

**SPOUSES RAMON SY AND ANITA NG, RICHARD SY, JOSIE ONG,
WILLIAM SY AND JACKELINE DE LUCIA, PETITIONERS, VS.
WESTMONT BANK (NOW UNITED OVERSEAS BANK PHILIPPINES)
AND PHILIPPINE DEP...**

G.R. No. 201074. October 19, 2016

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a Petition for Review on Certiorari seeking to reverse and set aside the August 4, 2011 Decision[1] and the March 19, 2012 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CV No, 90425, which affirmed the November 9, 2007 Decision[3] and February 6, 2008 Order[4] of the Regional Trial Court, Branch 12, Manila (RTC) in Civil Case No. 99-95945.

The Facts

The present case stemmed from a Complaint for Sum of Money,[5] dated August 30, 1999, filed by respondent Westmont Bank (Westmont), now United Overseas Bank Philippines (UOBP), against petitioners Spouses Ramon Sy and Anita Ng, Richard Sy, Josie Ong, William Sy, and Jackeline de Lucia (petitioners) before the RTC.

Westmont alleged that on October 21, 1997, petitioners, doing business under the trade name of Moondrops General Merchandising (Moondrops), obtained a loan in the amount of P2,429,500.00, evidenced by Promissory Note No. GP-5280[6] (PN 5280), payable on November 20, 1997. Barely a month after, or on November 25, 1997, petitioners obtained another loan from Westmont Bank in the amount of P4,000,000.00, evidenced by Promissory Note No. GP-5285[7] (PN 5285), payable on December 26, 1997. Disclosure Statements on the Loan/Credit Transactions[8] were signed by the parties. Earlier, a Continuing Suretyship Agreement,[9] dated February 4, 1997, was executed between Westmont and petitioners for the purpose of securing any future indebtedness of Moondrops.

Westmont averred that petitioners defaulted in the payment of their loan obligations. It sent a Demand Letter,[10] dated August 27, 1999, to petitioners, but it was unheeded. Hence, Westmont filed the subject complaint.

In their Answer,[11] petitioners countered that in August 1997, Ramon Sy and Richard Sy applied for a loan with Westmont Bank, through its bank manager William Chu Lao (Lao). According to them, Lao required them to sign blank forms of promissory notes and disclosure statements and promised that he would notify them immediately regarding the status of their loan application.

In September 1997, Lao informed Ramon Sy and Richard Sy that their application was disapproved. He, however, offered to help them secure a loan through Amado Chua (Chua), who would lend them the amounts of P2,500,000.00 and P4,000,000.00, both payable within three (3) months. Ramon Sy and Richard Sy accepted Lao's offer and received the amounts of P2,429,500.00 and P3,994,000.00, respectively, as loans from Chua. Petitioners claimed that they paid Chua the total amount of their loans.

Petitioners insisted that their loan applications from Westmont were denied and it was Chua who lent them the money. Thus, they contended that Westmont could not demand the payment of the said loans.

In the pre-trial conference, the parties agreed on one issue - whether or not the defendants obtained loans from Westmont in the total amount of P6,429,500.00.[12] During trial, Westmont presented, among others, its employee Consolacion Esplana, who testified that the proceeds of the loan were credited to the account of Moondrops per its loan manifold.[13] Westmont, however, never offered such loan manifold in evidence.[14]

On the other hand, petitioners presented a Cashier's Check,[15] dated October 21, 1997, in the amount of P2,429,500.00, purchased from Chua, to prove that the said loan was obtained from Chua, and not from Westmont. The cashier's check for the subsequent loan of P4,000,000.00 could not have been obtained from Westmont.

The RTC Ruling

In its decision, dated November 9, 2007, the RTC ruled in favor of Westmont. It held that Westmont's cause of action was based on PN 5280 and PN 5285, the promissory notes executed by petitioners. The RTC opined that petitioners admitted the genuineness and due execution of the said actionable documents because they failed to make a specific denial in the answer. It added that it should be presumed that the two (2) loan transactions were fair and regular; that the ordinary course of business was followed; and that they were issued for a sufficient consideration.

The RTC underscored that Ramon Sy never took any steps to have the promissory notes cancelled and annulled, which led to the conclusion that their obligations to Westmont were valid and binding. The fallo of the decision reads:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered in favor of plaintiff WESTMONT BANK (now United Overseas Bank) and against defendants Spouses Ramon Sy and Anita Ng, Richard Sy, Josie Ong, William Sy and Jackeline De Lucia, and to pay plaintiff the following amounts, as follows:

- P20,573,948.66, representing the outstanding amounts due on the aforementioned loan accounts as of February 15, 2001;
- Interests and penalty charges due thereon as stipulated under the respective promissory notes from and after February 15, 2001, until fully paid;
- 20% of the total outstanding sum, as and by way of attorney's fees; and
- Costs of suit.

SO ORDERED.[16]

Petitioners moved for reconsideration, arguing that it had sufficiently denied the genuineness and due execution of the promissory notes in their answer.

In its Order, dated February 6, 2008, the RTC repeated that petitioners were deemed to have admitted the genuineness and due execution of the actionable documents. It, however, modified the dispositive portion of its decision as follow:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered in favor of plaintiff WESTMONT BANK (now United Overseas Bank) and against defendants Spouses Ramon Sy and Anita Ng, Richard Sy, Josie Ong, William Sy and Jackeline De Lucia, and to pay plaintiff the following amounts, as

follows:

- On Promissory Note No. PN-GP 5280:

a)

The sum of Two Million Four Hundred Twenty Nine Thousand Five Hundred Pesos (P2,429,500.00), representing the principal amount of the promissory note;

b)

The sum of Seven Hundred Twenty Eight Thousand Eight Hundred Fifty Pesos (P728,850.00), representing interest due on the promissory note payable on November 20,1997;

c)

The above amounts shall collectively earn interest at the rate of thirty-six (36) percent per annum by way of liquidated damages, reckoned from November 20,1997, until fully paid.

- On Promissory Note No. PN-GP 5285:

a)

The sum of Four Million Pesos (P4,000,000.00), representing the principal amount of the promissory note;

b)

The sum of One Million One Hundred Sixty Thousand Pesos (P1,160,000.00), representing interest due on the promissory note payable on December 26,1997;

c)

The above amounts shall collectively earn interest at the rate of thirty-six (36) percent per annum by way of liquidated damages, reckoned from December 26,1997, until fully paid.

- The sum equivalent to twenty (20) percent of the total amount due (referred to in Items 1 and 2 hereof), by way of attorney's fees; and costs of suit.

SO ORDERED.[17]

Aggrieved, petitioners elevated an appeal before the CA.

The CA Ruling

In its assailed August 4, 2011 decision, the CA affirmed the ruling of the RTC. It wrote that petitioners failed to specifically deny the genuineness and due execution of the promissory notes in their answer before the trial court. Accordingly, the CA ruled that under Section 8, Rule 8 of the Rules of Court (Section 8 of Rule 8), the genuineness and due execution of the promissory notes were deemed admitted by petitioners. It added that the admission of the said actionable documents created a prima facie case in favor of Westmont which dispensed with the necessity of presenting evidence that petitioners actually received the loan proceeds. The CA disposed the case in this wise:

WHEREFORE, the instant appeal is DENIED. The assailed Decision dated November 9, 2007 as amended by the assailed Order dated February 6, 2008 of the Regional Trial Court of Manila, Branch 12, is hereby AFFIRMED.

SO ORDERED.[18]

Petitioners filed a motion for reconsideration, but it was denied by the CA in its assailed decision, dated March 19, 2012.

Hence, this petition, raising the following

ISSUES

I.

THE HONORABLE COURT OF APPEALS ERRONEOUSLY RULED, AS A MATTER OF LAW, THAT PETITIONERS SPS. RAMON SY AND ANITA NG, RICHARD SY, JOSIE ONG, WILLIAM SY AND JACKELINE DE LUCIA FAILED TO SPECIFICALLY DENY THE ACTIONABLE DOCUMENTS UNDER OATH AND THUS, PETITIONERS DEEMED TO HAVE ADMITTED THEIR GENUINENESS AND DUE EXECUTION.

II.

THE HONORABLE COURT OF APPEALS FAILED TO RULE THAT THE PIECES OF EVIDENCE PRESENTED AND FORMALLY OFFERED BY WESTMONT BANK ARE INADMISSIBLE AND HENCE, SHOULD NOT HAVE BEEN CONSIDERED.[19]

Petitioners argue that: they specifically denied the allegations of Westmont under oath in their answer filed before the RTC; although they signed blank forms of promissory notes, disclosure statements and continuing suretyship agreements, they were informed that their loan application were denied; these should be considered as sufficient compliance with Section 8 of Rule 8; Westmont Bank failed to prove the existing loan obligations; and the original copy of the promissory notes were never presented in court.

In a Resolution,[20] dated July 4, 2012, the Court initially denied the petition for failure to show any reversible error in the challenged decision and resolution of the CA. In a Resolution,[21] dated June 15, 2015, however, the Court granted petitioners' motion for reconsideration, reinstated the petition and required the respondents to file their comment.

In its Entry of Appearance with Compliance/Manifestation,[22] dated October 19, 2015, UOBP, formerly Westmont, informed the Court that all their interests in the present litigated case were already transferred to the Philippine Deposit Insurance Corporation (PDIC).

In its Comment,[23] dated September 23, 2015, the PDIC stated that the CA correctly ruled that petitioners failed to specifically deny the actionable documents in their answer and were deemed to have admitted the genuineness and due execution thereof Citing Permanent Savings and Loan Bank v. Velarde,[24] the PDIC underscored that the specific denial meant that the defendant must declare under oath that he did not sign the document or that it was otherwise false or fabricated.

In their Reply,[25] dated November 2, 2015, petitioners insisted that they made a categorical specific denial in their answer and never admitted the genuineness and due execution of the promissory notes, disclosure statements and continuing surety agreements; the promissory notes presented by Westmont were mere photocopies; and Westmont failed to establish that they received the proceeds of any loan.

The Court's Ruling

The Court finds the petition meritorious.

Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading, or said copy may with like effect be set forth in the pleading.[26] The said instrument or document is called an actionable document and Section 8 of Rule 8 provides the proper method for the adverse party to deny its genuineness and due execution, to wit:

Sec. 8. How to contest such documents. — When an action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding Section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them, and sets forth what he claims to be the facts; but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused. [Emphasis supplied]

Accordingly, to deny the genuineness and due execution of an actionable document: (1) there must be a specific denial in the responsive pleading of the adverse party; (2) the said pleading must be under oath; and (3) the adverse party must set forth what he claims to be the facts. Failure to comply with the prescribed procedure results in the admission of the genuineness and due execution of the actionable document.

In *Toribio v. Bidin*,^[27] the Court expounded that the purpose of specifically denying an actionable document "appears to have been to relieve a party of the trouble and expense of proving in the first instance an alleged fact, the existence or non-existence of which is necessarily within the knowledge of the adverse party, and of the necessity (to his opponent's case) of establishing which such adverse party is notified by his opponent's pleading."^[28] In other words, the reason for the rule is to enable the adverse party to know beforehand whether he will have to meet the issue of genuineness or due execution of the document during trial.^[29]

In that said case, the petitioners therein failed to file a responsive pleading to specifically deny a deed of sale, the actionable document, attached in the answer of the respondents therein. Despite such failure, the Court held that Section 8, Rule 8, was sufficiently complied with because they had already stated under oath in their complaint that they never sold, transferred, or disposed of their shares in the inheritance to others. Thus, respondents therein were placed on adequate notice that they would be called upon during trial to prove the genuineness or due execution of the disputed deeds of sale. Notably, the Court exercised liberality in applying the rules of procedure so that substantial justice may be served.

Similarly, in *Titan Construction Corporation v. David, Sr.*,^[30] the Court relaxed the rules of procedure regarding Section 8 of Rule 8. In that case, the respondent failed to file a responsive pleading under oath to specifically deny the special power of attorney, the actionable document therein, which was attached to the answer of the petitioner therein. Notwithstanding such deficiency, the Court ruled that there was substantial compliance because the respondent therein consistently denied the genuineness and due execution of the actionable document in his complaint and during trial.

In fine, although Section 8 of Rule 8 provides for a precise method in denying the genuineness and due execution of an actionable document and the dire consequences of its non-compliance, it must not be applied with absolute rigidity. What should guide judicial action is the principle that a party-litigant is to be given the fullest opportunity to establish the merits of his complaint or defense rather than for him to lose life, liberty, honor, or property on technicalities.

In the present case, the actionable documents attached to the complaint of Westmont were PN 5280 and PN 5285. The CA opined that petitioners failed to specifically deny the genuineness and due execution of the said instruments because nowhere in their answer did they "specifically deny" the genuineness and due execution of

the said documents.

After a judicious study of the records, the Court finds that petitioners sufficiently complied with Section 8 of Rule 8 and grants the petition.

Petitioners specifically
denied the genuineness
and due execution of the
promissory notes

The complaint of Westmont alleged, among others, that:

3. On or about October 21, 1997, defendants Richard Sy and Ramon Sy, under the trade name and style of "Moondrops General Merchandising," obtained a loan from the plaintiff in the principal amount of Two Million Four Hundred Twenty-Nine Thousand Five Hundred Pesos (P2, 429, 500.00), Philippine Currency, in evidence of which said defendants executed in plaintiffs favor Promissory Note No. GP- 5280, xxx.
4. Again, on or about November 25, 1997, defendants Richard Sy and Ramon Sy, under the trade name and style of "Moondrops General Merchandising," applied for and were granted another loan by the plaintiff in the principal amount of Four Million Pesos (P4, 000, 000.00), Philippine Currency, in evidence of which said defendants executed in plaintiffs favor Promissory Note No. GP- 5285, xxx.
6. The defendants Anita Ng, Josie Ong, William Sy and Jackeline De Lucia, for purposes of securing the payment of said loans, collectively executed a Continuing Suretyship Agreement, xxx, whereby they jointly and severally bound themselves to plaintiff for the payment of the obligations of defendants Richard Sy and Ramon Sy/Moondrops General Merchandising thereto.
7. The defendants defaulted in the payment of the aforementioned loan obligations when the same fell due and, despite demands, continue to fail and/or refuse to pay the same, to the prejudice of the plaintiff, xx.
8. As of November 9, 1999, the defendants' outstanding obligation to the plaintiff on both loans amounted to Fifteen Million Six Hundred Thirty-Nine Thousand Five Hundred Eighty Nine and 25/100 Pesos, xxx.[31]

On the other hand, petitioners alleged in the answer, under oath:

2. Paragraphs 3, 4, 5, 6, 7 and 8 are specifically denied, the truth of the matter being those alleged in the Special and Affirmative Defenses hereunder.
3. Paragraph 9 is specifically denied for want of knowledge or information sufficient to form a belief as to the truth or falsity thereof. Besides, the plaintiff has no one to blame except itself and its personnel for maliciously filing the instant complaint for collection knowing fully well that the alleged loan obligations were not consummated; and by way of -

SPECIAL AND AFFIRMATIVE DEFENSES

4. The complaint does not state a cause of action.
5. While the limited partnership Moondrops General Merchandising Co., Ltd. (Moondrops for brevity) appears in the alleged loan documents to be the borrower and, therefore, the real party in interest, it is not impleaded as a party, xxx.
6. The alleged loan obligations were never consummated for want of consideration.
7. Sometime in August, 1997, Moondrops desperately needed additional working capital, thus it applied for a loan of P6,500, 000.00 with the plaintiff Westmont Bank through the Manager of Grace Park Branch William Chu Lao.

8. Manager William Chu Lao required herein defendants to sign blank forms of plaintiffs promissory notes, Disclosure Statements and Continuing Suretyship Agreement.

9. Sometime in September, 1997, Manager William Chu Lao informed herein defendants that the application of Moondrops for an additional working capital was disapproved by Westmont Bank but that, however, he offered to lend the defendants, through Mr. Amado Chua, the initial amount of P2,500,000.00 payable in three (3) months, and then another P4,000,000.00 likewise payable in three (3) months, against customers' checks.

10. Since Moondrops desperately needed the additional working capital, defendants agreed to and accepted the offer of Manager William Chu Lao, thus Mr. Amado Chua loaned to defendants the amounts of P2,500,000.00 and P4,000,000.00.

11. Pursuant to the agreement between Mr. Amado Chua and the defendants, the latter delivered to the former customers' checks in the total amount of P6,500,000.00.

12. Defendants have fully paid Mr. Amado Chua the loan obligations in the amounts of P2,500,000.00 and P4,000,000.00, including the interests thereon.[32]

The answer above readily shows that petitioners did not spell out the words "specifically deny the genuineness and due execution of the promissory notes." Nevertheless, when the answer is read as whole, it can be deduced that petitioners specifically denied the paragraphs of the complaint regarding the promissory notes. More importantly, petitioners were able to set forth what they claim to be the facts, which is a crucial element under Section 8 of Rule 8. In particular, they alleged that although Ramon Sy and Richard Sy signed blank forms of promissory notes and disclosure statements, they were later informed that their loans were not approved. Such disapproval led them to seek loans elsewhere, through Lao and Chua, but definitely not with the bank anymore.

Verily, petitioners asserted throughout the entire proceedings that the loans they applied from Westmont were disapproved, and that they never received the loan proceeds from the bank. Stated differently, they insisted that the promissory notes and disclosure statement attached to the complaint were false and different from the documents they had signed. These significant and consistent denials by petitioners sufficiently informed Westmont beforehand that it would have to meet the issue of genuineness or due execution of the actionable documents during trial.

Accordingly, petitioners substantially complied with Section 8 of Rule 8. Although their answer did not indicate the exact words contained in the said provision, the questionable loans and the non-delivery of its proceeds compel the Court to relax the rules of procedure in the present case. Law and jurisprudence grant to courts the prerogative to relax compliance with procedural rules of even the most mandatory character, mindful of the duty to reconcile both the need to put an end to litigation speedily and the parties' right to an opportunity to be heard.[33]

Westmont failed to prove
that it delivered the
proceeds of the loan to
petitioners

A simple loan or mutuum is a contract where one of the parties delivers to another, either money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid.[34] A simple loan is a real contract and it shall not be perfected until the delivery of the object of the contract.[35] Necessarily, the delivery of the proceeds of the loan by the lender to the borrower is indispensable to perfect the contract of loan. Once the proceeds have been delivered, the unilateral characteristic of the contract arises and the borrower is bound to pay the lender an amount equal to that received.[36]

Here, there were purported contracts of loan entered between Westmont and petitioners for the amounts of P2,429,500.00 and P4,000,000.00, respectively. The promissory notes evidencing such loans were denied by petitioners, thus, the genuineness and due execution of such documents were not admitted. Petitioners averred that they never received such loans because their applications were disapproved by the bank and they had to acquire loans from other persons. They presented a cashier's check, in the amount of P2,429,500.00, obtained from Chua, which showed that the latter personally provided the loan, and not the bank. As the proceeds of the loan were not delivered by the bank, petitioners stressed that there was no perfected contract of loan. In addition, they doubt the reliability of the promissory notes as their original copies were not presented before the RTC.

Due to the doubtful circumstances surrounding the loan transactions, Westmont cannot rely on the disputable presumptions that private transactions have been fair and regular and that the ordinary course of business has been followed. The afore-stated presumptions are disputable, meaning, they are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence.[37]

At any rate, granting that they did execute the promissory note and other actionable documents, still it was incumbent on Westmont, as plaintiff, to establish that the proceeds of the loans were delivered to petitioners, resulting into a perfected contract of loan.[38] Notably, these documents also did not state that the loan proceeds had been delivered to petitioners, and that they had acknowledged its receipt.

In civil cases, the burden of proof rests upon the plaintiff who is required to establish his case by a preponderance of evidence.[39] As aptly stated by the RTC, the primordial issue that must be resolved is whether petitioners obtained loans from Westmont in the total amount of P6,429,500.00.[40]

The Court finds that Westmont miserably failed to establish that it released and delivered the proceeds of the loans in the total amount of P6,429,500.00 to petitioners. Westmont could have easily presented a receipt, a ledger, a loan release manifold, or a statement of loan release to indubitably prove that the proceeds were actually released and received by petitioners. During trial, Westmont committed to the RTC that it would submit as evidence a loan manifold indicating the names of petitioners as recipients of the loans,[41] but these purported documents were never presented, identified or offered.[42]

As Westmont failed to prove that it had delivered the loan proceeds to respondents, then there is no perfected contract of loan.

WHEREFORE, the petition is GRANTED. The August 4, 2011 Decision and the March 19, 2012 Resolution of the Court of Appeals in CA-G.R. CV No. 90425 are hereby REVERSED and SET ASIDE. The Complaint, dated August 30, 1999, docketed as Civil Case No. 99-95945 filed before the Regional Trial Court, Branch 12, City of Manila, is DISMISSED.

SO ORDERED.

Carpio, (Chairperson), Brion, and Del Castillo, JJ., concur.
Leonen, J., on official leave.

[1] Penned by Associate Justice Samuel H. Gaerlan with Associate Justice Ramon R. Garcia and Associate Justice Socorro B. Inting, concurring; rollo, pp. 34-43.

[2] Id. at 44-45.

[3] Penned by Judge Ruben Reynaldo G. Roxas; id. at 157-164.

- [4] Id. at 198-204.
- [5] Id. at 57-61.
- [6] Id. at 62.
- [7] Id. at 64.
- [8] Id. at 63 and 65.
- [9] Id. at 66-68.
- [10] Id. at 69-70.
- [11] Id. at 72-77.
- [12] Id. at 104.
- [13] TSN, January 11, 2002, p. 27.
- [14] Rollo, pp. 105-107.
- [15] Id. at 152.
- [16] Id. at 163-164.
- [17] Id. at 202-203.
- [18] Id. at 43.
- [19] Id. at 17.
- [20] Id. at 323-324.
- [21] Id. at 383-384.
- [22] Id. at 411-413.
- [23] Id. at 401-408.
- [24] 482 Phil. 193 (2004).
- [25] Rollo, pp. 420-424.
- [26] Section 7, Rule 7 of the Rules of Court.
- [27] 219 Phil. 139 (1985).
- [28] Id.
- [29] Id. at
- [30] 629 Phil. 346 (2010).
- [31] Rollo, pp. 57-59.
- [32] Id. at 72-74.
- [33] *Hadji-Sirad v. Civil Service Commission*, 614 Phil. 119, 134 (2009).
- [34] Article 1933 of the New Civil Code.

[35] Article 1934 of the New Civil Code.

[36] See Article 1953 of the New Civil Code.

[37] Citibank, N.A. v. Sabeniano, 535 Phil. 384 (2006).

[38] See Oliver v. Philippine Savings Bank, G.R. No. 214567, April 4, 2016.

[39] De Leon v. Bank of the Philippines, Phil. 839 (2013).

[40] Rollo, p. 159.

[41] TSN, pp. 27-29, January 11, 2002; rollo, pp. 103 and 175.

[42] Id. at 105 and 155-156.

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