

PHILIPPINE NATIONAL BANK, PETITIONER, VS. LIGAYA M. PASIMIO, RESPONDENT.

G.R. No. 205590. September 02, 2015

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

In this petition for review under Rule 45, the Philippine National Bank (PNB) assails and seeks to set aside the January 23, 2013 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CV No. 94079 dismissing petitioner's appeal from the decision of the Regional Trial Court (RTC) of Parañaque City, Branch 196, which ruled for respondent Ligaya Pasimio (Pasimio) in an action for a sum of money she commenced thereat against the bank.

The Facts

From the petition, the comment thereon, their respective annexes, and other pleadings filed by the parties, the Court gathers the following relevant facts:

On May 19, 2005, Pasimio filed suit against PNB for the recovery of a sum of money and damages before the RTC of Parañaque City. In her complaint,^[2] docketed as Civil Case No. CV-05-0195 and eventually raffled to Branch 196 of the court, she alleged having a peso and dollar time deposit accounts with PNB in the total amount of P4,322,057.57 and US\$5,170.80, respectively; that both investment placements have matured; and when she sought to withdraw her deposit money with accrued interests, PNB refused to oblige.

In its Answer with Counterclaim,^[3] with annexes, PNB admitted the fact of deposit placement for the amount aforestated. But it claimed that Pasimio is without right to insist on their withdrawal, the deposited amount having already been used in payment of her outstanding loan obligations to the bank. PNB narrated how the set off of sort came about: Pasimio and her husband took out three "loans against deposit hold-out"^[4] from the PNB Sucat branch, as follows: a Three Million One Hundred Thousand Peso (P3,100,000) loan on March 21, 2001; a One Million Seven Hundred Thousand Peso (P1,700,000) loan on April 2, 2001; and a Thirty-One Thousand One Hundred US Dollar (US\$31,100) loan on December 7, 2001.

PNB further alleged the following: (1) each loan accommodation was secured by a deposit account of Pasimio; (2) the proceeds of the first and second loans were released to and received by the Pasimio spouses in the form of PNB Manager's Checks (MCs) while the proceeds of the third loan were released and received in cash; (3) the loan proceeds were acknowledged by Pasimio in corresponding notarized promissory notes (PNs) and Disclosure Statements of Loan/Credit Transaction; (4) Pasimio then re-lent the proceeds of the third loan to a certain Paolo Sun; (5) contrary to Pasimio's allegations on maturing deposit instruments, she in fact renewed/rolled over her placements several times; and (6) Pasimio had failed to pay her outstanding loan obligations forcing the bank to apply her deposits to the unpaid loans pursuant to the legal compensation arrangement embodied in the "hold-out" proviso under Clause 5 of the PN.^[5]

To this answer, Pasimio filed her reply and answer to counterclaim alleging facts she would also later venture to

prove.

During the trial following the joinder of issues, Pasimio denied obtaining any loan from PNB, let alone receiving the corresponding loan proceeds. While conceding signing certain documents which turned out to be the Peso Loans Against Peso/FX Deposit Loan Applications, the Promissory Notes and Hold-out on Savings Deposit/Peso/FX Time Deposit and Assignment of Deposit Substitute and the Disclosure Statements of Loan/Credit Transaction (Loan Documents), she professed not understanding what they really meant. She agreed to affix her signature on these loan documents in blank or in an incomplete state, she added, only because the PNB Sucat branch manager, Teresita Gregorio (Gregorio), and Customer Relations Officer, Gloria Miranda (Miranda), led her to believe that what she was signing were related to new high-yielding PNB products.

Pasimio would also deny re-lending the loan proceeds to Paolo Sun. She asserted in this regard that Gregorio repaired to her residence with a duly accomplished affidavit detailing the re-lending event and urged her to sign the same if she wished to recover her placements.

In all, Pasimio depicted herself as victim of a nefarious lending scam, orchestrated by Gregorio and Miranda who PNB had ordered dismissed following the exposure of their involvement in anomalous loan transactions with unsuspecting PNB depositors.

Pasimio submitted the following as evidence:

- Passbook for PNB Mint Placement No. 61281001164164 (same as PNB Mint Placement No. 6128100115590) - to prove that she invested P3,100,000 with PNB-Sucat under PNB Mint Placement No. 6128100115590;
- Passbook for PNB Mint Placement No. 61281001164688 (same as PNB Mint Placement No. 6128100115632) - to prove that she invested P1,700,000 with PNB-Sucat under PNB Mint Placement No. 6128100115632;
- Certificate of Time Deposit for \$CTD No. 6628100116575 - to prove that she invested US\$5,160.84 with PNB-Sucat under Certificate of Time Deposit \$CTD No. 66281001 16575;
- Letter dated April 22, 2004 addressed to the PNB Sucat branch manager to prove that she made a demand for the release of her investments;
- Letters dated July 21, 2004 from PNB's Internal Auditor to Pasimio -to prove that PNB confirmed her deposits and investment with PNB-Sucat but that she corrected entries pertaining to their amounts and denied having a deposit hold-out on any of her investments;
- Engagement letter dated February 2, 2005 from the law firm Rondain & Mendiola;
- An unsigned affidavit - to prove that Gregorio had prepared an affidavit to make it appear that Pasimio and other depositors entered into loan agreements with a certain Paolo Sun, to cover her (Gregorio's) illegal schemes and that Gregorio went to the homes of these depositors begging them to sign the affidavit as she was already being audited by PNB's main office;^[6] and
- A Memorandum on Irregular Lending Operation on Loans vs. Deposit Hold-Out (Sucat Branch) dated February 18, 2003 detailing the alleged modus operandi of Gregorio and Miranda and stating that the latter were dismissed for their involvement in shady loan practices.^[7]

On the other hand, PNB offered the following for purposes as stated:

- Peso Loans Against Peso/FX Deposit Loan Application Form dated March 21, 2001 - to prove that Pasimio applied for a PNB loan and voluntarily executed a loan application form dated March 21, 2001 for the amount: of P3,100,000 secured by her own PNB Mint Account No. 612810011393 as loan collateral;

- PN and Hold-out on Peso/FX Savings Deposit/Peso/FX Time Deposit and Assignment of Deposit Substitute dated March 21, 2001 - to prove that Pasimio's P 3,100,000 loan was supported with a PN which she and her husband voluntarily signed and executed on March 21, 2001 and that she renewed the said loan on different dates;
- Disclosure Statement of Loan/Credit Transaction dated March 21, 2001 - to prove that Pasimio's loan for P3,100,000 was also supported with a Disclosure Statement, a copy of which she acknowledged to have received prior to the consummation of the credit transaction, where she voluntarily agreed to the terms and conditions of her loan by signing the said statement;
- MC No. 0000166650 dated March 21, 2001 for P3,049,188.94 - to prove that Pasimio encashed this check and received the proceeds of her P3,100,000 loan, net of bank charges;
- Peso Loans Against Peso/FX Deposit Loan Application/Approval Form dated April 2, 2001 - to prove that Pasimio applied for another loan on April 2, 2001 in the amount of P1,700,000 and that the same was secured by Pasimio's own PNB Mint Account No. 6128100113429. As in the first loan, Pasimio also voluntarily affixed her signature on the document;
- PN and Hold-out on Peso/FX Savings Deposit/Peso/FX Time Deposit and Assignment of Deposit Substitute dated April 2, 2001 - to prove that Pasimio's second loan of P1,700,000 is supported by a PN which she voluntarily signed and executed on April 2, 2001 together with her husband and that she renewed the said loan on different dates;
- Disclosure Statement of Loan/Credit Transaction dated April 2, 2001 - to prove that Pasimio's loan for P1,700,000 was also supported with a Disclosure Statement, a copy of which she acknowledged to have received prior to the consummation of the credit transaction, where she voluntarily agreed to the terms and conditions of her loan by signing the said statement;
- MC No. 0000166682 dated April 2, 2001 in the amount of P1,672,797.50 - to prove that Pasimio encashed this check and received the proceeds of her P1,700,000 loan, net of bank charges;
- Peso Loans Against Peso/FX Deposit Loan Application/Approval Form dated December 7, 200 - to prove that Pasimio applied for a US\$31,100 loan which her own PNB FX CTD No. 6628100115637 (US\$20,393.78) and CTD No. 6628100115716 (US\$10,766.25) secured as collateral. As in the first two loans, Pasimio also voluntarily affixed her signature on the document;
- PN and Hold-Out on Peso/FX Savings Deposit/Peso/FX Time Deposit and Assignment of Deposit Substitute dated December 7, 2001 - to prove that Pasimio's US\$3 1,100 loan is supported by a PN note which she and her husband voluntarily signed and executed on December 7, 2001 and that she renewed the said loan on different dates;
- Disclosure Statement of Loan/Credit Transaction dated December 7, 2001 - to prove that Pasimio's loan for US \$31,100 was also supported with a Disclosure Statement, a copy of which she acknowledged to have received prior to the consummation of the credit transaction, where she voluntarily agreed to the terms and conditions of her loan by signing the said statement;
- Miscellaneous Ticket dated December 7, 2001 in the amount of US\$30,981.28 - to prove that Pasimio received the proceeds of her US\$31,100 loan, net of bank charges;
- Bills Payment Form dated July 26, 2004 - to prove that her failure to settle her peso/dollar loan obligations was subsequently settled by offsetting the available balance of her deposit accounts that were used as collaterals against these loans, in accordance with the PNs she executed;

- Demand letter addressed to Pasimio dated July 5, 2004 signed by Noel R. Millares on behalf of the bank -- to prove that PNB demanded payment of her loans in the aggregate amount of P4,623,458.03 and US\$5,277.34 which had already become due and payable;
- Pasimio's Affidavit dated April 10, 2003 - to prove Pasimio's execution of an affidavit lending US\$3 1,100 to Paolo Sun;
- Pasimio's letter dated February 25, 2003 - to prove that the Pasimios effected a change in their PNB Mint Account Nos. deposited at PNB Sucat from the old account number 6128100113393 to the new account number 6128100116464 (pertaining to the deposit of F3,100,000); and from the old account number 6128100113429 to the new account number 61281001.16488 (pertaining to the deposit of P1,700,000);
- PNB Mint Savings Account Passbook with Serial No. 046783 - to prove that the deposit covered by this passbook in the amount of P3,100,000 was used as collateral for Pasimio's f3,100,000 loan. As proof of this fact, the passbook is stamped with the notation "HOLD-OUT" to indicate a withdrawal restriction on this account;
- PNB Mint Savings Account Passbook with Serial Number 046781 - to prove that the deposit covered by this, passbook in the amount of P1,700,000 was used as collateral for Pasimio's P1,700,000 loan. As proof of this fact, the passbook is stamped with the notation "HOLD-OUT" to indicate a withdrawal restriction on this account;
- Portion of PNB Mint Passbook stamped "Hold Out" - to prove that the savings account covered by this passbook is under a hold-out restriction;
- Pasimio's Certificate of Time Deposit Ledger for PNB Big Savings Account No. 222-5476838-7 - to prove that Pasimio opened an account with PNB-Sucat on March 21, 2001 under Account No. 222- 5476838-7 which was constituted as collateral of the P3,100,000 loan;
- PNB Big Savings Account from October 29, 2003 up to May 3, 2004 - to prove that Pasimio opened an account with PNB-Sucat under Account No. 281-5254913 which constituted as collateral for the P1,700,000 loan;
- The Certificate of Deposit Ledger from June 4, 2001 to July 25, 2004 - to prove that the amounts covered by this deposit document were used as collateral for Pasimio's dollar loan of US\$31,100;
- CTD dated June 4, 2001 in the amount of US\$34,030.18 - to prove that Pasimio was issued a Certificate of Time Deposit for the amount of US\$34,030.18 with an annual interest rate of 4.5%;
- CTD dated July 27, 2001 in the amount of US\$20,187.10 - to prove that Pasimio was issued a Certificate of Time Deposit for the amount of US\$20,187.10 with an annual interest rate of 4.125%;
- CTD dated December 23, 2003 in the amount of US\$5,136.03 - to prove that Pasimio had an existing dollar time deposit with PNB which she used as collateral for the dollar hold-out loan that she took out. The dollar certificate is stamped with a notation that reads "HOLD-OUT";
- Statement of Account (SOA) - to prove that PNB-Sucat issued a SOA for Pasimio's Dollar Hold-Out Loan, which showed an outstanding balance of US\$5,100. This SOA was used as basis for the offsetting of Pasimio's past due loan obligation with her PNB Mint Account as collateral; and
- Statement of Account (SOA) - to prove that PNB-Sucat issued a SOA for Pasimio's Dollar Hold-Out Loan, which showed an outstanding balance of P4,321,781.06. This SOA was used as basis for the offsetting of Pasimio's past due loan obligation with her PNB Mint Account as collateral.[8]

RTC Decision

On October 30, 2009, the RTC' rendered judgment[9] in favor of Pasimio, as plaintiff, disposing:

WHEREFORE, premises considered, this court finds the Complaint dated May 16, 2005 with merit, and Defendant, Philippine National Bank is ordered to pay plaintiff, LIGAYA M. P[A]SIMIO[,] the amount of x x x (P3,100,000.00), x x x (P1,222,000.00) and x x x (US\$5,170), respectively, representing her peso/dollar time deposit placements with said bank, with legal interest on said amounts, and, the amount of x x x (P180,000.00) representing attorney's fees, and costs.

SO ORDERED.[10]

The disposition is predicated on the postulate that Pasimio had proven by convincing evidence that she did not obtain any loan accommodation from PNB. As a corollary, the trial court held that there was no evidence showing the release by PNB of the loan proceeds to Pasimio. Pushing the point, the RTC stated that the transaction documents were highly questionable for the reasons stated in some detail in its decision to be reproduced by the CA in its assailed decision.

Therefrom, PNB appealed to the CA, the recourse docketed as CA-GR. CV No. 94079.

CA Decision

In its assailed Decision dated January 23, 2013, the CA affirmed that the RTC, to wit:

WHEREFORE, the instant appeal is DENIED. The Decision dated 30 October 2009 rendered by the [RTC], Branch 196, Parañaque City in Civil Case No. 05-0195 is hereby AFFIRMED.[11]

Even as it found and declared PNB's bank personnel grossly negligent and their transactions with Pasimio highly unacceptable,[12] the appellate court held that no loan proceeds were ever released to Pasimio, thus sustaining the RTC appreciation of the evidence thus presented on the matter by Pasimio.[13] The CA wrote:

Hence, We are one with the RTC when it ruled that there was no release of proceeds of bank loans to plaintiff-appellee [Pasimio], viz:

No release of proceeds of purported bank loans to plaintiff. The evidence at hand does not show that any amount of the loans, if there were any, were ever released by [PNB] to plaintiff.

The [PNB] presented a miscellaneous ticket dated December 7, 2001 for the discounted amount of x x x (US\$ 30,981.28) attending the release of such funds over the purported third loan in the amount of x x x (US\$ 31,100.00) extended to plaintiff and as affecting her FX dollar time deposits. This document remains to be a simple ticket advice and | would] not amount to fact of payment of loan proceeds in the absence of any cogent and better evidence which is available to (he bank. There is no statement of account or a corresponding check document presented to compliment such ticket advice to clearly show an amount was debited from the account of the bank to ably pay off the amount of the loan proceeds. The miscellaneous ticket standing by itself is no[t] an adequate proof of fact of payment of a loan x x x.

The [PNB] presented a document for Manager Check No. 166650 dated March 21, 2001 at a discounted amount of x x x (P3,049,188.94) to prove the possible release of proceeds of a first loan allegedly secured by plaintiff for the amount of x x x (P3,100,000.00). Looking over the dorsal portion of the check, it is highly unnatural and irregular that the very check in question does not have a machine printed validation of the transaction to reflect the debit entry of the account from which the release "of funds might have been secured. With exception to the stamp marking and a few signatures at the back of the check, it becomes highly inconceivable for a bank teller to forget a machine validation of a check, not unless the checks was not properly cleared but was only received by the teller. The check standing out as evidence docs not proffer (that the amount indicated therein was properly released for the purpose, to only draw a farce conclusion that it was properly transacted and funds was indeed released to plaintiff.

The [PNB] presented a document for Manager Check No. 166682 dated April 2, 2001 in the discounted amount of x x x (P1,679,797.50) to prove the alleged release of proceeds of a second loan allegedly secured by plaintiff for the amount x x x (P1,700,000.00). Looking over the dorsal portion of the check, the machine validation entry by the teller reads of entry '005 502 281 02AP01 PCOUT 1,672,797.50 A N 14021226' in comparison with the front portion of the very check does not tally with the check no. '166682' neither the checking account from which the amount is drawn at reference number '00-281-022222-2' which makes it an invalid validation entry and will not prove the fact that debited amounts were made from the bank account number '00-281-022222-2' [to cover the release to plaintiff of proceeds] of the second loan. There being no explanation by the very bank employees presented by the bank on the discrepancy of the teller validation entries with the checking account used to possible pay off the release of loan proceeds, there can be no indication that the loan was properly paid for to plaintiff.

Simply stated, there is really no loan ever released by defendant bank in favor of plaintiff to engage the operative right to hold-out on the deposits of the latter.[14]

On a related matter, the CA found, as highly irregular, the PNB personnel's act of securing Pasimio's signature and consent to have the proceeds of the US\$31,100 loan re-lent to Paolo Sun. It expounded:

Second, it can be gleaned from the facts of the case that [PNB] was able to obtain the signature and assent of plaintiff-appellee in re-lending the loan proceeds to a certain Paolo Sun, in a manner not in accordance with the ordinary course of business of banks. According to plaintiff-appellee, Bank Manager Gregorio went to her house for her to sign a document, telling her that it was the only way for plaintiff-appellee to get her money back by re-lending her money deposits with [PNB] to a certain Paolo Sun whom she does not know. Plaintiff-appellee also contends that she was not aware that the document she signed was notarized.

For that alone, the action performed by the bank manager in the transactions is definitely exposed to a high incident of negligence. It bears stressing that banks must exercise the highest degree of diligence and by doing the transactions outside the bank without any proper explanation of the consequences of the document to be signed by plaintiff-appellee as client of the bank is reprehensible x x x. The bank personnel misrepresented the true nature of the transaction which deprived plaintiff-appellee to evaluate the consequences of the transaction offered to her by the bank personnel of [PNB].[15]

And agreeing with the RTC on what it viewed as the questionable nature of the transactions PNB entered into with Pasimio, as purportedly evidenced by a combination of related circumstances reflecting documentary tampering, the CA quoted with approval the ensuing excerpts from the RTC's decision:

The transaction documents are highly questionable. The loan application form dated March 21, 2001 over the purported first peso loan in the amount of x x x (P3,100,000.00) which was verified with a notary public on April 30, 2001 did not utilize any residence certificate of plaintiff x x x which also missed out for a residence certificate number in the promissory note dated March 21, 2001, the same former document carried bolder typewritten entries for the names of depositors but faint entries for the amount and the security deposit account which only shows that such entries were made on different dates using different typesets compounded by the column side for the verified balance of deposit and the recommendation of interest were left unfilled. Which circumstances bring in a question on the validity and veracity of the loan documents when in fact the entries and the missing items thereto [do] not speak well of a fully accomplished and perfected loan document between the parties. Sad to say, this court cannot even believe [PNB's] witness, Edna Palomares in stating that she checked the entries [in] the loan approval form be lore she placed her signature considering there are valuable and important entries that are left unfulfilled by a bank officer as herself to even downgrade her line of credibility on the true circumstances to the execution of such document.

The same circumstances attend the loan documents that allegedly covered the second loan in the amount of x x x (P1,700,000.00) and the third loan in the amount of x x x (US\$31,100.00), and, this court need not discuss

further to emphasize the line of anomalous circumstances attending the execution and existence of such documents.[16] (emphasis added)

The CA explained that even if both parties may have been negligent in the conduct of their respective affairs, PNB cannot evade liability for its shortcomings. As stressed by the appellate court, the banking industry is impressed with public interest. Accordingly, all banks and their personnel are burdened with a high level of responsibility and expected to be more careful than ordinary persons. The CA held that since PNB was grossly negligent, it should bear the consequences:

Third, although it may be argued that both parties seemed to have been negligent in their own affairs, [PNB] cannot put all the blame to cover its negligence on plaintiff-appellee. The degree of care is more paramount and expected with that of banks than that of an ordinary person.

As the banking industry is impressed with public interest, all bank personnel are burdened with a high level of responsibility insofar as care and diligence in the custody and management of funds are concerned. Banks handle transactions involving millions of pesos and properties x x x. Indeed, by the very nature of their work, the degree of responsibility, care and trustworthiness expected of officials and employees of the bank is far greater than those of ordinary officers and employees in the other business firms.

Unquestionably, [PNB] x x x had the direct obligation to supervise very closely the employees handling its depositors' accounts, and should always be mindful of the fiduciary nature of its relationship with the depositors. Such relationship required it and its employees to record accurately every single transaction, and as promptly as possible, considering that the depositors' accounts should always reflect the amounts of money the depositors could dispose of as they saw fit x x x. If it fell short of that obligation, it should bear the responsibility for the consequences to the depositor x x x.

In this case, [PNB's] personnel were in violation of their duties and responsibilities as its employees. They have committed gross negligence in dealing with their bank transactions which connotes "want of care in the performance of one's duties." [PNB's] failure to observe basic procedure constituted serial negligence. The repeated failure to carefully observe the duties of its personnel clearly showed utter want of care. As gathered from the records of the case, it was shown that this is not an isolated transaction as other clients of the bank have been likewise victimized. Witness Virginia Pollard has stated in her testimony before the RTC that at one point, she too, was a victim of irregular bank transactions of the same branch of [PNB] as offered by its bank personnel. Thus, it was [PNB's] action that defies the ordinary banking transactions and between an ordinary person like plaintiff-appellee and a bank like [PNB], [PNB] carries more burden, which unfortunately, it failed to overcome.

Verily, from the foregoing instances, [PNB] was indeed grossly negligent in its transactions with plaintiff-appellee. Even assuming that plaintiff-appellee was concocting her version of the facts, We still find irregularities and inconsistencies that have attributed to the unjustified refusal to return the investment placement and to the commission of negligence.[17]

Finally, the CA would state the observation, citing City trust Banking Corporation v. Cruz[18] and Typoco v. Commission on Elections,[19] that the errors PNB sought reviewed relate to the RTC's factual findings when the appellate court is not a trier of facts, necessarily implying that it is improper for the CA under the premises to do what PNB seeks. The CA explained that 'the stated doctrine regarding the factual findings of the RTC applies within force in the instant case.'[20]

Issue

Whether or not the CA erred in affirming the RTC Decision granting Pasimio's complaint for a sum of money.

The Court's Ruling

The findings of Fact of the CA are subject to well-defined exceptions,[21] among which are when such findings are not supported by substantial evidence, grounded on surmises or conjectures or are patently arbitrary, binding and conclusive and this Court will not review them on appeal. This case squarely falls under the exceptions of the general rule.

The petition is impressed with merit.

The CA has the power to
resolve factual issues

Before proceeding to the main issue of this case, there is a need to clarify the assailed decision's perplexing but flawed pronouncement that the CA, not being a trier of facts, is without competence to review the factual determination of the RTC. Section 9 of Batas Pambansa Blg. (BP) 129, otherwise known as the Judiciary Reorganization Act of 1980, categorically states that the CA has, inter alia, the power to try cases, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, thus:

Sec. 9. Jurisdiction. - The Court of Appeals shall exercise:

x x x x

The Court of Appeals shall have the power to try cases and conduct hearings, receive evidence and perform any and all acts necessary to resolve factual issues raised in cases falling within its original and appellate jurisdiction, including the power to grant and conduct new trials or further proceedings. Trials or hearings in the Court of Appeals must be continuous and must be completed within three (3) months unless extended by the Chief Justice.

To be sure, the cases[22] the CA cited to support its adverted pronouncement are inapposite. In context, the issue involved in Citytrust and Typoco relates to the nature and extent of this Court's, and not the CA's, power to review factual findings of lower courts and administrative agencies in petitions for review and in original certiorari and prohibition cases. Clearly, Citytrust and Typoco have been misread and consequently misapplied.

It is also worthy to note that the appellate court's reliance on the factual findings of the trial court is hinged on the latter's firsthand opportunity to hear the witnesses and to observe their demeanor during the trial. However, when such findings are not anchored on their credibility and their testimonies, but on the assessment of documents that are available to appellate magistrates and subject to their scrutiny, reliance on the trial courts factual findings finds no application.[23]

The CA's regrettable cavalier treatment of PNB's appeal is inconsistent with Rule 41 of the Rules of Court and with the usual course of judicial proceedings. Be reminded that the parties in Rule 41 appeal proceedings may raise questions of fact or mixed questions of fact and law.[24] Thus, in insisting that it is not a trier of facts and implying that it had no choice but to adopt the RTC's factual findings, the CA shirked from its function as an appellate court to independently evaluate the merits of this case. To accept the CA's aberrant stance is to trivialize its review function, but, perhaps worse, render useless one of the reasons for its institution.

Pasimio failed to prove her claim
by preponderance of evidence

It is settled that the burden of proof lies with the party who asserts a right and the quantum of evidence required by law in civil cases is preponderance of evidence. "Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of

evidence" or "greater weight of credible evidence." [25] Section 1, Rule 133 of the Rules of Court provides:

Section 1. Preponderance of evidence, how determined. - In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance of evidence or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which they are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

Just as settled is the rule that the plaintiff in civil cases must rely on strength of his or her own evidence and not upon the weakness of that of the defendant. In the case at bench, this means that on Pasimio rests the burden of proof and the onus to produce the required quantum of evidence to support her cause/s of action. [26]

With the view we take of the case, Pasimio has failed to discharge this burden.

There can be no quibbling that Pasimio had, during the time material, opened and maintained deposit accounts with PNB. For this purpose, she submitted two passbooks and one certificate of time deposit to establish her peso and dollar placements with the bank. However, PNB also succeeded in substantiating its defense for refusing to release Pasimio's funds by presenting documents showing that her accounts were, pursuant to hold-out arrangement, made collaterals for the loans she obtained from the bank and were eventually used to pay her outstanding loan obligations. Unfortunately, Pasimio failed to trump PNB's defense after the burden of evidence shifted back to her.

To recall, PNB, to bolster its case, presented these documents: loan application forms, PNs and disclosure statements to prove that Pasimio obtained the disputed bank loans; manager's checks and a miscellaneous ticket to establish the release of the loan proceeds to Pasimio; passbooks and a certificate of time deposit with the stamp "HOLD-OUT" to indicate restrictions on the withdrawal of Pasimio's deposit; a bills payment form to prove that Pasimio's deposits were made to pay for her outstanding obligations in accordance with the provisions of Pasimio's promissory notes; and a signed and notarized affidavit recounting that she lent the proceeds of her dollar loan to Paolo Sun.

On the witness stand, PNB's witness Edna Palomares, the bank's Per Pro Officer, categorically testified having prepared and processed all of Pasimio's loan documents, and witnessed Pasimio and her husband signing the same. [27] Palomares also testified about Pasimio's receipt of the proceeds of the subject loans and identified the signatures appearing on the dorsal portion of the PNB manager's checks and miscellaneous ticket covering the loan processed as genuine signatures of Pasimio. [28]

Pasimio, on the other hand, denied applying for any loan with PNB and receiving any loan proceeds or authorizing the bank to use her deposit as collateral. While admitting to signing certain papers, she professed unawareness that what she signed were in fact loan documents as nobody came forward to explain what they were, adding that she was convinced to sign them only because she was made to believe by bank officers that the documents were related to a new PNB high-yielding investment product.

Unfortunately, the courts a quo chose to disregard all of PNB's documentary evidence and ruled in favor of Pasimio. This to us is a blatant mistake on the part of the RTC and the CA because all that Pasimio put forward against PNB's evidence, for the most part documentary, were unsubstantiated denials and bare, self-serving assertions. To borrow from Pecson v. Commission on Elections, [29] citing Almeida v. Court of Appeals, [30] the use of wrong or irrelevant considerations, reliance on clearly erroneous factual findings or giving too much

weight to one factor in deciding an issue is sufficient to taint a decision-maker's action with grave abuse of discretion.

As between Pasimio's barefaced denials and Palomares' positive assertions, the trial court ought to have accorded greater weight to Palomares' testimony, especially considering that Pasimio never put in issue the due execution and authenticity of the loan documents. As between a positive and categorical testimony which has a truth, on one hand, and a bare denial, on the other, the former is generally held to prevail.[31]

It cannot be stressed enough that Pasimio unequivocally admitted that the signatures appearing in the Loan Application/Approval Forms dated March 21, 2001, April 2, 2001 and December 7, 2001,[32] in all three Promissory Notes,[33] and the Disclosure Statement dated December 7, 2001 were hers and her husband's. She also was aware of the consequences of her act of signing. Her testimonies on the matter are quoted hereunder:

Atty. Banzuela:

Q:

Thank you. Madam Witness, you testified that you signed these documents which are blank in its details, what do you mean by blank in details.

A:

Nothing. Blank as in it's a pro-forma form but blank.

Q:

Madam Witness, but you read what these documents were?

A:

No, I did not read.

Q:

You entrusted to PNB that huge amount of US\$31,100, P1,700,000 and US\$3,100 without going through the documents that you were signing with PNB?

A:

That's right.

Q:

Why is this so. Madam Witness?

A:

Because I trusted the bank, I trusted the employees of the bank having been a depositor for the past two (2) decades.

Q:

But you know. Madam Witness, the consequences of your acts in signing pro-forma documents?

A:

Well, I trusted those people. So...

Q:

But you know the consequences of signing blank documents?

A:

Yes.[34]

Pasimio had tagged as forgeries her signatures appearing in the Disclosure Statements of March 21, 2001 and April 2, 2001. She, however, never presented any competent proof to successfully support her contention. While testimonies of handwriting experts are not a must to prove forgeries, Pasimio did not submit any evidence for the RTC to consider and readily conclude that the signatures in these Disclosure Statements were forged.

Likewise, Pasimio also denied, having appeared before a notary public to subscribe and swear to the loan documents, but never substantiated this allegation. It is settled that a notarial document, guaranteed by public attestation in accordance with the law, must be sustained in full force and effect, absent strong, complete, and conclusive proof of its falsity or nullity on account of some flaw or defect provided by law.[35]

The RTC and the CA, for unexplained reason, ignored Pasimio's admissions in her April 10, 2003 Affidavit in which she stated that she re--lent the proceeds of the US\$31,100 loan to Paolo Sun. A portion of this affidavit reads:

2. I agreed to lend the amount of Dollars: Thirty One Thousand One Hundred Only (\$31,100.00) to PAOLO SUN, payable on an agreed maturity date and at an agreed interest rate out of a Loan Against Deposit Holdout that I will secure from PNB using my time deposits as collateral.

3. PAOLO SUN and I agreed that should (I lend him the proceeds of my Loan Against Deposit Holdout from PNB, he would pay all the bank charges and interest on such PNB loan, which he agreed to do so by authorizing PNB to debit his deposit account for such amount equivalent to the charges/interest due on my loan.

4. PNB approved my loan application, and so, after I have lent the loan proceeds to PAOLO SUN, the latter has dutifully and promptly paid all bank charges and interest under the aforesaid arrangement;[36]

Again, Pasimio did not deny the due execution of this affidavit. Rather, she lamely insisted she was only forced to sign this affidavit upon Gregorio's representations that this was the only way that she would recover her investments. Pasimio denied knowing Paolo Sun and having loan arrangements with him. She would stick to her story that she signed the document under duress, needing, as she did at that time, money to support a dying spouse. Gregorio also allegedly divulged that she needed Pasimio to sign the Affidavit as she (Gregorio) was already being audited and investigated by the PNB Main office.

As between Pasimio's empty assertions about the above affidavit and its contents and the categorical statements in the notarized affidavit detailing her arrangement with PNB and Paolo Sun, the choice as to which is more credible should be clear and simple. In fact, Pasimio ought to have been estopped from denying the contents of that affidavit.

Verily, Pasimio's version of the case taxes credulity. By her own testimonial account, she is a holder of a BS Commerce degree and used to work as a personnel director of an advertising agency.[37] It is, therefore, not believable that a person of her educational attainment and stature, who appeared to be of good physical and mental health, would simply hand over millions of pesos, no mean amount by ordinary standards, to a bank and then blindly sign documents involving her money without exercising a modicum of care by verifying, or at least taking a cursory look at what these documents mean. And yet, the courts a quo chose to close their eyes to these

absurdities.

Lest it be overlooked, Pasimio's husband Rene also affixed his signature on the subject promissory notes and loan application forms to signify his consent to his wife's financial dealings. There is no allegation, let alone proof; that Rene did not likewise understand what he was signing and giving his consent to. These loan documents have, on their face, the words "Peso Loans Against Peso/FX Deposit Loan Application/Approval Form," "Promissory Note and Hold-out on Peso/FX Savings Deposit/ Peso/FX Time Deposit and Assignment of Deposit Substitute," and "Disclosure Statements of Loan/Credit Transaction" printed in big letters. Thus, it is reasonable to assume that, at first glance, Pasimio and husband Rene would have been put on notice of what these documents were. What they signed were pro-forma bank documents, printed in full but with blanks to be filled up with specific terms thereof such as loan amount, interest rate, and security, among others. They were not, in fine, empty white sheets of paper. It may be that Pasimio was indeed made to sign the blank spaces of the loan documents. Be that as it may, it is well-nigh impossible that she had absolutely no idea what they actually were, she having testified being a PNB depositor for some twenty years. Indeed, the Court is hard-pressed to believe that she has not encountered these documents before, just as it is also hard to imagine that her husband did not notice the titles of these documents and had no clue what they were.

Pasimio would parlay the idea that she signed certain loan documents and the April 10, 2003 affidavit under duress or undue influence. Like her other unsubstantiated assertions, her allegations of improper influence, duress or fraud practised on her by bank officers deserve scant consideration. Undue influence is described under the Civil Code, thus:

Art. 1337. There is undue influence when a person takes improper advantage of his power over the will of another, depriving the latter of a reasonable freedom of choice. The following circumstances shall be considered: the confidential, family, spiritual and other relations between the parties, or the fact that the person alleged to have been unduly influenced was suffering from mental weakness, or was ignorant or in financial distress.

As regards fraud, the Civil Code says:

Art. 1338. There is fraud when, through insidious words or machinations of one of the contracting parties, the other is induced to enter into a contract which without them, he would not have agreed to.

Art. 1344. In order that fraud may make a contract voidable, it should be serious and should not have been employed by both contracting parties.

The employment of fraud, duress, or undue influence is a serious charge, and to be sustained it must be supported by clear and convincing proof; it cannot be presumed.[38] There is no allegation or evidence that Gregorio and Miranda influenced Pasimio by employing means she could not well resist, and which controlled her volition and induced her to sign the loan documents and the April 10, 2003 Affidavit, which otherwise she would not have executed. Also, there was no evidence showing that Gregorio and Miranda's influence interfered with Pasimio's exercise of independent discretion necessary to determine the advantage or disadvantage of signing these documents.

Then, too, Pasimio failed to prove that Gregorio and Miranda defrauded her. Taking into consideration the personal conditions of Pasimio, there is no clear and convincing evidence establishing serious fraud or deceit, insidious words or machinations on the part of PNB or its officers, sufficient to impress or lead her into error;[39]

It is germane to observe at this juncture that PNB has, in its favor, certain presumptions which Pasimio failed to overturn. Rule 131, Sec. 3 of the Rules of Court specifies that a disputable presumption is satisfactory if uncontradicted and not overcome by other evidence. Corollary thereto, paragraphs (r) and (s) thereof read:

SBC. 3. Disputable presumptions.— The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x

(r) That there was sufficient consideration for a contract;

(s) That a negotiable instrument was given or indorsed for a sufficient consideration;

and Sec. 24 of the Negotiable Instruments Law reads:

SEC. 24. Presumption of consideration.— Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

Pasimio also failed to overcome the presumptions that a person takes ordinary care of his concerns,[40] that private transactions have been fair and regular,[41] and that the ordinary course of business has been followed.[42]

Certainly, the trial court erred in saying that Pasimio "had proved by convincing evidence that she had not secured any loan accommodations from the defendant bank x x x and, thus, is entitled for the return of said deposit x x x" and that "[t]he factum probans to sustain parties cause has been successfully hurdled and undertaken by plaintiff, in contradistinction to defendant's mere denial of a transport obligation, the latter failing to overcome the quantum of evidence presented by plaintiff to tilt the scale of justice in favor of plaintiff herein." [43] In truth, other than her self-serving statements, Pasimio had nothing else to show against PNB's evidence. The greater weight of credible evidence as to whether Pasimio secured from PNB loans covered by promissory notes with hold-out provisions is decidedly in favor of petitioner bank.

To be sure, the RTC did not explain its reasons for coming up with these conclusions and did not even bother to discuss its evaluation of the merits of Pasimio's evidence. The Court also notes that the trial court never even declared that, indeed, Pasimio and her husband were fooled into signing the loan documents and made to believe that the loan documents were related to a high-yielding PNB product.

Hence, it may be said that the trial court violated in a sense the constitutional caveat enjoining courts from rendering a decision "without expressing therein clearly and distinctly the facts and the law on which it is based." The RTC had 1 ailed to discharge its duty to inform parties to litigation on how the case was decided, with an explanation of the factual and legal reasons that led to the conclusions of the court.

The dismissal of PNB's petition is
based on mere speculations and
surmises

In denying Pasimio's appeal, the CA adopted verbatim the trial court's findings that there was no evidence proving Pasimio's receipt of the loan proceeds and that the loan documents were highly questionable. The appellate court also reasoned that since PNB was grossly negligent in transacting with Pasimio, the bank should suffer the consequences.

In upholding the RTC's finding respecting Pasimio's never having received any loan proceeds, the CA doubtless disregarded the rule holding that a promissory note is the best evidence of the transaction embodied therein; also, to prove the existence of the loan, there is no need to submit a separate receipt to prove that the borrower received the loan proceeds.[44] Indeed, a promissory note represents a solemn acknowledgment of a debt and a formal commitment to repay it on the date and under the conditions agreed upon by the borrower and the lender. As has

been held, a person who signs such an instrument is bound to honor it as a legitimate obligation duly assumed by him through the signature he affixes thereto as a token of his good faith. If he reneges on his promise without cause, he forfeits the sympathy and assistance of this Court and deserves instead its sharp repudiation.[45]

The Court has also declared that a mere denial of the receipt of the loan, which is stated in a clear and unequivocal manner in a public instrument, is not sufficient to assail its validity. To overthrow the recitals of such instrument, convincing and more than merely preponderant evidence is necessary. A contrary rule would throw wide open doors to fraud.[46] Following this doctrine, Pasimio's notarized promissory notes bearing her signature and that of her husband must be upheld, absent, as here, strong, complete, and conclusive proof of their nullity.

The promissory notes, bearing Pasimio's signature, speak for themselves. To repeat, Pasimio has not questioned the genuineness and due execution of the notes. By signing the promissory notes, she is deemed to acknowledge receipt of the corresponding loan proceeds. Withal, she cannot plausibly set up the defense that she did not apply for any loan, and receive the value of the notes or any consideration therefor in order to escape her liabilities under these promissory notes.[47]

But the foregoing is not all. PNB presented evidence that strengthened its allegation on the existence of the loan. Here, each promissory note was supported by a corresponding loan application form and disclosure statement, all of which carried Pasimio's signatures. Isolated from each other, these documents might not prove the existence of the loan, but when taken together, collectively, they show that Pasimio took the necessary steps to contract loans from PNB and was aware of their terms and conditions.

Further, this Court does not agree that the loan documents were "highly questionable." The trial court arrived at this conclusion upon observing that the March 21, 2001, April 2, 2001, and December 7, 2001 loan application forms and promissory notes did not bear Pasimio's community tax certificate number and because it appeared that the blanks for the specific terms of these loan documents were filled up on different dates considering that some typewritten entries appeared to be bolder or darker than the others.

These reasons are specious as they are flimsy.

First, the authenticity of these loan documents should not be affected merely because their blank spaces appeared to have been filled up, if that be the case, on different dates, using different typewriters. As PNB aptly puts it, there is nothing suspicious or inherently wrong about bank forms being filled up on different dates since these are usually pre-typed, with the blanks thereon to be filled up subsequently, depending on the specific terms of the transaction with a client, and thereafter presented to the latter for signing.

Second, the absence of Pasimio's community tax certificate number in : said loan documents neither vitiates the transaction nor invalidates the document. If at all, such absence renders the notarization of the loan documents defective. Under the notarial rules at that time, i.e., Sec. 163 (a) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, where an individual subject to the community tax acknowledges any document before a notary public, it shall be the duty of the administering officer to require such individual to exhibit the community tax certificate. The defective notarization of the loan documents only means that these documents would not be carrying the evidentiary weight conferred upon it with respect to its due execution; that they should be treated as a private document to be examined in appropriate cases under the parameters of Sec. 20, Rule 132 of the Rules of Court which provides that "before any private document offered as authentic is received in evidence, its due execution and authenticity must be proved either: (a) by anyone who saw the document executed or written; or (b) by evidence of the genuineness of the signature or handwriting of the maker x x x." Settled is the rule that a defective notarization will strip the document of its public character and reduce it to a private instrument, and the evidentiary standard of its validity shall be based on preponderance of evidence.[48]

It must be stressed that the adverted defective notarization should not have been made an issue at all in the first place, for Pasimio already admitted executing the documents in question, or to put it in another way, she did not deny that the signatures appearing thereon were hers and her husband's. Thus, the requirements of Sec. 20, Rule 132 of the Rules of Court have been sufficiently met and all doubts as to their authenticity and due execution should have been put to rest.

More importantly, the records do not show that Pasimio alleged the regoing defects and presented any proof for the trial court to consider and rule on.

Furthermore, the Court does not find sufficient evidence to support the CA's finding that PNB is guilty of gross negligence and, thus, must suffer the consequences of its transactions with Pasimio. In this regard, the CA explained that PNB foiled to exercise the highest degree of diligence required of banks because allegedly, Gregorio was able to obtain Pasimio's signature and assent to re-lend the dollar loan proceeds to Paolo Sun in a manner not in accordance with the ordinary course of business of banks. Also, the appellate court found PNB reprehensible for doing transactions outside the bank without any proper explanation of the consequences of the document to be signed by [Pasimio] and because the bank personnel misrepresented the true nature of the transaction.[49]

There is no sufficient evidence to support the foregoing. It must be stressed that these were solely drawn from Pasimio's testimony that Gregorio went to her house for her to sign the April 10, 2003 Affidavit and that the latter told her that the only way she could get her money back was to re-lend her money deposits to Paolo Sun. Other than Pasimio's story, the CA had no other evidence to bolster these findings.

Further, the CA's conclusions that PNB's personnel were in violation of their duties and responsibilities as its employees; that they committed gross negligence in dealing with their bank transactions; and that the bank repeatedly failed to observe basic procedures thus, was guilty of serial negligence, are not supported by sufficient evidence.

It was wrong for the CA to make the foregoing conclusions merely because another bank client, Virginia Pollard (Pollard), testified to being a victim of irregular bank transactions of PNB Sucat. Even if Pollard were telling the truth, her testimony should not have been considered proof that what she underwent is what actually transpired between Pasimio and PNB. *Res inter alios acta*. Acts and declarations of persons strangers to a suit should, as a rule, be irrelevant as evidence. Pollard's transaction with PNB is entirely different and totally unrelated to Pasimio's dealings with the bank.

What may be true in the case of Pollard may not hold true for Pasimio. It was quite erroneous for the appellate court to declare PNB grossly negligent in its transactions with Pasimio when the only evidence it had discussed on the matter was Pollard's testimony. It may be true that the PNB was grossly negligent in dealing with Pollard, but this does not automatically mean that PNB was grossly negligent toward Pasimio as well. Hence, the CA had no basis in saying that "[e]ven assuming that [Pasimio] was concocting her version of the facts, [the court] still find[s] irregularities and inconsistencies that have attributed to the unjustified refusal to return the investment placement and to the commission of negligence."

Much is attempted to be made by the Memorandum on Irregular Lending Operation on Loans v. Deposit Hold-Out (Sucat Branch) dated February 18, 2003. The memorandum does not pertain to Pasimio or her accounts and transactions with the bank, albeit it discusses Garcia and Miranda's sham dealings with other bank clients. Hence, the memorandum is really not determinative of the critical question of whether or not Pasimio sought and eventually secured loan accommodations from PNB.

Here, the RTC and the CA focused on finding trivial Haws and weaknesses in PNB's evidence and totally disregarded the bank's most telling proof, foremost of which are the notarized notes. Had the courts a quo looked at and considered the totality of the bank's evidence, then it would have realized how preposterous the story that Pasimio spun was, a story featuring, at bottom, a well-educated, accomplished woman signing several pieces of bank documents involving millions of pesos, without knowing, nay even reading, what she is signing.

Finally, it is well to consider this rule: that when the terms of an agreement have been reduced to writing, it is to be considered as containing all such terms, and, therefore, there can be, between the parties and their successors-in-interest, no evidence of the terms of the agreement other than the contents of the writing.[50]

Under this rule, parol evidence or oral evidence cannot be given to contradict, change or vary a written document, except if a party presents evidence to modify, explain, or add to the terms of a written agreement and puts in issue in his pleadings: (a) an intrinsic ambiguity, mistake, or imperfection in the written agreement; (b) the failure of the written agreement to express the true intent and agreement of the parties; (c) the validity of the written agreement; and (d) the existence of other terms agreed to by the parties or their successors-in-interest after the execution of the written agreement.[51]

Such evidence, however, must be clear and convincing and of such sufficient credibility as to overturn the written agreement.[52] Since no evidence of such nature is before the Court, the documents embodying the loan agreement of the parties should be upheld.

WHEREFORE, premises considered, the petition is GRANTED. The assailed Decision of the Court of Appeals dated January 23, 2013 in CA-G.R. CV No. 94079 is REVERSED and SET ASIDE. Respondent Ligaya M. Pasimio's complaint in Civil Case No. CV-05-0195 before the Regional Trial Court of Parañaque City, Branch 196 is DISMISSED for lack of merit.

No costs.

SO ORDERED.

Peralta, Villarama, Jr., Perez,[*] and Jardeleza, JJ., concur.

October 1, 2015

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on ___September 2, 2015___ a Decision, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 1, 2015 at 2:45 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

[*] Acting Member per Special Order No. 2084 dated June 29, 2015.

[1] Rollo, pp. 8-24. Penned by Associate Justice Agnes Reyes-Carpio and concurred in by Associate Justices

Rosalinda Asuncion-Vicente and Prescilla J. Baltazar-Padilla.

[2] Id. at 76-80.

[3] Rollo, pp. 81-95.

[4] A "loan against deposit hold-out" is a PNB product where the loan is secured by the PNB deposit of the borrower.

[5] Clause 5 of the PNs reads: "By virtue of the Hold-out/assignment, the BANK has the right to offset the amount assigned/held-out against this note without any need of notice to or demand on the CLIENT/S in any of the following events (i) any default or premature acceleration of due date of the Loan or Other Obligation x x x."

[6] Records, pp. 349-352.

[7] Id. at 564-568.

[8] Id. at 446-452.

[9] Rollo, pp. 104 -120. Penned by Judge Brigido Artemon M. Luna II.

[10] Id. at 120.

[11] Supra note 1, at 23.

[12] Id. at 16-17.

[13] Id. at 15.

[14] Id. at 17-18.

[15] Id. at 18-10.

[16] Id. at 10-20.

[17] Supra note 1, at 20-22.

[18] G.R. No. 157049. August 11, 2010, 628 SCRA 22.

[19] G.R. No. 1 86359, March 5, 2010, 614 SCRA 391.

[20] Supra note 1, at 23.

[21] *Development Bank of the Philippines v. Traders Royal Bank*, G.R. No. 171982, 18 August 2010, 628 SCRA 404, 413-414. The jurisdiction of the Court in cases brought before it from the appellate court is limited to reviewing errors of law. and findings of fact of the CA are conclusive upon the Court since it is not the Court's function to analyze and weigh the evidence all over again. Nevertheless, in several cases, the Court enumerated the exceptions to the rule that factual findings of the CA are binding on the Court: (I) when the findings are grounded entirely on speculations, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of fact are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to that of the trial court; (8) when the findings are conclusions without citation of specific evidence on which (they are based; (9) when the facts set forth in (the petition as well as in the petitioners main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; or (II) when the CA

manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

[22] Citytrust Banking Corporation v. Cruz, *supra*; Typoco v. Commission on Elections, *supra*.

[23] Jimenez v. Commission on Ecumenical Mission and Relations of the United Presbyterian Church in the USA, G.R. No. 140472, June 10, 2002, 383 SCRA 326, 334.

[24] Macawiwili Cold Mining and Development Co., Inc. v. Court of Appeals, G.R. No. 115104, October 12, 1998, 297 SCRA 602.

[25] Ogctwct v. MeniKishi, G.R. No. 193089, July 9, 2012, 676 SCRA 14, 22.

[26] Vitarich Corporation v. Losin, G.R. No. 181560, November 15, 2010, 634 SCRA 671, 680.

[27] TSN, September 9, 2008, pp. 11-31.

[28] TSN, March 27, 2007, pp. 14, 30-31, 19-22 and 23-25; TSN, May 22, 2007, pp. 3 1-32, 39-40, and 43-44.

[29] G.R. No. 182865, December 24, 2008, 575 SCRA 634, 649.

[30] G.R. No. 159 124, January 17, 2005, 448 SCRA 681.

[31] Manciln v. Roklan-Confesor, G.R. No. 102358, November 19, 1992, 215 SCRA 808, 821.

[32] TSN, March 27, 2007, pp. 6-7, 18-19, 22-23; TSN, May 22, 2007, pp. 28, 30, 38, and 42.

[33] TSN, March 27, 2007, pp. 14, 30-31, 19-22 and 23-25; TSN, May 22, 2007, pp. 31-32, 39-40 and 43-44

[34] TSN, May' 22, 2007, pp. 48-49.

[35] Sierra v. Court of Appeals, G.R. No. 90270, July 24, 1992, 211 SCRA 785, 793; citing Chilkmcchin v. Coquinco, 84 Phil. 714 (1949).

[36] Rollo, p. 214.

[37] TSN, March 27, 2007, pp. 4-5.

[38] Sierra v. Court of Appeals, *supra*.

[39] *Id.*

[40] RULES OF COURT, Rule 131, Sec. 3, par. (d).

[41] *Id.*, Rule 131, Sec. 3, par (p).

[42] *Id.*, Rule 131, Sec. 3. par(q).

[43] Rollo, pp. 119-120.

[44] Ycong v. Court of Appeals, G.R. No. 153758, Feb 22, 2006. 483 SCRA 72, 78. Sierra v. Court of Appeals, *supra* at 795.

[46] *Id.* at 793.

[47] See Co v. Admiral United Savings Bank, G.R. No. 154740, April 16, 2008, 551 SCRA 472.

[48] Heirs of Victorino Sarili v. Lagrosa, G.R. No. 193517, January 15, 2014, 713 SCRA 726, 736-737.

[49] Supra note 1, at 19.

[50] Norton Resources and Development Corporation v. All Asia Bank Corporation, G.R. No. 162523, November 25, 2009, 605 SCRA 370, 380.

[51] RULES OF COURT, Rule 130, Sec. 9.

[52] Sierra v. Court of Appeals, supra note 35, at 790.

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