

THIRD DIVISION

[G.R. No. 160892, November 22, 2005]

**SPOUSES ANTONIO AND LOLITA TAN, PETITIONERS, VS.
CARMELITO VILLAPAZ, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

From the January 25, 2001 decision^[1] of the Court of Appeals reversing that of the Regional Trial Court (RTC) of Digos, Davao del Sur^[2] which dismissed the complaint filed by herein respondent Carmelito Villapaz against herein petitioners-spouses Antonio "Tony" and Lolita Tan, the present Petition for Review on Certiorari^[3] was lodged.

On February 6, 1992, respondent issued a Philippine Bank of Communications (PBCom) crossed check^[4] in the amount of P250,000.00, payable to the order of petitioner Tony Tan. On even date, the check was deposited at the drawee bank, PBCom Davao City branch at Monteverde Avenue, to the account of petitioner Antonio Tan also at said bank.

The Malita, Davao del Sur Police, by letter of June 22, 1994,^[5] issued an invitation-request to petitioner Antonio Tan at his address at Malatibas Plaza, Lolita's Rendezvous, Bonifacio St., Davao City inviting him to appear before the Deputy Chief of Police Office on June 27, 1994 at 9:00 o'clock in the morning "in connection with the request of [herein respondent] Carmelito Villapaz, for conference of vital importance."

The invitation-request was received by petitioner Antonio Tan on June 22, 1994^[6] but on the advice of his lawyer,^[7] he did not show up at the Malita, Davao del Sur Police Office.

On November 7, 1994,^[8] respondent filed before the Digos, Davao del Sur RTC a Complaint for sum of money against petitioners-spouses, alleging that, *inter alia*, on February 6, 1992, petitioners-spouses repaired to his place of business at Malita, Davao and obtained a loan of P250,000.00, hence, his issuance of the February 6, 1992 PBCom crossed check which loan was to be settled interest-free in six (6) months; on the maturity date of the loan or on August 6, 1992, petitioner Antonio Tan failed to settle the same, and despite repeated demands, petitioners never did, drawing him to file the complaint thru his counsel to whom he agreed to pay 30% of the loan as attorney's fees on a contingent basis and P1,000.00 per appearance fee; and on account of the willful refusal of petitioners to honor their obligation, he suffered moral damages in the amount of P50,000.00, among other things.

By their Answer,^[9] petitioners, denying having gone to Malita and having obtained a

loan from respondent, alleged that the check was issued by respondent in Davao City on February 6, 1992 "in exchange for equivalent cash"; they never received from respondent any demand for payment, be it verbal or written, respecting the alleged loan; since the alleged loan was one with a period — payable in six months, it should have been expressly stipulated upon in writing by the parties but it was not, hence, the essential requisite for the validity and enforceability of a loan is wanting; and the check is inadmissible to prove the existence of a loan for P250,000.00.

By way of Compulsory Counterclaim, petitioners prayed for the award of damages and litigation expenses and attorney's fees.^[10]

Crediting defendants-petitioners' version, Branch 19 of the RTC, Digos, Davao del Sur, by Decision^[11] of July 24, 1996, dismissed the Complaint and granted the Counterclaim, disposing as follows:

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

1. Ordering the dismissal of the complaint;
2. On the counterclaim ordering the plaintiff Carmelito Villapaz to pay to defendants spouses Antonio and Lolita Tan:
 - a. P100,000.00 as moral damages;
 - b. P50,000.00 as exemplary damages;
 - c. P30,000.00 as attorney's fees; and
3. Plaintiff Carmelito Villapaz to pay the costs.

SO ORDERED. (Underscoring in the original)^[12]

Respondent appealed to the Court of Appeals which, by Decision^[13] of January 25, 2001, credited his version and accordingly reversed the trial court's decision in this wise:

Briefly stated, the lower Court gave four reasons for ruling out a loan, namely: (a) the defense of defendants-appellees that they did not go to plaintiff-appellant's place on February 6, 1992, date the check was given to them; (b) defendants-appellees could not have borrowed money on that date because from January to March, 1992, they had an average daily deposit of P700,000 and on February 6, 1992, they had P1,211,400.64 in the bank, hence, they had "surely no reason nor logic" to borrow money from plaintiff-appellant; (c) the alleged loan was not reduced in writing and (d) the check could not be a competent evidence of loan.

The four-fold reasoning cannot be sustained. They are faulty and do not accord either with law or ordinary conduct of men. For one thing, the first two given reasons partake more of alibi and speculation, hence, deserve scant consideration. For another, the last two miss the applicable provisions of law.

The existence of a contract of loan cannot be denied merely because it is not reduced in writing. Surely, there can be a verbal loan. Contracts are binding between the parties, whether oral or written. The law is explicit that contracts shall be obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity are present. A loan (simple loan or mutuum) exists when a person receives a loan of money or any other fungible thing and acquires the ownership thereof. He is bound to pay to the creditor the equal amount of the same kind and quality.

Contracts are perfected by mere consent, and from that moment the parties are bound not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, maybe in keeping with good faith, usage and law.

The lower Court misplaced its reliance on Article 1358 of the Civil Code providing that to be enforceable, contracts where the amount involved exceed five hundred pesos, must appear in writing. Such requirement, it has been held, is **only for convenience**, not for validity. It bears emphasis that at the time plaintiff-appellant delivered the crossed-check to defendants-appellees, plaintiff-appellant had no account whatsoever with them. **Defendants-appellees' contention that they did not obtain any loan but merely exchanged the latter's check for cash is not borne by any evidence.**

Notably, plaintiff-appellant and defendant-appellee Antonio Tan are compadres, one of them being a godfather to the other's son. There is no established enmity between them such that plaintiff-appellant would be motivated to institute an unfounded action in court. Plaintiff-appellant's sole purpose was to be paid back the loan he extended to defendants-appellees. Thus, a pertinent portion of his testimony on cross-examination discloses:

ATTY. TAN (On Cross Examination):

Q: Now, aside from this check that you issued, did you let the defendant sign a cash voucher?

A: **I did not require him any cash voucher or any written document because as I said we are close friends and I trusted him so I issued a check in his name Tony Tan.**

Q: You said that the spouses Tan were in need of money on February 6, 1992. Why did you have to issue a cross-check?

A: I issued a cross-check in order to be sure that he received the money from me so that he could not deny that he did not receive. (TSN of Villapaz dtd 7/25/95, p. 21).

Apart from their self-serving testimonies, there is no evidence or proof that defendants-appellees actually delivered to plaintiff-appellant the

cash amount of P250,000.00 in exchange for the check. Defendant-appellee Tan testified that he records his transactions if it involves a huge cash amount. But surprisingly in this case, he did not follow his usual practice.

ATTY. CARPENTERO (On Cross-Examination):

Q: x x x you have noticed Carmelito Villapaz to have trusted and have full confidence in you during your business relationship, correct?

A: All people have trust and confidence but whenever there is a transaction, it should be covered a (sic) proof.

Q: You mean you are a fellow who adheres that every transaction should be recorded?

A: Yes, if the transaction involves a big amount,

Q: But in this case of Carmelito Villapaz you noticed personally that he has trust and confidence in your person, correct?

A: The truth is, if ever we have a transaction which involves P1,000.00 or P2,000.00, we need no document at all as proof, but because it is a big amount, it needs documents. (TSN of Tan dtd 5/9/96, pp. 12-13.

Plaintiff-appellant has a checking account with PBCom Bank. This is located within walking distance (300 meters) from defendants-appellees' store. **If plaintiff-appellant was in dire need of money, he could have personally withdrawn said money from his own account, since it was sufficiently funded.** Defendant-appellee Antonio Tan himself testified that plaintiff-appellant's check was sufficiently funded.

It is well-nigh unlikely that the wife who was supposed to have delivered the money on such a short notice, produced, prepared and counted the money at home from Obrero, Davao City, then delivered it to plaintiff-appellant who was in the Golden Harvest Store at Sta Ana Avenue, Davao City. In contrast, **PBCom Bank where plaintiff-appellant has his account is in the same vicinity of the store of Golden Harvest.**

Certainly, **by way of exception to the general rule, the erroneous inferences in the factual finding of the trial Court cannot bind the appellate courts.**

The trial Court placed much emphasis on the daily and time deposit accounts of defendants-appellees. It is immaterial whether or not one is financially capable. A pauper may borrow money for survival; a prince may incur a loan for expansion.^[14] (Emphasis supplied; underscoring in the original)

Thus, the Court of Appeals disposed: