

THIRD DIVISION

[G.R. No. 180069, March 05, 2014]

PHILIPPINE COMMERCIAL INTERNATIONAL BANK (NOW BDO UNIBANK, INC.), PETITIONER, VS. ARTURO P. FRANCO, SUBSTITUTED BY HIS HEIRS, NAMELY: MAURICIA P. FRANCO, FLORIBEL P. FRANCO, AND ALEXANDER P. FRANCO,^[1] RESPONDENTS.

D E C I S I O N

PERALTA, J.:

Assailed in this petition for review on *certiorari* under Rule 45 of the Rules of Court are the July 31, 2007 Decision^[2] and October 4, 2007 Resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 82340, which affirmed the October 21, 2003 Decision^[4] of the Makati City Regional Trial Court (RTC), Branch 61.

The pertinent facts, as narrated by the trial court and as adopted both by the CA, as well as petitioner Philippine Commercial International Bank (*Bank*),^[5] are as follows:

This is an action for damages filed [on September 5, 2000] by plaintiff Arturo P. Franco against Philippine Commercial International Bank (PCIB), now known as Equitable-PCIBank, and Equitable Banking Corp.

The complaint essentially alleges, among others, that plaintiff secured from defendant PCIB the following Trust Indenture Certificates:

Number	Issued	Maturity	Amount	Interest
094846 (Exh. "B")	Dec. 8, 198 ^[6]	Jan. 7, 1987	P100,000.00	8.75% p.a.
135928 (Exh. "C")	Jan. 19, 1987	Feb. 18, 1987	P850,594.54	7.75% p.a.
205007 (Exh. "D")	May 13, 1987	June 15, 1987	P500,000.00	8.50% p.a.
205146 (Exh. "E")	July 15, 1987	Aug 14, 1987	P502,958.90	9.25% p.a.

that despite demands, defendants refused and still refuses to return to plaintiff the trust amounts, plus the stipulated interest[;] that in all of the trust transactions that defendant PCIB had entered into with the plaintiff, defendant PCIB represented to plaintiff that[,] in making the trust

investment, plaintiff was actually providing for his future since the money invested was going to be managed and administered by their PCIB-Trust Services Group and will be commingled, pooled and automatically rolled-over for better investment return; that believing the representation of the bank, the plaintiff invested his lifetime savings in the hope that the defendant bank will actually provide for their future by reinvesting and rolling-over their investment automatically, without any need for the plaintiff to take any further action; that on the few occasions that plaintiff had visited the defendant bank to request for a status on his investments, bank officers would normally pull out his (*sic*) ledger card and show plaintiff the updated amount due him; that sometime in 1995, plaintiff discovered that one of his children had leukemia and[,] in the ensuing hospitalization and treatment, plaintiff spent a lot of money; that because his funds were already exhausted, plaintiff then turned to his Trust Indenture Certificates and started inquiring as to how he could liquidate the trust; that in the beginning, defendant bank constantly asked for time to look for his records, at one time [on June 18, 1998], promising to have an answer before July 15, 1998, then writing plaintiff on May 18, 2000 saying that the bank [had] coordinated with their Branch and Trust Department but that it might take [some time] to retrieve their records; [and] that to plaintiff's surprise, on June 22, 2000, he received a letter signed by defendant's counsel, Curato Divina & Partners, in effect denying plaintiff's request for payment by stating that due to the conversion of all outstanding PCIBank trust indenture accounts into common trust certificates, all such PCIBank trust indenture certificates have been rendered "null and void." Plaintiff prays for the payment of the amounts under the Trust Indenture Certificates, plus interest, moral and exemplary damages and attorney's fees.

In their Answer, defendants admit the issuance by defendant PCIB of the Trust Indenture Certificates subject matter of the complaint, but deny the allegation that the investments subject of the Trust Indenture Certificates are automatically rolled-over as such certificates have their own fixed term and maturity date, and that the present action had already prescribed.

As stated in the Pre-Trial Order issued by this court on 15 February 2002, the following issues were defined and agreed upon by the parties, to wit:

1. Whether or not the plaintiff is entitled to the relief he seeks; and
2. Whether or not the cause of action as exerted (*sic*) by the defendant has already prescribed.

Plaintiff presented as its witness plaintiff Arturo P. Franco himself [who] testified, among others[:] that he is the proprietor of Fair Marketing Freight Services[,] which is the investor named in Trust Indenture Certificate 094846; that[,] in 1986, he decided to save up for his retirement and to invest his hard earned money; that he was then 51 years old and his choice was to deposit his funds with defendant PCIB which later on merged with defendant Equitable Banking Corp. and is now known as Equitable PCIBank; that he chose defendant PCIB for the latter's representation that by making such investment, he was actually

providing for his future since his investment would be commingled, pooled and automatically rolled-over for better investment return and which will provide for his needs upon retirement, without need for him to take any further action; that he was a loyal client of the defendants from 1986 up to 1997; that he entered into a trust agreement with defendant PCIB for which the latter issued subject Trust Indenture Certificates ([TICs], for brevity); that sometime in 1997, when he was then 62 years old, he [tried] to encash the trust indenture certificates only to be given a run-around by the defendants; that sometime in 1995, his son, Arthur, was diagnosed to be afflicted with leukemia and eventually died on October 24, 1997; that because of his son's illness, he was forced to go to defendants and try to encash his trust indenture certificates but was denied by defendant bank; that in a letter dated June 22, 2000, defendants, through their counsel, informed plaintiff that the subject [TICs] are "null and void"; that when he received the letter of June 22, 2000, he was at first speechless and totally defeated and at a loss; that he and his wife begun to experience sleepless nights, became anxious because their hope to secure their life in their old age had fallen apart[;] that instead of just enjoying a secured life with his wife and enjoying his grandchildren and spending more time with the Lord, he was now in debt and burdened with the fact that his lifetime savings just disappeared before his very eyes without a trace; [and] that plaintiff was constrained to file this case and [spend] P22,117.80 in filing fees, to engage the services of counsel for the amount of P50,000.00 with appearance fee of P3,000.00 per hearing, and that he suffered moral damages in the amount of P200,000.00.

The foregoing facts were not rebutted by defendants. The court finds the witness and his testimony credible as the witness testified in a simple and straightforward manner. Upon admission of plaintiff's exhibits, plaintiff rested his case.

The defendants presented Cecilia P. Soriano and Antonio M. Fortuno as their witnesses.

Cecilia P. Soriano, Operations Officer of defendant Equitable-PCIBank, testified that she came to know plaintiff in 1987 when she was assigned at PCIB Gil Puyat Branch; that plaintiff was one of the bank's valued clients[;] and that plaintiff secured the [TICs] subject matter of the complaint. On cross-examination, the witness admitted that she has seen only the photocopies of plaintiff's [TICs]; that she had no direct dealing with plaintiff regarding the [TICs] and she had no idea what happened to plaintiff's [TICs] after their respective maturity dates; [and] that valued clients of the bank were given special privileges, such as allowing these clients to withdraw or encash [TICs] or investments over the phone[,] but she did not receive any call from plaintiff withdrawing or encashing the plaintiff's [TICs].

The testimony of their next witness, Antonio Martin S. Fortuno, was offered to prove, among others, that [TICs] expired upon maturity and after which, they were automatically rolled-over.