

SECOND DIVISION

[G.R. No. 115324, February 19, 2003]

PRODUCERS BANK OF THE PHILIPPINES (NOW FIRST INTERNATIONAL BANK), PETITIONER, VS. HON. COURT OF APPEALS AND FRANKLIN VIVES, RESPONDENTS.

DECISION

CALLEJO, SR., J.:

This is a petition for review on certiorari of the Decision^[1] of the Court of Appeals dated June 25, 1991 in CA-G.R. CV No. 11791 and of its Resolution^[2] dated May 5, 1994, denying the motion for reconsideration of said decision filed by petitioner Producers Bank of the Philippines.

Sometime in 1979, private respondent Franklin Vives was asked by his neighbor and friend Angeles Sanchez to help her friend and townmate, Col. Arturo Doronilla, in incorporating his business, the Sterela Marketing and Services ("Sterela" for brevity). Specifically, Sanchez asked private respondent to deposit in a bank a certain amount of money in the bank account of Sterela for purposes of its incorporation. She assured private respondent that he could withdraw his money from said account within a month's time. Private respondent asked Sanchez to bring Doronilla to their house so that they could discuss Sanchez's request.^[3]

On May 9, 1979, private respondent, Sanchez, Doronilla and a certain Estrella Dumagpi, Doronilla's private secretary, met and discussed the matter. Thereafter, relying on the assurances and representations of Sanchez and Doronilla, private respondent issued a check in the amount of Two Hundred Thousand Pesos (P200,000.00) in favor of Sterela. Private respondent instructed his wife, Mrs. Inocencia Vives, to accompany Doronilla and Sanchez in opening a savings account in the name of Sterela in the Buendia, Makati branch of Producers Bank of the Philippines. However, only Sanchez, Mrs. Vives and Dumagpi went to the bank to deposit the check. They had with them an authorization letter from Doronilla authorizing Sanchez and her companions, "in coordination with Mr. Rufo Atienza," to open an account for Sterela Marketing Services in the amount of P200,000.00. In opening the account, the authorized signatories were Inocencia Vives and/or Angeles Sanchez. A passbook for Savings Account No. 10-1567 was thereafter issued to Mrs. Vives.^[4]

Subsequently, private respondent learned that Sterela was no longer holding office in the address previously given to him. Alarmed, he and his wife went to the Bank to verify if their money was still intact. The bank manager referred them to Mr. Rufo Atienza, the assistant manager, who informed them that part of the money in Savings Account No. 10-1567 had been withdrawn by Doronilla, and that only P90,000.00 remained therein. He likewise told them that Mrs. Vives could not withdraw said remaining amount because it had to answer for some postdated

checks issued by Doronilla. According to Atienza, after Mrs. Vives and Sanchez opened Savings Account No. 10-1567, Doronilla opened Current Account No. 10-0320 for Sterela and authorized the Bank to debit Savings Account No. 10-1567 for the amounts necessary to cover overdrawings in Current Account No. 10-0320. In opening said current account, Sterela, through Doronilla, obtained a loan of P175,000.00 from the Bank. To cover payment thereof, Doronilla issued three postdated checks, all of which were dishonored. Atienza also said that Doronilla could assign or withdraw the money in Savings Account No. 10-1567 because he was the sole proprietor of Sterela.^[5]

Private respondent tried to get in touch with Doronilla through Sanchez. On June 29, 1979, he received a letter from Doronilla, assuring him that his money was intact and would be returned to him. On August 13, 1979, Doronilla issued a postdated check for Two Hundred Twelve Thousand Pesos (P212,000.00) in favor of private respondent. However, upon presentment thereof by private respondent to the drawee bank, the check was dishonored. Doronilla requested private respondent to present the same check on September 15, 1979 but when the latter presented the check, it was again dishonored.^[6]

Private respondent referred the matter to a lawyer, who made a written demand upon Doronilla for the return of his client's money. Doronilla issued another check for P212,000.00 in private respondent's favor but the check was again dishonored for insufficiency of funds.^[7]

Private respondent instituted an action for recovery of sum of money in the Regional Trial Court (RTC) in Pasig, Metro Manila against Doronilla, Sanchez, Dumagpi and petitioner. The case was docketed as Civil Case No. 44485. He also filed criminal actions against Doronilla, Sanchez and Dumagpi in the RTC. However, Sanchez passed away on March 16, 1985 while the case was pending before the trial court. On October 3, 1995, the RTC of Pasig, Branch 157, promulgated its Decision in Civil Case No. 44485, the dispositive portion of which reads:

IN VIEW OF THE FOREGOING, judgment is hereby rendered sentencing defendants Arturo J. Doronila, Estrella Dumagpi and Producers Bank of the Philippines to pay plaintiff Franklin Vives jointly and severally –

(a) the amount of P200,000.00, representing the money deposited, with interest at the legal rate from the filing of the complaint until the same is fully paid;

(b) the sum of P50,000.00 for moral damages and a similar amount for exemplary damages;

(c) the amount of P40,000.00 for attorney's fees; and

(d) the costs of the suit.

SO ORDERED.^[8]

Petitioner appealed the trial court's decision to the Court of Appeals. In its Decision dated June 25, 1991, the appellate court affirmed *in toto* the decision of the RTC.^[9]

It likewise denied with finality petitioner's motion for reconsideration in its Resolution dated May 5, 1994.^[10]

On June 30, 1994, petitioner filed the present petition, arguing that –

I.

THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THAT THE TRANSACTION BETWEEN THE DEFENDANT DORONILLA AND RESPONDENT VIVES WAS ONE OF SIMPLE LOAN AND NOT ACCOMMODATION;

II.

THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THAT PETITIONER'S BANK MANAGER, MR. RUFO ATIENZA, CONNIVED WITH THE OTHER DEFENDANTS IN DEFRAUDING PETITIONER (Sic. Should be PRIVATE RESPONDENT) AND AS A CONSEQUENCE, THE PETITIONER SHOULD BE HELD LIABLE UNDER THE PRINCIPLE OF NATURAL JUSTICE;

III.

THE HONORABLE COURT OF APPEALS ERRED IN ADOPTING THE ENTIRE RECORDS OF THE REGIONAL TRIAL COURT AND AFFIRMING THE JUDGMENT APPEALED FROM, AS THE FINDINGS OF THE REGIONAL TRIAL COURT WERE BASED ON A MISAPPREHENSION OF FACTS;

IV.

THE HONORABLE COURT OF APPEALS ERRED IN DECLARING THAT THE CITED DECISION IN SALUDARES VS. MARTINEZ, 29 SCRA 745, UPHOLDING THE LIABILITY OF AN EMPLOYER FOR ACTS COMMITTED BY AN EMPLOYEE IS APPLICABLE;

V.

THE HONORABLE COURT OF APPEALS ERRED IN UPHOLDING THE DECISION OF THE LOWER COURT THAT HEREIN PETITIONER BANK IS JOINTLY AND SEVERALLY LIABLE WITH THE OTHER DEFENDANTS FOR THE AMOUNT OF P200,000.00 REPRESENTING THE SAVINGS ACCOUNT DEPOSIT, P50,000.00 FOR MORAL DAMAGES, P50,000.00 FOR EXEMPLARY DAMAGES, P40,000.00 FOR ATTORNEY'S FEES AND THE COSTS OF SUIT.^[11]

Private respondent filed his Comment on September 23, 1994. Petitioner filed its Reply thereto on September 25, 1995. The Court then required private respondent to submit a rejoinder to the reply. However, said rejoinder was filed only on April 21, 1997, due to petitioner's delay in furnishing private respondent with copy of the reply^[12] and several substitutions of counsel on the part of private respondent.^[13] On January 17, 2001, the Court resolved to give due course to the petition and required the parties to submit their respective memoranda.^[14] Petitioner filed its memorandum on April 16, 2001 while private respondent submitted his

memorandum on March 22, 2001.

Petitioner contends that the transaction between private respondent and Doronilla is a simple loan (*mutuum*) since all the elements of a *mutuum* are present: first, what was delivered by private respondent to Doronilla was money, a consumable thing; and second, the transaction was onerous as Doronilla was obliged to pay interest, as evidenced by the check issued by Doronilla in the amount of P212,000.00, or P12,000 more than what private respondent deposited in Sterela's bank account.^[15] Moreover, the fact that private respondent sued his good friend Sanchez for his failure to recover his money from Doronilla shows that the transaction was not merely gratuitous but "had a business angle" to it. Hence, petitioner argues that it cannot be held liable for the return of private respondent's P200,000.00 because it is not privy to the transaction between the latter and Doronilla.^[16]

It argues further that petitioner's Assistant Manager, Mr. Rufo Atienza, could not be faulted for allowing Doronilla to withdraw from the savings account of Sterela since the latter was the sole proprietor of said company. Petitioner asserts that Doronilla's May 8, 1979 letter addressed to the bank, authorizing Mrs. Vives and Sanchez to open a savings account for Sterela, did not contain any authorization for these two to withdraw from said account. Hence, the authority to withdraw therefrom remained exclusively with Doronilla, who was the sole proprietor of Sterela, and who alone had legal title to the savings account.^[17] Petitioner points out that no evidence other than the testimonies of private respondent and Mrs. Vives was presented during trial to prove that private respondent deposited his P200,000.00 in Sterela's account for purposes of its incorporation.^[18] Hence, petitioner should not be held liable for allowing Doronilla to withdraw from Sterela's savings account.

Petitioner also asserts that the Court of Appeals erred in affirming the trial court's decision since the findings of fact therein were not accord with the evidence presented by petitioner during trial to prove that the transaction between private respondent and Doronilla was a *mutuum*, and that it committed no wrong in allowing Doronilla to withdraw from Sterela's savings account.^[19]

Finally, petitioner claims that since there is no wrongful act or omission on its part, it is not liable for the actual damages suffered by private respondent, and neither may it be held liable for moral and exemplary damages as well as attorney's fees.^[20]

Private respondent, on the other hand, argues that the transaction between him and Doronilla is not a *mutuum* but an accommodation,^[21] since he did not actually part with the ownership of his P200,000.00 and in fact asked his wife to deposit said amount in the account of Sterela so that a certification can be issued to the effect that Sterela had sufficient funds for purposes of its incorporation but at the same time, he retained some degree of control over his money through his wife who was made a signatory to the savings account and in whose possession the savings account passbook was given.^[22]

He likewise asserts that the trial court did not err in finding that petitioner, Atienza's employer, is liable for the return of his money. He insists that Atienza, petitioner's assistant manager, connived with Doronilla in defrauding private respondent since it was Atienza who facilitated the opening of Sterela's current account three days after

Mrs. Vives and Sanchez opened a savings account with petitioner for said company, as well as the approval of the authority to debit Sterela's savings account to cover any overdrawings in its current account.^[23]

There is no merit in the petition.

At the outset, it must be emphasized that only questions of law may be raised in a petition for review filed with this Court. The Court has repeatedly held that it is not its function to analyze and weigh all over again the evidence presented by the parties during trial.^[24] The Court's jurisdiction is in principle limited to reviewing errors of law that might have been committed by the Court of Appeals.^[25] Moreover, factual findings of courts, when adopted and confirmed by the Court of Appeals, are final and conclusive on this Court unless these findings are not supported by the evidence on record.^[26] There is no showing of any misapprehension of facts on the part of the Court of Appeals in the case at bar that would require this Court to review and overturn the factual findings of that court, especially since the conclusions of fact of the Court of Appeals and the trial court are not only consistent but are also amply supported by the evidence on record.

No error was committed by the Court of Appeals when it ruled that the transaction between private respondent and Doronilla was a *commodatum* and not a *mutuum*. A circumspect examination of the records reveals that the transaction between them was a *commodatum*. Article 1933 of the Civil Code distinguishes between the two kinds of loans in this wise:

By the contract of loan, one of the parties delivers to another, either something not consumable so that the latter may use the same for a certain time and return it, in which case the contract is called a *commodatum*; or money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid, in which case the contract is simply called a loan or *mutuum*.

Commodatum is essentially gratuitous.

Simple loan may be gratuitous or with a stipulation to pay interest.

In *commodatum*, the bailor retains the ownership of the thing loaned, while in simple loan, ownership passes to the borrower.

The foregoing provision seems to imply that if the subject of the contract is a consumable thing, such as money, the contract would be a *mutuum*. However, there are some instances where a *commodatum* may have for its object a consumable thing. Article 1936 of the Civil Code provides:

Consumable goods may be the subject of *commodatum* if the purpose of the contract is not the consumption of the object, as when it is merely for exhibition.

Thus, if consumable goods are loaned only for purposes of exhibition, or when the intention of the parties is to lend consumable goods and to have the very same goods returned at the end of the period agreed upon, the loan is a *commodatum* and not a *mutuum*.