

PHILIPPINE SAVINGS BANK, PETITIONER, VS. MARIA CECILIA SAKATA, RESPONDENT.

G.R. No. 229450. June 17, 2020

Ponente: LEONEN, J.

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LEONEN, J.:

It is settled that "a bank is bound to know the signatures of its customers; and if it pays a forged check, it must be considered as making the payment out of its own funds, and cannot ordinarily charge the amount so paid to the account of the depositor whose name was forged." [1]

This Petition for Review on Certiorari [2] assails the Decision [3] and Resolution [4] of the Court of Appeals in CA-G.R. CV No. 101976, which affirmed the Decision [5] of the Regional Trial Court of Imus, Cavite, Branch 20 in Civil Case No. 2283-08.

On December 17, 2002, Maria Cecilia Sakata (Sakata) opened Savings Account No. 035-111-05773-6 with the Philippine Savings Bank (PS Bank) Dasmariñas, Cavite Branch. [6] On December 20, 2002, Sakata opened Current Account No. 035-101-00399-5 in the same bank, and received a passbook and checkbook with Serial Nos. 99501 to 99550. [7]

Stamped on the Deposit Account Information and Specimen Signature Card for her savings account were the words: "With Instruction to transfer funds from [savings account no.] 035-111-05773-6 to [current account no.] 035-101-00399-5." [8]

On May 4, 2003, Sakata left for Osaka, Japan to work. While in Japan, she remitted cash to her PS Bank savings account, and issued checks for the support of her children and the amortization of a house and lot she purchased. On July 27, 2006, Sakata went back to the Philippines. [9]

On August 7, 2006, Sakata went to PS Bank to close her checking account and surrender unused checks. [10] When Sakata had her passbook updated, she noticed that the deposit and withdrawal entries from May 1, 2003 to September 16, 2005 were "lumped in one entry" instead of having a "per transaction entry." [11] This prompted Sakata to request for a copy of the itemized transaction entries from October 1, 2004 to September 16, 2005 as she had trouble verifying the bank transactions. However, PS Bank denied her requests. [12]

Upon updating her savings account, Sakata was surprised to find out that instead of P1,000,000.00, she only had a remaining balance of P391.00. She also discovered that there was a deposit of P4,488,197.01 and a withdrawal of P4,751.112.42 both made on September 16, 2005. Sakata informed the teller that she could not have made those transactions as she was in Japan during that time, but she was only asked to return to the bank. [13]

Sometime in January 2007, Sakata talked to the PS Bank branch manager who instructed her to write a letter requesting for "specimen signature cards for her savings and current accounts, statement of account for her current account, printout of her passbook, and the original checks which were encashed and paid by the bank." [14]

On April 30, 2007, PS Bank provided Sakata with copies of her current account statement and some checks, as well as two original checks. Upon examination of the documents, Sakata found that there were 25 checks debited from her account which she did not issue or sign. She claimed that she never possessed a checkbook bearing the serial numbers of the 25 checks, and the entries and signatures on them were all forged.[15] Upon demand, PS Bank refused to give Sakata the original copies of the 25 checks, which were:

Date Debited/ Paid

Check Number

Amount

12-15-04

159654

P 150,000.00

01-12-05

159655

30,000

01-25-05

159656

30,000

02-10-05

159658

70,000

02-11-05

159659

10,000

02-21-05

159660

40,000

03-17-05

159662

40,000

03-23-05

159663

16,000

13-30-05

159664

20,000

04-07-05

159665

20,000

04-19-05

159666

40,000

05-12-05

159672

50,000

05-19-05

159673

30,000

06-06-05

159675

60,000

06-17-05

159677

40,000

07-07-05

159681

320,000.00

07-12-05

159682

10,000

07-18-05

159683

10,000

08-03-05

159684

20,000

08-17-05

159685

20,000

09-01-05

159686

25,000

09-16-05

159688

20,000

05-17-06

159692

10,000

06-30-06

159694

5,000.00

07-08-06

159698

1,500.00

Total Amount

P 1,087,500.00[16]

On March 14, 2008, Sakata, through her counsel, made a formal request asking PS Bank to hand over the 25 checks and the specimen signature cards. A demand letter was also sent to PS Bank on the same date asking them to re-credit P1,087,500.000 to Sakata's account representing the amount withdrawn through the forged checks plus interest.[17]

PS Bank failed to re-credit the amount prompting Sakata to file a Civil Case for Sum of Money and Damages before the Regional Trial Court of Imus, Cavite, Branch 20 docketed as Civil Case No. 2283-08.[18]

In its Answer with Counterclaim, PS Bank insisted that Sakata authorized her mother, Gemma Bartolome, to request and receive two additional checkbooks bearing serial numbers 159601 to 159650 and 159651 to 159700. They claimed the 25 checks were validly encashed as they were verified by their bank personnel.[19]

In her Reply, Sakata denied that she authorized her mother to request and receive additional checkbooks and monthly bank statements from PS Bank.[20]

In its June 27, 2013 Decision,[21] the Regional Trial Court of Imus, Cavite, Branch 20 ruled in favor of Sakata and ordered PS Bank to pay Sakata P1,087,500.00 plus attorney's fees. The dispositive portion of the Decision read:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against defendant as follows, viz:

- ORDERING the defendant Philippine Savings Bank to PAY plaintiff Maria Cecilia E. Sakata the sum of One Million Eighty Seven Thousand Five Hundred Pesos (Php1,087,500.00) representing the total amount of unauthorized fund transfers from her savings account or the value of the forged check withdrawals; and
- ORDERING the defendant Philippine Savings Bank to PAY plaintiff Maria Cecilia E. Sakata the amount of Twenty Thousand Pesos (Php20,000.00) as and by way of attorney's fees and the costs of suit.

SO ORDERED.[22] (Emphasis in the original)

The Regional Trial Court gave more credence to Sakata's claim of forgery, considering that: (1) Sakata could not have signed the form for Requisition of New Checkbooks and Gemma Bartolome's authorization to receive on June 3, 2004 as she was in Japan from May 4, 2003 to July 27, 2006; (2) the forms did not bear the signature of an authorized representative and had pertinent information missing; and (3) the Updated Specimen Signature Card relied upon by PS Bank lacked vital information and could not have been filled out by Sakata in 2004 as she was in Japan then.[23]

Thus, the Regional Trial Court ruled that PS Bank should shoulder the loss incurred by Sakata on account of forgery because it failed to observe the due diligence required of banking institutions.[24]

On July 29, 2013, PS Bank filed its Motion for Reconsideration,[25] which was denied by the trial court in an Order dated October 8, 2013. Thus, PS Bank filed an appeal before the Court of Appeals.[26]

In its August 25, 2016 Decision, the Court of Appeals affirmed the findings of the trial court with some modification as to interest and damages. The dispositive portion of the Court of Appeals Decision read:

WHEREFORE, premises considered, the appeal is DENIED. The Decision of the Regional Trial Court, Branch 20 of Imus, Cavite dated June 27, 2013 is AFFIRMED with MODIFICATION such that the awards of moral and exemplary damages are DELETED.

Accordingly, the defendant-appellant is hereby ordered to pay the plaintiff-appellee the following:

- The principal amount of One Million Eighty Seven Thousand and Five Hundred Pesos ([P]1,087,500.00) representing the total value of the forged checks with legal interest at the rate of twelve percent (12%) per annum from the time of filing of the Complaint on September 8, 2008 up to June 30, 2013, and thereafter, at the lower rate of six percent (6%) per annum from July 1, 2013 until full satisfaction;
- Attorney's fees of ten percent (10%) of the total monetary obligation; and
- The costs of the suit.

SO ORDERED.[27] (Emphasis in the original)

The Court of Appeals held that Sakata sufficiently established her claim of forgery on the checks.[28] It affirmed that PS Bank should bear the loss since it was negligent in detecting the forgery and it failed to show Sakata's participation therein.[29] The Court of Appeals further found that Sakata was not negligent in handling her financial affairs and was not estopped from questioning PS Bank's error as she did not receive the statements of account allegedly sent by PS Bank.[30]

PS Bank's Motion for Reconsideration was denied by the Court of Appeals in its January 16, 2017 Resolution.[31]

On February 9, 2017, petitioner filed before this Court a Petition for Review on Certiorari.[32]

In an April 30, 2017 Resolution,[33] this Court required respondent to file a Comment. On June 30, 2017, respondent filed her Comment.[34] In a July 26, 2017 Resolution,[35] this Court required petitioner to file a Reply. On September 29, 2017, petitioner filed its Reply.[36]

Petitioner claims that the present case involved mixed questions of fact and law. Assuming it raised questions of fact, petitioner asserts the same falls under the exceptions in Rule 45 of the Rules of Court as the findings of forgery by the lower courts were based on assumptions and conjectures.[37]

Petitioner argues that Section 23 of the Negotiable Instruments Law is not applicable for failure of respondent to establish forgery.[38] Petitioner avers that the requisites for a valid finding of forgery were not met, and the allegation of forgery was based solely on the self-serving and unsubstantiated claim of respondent.[39] Petitioner insists that the signature appearing on the documents were that of respondent because "C. Sakata" is the same signature that appears on her passport, the specimen signature cards, and the verification and certification of non-forum shopping attached to her complaint.[40] Even assuming there was forgery, petitioner claims the alleged forged signatures were similar to the authentic ones and the forgery was not readily noticeable without the use of scientific equipment.[41]

Petitioner also maintains that the doctrine of shared responsibility between the drawee bank and the negligent drawer applies in this case as respondent was negligent in handling her current account from December 14, 2004 to July 8, 2006 by failing to inquire on its status.[42]

On the other hand, respondent alleges that the present Petition solely raised questions of facts—specifically whether the checks were forged and whether respondent was negligent.[43] Respondent maintains that the lower courts did not commit "misappreciation of facts, conjectures, assumptions, speculations and surmises"[44] which necessitates a review of the questions of fact raised.

Respondent argues that the factual findings of the lower courts had "sufficient evidentiary basis sustaining forgery and negligence of petitioner." [45] Denying petitioner's accusations, respondent claims that her passbook could not have been presented to the bank during the questionable transactions as it had always been in her possession.[46] Respondent emphasizes that she never possessed, issued and signed the 25 checks in question, and that petitioner was grossly negligent in failing to detect that the signatures therein were obviously forged. She claims that she never authorized petitioner to accept the signature "C. Sakata" as the signature in her Specimen Signature Card was shown as "Maria Cecilia Sakata." [47] She likewise claims that the Updated Specimen Signature Card relied upon by the bank was fabricated.[48]

Respondent argues that the doctrine of shared responsibility does not apply because only the petitioner was negligent. Respondent claims that she had no opportunity to inquire with the bank about the questionable transactions since she was in Japan at that time and she had full trust and confidence in the bank.[49] Respondent also maintains that petitioner failed to prove her mother's alleged involvement in the questionable transactions.[50]

In rebuttal, petitioner insists that it raised a question of law in arguing that Section 23 of the Negotiable Instruments Law is not applicable.[51] Further, petitioner raises for the first time that Section 14 of the Negotiable Instruments Law applies because of the prima facie authority of respondent's mother, who presented and negotiated the questioned checks.[52] Petitioner maintains that respondent was negligent in failing to detect the unauthorized transactions in her account and should thus shoulder her loss.[53]

For this Court's resolution are the following issues: (1) whether or not the Court of Appeals erred in ruling that there was forgery of respondent's signature in the questioned checks; and (2) whether or not respondent was negligent, which demands the application of the doctrine of shared responsibility between the drawee bank and the negligent drawer.

We deny the Petition.

I

The general rule is that only questions of law or "those which ask to resolve which law applies on a given set of facts"[54] may be raised in a Petition for Review on Certiorari under Rule 45 of the Rules of Court. Meanwhile, questions of fact—or those which require a review of the evidence to determine "the truth or falsehood of alleged facts"[55] or involve the correctness of the lower courts' appreciation of the evidence—are not proper in a Petition for Review on Certiorari. The function of the Court, not being a trier of facts, is limited to reviewing errors of law committed by the lower courts. Thus, it accords finality to the factual findings of the trial court, especially when such findings are affirmed by the appellate court.[56]

While the general rule admits of exceptions,[57] the party raising questions of fact must not only allege the exception but should also prove and substantiate that its case clearly falls under the exception .[58]

Forgery is the "counterfeiting of any writing, consisting in the signing of another's name with intent to defraud[.]"[59] Since it is not presumed, forgery "must be proved with clear, positive and convincing evidence"[60] by the party alleging it. Whether forgery exists on the checks is a question of fact, which requires reevaluation of evidence best left to the lower courts.[61]

In this case, we find no reason to depart from the findings of the trial court, as affirmed by the Court of Appeals, that respondent was able to establish the forgery of her signature on the questioned checks. These factual findings are binding and conclusive upon us:[62]

In the present case, we hold that Sakata established that there was forgery of the drawer's signature on the check.

Sakata could not have issued in [sic] the checks in question inasmuch as she was in Osaka, Japan at the time they were allegedly issued. An examination of the Passport of Sakata shows that she left the Philippines on May 4, 2003 and returned to the country only July 27, 2006. There were no other records in her Passport that she has flown in and out of the country between May 4, 2003 to July 27, 2006. Hence, it was physically impossible for Sakata to have issued the questioned 25 checks dated December 15, 2004 and July 8, 2006.

As the trial court correctly opined:

"Based on the evidence adduced by the parties, the Court finds that plaintiff was able to present preponderance of evidence to prove her case. At the center of this controversy is the allegation of plaintiff that her signatures in the bank records and several checks were forged causing her to lose about a Million Peso in her savings account from which the funds were withdrawn. As between the narration of facts as stated by the plaintiff and the version of the defendant bank and its witnesses, the Court is more inclined to believe plaintiff's version.

....

The witnesses of [defendant] bank testified that they compared the alleged signature of the plaintiff in the checks with the second copy of the updated specimen signature card. Defendant bank's witness alleged that the specimen signature card is updated every two (2) years from the time of opening the account. When plaintiff opened her accounts in 2004, the update of her specimen signature was due in 2004. However, as clearly

established by plaintiff, she was out of the country at the time and she only returned in 2006. Verily, the updated specimen signature card allegedly issued by plaintiff upon which defendant bank's employees referred to is dubious. A closer look at the three (3) signature cards would show that: (1) two (2) original specimen signature cards were signed by plaintiff with her full name "Maria Cecilia E. Sakata"; (2) the allegedly updated signature cards was signed with "C. Sakata". However, defendant bank failed to present any credible witness to testify as to when the said specimen signature card was updated. In addition, the contents of the updated signature card are highly questionable based on the following reasons: it lacks vital information such as the complete current account number of the plaintiff; the passport details of the plaintiff is incorrect with respect to its expiry date; no updated photograph of the plaintiff was submitted; and no date of execution of the said document was placed on the specimen [signature] card to confirm when was it executed. . . [63]

Petitioner insists that the finding of forgery was based on assumptions and conjectures which falls under the exceptions allowing questions of fact to be raised under a Petition for Review on Certiorari. However, petitioner failed to prove and substantiate how its case clearly falls under the exception. Aside from alleging that the lower courts' findings were grounded entirely on speculation, surmises or conjectures, petitioner offered nothing else to substantiate its claim.

On the contrary, it is actually petitioner who dwelled on speculations. In its Petition, it claimed that physical presence is not indispensable in the requisition and issuance of checks. It posits that "[r]espondent may [have] used the service of private and public couriers to deliver the checks to the named payee." [64] It added that "[t]he [checks] may also be sent through somebody close to respondent who went back to the Philippines" [65] and that "[i]t is also possible for respondent to issue postdated checks before leaving for Japan." [66] However, these allegations were not substantiated by evidence.

Petitioner's allegation that respondent authorized her mother, Gemma Bartolome, to receive the two checkbooks containing Check Nos. 159601 to 159650 and 159651 to 159700, and the monthly statements of account issued to her [67] is also mere speculation since it was not duly proven. Further, petitioner failed to present any credible testimony as to the circumstances of the execution of the Updated Specimen Signature Card on the basis of which the 25 questioned checks were encashed. It is settled that "the party alleging a fact has the burden of proving it and a mere allegation cannot take the place of evidence." [68]

That respondent never authorized anyone to issue or deliver the questioned checks is further bolstered by the stipulations in the Pre-Trial Order. There, petitioner, through its counsel, admitted that "the signatures of the drawer on the twenty five (25) questioned checks are not the authorized signatures of the [respondent] as shown and indicated in the specimen signature card of the [respondent] for her savings account and current account." [69]

Considering that the forgery of respondent's signature in the questioned checks was established, Section 23 of the Negotiable Instruments Law is clearly applicable:

SECTION 23. Forged Signature; Effect of. — When a signature is forged or made without the authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature, unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority.

Thus, "a forged signature is a real or absolute defense, and a person whose signature on a negotiable instrument is forged is deemed to have never become a party thereto and to have never consented to the contract that allegedly gave rise to it." [70] As payment made under a forged signature is ineffectual, the drawee bank cannot charge it to the drawer's account because it is in a superior position to detect forgery. [71] "The forgery may be so near like the genuine as to defy detection by the depositor himself, and yet the bank is liable to the depositor if it pays the

check."[72]

II

Banking institutions are imbued with public interest, and the trust and confidence of the public to them are of paramount importance. As such, they are expected to exercise the highest degree of diligence, and high standards of integrity and performance.[73] "By the nature of its functions, a bank is under obligation to treat the accounts of its depositors with meticulous care, always having in mind the fiduciary nature of their relationship."[74] Thus, the prime duty of a bank is to ascertain the genuineness of the signature of the drawer or the depositor on the check being encashed, with reasonable business prudence.[75]

On the other hand, negligence is the "omission to do something which a reasonable man, guided by those considerations that ordinarily regulate the conduct of human affairs, would do, or doing of something which a prudent and reasonable man would not do."[76] The issue of whether a party is negligent is a question of fact, which is to be determined after taking into account the particulars of each case.[77]

To reiterate, factual findings of the trial court, particularly when affirmed by the Court of Appeals, are binding upon this Court. They are entitled to utmost respect and even finality, if there is no palpable error that would warrant a reversal of the lower courts' assessment of facts.[78]

While petitioner contends that it made a signature verification procedure to confirm respondent's signature on the disputed checks, it still failed to detect the 25 instances of forgery and omitted the degree of diligence required of a bank. Petitioner was clearly negligent in encashing the forged checks when it based the examination of respondent's signature on the questionable Updated Specimen Signature Card. As found by the lower courts, the Updated Specimen Signature Card is dubious because it lacked vital information such as its date of execution, Sakata's complete account number, her correct passport details, and her updated photograph.[79]

"A bank is bound to know the signatures of its customers; and if it pays a forged check, it must be considered as making the payment out of its own funds, and cannot ordinarily charge the amount so paid to the account of the depositor whose name was forged."[80] Being negligent in failing to detect the forgery, petitioner bears the loss.

However, petitioner insists that respondent should contribute to the loss considering that she was also negligent in failing to detect the unauthorized transactions in her account despite the monthly statements issued by petitioner. It also claims that her mother was the one who presented and negotiated the questioned checks.

"Section 23 of the Negotiable Instruments Law bars a party from setting up the defense of forgery if it is guilty of negligence."[81] However, we find that respondent is not negligent in this case. Petitioner failed to prove its contentions that respondent received the monthly statements, and that her mother received, forged and presented the questioned checks. Thus, there is no need to discuss the applicability of Section 14 of the Negotiable Instruments Law.

The presumption remains that every person takes ordinary care of his or her concerns, and that the ordinary course of business has been followed.[82] "Negligence is not presumed, but must be proven by him [or her] who alleges it."[83] Here, petitioner was unable to dispute the presumption of ordinary care exercised by respondent.

Furthermore, in *Philippine National Bank v. Quimpo*,[84] the respondent's act of leaving his checkbook in the car with his longtime classmate and friend while he went out for a short while cannot be considered negligence sufficient to excuse the bank from its own negligence, because respondent had no reason to suspect that his friend would breach his trust.

Similarly in this case, even assuming that her mother indeed presented the questioned checks while respondent

was in Japan, she cannot be held negligent in entrusting the same to her mother.

Having established the forgery of respondent's signatures and petitioner's negligence in failing to detect the forgery on the checks, the checks are wholly inoperative. Thus, only petitioner is liable for making payments on the forged checks.

WHEREFORE, the Petition is DENIED. The Court of Appeals' August 25, 2016 Decision and January 16, 2017 Resolution in CA-G.R. CV No. 101976 are AFFIRMED.

SO ORDERED.

Gesmundo, Carandang, Zalameda, and Gaerlan, JJ., concur.

[1] Bank of the Philippine Islands v. Casa Montessori Internationale, 474 Phil. 298, 319 (2004) [Per J. Panganiban, First Division]; San Carlos Milling Co., v. Bank of the Philippine Islands, 59 Phil. 59 (1933) [Per J. Hull, Second Division].

[2] Rollo, pp. 3-27.

[3] Id. at 28-51. The August 25, 2016 Decision was penned by Associate Justice Carmelita Salandanan Manahan and concurred in by Associate Justices Japar B. Dimaampao and Franchito N. Diamante of the 8[th] Division, Court of Appeals, Manila.

[4] Id. at 52-53. The Resolution was dated January 16, 2017.

[5] Id. at 71-76. The June 23, 2013 Decision was penned by Presiding Judge Fernando Felicen.

[6] Id. at 29.

[7] Id. at 29 and 33.

[8] Id.

[9] Id. at 29.

[10] Id.

[11] Id.

[12] Id. at 29-30

[13] Id. at 30.

[14] Id.

[15] Id.

[16] Id. at 31 -32.

[17] Id. at 32.

[18] Id. at 71.

[19] Id. at 33 and 71.

[20] Id. at 37.

- [21] Id. at 71-76.
- [22] Id. at 76.
- [23] Id. at 73-74.
- [24] Id. at 74-75.
- [25] Id. at 77-82.
- [26] Id. at 83.
- [27] Id. at 50.
- [28] Id. at 39.
- [29] Id. at 41.
- [30] Id. at 44-45.
- [31] Id. at 52-53.
- [32] Id. at 3-27.
- [33] Id. at 124-125.
- [34] Id. at 131-138.
- [35] Id. at 142.
- [36] Id. at 144-152.
- [37] Id. at 9-10.
- [38] Id. at 11.
- [39] Id. at 14.
- [40] Id. at 10-11.
- [41] Id. at 17.
- [42] Id. at 22.
- [43] Id. at 131.
- [44] Id. at 132.
- [45] Id. at 133.
- [46] Id. at 132.
- [47] Id. at 133.
- [48] Id. at 134.
- [49] Id. at 135.
- [50] Id. at 135-136.
- [51] Id. at 144.

[52] Id. at 145.

[53] Id. at 150.

[54] *Rodriguez v. Your Own Home Development Corp.*, G.R. No. 199451, August 15, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64599>> [Per J. Leonen, Third Division]; *Pascual v. Burgos, et. al.*, 776 Phil. 167, 182 (2016) [Per J. Leonen, Second Division].

[55] *Rodriguez v. Your Own Home Development Corp.*, G.R. No. 199451, August 15, 2018, <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64599>> [Per J. Leonen, Third Division]; *Pascual v. Burgos, et. al.*, 776 Phil. 167, 183 (2016) [Per J. Leonen, Second Division].

[56] *Gepulle-Garbo v. Spouses Garabato*, 750 Phil. 846, 855 (2015) [Per J. Villarama, Third Division].

[57] *Pascual v. Burgos, et. al.*, 776 Phil. 167, 182-183 (2016) [Per J. Leonen, Second Division] citing *Medina v. Mayor Asistio, Jr.*, 269 Phil. 225, 232 (1990) [Per J. Bidin, Third Division] provides:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a 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 the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact 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 petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

[58] *Pascual v. Burgos, et. al.*, 776 Phil. 167, 184 (2016) [Per J. Leonen, Second Division].

[59] *Bank of the Philippine Islands v. Casa Montessori Internationale*, 474 Phil. 298, 309 (2004) [Per J. Panganiban, First Division].

[60] *Gepulle-Garbo v. Spouses Garabato*, 750 Phil. 846, 855 (2015) [Per J. Villarama, Third Division].

[61] Id. at 854-855.

[62] See *Thermochem Incorporated v. Naval*, 397 Phil. 934 (2000) [Per J. Ynares-Santiago, First Division].

[63] *Rollo*, pp. 39-40.

[64] Id. at 10.

[65] Id.

[66] Id.

[67] Id. at 7.

[68] *Crisostomo v. Court of Appeals*, 456 Phil. 845, 858 (2003) [Per J. Ynares-Santiago, First Division].

[69] *Rollo*, p. 139.

[70] *Bank of the Philippine Islands v. Casa Montessori Internationale*, 474 Phil. 298, 309 (2004) [Per J. Panganiban, First Division].

[71] *Samsung Construction Co. Phil. v. Far East*, 480 Phil. 39, 48 (2004) [Per J. Tinga, Second Division].

[72] Id. at 50.

[73] *Bank of the Philippine Islands v. Casa Montessori Internationale*, 474 Phil. 298, 318 (2004) [Per J. Panganiban, First Division].

[74] Id. at 318-319.

[75] *Philippine National Bank v. Quimpo*, 242 Phil. 324, 327 (1988) [Per J. Gancayco, First Division].

[76] *Cang v. Cullen*, 620 Phil. 403, 418-419 (2009) [Per J. Nachura, Third Division]. See also *Ilusorio v. Court of Appeals*, 441 Phil. 335, 344 (2002) [Per J. Quisumbing, Second Division].

[77] See *Cang v. Cullen*, 620 Phil. 403 (2009) [Per J. Nachura, Third Division]; *Crisostomo v. Court of Appeals*, 456 Phil. 845 (2003) [Per J. Ynares-Santiago, First Division]; *Thermochem Incorporated v. Naval*, 397 Phil. 934 (2000) [Per J. Ynares-Santiago, First Division].

[78] See *Ilusorio v. Court of Appeals*, 441 Phil. 335 (2002) [Per J. Quisumbing, Second Division].

[79] *Rollo*, p. 74.

[80] *Bank of the Philippine Islands v. Casa Montessori Internationale*, 474 Phil. 298, 319 (2004) [Per J. Panganiban, First Division]. See also *San Carlos Milling Co., v. Bank of the Philippine Islands*, 59 Phil. 59, 66 (1933) [Per J. Hull, Second Division].

[81] *Samsung Construction Co. Phil. v. Far East*, 480 Phil. 39, 57 (2004) [Per J. Tinga, Second Division].

[82] RULES OF COURT, Rule 131, secs. 3 (d) and (q).

[83] *Samsung Construction Co. Phil. v. Far East*, 480 Phil. 39, 58 (2004) [Per J. Tinga, Second Division].

[84] 242 Phil. 324 (1988) [Per J. Gancayco, First Division].

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