

SECOND DIVISION

[G.R. NO. 158676, November 27, 2006]

BPI-FAMILY SAVINGS BANK, INC., PETITIONER, VS. SPS. ZENAIDA DOMINGO & ABUNDIO S. DOMINGO, BENJAMIN VILLA^[1] AND SPS. JULIAN CRUZ, RESPONDENTS.

D E C I S I O N

GARCIA, J.:

In this petition for review under Rule 45 of the Rules of Court, petitioner BPI-Family Savings Bank, Inc. assails and seeks to set aside the following issuances of the Court of Appeals (CA) in *CA-G.R. CV No. 60994*, to wit:

1. Decision^[2] dated May 30, 2002, affirming *in toto* an earlier decision^[3] of the Regional Trial Court (RTC) of Quezon City, Branch 81, in its Civil Case No. Q-90-6402, which adjudged petitioner solidarily liable with Benjamin Villa to the spouses Zenaida Domingo and Abundio S. Domingo for actual, moral and exemplary damages and attorney's fees, subject to reimbursement by the spouses Julian Cruz; and
2. Resolution^[4] dated June 10, 2003, denying the separate motions for reconsideration filed by the petitioner, Benjamin Villa and the Cruz spouses.

The facts:

Respondent **Julian Cruz** is the owner of a commercial lot and building located at No. 977 E. Quirino Ave., Novaliches, Quezon City. Sometime in April 1976, he leased out the premises to the Family Savings Bank (FSB). In April 1989, after the Bank of the Philippine Islands (BPI) acquired FSB but before the expiration of the original lease contract between Cruz and FSB, a new lease agreement over the same property was executed, this time between BPI-FSB and Cruz.

Both the original and the new lease contracts contained the following stipulation:

Assignment and Sublease – The lessee has the right to sublease the premises or any portion thereof to a third party. The lessee may not, however, assign or transfer its right or interest under this lease without the written consent of the lessor.

On February 23, 1989, while the original lease agreement between FSB and Cruz was still subsisting, BPI-FSB subleased the same premises to respondent **Benjamin Villa** (now deceased), a former Vice President of BPI-FSB. While BPI-FSB apparently did not secure the written consent of Julian Cruz, it appears that the latter was aware of the sublease and acceded to it because he made neither an objection nor a protest thereto.

The aforementioned sublease contract between BPI-FSB and Benjamin Villa embodied the following clause:

The sublessee shall not assign this contract of sublease or sublease any part of the premises to any person or entity.

Benjamin Villa occupied and used the premises as a restaurant, operating thereat the "Carousel Food House." His restaurant business, however, failed to prosper. Hence, after only about a year of operation, Villa decided to close it down.

On or about June 4, 1990, while still operating the "Carousel Food House" at the premises, Villa learned that **Mrs. Zenaida Domingo** was interested in taking over his restaurant business thereat. Negotiations pushed through and the price of P650,000.00 was agreed upon between the two. Villa, however, informed Mrs. Domingo that as a mere sublessee under his sublease contract with BPI-FSB, he was prohibited from assigning his rights as a sublessee. It was, therefore, necessary to rescind his sublease contract with BPI-FSB so that the latter could directly execute a sublease contract with the Domingo spouses. Villa informed the principal lessee BPI-FSB about the arrangement and the latter acceded.

On June 15, 1990, Villa received from the Domingos the amount of P300,000.00 as partial payment for his rights over the premises. The receipt Villa issued therefor reads:

Received from Mrs. Zenaida Domingo the amount of three hundred thousand pesos (P300,000.00) as partial payment for my giving up my rights on the premises presently occupied by Carousel Food House and certain equipments and improvements in the same premises.

On June 18, 1990, BPI-FSB executed a sublease contract in favor of the Domingos. Three days later, or on June 21, 1990, a Deed of Rescission of the sublease agreement between BPI-FSB and Villa was executed and signed by BPI-FSB and Villa.

On June 26, 1990, Villa received from the Domingos the amount of P350,000.00, representing the full payment of the amount due under their agreement. As before, Villa issued the corresponding receipt, to wit:

For and in consideration of the sum of Three Hundred Fifty Thousand Pesos (P350,000.00), Philippine Currency, receipt of which in full is hereby acknowledged, the undersigned hereby assigns, cedes and transfers and sets over to Ms. Zenaida G. Domingo the goodwill, all rights and interest over the premises located at 977 Quirino Avenue, Novaliches, Quezon City, the permanent improvements and certain equipments thereon, free on any lien or encumbrance except the legal rights of the owner of the building thereon...

On the very same day, Villa vacated the subject premises and turned over the key thereof to the Domingos.

The following day - June 27, 1990 - the Domingos went to clean and fix the premises but could not enter because the door was padlocked. Moreover, there was posted at the glass window of the commercial building a sign to the effect that the

place was not for lease or sublease. Apparently, Julian Cruz, the owner-lessor, preempted the Domingos' visit in order to padlock the premises and post said notice the day previous.

The Domingos thus demanded of Villa either compliance with their contract of sublease or the return of their payment of P650,000.00. Efforts exerted by Villa and BPI-FSB to place the Domingos in possession of the subject premises proved futile due to the refusal of Cruz to open the same.

On account of Villa's failure to return their total payment of P650,000.00 for the place, the Domingos filed suit in the RTC of Quezon City for a sum of money with damages against both Villa and BPI-FSB. In turn, Villa and BPI-FSB filed their respective third-party complaints against Cruz.

In their complaint, docketed as Civil Case No. Q-90-6402 and raffled to Branch 81 of the trial court, the Domingos maintained that both Villa and BPI-FSB assured them that they would be placed in possession of the subject premises as a sublessee. Hence, the failure of both to comply with said undertaking makes them jointly and severally liable to them for the return of the P650,000.00 they paid to Villa, plus damages.

For their part, Villa and BPI-FSB laid the blame on Cruz. They posited that they failed to comply with their promise to the plaintiffs-spouses because of Cruz's illegal, unreasonable and unjustified action in padlocking the premises. Hence, they argued that should they be made to return the amount of P650,000.00 which the spouses Domingo paid to Villa, Cruz should be simultaneously ordered to reimburse them for the same amount. Additionally, BPI-FSB contended that under its lease contract with Cruz, it had the right to sublease the subject premises to a third person even without the consent of the latter.

On the other hand, Cruz, as third-party defendant in this case, claimed that he had every right to close down the premises and to refuse the entry thereto of the Domingos because under his lease agreement with BPI-FSB, the latter cannot sublease the premises without his written consent. Purportedly, BPI-FSB violated this condition when it subleased the premises to the Domingos without his written consent.

In a decision^[5] dated June 8, 1998, the trial court found for the Domingos, and accordingly rendered judgment, to wit:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. Ordering defendants BPI-Family Savings Bank and Benjamin Villa to pay the plaintiffs, jointly and severally, the following amounts:
 - 1.1 P650,000.00 as actual damages, representing the amount paid by plaintiffs to defendant Villa, with interest at the legal rate from the filing of the complaint until fully paid;
 - 1.2 P100,000.00 as moral damages;

- 1.3 P50,000.00 as exemplary damages;
- 1.4 P25,000.00 as attorney's fees.
2. Ordering third-party defendant Julian Cruz to reimburse third-party plaintiffs BPI-FSB and Villa for whatever amounts said defendants/third-party plaintiffs will pay the plaintiffs by virtue of this judgment;
3. Ordering third-party defendant Cruz to pay third-party plaintiff BPI-FSB the amount of P25,000.00 as attorney's fees;
4. Ordering third-party defendant Cruz to pay third-party plaintiff Villa the amounts of P50,000.00 as moral damages and P25,000.00 as attorney's fees;
5. Dismissing for lack of merit the counterclaims and cross-claims of defendants BPI-FSB and Villa, and the counterclaims of third-party defendant Cruz.

Costs against third-party defendant Cruz.

IT IS SO ORDERED.

From the foregoing decision, a common appeal was interposed by BPI-FSB and Villa to the CA. Separate appeal was also taken by the spouses Cruz, all of which appeals were consolidated and docketed in the CA as *CA-G.R. CV No. 60994*.

As stated at the threshold hereof, the CA, in its decision^[6] of May 30, 2002, affirmed *in toto* that of the trial court, and denied in its resolution of June 10, 2003, the appellants' respective motions for reconsideration.

Of the parties below, only petitioner BPI-FSB elevated the case to this Court *via* the instant petition for review on the following grounds:

- A. The CA gravely abused its discretion and committed a reversible error in NOT applying the provisions of Articles 1207 and 1311 of the Civil Code under which, contrary to its decision, BPI-FSB could not be held solidarily liable with VILLA for the return to the DOMINGOS of the amount of P650,000.00.
- B. The action of the DOMINGOS being as it is indisputably an action for recovery of a sum of money and not an action for specific performance and there being no dispute that the amount of P650,000.00 was received by VILLA and VILLA alone, the Court of Appeals gravely abused its discretion and committed a reversible error in holding NOT only VILLA liable for the return of the money but also BPI-FSB as well.
- C. The Court of Appeals gravely abused its discretion and committed a reversible error in affirming the decision of the trial court holding that BPI-FSB is solidarily liable with VILLA for other damages.^[7]

We **AFFIRM** but minus the award of moral and exemplary damages.

In a nutshell, petitioner BPI-FSB denies knowledge of, let alone having anything to do with, the transaction between Villa and the Domingos. It points to the express admission of both the Domingos and Villa that BPI-FSB did not receive any portion of the amount of P650,000.00 as it was Villa alone who received the same from the Domingos. As petitioner further claims, it came to know of such payment only when the case at bar was filed. Not being a privy to the agreement between the Domingos and Villa, petitioner contends that it cannot be found solidarily liable with Villa for the latter's breach of his sublease agreement with the Domingos. In support thereof, petitioner invokes the following provisions of the Civil Code:

Article 1311. Contracts take effect only between the parties, their assigns and heirs x x x.

xxx xxx xxx

Article 1207. x x x There is solidary liability only when the obligation expressly so states or when the law or the nature of the obligation requires solidarity.

Hence, it is petitioner's submission that it should not be held solidarily liable with Villa for "a transaction that was entered exclusively between Zenaida Domingo and VILLA," allegedly "without the knowledge, consent or participation of BPI-FSB."^[8]

Ironically, Villa, in his memorandum^[9] before the Court, uses the same logic in arguing that he should not be held solidarily liable with BPI-FSB. Villa points out that, not being a party to the second sublease contract between BPI-FSB and the Domingos, *he* cannot be held responsible for the Domingos' failure to occupy the premises. He also alleged having informed the Domingos beforehand that he had no right to sublease the premises under his sublease agreement with BPI-FSB, hence the need for the deed of rescission of said sublease contract, which deed was in fact executed. To Villa, the second sublease contract was solely between BPI-FSB and the Domingos.

We rule and so hold, as did the CA, that neither BPI-FSB nor Villa can escape liability by disclaiming privity to an agreement with the Domingos. There are more than one, indeed several, relevant agreements involved in this case. To waylay any possibility of confusion, we shall enumerate them to distinguish one from the other:

1. The original lease agreement between Julian Cruz and BPI-FSB;
2. The *first* sublease contract between BPI-FSB and Villa;
3. The sale of goodwill of the *Carousel Food House*, and the assignment and transfer of all of Villa's rights and interests to the premises and improvements thereon, between Villa and the Domingos;
4. The *second* sublease contract between BPI-FSB and the Domingos; and
5. The Deed of Rescission of the *first* sublease contract between Villa and BPI-FSB.