

SECOND DIVISION

[G.R. No. 143338, July 29, 2005]

**THE CONSOLIDATED BANK AND TRUST CORPORATION
(SOLIDBANK), PETITIONER, VS. DEL MONTE MOTOR WORKS,
INC., NARCISO G. MORALES,^[1] AND SPOUSE, RESPONDENTS.**

DECISION

CHICO-NAZARIO, J.:

This is a petition for review on *certiorari* of the Decision^[2] of the Court of Appeals in CA-G.R. CV No. 16886 entitled, "The Consolidated Bank & Trust Corporation (SOLIDBANK) v. Del Monte Motor Works, Inc., Narciso O. Morales and Spouse" promulgated on 25 November 1999 and of the Resolution of the appellate court dated 11 May 2000 denying petitioner's motion for reconsideration. Said decision and resolution affirmed the order dated 28 December 1987 of the Regional Trial Court (RTC), Branch 27, Manila.

The facts of the case are as follows:

On 13 June 1984, petitioner filed before the RTC of Manila a complaint^[3] for recovery of sum of money against respondents, impleading the spouse of respondent Narciso O. Morales (respondent Morales) in order to bind their conjugal partnership of gains. Petitioner, a domestic banking and trust corporation, alleges therein that on 23 April 1982, it extended in favor of respondents a loan in the amount of One Million Pesos (P1,000,000.00) as evidenced by a promissory note executed by respondents on the same date. Under the promissory note, respondents Del Monte Motor Works, Inc. (respondent corporation) and Morales bound themselves jointly and severally to pay petitioner the full amount of the loan through twenty-five monthly installments of P40,000.00 a month with interest pegged at 23% per annum. The note was to be paid in full by 23 May 1984. As respondents defaulted on their monthly installments, the full amount of the loan became due and demandable pursuant to the terms of the promissory note. Petitioner likewise alleges that it made oral and written demands upon respondents to settle their obligation but notwithstanding these demands, respondents still failed to pay their indebtedness which, as of 09 March 1984, stood at P1,332,474.55. Petitioner attached to its complaint as Annexes "A," "B," and "C," respectively, a photocopy of the promissory note supposedly executed by respondents, a copy of the demand letter it sent respondents dated 20 January 1983, and statement of account pertaining to respondents' loan.

On 31 October 1984, petitioner filed an Ex-Parte Motion to Declare the Defendants in Default which was opposed by the defendants upon the ground that they were never served with copies of the summons and of petitioner's complaint.

On 23 November 1984, respondent corporation filed before the trial court a

manifestation attaching thereto its answer to petitioner's complaint which states the following:

2- That it denies generally and specifically the allegations contained in paragraphs 3, 4, 5, 6, 7 and 8 thereof for lack of knowledge and information sufficient to form a belief as to the truth of the matters therein alleged, the truth being those alleged in the Special and Affirmative Defenses hereinbelow contained;

3- ANSWERING FURTHER, and by way of a first special and affirmative defense, defendant herein states that the promissory note in question is void for want of valid consideration and/or there was no valuable consideration involved as defendant herein did not receive any consideration at all;

4- ANSWERING FURTHER, and by way of a second special affirmative defense, defendant herein alleges that no demand has ever been sent to nor received by herein defendant and if ever demands were made, denies any liability as averred therein.

5- ANSWERING FURTHER, and by way of a third special and affirmative defense, defendant herein avers that the complaint states no cause of action and has no basis either in fact or in law; ...

VERIFICATION

I, JEANETTE D. TOLENTINO, of legal age, after having been duly sworn to in accordance with law, depose and state:

That I am the Controller of Del Monte Motor Works, Inc., one of the defendants in this case.

That for and in behalf of the defendant corporation, I caused the preparation of the above-narrated answer.

That I have read the contents thereof and they are true of my own knowledge.

(SGD) JEANNETTE D. TOLENTINO^[4]

On 06 December 1984, respondent Morales filed his manifestation together with his answer wherein he likewise renounced any liability on the promissory note, thus:

1. He ADMIT[S] paragraphs 1, 2, and 3 of the complaint with a qualification in paragraph 3 thereof that he has long been separated from his wife and the system governing their property relations is that of complete separation of property and not that of conjugal partnership of gain[s];

2. He [DENIES], generally and specifically, the allegations contained in paragraphs 4, 5, 6, 7, and 8 thereof, for lack of knowledge and information sufficient to form a belief and as to the truth of the matter

therein averred, the truth being those alleged in the Special And Affirmative Defenses hereinbelow pleaded;

...

SPECIAL AND AFFIRMATIVE DEFENSES

4. He has never signed the promissory note attached to the complaint in his personal and/or individual capacity as such;

5. That the said promissory note is ineffective, unenforceable and void for lack of valid consideration;

6. That even admitting, argumenti gratia, the validity and execution of the questioned promissory note, still, defendant herein cannot be bound personally and individually to the said obligations as banking procedures requires, it being a standard operating procedure of all known banking institution, that to hold a borrower jointly and severally liable in his official as well as personal capacity, the borrower must sign a Suretyship Agreement or at least, a continuing guarranty with that of the corporation he represent(s) but which in this case is wanting;

7. That transaction/obligation in question did not, in any way, redound/inure to the benefit of the conjugal partnership of gain, as there is no conjugal partnership of gain to speak with, defendant having long been separated from his wife and their property relation is governed by the system of complete separation of property, and more importantly, he has never signed the said promissory note in his personal and individual capacity as such;

VERIFICATION

That I, NARCISO MORALES, after having been duly sworn to in accordance with law, hereby depose and declare that:

I am one of the named defendant[s] in the above-entitled case;

I have cause[d] the preparation of the foregoing Answer upon facts and figures supplied by me to my retained counsel; have read each and every allegations contained therein and hereby certify that the same are true and correct of my own knowledge and information.

(SGD) NARCISO MORALES
Affiant^[5]

On 26 December 1984, the trial court denied petitioner's motion to declare respondents in default and admitted their respective answers.^[6]

During the trial on the merits of this case, petitioner presented as its sole witness, Liberato A. Lavarino (Lavarino), then the manager of its Collection Department. Substantially, Lavarino stated that respondents obtained the loan, subject of this case, from petitioner and due to respondents' failure to pay a single monthly

installment on this loan, petitioner was constrained to send a demand letter to respondents; that as a result of this demand letter, Jeannette Tolentino (Tolentino), respondent corporation's controller, wrote a letter to petitioner requesting for some consideration because of the unfavorable business atmosphere then buffeting their business operation; that Tolentino enclosed to said letter a check with a face value of P220,020.00 to be discounted by petitioner with the proceeds being applied as partial payment to their company's obligation to petitioner; that after receipt of this partial payment, respondents' obligation again became stagnant prompting petitioner to serve respondents with another demand letter which, unfortunately, was unheeded by respondents. Lavarino also identified the following exhibits for petitioner: photocopy of the duplicate original of the promissory note attached to the complaint as Exhibit "A;"^[7] petitioner's 20 January 1983 demand letter marked as Exhibit "B;"^[8] Tolentino's letter to petitioner dated 10 February 1983 and marked as Exhibit "C;"^[9] and the 09 March 1984 statement of account sent to respondents marked as Exhibit "D."^[10]

On 26 September 1985, petitioner made its formal offer of evidence. However, as the original copy of Exhibit "A" could no longer be found, petitioner instead sought the admission of the duplicate original of the promissory note which was identified and marked as Exhibit "E."

The trial court initially admitted into evidence Exhibit "E" and granted respondents' motion that they be allowed to amend their respective answers to conform with this new evidence.^[11]

On 30 September 1985, respondent corporation filed a manifestation and motion for reconsideration^[12] of the trial court's order admitting into evidence petitioner's Exhibit "E." Respondent corporation claims that Exhibit "E" should not have been admitted as it was immaterial, irrelevant, was not properly identified and hearsay evidence. Respondent corporation insists that Exhibit "E" was not properly identified by Lavarino who testified that he had nothing to do in the preparation and execution of petitioner's exhibits, one of which was Exhibit "E." Further, as there were markings in Exhibit "A" which were not contained in Exhibit "E," the latter could not possibly be considered an original copy of Exhibit "A." Lastly, respondent corporation claims that the exhibit in question had no bearing on the complaint as Lavarino admitted that Exhibit "E" was not the original of Exhibit "A" which was the foundation of the complaint and upon which respondent corporation based its own answer.

Respondent Morales similarly filed a manifestation with motion to reconsider order admitting as evidence Exhibit "E"^[13] which, other than insisting that the due execution and genuineness of the promissory note were not established as far as he was concerned, essentially raised the same arguments contained in respondent corporation's manifestation with motion for reconsideration referred to above.

On 06 December 1985, the trial court granted respondents' motions for reconsideration.^[14] Petitioner moved for the reconsideration of this order which was denied by the court *a quo* on 20 December 1985.^[15]

On 26 December 1985, respondents separately filed their motions to dismiss on the

similar ground that with the exclusion of Exhibits "A" and "E," petitioner no longer possessed any proof of respondents' alleged indebtedness.^[16]

On 08 April 1986, petitioner filed a motion^[17] praying that the presiding judge, Judge Ricardo D. Diaz, of the court *a quo* inhibit himself from this case maintaining that the latter rushed into resolving its motion for reconsideration of the trial court's order of 06 December 1985 thereby depriving it the opportunity of presenting proof that the original of Exhibit "A" was delivered to respondents as early as 02 April 1983. Such haste on the part of the presiding judge, according to petitioner, cast doubt on his objectivity and fairness. This motion to inhibit was denied by the trial court on 06 August 1987.^[18]

In an order dated 28 December 1987,^[19] the case before the trial court was dismissed, the dispositive portion of which reads:

WHEREFORE, the instant case against defendants Del Monte Motor Works, Inc. and Narciso O. Morales and spouse, is hereby DISMISSED, with costs against the plaintiff.

The trial court's finding was affirmed by the Court of Appeals in the assailed decision now before us. The dispositive portion of the appellate court's decision reads:

WHEREFORE, PREMISES CONSIDERED, the decision of the Regional Trial Court, Manila, Branch 27, dated December 28, 1987 dismissing plaintiff-appellant[']s] complaint is hereby **AFFIRMED**. Cost against the plaintiff-appellant.^[20]

Petitioner thereafter filed a motion for reconsideration dated 14 December 1999 which was denied for lack of merit in a resolution of the Court of Appeals promulgated on 11 May 2000.^[21]

Aggrieved by the appellate court's ruling, petitioner now seeks redress from this Court imputing the following errors on the Court of Appeals:

I

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT FOUND THAT PRIVATE RESPONDENTS DENIED THE MATERIAL ALLEGATIONS OF PETITIONER SOLIDBANK'S COMPLAINT, DESPITE THE PRESENCE OF INDUBITABLE FACTS CLEARLY POINTING TO THE FACT THAT SAID PRIVATE RESPONDENTS ADMITTED THE GENUINENESS AND DUE EXECUTION OF THE SUBJECT PROMISSORY NOTE.

II

THE HONORABLE COURT OF APPEALS GRAVELY ERRED WHEN IT UPHELD THE EXCLUSION OF EXHIBIT `E', THE SECOND ORIGINAL OF THE PROMISSORY NOTE, DESPITE THE FACT THAT THE ORIGINAL OF EXHIBIT `A' (XEROX COPY OF THE DUPLICATE ORIGINAL OF THE PROMISSORY NOTE) WAS ACTUALLY IN THE POSSESSION OF PRIVATE RESPONDENTS, THUS WARRANTING THE ADMISSION OF SECONDARY EVIDENCE.