

ALLIED BANKING CORPORATION AND ERNESTO PASCUAL, PETITIONERS, VS. CRISTINA B. FUKUOKA, AND SPOUSES CRISOSTOMO AND WARLITA BORILLO, RESPONDENTS.

G.R. No. 192443. November 23, 2015

Ponente: REYES, J.

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REYES, J.:

This is a petition for review on certiorari[1] under Rule 45 of the 1997 Rules of Court brought by Allied Banking Corporation (Allied Bank) and Ernesto Pascual (collectively, the petitioners) against Cristina B. Fukuoka (Fukuoka) and Spouses Crisostomo (Crisostomo) and Warlita Borillo, assailing the Decision[2] dated September 18, 2009 and Resolution[3] dated May 27, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 85063.

The facts of the case are as follows:

[Crisostomo] x x x is a long time client of [Allied Bank]. Sometime in 1993, [Fukuoka] x x x engaged the services of [Crisostomo] for the renovation of her house located at No. 25 Camino Real St., Pilar Village, Las Piñas City covered by Transfer Certificate of Title No. 347720 [herein subject property]. After the renovation of her house, [Fukuoka] became interested in buying the adjacent lot owned by Emily Costales but she had no money. [Fukuoka] intimated her plan and her financial problem to [Crisostomo] who answered that it was easy as long as she has the title to her land. [Fukuoka] requested [Crisostomo] to inquire from [Allied Bank] as to how much is the monthly amortization for a loan of P1 million. The next day, [Crisostomo] met [Fukuoka] and gave her a Schedule of Monthly Amortization, which shows that the monthly amortization for sixty (60) months is P29,583.34.

Thereafter, [Crisostomo] applied for a loan which was approved by [Allied Bank] on December 15, 1995 and the former executed Promissory Note No. 0036-95-00767. Consequently, a Loan Release Manifold was issued in the name of [Crisostomo] showing that the amount of P984,937.50 was credited to his Current Account No. 0361-005542. On even date, [Crisostomo] accompanied [Fukuoka], Emily Costales, and Evelyn Pajarillaga x x x, to [Allied Bank's] Talon Branch in Las Piñas City. Thereupon, [Crisostomo] gave P979,000.00 to [Fukuoka] who subsequently signed a Real Estate Mortgage over the subject property in the presence of [Allied Bank's] Talon Branch Manager, Ernesto Pascual xxx. The deed of Real Estate Mortgage states that for and in consideration of the credit accommodation obtained from [Allied Bank] in the amount of P1 million, [Fukuoka] mortgages the subject property in favor of the former. The deed likewise contains a note which states "[t]o secure the loan of [Crisostomo]/C.P. Borillo Const."

[Fukuoka] subsequently requested that her monthly amortizations for the P1 million loan should be deducted through an automatic deduction scheme. Thus, sometime in January 1996, [Fukuoka] directed Evelyn Pajarillaga to open a savings account at [Allied Bank's] Talon Branch. From January 1996 up to May 1999, [Allied Bank] had been deducting the monthly amortizations from Evelyn Pajarillaga's savings account with account number 0360166289.

It appears, however, that from December 18, 1995 until July 1996, [Crisostomo] executed several promissory notes in favor of [Allied Bank], viz:

Date of Execution

Promissory Note Number

Amount

Due Date

December 18, 1995

0036-95-00783

P300,000.00

December 12, 1996

December 19, 1995

0036-95-00791

P600,000.00

December 13, 1996

January 17, 1996

0036-96-00044

P1,500,000.00

December 13, 1996

February 23, 1996

0036-96-00265

P2,000,000.00

December 31, 1996

February 26, 1996

0036-96-00281

P800,000.00

December 31, 1996

March 27, 1996

0036-96-00478

P500,000.00

December 31, 1996

May 31, 1996

0036-96-00801

P300,000.00

December 31, 1996

July 3, 1996

0036-96-00931

P1,000,000.00

December 31, 1996

In June 1999, [Allied Bank] refused to deduct the monthly amortization from Evelyn Pajarillaga's account. Evelyn Pajarillaga informed [Fukuoka] who was then in Japan. [Fukuoka] immediately returned to the Philippines and proceeded to [Allied Bank's] Talon Branch, [Fukuoka] confronted defendant-appellant Pascual and the latter told her that she signed other documents and that she should look for [Crisostomo] and secure the services of a lawyer. On June 23, 1999, [Fukuoka's] counsel sent a letter demanding from [Allied Bank] to make the deduction for the month of June.

On July 7, 1999, [Fukuoka] filed a Complaint for Reformation of Contract, Specific Performance, Consignation, and Damages against [the petitioners] and [Crisostomo] before the Regional Trial Court of Las Piñas City, Branch 275, docketed as Civil Case No. LP-99-0153. The complaint was later amended to implead [Crisostomo's] spouse, Warlita Borillo. x x x.[4] (Citations omitted and italics in the original)

In her Complaint,[5] Fukuoka prayed for the deletion of the name of Crisostomo as a party in the Real Estate Mortgage (REM) contract[6] dated December 15, 1995, and insofar as it authorizes Crisostomo to use her mortgaged property for other purposes. According to Fukuoka, the petitioners and Crisostomo jointly conspired to impose the latter's unrelated obligations upon her mortgaged property.[7]

The petitioners filed their Amended Answer with Counterclaim and Cross-claim,[8] alleging that it was Crisostomo who obtained the loan from Allied Bank and executed the promissory note evidencing the same. They also claimed that Fukuoka expressly bound herself solidarity with Crisostomo to pay all the obligations of the latter with Allied Bank and volunteered to pay the said obligation by virtue of an automatic deduction arrangement.[9] The petitioners prayed that judgment be rendered ordering the dismissal of the case against them; for the payment of damages and attorney's fees; and for Fukuoka, Crisostomo and his wife, Warlita, to jointly and severally pay Allied Bank the amounts indicated in the promissory notes covering Crisostomo's loan.[10]

Ruling of the Regional Trial Court

On February 12, 2004, the Regional Trial Court (RTC) of Las Piñas City rendered its Decision,[11] the fallo of which is as follows:

WHEREFORE, judgment is hereby rendered on the Complaint in favor of [Fukuoka] and against the [petitioners and Crisostomo] directing the latter to pay, jointly and severally, to [Fukuoka], as follows:

- Php100,000.00 as moral damages;
- Php50,000.00 as exemplary damages;
- Php580,800.00 to cover lost income for one year;
- Php100,000.00 as Attorney's fees and the cost of the suit.

As to the cross-claim of [the petitioners] against [Crisostomo], the same is hereby DISMISSED for lack of merit.

SO ORDERED.[12]

Allied Bank claimed that Fukuoka is liable not only for the P1,000,000.00 loan but also for all the loans obtained by Crisostomo, past, present and future. Allied Bank argued that the phrase in the REM contract stating, viz: "NOTE" [t]o secure the loan of [Crisostomo]/CP Borillo Const., is sufficient basis for Fukuoka to be liable for all the loans obtained by Crisostomo.[13]

But the RTC was not swayed. The RTC explained clearly that Fukuoka borrowed P1,000,000.00 only to purchase a lot, payable in 60 months with a monthly amortization of P29,583.34.[14] Crisostomo, however, deceived Fukuoka into signing such "NOTE" to secure the loan of Crisostomo/CP Borillo Const. It was only Crisostomo who talked with the people with the Allied Bank and that Fukuoka did not know the tenor of their discussion. She was simply told "pumirma ka diyan, dalian mo at ako ay nagmamadali."[15]

The RTC established that there were irregularities committed by the petitioners and Crisostomo relative to the execution of the mortgage contracts, which are indicative of conspiracy.[16]

In granting the complaint, the RTC pointed out that what governs is not the letter of that "NOTE" but the intention of the parties, considering the surrounding circumstances obtaining leading to its execution. The Latin maxim "lex succurrit ignoranti" (the law assists the ignorant) is relevant. The REM between Fukuoka and Allied Bank shall stand but the "NOTE" to secure the loan of Crisostomo/CP Borillo Const, must be stricken off, as the RTC strikes the same, to reflect the true intention of the parties.[17] The RTC also dismissed the petitioners' cross-claim since the RTC considered the acts of Crisostomo as the acts of the petitioners for which the latter are not entitled to reimbursement.[18]

On July 6, 2004, the RTC issued an Order[19] denying the Motion for Reconsideration filed by the petitioners for lack of merit.

Ruling of the CA

The petitioners appealed the RTC decision before the CA under Rule 41 of the 1997 Rules of Court. On September 18, 2009, the CA dismissed the appeal for lack of merit. The petitioners' cross-claim against Crisostomo was also dismissed for the reason that the cross-claim did not arise out of the subject matter in the Complaint. The CA deemed the petitioners' cross claim for Crisostomo's supposed outstanding obligation as a new matter raising a new cause of action that must be litigated in a separate action.[20]

On May 27, 2010, the CA issued a Resolution denying the motion for reconsideration[21] filed by the petitioners.

Issues

The petitioners raised the following arguments before the Court in their petition for review on certiorari:

I

THE HONORABLE [CA] GRAVELY ERRED IN NOT FINDING THAT THE REQUISITES FOR REFORMATION OF CONTRACT ARE NOT PRESENT AS [FUKUOKA] NEVER OBTAINED ANY LOAN FROM [ALLIED BANK] BUT BOUND HERSELF AS SURETY OF THE LOAN OBLIGATIONS OF [CRISOSTOMO] OBTAINED FROM [ALLIED BANK].

II.

THE HONORABLE [CA] GRAVELY ERRED IN NOT FINDING THAT [THE PETITIONERS] ARE NOT BOUND BY THE INTERNAL ARRANGEMENT BETWEEN [FUKUOKA] AND [CRISOSTOMO] AS THEY HAVE NO PRIVITY THERETO.

III.

THE HONORABLE [CA] GRAVELY ERRED IN NOT FINDING THAT [CRISOSTOMO] ACTED ALONE IN DEFRAUDING [FUKUOKA].

IV.

THE HONORABLE [CA] GRAVELY ERRED IN NOT GRANTING THE CROSS[-]CLAIM OF [THE PETITIONERS] AGAINST [CRISOSTOMO].[22]

Ruling of the Court

According to the petitioners, Crisostomo was granted an additional credit facility of P1,000,000.00 covered by Promissory Note No. 0036-95-00767. Prior to the approval of the aforesaid additional credit line accommodation, Crisostomo offered Fukuoka's property as security for the payment of such. After Allied Bank approved Crisostomo's proposal, a third party mortgage as well as a continuing guaranty and comprehensive suretyship agreement was voluntarily executed by Fukuoka. Thus, the reformation of the contract will make it appear that a loan with mortgage was actually granted to Fukuoka and is tantamount to creating a new contract for the parties.[23]

After a careful scrutiny of the facts of the instant case, the Court affirms the CA ruling that there exists a contract of loan secured by a REM between Allied Bank and Fukuoka. Hence, a reformation of the instrument is proper.

Under Article 1359 of the New Civil Code, it is stated that "[w]hen, there having been a meeting of the minds of the parties to a contract, their true intention is not expressed in the instrument purporting to embody the agreement, by reason of mistake, fraud, inequitable conduct or accident, one of the parties may ask for the reformation of the instrument to the end that such true intention may be expressed."

In order to judge the intention of the contracting parties, their contemporaneous and subsequent acts shall be principally considered.[24]

The CA observed that the petitioners' intention to grant the loan of P1,000,000.00 to Fukuoka was evident from the following circumstances:

- 1) Credit Ticket in the amount of P979,000.00 was issued in her name; and
- 2) the monthly amortizations written in the Schedule of Monthly Amortizations given by Crisostomo to Fukuoka correspond with the monthly amortizations actually deducted from Evelyn Pajarillaga's (Pajarillaga) account.[25] On Fukuoka's side, she claimed that she executed the REM over her property solely for the purpose of securing the P1,000,000.00 loan extended to her by Allied Bank.[26]

The CA discoursed that while the petitioners contend that the Credit Ticket was unsigned by any of Allied Bank's authorized officer, hence, an unofficial document, their own witness, Marilou Opeña, admitted having prepared the same.[27]

The CA further continued:

A scrutiny of the Credit Ticket reveals that it was issued to [Fukuoka] and that the date typewritten therein is the same date when the Loan Release Manifold was issued to [Crisostomo]. Anent the Schedule of Monthly Amortizations while [the petitioners] insist that it was made by [Crisostomo] himself without their participation, the records clearly show that the monthly amortizations written therein in the amount of P29,583.34 correspond with the monthly amortizations actually deducted from [Pajarillaga's] account in the amount of P29,585.00. Except for their bare assertions that this document originated from [Crisostomo], the

unmistakable equivalence in the amount of monthly amortizations was never explained by [the petitioners]. As a matter of fact, despite the subsequent loans granted by [Allied Bank] to [Crisostomo], the monthly amortizations deducted from [Pajarillaga's] account remained unchanged, save for the imposition of interest. Hence, while it was [Crisostomo's] name which was written on the deed of [REM] dated December 15, 1995, from the aforementioned documents and circumstances, the inescapable conclusion is that [Allied Bank], in actuality, intended to loan the amount of P1 million to [Fukuoka].[28]

The Court finds that the findings of the CA are more logical and congruent with reality. It is simply a ludicrous notion that either Crisostomo or Fukuoka would unilaterally impose the monthly amortizations to be deducted by Allied Bank as payment for the P1,000,000.00 loan. It is also implausible how the petitioners, up to this point, fail to explain how the amounts written on the Schedule of Monthly Amortizations[29] coincide with the deductions made from Pajarillaga's account, save for the interests. Even though the petitioners insist that it was never the intention of Allied Bank to grant a loan to Fukuoka and there could not have been a meeting of the minds,[30] their actions reveal otherwise. Allied Bank accepted the monthly payments from Fukuoka by way of deduction and in accordance with the Schedule of Monthly Amortizations, despite its claim that it is not privy to whatever internal agreement Crisostomo and Fukuoka had. It is also notable how Fukuoka was never remiss in her monthly payment which only goes to show that she was holding up her end of the agreement.

The CA also described the transaction between Fukuoka and the petitioners as one tainted with fraud:

[F]raud on the part of [Allied Bank] can readily be seen from the feet that despite its release of the amount P984,937.50 in [Crisostomo's] account on December 15, 1995, [Allied Bank's] employee, Marilou Opeña, still issued a Credit Ticket in the name of [Fukuoka] on the same date, thereby causing the latter to believe that she was the one who obtained the loan. To make matters worse, [Allied Bank's] employees inserted the phrase "[t]o secure the loan of [Crisostomo]/C.P. Borillo Const" in the deed of [REM] dated December 15, 1995 without [Fukuoka's] knowledge or consent. In doing so, [Allied Bank] unfairly subjected [Fukuoka's] property to an additional obligation by making it appear that it was mortgaged not only to secure the P1 million loan of [Fukuoka], but also to secure all the loans of [Crisostomo], regardless of their amount.

x x x As to the deed of [REM] dated December 15, 1995, while [Crisostomo] is not the owner of the subject property, his name was typewritten therein as a co-mortgagor upon the instructions of defendant-appellant Pascual. Also, while [the petitioners'] witnesses testified that the deed of [REM] was for the amount of P1 million only, a perusal of the deed of [REM] bearing the date December 15, 1995 which was submitted by [the petitioners] as part of their documentary evidence, was for the amount of P2,200,000.00. We likewise observed that [the petitioners] are insisting that [Fukuoka] executed another deed of [REM] on May 28, 1996. However, [Fukuoka's] passport which was not objected to or refuted by [the petitioners] unmistakably shows that [Fukuoka] was not in the Philippines on such date. In fact, defendant-appellant Pascual himself admitted that there were only two instances when [Fukuoka] went to [Allied Bank's] Talon Branch, one on December 15, 1995 and two, when [Fukuoka] was already seeking help. Taken collectively, these circumstances weigh heavily against [the petitioners'] claim of ignorance over what they refer to as the "trickery" perpetrated by [Crisostomo]. For this reason, We agree with the ruling of the court a quo that [the petitioners] should be held jointly and severally liable with [Crisostomo].[31]

Besides, the RFC earlier revealed that the notaries public, whose acts of notarizing the questioned REMs were disputed, were not presented to belie Fukuoka's claim that she never appeared before them. Additionally, the trickery was made even more manifest by the fact that in all of the questioned REMs, the first page invariably does not carry any signature at all giving rise to the impression that page one was simply inserted in all such documents. The testimony of Fukuoka is that, she was merely told to sign blank documents. There was no notice given to Fukuoka about any purported default of Crisostomo that they claimed cover the mortgage put up by Fukuoka. Instead, Allied Bank continued accepting payments from Fukuoka until it decided to stop collecting for

all monthly amortization commencing June 1999.[32]

Well-settled is the rule that this Court is not a trier of facts. Factual findings of the lower courts are entitled to great weight and respect on appeal, and in fact accorded finality when supported by substantial evidence on the record.[33] Fraud is a question of fact.[34] Therefore, this conclusion is binding upon the Court.

Anent the petitioners' cross-claim, this was dismissed by the CA with the recommendation for the petitioners to file an independent action against Crisostomo instead of pursuing their claims in this case. Given that it was uncontroverted that Crisostomo contracted loans from Allied Bank and in furtherance of the judicial policy to avoid multiplicity of suits, the Court reinstates the cross-claim before the RTC for further proceedings. The reinstatement of the cross-claim with the RTC is in order since the Court is not a trier of facts and is not in the position to resolve the cross-claim based on the records.[35]

In ruling in favor of the reformation of the contract, the Court does not in any way, create a new contract for the parties; the Court merely takes into consideration the special circumstances surrounding the instant case in ascertaining the real intention and agreement of the parties, as discernible through their actions prior to, during, and subsequent to the execution of the disputed instruments.

WHEREFORE, the Decision dated September 18, 2009 of the Court of Appeals in CA-G.R. CV No. 85063 is hereby **AFFIRMED** with **MODIFICATION**. The cross-claim of petitioners Allied Banking Corporation and Ernesto Pascual against Crisostomo Borillo is **REINSTATED**. The Regional Trial Court of Las Piñas City, Branch 275, is **DIRECTED** to proceed with the cross-claim with deliberate dispatch.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Bersamin,[*] and Villarama, Jr., JJ., concur.

January 25, 2016

NOTICE OF JUDGMENT

Sirs / Mesdames:

Please take notice that on November 23, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on January 25, 2016 at 2:15 p.m.

Very truly yours,
(SGD)WILFREDO V. LAPITAN
Division Clerk of Court

[*] Designated Acting Member per Special Order No. 2289 dated November 16, 2015 vice Associate Justice Francis H. Jardeleza.

[1] Rollo, pp. 34-65.

[2] Penned by Associate Justice Ramon M. Bato, Jr., with Associate Justices Noel G. Tijam and Marlene Gonzales-Sison concurring; *id.* at 7-25.

[3] *Id.* at 27-28.

- [4] Id. at 8-11.
- [5] Id. at 99-106.
- [6] Id. at 169-171.
- [7] Id. at 102.
- [8] Id. at 203-224.
- [9] Id. at 204.
- [10] Id. at 220-221.
- [11] Issued by Judge Bonifacio Sanz Maceda; id. at 397-411.
- [12] Id. at 411.
- [13] Id. at 406.
- [14] Id. at 407.
- [15] Id.
- [16] Id.
- [17] Id.
- [18] Id. at 411.
- [19] Id. at 412.
- [20] Id. at 23.
- [21] Id. at 487-499.
- [22] Id. at 46.
- [23] Id. at 52.
- [24] NEW CIVIL CODE OF THE PHILIPPINES, Article 1371.
- [25] Rollo, pp. 18-19.
- [26] Id. at 18.
- [27] Id. at 19.
- [28] Id. at 19.
- [29] Id. at 119, 287.
- [30] Id. at 51-52.
- [31] Id. at 21-22.
- [32] Id. at 408.
- [33] Sps. Bernales v. Heirs of Julian Sambaan, 624 Phil. 88, 97 (2010).
- [34] Republic v. Heirs of Enrique Oribello, Jr., G.R. No. 199501, March 6, 2013, 692 SCRA 645, 659.

[35] Land Bank of the Philippines v. Republic of the Philippines, 567 Phil. 427, 447 (2008).

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