

BA FINANCE CORPORATION, PETITIONER, VS. HON. COURT OF APPEALS AND TRADERS ROYAL BANK, RESPONDENTS.

G.R. No. 94566. July 03, 1992

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

This is a petition for review on certiorari of the decision of the respondent appellate court, which reversed the ruling of the trial court dismissing the case against petitioner.

The antecedent facts are as follows:

On December 17, 1980, Renato Gaytano, doing business under the name Gebbs International, applied for and was granted a loan with respondent Traders Royal Bank in the amount of P60,000.00. As security for the payment of said loan, the Gaytano spouses executed a deed of suretyship whereby they agreed to pay jointly and severally to respondent bank the amount of the loan including interests, penalty and other bank charges.

In a letter dated December 5, 1980 addressed to respondent bank, Philip Wong as credit administrator of BA Finance Corporation for and in behalf of the latter, undertook to guarantee the loan of the Gaytano spouses. The letter reads:

"This is in reference to the application of Gebbs International for a twenty-five (25) month term loan of 60,000.00 with your Bank.

"In this connection, please be advised that we unconditionally guarantee full payment in peso value the said accommodation (sic) upon non-payment by subject up to a maximum amount of P60,000.00.

"Hoping this would meet your requirement and expedite the early processing of their application.

"Thank you.

Very truly yours,

BA FINANCE CORPORATION

(signed)

PHILIP H. WONG

Credit Administrator"

(p. 12, Rollo)

Partial payments were made on the loan leaving an unpaid balance in the amount of P85,807.25. Since the Gaytano spouses refused to pay their obligation, respondent bank filed with the trial court a complaint for sum of money against the Gaytano spouses and petitioner corporation as alternative defendant.

The Gaytano spouses did not present evidence for their defense. Petitioner corporation, on the other hand, raised the defense of lack of authority of its credit administrator to bind the corporation.

On December 12, 1988, the trial court rendered a decision the dispositive portion of which states:

"IN VIEW OF THE FOREGOING, judgment is hereby rendered in favor of plaintiff and against defendants/Gaytano spouses, ordering the latter to jointly and severally pay the plaintiff the following:

"(1) EIGHTY FIVE THOUSAND EIGHT HUNDRED SEVEN AND 25/100 (P85,807.25), representing the total unpaid balance with accumulated interests, penalties and bank charges as of September 22, 1987, plus interests, penalties and bank charges thereafter until the whole obligation shall have been fully paid.

"(2) Attorney's fees at the stipulated rate of ten (10%) percent computed from the total obligation; and

"(3) The costs of suit.

"The dismissal of the case against defendant BA Finance Corporation is hereby ordered without pronouncement as to cost.

"SO ORDERED." (p. 31, Rollo)

Not satisfied with the decision, respondent bank appealed with the Court of Appeals. On March 13, 1990, respondent appellate court rendered judgment modifying the decision of the trial court as follows:

"In view of the foregoing, the judgment is hereby rendered ordering the defendants Gaytano spouses and alternative defendant BA Finance Corporation, jointly and severally, to pay the plaintiff the amount of P85,807.25 as of September 8, 1987, including interests, penalties and other back (sic) charges thereon, until the full obligation shall have been fully paid. No pronouncement as to costs.

"SO ORDERED." (p. 27, Rollo)

Hence this petition was filed with the petitioner assigning the following errors committed by respondent appellate court:

"1. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT PETITIONER IS JOINTLY AND SEVERALLY LIABLE WITH GAYTANO SPOUSES DESPITE ITS FINDINGS THAT THE LETTER GUARANTY (EXH. 'C') IS 'INVALID AT ITS INCEPTION';

"2. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN RULING THAT THE PETITIONER WAS GUILTY OF ESTOPPEL DESPITE THE FACT THAT IT NEVER KNEW OF SUCH ALLEGED LETTER-GUARANTY;

"3. THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT RULING THAT SUCH LETTER GUARANTY (EXHIBIT 'C') BEING PATENTLY ULTRA VIRES, IS UNENFORCEABLE;

"4. THE HONORABLE COURT OF APPEALS ERRED IN NOT AWARDING RELIEF ON PETITIONER'S COUNTERCLAIM (p. 10, Rollo)."

Since the issues are interrelated, it would be well to discuss them jointly.

Petitioner contends that the letter guaranty is ultra vires, and therefore unenforceable; that said letter-guaranty was issued by an employee of petitioner corporation beyond the scope of his authority since the petitioner itself is not even empowered by its articles of incorporation and by-laws to issue guaranties. Petitioner also submits that it is not guilty of estoppel to make it liable under the letter-guaranty because petitioner had no knowledge or notice of such letter-guaranty; that the allegation of Philip Wong, credit administrator, that there was an audit was not supported by evidence of any audit report or record of such transaction in the office files.

We find the petitioner's contentions meritorious. It is a settled rule that persons dealing with an assumed agent, whether the assumed agency be a general or special one are bound at their peril, if they would hold the principal liable, to ascertain not only the fact of agency but also the nature and extent of authority, and in case either is controverted, the burden of proof is upon them to establish it (*Harry Keeler v. Rodriguez*, 4 Phil. 19). Hence, the burden is on respondent bank to satisfactorily prove that the credit administrator with whom they transacted acted within the authority given to him by his principal, petitioner corporation. The only evidence presented by respondent bank was the testimony of Philip Wong, credit administrator, who testified that he had authority to issue guarantees as can be deduced from the wording of the memorandum given to him by petitioner corporation on his lending authority. The said memorandum which allegedly authorized Wong not only to approve and grant loans but also to enter into contracts of guaranty in behalf of the corporation, partly reads:

"To: Philip H. Wong, SAM

Credit Administrator

From: Hospicio B. Bayona, Jr., VP and

Head of Credit Administration

Re: Lending Authority

I am pleased to delegate to you in your capacity as Credit Administrator the following lending limits:

- a) P650,000.00 - Secured Loans
- b) P550,000.00 - Supported Loans
- c) P350,000.00 - Truck Loans/Contracts/ Leases
- d) P350,000.00 - Auto Loan Contracts/ Leases
- e) P350,000.00 - Appliance Loan Contracts
- f) P350,000.00 - Unsecured Loans

Total loans and/or credits (Combination of (a) thru (f) extended to any one borrower including parents, affiliates and/or subsidiaries, should not exceed P750,000.00. In exercising the limits aforementioned, both direct and contingent commitments to the borrower (s) should be considered.

All loans must be within the Company's established lending guideline and policies.

x x x

LEVELS OF APPROVAL

All transactions in excess of any branch's limit must be recommended to you through the Official Credit Report for approval. If the transaction exceeds your limit, you must concur in application before submitting it to the Vice President, Credit Administration for approval or concurrence.

x x x" (pp. 62-63, Rollo) (Emphasis ours)

Although Wong was clearly authorized to approve loans even up to P350,000.00 without any security requirement, which is far above the amount subject of the guaranty in the amount of P60,000.00, nothing in the said memorandum expressly vests on the credit administrator power to issue guarantees. We cannot agree with respondent's contention that the phrase "contingent commitment" set forth in the memorandum means guarantees.

It has been held that a power of attorney or authority of an agent should not be inferred from the use of vague or general words. Guaranty is not presumed, it must be expressed and cannot be extended beyond its specified limits (*Director v. Sing Juco*, 53 Phil. 205). In one case, where it appears that a wife gave her husband power of attorney to loan money, this Court ruled that such fact did not authorize him to make her liable as a surety for the payment of the debt of a third person (*Bank of Philippine Islands v. Coster*, 47 Phil. 594).

The sole allegation of the credit administrator in the absence of any other proof that he is authorized to bind petitioner in a contract of guaranty with third persons should not be given weight. The representation of one who acts as agent cannot by itself serve as proof of his authority to act as agent or of the extent of his authority as agent (*Velasco v. La Urbana*, 58 Phil. 681). Wong's testimony that he had entered into similar transactions of guaranty in the past for and in behalf of the petitioner, lacks credence due to his failure to show documents or records of the alleged past transactions. The actuation of Wong in claiming and testifying that he has the authority is understandable. He would naturally take steps to save himself from personal liability for damages to respondent bank considering that he had exceeded his authority. The rule is clear that an agent who exceeds his authority is personally liable for damages (*National Power Corporation v. National Merchandising Corporation*, Nos. L-33819 and L-33897, October 23, 1982, 117 SCRA 789).

Anent the conclusion of respondent appellate court that petitioner is estopped from alleging lack of authority due to its failure to cancel or disallow the guaranty, We find that the said conclusion has no basis in fact. Respondent bank had not shown any evidence aside from the testimony of the credit administrator that the disputed transaction of guaranty was in fact entered into the official records or files of petitioner corporation, which will show notice or knowledge on the latter's part and its consequent ratification of the said transaction. In the absence of clear proof, it would be unfair to hold petitioner corporation guilty of estoppel in allowing its credit administrator to act as though the latter had power to guarantee.

ACCORDINGLY, the petition is GRANTED and the assailed decision of the respondent appellate court dated March 13, 1990 is hereby REVERSED and SET ASIDE and another one is rendered dismissing the complaint for sum of money against BA Finance Corporation.

SO ORDERED.

Cruz, (Chairman), Griño-Aquino, and Bellosillo, JJ., concur.

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