RICARDO B. BANGAYAN, PETITIONER, VS. RIZAL COMMERCIAL BANKING CORPORATION AND PHILIP SARIA, RESPONDENTS,

G.R. No. 149193. April 04, 2011

Ponente: SERENO, J.

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SERENO, J.:

Before this Court is a Rule 45 Petition [1] questioning the Court of Appeals' affirmance of a trial court's dismissal of a complaint for damages filed by a depositor against a bank for the dishonor of seven checks and for the wrongful disclosure of information regarding the depositor's account contrary to the Bank Secrecy Act (Republic Act No. 1405). [2]

The Facts

Petitioner Ricardo Bangayan had a savings account and a current account with one of the branches of respondent Rizal Commercial Banking Corporation (RCBC). [3] These two accounts had an "automatic transfer" condition wherein checks issued by the depositor may be funded by any of the two accounts. [4]

On 26 June 1992, petitioner Bangayan purportedly signed a Comprehensive Surety Agreement (the Surety Agreement) [5] with respondent RCBC in favor of nine corporations. [6] Under the Surety Agreement, the funds in petitioner Bangayan's accounts with respondent RCBC would be used as security to guarantee any existing and future loan obligations, advances, credits/increases and other obligations, including any and all expenses that these corporations may incur with respondent bank.

Petitioner Bangayan contests the veracity and due authenticity of the Surety Agreement on the ground that his signature thereon was not genuine, and that the agreement was not notarized. [7] Respondent RCBC refutes this claim, although it admitted that it was exceptional for a perfected Surety Agreement of the bank to be without a signature of the witness and to remain unnotarized. Mr. Eli Lao, respondent bank's Group Head of Account Management, however, explained that the bank was still in the process of "completing" the Surety Agreement at that time. [8]

The following are the transactions of respondent RCBC in relation to the Surety Agreement vis-à-vis the petitioner Bangayan.

On 26 June 1992 (the same day that the Surety Agreement was allegedly signed), two of the corporations whose performance were guaranteed therein – LBZ Commercial and Peaks Marketing – were issued separate commercial letters of credit [9] by respondent RCBC for the importation of PVC resin from Korea. Three days later or on 29 June 1992, respondent RCBC issued a third letter of credit [10] in favor of another corporation, Final Sales Enterprise, whose obligations to respondent bank were likewise secured by petitioner Bangayan under the Surety Agreement. Mr. Lao claimed that respondent bank would not have extended the letters of credit in favor of the three corporations without petitioner Bangayan acting as surety. [11]

On 26 August 1992, a fourth letter of credit [12] was issued by respondent RCBC for the importation of materials

from Korea, this time by Lotec Marketing, another corporation enumerated in the Surety Agreement. The Korea Exchange Bank was designated as the advising bank for Lotec Marketing's letter of credit. [13]

On 15 September 1992, after the arrival of the shipments of the first three corporations from Korea, the Bureau of Customs (BOC) demanded – via letter of the same date – from respondent RCBC, which facilitated the three letters of credit, the remittance of import duties in the amount of thirteen million two hundred sixty-five thousand two hundred twenty-five pesos (PhP13,265,225). [14]

Mr. Lao of respondent RCBC allegedly called petitioner Bangayan and informed him of the BOC's demand for payment of import duties. [15] According to Mr. Lao, petitioner allegedly replied that he understood the situation and assured Mr. Lao that he was doing everything he could to solve the problem. [16]

Considering the BOC's demand, respondent RCBC decided to put on hold the funds in petitioner Bangayan's accounts by virtue of the authority given to it by petitioner under the Surety Agreement. [17] Respondent RCBC reasoned that as the collecting agent, it had to earmark sufficient funds in the account of petitioner Bangayan (the surety) to satisfy the tax obligations of the three corporations, in the event that they would fail to pay the same. [18] Thus, respondent bank refused payments drawn from petitioner Bangayan's deposits, unless there was an order from the BOC. [19] Petitioner Bangayan, however, contests this action since respondent bank did not present any writ of garnishment that would authorize the freezing of his funds. [20]

On 18 September 1992, two of the seven checks that were drawn against petitioner Bangayan's Current Account No. 0109-8232-5 were presented for payment to respondent RCBC, namely:

RCBC Check No.

Date of Presentment

Paid To

Amount

98799 [21]

18 Sept 1992

United Pacific Enterprises

PhP3,650,000

938000 [22]

18 Sept 1992

United Pacific Enterprises

PhP4,500,000

TOTAL

PhP8,150,000

On the same day, the amounts of three million six hundred fifty thousand pesos (PhP3,650,000) and four million five hundred thousand pesos (PhP4,500,000) [23] were successively debited from the said current account, as shown in petitioner Bangayan's passbook for the current account. [24] Alongside these two debit entries in the passbook was the transaction reference code "DFT," which apparently stands for "debit fund transfer." [25]

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On 21 September 1992, the same amounts in the two checks were credited to petitioner Bangayan's current account, under the transaction reference code "CM," that stands for "credit memo." [26] Moreover, petitioner Bangayan's Checks Nos. 93799 and 93800 issued in favor of United Pacific Enterprises were also returned by respondent RCBC with the notation "REFER TO DRAWER." [27]

On the same day that the checks were referred to petitioner Bangayan by respondent RCBC, United Pacific Enterprises, through Mr. Manuel Dente, demanded from petitioner Bangayan the payment of eight million one hundred fifty thousand pesos (PhP8,150,000), which corresponded to the amounts of the two dishonored checks that were issued to it. [28] Nothing more has been alleged by petitioner on this particular matter.

On 24 September 1992, the Korea Exchange Bank (the advising bank) informed respondent RCBC through a telex that it had already negotiated the fourth letter of credit for Lotec Marketing's shipment, which amounted to seven hundred twelve thousand eight hundred U.S. dollars (US$712,800) and, thereafter, claimed reimbursement from respondent RCBC. [29]

This particular shipment by Lotec Marketing became the subject matter of an investigation conducted by the Customs Intelligence & Investigation Service of the BOC, according to respondent bank. [30] Both parties agreed that the BOC likewise conducted an investigation covering the importation of the three corporations – LBZ Commercial, Peaks Marketing and Final Sales Enterprise - that were opened through the letters of credit issued by respondent RCBC. [31]

On 09 October 1992, respondent Philip Saria, who was an Account Officer of respondent bank's Binondo Branch, signed and executed a Statement before the BOC, with the assistance of Atty. Arnel Z. Dolendo of respondent RCBC, on the bank's letters of credit issued in favor of the three corporations. [32] Petitioner Bangayan cited this incident as the basis for the allegation in the Complaint he subsequently filed that respondent RCBC had disclosed to a third party (the BOC) information concerning the identity, nature, transaction and deposits including details of transaction related to and pertaining to his deposits with the said bank, in violation of the Bank Secrecy Act. [33] It must be pointed out that the trial court found that "no evidence was introduced by (petitioner Bangayan) to substantiate his claim that (respondent RCBC) gave any classified information" in violation of the Bank Secrecy Law. [34] Thus, the trial court considered the alleged disclosure of confidential bank information by respondent RCBC as a non-issue. [35]

On the same date, when Lotec Marketing's loan obligation under the fourth letter of credit became due and demandable, [36] respondent RCBC issued an advice that it would debit the amount of twelve million seven hundred sixty-two thousand six hundred pesos (PhP12,762,600) from petitioner Bangayan's current account to partially satisfy the guaranteed corporation's loan. [37] At that time, petitioner Bangayan's passbook for his current account showed that it had funds of twelve million seven hundred sixty-two thousand six hundred forty-five and 64/100 pesos (PhP12,762,645.64). [38]

On 12 October 1992, the amount of twelve million seven hundred sixty-two thousand and six hundred pesos (PhP12,762,600) was debited from petitioner Bangayan's current account, consequently reducing the funds to forty-five and 64/100 pesos (PhP45.64). [39] Respondent RCBC claimed that the former amount was debited from petitioner's account to partially pay Lotec Marketing's outstanding obligation which stood at eighteen million forty-seven thousand thirty-three and 60/100 pesos (PhP18,047,033.60). [40] Lotec Marketing, thereafter, paid the balance of its obligation to respondent RCBC in the amount of five million three hundred thirty-eight thousand eight hundred nineteen and 20/100 pesos (PhP5,338,819.20) [41] under the fourth letter of credit.

On 13 October 2010, the three corporations earlier adverted to paid the corresponding customs duties demanded by the BOC. [42] Receipts were subsequently issued by the BOC for the corporations' payments, copies of which

were received by Atty. Nelson Loyola, counsel of petitioner Bangayan in this case. [43] The trial court considered this as payment by petitioner of the three corporations' obligations for custom duties. [44] Thereafter, respondent RCBC released to the corporations the necessary papers for their PVC resin shipments which were imported through the bank's letters of credit. [45]

On 15 October 2010, five other checks of petitioner Bangayan were presented for payment to respondent RCBC, namely:

RCBC Check No.

Date of Presentment

Paid To

Amount

938011 [46]

15 Oct 1992

Simplex Merchandising

PhP1,200,000

938012 [47]

15 Oct 1992

Simplex Merchandising

PhP1,260,000

938013 [48]

15 Oct 1992

Simplex Merchandising

PhP1,180,000

938014 [49]

15 Oct 1992

Hinomoto Trading Company

PhP1,052,000

938015 [50]

15 Oct 1992

Hinomoto Trading Company

PhP982,000

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TOTAL AMOUNT

PhP5,674,000

On 16 October 1992, these five checks were also dishonored by respondent RCBC on the ground that they had been drawn against insufficient funds ("DAIF") and were subsequently returned. [51]

On 20 October 1992, Hinomoto Trading Company, one of the payees for two of the dishonored checks, [52] demanded that petitioner Bangayan make good on his payments. [53] On 21 October 1992, the other payee of the three other dishonored checks, [54] Simplex Merchandising, likewise made a final demand on petitioner to replace the dishonored instruments. [55]

On 23 October 1992, petitioner Bangayan, through counsel, demanded that respondent bank restore all the funds to his account and indemnify him for damages. [56]

On 30 October 1992, nineteen thousand four hundred twenty-seven and 15/100 pesos (PhP19,427.15) was credited in petitioner Bangayan's current account, with the transaction reference code "INT" referring to interest. [57] Petitioner explains that even if the outstanding balance at that time was reduced, this interest was earned based on the average daily balance of the account for the quarter and not just on the balance at that time, which was forty-five and 64/100 pesos (PhP45.64). [58]

The Case in the Trial Court

On 09 November 1992, petitioner Bangayan filed a complaint for damages against respondent RCBC. [59] Subsequently, respondent RCBC filed an Answer dated 02 December 1992 with compulsory counter-claims. [60] On 12 January 1993, respondent RCBC filed a Motion for Leave to File Attached Amended Answer and Amended Answer. [61]

Petitioner Bangayan argues that at the time the dishonored checks were issued, there were sufficient funds in his accounts to cover them; [62] that he was informed by personnel of respondent RCBC that his accounts were garnished, but no notice or writ of garnishment was ever shown to him; [63] and that his name and reputation were tarnished because of the dishonor of checks that were issued in relation to his automotive business. [64]

In its defense, respondent RCBC claims that petitioner Bangayan signed a Surety Agreement in favor of several companies that defaulted in their payment of customs duties that resulted in the imposition of a lien over the accounts, particularly for the payment of customs duties assessed by the Bureau of Customs. [65] Respondent bank further claimed that it had funded the letter of credit [66] availed of by Lotec Marketing to finance the latter's importation with the account of petitioner Bangayan, who agreed to guarantee Lotec Marketing's obligations under the Surety Agreement; and, that respondent bank applied petitioner Bangayan's deposits to satisfy part of Lotec Marketing's obligation in the amount of twelve million seven hundred sixty-two thousand and six hundred pesos (PhP12,762,600), which resulted in the depletion of the bank accounts. [67]

Petitioner Bangayan also alleged that respondent RCBC disclosed to a third party (the BOC) classified information about the identity and nature of the transactions and deposits, in violation of the Bank Secrecy Act. Respondent RCBC counters that no confidential information on petitioner's bank accounts was disclosed.

Availing himself of discovery proceedings in the lower court, petitioner Bangayan filed a Request for Admission [68] and Request for Answer to Written Interrogatories, [69] to which respondent RCBC filed the corresponding Answers and Objections to Interrogatories [70] and Response to Request for Admission. [71]

During the presentation of complainant's evidence, petitioner Bangayan, Atty. Randy Rutaquio, respondent Saria

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and Manuel Dantes testified in open court. Petitioner Bangayan thereafter filed a Formal Offer of Evidence. [72]

On the other hand, respondent RCBC presented Mr. Lao as its lone defense witness. Before the termination of Mr. Lao's direct examination, respondent RCBC filed a Motion to Inhibit Presiding Judge Pedro Santiago, [73] who subsequently denied the motion. [74] The Order denying the Motion to Inhibit was the subject matter of petitions filed by respondent RCBC in the Court of Appeals [75] and subsequently in this Court, which were all dismissed.

In the meantime, when respondent RCBC's witness (Mr. Lao) failed to appear at the hearing, Judge Santiago ordered that Mr. Lao's testimony be stricken off the record despite respondent bank's motion to have the case reset. [76] After the appellate proceedings for respondent RCBC's Petition as regards the Motion to Inhibit, however, Judge Santiago set aside his earlier Order and reinstated the testimony of Mr. Lao, subject to cross-examination. [77] Petitioner Bangayan took exception to the Order reinstating Mr. Lao's testimony, but continued to conduct his cross examination with a reservation to raise the Order in the appellate courts. [78]

Respondent RCBC thereafter filed its Formal Offer of Exhibits. [79]

On 17 October 1994, the trial court rendered a Decision, the dispositive portion of which reads:

> "WHEREFORE, premises above considered, plaintiff not having proved that defendant RCBC acted wrongly, maliciously and negligently in dishonoring his 7 checks, nor has the bank given any confidential informations against the plaintiff in violation of R.A. 1405 and the defendant bank having established on the contrary that plaintiff has no sufficient funds for his said checks, the instant complaint is hereby DISMISSED." [80] (Emphasis supplied)

When his omnibus motion [81] to have the Decision reconsidered was denied, [82] petitioner Bangayan filed a notice of appeal. [83]

The Ruling of the Court of Appeals

After petitioner Bangayan [84] and respondent RCBC [85] filed their respective appeal briefs, the Court of Appeals affirmed the trial court's decision in toto. [86] The appellate court found that the dishonor of the checks by respondent RCBC was not without good reason, considering that petitioner Bangayan's account had been debited owing to his obligations as a surety in favor of several corporations. Thus, the Court Appeals found "there was no 'dishonest purpose,' or 'some moral obliquity,' or 'conscious doing of wrong,' or 'breach of a known duty,' or 'some motive or interest,' or 'ill will' that 'partakes (sic) nature of fraud' that can be attributed" to respondent RCBC. [87] It likewise ruled that petitioner Bangayan cannot raise the question as to the genuineness, authenticity and due execution of the Surety Agreement for the first time on appeal. [88]

This Decision of the appellate court is the subject of the instant Petition for Review on Certiorari filed by petitioner Bangayan under Rule 45 of the Rules of Court. [89]

Assignment of Errors

Petitioner Bangayan makes the following assignment of errors:

> A. THE COURT OF APPEALS ACTED WITH GROSS ARBITRARINESS AND IN BLATANT VIOLATION OF
>
> THE CONSTITUTIONAL RIGHTS OF THE PETITITONER TO DUE PROCESS, AND A FAIR TRIAL:
>
> (1) WHEN IT REINSTATED THE TESTIMONY OF ELI LAO ALREADY STRICKEN OFF THE RECORDS UPON PRIOR ORDER OF THE RTC AFFIRMED BY THE COURT OFAPPEALS AND CONFIRMED BY THE SUPREME COURT;

(2) WHEN IT SANCTIONED THE CAVALIER ACT OF RESPONDENTS IN DEMEANING THE RULES ON DISCOVERY PROCEDURE;

(3) WHEN IT RENDERED A DECISION WHICH IS CONTRARY TO THE FACTS AND THE EVIDENCE PRESENTED AT THE TRIAL; and

(4) WHEN IT REFUSED TO APPLY THE LAWS SQUARELY IN POINT ON THE MATTER IN CONTROVERSY.

B. THE HONORABLE COURT OF APPEALS DECIDED THIS CASE IN A WAY NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT;

C. THERE ARE SPECIAL AND IMPORTANT REASONS THAT REQUIRE A REVIEW OF THE CA DECISION;

D. THE DECISION OF THE COURT OF APPEALS ... IS NEITHER JUST NOR IN ACCORD WITH THE RULES OF LAW AND JURISPRUDENCE NOR IS IT EQUITABLE AND IT IGNORES THE PREVIOUS RULINGS OF THE SUPREME COURT IN EARLIER PRECEDENT CASES. [90]

The Issues

A. Whether respondent RCBC was justified in dishonoring the checks, and, consequently, whether petitioner Bangayan is entitled to damages arising from the dishonor.

B. Whether there was reversible error on the part of the lower court in allowing the testimony of Mr. Lao, despite its earlier Order to strike off the testimony.

C. Whether respondent RCBC violated the Bank Secrecy Act.

The Ruling of the Court

Preliminarily, petitioner Bangayan raises questions of fact [91] regarding the authenticity of the Surety Agreement and the events leading up to the dishonor of the seven checks. However, petitions for review on certiorari under Rule 45 are limited only to pure questions of law [92] and, generally, questions of fact are not reviewable [93] since this Court is not a trier of facts. [94] Although respondent RCBC briefly treated this procedural matter, [95] the Court finds that the instant Petition is indeed subject to dismissal because the determination of questions of fact is improper in a Rule 45 proceeding. [96] In any case, even if procedural rules were to be relaxed at this instance, the substantial merits of petitioner Bangayan’s cause is nonetheless insufficient to reverse the decisions of the trial and appellate courts, as will be discussed in detail below.

A. There was no malice or bad faith on the part of r
espondent RCBC in the dishonor of the checks, since
its actions were justified by petitioner Bangayan’s
obligations under the Surety Agreement.

The Court is unconvinced by petitioner Bangayan’s arguments that respondent RCBC acted with malice or bad faith in dishonoring the seven checks, which would entitle him to an award of damages.

At the heart of the controversy is the Surety Agreement that secured the obligations of the nine corporations in favor of respondent RCBC.

Petitioner Bangayan denies the genuineness, authenticity and due execution of the alleged agreement on the following grounds: (a) his signature on the document is not genuine; (b) the Surety Agreement was never

notarized; and (c) the alleged accounts, being guaranteed, appear in a separate piece of paper that does not bear his signature or conformity. [97]

Both the trial and the appellate courts gave credence to the Surety Agreement, which categorically guaranteed the four corporations' obligations to respondent RCBC under the letters of credit. Petitioner Bangayan did not provide sufficient reason for the Court to reverse these findings. The evidence on record supports the conclusion arrived at by the lower court and the Court of Appeals.

First, aside from his bare allegations, petitioner Bangayan failed to establish how his signature in the Surety Agreement was forged and therefore, not genuine.

Before a private document is offered as authentic, its due execution and authenticity must be proved: (a) either by anyone who has seen the document executed or written; or (b) by evidence of the genuineness of the signature or handwriting of the maker. [98] As a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence. [99] The burden of proof rests on the party alleging forgery. [100] Mere allegation of forgery is not evidence. [101]

Mr. Lao, witness for respondent RCBC, identified the Surety Agreement [102] as well as the genuineness of petitioner Bangayan's signature therein using petitioner's signature cards in his bank accounts. [103] The trial and the appellate courts gave due credence to the identification and authentication of the Surety Agreement made by Mr. Lao. [104]

In Deheza-Inamarga v. Alano, [105] the Court ruled that:

> The question of forgery is one of fact. It is well-settled that when supported by substantial evidence or borne out by the records, the findings of fact of the Court of Appeals are conclusive and binding on the parties and are not reviewable by this Court.
>
> It is a hornbook doctrine that the findings of fact of trial courts are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons. It is not a function of this Court to analyze and weigh evidence by the parties all over again. Our jurisdiction is limited to reviewing errors of law that might have been committed by the Court of Appeals. Where the factual findings of the trial court are affirmed in toto by the Court of Appeals as in this case, there is great reason for not disturbing such findings and for regarding them as not reviewable by this Court. (Emphasis supplied)

Furthermore, petitioner Bangayan did not adduce any evidence to support his claim of forgery, despite the opportunity to do so. Considering that there was evidence on record of his genuine signature and handwriting (the signature card and the dishonored checks themselves), nothing should have prevented petitioner Bangayan from submitting the Surety Agreement for examination or comparison by a handwriting expert.

Even respondent RCBC did not interpose any objection when the possibility of forwarding the signature card and Surety Agreement forwarded to the National Bureau of Investigation for examination was raised during the testimony of Mr. Lao:

> ATTY. LOYOLA
>
> Considering the delicate nature or the significance of the signatures in the signature cards and the risk of my admitting the authenticity of a mere xerox copies [sic] and considering further that it is our position that the surety agreement as well as specimen signatures on the signature cards must be submitted to the Court and later forwarded to the NBI, Question Document Section, for examination, I am in no position to admit now that the machine copies in the signature cards are faithful reproduction. Accordingly, I am hoping at this stage that the surety agreement and the signature cards be forwarded to the NBI later on for examination and in the mean

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> time, the questioned documents be entrusted to the custody of the Honorable Court.
>
> ATTY. POBLADOR
>
> With respect to the manifestation of counsel that the documents with the signatures should be submitted to the NBI, we have no objection, but at this juncture, we are only asking, Your Honor, if the xerox copies are faithful reproduction of the original. [106] (Emphasis supplied)

Despite his intention to have the signatures in the Surety Agreement compared with those in the signature cards, petitioner Bangayan did not have the questioned document examined by a handwriting expert in rebuttal and simply relied on his bare allegations. There is no clear, positive and convincing evidence to show that his signature in the Surety Agreement was indeed forged. As petitioner failed to discharge his burden of demonstrating that his signature was forged, there is no reason to overturn the factual findings of the lower courts with respect to the genuineness and due execution of the Surety Agreement.

Second, the mere absence of notarization does not necessarily render the Surety Agreement invalid.

Notarization of a private document converts the document into a public one, renders it admissible in court without further proof of its authenticity, and is entitled to full faith and credit upon its face. [107] However, the irregular notarization — or, for that matter, the lack of notarization — does not necessarily affect the validity of the contract reflected in the document. [108]

On its face, the Surety Agreement is not notarized, even if respondent RCBC's standard form for that agreement makes provisions for it. The non-completion of the notarization form, however, does not detract from the validity of the agreement, especially in this case where the genuineness and due authenticity of petitioner Bangayan's signature in the contract was not successfully assailed.

The failure to notarize the Surety Agreement does not invalidate petitioner Bangayan's consent to act as surety for the nine corporations' obligations to respondent RCBC. Contracts are obligatory in whatever form they may have been entered into, provided all essential requisites are present [109] and the notarization is not an essential requisite for the validity of a Surety Agreement. [110]

Third, that the annex of the Surety Agreement does not bear petitioner Bangayan's signature is not a sufficient ground to invalidate the main agreement altogether. As the records will bear out, the Surety Agreement enumerated the names of the corporation whose obligations petitioner Bangayan are securing. The annex to the Surety Agreement enumerated not only the names of the corporations but their respective addresses as well. [111] The corporations enumerated in the annex correspond to the nine corporations enumerated in the main body of the Surety Agreement. Ordinarily, the name and address of the principal borrower whose obligation is sought to be assured by the surety is placed in the body of the agreement, but in this case the addresses could not all fit in the body of the document, thus, requiring that the address be written in an annex. The Surety Agreement itself noted that the principal places of business and postal addresses of the nine corporations were to be found in an "attached" document.

Fourth, petitioner Bangayan never contested the existence of the Surety Agreement prior to the filing of the Complaint. When Mr. Lao informed him of the letter from the BOC regarding the failure of the three corporations to pay the customs duties under the letters of credit, the petitioner assured respondent bank that "he is doing everything he can to solve the problem." [112] If petitioner Bangayan purportedly never signed the Surety Agreement, he would have been surprised or at least perplexed that respondent RCBC would contact him regarding the three corporations' letters of credit, when, as he claims, he never agreed to act as their surety. Instead, he acknowledged the situation and even offered to solve the predicament of these borrower corporations.

In fact, Atty. Loyola, petitioner's counsel in this case, even obtained copies of the BOC receipts after the three corporations paid the customs duties for their importation under the letters of credit giving a possible interpretation that petitioner was himself answering the obligations of the three corporations for the unpaid customs duties.

It must be emphasized that petitioner Bangayan did not complain against the four corporations which had benefitted from his bank account. He claims to have no reasonable connection to these borrower corporations and denies having signed the Surety Agreement. If true, nothing should have stopped him from taking these corporations to court and demanding compensation as well as damages for their unauthorized use of his bank account. Yet, these bank accounts were put on hold and/or depleted by the letters of credit issued to the four entities. That petitioner did not include them in the present suit strengthens the finding that he had indeed consented to act as surety for those entities, and that there seems to be no arm's length relationship between petitioner and the three entities.

Whatever damage to petitioner Bangayan's interest or reputation from the dishonor of the seven checks was a consequence of his agreement to act as surety for the corporations and their failure to pay their loan obligations, advances and other expenses.

With respect to the first two dishonored checks, respondent RCBC had already put on hold petitioner Bangayan's account to answer for the customs duties being demanded from the bank by the BOC. In fact, the trial court considered the referral of these checks to petitioner Bangayan as an effort by respondent RCBC to allow its depositor an opportunity to "arrange his accounts and provide funds for his checks." [113] It likewise appeared to the appellate court that the funds in petitioner's account served as the lien of the custom duties assessed; thus, the funds cannot be considered as sufficient to cover future transactions. [114]

On the other hand, the five other checks were subsequently dishonored because petitioner Bangayan's account was by that time already depleted due to the partial payment of Lotec Marketing's loan obligation. [115] Although the lien earlier imposed on petitioner's account was lifted when the three corporations paid the customs duties, [116] the account was almost completely depleted when the funds were subsequently used to partially pay Lotec Marketing's outstanding obligation under the fourth letter of credit. [117] Respondent RCBC was compelled to fully debit the funds to satisfy the main loan obligation of Lotec Marketing, which petitioner had guaranteed in joint and several capacity.

What must be underscored in respondent RCBC's immediate action of applying petitioner Bangayan's account to the Lotec Marketing is the nature of the loan instrument used in this case – a letter of credit. In a letter of credit, the engagement of the issuing bank (respondent RCBC in this instance) is to pay the seller or beneficiary of the credit (or the advising bank, Korean Exchange Bank, in this instance) once the draft and the required documents are presented to it. [118] This "independence principle" in letters of credit assures the seller or the beneficiary of prompt payment independent of any breach of the main contract and precludes the issuing bank from determining whether the main contract is actually accomplished or not. [119]

In this case, respondent RCBC, as the issuing bank for Lotec Marketing's letter of credit had to make prompt payment to Korea Exchange Bank (the advising bank) when the obligation became due and demandable. Precisely because of the independence principle in letters of credit and the need for prompt payment, [120] respondent RCBC required a Surety Agreement from petitioner Bangayan before issuing the letters of credit in favor of the four corporations, including Lotec Marketing.

Under Articles 2199 [121] and 2200 [122] of the Civil Code, actual or compensatory damages are those awarded in satisfaction of or in recompense for loss or injury sustained. [123] They proceed from a sense of natural justice

and are designed to repair the wrong that has been done. [124]

In all seven dishonored checks, respondent RCBC properly exercised its right as a creditor under the Surety Agreement to apply the petitioner Bangayan's funds in his accounts as security for the obligations of the four corporations under the letters of credit. Thus, petitioner Bangayan cannot attribute any wrong or misconduct to respondent RCBC since there was no malice or bad faith on the part of respondent in dishonoring the checks. Any damage to petitioner arising from the dishonor of those checks was brought about, not by the bank's actions, but by the corporations that defaulted on their obligations that petitioner had guaranteed to pay. The trial and the appellate courts, therefore, committed no reversible error in disallowing the award of damages to petitioner.

B. The trial court did not commit reversible error
when it reinstated the testimony of Mr. Lao and
allowed petitioner Bangayan to cross-examine him.

Petitioner Bangayan also assails the lower court's order that reinstated the direct testimony of Mr. Lao, respondent RCBC's lone witness. Petitioner claims that Judge Santiago acted with partiality by reinstating Mr. Lao's testimony, because this Court in another case had already sustained the lower court's earlier Order striking out the testimony. Hence, petitioner says that the judge's reinstatement of Mr. Lao's testimony was in violation of petitioner's right to due process.

Petitioner Bangayan's arguments are unmeritorious.

Discretionary power is generally exercised by trial judges in furtherance of the convenience of the courts and the litigants, the expedition of business, and in the decision of interlocutory matters on conflicting facts where one tribunal could not easily prescribe to another the appropriate rule of procedure. [125] Thus, the Court ruled:

> In its very nature, the discretionary control conferred upon the trial judge over the proceedings had before him implies the absence of any hard-and-fast rule by which it is to be exercised, and in accordance with which it may be reviewed. But the discretion conferred upon the courts is not a willful, arbitrary, capricious and uncontrolled discretion. It is a sound, judicial discretion which should always be exercised with due regard to the rights of the parties and the demands of equity and justice. As was said in the case of The Styria vs. Morgan (186 U.S., 1, 9): "The establishment of a clearly defined rule of action would be the end of discretion, and yet discretion should not be a word for arbitrary will or inconsiderate action." So in the case of Goodwin vs. Prime (92 Me., 355), it was said that "discretion implies that in the absence of positive law or fixed rule the judge is to decide by his view of expediency or by the demands of equity and justice."
>
> There being no "positive law or fixed rule" to guide the judge in the court below in such cases, there is no "positive law or fixed rule" to guide a court of appeals in reviewing his action in the premises, and such courts will not therefore attempt to control the exercise of discretion by the court below unless it plainly appears that there was "inconsiderate action" or the exercise of mere "arbitrary will", or in other words that his action in the premises amounted to "an abuse of discretion." But the right of an appellate court to review judicial acts which lie in the discretion of inferior courts may properly be invoked upon a showing of a strong and clear case of abuse of power to the prejudice of the appellant, or that the ruling objected to rested on an erroneous principle of law not vested in discretion. [126] (Emphasis supplied)

Prior to a final judgment, trial courts have plenary control over the proceedings including the judgment, and in the exercise of a sound judicial discretion, may take such proper action in this regard as truth and justice may require. [127]

In the instant case, the trial court was within the exercise of its discretionary and plenary control of the proceedings when it reconsidered motu propio its earlier order striking out the testimony of Mr. Lao [128] and

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ordered it reinstated. [129] The order of the judge cannot be considered as "willful, arbitrary, capricious and uncontrolled discretion," since his action allowed respondent bank to present its case fully, especially considering that Mr. Lao was the sole witness for the defense.

Petitioner Bangayan's reliance [130] on the Decisions of the Court of Appeals (CA-G.R. SP No. 31865) and this Court (G.R. No. 115922) with respect to respondent RCBC's Petition is misplaced. Contrary to his claim, what respondent RCBC questioned in those cases was the denial by Judge Santiago of its Motion for Inhibition. [131] As respondent pointed out, its Petitions to the Court of Appeals and the Court simply prayed for the reversal of the denial of the Motion for Inhibition and did not include the Order striking out the testimony of Mr. Lao. Even the appellate court (CA-G.R. CV No. 48479) noted that "what was resolved by the High Court was the issue of Inhibition of the Judge and not the striking out of the testimony of Mr. Eli Lao." [132]

Neither can petitioner Bangayan claim any deprivation of due process when the trial court ordered the reinstatement of Mr. Lao's testimony without any motion or prayer from respondent RCBC. The right of a party to confront and cross-examine opposing witnesses in a judicial litigation, be it criminal or civil in nature, or in proceedings before administrative tribunals with quasi-judicial powers, is a fundamental right which is part of due process. [133] This right, however, has always been understood as requiring not necessarily an actual cross-examination but merely an opportunity to exercise the right to cross-examine if desired. [134] What is proscribed by statutory norm and jurisprudential precept is the absence of the opportunity to cross-examine. [135]

In this case, petitioner Bangayan's right to due process was not violated, as he was given the freedom and opportunity to cross-examine and confront Mr. Lao on the latter's testimony. Even if respondent RCBC had not filed any motion, it was well within the court's discretion to have Mr. Lao's testimony reinstated in the "interest of substantial justice." The proceedings in the trial court in this civil case were adversarial in nature insofar as the parties, in the process of attaining justice, were made to advocate their respective positions in order to ascertain the truth. [136] The truth-seeking function of the judicial system is best served by giving an opportunity to all parties to fully present their case, subject to procedural and evidentiary rules. Absent any blatant neglect or willful delay, both parties should be afforded equal latitude in presenting the evidence and the testimonies of their witnesses in favor of their respective positions, as well as in testing the credibility and the veracity of the opposing party's claims through cross-examination.

The Court finds no reversible error on the part of the trial court in allowing the full presentation of the reinstated testimony of respondent RCBC's lone witness, especially since the other party was afforded the occasion to cross-examine the witness and in fact availed himself of the opportunity. Although he expressly reserved his right to question the court's reinstatement of the testimony of the witness, petitioner Bangayan did not satisfactorily offer convincing arguments to overturn the trial court's order. That the court gave petitioner the opportunity to cross-examine Mr. Lao – a remedy that petitioner even fully availed himself of – negates the allegation of bias against the Judge.

The timing of petitioner Bangayan's allegations of prejudice on the part of Judge Santiago is suspect, since the latter had already rendered a Decision unfavorable to petitioner's cause.

A motion to inhibit shall be denied if filed after a member of the court has already given an opinion on the merits of the case, the rationale being that "a litigant cannot be permitted to speculate on the action of the court . . . (only to) raise an objection of this sort after the decision has been rendered." [137]

When respondent RCBC moved for Judge Santiago's inhibition, petitioner even interposed an objection and characterized as unfounded respondent bank's charge of partiality. [138] It is now too late in the day to suddenly accuse Judge Santiago of prejudice in the proceedings below, after he has already rendered an unfavorable

judgment against petitioner. If at all, the latter's claim that Judge Santiago was biased in favoring respondent RCBC is a mere afterthought that fails to support a reversal by the Court.

C. Respondent RCBC did not violate the Bank Secrecy Act.

The Court affirms the trial court's findings which were likewise concurred with by the Court of Appeals that the alleged violation of the Bank Secrecy Act was not substantiated:

> The Customs's investigation with a subpoena/duces tecum sent to witness Mr. Lao on the three companies, Final Sales Enterprises, Peak Marketing and LBZ Commercial, guaranteed by plaintiff naturally raised an alarm. Mr. Lao was asked to bring documents on the questioned importations. The witness denied having given any statement in connection therewith. No evidence was introduced by plaintiff to substantiate his claim that defendant bank gave any classified information in violation of Republic Act No. 1405. On this score, plaintiff has no cause of action for damages against said defendant RCBC. [139]

In his Memorandum, petitioner Bangayan argues that there was a wrongful disclosure by respondents RCBC and Philip Saria of confidential information regarding his bank accounts in violation of the Bank Secrecy Act. [140] However, petitioner failed to identify which confidential information respondents divulged before the BOC that would make them liable under the said law.

Section 2 of the Bank Secrecy Act provides:

> All deposits of whatever nature with banks or banking institutions in the Philippines including investments in bonds issued by the Government of the Philippines, its political subdivisions and its instrumentalities, are hereby considered as of an absolutely confidential nature and may not be examined, inquired or looked into by any person, government official, bureau or office, except upon written permission of the depositor, or in cases of impeachment, or upon order of a competent court in cases of bribery or dereliction of duty of public officials, or in cases where the money deposited or invested is the subject matter of the litigation.

Petitioner Bangayan claims that respondent Saria divulged confidential information through the Affidavit he submitted to the BOC. [141] However, nothing in respondent Saria's Affidavit before the BOC showed that details of petitioner Bangayan's bank accounts with respondent bank was disclosed. If at all, respondent Saria merely discussed his functions as an account officer in respondent bank and identified petitioner as the one who had guaranteed the payment or obligations of the importers under the Surety Agreement.

According to petitioner Bangayan, the responses of respondent RCBC's officers in relation to the BOC's actions led to unsavory news reports that "disparaged petitioner's good character and reputation" and exposed him to "public ridicule and contempt." [142] However, as the appellate court correctly found, the humiliation and embarrassment that petitioner Bangayan suffered in the business community was not brought about by the alleged violation of the Bank Secrecy Act; it was due to the smuggling charges filed by the Bureau of Customs which found their way in the headlines of newspapers. [143]

Both the trial and appellate courts correctly found that petitioner Bangayan did not satisfactorily introduce evidence "to substantiate his claim that defendant bank gave any classified information" in violation of the Bank Secrecy Act. Failing to adduce further evidence in the instant Petition with respect to the bank's purported disclosure of confidential information as regards his accounts, petitioner cannot be awarded any damages arising from an unsubstantiated and unproved violation of the Bank Secrecy Act.

Rules of Discovery

The Court finds that petitioner Bangayan's argument as regards the bank's purported failure to comply with the rules of discovery is not substantive enough to warrant further discussion by this Court. Petitioner has not alleged

any different outcome that would be generated if we were to agree with him on this point. If petitioner is unsatisfied with respondent RCBC's responses, then his remedy is to expose the falsity (if any) of the bank's responses in the various modes of discovery during the trial proper. He could have confronted respondent with contradictory statements, testimonies or other countervailing evidence. The Court affirms the findings of the appellate court that the rules of discovery were not treated lightly by respondent RCBC. [144]

In summary, petitioner Bangayan failed to establish that the dishonor of the seven checks by respondent RCBC entitled him to damages, since the dishonor arose from his own voluntary agreement to act as surety for the four corporations' letters of credit. There was no bad faith or malice on the part of respondent bank, as it merely acted within its rights as a creditor under the Surety Agreement.

IN VIEW OF THE FOREGOING, the instant Petition for Review on Certiorari filed by Ricardo B. Bangayan is DENIED. The Decisions of the trial court and appellate court dismissing the Complaint for damages filed by Bangayan against respondents Rizal Commercial Banking Corporation and Philip Saria are hereby AFFIRMED.

SO ORDERED.

Carpio,[*] Carpio Morales, (Chairperson), Bersamin, and Villarama, Jr., JJ., concur.

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[*] As per Division Raffle dated 13 September 2010.

[1] Rollo at 8-60.

[2] RTC Decision dated 17 October 1994 (rollo at 77-87) and CA Decision dated 06 August 2001 (rollo at 62-76).

[3] Savings Account No. 1109-81805-0 and Current Account No. 0109-8232-5 at the RCBC Binondo Branch, 500 Quintin Paredes, St., Binondo, Manila. (See Amended Answer dated 12 January 1993; RTC records, Vol. 1, at 127)

[4] RTC Decision dated 17 October 1994, at 9 (rollo at 85); CA Decision dated 06 August 2001, at 2 (rollo at 63).

[5] Exhibit "1"; RTC records, Vol. 2, at 705-707.

[6] The nine corporations were: (1) LBZ Commercial; (2) Peaks Manufacturing; (3) Final Sales Enterprises; (4) Lotec Marketing; (5) Lucky M Motor Service; (6) 9M Trading; (7) WN Albos Trading Center; (8) KMT Import Trader; and (9) Silver Machine Trading. (Exhibit "1-B," id. at 707)

[7] Petition for Review on Certiorari, para. 25-27, at 44-45; rollo at 50-51.

[8] TSN, 16 September 1994, at 22-23.

[9] Exhibits "4" and "5," RTC records, Vol. 2, at 713-716.

[10] Exhibit "3," id. at 711-712.

[11] TSN, 16 September 1994, at 28.

[12] Exhibit "10," RTC records, Vol. 2, at 724-725.

[13] Id.

[14] Exhibit "6"; id. at 766.

[15] TSN, 04 June 1993, at 28-29.

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[16] Id. at 29.

[17] Id. at 30-32. See Surety Agreement (Exhibit “1”); RTC records, Vol. 2 at 705.

[18] TSN, 16 September 1994, at 32.

[19] CA Decision; rollo at 65.

[20] Petitioner Bangayan’s Memorandum dated 22 October 2002, at 19 (rollo at 255). See also TSN, 31 March 1993, at 30-31.

[21] Exhibit “F,” RTC records, Vol. 1, at 184.

[22] Exhibit “E,” id.

[23] These amounts correspond to the first two checks (Check Nos. 937999 and 93800) that were presented on 18 September 1992.

[24] Exhibit “A-1,” RTC records, Vol. 1, at 182.

[25] Id.

[26] Id.

[27] Exhibits “H” and “I,” id. at 186.

[28] Exhibit “Q,” id. at 203.

[29] Exhibit “11,” id. Vol. 2, at 726.

[30] Respondent RCBC Pre-Trial Brief dated 03 February 1993, at 2; id. Vol. 1, at 208.

[31] Exhibit “P,” RTC records, Vol.1, at 198-202.

[32] Id.

[33] Second Cause of Action, Complaint dated 05 November 1992, at 7-8 (RTC records, Vol. 1, at 7-8); CA Decision dated 06 August 2001, at 3 (rollo at 64).

[34] RTC Decision dated 17 October 1994, at 8; rollo, at 84.

[35] “On this score, plaintiff (petitioner Bangayan) has no cause of action for damages against defendant RCBC.” (RTC Decision dated 17 October 1994, at 8; id.).

[36] Import Bill dated 09 October 1992 (Exhibit “18,”; RTC records, Vol. 2, at 735).

[37] Debit Advice dated 09 October 1992 (Exhibit “19”; id. at 736).

[38] Exhibit “A-1”; id. ,Vol. 1, at 182.

[39] Id.

[40] Respondent RCBC Pre-Trial Brief dated 03 February 1993, at 2-3; id. at 208-209.

[41] RCBC Official Receipt dated 28 October 1992 (Exhibit “20”; id. Vol. 2, at 737).

[42] Exhibits “7-a,” “8-a,” and “9-a,” id. at 718-723.

[43] Id.

[44] “It appears that these taxes were eventually funded by plaintiff sometime on October 13, 1992.” (RTC Decision dated 17 October 1994, at 10; rollo at 86.

[45] Exhibits “7,” “8,” and “9,” id.

[46] Exhibit “D”; id., Vol. 1, at 183.

[47] Exhibit “C,” id.

[48] Exhibit “B,” id.

[49] Exhibit “I,” id. at 187.

[50] Exhibit “J,” id.

[51] Exhibits “G” and “K,” id. at 185 and 187.

[52] Check Nos. 938014 and 938015 for PhP1,052,000 and PhP982,000, respectively.

[53] Exhibit “N”; RTC records, Vol. 1, at 196.

[54] Check Nos. 938011, 938012 and 938013 for PhP1,200,000, PhP1,260,000 and PhP1,180,000, respectively.

[55] Exhibit “O”; RTC records, Vol. 1, at 197.

[56] Petitioner Bangayan’s letter dated 23 October 1992 (Exhibit “L”) id. at 24.

[57] Exhibit “A-1,” id. at 182.

[58] TSN, 15 March 1993, at 16.

[59] Complaint dated 05 November 1992; RTC Records, Vol. 1, at 1-30.

[60] Id. at 79-86.

[61] Id. at 125-134.

[62] Complaint dated 05 November 1992; id. at 3-6.

[63] Id. at 6.

[64] Id. at 8-10.

[65] Bureau of Customs Letter dated 19 September 1992 (Exhibit “6”); id., Vol. 2, at 717.

[66] Commercial Letter of Credit Application and Agreement issued on 26 August 1992 (Exhibit “10”); id at 724-725.

[67] Amended Answer dated 12 January 1993; id., Vol. 1, at 131-132.

[68] Request for Admission dated 01 December 1992; RTC records, Vol. 1, at 87-88.

[69] Request for Answer to Written Interrogatories dated 01 December 1992, id. at 96-100.

[70] Answers and Objections to Interrogatories dated 18 December 1992, id. at 104-108.

[71] Response to Request for Admission dated 16 December 1992, id. at 109-111.

[72] Formal Offer of Exhibits dated 01 April 1993; id. at 235-240.

[73] Respondent RCBC's Motion to Inhibit dated 02 July 1993, id. at 273-281.

[74] RTC Order dated 30 July 1993, id. at 300.

[75] Court of Appeals Decision dated 28 March 1994, id. at 489-496.

[76] RTC Order dated 06 August 1993, id. at 304.

[77] RTC Order dated 23 August 1994, id., Vol. 2, at 663-664.

[78] Petitioner Bangayan's Comment dated 07 September 1994, id. at 694-695.

[79] Formal Offer of Exhibits dated 28 September 1994, id. at 746-754.

[80] RTC Decision dated 17 October 1994, at 11; rollo, at 37.

[81] Petitioner Bangayan's Omnibus Motion dated 04 November 1994; RTC records, Vol. 2, at 905-946.

[82] Order dated 14 December 1994, id. at 1040.

[83] Petitioner Bangayan's Notice of Appeal dated 28 December 1994, id. at 1041.

[84] Petitioner Bangayan's Brief for the Plaintiff-Appellant dated 28 November 1995, CA rollo at 22-70.

[85] Respondent RCBC's Motion to Admit Appellee's Brief and Brief for the Appellees both dated 23 February 1996, CA rollo at 162-200.

[86] "WHEREFORE, premises considered, there being no reversible error, the Decision dated October 17, 1994 (Records pp. 887-897) in Civil Case No. Q-92-13949, is hereby AFFIRMED in toto. No Cost against Appellant." (CA Decision dated 06 August 2001; rollo at 62-76)

[87] CA Decision dated 06 August 2001, at 10; rollo at 71.

[88] Id. at 13; rollo at 74.

[89] Petitioner Bangayan's Petition for Review on Certiorari dated 12 September 2001, rollo at 8-59.

[90] Id. at 7-8; rollo at 14-15.

[91] "The petitioner unto this Honorable Supreme Court respectfully appeals by way of petition for review on certiorari under Rule 45 of the Revised Rules of Court on questions of law, fact and errors of judgment of the Honorable Court of Appeals that sustained the decision of the RTC of Quezon City, Br. 101, in CC Q-92-13949, dismissing the case." (Petition at 7, id. at 14)

[92] "The petition shall raise only questions of law which must be distinctly set forth." (Rule 45, Sec. 1)

[93] "As a general rule, questions of fact are not proper in a petition filed under Rule 45." (Adriano v. Tanco, G.R. No. 168164, 05 July 2010)

[94] "The Court has held in a long line of cases that in a petition for review on certiorari under Rule 45 of the Rules of Court, only questions of law may be raised as the Supreme Court is not a trier of facts." (Republic v. Mangotara, G.R. Nos. 170375, 170505, 173355-56, 173401, 173563-64, 178779 & 178894, 07 July 2010)

[95] Respondent RCBC's Memorandum dated 07 November 2002, at 1-2; rollo at 297-298.

[96] Hacienda Bigaa v. Chavez, G. R. No. 174160, 20 April 2010.

[97] Petition dated 12 September 2001, para. 25, at 44; rollo at 50.

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[98] Rules of Court, Rule 132, Sec. 20; Spouses Dela Rama v. Spouses Papa, G.R. No. 142309, 30 January 2009, 577 SCRA 233.

[99] Libres v. Spouses Delos Santos, G.R. No. 176358, 17 June 2008, 554 SCRA 642.

[100] Id.

[101] St. Mary's Farm, Inc., v. Prima Real Properties, Inc., G.R. No. 158144, 31 July 2008, 560 SCRA 704.

[102] TSN, 04 June 1993, at 6-19.

[103] Exhibit "2," RTC records, Vol. 2, at 708-710.

[104] RTC Decision dated 17 October 1994, at p. 9 (rollo at 85); CA Decision dated 06 August 2001, at p. 12 (rollo at 73).

[105] G.R. No. 171321, 18 December 2008, 574 SCRA 651.

[106] TSN, 04 June 1993 at 13-14.

[107] Herbon v. Palad, G.R. No. 149542, 20 July 2006, 495 SCRA 544.

[108] Camcam v. Court of Appeals, G.R. No. 142977, 30 September 2008, 567 SCRA 151; Gelos v. Court of Appeals, G.R. No. 86186, 08 May 1992, 208 SCRA 608.

[109] Civil Code, Art. 1356; Mallari v. Alsol, G.R. No. 150866, 06 March 2006, 484 SCRA 148.

[110] "[T]he lack of proper notarization does not necessarily nullify nor render the parties' transaction void ab initio." (Fernandez v. House of Representatives Electoral Tribunal, G. R. No. 187478, 21 December 2009, 608 SCRA 733)

[111] Exhibit "1-b," RTC records, Vol. 2, at 707.

[112] TSN, 04 June 1993, at 29.

[113] RTC Decision dated 17 October 1994, at 10-11; rollo at 86-87.

[114] CA Decision dated 06 August 2001, at 12; rollo at 78.

[115] Respondent RCBC debited the amount of PhP12,762,600 from petitioner Bangayan's account to partially answer for the outstanding debt of Lotec Marketing, which totaled US$712,800 or PhP18,047,033.60.

[116] Official Receipt Entry Nos. 27076357, 2706332 and 27076341, all dated 13 October 1992 (Exhibit Nos. "7-a," "8-a," and "9-A"; RTC records, Vol. 2, at 768,770 and 772).

[117] When the five checks were presented on 15 October 1992, only PhP45.64 was left in petitioner Bangayan's account, which was insufficient to finance the checks.

[118] Transfield Philippines, Inc., v. Luzon Hydro Corporation, G.R. No. 146717, 22 November 2004, 443 SCRA 307.

[119] Landbank of the Philippines, v. Monet's Export and Manufacturing Corporation, G.R. No. 161865, 10 March 2005.

[120] "[I]f the letter of credit is drawable only after the settlement of any dispute on the main contract entered into by the applicant of the said letter of credit and the beneficiary, then there would be no practical and beneficial use for letters of credit in commercial transactions." (Landbank of the Philippines, v. Monet's Export and

Manufacturing Corporation, Id.)

[121] “Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved.” (Civil Code, Art. 2199)

[122] “Indemnification for damages shall comprehend not only the value of the loss suffered but also that of the profits which the obligee failed to obtain.” (Civil Code, Art. 2200)

[123] Casiño v. Court of Appeals, G.R. No. 133803, 16 September 2005, 470 SCRA 57.

[124] Id.

[125] Negros Oriental Planters Association, Inc., v. Presiding Judge of RTC-Negros Occidental, G.R. No. 179878, 24 December 2008, 575 SCRA 575, citing Luna v. Arcenas, 34 Phil. 80 (1916).

[126] Negros Oriental Planters Association, Inc., v. Presiding Judge of RTC-Negros Occidental, id.

[127] Clorox Company v. Director of Patents, G.R. No. L-19531, 10 August 1967, 20 SCRA 965, citing Arnedo v. Llorente, 18 Phil. 257 (1911).

[128] RTC Order dated 06 August 1993; RTC records, Vol.1 at 304.

[129] “Moreover, in the interests of substantial justice, this Court hereby orders the reinstatement of Mr. Eli Lao’s testimony which was previously stricken off the record in view of repeated absences of said witness for cross examination. THE DEFENDANTS ARE ENJOINED TO ENSURE THE PRESENCE OF THEIR WITNESS FOR CROSS EXAMINATION ON THE SCHEDULEED HEARING. THE ABSENCE OF SAID WITNESS WHICH WILL FURTHER DELAY THE PROCEEDINGS OF THIS CASE WILL BE DEALT WITH ACCORDINGLY.” (RTC Order dated 23 August 1994; RTC records, Vol. 2, at 663-664)

[130] Petition for Review on Certiorari dated 12 September 2001, at para. 22-23, p. 6; rollo at 13.

[131] RTC Order dated 30 July 1993; RTC records, Vol. 1, at 300.

[132] CA Decision dated 06 August 2001, at 11; rollo at 72.

[133] Vertudes v. Buenaflor, G.R. No. 153166, 16 December 2005, 478 SCRA 210.

[134] People v. Escote, Jr., G.R. No. 140756, 04 April 2003, 400 SCRA 603.

[135] People v. Escote, Jr., id.

[136] “While our litigation is adversarial in nature, its purpose is always to ascertain the truth for justice is not justice unless predicated on truth.” (People v. Hernandez, G.R. No. 117624, 04 December 1997, 282 SCRA 387)

[137] Pasricha v. Don Luis Dison Realty, Inc., G.R. No. 136409, 14 March 2008, 548 SCRA 273.

[138] Opposition to the Motion for Inhibition dated 13 July 1993; RTC records, Vol. 1, at 287-292.

[139] RTC Decision dated 17 October 1994, at 8 (rollo at 84); see also CA Decision dated 06 August 2001, at 14 (rollo at 75).

[140] Petitioner Bangayan’s Memorandum dated 22 October 2002 at para. 9-13, 45-46; rollo at 281-282.

[141] Exhibit “P,” RTC records, Vol. 1, at 198-202.

[142] Petitioner Bangayan’s Memorandum dated 22 October 2002, at 47; rollo at 283.

[143] CA Decision dated 06 August 2001, at 14; rollo at 75.

[144] “The filing of the two pleadings by Defendants-Appellants surely belies any accusations [sic] that they took lightly the Request for Admission and Request for Answer to Interrogatories. Absent any showing that Defendants-Appellees did not file any pleadings, we see no reason why we should entertain said assigned error.” (CA Decision dated 06 August 2001, at 14; rollo at 75)

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