

JOSE T. TOLENTINO AND VICENTA P. TOLENTINO, PETITIONERS, VS. COURT OF APPEALS AND PRUDENTIAL BANK & TRUST COMPANY, RESPONDENTS.

G.R. No. 56265. May 20, 1987

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari of the decision of Respondent Court in CA-G.R. No. 60863--R[1] promulgated on November 28, 1980, setting aside the decision of the Court of First Instance of Manila, Branch XVI, in Civil Case No. 77047,[2] the dispositive portion of the questioned decision (Rollo, pp. 31-43) reading as follows:

"WHEREFORE, the decision of the trial court is hereby set aside insofar as it: (1) orders the restitution of the sum of P1,007,511.25 to the plaintiffs' savings account No. 278; (2) awards damages to the plaintiffs; and (3) discharges the real estate mortgages which they constituted on their properties (T.C.T. No. T-4475 of the Registry of Deeds of Davao City) in favor of the defendant Bank.

"The writ of preliminary injunction which the trial court issued to restrain and enjoin the foreclosure of the real estate mortgage on plaintiffs' properties is hereby set aside. However, its declaration of the nullity of the waiver of the mortgagors' redemption rights in the deeds of mortgage, Exhibits 12 and 13, is affirmed. Costs against the plaintiffs-appellees."

The facts of the case, as found by Respondent Court of Appeals (Rollo, pp. 31-35), are as follows:

"The plaintiff Vicenta P. Tolentino is a pharmacist and businesswoman, married to a physician, Dr. Jose Tolentino. They are engaged in the drug business in Davao City and own a hospital in Kidapawan, Cotabato.

"On September 19, 1962, Mrs. Tolentino simultaneously opened a Savings Account No. 278 (Exhs. A & 17) and a current or checking account No. 154 in the newly established branch of the Prudential Bank in Davao City. The current account was later converted into a joint account of the plaintiffs-spouses (Exh. 23). The plaintiffs actively used both accounts by making deposits in and withdrawals therefrom.

"On July 31, 1963, Mrs. Tolentino entered into an 'Agreement for Credit in Current Account' with defendant bank, for P30,000.00, 'to be carried in the name of Vicenta P. Tolentino — c/a-154' (Exh. 3).

"Sometime later, the plaintiffs-spouses signed a second but undated 'PBTC Agreement for Credit in Current Account' in the amount of P50,000.00, to be carried in the name of 'Vicenta Pascual Tolentino' (Exh. 4).

"On September 4, 1963, Mrs. Tolentino signed a third 'PBTC Agreement for Credit in Current Account' for P140,000.00 to 'be carried in the name of Mrs. Vicenta P. Tolentino — account No. 154' (Exh. 5).

"On September 23, 1963, the bank informed Mrs. Tolentino in writing that it had approved in her favor 'an overdraft line of P240,000.00 (apparently a miscomputation for the three overdraft agreements were for a total of only P220,000.00) for a period of one (1) year at 5½ interest per annum on the first P200,000.00 and 12% on

the next P40,000.00 against assignment of savings deposit of P200,000.00 plus the joint and several signatures of your goodself and your husband, Dr. Jose Tolentino' (Exh. J).

"On October 30, 1963, Dr. and Mrs. Tolentino signed a fourth 'PBTC Agreement for Credit in Current Account' for one million pesos P1,000,000.00) (Exh. 6).

"Thus, plaintiffs' authorized overdraft line reached a maximum amount of (P1,220,000).

"The agreement for credit in current account (Exhs. 3, 4, 5 and 6) uniformly provided that the debtors 'shall furnish the BANK, on demand, such security or securities as it may from time to time require for the repayment of any and all sums of money which the BANK shall from time to time advance to the DEBTOR under the terms of this agreement' (pars. 3, Exhs. 3 to 6).

"Pursuant to that stipulation, Mrs. Tolentino, on July 31, September 5 and November 29, 1963, executed in favor of the bank three 'Deeds of Assignment' of her deposits in savings account No. 278 as security for plaintiffs' overdraft line (Exhs. 7, 8 & 9).

"However, on January 7, 1964, the bank manager Cesar Cuyugan informed Mrs. Tolentino that her overdraft line was being suspended until she could cover the outstanding balance of P119,330.40 representing her 'excess (or unsecured) temporary overdrawings' (Exh. B).

"Mrs. Tolentino replied on January 10, 1964 requesting verification of the records of her current account because, according to her, several checks issued by other persons had been mistakenly debited against her account. She allegedly had been verbally assured by two of the bank's employees, identified as Mr. Regalado and a certain Lito (Pulido) that her account had a balance of only P88,601.43 and not P119,330.40 (Exh. C). However, Pulido denied having given such information to Mrs. Tolentino.

"Meanwhile, a change of officers took place at defendant's Davao City branch. Alfonso de Dios took over as the new branch manager.

"On May 22, 1964, when plaintiffs' overdrawings from their current account showed a balance of P1,181,142.79, while their savings account balance stood at P1,001,651.91, leaving unsecured overdrawings of P180,000, the Bank requested the plaintiffs for additional security. Complying with that request, plaintiffs executed in favor of the Bank on May 22, 1964 a deed of real estate mortgage on their 400-square-meter lot in Davao City covered by T.C.T. No. T-12630 of the Davao City Registry of Deeds as security for the sum of P130,000 (Exh. 13).

"On August 3, 1964, De Dios, accompanied by Angelito Pulido and a certain Mangahas, also officers of the bank went to the plaintiffs' residence. De Dios told Mrs. Tolentino that he came to borrow her passbook No. 278 so that he could reconcile it with the bank's records and also look into the discrepancy she complained of in her letter of January 10, 1964 (Exh. C). Mrs. Tolentino readily gave him the passbook. He acknowledged receipt thereof in writing (Exh. D).

"Since Mrs. Tolentino's overdraw from her current account amounted P1,199,842.01 at that time, the bank debited from her savings account the sum of P1,007,511.25 (leaving a deposit balance of only P3,000 therein) and transferred or credited it to her current account (Exhs. A-2 and 15-h) as authorized under the deeds of assignment (Exhs. 7, 8 & 9), thereby reducing her over-draft balance to P192,330.76. After making the entries in her passbook, the bank re-turned the passbook to Mrs. Tolentino.

"Since only P130,000 out of her over-draft balance of P192,330.76 was secured by a real estate mortgage (Exh. 13) the Bank requested Mrs. Tolentino to give additional security for her excess overdraft of P62,330.76. Complying with that request, the Tolentinos executed on August 10, 1964 a real estate mortgage on their 5-hectare land in Tagum, Davao, mortgage in TCT No. T-4475 of the Registry of Deeds for Davao province, to secure the sum of P70,000, including an allowance for interest and other charges (Exh. 12).

"This second deed of real estate mortgage, like the first (Exh. 13), contained a waiver of the mortgagors' right of redemption in the event of an extrajudicial fore-closure.

"Mrs. Tolentino continued to make deposits in, and withdrawals from, her savings account until December 1964 (Exhs. A & 18-A & 18-B). Up to June 1965, she issued checks against her current account, which was reactivated after she had given additional security to the bank (Exh. 15-bb).

"In June 1965, when plaintiffs' overdrawings reached an amount exceeding the value of their collateral, the bank demanded payment.

"Mrs. Tolentino pleaded for time to pay on account of financial reverses and business and property losses (Exhs. 561-A, 10 & 11).

"The Bank carried the account for the next four years. Finally, on May 22, 1969, it sent plaintiffs a final demand for payment of P203,031.42, which was the balance of their overdrawings from their current account plus the accumulated interests and other charges (Exh. 572).

"On May 29, 1969, the Tolentinos' mortgaged properties were appraised and found to be worth P84,024 only (Exhs. 531-A and 532-A).

"On June 19, 1969, the bank requested the Sheriff of Davao City to extrajudicially foreclose the mortgage (Exh. 573).

"On July 11, 1969, Petitioners brought an action against Respondent Bank in the Court of First Instance of Manila to enjoin the foreclosure of the Bank's mortgage on two parcels of land which they gave as collateral for their overdraft line and to compel the Bank to restore to their savings account No. 278 the sum of P1,007,511.24 which it transferred to their current account No. 154. They also asked that a provision in the mortgage deeds waiving their right to redeem the encumbered properties from foreclosure be annulled for being contrary to law.

"In its answer, the Bank alleged that the transfer of funds from plaintiffs' savings account to their current account was authorized under the deeds of assignment which plaintiffs had executed in favor of the bank. It further alleged that the foreclosure of the mortgage on plaintiffs' 5-hectare land in Davao was proper because plaintiffs are still indebted to the bank for overdrawings amounting to P282,127.95, including interests, as of May 12, 1969.

"On June 3, 1970, the trial court is-sued a writ of preliminary injunction suspen-ding the foreclosure proceedings against the plaintiffs' real properties.

"After a protracted trial, the lower court rendered a decision on May 19, 1976 for the plaintiffs, the dispositive portion of which reads:

'WHEREFORE, judgment is hereby rendered:

'(a) ordering the defendant to pay unto the plaintiffs the sum of P1,007,511.25 plus interest thereon computed annually at the rate of six per cent (6%) from August 3, 1964, until full payment, minus the sum of P88,601.43 plus interest thereon from January 7, 1964;

'(b) ordering defendant to pay unto the plaintiffs the sum of P50,000.00 as compensatory damages;

'(c) ordering defendant to pay unto plaintiffs the sum of P20,000.00 as exemplary damages;

'(d) ordering defendant to pay the sum of P10,000.00 as and for attorney's fees; and the sum of P5,000.00 as expenses of litigation; and the costs of suit;

'(e) making the preliminary injunction permanent; and

'(f) Declaring the real estate mortgages in favor of defendant on T-4475 and T-12630 of the Registry of Deeds of Davao City, as released and cancelled and ordering the defendant to return said owner's duplicate of title to plaintiffs.' (pp. 361-362, Rec. on Appeal)."

On appeal, Respondent Appellate Court found in favor of Respondent Bank. It denied Petitioner's motion for reconsideration (Rollo, p. 44) in its Resolution dated February 16, 1981 (Rollo, p. 51).

This petition for review on certiorari (Rollo, p. 9) was filed with the Court on April 8, 1981. Respondent Bank's comment on the petition was filed on June 8, 1981 (Rollo, p. 62), petitioners' reply (Rollo, p. 78) on September 2, 1981, and respondent's rejoinder (Rollo, p. 89) on September 15, 1981.

The Court resolved to give due course to the petition in its Resolution dated October 7, 1981 (Rollo, p. 94).

Petitioners' brief was filed on May 20, 1982 (Rollo, p. 102); appellee's brief, on July 19, 1982 (Rollo, p. 107). Petitioners having failed to file reply brief within the prescribed period, the Court Resolved to consider this case ready for deliberation on September 22, 1982. (Rollo, p. 111).

The errors assigned to Respondent Court (Brief for Petitioner, p. 102) are as follows:

I

THE HON. COURT OF APPEALS ERRED IN THE CONCLUSION AND INTERPRETATION OF THE DOCUMENTARY EVIDENCE ON RECORD THEREBY UNJUSTLY DEPRIVING THE PETITIONERS OF THEIR SAVINGS DEPOSIT OF P1,007,511.25.

II

THE HON. COURT OF APPEALS ERRED IN NOT CONSIDERING THAT ITS DECISION IS NOT SUPPORTED BY SUBSTANTIAL EVIDENCE.

In effect, the only issue that has to be resolved by the Court is whether or not there is legal basis for respondent Bank to transfer from petitioners' savings account to their current account, the amount of P1,007,511.25.

The petition is without merit.

Petitioners deny the findings of respondent Court that they have signed on several occasions four agreements for credit in current account for maximum overdrawings of P50,000.00, P30,000.00, P140,000.00 and P1,000,000.00 or a total of P1,200,000.00. Confronted with Exhibits 3 to 6, Petitioner Vicenta Tolentino admits having signed the contracts in "complete reliance upon defendant's (Respondent Bank's herein) representation that these documents (Annexes "3" to "6") were mere formal requirements attendant to the maintenance of their bank accounts with defendant". Petitioner, however, avers that she signed the contracts after Mr. Cesar Cuyugan ceased to be respondent's Davao City branch manager sometime around the middle part of 1964, yet Mr. Cuyugan's signature appears at the bottom portion of the contracts as witness (Amended Record on Appeal, p. 162).

The agreements for credit in current account uniformly provided that the debtors "shall furnish the BANK, on demand, such security or securities as it may from time to time require for the repayment of any and all sums of money which the BANK shall from time to time advance to the DEBTOR under the terms of this agreement" (Rollo, p. 33).

Petitioner Vicenta Tolentino admits having signed the deeds of assignment (Annexes "7" to "9") but their consent was allegedly obtained by mistake, undue influence and fraud as they were signed "at defendant's (Respondent herein) instance and upon the latter's misrepresentation that these documents were merely formal requirements essential to the maintenance of the plaintiff's (Petitioner's) account with the defendant bank" (Rollo, pp. 164-165).

It appears however that Mrs. Tolentino executed the deeds of assignment of their deposits in their savings account No. 278 for application to their credit in current account No. 154 pursuant to the agreements for credit which required the debtors to furnish respondent bank the security or securities necessary to secure the advances made by respondent Bank. The three deeds of assignments were for P30,000.00 on July 31, 1963; for P100,000.00 on September 5, 1963; and P1,000,000.00 on November 29, 1963 (Amended Record on Appeal, p. 32).

The pertinent stipulation in the deeds of assignment reads as follows:

"THAT I, MRS. VICENTA PASCUAL TOLENTINO, x x x for and in consideration of the x x x loan, overdraft and/or a form of credit accommodation, by the Prudential Bank and Trust Company, x x x, receipt whereof is hereby acknowledged, have assigned to the PRUDENTIAL BANK AND TRUST COMPANY, its successors, or assigns, all my rights, title to and interest in x x x my savings deposit with the said Bank covered by Savings Account No. 278 and/or any renewal thereof, issued to and in my name, it being understood that the Prudential Bank and Trust Company has the full control of the said sum, together with its interest, from and after this date and that the said sum cannot be withdrawn by the undersigned, his heirs, successors and assigns, unless the said loan granted to me/us by the said Bank as well as the interest due thereon and expenses incurred have been fully paid. In the event that said loan is not paid at maturity or at any time upon demand by the said Bank for any reason whatever, the said Bank is authorized and empowered to apply the said savings deposit to the payment of the loan herein mentioned. [Exhs. 7, 8 & 9]" (Rollo, p. 38).

That petitioners understood the import of the agreements for credit is shown by the fact that not only did petitioners execute the deeds of assignment but also readily executed in favor of respondent bank two deeds of real estate mortgage on two parcels of land covered by TCT no. T-12630 and TCT No. T-4475, both of the Davao City Registry, to secure overdrawings under current Account No. 154, in the amount of P130,000.00 on May 22, 1964 and an additional real estate mortgage over the same, two parcels of land on August 10, 1964 to secure an overdrawing of P70,000.00 (Amended Record on Appeal, pp. 9 and 52-53).

Furthermore, the large overdrawings made petitioners show that they availed themselves of the benefits of the agreements for credit in current account for maximum overdrawings amounting to P1,220,000.00. While the lower court cannot believe that petitioners could have incurred such huge overdrawings as claimed by respondent bank, in the amount of over P1,000,000.00 (Amended Record on Appeal, p. 358), the fact remains that the developed microfilms of the checks drawn by Petitioners against their current account No. 154, from March 4, 1963 to April 22, 1965 (Exhs. 27 to 259) were never repudiated by them as their own; as well as the ledgers (Exhs. 15, 15-A to 15-cc) of current or checking account No. 154, and withdrawal slips examined by petitioners (Amended Record on Appeal, pp. 269-270; Brief for Defendant-Appellant, pp. 14-16). Neither did they make any complaint against any item appearing in the monthly statements. In fact, as observed by respondent court, Mrs. Tolentino continued to make deposits in, and withdrawals from, her savings account until December, 1964 (Exhs. A and 18-A and 18-B). Up to June, 1965, she issued checks against her current account, which was reactivated after she had given additional security to the bank (Rollo, p. 35).

As petitioners insist there was only one overdraft line approved by the Head Office of respondent bank before 1965, an overdraft line of P240,000.00 against an assignment of savings deposit of P200,000.00. But it appears that on October 30, 1963 (Annex 6), Mrs. Tolentino signed a third agreement for credit in current account for maximum overdrawings of P1,000,000.00. It is probable that the Davao City Branch Office had recommended to the Head Office approval of another overdraft line of P1,000,000.00 in favor of petitioners. At any rate, there is no proof of an additional overdraft line for P1,000,000.00 having been granted to petitioners. What appears on record are: the second overdraft line of P130,000.00 which was granted by the Head office of respondent bank only on April 1, 1965, and a third agreement signed by petitioner for credit in current account for maximum overdrawings of P1,000,000.00 for which she executed a deed of assignment of P1,000,000.00 in favor of respondent bank on

November 29, 1963, which they availed themselves of by their huge overdrawings from their current account.

As to the questioned debit of P1,007,511.25 from petitioners' savings account credited to their current account, the finding of respondent court is that petitioners had at that time overdrawings from their current account amounting to P1,199,842.01. The records further show that this is not the first time that respondent bank had been debiting petitioners' savings account, in accordance with the three deeds of assignment executed by Mrs. Tolentino in favor of respondent bank. For instance, on March 8, 1963, respondent bank sent Mrs. Tolentino a credit memo stating that the amount of P8,100.00 was transferred from her Savings Account 278 to her Current Account 154. Respondent Bank found this necessary as on March 5, 1963 Mrs. Tolentino had overdrawn her current account by P8,002.39. Again, on March 8, 1963, petitioners' current account showed a balance of P97.61, so that on May 15, 1964, the amount of P20,000.00 was withdrawn from petitioners' savings account and transferred to their current account. Still later, in May, 1964 another withdrawal of P30,000.00 by debit memo was made from the savings account and transferred to the current account (Amended Record on Appeal, pp. 220-227). Petitioners admit having gone over defendant's ledgers supporting their savings account and their current account, including copies of deposit slips and debit memos, in the course of their examination of accounts and found nothing wrong with the debit memos (Amended Record on Appeal, pp. 269-270). Finally, the withdrawal of the amount of P1,007,511.25 from the savings account and its transfer to the current account followed the same pattern. The transfer of deposit was necessitated by the fact that the current account had already reached an overdrawing of P1,199,842.01. The transfer or credit of the amount to petitioners' current account reduced the overdrawing to P192,330.76 (Rollo, p. 34). As in the rest of the transfers of deposits made from the savings account to the current account, there was no withdrawal slip as Mrs. Tolentino did not withdraw the amount; it was effected by debit memo.

Equally important is the fact that when respondent bank demanded payment of the overdrawings in June, 1965, petitioners never questioned their liability. They only pleaded, for time to pay on account of financial reverses and business and property losses. (Rollo, p. 35).

Now, after having taken advantage of the credit facilities of respondent bank petitioner would now seek to repudiate the written agreements for credit in current account for maximum overdrawings totalling P1,220,000.00 signed by Mrs. Tolentino and the three deeds of assignment also executed by Mrs. Tolentino pursuant to the written agreements for credit. Certainly, it should take much weightier proof to invalidate a written instrument (GSIS v. Custodio, 26 SCRA 658 [1968]).

Moreover, the findings of fact of the Court of Appeals are generally final and conclusive upon the Supreme Court (Leonardo v. Court of Appeals, 120 SCRA 890 [1983]). In fact it is settled that the Supreme Court is not supposed to reweigh evidence but only to determine its substantiality (Nunez v. Sandiganbayan, 100 SCRA 433 [1982] and will generally not disturb said findings of fact when supported by substantial evidence (Aytona v. Court of Appeals, 113 SCRA 322 [1982]; Rizal Cement Co., Inc. v. Villareal, 135 SCRA 575 [1985]; Collector of Customs of Manila v. Intermediate Appellate Court, 137 SCRA 3 [1985]). On the other hand substantial evidence is defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion (Philippine Metal Foundries, Inc. v. Court of Industrial Relations, 90 SCRA 135 [1979]; Police Commission v. Lood, 127 SCRA 757 [1984]; Canete v. WCC, 136 SCRA 302 [1985]).

The records indeed show that the findings of facts and conclusions of Respondent Court of Appeals are not mere conjectures but have passed the test of substantiality.

PREMISES CONSIDERED, this petition is hereby DISMISSED, and the decision of the Court of Appeals is AFFIRMED.

SO ORDERED.

Fernan, (Chairman), Gutierrez, Jr., Padilla, Bidin, and Cortes, JJ., concur.

[1] Penned by Justice Carolina C. Grino-Aquino concurred in by Justices Milagros A. German and Serafin R. Cuevas

[2] Penned by Judge Juan L. Bocar

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