being

shown the Joint Motion to Dismiss, to refuse to pay the Manager's Check and for the bank to refuse to accept the manager's check. The only logical explanation for this inaction is that Dr. Gueco was not shown the Joint Motion to Dismiss in the meeting of August 28, 1995, bolstering his claim that its signing was never put into consideration in reaching a compromise.' xxx.[9]

We see no reason to reverse.

Anent the issue of award of damages, we find the claim of petitioner meritorious. In finding the petitioner liable for damages, both the Regional Trial Court and the Court of Appeals ruled that there was fraud on the part of the petitioner. The CA thus declared:

The lower court's finding of fraud which became the basis of the award of damages was likewise sufficiently proven. Fraud under Article 1170 of the Civil Code of the Philippines, as amended is the 'deliberate and intentional evasion of the normal fulfillment of obligation' When petitioner refused to release the car despite respondent's tender of payment in the form of a manager's check, the former intentionally evaded its obligation and thereby became liable for moral and exemplary damages, as well as attorney's fees.[10]

We disagree.

Fraud has been defined as the deliberate intention to cause damage or prejudice. It is the voluntary execution of a wrongful act, or a willful omission, knowing and intending the effects which naturally and necessarily arise from such act or omission; the fraud referred to in Article 1170 of the Civil Code is the deliberate and intentional evasion of the normal fulfillment of obligation.[11] We fail to see how the act of the petitioner bank in requiring the respondent to sign the joint motion to dismiss could constitute as fraud. True, petitioner may have been remiss in informing Dr. Gueco that the signing of a joint motion to dismiss is a standard operating procedure of petitioner bank. However, this can not in anyway have prejudiced Dr. Gueco. The motion to dismiss was in fact also for the benefit of Dr. Gueco, as the case filed by petitioner against it before the lower court would be dismissed with prejudice. The whole point of the parties entering into the compromise agreement was in order that Dr. Gueco would pay his outstanding account and in return petitioner would return the car and drop the case for money and replevin before the Metropolitan Trial Court. The joint motion to dismiss was but a natural consequence of the compromise agreement and simply stated that Dr. Gueco had fully settled his obligation, hence, the dismissal of the case. Petitioner's act of requiring Dr. Gueco to sign the joint motion to dismiss can not be said to be a deliberate attempt on the part of petitioner to renege on the compromise agreement of the parties. It should, likewise, be noted that in cases of breach of contract, moral damages may only be awarded when the breach was attended by fraud or bad faith.[12] The law presumes good faith. Dr. Gueco failed to present an iota of evidence to overcome this presumption. In fact, the act of petitioner bank in lowering the debt of Dr. Gueco from P184,000.00 to P150,000.00 is indicative of its good faith and sincere desire to settle the case. If respondent did suffer any damage, as a result of the withholding of his car by petitioner, he has only himself to blame. Necessarily, the claim for exemplary damages must fail. In no way, may the conduct of petitioner be characterized as "wanton, fraudulent, reckless, oppressive or malevolent." [13]

We, likewise, find for the petitioner with respect to the third assigned error. In the meeting of August 29, 1995, respondent Dr. Gueco delivered a manager's check representing the reduced amount of P150,000.00. Said check was given to Mr. Rivera, a representative of respondent bank. However, since Dr. Gueco refused to sign the joint motion to dismiss, he was made to execute a statement to the effect that he was withholding the payment of the check.[14] Subsequently, in a letter addressed to Ms. Desi Tomas, vice president of the bank, dated September 4, 1995, Dr. Gueco instructed the bank to disregard the 'hold order' letter and demanded the immediate release of his car,[15] to which the former replied that the condition of signing the joint motion to dismiss must be satisfied and that they had kept the check which could be claimed by Dr. Gueco anytime.[16] While there is controversy as

to whether the document evidencing the order to hold payment of the check was formally offered as evidence by petitioners,[17] it appears from the pleadings that said check has not been encashed.

The decision of the Regional Trial Court, which was affirmed in toto by the Court of Appeals, orders the petitioner:

- to return immediately the subject car to the appellants in good working condition. Appellee may deposit the Manager's Check - the proceeds of which have long been under the control of the issuing bank in favor of the appellee since its issuance, whereas the funds have long been paid by appellants to secure said Manager's Check over which appellants have no control.[18]

Respondents would make us hold that petitioner should return the car or its value and that the latter, because of its own negligence, should suffer the loss occasioned by the fact that the check had become stale.[19] It is their position that delivery of the manager's check produced the effect of payment[20] and, thus, petitioner was negligent in opting not to deposit or use said check. Rudimentary sense of justice and fair play would not countenance respondents' position.

A stale check is one which has not been presented for payment within a reasonable time after its issue. It is valueless and, therefore, should not be paid. Under the negotiable instruments law, an instrument not payable on demand must be presented for payment on the day it falls due. When the instrument is payable on demand, presentment must be made within a reasonable time after its issue. In the case of a bill of exchange, presentment is sufficient if made within a reasonable time after the last negotiation thereof.[21]

A check must be presented for payment within a reasonable time after its issue,[22] and in determining what is a "reasonable time," regard is to be had to the nature of the instrument, the usage of trade or business with respect to such instruments, and the facts of the particular case.[23] The test is whether the payee employed such diligence as a prudent man exercises in his own affairs.[24] This is because the nature and theory behind the use of a check points to its immediate use and payability. In a case, a check payable on demand which was long overdue by about two and a half (2-1/2) years was considered a stale check.[25] Failure of a payee to encash a check for more than ten (10) years undoubtedly resulted in the check becoming stale.[26] Thus, even a delay of one (1) week[27] or two (2) days,[28] under the specific circumstances of the cited cases constituted unreasonable time as a matter of law.

In the case at bar, however, the check involved is not an ordinary bill of exchange but a manager's check. A manager's check is one drawn by the bank's manager upon the bank itself. It is similar to a cashier's check both as to effect and use. A cashier's check is a check of the bank's cashier on his own or another check. In effect, it is a bill of exchange drawn by the cashier of a bank upon the bank itself, and accepted in advance by the act of its issuance.[29] It is really the bank's own check and may be treated as a promissory note with the bank as a maker.[30] The check becomes the primary obligation of the bank which issues it and constitutes its written promise to pay upon demand. The mere issuance of it is considered an acceptance thereof. If treated as promissory note, the drawer would be the maker and in which case the holder need not prove presentment for payment or present the bill to the drawee for acceptance.[31]

Even assuming that presentment is needed, failure to present for payment within a reasonable time will result to the discharge of the drawer only to the extent of the loss caused by the delay.[32] Failure to present on time, thus, does not totally wipe out all liability. In fact, the legal situation amounts to an acknowledgment of liability in the sum stated in the check. In this case, the Gueco spouses have not alleged, much less shown that they or the bank which issued the manager's check has suffered damage or loss caused by the delay or non-presentment. Definitely, the original obligation to pay certainly has not been erased.

It has been held that, if the check had become stale, it becomes imperative that the circumstances that caused its non-presentment be determined.[33] In the case at bar, there is no doubt that the petitioner bank held on the check and refused to encash the same because of the controversy surrounding the signing of the joint motion to dismiss. We see no bad faith or negligence in this position taken by the Bank.

WHEREFORE, premises considered, the petition for review is given due course. The decision of the Court of Appeals affirming the decision of the Regional Trial Court is SET ASIDE. Respondents are further ordered to pay the original obligation amounting to P150,000.00 to the petitioner upon surrender or cancellation of the manager's check in the latter's possession, afterwhich, petitioner is to return the subject motor vehicle in good working condition.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

[1] Rollo, p. 26.

[2] This case was eventually dismissed for failure or lack of interest to prosecute (Annex 16), Id., at 158.

[3] Rollo, p. 30.

[4] Id., at 29.

[5] Id., at 35.

[6] Id., at 11.

[7] Amigo, et al. v. Teves, 96 Phil. 252 (1954).

[8] Ramos v. Pepsi Cola, 195 289 (1967).

[9] Rollo, pp. 31-33.

[10] Id., at 34.

[11] Legaspi Oil Co., Inc. vs. CA , 224 SCRA 213, 216 (1993).

[12] Article 2220 of the NEW CIVIL CODE.

[13] Articles 2229 and 2232 of the NEW CIVIL CODE.

[14] Rollo, p. 28.

[15] Ibid.

[16] Id., at 28, 30.

[17] Id., at 112.

[18] Id., at 29.

[19] The check was issued sometime in August 1995. By current banking practice, a check becomes stale after more than six (6) months. (Pacheco v. Court of Appeals, et al., G.R. No. 126670, December 2, 1999).

[20] Citing New Pacific Timber and Supply Co., Inc. v. Severis, 101 SCRA 686 (1980) ; see also Tan v. Court of Appeals, 239 SCRA 310 (1994); Tibajia, Jr. v. Court of Appeals, 223 SCRA 163 (1993).

[21] Section 71, Act No. 231, Negotiable Instruments Law (NIL).

[22] Section 186, NIL.

[23] Section 193, NIL.

[24] Jett Bros. Stones v. McCullough (1934) 188 Ark. 1108, 69 S.W. (2d) 863.

[25] Montinola v. Philippine National Bank, 88 Phil. 178 (1951).

[26] Papa v. A.U. Valencia and Co., Inc., 289 SCRA 643 (1998).

[27] Parker v. Grav., 188 Ark., 68 S.W. (2) 1023.

[28] National Plumbing Supple Co. v. Stevenson, 213 Ill. App. 49.

[29] Anderson v. Bank of Tupelo, 135 Miss. 351, 100 So. 179; Republic of the Philippines v. PNB, 3 SCRA 851, 856 (1961).

[30] Section 130, NIL.

[31] Ist National Bank v. Comm. Ins. Co., 113 Pac. 815.

[32] Section. 186, NIL.

[33] Crystal v. Court of Appeals, 71 SCRA 443 (1976).

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