

REPUBLIC PLANTERS BANK, PETITIONER, VS. COURT OF APPEALS AND FERMIN CANLAS, RESPONDENTS.

G.R. No. 93073. December 21, 1992

Ponente: CAMPOS, JR., J.

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CAMPOS, JR., J.:

This is an appeal by way of a Petition for Review on Certiorari from the decision* of the Court of Appeals in CA G.R. CV No. 07302, entitled "Republic Planters Bank, Plaintiff-Appellee vs. Pinch Manufacturing Corporation, et al., Defendants, and Fermin Canlas, Defendant-Appellant", which affirmed the decision** in Civil Case No. 82-5448 except that it completely absolved Fermin Canlas from liability under the promissory notes and reduced the award for damages and attorney's fees. The RTC decision, rendered on June 20, 1985, is quoted hereunder:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff Republic Planters Bank, ordering defendant Pinch Manufacturing Corporation (formerly Worldwide Garment Manufacturing, Inc.) and defendants Shozo Yamaguchi and Fermin Canlas to pay, jointly and severally, the plaintiff bank the following sums with interest thereon at 16% per annum from the dates indicated, to wit:

Under the promissory note (Exhibit "A"), the sum of P300,000.00 with interest from January 29, 1981 until fully paid; under promissory note (Exhibit "B"), the sum of P40,000.00 with interest from November 27, 1980; under the promissory note (Exhibit "C"), the sum of P166,466.00 with interest from January 29, 1981; under the promissory note (Exhibit "E"), the sum of P86,130.31 with interest from January 29, 1981; under the promissory note (Exhibit "G"), the sum of P12,703.70 with interest from November 27, 1980; under the promissory note (Exhibit "H"), the sum of P281,875.91 with interest from January 29, 1981; and under the promissory note (Exhibit "I"), the sum of P200,000.00 with interest from January 29, 1981.

Under the promissory note (Exhibit "D") defendants Pinch Manufacturing Corporation (formerly named Worldwide Garment Manufacturing, Inc.) and Shozo Yamaguchi are ordered to pay, jointly and severally, the plaintiff bank the sum of P367,000.00 with interest of 16% per annum from January 29, 1981 until fully paid.

Under the promissory note (Exhibit "F"), defendant corporation Pinch (formerly Worldwide) is ordered to pay the plaintiff bank the sum of P140,000.00 with interest at 16% per annum from November 27, 1980 until fully paid.

Defendant Pinch (formerly Worldwide) is hereby ordered to pay the plaintiff the sum of P231,120.81 with interest at 12% per annum from July 1, 1981, until fully paid and the sum of P331,870.97 with interest from March 28, 1981, until fully paid.

All the defendants are also ordered to pay, jointly and severally, the plaintiff the sum of P100,000.00 as and for reasonable attorney's fee and the further sum equivalent to 3% per annum of the respective principal sums from the dates above stated as penalty charge until fully paid, plus one percent (1%) of the principal sums as service charge.

With costs against the defendants.

SO ORDERED."[1]

From the above decision only defendant Fermin Canlas appealed to the then Intermediate Appellate Court (now the Court of Appeals). His contention was that inasmuch as he signed the promissory notes in his capacity as officer of the defunct Worldwide Garment Manufacturing, Inc., he should not be held personally liable for such authorized corporate acts that he performed. It is now the contention of the petitioner Republic Planters Bank that having unconditionally signed the nine (9) promissory notes with Shozo Yamaguchi, jointly and severally, defendant Fermin Canlas is solidarily liable with Shozo Yamaguchi on each of the nine notes.

We find merit in this appeal.

From the records, these facts are established: Defendant Shozo Yamaguchi and private respondent Fermin Canlas were President/Chief Operating Officer and Treasurer respectively, of Worldwide Garment Manufacturing, Inc.. By virtue of Board Resolution No. 1 dated August 1, 1979, defendant Shozo Yamaguchi and private respondent Fermin Canlas were authorized to apply for credit facilities with the petitioner Republic Planters Bank in the forms of export advances and letters of credit/trust receipts accommodations. Petitioner bank issued nine promissory notes, marked as Exhibits A to I inclusive, each of which were uniformly worded in the following manner:

"_____, after date, for value received, I/we, jointly and severally promise to pay to the ORDER of the REPUBLIC PLANTERS BANK, at its office in Manila, Philippines, the sum of _____ PESOS (), Philippine Currency x x x."

On the right bottom margin of the promissory notes appeared the signatures of Shozo Yamaguchi and Fermin Canlas above their printed names with the phrase "and (in) his personal capacity" typewritten below. At the bottom of the promissory notes appeared: "Please credit proceeds of this note to:

_____ Savings Account xx Current Account

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of WORLDWIDE GARMENT MFG. CORP.

These entries were separated from the text of the notes with a bold line which ran horizontally across the pages.

In the promissory notes marked as Exhibits C, D and F, the name Worldwide Garment Manufacturing, Inc. was apparently rubber stamped above the signatures of defendant and private respondent.

On December 20, 1982, Worldwide Garment Manufacturing, Inc. voted to change its corporate name to Pinch Manufacturing Corporation.

On February 5, 1982, petitioner bank filed a complaint for the recovery of sums of money covered among others, by the nine promissory notes with interest thereon, plus attorney's fees and penalty charges. The complaint was originally brought against Worldwide Garment Manufacturing, Inc. inter alia, but it was later amended to drop Worldwide Manufacturing, Inc. as defendant and substitute Pinch Manufacturing Corporation in its place. Defendants Pinch Manufacturing Corporation and Shozo Yamaguchi did not file an Amended Answer and failed to appear at the scheduled pre-trial conference despite due notice. Only private respondent Fermin Canlas filed an Amended Answer wherein he denied having issued the promissory notes in question since according to him, he was not an officer of Pinch Manufacturing Corporation, but instead of Worldwide Garment Manufacturing, Inc., and that when he issued said promissory notes in behalf of Worldwide Garment Manufacturing, Inc., the same were in blank, the typewritten entries not appearing therein prior to the time he affixed his signature.

In the mind of this Court, the only issue material to the resolution of this appeal is whether private respondent Fermin Canlas is solidarily liable with the other defendants, namely Pinch Manufacturing Corporation and Shozo Yamaguchi, on the nine promissory notes.

We hold that private respondent Fermin Canlas is solidarily liable on each of the promissory notes bearing his signature for the following reasons:

The promissory notes are negotiable instruments and must be governed by the Negotiable Instruments Law.[2]

Under the Negotiable Instruments Law, persons who write their names on the face of promissory notes are makers and are liable as such.[3] By signing the notes, the maker promises to pay to the order of the payee or any holder[4] according to the tenor thereof.[5] Based on the above provisions of law, there is no denying that private respondent Fermin Canlas is one of the co-makers of the promissory notes. As such, he cannot escape liability arising therefrom.

Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon.[6] An instrument which begins with "I", "We", or "Either of us" promise to pay, when signed by two or more persons, makes them solidarily liable.[7] The fact that the singular pronoun is used indicates that the promise is individual as to each other; meaning that each of the co-signers is deemed to have made an independent singular promise to pay the notes in full.

In the case at bar, the solidary liability of private respondent Fermin Canlas is made clearer and certain, without reason for ambiguity, by the presence of the phrase "joint and several" as describing the unconditional promise to pay to the order of Republic Planters Bank. A joint and several note is one in which the makers bind themselves both jointly and individually to the payee so that all may be sued together for its enforcement, or the creditor may select one or more as the object of the suit.[8] A joint and several obligation in common law corresponds to a civil law solidary obligation; that is, one of several debtors bound in such wise that each is liable for the entire amount, and not merely for his proportionate share.[9] By making a joint and several promise to pay to the order of Republic Planters Bank, private respondent Fermin Canlas assumed the solidary liability of a debtor and the payee may choose to enforce the notes against him alone or jointly with Yamaguchi and Pinch Manufacturing Corporation as solidary debtors.

As to whether the interpolation of the phrase "and (in) his personal capacity" below the signatures of the makers in the notes will affect the liability of the makers, We do not find it necessary to resolve and decide, because it is immaterial and will not affect the liability of private respondent Fermin Canlas as a joint and several debtor of the notes. With or without the presence of said phrase, private respondent Fermin Canlas is primarily liable as a co-maker of each of the notes and his liability is that of a solidary debtor.

Finally, the respondent Court made a grave error in holding that an amendment in a corporation's Articles of Incorporation effecting a change of corporate name, in this case from Worldwide Garment Manufacturing, Inc. to Pinch Manufacturing Corporation, extinguished the personality of the original corporation.

The corporation, upon such change in its name, is in no sense a new corporation, nor the successor of the original corporation. It is the same corporation with a different name, and its character is in no respect changed.[10]

A change in the corporate name does not make a new corporation, and whether effected by special act or under a general law, has no effect on the identity of the corporation, or on its property, rights, or liabilities.[11]

The corporation continues, as before, responsible in its new name for all debts or other liabilities which it had previously contracted or incurred.[12]

As a general rule, officers or directors under the old corporate name bear no personal liability for acts done or contracts entered into by officers of the corporation, if duly authorized. Inasmuch as such officers acted in their capacity as agent of the old corporation and the change of name meant only the continuation of the old juridical entity, the corporation bearing the same name is still bound by the acts of its agents if authorized by the Board. Under the Negotiable Instruments Law, the liability of a person signing as an agent is specifically provided for as follows:

Sec. 20. Liability of a person signing as agent and so forth. Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal, or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent, or as filling a representative character, without disclosing his principal, does not exempt him from personal liability.

Where the agent signs his name but nowhere in the instrument has he disclosed the fact that he is acting in a representative capacity or the name of the third party for whom he might have acted as agent, the agent is personally liable to the holder of the instrument and cannot be permitted to prove that he was merely acting as agent of another and parol or extrinsic evidence is not admissible to avoid the agent's personal liability.[13]

On the private respondent's contention that the promissory notes were delivered to him in blank for his signature, we rule otherwise. A careful examination of the notes in question shows that they are the stereotype printed form of promissory notes generally used by commercial banking institutions to be signed by their clients in obtaining loans. Such printed notes are incomplete because there are blank spaces to be filled up on material particulars such as payee's name, amount of the loan, rate of interest, date of issue and the maturity date. The terms and conditions of the loan are printed on the note for the borrower-debtor's perusal. An incomplete instrument which has been delivered to the borrower for his signature is governed by Section 14 of the Negotiable Instruments Law which provides, in so far as relevant to this case, thus:

Sec. 14. Blanks; when may be filled. -- Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. x x x x In order, however, that any such instrument when completed may be enforced against any person who became a party thereto prior to its completion, it must be filled up strictly in accordance with the authority given and within a reasonable time. x x x x.

Proof that the notes were signed in blank was only the self-serving testimony of private respondent Fermin Canlas, as determined by the trial court, so that the trial court "doubts that the defendant (Canlas) signed in blank the promissory notes". We chose to believe the bank's testimony that the notes were filled up before they were given to private respondent Fermin Canlas and defendant Shozo Yamaguchi for their signatures as joint and several promissors. For signing the notes above their typewritten names, they bound themselves as unconditional makers. We take judicial notice of the customary procedure of commercial banks of requiring their clientele to sign promissory notes prepared by the banks in printed form with blank spaces already filled up as per agreed terms of the loan, leaving the borrowers-debtors to do nothing but read the terms and conditions therein printed and to sign as makers or co-makers. When the notes were given to private respondent Fermin Canlas for his signature, the notes were complete in the sense that the spaces for the material particular had been filled up by the bank as per agreement. The notes were not incomplete instruments; neither were they given to private respondent Fermin Canlas in blank as he claims. Thus, Section 14 of the Negotiable Instruments Law is not applicable.

This Court takes note that the respondent Court, relying on *Reformina vs. Tomol*,^[14] lowered the interest rate on the promissory notes from 16% to 12%.

The ruling in the case of *Reformina vs. Tomol* relied upon by the appellate court in reducing the interest rate on

the promissory notes from 16% to 12% per annum does not squarely apply to the instant petition. In the abovesited case, the rate of 12% was applied to forbearances of money, goods or credit and court judgments thereon, only in the absence of any stipulation between the parties.

In the case at bar however, it was found by the trial court that the rate of interest is 9% per annum, which interest rate the plaintiff may at any time without notice, raise within the limits allowed by law. And so, as of February 16, 1984, the plaintiff had fixed the interest at 16% per annum.

This Court has held that the rates under the Usury Law, as amended by Presidential Decree No. 116, are applicable only to interests by way of compensation for the use or forbearance of money. Article 2209 of the Civil Code, on the other hand, governs interests by way of damages.[15] This fine distinction was not taken into consideration by the appellate court, which instead made a general statement that the interest rate be at 12% per annum.

Inasmuch as this Court had declared that increases in interest rates are not subject to any ceiling prescribed by the Usury Law, the appellate court erred in limiting the interest rate at 12% per annum. Central Bank Circular No. 905, Series of 1982 removed the Usury Law ceiling on interest rates.[16]

In the light of the foregoing analysis and under the plain language of the statute and jurisprudence on the matter, the decision of the respondent Court of Appeals absolving private respondent Fermin Canlas is REVERSED and SET ASIDE. Judgment is hereby rendered declaring private respondent Fermin Canlas jointly and severally liable on all the nine promissory notes with the following sums and at 16% interest per annum from the dates indicated, to wit:

Under the promissory note marked as Exhibit A, the sum of P300,000.00 with interest from January 29, 1981 until fully paid; under promissory note marked as Exhibit B, the sum of P40,000.00 with interest from November 27, 1980; under the promissory note denominated as Exhibit C, the amount of P166,466.00 with interest from January 29, 1981; under the promissory note denominated as Exhibit D, the amount of P367,000.00 with interest from January 29, 1981 until fully paid; under the promissory note marked as Exhibit E, the amount of P86,130.31 with interest from January 29, 1981; under the promissory note marked as Exhibit F, the sum of P140,000.00 with interest from November 27, 1980 until fully paid; under the promissory note marked as Exhibit G, the amount of P12,703.70 with interest from November 27, 1980; the promissory note marked as Exhibit H, the sum of P281,875.91 with interest from January 29, 1981; and the promissory note marked as Exhibit I, the sum of P200,000.00 with interest from January 29, 1981.

The liabilities of defendants Pinch Manufacturing Corporation (formerly Worldwide Garment Manufacturing, Inc.) and Shozo Yamaguchi, for not having appealed from the decision of the trial court, shall be adjudged in accordance with the judgment rendered by the Court a quo.

With respect to attorney's fees, and penalty and service charges, the private respondent Fermin Canlas is hereby held jointly and solidarily liable with defendants for the amounts found by the Court a quo. With costs against private respondent.

SO ORDERED.

Narvasa, C.J., (Chairman), Feliciano, Regalado, and Nocon, JJ., concur.

* Associate Justice Hector C. Fule, ponente, Associate Justices Lorna S. Lombos-de la Fuente and Luis L. Victor, concurring.

** Penned by Judge Daniel C. Macaraeg, RTC Manila, Branch LX.

[1] Rollo, pp. 49-50.

[2] Act 2031, enacted on February 3, 1911.

[3] Negotiable Instruments Law, Section 184; H.D. Lee Merchantile Co. vs. Merchantile Co., 276 P. 807 (1929).

[4] Ibid., Section 1.

[5] Ibid., Section 60.

[6] Ibid., Section 17 (g).

[7] Powell vs. Mobley, 142 S.E. 678 (1928); Keenig vs. Curran's Restaurant, 159 Atl. 553 (1932).

[8] Rice vs. Gove, 22 Pick Mass 158; 33 AM Dec. 724.

[9] Black's Law Dictionary, p. 1249 (5th ed., 1979).

[10] 6 Fletcher, Cyclopedia of the Law of Private Corporations, pp. 224-225 (Rev. ed., 1968).

[11] Mutual Building & Loan Association vs. Corum, 220 Cal. 282, citing Corpus Juris; 30 P. 2d 509, 514 (1934); Pilsen Brewing Co. vs. Wallace, 291 ILL. 59, 125 N.E. 714, 8 A.L.R. 579 (1919).

[12] Ozan Lumber Co. vs. Davis Sewing Machine Co., 284 F. 161 (1922); 18 C.J.S. 572.

[13] Crocker National Bank vs. Say, 209 Cal. 436; 288 P. 69 (1930); Dayries vs. Lindsly, 54 So. 791 (1911); Granada vs. PNB, 18 SCRA 1 (1966).

[14] 139 SCRA 260 (1985).

[15] GSIS vs. Court of Appeals, 145 SCRA 311 (1986).

[16] Philippine National Bank vs. Court of Appeals, 196 SCRA 536 (1991).

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