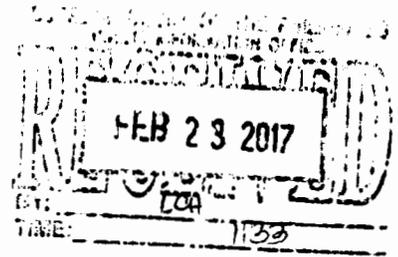




Republic of the Philippines
 Supreme Court
 Manila



FIRST DIVISION

MANUEL C. UBAS, SR.
 Petitioner,

G.R. No. 215910

Present:

- versus -

WILSON CHAN,
 Respondent.

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

Promulgated:

FEB 06 2017

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ is the Decision² dated October 28, 2014 of the Court of Appeals (CA) in CA-G.R. CV No. 04024 dismissing the complaint filed by petitioner Manuel C. Ubas, Sr. (petitioner) for lack of cause of action.

The Facts

This case stemmed from a Complaint for Sum of Money with Application for Writ of Attachment³ (Complaint) filed by petitioner against respondent Wilson Chan (respondent) before the Regional Trial Court of

¹ Rollo, pp. 3-26.

² Id. at 28-45. Penned by Associate Justice Ma. Luisa C. Quijano-Padilla, with Associate Justices Ramon Paul L. Hernando and Marie Christine Azcarraga-Jacob concurring.

³ Dated December 14, 2001. Records, pp. 1-5.

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Catarman, Northern Samar, Branch 19 (RTC), docketed as Civil Case No. C-1071. In his Complaint, petitioner alleged that respondent, “doing business under the name and style of UNIMASTER,” was indebted to him in the amount of ₱1,500,000.00, representing the price of boulders, sand, gravel, and other construction materials allegedly purchased by respondent from him for the construction of the Macagtas Dam in Barangay Macagtas, Catarman, Northern Samar (Macagtas Dam project). He claimed that the said obligation has long become due and demandable and yet, respondent unjustly refused to pay the same despite repeated demands.⁴ Further, he averred that respondent had issued three (3) bank checks, payable to “CASH” in the amount of ₱500,000.00 each, on January 31, 1998, March 13, 1998, and April 3, 1998, respectively (subject checks),⁵ but when petitioner presented the subject checks for encashment on June 29, 1998, the same were dishonored due to a stop payment order. As such, respondent was guilty of fraud in incurring the obligation.⁶

Respondent filed an Answer with Motion to Dismiss,⁷ seeking the dismissal of the case on the following grounds: (a) the complaint states no cause of action, considering that the checks do not belong to him but to Unimasters Conglomeration, Inc. (Unimasters); (b) there is no contract that ever existed between him and petitioner; and (c) if petitioner even had a right of action at all, the complaint should not have been filed against him but against Unimasters, a duly registered construction company which has a separate juridical personality from him.⁸

During trial, petitioner testified that on January 1, 1998, he entered into a verbal agreement with respondent for the supply of gravel, sand, and boulders for the Macagtas Dam project.⁹ He presented as the only proof of their business transaction the subject checks issued to him by respondent and delivered to his office by respondent’s worker on different occasions.¹⁰ He alleged that, at the behest of respondent, he only deposited the checks to his bank account on June 29, 1998.¹¹ When the checks were dishonored, petitioner demanded from respondent the value of the dishonored checks, but to no avail.¹² Apart from his own testimony, petitioner presented Jose Chie Ubas, the company operations manager of Ubas Construction, Inc., who testified that in 1998, he accompanied several deliveries of gravel, sand, and boulders to a certain project engineer named Paking dela Cruz at the Macagtas Dam project site, and that respondent issued checks for their payment; thus, he came to know that there was a transaction between them.¹³

⁴ Petitioner’s last demand was through a Demand Letter received by respondent on December 5, 2001 per Registry Return Receipt (see *id.* at 6).

⁵ See *id.* at 7.

⁶ See records, pp. 1-2 and *rollo*, pp. 15-16.

⁷ Dated May 10, 2002. Records, pp. 23-30.

⁸ *Id.* at 26-27.

⁹ See TSN, November 24, 2004, pp. 14-16 and TSN, January 31, 2005, p. 6.

¹⁰ See TSN, November 24, 2004, pp. 16-17.

¹¹ See *id.* at 17-18.

¹² See *id.* at 22-24.

¹³ See TSN, August 13, 2004, pp. 7-8 and 21-22.

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Petitioner also presented Francisco Barrelo, the former employee of Far East Bank, who testified that the subject checks were dishonored upon presentment because of a stop payment order by the bank.¹⁴

On the other hand, respondent presented Unimasters' comptroller, Belma Murillo (Murillo), who testified that Unimasters was contracted by the Department of Public Works and Highways for the Macagtas Dam project; that Engineer Ereberto Merelos (Engr. Merelos) was hired as project engineer tasked to supervise the work, the hiring of laborers, the delivery and payment of aggregates, and the payroll, and was likewise in charge of negotiating the supply of aggregates and the revolving fund for its payments; that the subject checks were issued for the replenishment of the revolving fund,¹⁵ but Engr. Merelos lost the same sometime in January 1998; and that upon being informed about the loss of the checks, respondent, as President of Unimasters, instructed Murillo to issue a Stop Payment Order on April 10, 1998.¹⁶ Murillo belied petitioner's claim that the subject checks were given to the latter in payment of the aggregates and materials that he allegedly delivered for the Macagtas Dam project, considering that their office did not process any delivery receipt or proof of delivery of such aggregates by petitioner.¹⁷

For his part, respondent admitted to having issued the subject checks. However, he claimed that they were not issued to petitioner, but to Engr. Merelos for purposes of replenishing the project's revolving fund.¹⁸ Respondent also described the procedure in the delivery of aggregates to their project sites, asserting that petitioner was not among their suppliers of aggregates for the Macagtas Dam project as, in fact, the latter never submitted any bill attaching purchase orders and delivery receipts for payments as other suppliers did.¹⁹

The RTC Ruling

In a Decision²⁰ dated January 30, 2008, the RTC ruled that petitioner had a cause of action against respondent. At the outset, it observed that petitioner's demand letter – which clearly stated the serial numbers of the checks, including the dates and amounts thereof – was not disputed by respondent. Also, it did not lend credence to respondent's claim that the subject checks were lost and only came into the possession of petitioner, considering the fact that petitioner mentioned the details of the subject checks in the said demand letter and, thus, would have incriminated himself

¹⁴ See TSN, November 24, 2004, pp. 3-4 and 9.

¹⁵ See TSN, March 3, 2006, pp. 2, 9-15, and 22.

¹⁶ See *id.* at 15-16 and 17-18.

¹⁷ See *id.* at 17-18.

¹⁸ See TSN, December 4, 2006, pp. 13-16.

¹⁹ See *id.* at 7-9, 12, and 17-18.

²⁰ *Rollo*, pp. 46-59. Penned by Judge Norma Megenio Cardenas.

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had he actually stolen them.²¹ It also took note that respondent did not file a case for theft in relation to the lost checks found in possession of petitioner.²² Thus, finding that respondent failed to overcome the disputable presumption that every party to an instrument acquired the same for a valuable consideration under Section 24 of Act No. 2031,²³ or the Negotiable Instruments Law (NIL), the RTC ordered him to pay petitioner the amount of ₱1,500,000.00 representing the principal obligation plus legal interests from June 1998 until fully paid, ₱40,000 as litigation expenses, ₱50,000 as attorney's fees, and cost of the suit.²⁴

With the subsequent denial²⁵ of his motion for reconsideration,²⁶ respondent filed a notice of appeal.²⁷

The CA Ruling

In a Decision²⁸ dated October 28, 2014, the CA reversed and set aside the RTC's ruling, dismissing petitioner's complaint on the ground of lack of cause of action.

It held that respondent was not the proper party defendant in the case, considering that the drawer of the subject checks was Unimasters, which, as a corporate entity, has a separate and distinct personality from respondent. It observed that the subject checks cannot be validly used as proof of the alleged transactions between petitioner and respondent, since from the face of these checks alone, it is readily apparent that they are not personal checks of the former. Thus, if at all, the said checks can only serve as evidence of transactions between Unimasters and petitioner.²⁹ Accordingly, Unimasters is an indispensable party, and since it was not impleaded, the court had no jurisdiction over the case.³⁰

In any event, the CA found that petitioner's claim of unpaid deliveries had no merit, given that not a single delivery receipt, trip ticket or similar document was presented to establish the delivery of construction materials to respondent.³¹ Further, the CA gave scant consideration to petitioner's argument that respondent and Unimasters should be treated as one and the same under the doctrine of piercing the veil of corporate fiction because not

²¹ Id. at 57.

²² Id.

²³ Enacted on February 3, 1911.

²⁴ *Rollo*, p. 58.

²⁵ See Resolution dated August 19, 2008; records, pp. 347-348.

²⁶ Dated February 26, 2008; id. at 322-330.

²⁷ Dated September 19, 2008; id. at 351-353.

²⁸ *Rollo*, pp. 28-45.

²⁹ See id. at 41-42.

³⁰ Id. at 42.

³¹ Id. at 43.

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only was the issue raised for the first time on appeal, but that the records bear no evidence that would establish the factual conditions for the application of the doctrine.³²

Hence, the instant petition.

The Issue Before the Court

The sole issue in this case is whether or not the CA erred in dismissing petitioner's complaint for lack of cause of action.

The Court's Ruling

The petition is meritorious.

Cause of action is defined as the act or omission by which a party violates a right of another. It is well-settled that the existence of a cause of action is determined by the allegations in the complaint.³³

In this case, petitioner's cause of action is anchored on his claim that respondent personally entered into a contract with him for the delivery of construction materials amounting to ₱1,500,000.00, which was, however, left unpaid. He also avers that respondent is guilty of fraud in the performance of said obligation because the subject checks issued to him by respondent were dishonored on the ground of stop payment. As proof, petitioner offered in evidence, among others, the demand letter he sent to respondent detailing the serial numbers of the checks that were issued by the latter, including the dates and amounts thereof. He also offered the dishonored checks which were in his possession.

Respondent neither disputes the fact that he had indeed signed the subject checks nor denies the demand letter sent to him by petitioner. Nevertheless, he claims that the checks were not issued to petitioner but to the project engineer of Unimasters who, however, lost the same. He also disclaims any personal transaction with petitioner, stating that the subject checks were in fact, issued by Unimasters and not him. Besides, petitioner failed to present any documentary proof that he or his firm delivered construction materials for the Macagtas Dam project.

³² See *id.* at 43-44.

³³ *Heirs of Ypon v. Ricaforte*, 713 Phil. 570, 574-575 (2013).

The Court finds for petitioner.

Jurisprudence holds that “in a suit for a recovery of sum of money, as here, the plaintiff-creditor [(petitioner in this case)] has the burden of proof to show that defendant [(respondent in this case)] had not paid [him] the amount of the contracted loan. However, it has also been long established that where the plaintiff-creditor possesses and submits in evidence an instrument showing the indebtedness, a presumption that the credit has not been satisfied arises in [his] favor. Thus, the defendant is, in appropriate instances, required to overcome the said presumption and present evidence to prove the fact of payment so that no judgment will be entered against him.”³⁴ This presumption stems from Section 24 of the NIL, which provides that:

Section 24. *Presumption of Consideration.* – Every negotiable instrument is deemed *prima facie* to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party thereto for value.

As mentioned, petitioner had presented in evidence the three (3) dishonored checks which were undeniably signed by respondent. During trial, respondent admitted to the following:

[Atty. Arturo Villarin] Q: Showing to you this check dated January 31, 1998 x x x, please go over this check and tell the Honorable Court if that is the same check that you issued as replenishment for the revolving fund?

x x x x

[Respondent] A: **Yes, this is the check I signed.**

Q: At the right bottom portion of this check is a signature, whose signature is this?

A: **That is my signature.**

Q: Likewise, for the month of March 13, 1998[,] there is a check in the amount of [P500,000.00]. Is this also the check that you issued as replenishment for the project?

A: **Yes, Sir.**³⁵ (Emphases supplied)

Hence, as the RTC correctly ruled, it is presumed that the subject checks were issued for a valid consideration, which therefore, dispensed with the necessity of any documentary evidence to support petitioner’s

³⁴ *Ting Ting Pua v. Sps. Lo Bun Tiong*, 720 Phil. 511, 524 (2013).

³⁵ TSN, December 4, 2006, p. 14-15.

monetary claim. Unless otherwise rebutted, the legal presumption of consideration under Section 24 of the NIL stands. Verily, “the vital function of legal presumption is to dispense with the need for proof.”³⁶

Respondent’s defense that the subject checks were lost and, thus, were not actually issued to petitioner is a factual matter already passed upon by the RTC. As aptly pointed out by the trial court, it would have been contrary to human nature and experience for petitioner to send respondent a demand letter detailing the particulars of the said checks if he indeed unlawfully obtained the same. In fact, it is glaring that respondent did not present Engr. Merelos, the project engineer who had purportedly lost the checks, to personally testify on the circumstances surrounding the checks’ loss. Further, Unimasters’ comptroller, Murillo, testified during trial that “she came to know that the lost checks were deposited in the account of [petitioner as] she was informed by the [o]ffice[r]-in-charge of the drawee bank, the Far East Bank of Tacloban, City Branch.”³⁷ However, there was no showing that Unimasters and/or respondent commenced any action against petitioner to assert its interest over a significant sum of ₱1,500,000.00 relative to the checks that were supposedly lost/ stolen. Clearly, this paucity of action under said circumstances is again, inconsistent with ordinary human nature and experience. Thus, absent any cogent reason to the contrary, the Court defers to the RTC’s findings of fact on this matter. In *Madrigal v. CA*,³⁸ it was explained that:

The Supreme Court’s jurisdiction is limited to reviewing errors of law that may have been committed by the lower court. The Supreme Court is not a trier of facts. It leaves these matters to the lower court, which [has] more opportunity and facilities to examine these matters. This same Court has declared that it is the policy of the Court to defer to the factual findings of the trial judge, who has the advantage of directly observing the witnesses on the stand and to determine their demeanor whether they are telling or distorting the truth.³⁹

Besides, Section 16 of the NIL provides that when an instrument is no longer in the possession of the person who signed it and it is complete in its terms, “a valid and intentional delivery by him is presumed until the contrary is proved,” as in this case.

In *Pacheco v. CA*,⁴⁰ the Court has expressly recognized that a check “constitutes an evidence of indebtedness” and is a veritable “proof of an obligation.” Hence, petitioner may rely on the same as proof of respondent’s personal obligation to him.

³⁶ *Malic v. Workmen’s Compensation Commission*, 182 Phil. 5, 8 (1979).

³⁷ *Rollo*, p. 54.

³⁸ 496 Phil. 149 (2005).

³⁹ *Id.* at 156, citing *Bernardo v. CA*, G.R. No. 101680, December 7, 1992, 216 SCRA 224, 232.

⁴⁰ See 377 Phil. 627 (1999).

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Although the checks were under the account name of Unimasters, it should be emphasized that the manner or mode of payment does not alter the nature of the obligation. The source of obligation, as claimed by petitioner in this case, stems from his contract with respondent. When they agreed upon the purchase of the construction materials on credit for the amount of ₱1,500,000.00, the contract between them was perfected.⁴¹ Therefore, even if corporate checks were issued for the payment of the obligation, the fact remains that the juridical tie between the two (2) parties was already established during the contract's perfection stage and, thus, does not preclude the creditor from proceeding against the debtor during the contract's consummation stage.

That a privity of contract exists between petitioner and respondent is a conclusion amply supported by the averments and evidence on record in this case.

First, the Court observes that petitioner was consistent in his account that he directly dealt with respondent in his personal and not merely his representative capacity. In his Complaint, petitioner alleged that “[Chan, doing business under the name and style of Unimaster] is indebted to [him] in the amount [₱1,500,000.00] x x x.”⁴²

Moreover, the demand letter, which was admitted by respondent, was personally addressed to respondent and not to Unimasters as represented by the latter.⁴³

Also, it deserves mentioning that in his testimony before the RTC, petitioner explained that he delivered the construction materials to respondent absent any written agreement due to his trust on the latter, viz.:

[Atty. Daniel Arnold Añover] Q: So, when you delivered the aggregates, did you agree to deliver the aggregates to Mr. Chan the defendant in this case, you did not put the terms into writing? Am I correct?

[Petitioner] A: None, because it is verbal only, because I trusted him being a contractor.

x x x x

⁴¹ “An obligation is a juridical necessity to give, to do or not to do (Art. 1156, Civil Code). The obligation is constituted upon the concurrence of the essential elements thereof, viz.: (a) The *vinculum juris* or juridical tie which is the efficient cause established by the various sources of obligations (law, contracts, *quasi*-contracts, *delicts* and *quasi-delicts*); (b) the object which is the prestation or conduct, required to be observed (to give, to do or not to do); and (c) the subject-persons who, viewed from the demandability of the obligation, are the active (obligee) and the passive (obligor) subjects.” (*Asuncion v. CA*, G.R. No. 109125, December 2, 1994, 238 SCRA 602, 610.)

⁴² Records, p. 1.

⁴³ Id. at 6. See also *rollo*, p. 57.

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Q: Now, Mr. Witness you said that you trusted Mr. Chan, am I correct?

A: Yes, Sir.

Q: And that he promised you several times that he would pay you?

A: Yes, he promised me many times.

Q: And yet you still hold all these checks for security? Correct?

A: Yes Sir.

Q: Now, Mr. Witness, you said that you trusted Mr. Chan, then why did you not just handed [sic] over the checks to him, because you said you trusted him?

A: How many times I gone to Tacloban and I went to Unimaster Office but they referred me to the Leyte Park Hotel, since they are no longer in good terms with Mr. Wilson Chan so they referred me to Leyte Park Hotel and then I went to Mr. Chan he promised that he will pay me and after several months again, the same will be paid next month because there will be final inspection I even let him borrow my equipment for free and hoping that the checks will be funded but again he lied.⁴⁴

This squares with respondent's own testimony, wherein he stated that every time he wanted to have supplies delivered for the Macagtas Dam project, he would not enter into any written contract:

[Atty. Marlonfritz Broto] Q: [Okay], now having read this particular statement Mr. Witness would you agree with this representation that every time **you want to have supplies in Macagtas dam you do not enter into contract** as you testified here a while ago?

[Respondent] A: Yes, Sir.⁴⁵ (Emphasis supplied)

Petitioner further testified that he personally demanded the value of the subject checks from respondent in his office, viz.:

[Atty. Daniel Arnold Añover] Q: Now, Mr. Witness you said that you visited Leyte Park Hotel several times, am I correct?

[Petitioner] A: I think once or twice to demand from Mr. Wilson Chan.

Q: And of course, you were able to see Mr. Chan personally?

A: Yes, we had the conversation.

x x x x

⁴⁴ TSN, January 31, 2005, pp. 6-7.

⁴⁵ TSN, December 4, 2006, p. 24.

Q: So you are saying you are talking to him in his office?

A: Yes, apparently, it was his Office.

x x x x

Q: You said that when you were there you were just talking each other [sic] and you were taking coffee and made promises, right?

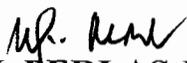
A: Yes, sir.⁴⁶

Notably, these statements were considered undisputed. Hence, the same are binding on the parties.

In fine, the Court holds that the CA erred in dismissing petitioner's complaint against respondent on the ground of lack of cause of action. Respondent was not able to overcome the presumption of consideration under Section 24 of the NIL and establish any of his affirmative defenses. On the other hand, as the holder of the subject checks which are presumed to have been issued for a valuable consideration, and having established his privity of contract with respondent, petitioner has substantiated his cause of action by a preponderance of evidence. "Preponderance of evidence' is a phrase that, in the last analysis, means probability of the truth. It is evidence that is more convincing to the court as worthy of belief than that which is offered in opposition thereto."⁴⁷ Consequently, petitioner's Complaint should be granted.

WHEREFORE, the petition is **GRANTED**. The Decision dated October 28, 2014 of the Court of Appeals in CA-G.R. CV No. 04024 is hereby **SET ASIDE**. The Decision dated January 30, 2008 of the Regional Trial Court of Catarman, Northern Samar, Branch 19 in Civil Case No. C-1071 is **REINSTATED**.

SO ORDERED.


ESTELA M. BERLAS-BERNABE
Associate Justice

⁴⁶ TSN, January 31, 2005, p. 17.

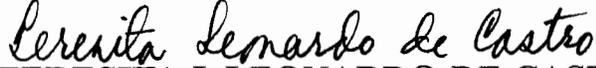
⁴⁷ *Heirs of Lim v. Lim*, 628 Phil. 40, 48 (2010).

WE CONCUR:



MARIA LOURDES P. A. SERENO

Chief Justice



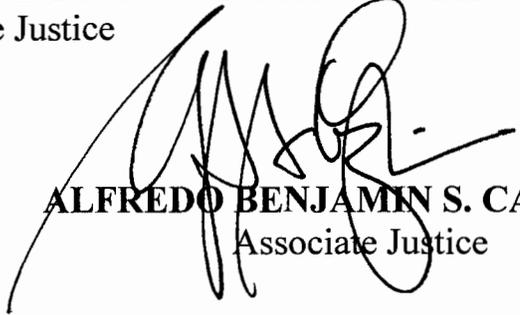
TERESITA J. LEONARDO-DE CASTRO

Associate Justice



MARIANO C. DEL CASTILLO

Associate Justice



ALFREDO BENJAMIN S. CAGUIOA

Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO

Chief Justice

