

ASSET POOL A (SPV-AMC) INC. (FORMERLY BANK OF THE PHILIPPINE ISLANDS), PETITIONER, VS. MEVCO HOLDINGS COMPANY INC., AND MEL VELARDE, JR., RESPONDENTS.*G.R. No. 280513, April 07, 2026*

Ponente: GAERLAN, J.

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Before Us is a Petition for Review on Certiorari[1] under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision dated June 26, 2024[2] and the Resolution dated May 9, 2025[3] of the Court of Appeals (CA) in CA-GR CV No. 119559, which affirmed the Decision dated March 2, 2022[4] of Branch 59 of the Regional Trial Court (RTC) of Makati City, dismissing the complaint for collection of sum of money by petitioner, Asset Pool A (SPV-AMC) Inc. (formerly Bank of the Philippine Islands) (Asset Pool).

Antecedents

The instant petition originated from the complaint for sum of money filed by Bank of the Philippine Islands (BPI) against herein respondents MEVCO Holdings Company, Inc. (MEVCO) and its president, Mel Velarde, Jr. (Velarde) before Branch 61 of the RTC of Makati City. In the said complaint, MEVCO applied for and was granted a loan by Far East Bank and Trust Company[5] (FEBTC) in the amount of PHP 3,600,000.00. Velarde executed a continuing suretyship in favor of FEBTC wherein he bound himself to be jointly and severally liable with MEVCO for the payment of the said loan. The loan was also secured by real estate mortgages (REMs)[6] of two parcels of land.[7]

MEVCO defaulted on paying the loaned amount, including its interests, as they became due. Several demands were made upon MEVCO, but MEVCO failed to comply with its obligation. As a result, the REMs were foreclosed. During the public auction, the mortgaged properties were sold in the amount of PHP 2,314,080.00 and PHP 2,833,600.00.[8]

The proceeds from the bid were allocated toward MEVCO's outstanding obligation. Nevertheless, a deficiency balance of PHP 1,806,912.44 remained unpaid. Despite repeated requests for settlement, MEVCO has failed to address the outstanding deficiency. Consequently, a complaint was filed with the court seeking recovery of the PHP 1,806,912.44, along with stipulated interest, penalty charges, or liquidated damages accruing from October 17, 2001 until full payment is made. Additionally, Asset Pool seeks attorney's fees amounting to PHP 100,000.00, as well as costs of suit.[9]

MEVCO then answered the complaint claiming that it was prematurely filed considering that negotiations and/or determination of any actual amount that they may still owe BPI were never terminated. Thus, no valid final demand for payment was given to them. Moreover, the interest and penalty rates applied to the subject loan were unconscionably high. On the part of Velarde, he was allegedly impleaded notwithstanding that his participation was only limited to that of being president of the company and nothing more.[10]

The case was referred to mediation but the parties refused to settle. Pre-trial and trial followed. A Motion to Avail Written Interrogatories and Motion for Inspection of Documents were filed by MEVCO in order to obtain materials and relevant facts on how the amount being recovered was arrived at. This was opposed by BPI and claimed that the information MEVCO wanted to obtain were already known and available to them. Subsequently, the trial court denied the Motion to Avail Written Interrogatories but granted the Motion for Inspection of Documents.[11]

While the case was pending, the account of MEVCO was assigned to herein petitioner, Asset Pool, and thus substitution was granted by the trial court. Due to this change, several court proceedings transpired resulting for the case to be re-raffled to Branch 59 of RTC of Makati City.[12]

The RTC's Ruling

On March 2, 2022, the trial court ruled in favor of MEVCO and dismissed the complaint for being premature. The trial court held that Asset Pool failed to prove that demand was made before they extrajudicially foreclosed the REMs. While it alleged that several demands were made, no proof was submitted to establish the same. The trial court stated that only demand letters submitted by Asset Pool were served after the extrajudicial foreclosure sale claiming the deficiency of PHP 1,806,912.44. Accordingly, in the absence of a demand, no cause of action has accrued in favor of BPI. Consequently, as an assignee, Asset Pool cannot acquire greater rights than those pertaining to its assignor. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, the case is hereby DISMISSED for being premature. No pronouncement as to costs of suit.

SO DECIDED.[13] (Emphasis in the original)

The CA's Ruling

Asset Pool then appealed to the CA questioning the dismissal of the complaint. In the assailed Decision, the CA denied the appeal and affirmed the Decision of the RTC. The CA held that the appeal lacks merit. Although the CA concurred with Asset Pool's assertion that demand is rendered unnecessary by the presence of an acceleration clause in the promissory note, it nevertheless determined that dismissal of the complaint was appropriate due to insufficient evidence demonstrating Asset Pool's entitlement to the deficiency balance. The records of the case do not indicate the method by which Asset Pool determined the amount of PHP 1,806,912.44. Accordingly, there appears to be no factual basis supporting Asset Pool's claim against MEVCO. The dispositive portion of the Decision reads:

WHEREFORE, the appeal is hereby DENIED. The March 2, 2022 Decision of the Regional Trial Court, Branch 59, Makati City in Civil Case No. 02-884-CV is AFFIRMED.

SO ORDERED.[14] (Emphasis in the original)

A Motion for Reconsideration was filed by Asset Pool but the same was denied for lack of merit.[15] Hence, the present recourse.

Issues

- Whether the CA erred in denying the appeal and ruling that Asset Pool failed to show any proof of the existence of the deficiency obligation after applying the foreclosure proceeds to the obligation of the MEVCO.
- Whether the RTC erred in deciding the case on grounds that have not been put in issue or joined in the pleadings.

The Court's Ruling

We deny the Petition.

Asset Pool first argued that since the CA disagreed with the RTC's finding that the complaint was prematurely filed, it should have reversed the ruling and ruled in its favor. Clearly, this is logically flawed. The case not being filed prematurely just means that the case can continue and progress. But the resolution would still depend on the evidence submitted and the application of Our law and jurisprudence. Plainly, the Court will resolve the issues based on the merits of the case which the CA did in the instant case.

The primary issue in this petition pertains to the CA's dismissal based on insufficient evidence to substantiate MEVCO's deficiency obligation. Asset Pool asserts that all necessary documents were duly submitted, which should have allowed the court to ascertain the amount claimed.

We disagree. We find that the CA correctly dismissed the appeal due to insufficiency of evidence. Asset Pool cited the statement of account^[16] appended to the petition as evidence in support of its claim regarding the deficiency obligation. A review of this document indicates that it simply lists the amounts without providing any explanation regarding their calculation or origin. The Court cannot simply accept the contents of the document at face value without supporting evidence. In the absence of adequate supporting computations, the statement of account remains an unsubstantiated assertion lacking evidentiary support. In view of the basic rule that mere allegation is not evidence and is not equivalent to proof, the allegation is essentially self-serving and devoid of any evidentiary weight.^[17] Moreover, the statement of account submitted by Asset Pool is clearly favorable to its interest and should not be admitted by the court.^[18]

Lastly, Asset Pool argued that MEVCO, in their answer, only raised the issue on demand being made prematurely and not the amount of deficiency. Thus, the CA acted beyond its jurisdiction when it ruled on the amount of deficiency.

Again, We are not persuaded. It must be noted that the very core of the demand is the amount of deficiency being claimed. MEVCO claimed that such demand was premature because there was still negotiations and/or determination of the final amount, yet the complaint was already filed. It must be noted that there was already a motion from MEVCO to get information from BPI when they filed the Motion to Avail Written Interrogatories and Motion for Production of Inspection of Documents^[19] however, it was opposed by Asset Pool. Subsequently, the trial court dismissed the Motion to Avail written Interrogatories but granted the Motion for Production of Inspection of Documents in the interest of substantial justice. Asset Pool complied with the trial court's order on March 30, 2006 and submitted relevant documents.^[20] While it is a settled rule that defenses not pleaded in the answer may not be raised for the first time on appeal, it nevertheless admits of certain exceptions. In the case of *Canlas v. Tubil*,^[21] the Court held:

As a rule, a change of theory cannot be allowed. However, when the factual bases thereof would not require presentation of any further evidence by the adverse party in order to enable it to properly meet the issue raised in the new theory, as in this case, the Court may give due course to the petition and resolve the principal issues raised therein.^[22]

Moreover in *Del Rosario v. Bonga*,^[23] the Court explained that there are instances that issues raised for the first time on appeal may be entertained, viz.:

Indeed, there are exceptions to the aforecited rule that no question may be raised for the first time on appeal. Though not raised below, the issue of lack of jurisdiction over the subject matter may be considered by the reviewing court, as it may be raised at any stage. The said court may also consider an issue not properly raised during trial when there is plain error. Likewise, it may entertain such arguments when there are jurisprudential

developments affecting the issues, or when the issues raised present a matter of public policy.[24]

In the case at bar, the determination of the amount is closely related to the validity of the demand. Under Article 1169 of the Civil Code, those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation. This presupposes that the obligee has made a valid demand on the obligor. A valid demand must adhere to the principles set out by law and must originate from an obligation clearly established by the creditor. In cases of demand for collection of sum of money, the demand, in order to be valid, must specifically show the amount being collected and provide details on how such amount was arrived at. If the amount is vaguely stated in the demand, then such cannot be considered to be valid. Further, if the creditor does not properly establish the validity of their demand or fails to clearly prove the debtor's obligation, it cannot be concluded that the debtor is in delay.

The Statement of Account (SOA) presented by Asset Pool constitutes a demand, however, it lacks the necessary information to establish with clarity the basis of MEVCO's liability. Asset Pool cannot merely demand for payment of the amount stated in the SOA without adequately substantiating its claim or at the very least make it determinable. Consequently, such amounts, being questionable, cannot be said to be a valid demand and cannot be enforced against MEVCO. Thus, the CA acted within its jurisdiction in dismissing Asset Pool's claim for lack of evidence.

ACCORDINGLY, We DENY the Petition for Review on Certiorari. The Decision dated June 26, 2024 and the Resolution dated May 9, 2025 of the Court of Appeals in CA-G.R. CV No. 119559 are AFFIRMED.

SO ORDERED.

Caguioa (Chairperson), Inting, Dimaampao, and Singh, JJ., concur.

[1] Rollo, pp. 11-27.

[2] Id. at 37-51. Penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Victoria Isabel A. Paredes and Mary Charlene V. Hernandez-Azura of the Eleventh Division, Court of Appeals, Manila.

[3] Id. at 53-54. Penned by Associate Justice Florencio M. Mamauag, Jr. and concurred in by Associate Justices Luis P. Acosta and Mary Charlene V. Hernandez-Azura of the Special Former Eleventh Division, Court of Appeals, Manila.

[4] No copy of the Decision was attached to the rollo.

[5] FEBTC later became BPI by virtue of the merger of the two banking institutions, BPI is the surviving entity. Thus, when the complaint was filed, it is already in the name of BPI.

[6] Rollo, pp. 72-73.

[7] Id. at 38.

[8] Id. at 62-71.

[9] Id. at 38-39.

[10] Id. at 39.

[11] Id. at 40.

[12] Id. at 41-42.

[13] Id. at 46. No copy of the Decision was attached to the rollo.

[14] Id. at 50.

[15] Id. at 54.

[16] Id. at 74.

[17] *Menez v. Status Maritime Corp.*, 839 Phil. 360, 369 (2018) [Per J. Caguioa, Second Division].

[18] *Lichauco v. Atlantic Gulf & Pacific Co.*, 84 Phil. 330, 342 (1949) [Per J. Ozaeta, En Banc], citing 20 Am. Jur., Evidence, sec. 558, pp. 470-471.

[19] Rollo, p. 40.

[20] Id. at 42.

[21] 616 Phil. 915 (2009) [Per J. Ynares-Santiago, Third Division].

[22] Id. at 923-924.

[23] *Del Rosario v. Bonga*, 402 Phil. 949 (2001) [Per J. Panganiban, Third Division].

[24] Id. at 960.

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