

**ARMANDO V. SIERRA, PETITIONER, VS. HON. COURT OF APPEALS,
EPIFANIA EBARLE, SOL AND ELE EBARLE, RESPONDENTS.**

G.R. No. 90270. July 24, 1992

Ponente: CRUZ, J.

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CRUZ, J.:

A promissory note is supposed to be a genuine document acknowledging a loan duly received and promising to pay the same on the date indicated in accordance with the conditions therein set forth. There is no record - as there cannot be - of the number of times such a promise has been fulfilled and the debt discharged. But our casebooks are replete with reports of litigations where the promissory note has been rejected and even indignantly denounced. The usual objection is that it is spurious or fabricated, or vitiated by fraud or duress or undue influence, or not reflective of the true intention of the parties.

The present petition is a case in point.

On November 2, 1984, the petitioner filed a complaint against the private respondents in the Regional Trial Court of Dumaguete City. He sought recovery of a sum of money he allegedly lent them under the following promissory note which he annexed to his complaint:

PROMISSORY NOTE

For value received, WE, EPIFANIA EBARLE, SOL EBARLE, & ELE EBARLE, hereby promise to pay Mr. Armando V. Sierra, his heirs and assigns, the sum of EIGHTY FIVE THOUSAND PESOS ONLY (P85,000.00) Philippine Currency, on or before October 8, 1984 at his residence in Dumaguete City.

In case of default, I will shoulder all expenses incurred in the collection and attorney's fees of P1,000.00 plus an interest of 12% per annum.

(Sgd.) EPIFANIA EBARLE

(Sgd.) SOL EBARLE

(Sgd.) ELE EBARLE

September 8, 1984

Dumaguete City

WITNESSES:

1. _____ (Illegible) _____ 2. _____

SUBSCRIBED AND SWORN TO BEFORE ME this 8th day of September 1984 at the City of Dumaguete.

(Sgd.) FRANCISCO B. ZERNA, JR.

Notary Public

In their separate answers, the private respondents denied under oath "the genuineness, due execution, legality and validity" of the promissory note. They alleged that the note was executed "under duress, fear and undue influence." As affirmative defenses, they claimed that they had been tricked into signing the note for P85,000.00 (and another note for P54,550.00, but not the subject of this suit) and that the amount owing to the petitioner was only P20,000.00. This represented the loan he had extended to Epifania Ebarle, mother of the other private respondents, Sol Ebarle and Ele Ebarle. They also counterclaimed for damages.

At the trial, the petitioner testified that he had lent the private respondents the sum of P85,000.00 which they said they needed "to pay some cattle for fattening to be inspected by the inspector of the Land Bank that day" in connection with their application for a loan of P400,000.00 from the said bank to finance their logging and cattle business. The application was apparently not approved. When the note fell due, he made demands for their payment, which were ignored. He thereupon filed his complaint.

For their part, the private respondents declared that on September 8, 1984, they were asked by the petitioner to sign two promissory notes, one for P85,000.00 and another for P54,550.00, in consideration of Epifania Ebarle's outstanding debt of P20,000.00 to him. They said they initially objected because of the amounts indicated in the said notes. They eventually agreed, however, on the petitioner's assurance that the documents were a mere formality that he had to show his business partner, who was demanding immediate payment of the said loan. The petitioner also said that if a complaint was filed against them for recovery under the notes, what they should do was not answer so that they would be declared in default. A new agreement would then be concluded for the correct amount of Epifania Ebarle's loan and with easier terms of payment.

On July 21, 1988, the trial court rendered a decision holding that the promissory note for P85,000.00 was invalid and that the private respondents were liable to the petitioner only for the loan of P20,000.00.[1] On appeal, this decision was affirmed by the respondent court.[2] The petitioner then came to this Court to seek reversal of the courts below on factual and legal grounds.

The petitioner argues that the Court of Appeals committed reversible error in the interpretation of the promissory note in light of the established facts. It also erred in not according the said note the presumption of validity as a duly executed public document.

Required to submit a comment, the private respondents contended that the assignment of errors raised only questions of fact, the determination of which by the lower courts was as a rule final and conclusive upon this Court. In reply, the petitioner submitted that the erroneous findings of fact made by the respondent court removed the case from the general rule and justified a review of the challenged decision.

The Court has gone over the records of this case and finds that there was indeed a misapprehension of facts by the trial and appellate courts. The testimonies of the private respondents on the circumstances surrounding the execution of the promissory note are, in our view, not believable.

The Rules of Court provide that "when the terms of an agreement have been reduced to writing, it is to be considered as containing all such terms, and, therefore, there can be, between the parties and their successors in interest, no evidence of the terms of the agreement other than the contents of the writing." [3] It is true that parol evidence may be admitted to challenge the contents of such agreement "where a mistake or imperfection of the writing, or its failure to express the true intent and agreement of the parties, or the validity of the agreement is put in issue by the pleadings." [4] However, such evidence must be clear and convincing and of such sufficient credibility as to overturn the written agreement.

The private respondents are not unlettered peasants with a modicum of intelligence and unfamiliar with business and legal matters. They are educated persons with not a little experience in business affairs and possibly even legal transactions. They own and operate an hacienda consisting of 33 hectares. Epifania Ebarle was a professor in English for 25 years at the Silliman University. Sol Ebarle holds a degree in commerce, Ele Ebarle in agriculture. There is no question that these three professionals fully understood the import and consequences of what they were doing when they signed the two promissory notes on September 8, 1984.

The notes were written in plain English and consisted of only two short paragraphs. There was no fine print to conceal hidden meanings. Each was a simple promise to pay to the petitioner, for value received, the amounts indicated therein not later than October 8, 1984, at his residence and to assume all litigation expenses, with 12% interest, in case of default.

The private respondents say they had misgivings about signing the notes but they signed them just the same upon the petitioner's prodding. That is strange, considering their insistence that all Epifania Ebarle owed the petitioner was the amount of P20,000.00, which she claimed to have received earlier. If that was all she really obtained, it is difficult to understand why all three of them signed the promissory notes for a total indebtedness of P139,550.00 or almost seven times the mother's alleged loan. Their natural reaction when asked to sign the notes would have been an irate refusal. What they should have done was demand the correction of the notes to reflect the true amount of the debt - in only one note - and to sign it only after such correction. Instead, each of them, one after the other, willingly signed the two notes, the first in the morning and the second in the afternoon of the same day, without any reservation whatsoever.

The private respondents say that the petitioner was in a hurry to conclude the transactions, but the fact is that they themselves were not. There was apparently no cogent reason for the immediate signing of the notes as far as they themselves were concerned. After all, Epifania Ebarle had already received the alleged original and only loan of P20,000.00, or so they say, which they were simply being made to affirm. Moreover, as they also insist, they had not received, nor did they expect to receive, the amounts indicated in the two notes.

In this connection, we cannot agree that they could not have received the amounts stated in the notes because it was not likely that the petitioner would keep such large amounts of cash in his house. That is a mere conjecture. The petitioner operates his own vineyard as well as his father's hacienda, besides dealing in the sale of cars and real estate. His transactions require ready cash now and then, which is why he keeps substantial sums of money available in his house.

In any case, as he says correctly, it is his prerogative to keep money in his house in whatever amount he pleases, especially since he feels quite secure there with his guards and dogs. What is important is that the notes the private respondents signed expressly and categorically acknowledged that they received the specific amounts indicated therein. Whether the money came from the bank or from the petitioner's house did not affect the validity of their acknowledged indebtedness.

Epifania Ebarle testified that she was also worried about the petitioner's assurance that if they allowed themselves to be declared in default when sued, a new agreement with easier terms and for the correct amount of P20,000.00 would be concluded between them. Asked if she understood what default meant, she said she did. Nevertheless, despite her uneasiness, she signed the two promissory notes one after the other, and so did her children even if they also felt a similar anxiety. It was only afterwards, she said, that she "went to a lawyer."

Remarkably, all three of the private respondents signed the two notes notwithstanding their claimed individual reluctance. One of them at least could have voiced his or her apprehensions and made efforts to dissuade the others from signing, but no one did. Everyone signed. And not only that. Having signed one note in the morning,

all of them again signed the second promissory note in the afternoon, again with no one expressing his or her misgivings. It is as if they were all mesmerized by the petitioner into signing the promissory notes although, as they now say in hindsight, they were all doing so against their better judgment.

The facts belie this supposition.

Sol Ebarle admitted on the stand that no harassment or threat in any form was employed by the petitioner upon any of them.[5]

Neither were they subjected to any undue influence, which is described in the Civil Code thus:

Art. 1337. There is undue influence when a person takes improper advantage of his power over the will of another, depriving the latter of a reasonable freedom of choice. The following circumstances shall be considered: the confidential, family, spiritual and other relations between the parties, or the fact that the person alleged to have been unduly influenced was suffering from mental weakness, or was ignorant or in financial distress.

This definition is amplified by Tolentino, who says that "undue influence is any means employed upon a party which, under the circumstances, he could not well resist, and which controlled his volition and induced him to give his consent to the contract, which otherwise he would not have entered into. It must, in some measure, destroy the free agency of a party and interfere with the exercise of that independent discretion which is necessary for determining the advantage or disadvantage of a proposed contract. In every such case, there is a moral coercion. The moral coercion may be effected through threats, expressed or implied, or through harassing tactics." [6]

Fraud must also be discounted, for according to the Civil Code:

Art. 1338. There is fraud when, through insidious words or machinations of one of the contracting parties, the other is induced to enter into a contract which, without them, he would not have agreed to.

Art. 1344. In order that fraud may make a contract voidable, it should be serious and should not have been employed by both contracting parties.

To quote Toletino again, the "misrepresentation constituting the fraud must be established by full, clear, and convincing evidence, and not merely by a preponderance thereof. The deceit must be serious. The fraud is serious when it is sufficient to impress, or to lead an ordinarily prudent person into error; that which cannot deceive a prudent person cannot be a ground for nullity. The circumstances of each case should be considered, taking into account the personal conditions of the victim." [7]

The non-presentation at the trial of the notary public who attested the promissory notes did not have the effect of invalidating them. It is well settled that the evidentiary nature of public documents must be sustained in the absence of strong, complete, and conclusive proof of its nullity.

A notarial document, guaranteed by public attestation in accordance with the law, must be sustained in full force and effect so long as he who impugns it does not present strong, complete, and conclusive proof of its falsity or nullity on accounts of some flaw or defect provided against by law. [8]

A mere denial of the receipt of the loan, which is stated in a clear and unequivocal manner in a public instrument, is not sufficient. To overthrow the recitals of a mortgage deed, clear, convincing and more than merely preponderant evidence is necessary. A contrary rule would throw wide open doors to fraud. [9]

The mere assertion of the private respondents that the notes were not notarized in their presence does not meet this standard of proof. In any event, a promissory note does not have to be notarized to be binding. The private

respondents have admitted signing the two notes and they have not succeeded in proving that they did so "under duress, fear and undue influence."

The private respondents' argument that the two promissory notes are spurious because they were signed separately on the same day is in fact an argument against them. As they acutely observe, if indeed the purpose of the notes was simply to acknowledge and renew the P20,000.00 loan, then it could have been accomplished in only one promissory note specifying this amount. True enough. But the point is that the purpose was not to acknowledge the supposed loan. It was to acknowledge the two separate loans. The fact that two promissory notes were signed indicates that two different loans were actually extended, not simultaneously but successively, one in the morning and the other in the afternoon of September 8, 1984.

It is a no less significant consideration that no written evidence of the supposed original loan of P20,000.00 extended to Epifania Ebarle has been presented. None of the private respondents has produced a copy of any promissory note therefor, to prove that there was really such a loan. As a businessman, and there being no special relationship between him and the private respondents, the petitioner would have required a written acknowledgment of that loan, and given a copy of such instrument to the borrower.

In sum, this Court is asked to believe that three highly educated persons, to acknowledge an alleged debt of only P20,000.00 owed by one of them, signed on the same day two notarized promissory notes for the total amount of P139,550.00 on the assurance by the petitioner that it was a mere "formality." The notes were written in plain English, without the "whereases" and "wherefores" of the legal idiom, and could not have been misunderstood or not comprehended by them. What is even worse, the private respondents insist that when they expressed their hesitation, the petitioner assured them that if they were sued on the notes all they should do was allow themselves to be declared in default and a new and more liberal agreement specifying the correct amount of their loan would then be concluded. Although they admitted knowing the meaning of default, they nevertheless accepted this assurance and freely signed the notes without reservation. None of the three private respondents tried to dissuade the others when all of them signed the first note in the morning, and this same acquiescence was repeated when all three of them, again in common concert, signed the second note that same afternoon.

The defense is preposterous. Despite its acceptance by the lower courts, we reject it as a rank invention.

A promissory note is a solemn acknowledgment of a debt and a formal commitment to repay it on the date and under the conditions agreed upon by the borrower and the lender. A person who signs such an instrument is bound to honor it as a legitimate obligation duly assumed by him through the signature he affixes thereto as a token of his good faith. If he reneges on his promise without cause, he forfeits the sympathy and assistance of this Court and deserves instead its sharp repudiation. So must it be in the case at bar.

WHEREFORE, the appealed decision is REVERSED and SET ASIDE and a new judgment is hereby rendered requiring the private respondents to pay the petitioner the sum of P85,000.00, with 12% interest from September 8, 1984, until full payment, plus P15,000.00 as moral damages and P15,000.00 as attorney's fees. Costs against the respondents.

SO ORDERED.

Griño-Aquino, Medialdea, and Bellosillo, JJ., concur.

[1] Decision penned by Judge Enrique B. Inting, RTC, Branch 38, Dumaguete City; Records, p. 149.

[2] Kalalo, Felipe B., J., ponente; Ejercito, Bienvenido C., and Victor, Luis L., JJ., concurring; promulgated on

June 26, 1989; Rollo, p. 30.

[3] Rule 130, Section 9.

[4] Ibid.

[5] TSN, March 29, 1988, p. 22.

[6] Tolentino, Commentaries on the Civil Code, 1991, Vol. 4, p. 501.

[7] Ibid., pp. 508, 514.

[8] Chilianchia v. Coquinco, 84 Phil. 714.

[9] Calderon v. Medina, 18 SCRA 584.

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