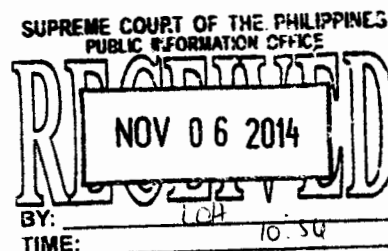




Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE



Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **September 29, 2014**, which reads as follows:*

“G.R. No. 207436 (Spouses Juanito Estrera and Marissa Estrera vs. Danilo D. Esquivel). – This is a Petition for Review under Rule 45 praying for the reversal of the Decision of the Court of Appeals (CA) dated February 15, 2013, affirming with modifications the Decision of the Regional Trial Court, Branch 73, Antipolo City (RTC) in Civil Case No. 05-774, and its subsequent Resolution dated June 5, 2013, which denied petitioner’s Motion for Reconsideration.

In 2005, respondent Danilo D. Esquivel filed a Complaint for collection of a sum of money against petitioner spouses Juanito and Marissa Estrera. Respondent alleged in his Complaint that upon petitioners’ promise of a 3.4% interest per month and issuance of post-dated checks in his favor, he was convinced to invest in petitioners’ lending investment business. In June 2003, he initially invested ₱200,880. In July and December 2003, respondent was then convinced again by petitioners to make further investments in the amounts of ₱833,987 and ₱43,461, respectively. In return, petitioners issued twenty-one (21) post-dated checks in exchange for the aforementioned amounts.

After several deferments due to petitioners’ requests not to deposit the post-dated checks, respondent finally deposited the same but all were dishonored for the reason “account closed.” Thus, respondent sent a demand letter dated December 10, 2004 to petitioners for the payment of ₱1,116,520. Due to petitioners’ failure to pay the said amount, respondent filed a complaint for collection of a sum of money.

In their Answer with Compulsory Counterclaim, petitioners contended that their obligation to respondent was already fully settled prior to the filing of the Complaint. As proof, petitioner spouses presented a handwritten acknowledgment receipt dated June 16, 2004 signed by respondent stating that the latter received ₱1,400,000. Petitioners argued that this amount was over and above their obligation to Esquivel which was only ₱1,078,328, the total amount of the latter’s investment. Hence, they were surprised when

they received a demand letter dated December 14, 2004 demanding the payment of ₱1,116,520 when in truth, they even made an overpayment of ₱321,680 which respondent must return to them. Thus, petitioners moved for the dismissal of the case asserting that the Complaint states no cause of action and that the demand in respondent's pleading has been paid. They also raised that even assuming for the sake of argument that their principal obligation to respondent was indeed ₱1,116,520, still, they have made an over payment of about ₱283,480. As their counterclaim, they asked for the reimbursement of their overpayment, moral damages, attorney's fees, exemplary damages and cost of suit.

In his Reply, respondent clarified that petitioners originally issued and delivered to him fifty-three (53) checks in connection with the transactions mentioned in the Complaint and that, originally, the principal unpaid obligation of petitioners was ₱2,433,760. Respondent pointed out that, in fact, on May 4, 2004, he sent them a demand letter demanding the payment of the said amount covered by 53 checks. He also alleged that in June 2004, petitioners paid him ₱1,400,000 and, thus, he returned thirty-two (32) checks to the former, which were equivalent to ₱1,400,000, plus reasonable interest. He further explained that out of the original 53 checks, he retained 21 considering that the amounts covered by the said 21 checks were not yet paid by petitioners. After such partial payment on June 16, 2004, petitioners refused to settle their obligation in full.

On the other hand, in their Pre-Trial Brief, petitioners explained the issuance of the 53 checks as follows: after respondent allowed them to postdate the checks to December 2003, he requested that they issue a new set of checks instead, since he was afraid that the drawee banks would not honor the same because of its erasures. As requested, petitioners issued another set of checks to respondent to replace the old checks with erasures. However, the old checks with erasures were never returned to them by respondent.

During pre-trial, respondent admitted the following, among others:

2. Plaintiff admitted that PhP1.4 million out of PhP1.6 million was received by him as payment by defendants. This fact was qualifiedly admitted that the payment of PhP1.4 million does not cover the amount involved in this case.¹

After the trial, the RTC found that petitioners issued fifty-two (52) checks amounting to ₱2,373,760. The trial court deducted the ₱1,400,000 payment made by petitioners which was admitted by respondent. The RTC explained:

There is no dispute the plaintiff invested in the lending business of the defendants. However, contrary to the allegations of the plaintiff that

¹ Rollo, p. 3.

defendants issued fifty three checks, the evidence disclosed that only fifty two checks were actually issued by the latter, to wit: x x x totalling Php2,373,760.00.

It is the contention of the defendants that the foregoing checks deposited to the plaintiff's account were not identified. However, defendants failed to object thereto by not filing a comment and/or objection to plaintiff's formal offer of evidence.

Plaintiff admitted that defendants paid him Php1,400,000.00. Doing a math, what remains the monetary obligation of the defendants is Php973,760.00. The twenty one (21) checks amounting to Php1,116,520.00 that remain [with] the plaintiff cannot be the basis of defendants' obligation. To do so, there would be mathematical inconsistency between the number of checks actually issued and the payment made by the defendants.²

Thus, the dispositive portion of the RTC Decision:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff Danilo D. Esquivel and against defendants-spouses Juanito Estrera and Marissa Estrera. Defendants are directed to jointly and severally pay plaintiff:

- a. the amount of Php973,760.00 plus 12% per annum upon finality of this Decision;
- b. the amount of Php50,000.00 as attorney's fees;
- c. the cost of this suit.³

Petitioners appealed to the CA. They pointed out that respondent's claim that his investment amounted to ₱2,443,760 had no basis considering that in his complaint, he only alleged an investment of ₱1,078,328. Petitioners claimed that the amount of ₱2,443,760 is the total value of all the 53 checks respondent deposited in his bank account and thus reflected in his bank account record. However, nineteen (19) of those 53 checks were checks issued as replacements because of erasures in the original checks and should not have been deposited by respondent.

The CA denied the appeal for lack of merit. It found respondent's version more credible and in accord with reality and noted that he testified in a clear and consistent manner during trial. On the other hand, the appellate court found petitioners' version unpersuasive and incredible to merit credence. Further, the CA noted that on cross-examination, petitioner Marissa Estrera made inconsistent testimony which eroded her credibility and weakened her claim that their obligation to respondent was already paid in full. Thus, the CA held that respondent was able to discharge his burden of proving that he loaned ₱2,443,760 to petitioners while the latter failed to discharge their burden of proving their claim of payment.

² Id. at 134-136.

³ Id. at 136.

However, the appellate court held that the RTC erred in using the return check memo as its basis to determine the remaining obligation of petitioners to respondent. It explained that the RTC should have based the same on the 21 checks presented by respondent. The CA explained as follows:

[I]t was error for the trial court to use as basis of the remaining obligation the return check memo because the same is self-serving x x x. The return check memo was also incomplete as to its details and cannot be substantiated whether the deposited checks were issued by defendants-appellants as payment for their loan. Therefore, the 21 dishonored checks presented and identified by the plaintiff-appellee and admitted by defendants-appellants are considered as sufficient evidence and proper basis of defendants-appellants' liability to plaintiff-appellee in the amount of Php1,116,520.00.⁴

The CA also found the agreed interest rate of 3.4% per month iniquitous considering that petitioners already made a partial payment of ₱1,400,000. The dispositive portion of the CA Decision reads:

WHEREFORE, premises considered, the March 25, 2011 Decision of the Regional Trial Court x x x is hereby AFFIRMED with the following MODIFICATIONS: (1) the defendants-appellants are liable to pay plaintiff-appellee the principal amount of Php1,116,520.00; (2) an interest of 2% per month is imposed on the Php1,116,520.00 to be computed from the time of the extra-judicial demand on December 10, 2004 up to the finality of this Decision; (3) an interest of 12% per annum is also imposed from the finality of this Decision up to its full satisfaction; and (4) the award of attorney's fees is deleted.⁵

Hence, this petition raising the following issues:

1. Whether the CA gravely erred in imposing interest of 2% per month on the alleged principal obligation despite the fact that there was no written agreement to that effect.
2. Whether the CA gravely erred in not holding that Esquivel is bound by his judicial admission that since the inception of their transactions, the obligation of the Sps. Estrera only amounted to Php1,116,520.00.
3. Whether the Decisions of the CA and the RTC are based on misapprehension of facts which would result to Esquivel's gross and unjust enrichment at the expense of the petitioners.

The petition lacks merit and must be denied. However, the amount of the remaining obligation of petitioners to respondent must be modified.

It was settled by the RTC that petitioners issued only fifty-two (52) checks, not fifty-three (53), as their payment for their loan to respondent.

⁴ Id. at 45.

⁵ Id. at 45-46.

However, the RTC erred in relying only on the return check memo in determining the remaining obligation of petitioners to respondent since the said return check memo reflects only fifty (50) checks and not fifty-two (52). We note that the RTC simply subtracted the amount of ₱1,400,000, the amount already paid by petitioners and acknowledged by respondent, from ₱2,373,760, the amount reflected in the return check memo covering fifty (50) checks only, when it should have also added the amounts covered by the two (2) checks submitted as evidence by respondent, but not included in the return check memo, in particular: PS Bank Check No. 021377 submitted as Exhibit "T" in the amount of ₱25,000 and Bank One Check No. 0032039 submitted as Exhibit "U" in the amount of ₱20,000. In the RTC Decision, Exhibits "T" and "U" were included in the list of checks presented by respondent but, somehow, the amounts thereof were not included in the trial court's computation. Hence, the RTC should have subtracted the amount of ₱1,400,000 from ₱2,418,760 and determined that ₱1,018,760 was the remaining obligation of petitioners. Further, the 2% monthly interest or 24% interest per annum imposed by the CA is reduced to 12% per annum from the date of extra-judicial demand, December 10, 2004, until fully paid, following prevailing jurisprudence.⁶

Article 1229 of the Civil Code states:

Art. 1229. The judge shall equitably reduce the penalty when the principal obligation has been partly or irregularly complied with by the debtor. Even if there has been no performance, the penalty may also be reduced by the courts if it is iniquitous or unconscionable.

Here, the records reveal that petitioners already made a partial payment of ₱1,400,000, so it would be equitable to reduce further the interest from 24% to 12% per annum under this circumstance.

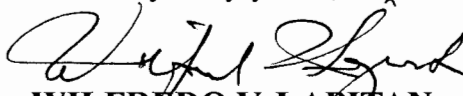
WHEREFORE, premises considered, the petition is **DENIED**. The Decision of the Court of Appeals in CA-G.R. CV No. 97268 dated February 15, 2013 is **AFFIRMED** with **MODIFICATION**. As modified, the *fallo* of the CA Decision shall read:

WHEREFORE, premises considered, the March 25, 2011 Decision of the Regional Trial Court x x x is hereby **AFFIRMED** with the following **MODIFICATIONS**: (1) petitioners are liable to pay respondent the principal amount of Php1,018,760.00; (2) an interest of 12% per annum is imposed on the Php1,018,760.00 to be computed from the time of the extra-judicial demand on December 10, 2004 up to its full satisfaction; and (3) the award of attorney's fees is deleted.

⁶ *Macalinao v. Bank of the Philippine Islands*, G.R. No. 175490, September 17, 2009, 600 SCRA 67.

SO ORDERED.”

Very truly yours,


WILFREDO V. LAPITAN
Division Clerk of Court

10/22/14

Attys. Emmanuel S. Brotarlo
and Sherwin G. Real
REAL BROTARLO & REAL
Counsel for Petitioners
4/F, Cityland 10 Tower I
156 H.V. Dela Costa Street
Ayala Avenue North, 1200 Makati City

COURT OF APPEALS
CA G.R. CV No. 97268
1000 Manila

Atty. Joselito Frial
J.C. FRIAL & ASSOCIATES LAW OFFICE
Counsel for Respondent
Suite 402, CCI Bldg.
1091 N. Lopez St.
Ermita, 1000 Manila

The Presiding Judge
REGIONAL TRIAL COURT
Branch 73, 1870 Antipolo City
(Civil Case No. 05-7704)

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