

TRAVEL-ON INC., PETITIONER, VS. COURT OF APPEALS AND ARTURO S. MIRANDA, RESPONDENTS.

G.R. No. 56169. June 26, 1992

Ponente: FELICIANO, J.

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FELICIANO, J.:

Petitioner Travel-On Inc. ("Travel-On") is a travel agency selling airline tickets on commission basis for and in behalf of different airline companies. Private respondent Arturo S. Miranda had a revolving credit line with petitioner. He procured tickets from petitioner on behalf of airline passengers and derived commissions therefrom.

On 14 June 1972, Travel-On filed suit before the Court of First Instance ("CFI") of Manila to collect on six (6) checks issued by private respondent with a total face amount of P115,000.00. The complaint, with a prayer for the issuance of a writ of preliminary attachment and attorney's fees, averred that from 5 August 1969 to 16 January 1970, petitioner sold and delivered various airline tickets to respondent at a total price of P278,201.57; that to settle said account, private respondent paid various amounts in cash and in kind, and thereafter issued six (6) postdated checks amounting to P115,000.00 which were all dishonored by the drawee banks. Travel-On further alleged that in March 1972, private respondent made another payment of P10,000.00 reducing his indebtedness to P105,000.00. The writ of attachment was granted by the court a quo.

In his answer, private respondent admitted having had transactions with Travel-On during the period stipulated in the complaint. Private respondent, however, claimed that he had already fully paid and even overpaid his obligations and that refunds were in fact due to him. He argued that he had issued the postdated checks for purposes of accommodation, as he had in the past accorded similar favors to petitioner. During the proceedings, private respondent contested several tickets alleged to have been erroneously debited to his account. He claimed reimbursement of his alleged overpayments, plus litigation expenses, and exemplary and moral damages by reason of the allegedly improper attachment of his properties.

In support of his theory that the checks were issued for accommodation, private respondent testified that he had issued the checks in the name of Travel-On in order that its General Manager, Elita Montilla, could show to Travel-On's Board of Directors that the accounts receivable of the company were still good. He further stated that Elita Montilla tried to encash the same, but that these were dishonored and were subsequently returned to him after the accommodation purpose had been attained.

Travel-On's witness, Elita Montilla, on the other hand explained that the "accommodation" extended to Travel-On by private respondent related to situations where one or more of its passengers needed money in Hongkong, and upon request of Travel-On respondent would contact his friends in Hongkong to advance Hongkong money to the passenger. The passenger then paid Travel-On upon his return to Manila and which payment would be credited by Travel-On to respondent's running account with it.

In its decision dated 31 January 1975, the court a quo ordered Travel-On to pay private respondent the amount of P8,894.91 representing not overpayments by private respondent, moral damages of P10,000.00 for the wrongful

issuance of the writ of attachment and for the filing of this case, P5,000.00 for attorney's fees and the costs of the suit.

The trial court ruled that private respondent's indebtedness to petitioner was not satisfactorily established and that the postdated checks were issued not for the purpose of encashment to pay his indebtedness but to accommodate the General Manager of Travel-On to enable her to show to the Board of Directors that Travel-On was financially stable.

Petitioner filed a motion for reconsideration that was, however, denied by the trial court, which in fact then increased the award of moral damages to P50,000.00.

On appeal, the Court of Appeals affirmed the decision of the trial court, but reduced the award of moral damages to P20,000.00, with interest at the legal rate from the date of the filing of the Answer on 28 August 1972.

Petitioner moved for reconsideration of the Court of Appeals' decision, without success.

In the instant Petition for Review, it is urged that the postdated checks are per se evidence of liability on the part of private respondent. Petitioner further argues that even assuming that the checks were for accommodation, private respondent is still liable thereunder considering that petitioner is a holder for value.

Both the trial and appellate courts had rejected the checks as evidence of indebtedness on the ground that the various statements of account prepared by petitioner did not show that private respondent had an outstanding balance of P115,000.00 which is the total amount of the checks he issued. It was pointed out that while the various exhibits of petitioner showed various accountabilities of private respondent, they did not satisfactorily establish the amount of the outstanding indebtedness of private respondent. The appellate court made much of the fact that the figures representing private respondent's unpaid accounts found in the "Schedule of Outstanding Account" dated 31 January 1970 did not tally with the figures found in the statement which showed private respondent's transactions with petitioner for the years 1969 and 1970; that there was no satisfactory explanation as to why the total outstanding amount of P278,432.74 was still used as basis in the accounting of 7 April 1972 considering that according to the table of transactions for the year 1969 and 1970, the total unpaid account of private respondent amounted to P239,794.57.

We have, however, examined the record and it shows that the 7 April 1972 Statement of Account had simply not been updated; that if use as basis the figure as of 31 January 1970 which is P278,432.74 and from it deduct P38,638.17 which represents some of the payments subsequently made by private respondent, the figure - P239,794.57 will be obtained.

Also, the fact alone that the various statements of account had variances in figures, simply did not mean that private respondent had no more financial obligations to petitioner. It must be stressed that private respondent's account with petitioner was a running or open one, which explains the varying figures in each of the statements rendered as of a given date.

The appellate court erred in considering only the statements of account in determining whether private respondent was indebted to petitioner under the checks. By doing so, it failed to give due importance to the most telling piece of evidence of private respondent's indebtedness - the checks themselves which he had issued.

Contrary to the view held by the Court of Appeals, this Court finds that the checks are the all important evidence of petitioner's case; that these checks clearly established private respondent's indebtedness to petitioner; that private respondent was liable thereunder.

It is important to stress that a check which is regular on its face is deemed prima facie to have been issued for a

valuable consideration and every person whose signature appears thereon is deemed to have become a party thereto for value.[1] Thus, the mere introduction of the instrument sued on in evidence prima facie entitles the plaintiff to recovery. Further, the rule is quite settled that a negotiable instrument is presumed to have been given or indorsed for a sufficient consideration unless otherwise contradicted and overcome by other competent evidence.[2]

In the case at bar, the Court of Appeals, contrary to these established rules, placed the burden of proving the existence of valuable consideration upon petitioner. This cannot be countenanced; it was up to private respondent to show that he had indeed issued the checks without sufficient consideration. The Court considers that private respondent was unable to rebut satisfactorily this legal presumption. It must also be noted that those checks were issued immediately after a letter demanding payment had been sent to private respondent by petitioner Travel-On.

The fact that all the checks issued by private respondent to petitioner were presented for payment by the latter would lead to no other conclusion than that these checks were intended for encashment. There is nothing in the checks themselves (or in any other document for that matter) that states otherwise.

We are unable to accept the Court of Appeals' conclusion that the checks here involved were issued for "accommodation" and that accordingly private respondent maker of those checks was not liable thereon to petitioner payee of those checks.

In the first place, while the Negotiable Instruments Law does refer to accommodation transactions, no such transaction was here shown. Section 29 of the Negotiable Instruments Law provides as follows:

"Section 29. Liability of accommodation party. -- An accommodation party is one who has signed the instrument as maker, drawer, acceptor, or endorser, without receiving value therefore, and for the purpose of lending his name to some other person. Such a person is liable on the instrument to a holder for value, notwithstanding such holder, at the time of taking the instrument, knew him to be only an accommodation party.

In accommodation transactions recognized by the Negotiable Instruments Law, an accommodating party lends his credit to the accommodated party, by issuing or indorsing a check which is held by a payee or indorsee as a holder in due course, who gave full value therefore to the accommodated party. The latter, in other words, receives or realizes full value which the accommodated party then must repay to the accommodating party, unless of course the accommodating party intended to make a donation to the accommodated party. But the accommodating party is bound on the check to the holder in due course who is necessarily a third party and is not the accommodated party. Having issued or indorsed the check, the accommodating party has warranted to the holder in due course that he will pay the same according to its tenor.[3]

In the case at bar, Travel-On was payee of all six (6) checks; it presented these checks for payment at the drawee bank but the checks bounced. Travel-On obviously was not an accommodated party; it realized no value on the checks which bounced.

Travel-On was entitled to the benefit of the statutory presumption that it was a holder in due course,[4] that the checks were supported by valuable consideration.[5] Private respondent maker of the checks did not successfully rebut these presumptions. The only evidence aliunde that private respondent offered was his own self-serving uncorroborated testimony. He claimed that he had issued the checks to Travel-On as payee to "accommodate" its General Manager who allegedly wished to show those checks to the Board of Directors of Travel-On to "prove" that Travel-On's account receivables were somehow "still good." It will be seen that this claim was in fact a claim that the checks were merely simulated, that private respondent did not intend to bind himself thereon. Only evidence of the clearest and most convincing kind will suffice for that purpose;[6] no such evidence was

submitted by private respondent. The latter's explanation was denied by Travel-On's General Manager; that explanation, in any case, appears merely contrived and quite hollow to us. Upon the other hand, the "accommodation" or assistance extended to Travel-On's passengers abroad as testified by petitioner's General Manager involved, not the accommodation transactions recognized by the NIL, but rather the circumvention of then existing foreign exchange regulations by passengers booked by Travel-On, which incidentally involved receipt of full consideration by private respondent.

Thus, we believe and so hold that private respondent must be held liable on the six (6) checks here involved. Those checks in themselves constituted evidence of indebtedness of private respondent, evidence not successfully overturned or rebutted by private respondent.

Since the checks constitute the best evidence of private respondent's liability to petitioner Travel-On, the amount of such liability is the face amount of the checks, reduced only by the P10,000.00 which Travel-On admitted in its complaint to have been paid by private respondent sometime in March 1992.

The award of moral damages to private respondent must be set aside, for the reason that petitioner's application for the writ of attachment rested on sufficient basis and no bad faith was shown on the part of Travel-On. If anyone was in bad faith, it was private respondent who issued bad checks and then pretended to have "accommodated" petitioner's General Manager by assisting her in a supposed scheme to deceive petitioner's Board of Directors and to misrepresent Travel-On's financial condition.

ACCORDINGLY, the Court Resolved to GRANT due course to the Petition for Review on Certiorari and to REVERSE and SET ASIDE the Decision dated 22 October 1980 and the Resolution of 23 January 1981 of the Court of Appeals, as well as the Decision dated 31 January 1975 of the trial court, and to enter a new decision requiring private respondent Arturo S. Miranda to pay to petitioner Travel-On the amount of P105,000.00 with legal interest thereon from 14 June 1972, plus ten percent (10%) of the total amount due as attorney's fees. Costs against private respondent.

Gutierrez, Jr., (Chairman), Bidin, Davide, Jr., and Romero, JJ., concur.

[1] Section 24 of the Negotiable Instruments Law provides:

"Section 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."

Section 5(s) of Rule 131 also establishes the presumption "[t]hat a negotiable instrument was given or indorsed for a sufficient consideration; x x x."

[2] Pineda vs. dela Rama, 121 SCRA 671 (1983); Bank of Philippine Islands vs. Laguna Coconut Oil Co., 48 Phil. 5 (1925).

[3] Section 60 of the Negotiable Instruments Law provides:

"Section 60. Liability of maker. -- The maker of a negotiable instrument, by making it, engages that he will pay it according to its tenor, and admits the existence of the payee and his then capacity to indorse."

Further, Section 61 provides:

"Section 61. Liability of drawer. -- The drawer by drawing the instrument admits the existence of the payee and his then capacity to indorse; and engages that, on due presentment, the instrument will be accepted or paid, or

both, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder or to any subsequent indorser who may be compelled to pay it. x x x"

Finally, Section 66 provides:

"Section 66. Liability of general indorser. -- Every indorser who indorses without qualification, warrants to all subsequent holders in due course:

x x x x x x x x

And in addition, he engages that, on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it."

[4] Section 59 of the Negotiable Instruments Law provides:

"Section 59. - Who is deemed holder in due course. - Every holder is deemed prima facie to be a holder in due course; x x x."

See Also Fossum v. Fernandez Hermanos, 44 Phil. 713 (1923).

[5] Section 24, Negotiable Instruments Law, supra; A similar provision is found in Article 1354, Civil Code of the Philippines:

"Art. 1354. Although the cause is not stated in the contract, it is presumed that it exists and is lawful, unless the debtor proves the contrary."

Also Penaco v. Ruaya, 110 SCRA 46 (1981).

[6] See generally Cuyugan v. Santos, 34 Phil. 100 (1916); Tolentino v. Gonzales, 50 Phil. 558 (1927).

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