

SECOND DIVISION

[G.R. No. 138074, August 15, 2003]

**CELY YANG, PETITIONER, VS. HON. COURT OF APPEALS,
PHILIPPINE COMMERCIAL INTERNATIONAL BANK, FAR EAST
BANK TRUST CO., EQUITABLE BANKING CORPORATION, PREM
CHANDIRAMANI AND FERNANDO DAVID, RESPONDENTS.**

DECISION

QUISUMBING, J.:

For review on *certiorari* is the decision^[1] of the Court of Appeals, dated March 25, 1999, in CA-G.R. CV No. 52398, which affirmed with modification the joint decision of the Regional Trial Court (RTC) of Pasay City, Branch 117, dated July 4, 1995, in Civil Cases Nos. 5479^[2] and 5492.^[3] The trial court dismissed the complaint against herein respondents Far East Bank Trust Company (FEBTC), Equitable Banking Corporation (Equitable), and Philippine Commercial International Bank (PCIB) and ruled in favor of respondent Fernando David as to the proceeds of the two cashier's checks, including the earnings thereof *pendente lite*. Petitioner Cely Yang was ordered to pay David moral damages of P100,000.00 and attorney's fees also in the amount of P100,000.00.

The facts of this case are not disputed, to wit:

On or before December 22, 1987, petitioner Cely Yang and private respondent Prem Chandiramani entered into an agreement whereby the latter was to give Yang a PCIB manager's check in the amount of P4.2 million in exchange for two (2) of Yang's manager's checks, each in the amount of P2.087 million, both payable to the order of private respondent Fernando David. Yang and Chandiramani agreed that the difference of P26,000.00 in the exchange would be their profit to be divided equally between them.

Yang and Chandiramani also further agreed that the former would secure from FEBTC a dollar draft in the amount of US\$200,000.00, payable to PCIB FCDU Account No. 4195-01165-2, which Chandiramani would exchange for another dollar draft in the same amount to be issued by Hang Seng Bank Ltd. of Hong Kong.

Accordingly, on December 22, 1987, Yang procured the following:

- a) Equitable Cashier's Check No. CCPS 14-009467 in the sum of P2,087,000.00, dated December 22, 1987, payable to the order of Fernando David;
- b) FEBTC Cashier's Check No. 287078, in the amount of P2,087,000.00, dated December 22, 1987, likewise payable to the order of Fernando David; and

- c) FEBTC Dollar Draft No. 4771, drawn on Chemical Bank, New York, in the amount of US\$200,000.00, dated December 22, 1987, payable to PCIB FCDU Account No. 4195-01165-2.

At about one o'clock in the afternoon of the same day, Yang gave the aforementioned cashier's checks and dollar drafts to her business associate, Albert Liong, to be delivered to Chandiramani by Liong's messenger, Danilo Ranigo. Ranigo was to meet Chandiramani at Philippine Trust Bank, Ayala Avenue, Makati City, Metro Manila where he would turn over Yang's cashier's checks and dollar draft to Chandiramani who, in turn, would deliver to Ranigo a PCIB manager's check in the sum of P4.2 million and a Hang Seng Bank dollar draft for US\$200,000.00 in exchange.

Chandiramani did not appear at the rendezvous and Ranigo allegedly lost the two cashier's checks and the dollar draft bought by petitioner. Ranigo reported the alleged loss of the checks and the dollar draft to Liong at half past four in the afternoon of December 22, 1987. Liong, in turn, informed Yang, and the loss was then reported to the police.

It transpired, however, that the checks and the dollar draft were not lost, for Chandiramani was able to get hold of said instruments, without delivering the exchange consideration consisting of the PCIB manager's check and the Hang Seng Bank dollar draft.

At three o'clock in the afternoon or some two (2) hours after Chandiramani and Ranigo were to meet in Makati City, Chandiramani delivered to respondent Fernando David at China Banking Corporation branch in San Fernando City, Pampanga, the following: (a) FEBTC Cashier's Check No. 287078, dated December 22, 1987, in the sum of P2.087 million; and (b) Equitable Cashier's Check No. CCPS 14-009467, dated December 22, 1987, also in the amount of P2.087 million. In exchange, Chandiramani got US\$360,000.00 from David, which Chandiramani deposited in the savings account of his wife, Pushpa Chandiramani; and his mother, Rani Reynandas, who held FCDU Account No. 124 with the United Coconut Planters Bank branch in Greenhills, San Juan, Metro Manila. Chandiramani also deposited FEBTC Dollar Draft No. 4771, dated December 22, 1987, drawn upon the Chemical Bank, New York for US\$200,000.00 in PCIB FCDU Account No. 4195-01165-2 on the same date.

Meanwhile, Yang requested FEBTC and Equitable to stop payment on the instruments she believed to be lost. Both banks complied with her request, but upon the representation of PCIB, FEBTC subsequently lifted the stop payment order on FEBTC Dollar Draft No. 4771, thus enabling the holder of PCIB FCDU Account No. 4195-01165-2 to receive the amount of US\$200,000.00.

On December 28, 1987, herein petitioner Yang lodged a Complaint^[4] for injunction and damages against Equitable, Chandiramani, and David, with prayer for a temporary restraining order, with the Regional Trial Court of Pasay City. The Complaint was docketed as Civil Case No. 5479. The Complaint was subsequently amended to include a prayer for Equitable to return to Yang the amount of P2.087 million, with interest thereon until fully paid.^[5]

On January 12, 1988, Yang filed a separate case for injunction and damages, with

prayer for a writ of preliminary injunction against FEBTC, PCIB, Chandiramani and David, with the RTC of Pasay City, docketed as Civil Case No. 5492. This complaint was later amended to include a prayer that defendants therein return to Yang the amount of P2.087 million, the value of FEBTC Dollar Draft No. 4771, with interest at 18% annually until fully paid.^[6]

On February 9, 1988, upon the filing of a bond by Yang, the trial court issued a writ of preliminary injunction in Civil Case No. 5479. A writ of preliminary injunction was subsequently issued in Civil Case No. 5492 also.

Meanwhile, herein respondent David moved for dismissal of the cases against him and for reconsideration of the Orders granting the writ of preliminary injunction, but these motions were denied. David then elevated the matter to the Court of Appeals in a special civil action for certiorari docketed as CA-G.R. SP No. 14843, which was dismissed by the appellate court.

As Civil Cases Nos. 5479 and 5492 arose from the same set of facts, the two cases were consolidated. The trial court then conducted pre-trial and trial of the two cases, but the proceedings had to be suspended after a fire gutted the Pasay City Hall and destroyed the records of the courts.

After the records were reconstituted, the proceedings resumed and the parties agreed that the money in dispute be invested in Treasury Bills to be awarded in favor of the prevailing side. It was also agreed by the parties to limit the issues at the trial to the following:

1. Who, between David and Yang, is legally entitled to the proceeds of Equitable Banking Corporation (EBC) Cashier's Check No. CCPS 14-009467 in the sum of P2,087,000.00 dated December 22, 1987, and Far East Bank and Trust Company (FEBTC) Cashier's Check No. 287078 in the sum of P2,087,000.00 dated December 22, 1987, together with the earnings derived therefrom *pendente lite*?
2. Are the defendants FEBTC and PCIB solidarily liable to Yang for having allowed the encashment of FEBTC Dollar Draft No. 4771, in the sum of US\$200,000.00 plus interest thereon despite the stop payment order of Cely Yang?^[7]

On July 4, 1995, the trial court handed down its decision in Civil Cases Nos. 5479 and 5492, to wit:

WHEREFORE, the Court renders judgment in favor of defendant Fernando David against the plaintiff Cely Yang and declaring the former entitled to the proceeds of the two (2) cashier's checks, together with the earnings derived therefrom *pendente lite*; ordering the plaintiff to pay the defendant Fernando David moral damages in the amount of P100,000.00; attorney's fees in the amount of P100,000.00 and to pay the costs. The complaint against Far East Bank and Trust Company (FEBTC), Philippine Commercial International Bank (PCIB) and Equitable Banking Corporation (EBC) is dismissed. The decision is without prejudice to whatever action plaintiff Cely Yang will file against defendant Prem Chandiramani for reimbursement of the amounts received by him from

defendant Fernando David.

SO ORDERED.^[8]

In finding for David, the trial court ratiocinated:

The evidence shows that defendant David was a holder in due course for the reason that the cashier's checks were complete on their face when they were negotiated to him. They were not yet overdue when he became the holder thereof and he had no notice that said checks were previously dishonored; he took the cashier's checks in good faith and for value. He parted some \$200,000.00 for the two (2) cashier's checks which were given to defendant Chandiramani; he had also no notice of any infirmity in the cashier's checks or defect in the title of the drawer. As a matter of fact, he asked the manager of the China Banking Corporation to inquire as to the genuineness of the cashier's checks (tsn, February 5, 1988, p. 21, September 20, 1991, pp. 13-14). Another proof that defendant David is a holder in due course is the fact that the stop payment order on [the] FEBTC cashier's check was lifted upon his inquiry at the head office (tsn, September 20, 1991, pp. 24-25). The apparent reason for lifting the stop payment order was because of the fact that FEBTC realized that the checks were not actually lost but indeed reached the payee defendant David.^[9]

Yang then moved for reconsideration of the RTC judgment, but the trial court denied her motion in its Order of September 20, 1995.

In the belief that the trial court misunderstood the concept of a holder in due course and misapprehended the factual milieu, Yang seasonably filed an appeal with the Court of Appeals, docketed as CA-G.R. CV No. 52398.

On March 25, 1999, the appellate court decided CA-G.R. CV No. 52398 in this wise:

WHEREFORE, this court **AFFIRMS** the judgment of the lower court with modification and hereby **orders** the plaintiff-appellant to **pay defendant-appellant PCIB the amount of Twenty-Five Thousand Pesos (P25,000.00).**

SO ORDERED.^[10]

In affirming the trial court's judgment with respect to herein respondent David, the appellate court found that:

In this case, defendant-appellee had taken the necessary precautions to verify, through his bank, China Banking Corporation, the genuineness of whether (sic) the cashier's checks he received from Chandiramani. As no stop payment order was made yet (at) the time of the inquiry, defendant-appellee had no notice of what had transpired earlier between the plaintiff-appellant and Chandiramani. All he knew was that the checks were issued to Chandiramani with whom he was he had (sic) a transaction. Further on, David received the checks in question in due course because Chandiramani, who at the time the checks were delivered to David, was acting as Yang's agent.

David had no notice, real or constructive, cogent for him to make further inquiry as to any infirmity in the instrument(s) and defect of title of the holder. To mandate that each holder inquire about every aspect on how the instrument came about will unduly impede commercial transactions, Although **negotiable instruments do not constitute legal tender, they often take the place of money as a means of payment.**

The mere fact that David and Chandiramani knew one another for a long time is not sufficient to establish that they connived with each other to defraud Yang. There was no concrete proof presented by Yang to support her theory.^[11]

The appellate court awarded P25,000.00 in attorney's fees to PCIB as it found the action filed by Yang against said bank to be "clearly unfounded and baseless." Since PCIB was compelled to litigate to protect itself, then it was entitled under Article 2208^[12] of the Civil Code to attorney's fees and litigation expenses.

Hence, the instant recourse wherein petitioner submits the following issues for resolution:

- a - WHETHER THE CHECKS WERE ISSUED TO PREM CHANDIRAMANI BY PETITIONER;
- b - WHETHER THE ALLEGED TRANSACTION BETWEEN PREM CHANDIRAMANI AND FERNANDO DAVID IS LEGITIMATE OR A SCHEME BY BOTH PRIVATE RESPONDENTS TO SWINDLE PETITIONER;
- c - WHETHER FERNANDO DAVID GAVE PREM CHANDIRAMANI US\$360,000.00 OR JUST A FRACTION OF THE AMOUNT REPRESENTING HIS SHARE OF THE LOOT;
- d - WHETHER PRIVATE RESPONDENTS FERNANDO DAVID AND PCIB ARE ENTITLED TO DAMAGES AND ATTORNEY'S FEES.
^[13]

At the outset, we must stress that this is a petition for review under Rule 45 of the 1997 Rules of Civil Procedure. It is basic that in petitions for review under Rule 45, the jurisdiction of this Court is limited to reviewing questions of law, questions of fact are not entertained absent a showing that the factual findings complained of are totally devoid of support in the record or are glaringly erroneous.^[14] Given the facts in the instant case, despite petitioner's formulation, we find that the following are the pertinent issues to be resolved:

- a) Whether the Court of Appeals erred in holding herein respondent Fernando David to be a holder in due course; and
- b) Whether the appellate court committed a reversible error in awarding damages and attorney's fees to David and PCIB.

On the first issue, petitioner Yang contends that private respondent Fernando David is not a holder in due course of the checks in question. While it is true that he was