

## THIRD DIVISION

[ G.R. No. 119053, January 23, 1997 ]

**FLORENTINO ATILLO III, PETITIONER, VS. COURT OF APPEALS,  
AMANCOR, INC., AND MICHELL LHUILLIER, RESPONDENTS.**

### RESOLUTION

**FRANCISCO, J.:**

This is a petition for review on certiorari of the decision of the respondent Court of Appeals in CA-G.R. No. 3677 promulgated on August 4, 1994 affirming in toto the decision of Branch 7 of the Regional Trial Court of Cebu City in Civil Case No. CEB-9801 entitled "Florentino L. Atillo III versus Amancor, Inc. and Michell Lhuillier".

The material antecedents are as follows:

On August 15, 1985, respondent Amancor, Inc. (hereinafter referred to as AMANCOR for brevity), a corporation then owned and controlled by petitioner Florentino L. Atillo III, contracted a loan in the amount of P1,000,000.00 with Metropolitan Bank and Trust Company, secured by real estate properties owned by the petitioner.<sup>[1]</sup> Before the said loan could be paid, petitioner entered into a Memorandum of Agreement dated June 14, 1988 (Annex "A" of the Complaint) with respondent Michell Lhuillier (hereinafter referred to as LHUILLIER for brevity) whereby the latter bought shares of stock in AMANCOR. As a consequence of the foregoing transaction, petitioner and LHUILLIER each became owner of 47% of the outstanding shares of stock of AMANCOR while the officers of the corporation owned the remaining 6%.<sup>[2]</sup>

In view of the urgent and immediate need for fresh capital to support the business operations of AMANCOR, petitioner and LHUILLIER executed another Memorandum of Agreement on February 13, 1989 (Annex "B" of the Complaint) by virtue of which LHUILLIER undertook to invest additional capital in AMANCOR.<sup>[3]</sup> As an addendum to the foregoing, a Supplemental Memorandum of Agreement was entered into by the petitioner and LHUILLIER on March 11, 1989.<sup>[4]</sup> Relevant to the case at bar is a stipulation in the said Supplemental Memorandum of Agreement which provides as follows:

"4. F.L. Atillo III may dispose off (sic) his properties at P. del Rosario St., Cebu City which may involve pre-payment of AMANCOR'S mortgage loan to the bank estimated at 300,000.00 and while AMANCOR may not yet be in the position to repay said amount to him, it shall pay the interests to him equivalent to prevailing bank rate."<sup>[5]</sup>

Pursuant to this stipulation, petitioner assumed AMANCOR' s outstanding loan

balance of P300,000.00 with Metropolitan Bank and Trust Company. After offsetting the amount of P300,000.00 with some of the accounts that petitioner had with AMANCOR, the amount which remained due to the petitioner was P199,888.89. Because of the failure of AMANCOR to satisfy its obligation to repay petitioner, the latter filed a complaint for collection of a sum of money docketed as Civil Case No. Ceb-9801 against AMANCOR and LHUILLIER before Branch 7 of the Regional Trial Court of Cebu City.

At the pre-trial conference, petitioner, AMANCOR and LHUILLIER, assisted by their respective counsels, stipulated on the following:

"1. That the parties admit the due execution and genuineness of the Memorandum of Agreement dated 14 June 1988 (Annex A), the Memorandum of Agreement dated 13 February 1989 (Annex B) and Supplemental Agreement dated 11 March 1989 (Annex C);

2. That the defendants admit that the claim of the plaintiff amounted to P199,888.89 as of October 1, 1990;"<sup>[6]</sup>

and submitted the following issues to be resolved by the trial court:

"a. From the aforesaid Annexes A, B and C, is Michell J. Lhuillier personally liable to the plaintiff?

b. What rate of interests shall the defendant corporation and Michell J. Lhuillier, if the latter is liable, pay the plaintiff?"<sup>[7]</sup> (Underscoring supplied.)

On the basis of the stipulation of facts and the written arguments of the parties, the trial court rendered a decision in favor of the petitioner, ordering AMANCOR to pay petitioner the amount of P199,888.89 with interest equivalent to the bank rate prevailing as of March 11, 1989. LHUILLIER was, however, absolved of any personal liability therefor.<sup>[8]</sup>

It is from the trial court's conclusion of non-liability that petitioner appealed to respondent court, arguing therein that as LHUILLIER signed the Memorandum of Agreement without the official participation nor ratification of AMANCOR, LHUILLIER should have been declared jointly and severally liable with AMANCOR.<sup>[9]</sup>

The respondent court found petitioner's contention bereft of merit and held in part that:

"Contrary to plaintiffs-appellants (sic) allegation, the indebtedness of P199,888.89 was incurred by defendant AMANCOR, INC., alone. A thorough study of the records shows that plaintiff's cause of action for collection of a sum of money arose from "his payment of the defendant corporation's outstanding loan balance of P300,000.00 with Metropolitan Bank & Trust Company" x x x. Considering the allegations in the complaint and those contained in the Memorandum of Agreement, the respondent court properly ruled that the liability was incurred by defendant AMANCOR, INC., singly. We grant that if plaintiff really believes that the indebtedness was incurred by defendant Lhuillier in his personal capacity, he should not have offsetted (sic) some of his accounts with the

defendant corporation, x x x. As it is, plaintiff could have opted (sic) to sue defendant Lhuillier in his personal capacity the whole amount of indebtedness and not implead the defendant corporation as co-defendant.

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x x x [T]he indebtedness was incurred by the defendant corporation as a legal entity to pay the mortgage loan. Defendant Lhuillier acted only as an officer/agent of the corporation by signing the said Memorandum of Agreement."<sup>[10]</sup>

Aggrieved by the decision of respondent court, petitioner brought this instant petition submitting the following issue for the resolution of this Court:

"When a party, by his judicial admissions, has affirmed that he has personal liability in a certain transaction, may a court rule against such an admission despite clear indications that it was not affected by mistakes palpable or otherwise?"<sup>[11]</sup>

Petitioner claims that LHUILLIER made a judicial admission of his personal liability in his Answer wherein he stated that:

"3.11. In all the subject dealings, it was between plaintiff and Lhuillier personally without the official participation of Amancor, Inc.

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3.14 . Since the board of Amancor, Inc. did not formally ratify nor acceded (sic) to the personal agreement between plaintiff and Lhuillier through no fault of the latter, the corporation is not bound and the actionable documents are, at most, unenforceable insofar as the subject claim of plaintiff is concerned."<sup>[12]</sup>

And on the basis of such admission, petitioner contends that the decision of the respondent court absolving LHUILLIER of personal liability is manifest error for being contrary to law, particularly Section 4 of Rule 129 of the Rules of Court which provides that:

"An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made."

Petitioner would want to further strengthen his contention by advertent to the consistent pronouncement of this Court that: "x x x an admission made in the pleadings cannot be controverted by the party making such admission and are conclusive as to him, and that all proofs submitted by him contrary thereto or inconsistent therewith, should be ignored, whether objection is interposed by the party or not x x x."<sup>[13]</sup>