

**AMELITO R. MUTUC, PETITIONER, VS. JUDGE JAIME R. AGLORO,
(COURT OF FIRST INSTANCE OF MANILA, BRANCH XXIII) AND
ASSOCIATED CITIZENS BANK, RESPONDENTS.**

G.R. No. 55968. July 20, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

The pleadings disclose the following allegations: Amelito R. Mutuc was one of the organizers in 1964 of the Associated Banking Corporation. For his efforts, he was given one thousand shares of stock with a total par value of one hundred thousand pesos. He became chairman of the board and legal consultant of the bank.

In 1965, Mutuc resigned as board chairman. It was allegedly agreed upon that because he did not receive any remuneration as board chairman, he would be paid twenty thousand pesos after his resignation (p. 22, Rollo).

Mutuc surrendered to the bank his stock certificate for the 1,000 shares on the alleged understanding that the sum of P120,000 would be given to him in the form of an overdraft line.

In the overdraft agreement dated March 11, 1965, the bank allowed Mutuc's overdrawings in his current account up to eighty thousand pesos. In that agreement, it was stipulated that "the books of the bank shall be final and conclusive evidence concerning the amount due to the bank" (p. 16, Rollo).

The overdraft line was increased to one hundred twenty thousand pesos in a supplementary agreement dated September 20, 1965. According to the bank, Mutuc's overdrawings from his current account as of February 29, 1972 amounted to P189,395.26, with twelve percent interest per annum.

On November 16, 1979, the bank sued Mutuc in the Court of First Instance of Manila for the recovery of the said sum of P189,395.26 plus interest and attorney's fees.

Mutuc averred in his answer that because the bank (it merged with the Citizens Bank in 1975 and is now known as the Associated Citizens Bank) committed itself to pay him P120,000, through an overdraft line, the bank did not sue him for a period of more than ten years.

The trial court in its order of February 14, 1980 denied Mutuc's motion for a bill of particulars as to when the ceiling of P120,000 in his overdraft line was reached or how the sum of P189,395.26 was arrived at. It reasoned out that the particulars sought by Mutuc were "merely evidentiary".

After submitting his answer, Mutuc filed a motion praying that he be allowed to inspect and copy the records of the bank regarding the withdrawals and payments made by him. The lower court in its order of December 18, 1980 denied the Motion on the ground that it involves evidentiary matters.

In the instant petition for certiorari and mandamus, which Mutuc filed on January 23, 1981, he contends that respondent judge committed a grave abuse of discretion in denying his motions for a bill of particulars and for inspection and copying of the bank's records.

The bank argues that Mutuc should be knowledgeable with his own account. He did not ask for particulars when in 1977 the bank in a letter of demand apprised him that his overdraft balance amounted to P189,395.26 (p. 40, Rollo) Mutuc in his reply to that demand letter requested that he be given up to the end of the year to settle his account (p. 41 Rollo)

However, Mutuc in his answer said that because he has no record of his overdrawings he could not admit that he is indebted to the bank in the amount already stated

We hold that this is a case where technicalities in pleading should be avoided in order to attain substantial justice. In fairness to Mutuc, respondent bank should give him a detailed and complete or consolidated statement of his withdrawals and payments from the time his overdraft line commenced or as to how the said sum of P189,395.26 was computed or arrived at.

That procedure is in consonance with the rules on discovery and the avowed policy of the Rules of Court (which allow even the so-called "fishing expedition" banned under Act No 190) to require the parties to lay their cards on the table to facilitate a settlement of the case before the trial.

As noted by Chief Justice Moran, the Rules of Court provide "a more effective system of bill of discovery which does away with that old and obnoxious practice of secrecy and surprises in the preparation and trial of cases".

It is to the bank's advantage to disclose the particulars sought by Mutuc so that even before the pre-trial and trial the lower court can see whether its claim is just and meritorious. That disclosure may pave the way for a summary judgment, if warranted.

On the other hand, if, as Mutuc said, he has no record of his withdrawals or he cannot locate the monthly statements sent to him by the bank, then he should be given access to its records regarding his indebtedness so that his accountant can check the bank's computation thereof. Sometimes, bank employees commit honest mistakes in computing a borrower's liability.

WHEREFORE, the trial court's order of December 18, 1980 is set aside. Respondent bank is directed within ten days from the date the parties are notified of the entry of judgment in this case to give petitioner Mutuc a complete statement as to how his alleged debt of P189,395.26 was computed.

Should the petitioner be dissatisfied with that statement, then, pursuant to Rule 27 of the Rules of Court, the bank should allow him to inspect and copy its records supporting the items in that statement. No costs.

SO ORDERED.

Barredo, (Chairman), Concepcion, Jr., Abad Santos, and De Castro, JJ., concur.

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