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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RCBC BANKARD SERVICES CORPORATION,
Petitioner,

- versus -

MOISES ORACION, JR. and EMILY* L. ORACION,
Respondents.

G.R. No. 223274

Present:

CARPIO, *J., Chairperson,*
PERLAS-BERNABE,
CAGUIOA,
J. REYES, JR., and
LAZARO-JAVIER, *JJ.*

Promulgated:

19 JUN 2019

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DECISION

CAGUIOA, *J.:*

Before the Court is the petition for review on *certiorari*[1] (Petition) under Rule 45 of the Rules of Court (Rules) filed by petitioner RCBC Bankard Services Corporation (petitioner) assailing the Decision[2] dated August 13, 2013 (RTC Decision) and the Order[3] dated March 1, 2016 (RTC Order) of the Regional Trial Court, Branch 71, Pasig City (RTC) in Civil Case No. 73756. The RTC Decision affirmed *in toto* the Decision[4] dated September 28, 2012 of the Metropolitan Trial Court, Branch 72, Pasig City (MeTC) in Civil Case No. 18629, which dismissed the complaint of petitioner for lack of preponderance of evidence.[5] The RTC Order denied petitioner's Motion for Reconsideration.[6]

The Facts and Antecedent Proceedings

The antecedent facts as gleaned from the MeTC Decision and narrated in the RTC Decision are straightforward.

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* Also stated as "Emy" in some parts of the records.
1 *Rollo*, pp. 8-21, excluding Annexes.
2 Id. at 22-25. Penned by Judge Elisa R. Sarmiento-Flores.
3 Id. at 26.
4 Id. at 45-47. Penned by Presiding Judge Joy N. Casihan-Dumlao.
5 Id. at 46.
6 Id. at 26.

Respondents Moises Oracion, Jr. (Moises) and Emily L. Oracion (Emily) (collectively, respondents) applied for and were granted by petitioner credit card accommodations with the issuance of a Bankard PESO Mastercard Platinum[7] with Account No. 5243-0205-8171-4007 (credit card) on December 2, 2010.[8] Respondents on various dates used the credit card in purchasing different products but failed to pay petitioner the total amount of ₱117,157.98, inclusive of charges and penalties or at least the minimum amount due under the credit card.[9] Petitioner attached to its complaint against respondents "duplicate original" copies of the Statements of Account from April 17, 2011 to December 15, 2011[10] (SOAs, Annexes "A", "A-1" to "A-8") and the Credit History Inquiry (Annex "B").[11] The SOAs bear the name of Moises as the addressee and the Credit History Inquiry bears the name: "MR ORACION JR M A" on the top portion.[12] Despite the receipt of the SOAs, respondents failed and refused to comply with their obligation to petitioner under the credit card.[13] Consequently, petitioner sent a written demand letter (dated January 26, 2012, Annex "C" to the complaint[14]) to respondents but despite receipt thereof, respondents refused to comply with their obligation to petitioner.[15] Hence, petitioner filed a Complaint for Sum of Money[16] dated February 7, 2012 before the MeTC.[17]

Acting on the complaint, the MeTC issued summons on March 13, 2012.[18] Based on the return of the summons dated April 12, 2012 of Sheriff III Inocentes P. Villasquez, the summons was duly effected to respondents through substituted service on April 11, 2012.[19] For failure of respondents to file their answer within the required period, the MeTC *motu proprio*, pursuant to Section 6 of the Rule on Summary Procedure, considered the case submitted for resolution.[20]

Ruling of the MeTC

The MeTC, without delving into the merits of the case, dismissed it on the ground that petitioner, as the plaintiff, failed to discharge the required burden of proof in a civil case, which is to establish its case by preponderance of evidence.[21] The MeTC justified the dismissal in this wise:

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7 Id. at 27.
8 Id. at 22.
9 Id.
10 Stated as "December 15, 2012" in the Complaint and in the Petition, id. at 9 and 29.
11 *Rollo*, pp. 22, 29 and 32-41.
12 Id. at 32-41.
13 Id. at 22-23.
14 Id. at 42.
15 Id. at 23.
16 Id. at 27-44.
17 Id. at 23.
18 Id.
19 Id.
20 Id.
21 Id. at 46.

> Perusal of the records shows that the signature in the attachments in support of the [complaint] are mere photocopies, stamp mark[22] in the instant case. The Best Evidence Rule provides that the court shall not receive any evidence that is merely substitutionary in its nature, such as stamp mark, as long as the original evidence can be had. Absent a clear showing that the original writing has been lost, destroyed or cannot be produced in court; the photocopies must be disregarded being unworthy of any probative value and being an inadmissible piece of evidence. (PHILIPPINE BANKING CORPORATION, petitioner, vs. COURT OF APPEALS and LEONILO MARCOS, respondents, G.R. No. 127469, 2004 Jan 15, 1st Division).[23]

The decretal portion of the MeTC Decision dated September 28, 2012 reads:

> WHEREFORE, for lack of [p]reponderance of evidence, herein [complaint] is hereby DISMISSED.
>
> SO ORDERED.[24]

Petitioner filed a Notice of Appeal[25] dated December 17, 2012 on the ground that the MeTC Decision was contrary to the facts and law.[26]

In its Memorandum for Appellant[27] dated February 19, 2012, petitioner argued that what it attached to the complaint were the "duplicate original copies" and not mere photocopies.[28] Petitioner also argued that:

> x x x [if for] unknown reasons or events the said Duplicate Original Copies were no longer found in the record of the court or that the copy of the Complaint intended for the court, where these Originals were attached, was not forwarded to the x x x MTC, [petitioner] respectfully submits that justice and equity dictates that the x x x MTC should have required [petitioner] to produce or reproduce the same instead of immediately dismissing the case on that ground alone. In which case, a clarificatory hearing for that purpose is proper. This is especially true in the present case considering that there were allegations in the complaint that the Duplicate Original Copies were attached as annexes therein; and that the x x x MTC motu proprio submitted the case for decision. Not to mention the fact that these documents are computer generated reports, in

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22 The stamp appears to the bottom of each page of the SOAs with the following entry:
Duplicate Original

(Sgd.)
CHARITO O. HAM
Senior Manager
Collection Support Division Head

Collection group
Bankard Inc. (Records, pp. 5-14.)

23 *Rollo*, p. 46.

24 Id.

25 Id. at 48-49.

26 Id. at 48.

27 Id. at 56-61.

28 Id. at 58.

> which case, [petitioner] could simply present another set of printed Duplicate Original Copies for the x x x MTC['s] perusal.[29]

Ruling of the RTC

The RTC found petitioner's appeal to be without merit.[30] It reasoned out that:

> In the instant case, it is up to [petitioner] to prove that the attachments in support of the complaint are originals and not merely substitutionary in nature. Only after submission of such original documents can the court delve into the merit of the case.
>
> [Petitioner's] insistence that it attached Duplicate Original Copies of the [SOAs] and the Credit History Inquiry as Annexes x x x in its complaint is entirely for naught, as such documents could not be considered as original.
>
> A perusal of the said annexes would show that there is a stamp mark at the bottom right portion of each page of the said annexes, with the words "DUPLICATE ORIGINAL (signature) CHARITO O. HAM, Senior Manager, Collection Support Division Head, Collection Group, Bankard Inc."
>
> Further inspection of the said stamp marks would reveal that the signatures appearing at the top of the name CHARITO O. HAM in the respective annexes are not original signatures but are part of the subject stamp marks.
>
> Indeed, Annexes "A", "A-1" to "A-8" and "B", attached to the complaint, cannot be considered as original documents contemplated under Section 3, Rule 130 of the x x x Rules of Court. In fact, even [petitioner] found the need to stamp mark them as "DUPLICATE ORIGINAL" to differentiate them from the original documents.
>
> The Court also noted the fact that [petitioner] filed a MANIFESTATION dated August 9, 2012, attaching therewith as Annexes "A", "A-1" to "A-8" the Duplicate Original Itemized [SOAs], and as Annex "B" the Credit History Inquiry. Upon examination of these latter annexes, the Court observed that they are merely photocopies of the annexes attached to the complaint, but with a mere addition of stamp marks bearing the same inscription as the first stamp marks. These only demonstrate that whenever [petitioner] describes a document as "DUPLICATE ORIGINAL", it only refers to a copy of the document and not necessarily the original thereof. Such substitutionary documents could not be given probative value and are inadmissible pieces of evidence.[31]

The dispositive portion of the RTC Decision dated August 13, 2013 reads:

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29 Id.
30 Id. at 24.
31 Id. at 24-25.

> **WHEREFORE**, premises considered, and finding no cogent reason to disturb the Decision of the [MeTC] dated September 28, 2012, said DECISION is hereby ***AFFIRMED IN TOTO***.
>
> SO ORDERED.[32]

Petitioner filed a Motion for Reconsideration[33] dated August 29, 2013, which was denied by the RTC in its Order[34] dated March 1, 2016.

Hence, the instant Rule 45 Petition. The Court in its Resolution[35] dated June 27, 2016 required respondents to comment on the Petition and directed the Branch Clerk of Court of the RTC to elevate the complete records of Civil Case No. 73756, which were subsequently received by the Court. In view of the returned and unserved copy of the Resolution dated June 27, 2016, the Court in its Resolution[36] dated June 6, 2018 dispensed with respondents' comment.

The Issues

Petitioner raises the following issues:

1. on pure question of law, whether the RTC erred in affirming the MeTC's dismissal of petitioner's complaint in that pursuant to Section 1, Rule 4 of the Rules on Electronic Evidence (A.M. No. 01-7-01-SC), an electronic document is to be regarded as an original thereof under the Best Evidence Rule and thus, with the presented evidence in "original duplicate copies," petitioner has preponderantly proven respondents' unpaid obligation; and

2. in any event, invoking the rule that technicalities must yield to substantial justice, whether petitioner must be afforded the opportunity to rectify its mistake, offer additional evidence and/or present to the court another set of direct print-outs of the electronic documents.

The Court's Ruling

On the first issue, petitioner invokes ***for the first time on appeal*** the Rules on Electronic Evidence to justify its position that it has preponderantly proven its claim for unpaid obligation against respondents because it had attached to its complaint electronic documents. Petitioner argues that since electronic documents, which are computer-generated, accurately representing information, data, figures and/or other modes of written expression, creating or extinguishing a right or obligation, when directly printed out are considered original reproductions of the same, they are admissible under the Best

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32 Id. at 25.
33 Id. at 52-55.
34 Id. at 26.
35 Id. at 71-72.
36 Id. at 104-105.

Evidence Rule.[37] Petitioner explains that since the attachments to its complaint are wholly computer-generated print-outs which it caused to be reproduced directly from the computer, they qualify as electronic documents which should be regarded as the equivalent of the original documents pursuant to Section 1, Rule 4 of the Rules on Electronic Evidence.[38]

Procedurally, petitioner cannot adopt a new theory in its appeal before the Court and abandon its theory in its appeal before the RTC. Pursuant to Section 15, Rule 44 of the Rules, petitioner may include in his assignment of errors any question of law or fact that has been raised in the court below and is within the issues framed by the parties.

In the Memorandum for Appellant which it filed before the RTC, petitioner did not raise the Rules on Electronic Evidence to justify that the so-called "duplicate original copies" of the SOAs and Credit History Inquiry are electronic documents. Rather, it insisted that they were duplicate original copies, being computer-generated reports, and not mere photocopies or substitutionary evidence, as found by the MeTC. As observed by the RTC, petitioner even tried to rectify the attachments (annexes) to its complaint, by filing a Manifestation dated August 9, 2012 wherein it attached copies of the said annexes. Unfortunately, as observed by the RTC, the attachments to the said Manifestation "are merely photocopies of the annexes attached to the complaint, but with a mere addition of stamp marks bearing the same inscription as the first stamp marks"[39] that were placed in the annexes to the complaint. Because petitioner has not raised the electronic document argument before the RTC, it may no longer be raised nor ruled upon on appeal.

Even in the complaint, petitioner never intimated that it intended the annexes to be considered as electronic documents as defined in the Rules on Electronic Evidence. If such were petitioner's intention, then it would have laid down in the complaint the basis for their introduction and admission as electronic documents.

Also, estoppel bars a party from raising issues, which have not been raised in the proceedings before the lower courts, for the first time on appeal.[40] Clearly, petitioner, by its acts and representations, is now estopped to claim that the annexes to its complaint are not duplicate original copies but electronic documents. It is too late in the day for petitioner to switch theories.

Thus, procedurally, the Court is precluded from resolving the first issue.

Even assuming that the Court brushes aside the above-noted procedural obstacles, the Court cannot just concede that the pieces of documentary evidence in question are indeed electronic documents, which according to the Rules on Electronic Evidence are considered functional equivalent of paper-

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37 Id. at 15.
38 Id. at 14-15.
39 Id. at 25.
40 See *Imani v. Metropolitan Bank & Trust Company*, 649 Phil. 647, 661-662 (2010).

based documents[41] and regarded as the equivalent of original documents under the Best Evidence Rule if they are print-outs or outputs readable by sight or other means, shown to reflect the data accurately.[42]

For the Court to consider an electronic document as evidence, it must pass the test of admissibility. According to Section 2, Rule 3 of the Rules on Electronic Evidence, "[a]n electronic document is admissible in evidence if it complies with the rules on admissibility prescribed by the Rules of Court and related laws and is authenticated in the manner prescribed by these Rules."

Rule 5 of the Rules on Electronic Evidence lays down the authentication process of electronic documents. Section 1 of Rule 5 imposes upon the party seeking to introduce an electronic document in any legal proceeding the burden of proving its authenticity in the manner provided therein. Section 2 of Rule 5 sets forth the required proof of authentication:

> SEC. 2. *Manner of authentication.* – Before any private electronic document offered as authentic is received in evidence, its authenticity must be proved by any of the following means:
>
> (a) by evidence that it had been digitally signed by the person purported to have signed the same;
>
> (b) by evidence that other appropriate security procedures or devices as may be authorized by the Supreme Court or by law for authentication of electronic documents were applied to the document; or
>
> (c) by other evidence showing its integrity and reliability to the satisfaction of the judge.

As to method of proof, Section 1, Rule 9 of the Rules on Electronic Evidence provides:

> SECTION 1. *Affidavit of evidence.* – All matters relating to the admissibility and evidentiary weight of an electronic document may be established by an affidavit stating facts of direct personal knowledge of the affiant or based on authentic records. The affidavit must affirmatively show the competence of the affiant to testify on the matters contained therein.

Evidently, petitioner could not have complied with the Rules on Electronic Evidence because it failed to authenticate the supposed electronic documents through the required affidavit of evidence. As earlier pointed out, what petitioner had in mind at the inception (when it filed the complaint) was to have the annexes admitted as duplicate originals as the term is understood in relation to paper-based documents. Thus, the annexes or attachments to the complaint of petitioner are inadmissible as electronic documents, and they cannot be given any probative value.

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41 RULES ON ELECTRONIC EVIDENCE, Rule 3, Sec. 1.
42 Id., Rule 4, Sec. 1.

Even the section on "Business Records as Exception to the Hearsay Rule" of Rule 8 of the Rules on Electronic Evidence requires authentication by the custodian or other qualified witness:

> SECTION 1. *Inapplicability of the hearsay rule.* – A memorandum, report, record or data compilation of acts, events, conditions, opinions, or diagnoses, made by electronic, optical or other similar means at or near the time of or from transmission or supply of information by a person with knowledge thereof, and kept in the regular course or conduct of a business activity, and such was the regular practice to make the memorandum, report, record, or data compilation by electronic, optical or similar means, all of which are shown by the testimony of the custodian or other qualified witnesses, is excepted from the rule on hearsay evidence.

In the absence of such authentication through the affidavit of the custodian or other qualified person, the said annexes or attachments cannot be admitted and appreciated as business records and excepted from the rule on hearsay evidence. Consequently, the annexes to the complaint fall within the Rule on Hearsay Evidence and are to be excluded pursuant to Section 36, Rule 130 of the Rules.

In fine, both the MeTC and the RTC correctly applied the Best Evidence Rule. They correctly regarded the annexes to the complaint as mere photocopies of the SOAs and the Credit History Inquiry, and not necessarily the original thereof. Being substitutionary documents, they could not be given probative value and are inadmissible based on the Best Evidence Rule.

The Best Evidence Rule, which requires the presentation of the original document, is unmistakable:

> SEC. 3. *Original document must be produced; exceptions.* – When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:
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> (a) When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;
>
> (b) When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;
>
> (c) When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and
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> (d) When the original is a public record in the custody of a public officer or is recorded in a public office. (2a)[43]

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[43] RULES OF COURT, Rule 130.

With respect to paper-based documents, the original of a document, *i.e.*, the original writing, instrument, deed, paper, inscription, or memorandum, is one the contents of which are the subject of the inquiry.[44] Under the Rules on Electronic Evidence, an electronic document is regarded as the functional equivalent of an original document under the Best Evidence Rule if it is a printout or output readable by sight or other means, shown to reflect the data accurately.[45] As defined, "electronic document" refers to information or the representation of information, data, figures, symbols or other modes of written expression, described or however represented, by which a right is established or an obligation extinguished, or by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved or produced electronically; and it includes digitally signed documents and any print-out or output, readable by sight or other means, which accurately reflects the electronic data message or electronic document.[46] The term "electronic document" may be used interchangeably with "electronic data message"[47] and the latter refers to information generated, sent, received or stored by electronic, optical or similar means.[48]

Section 4, Rule 130 of the Rules and Section 2, Rule 4 of the Rules on Electronic Evidence identify the following instances when copies of a document are equally regarded as originals:

> [1] When a document is in two or more copies executed at or about the same time, with identical contents, all such copies are equally regarded as originals.
>
> [2] When an entry is repeated in the regular course of business, one being copied from another at or near the time of the transaction, all the entries are likewise equally regarded as originals.[49]
>
> [3] When a document is in two or more copies executed at or about the same time with identical contents, or is a counterpart produced by the same impression as the original, or from the same matrix, or by mechanical or electronic re-recording, or by chemical reproduction, or by other equivalent techniques which accurately reproduces the original, such copies or duplicates shall be regarded as the equivalent of the original.[50]

Apparently, "duplicate original copies" or "multiple original copies" wherein two or more copies are executed at or about the same time with identical contents are contemplated in 1 and 3 above. If the copy is generated after the original is executed, it may be called a "print-out or output" based on the definition of an electronic document, or a "counterpart" based on Section 2, Rule 4 of the Rules on Electronic Evidence.

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44 Id. Rule 130, Sec. 4(a).
45 RULES ON ELECTRONIC EVIDENCE, Rule 4, Sec. 1 in relation to Rule 3, Sec. 1.
46 Id., Rule 2, Sec. 1(h).
47 Id.
48 Id., Rule 2, Sec. 1(g).
49 RULES OF COURT, Rule 130, Sec. 4(b) and (c).
50 RULES ON ELECTRONIC EVIDENCE, Rule 4, Sec. 2, first paragraph.

It is only when the original document is unavailable that secondary evidence may be allowed pursuant to Section 5, Rule 130 of the Rules, which provides:

> SEC. 5. *When original document is unavailable.* – When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated. (4a)

Going back to the documents in question, the fact that a stamp with the markings:

> DUPLICATE ORIGINAL
>
> (Sgd.)
> CHARITO O. HAM
> Senior Manager
> Collection Support Division Head
>
> Collection group
> Bankard Inc.[51]

was placed at the right bottom of each page of the SOAs and the Credit History Inquiry **did not make them** "duplicate original copies" as described above. The necessary allegations to qualify them as "duplicate original copies" **must be stated in the complaint and duly supported by the pertinent affidavit of the qualified person**.

The Court observes that based on the records of the case, only the signature in the stamp at the bottom of the Credit History Inquiry appears to be original. The signatures of the "certifying" person in the SOAs are not original but part of the stamp. Thus, even if all the signatures of Charito O. Ham, Senior Manager, Collection Support Division Head of petitioner's Collection Group are original, the required authentication so that the annexes to the complaint can be considered as "duplicate original copies" will still be lacking.

If petitioner intended the annexes to the complaint as electronic documents, then the proper allegations should have been made in the complaint and the required proof of authentication as "print-outs", "outputs" or "counterparts" should have been complied with.

The Court is aware that the instant case was considered to be governed by the Rule on Summary Procedure, which does not expressly require that the affidavits of the witness must accompany the complaint or the answer and it is only after the receipt of the order in connection with the preliminary conference and within 10 days therefrom, wherein the parties are required to submit the affidavits of the parties' witnesses and other

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[51] Records, pp. 5-14.

evidence on the factual issues defined in the order, together with their position papers setting forth the law and the facts relied upon by them.[52]

Given the nature of the documents that petitioner needed to adduce in order to prove its cause of action, it would have been prudent on the part of its lawyer, to make the necessary allegations in the complaint and attach thereto the required accompanying affidavits to lay the foundation for their admission as evidence in conformity with the Best Evidence Rule.

This prudent or cautionary action may avert a dismissal of the complaint for insufficiency of evidence, as what happened in this case, when the court acts pursuant to Section 6 of the Rule on Summary Procedure, which provides:

> SEC. 6. *Effect of failure to answer.* – Should the defendant fail to answer the complaint within the period above provided, the court, *motu proprio*, or on motion of the plaintiff, shall render judgment as may be warranted by the facts alleged in the complaint and limited to what is prayed for therein: *Provided, however,* That the court may in its discretion reduce the amount of damages and attorney's fees claimed for being excessive or otherwise unconscionable. This is without prejudice to the applicability of Section 4, Rule 18 of the Rules of Court, if there are two or more defendants.

As provided in the said Section, the judgment that is to be rendered is that which is "warranted by the facts alleged in the complaint" and such facts must be duly established in accordance with the Rules on Evidence.

Upon a perusal of the items in the SOAs, the claim of petitioner against respondents is less than ₱100,000.00,[53] if the late charges and interest charges are deducted from the total claim of ₱117,157.98. Given that the action filed by petitioner is for payment of money where the value of the claim does not exceed ₱100,000.00 (the jurisdictional amount when the complaint was filed in January 2013), exclusive of interest and costs, petitioner could have opted to prosecute its cause under the Revised Rules of Procedure for Small Claims Cases (Revised Rules for Small Claims).

Section 6 of the Revised Rules for Small Claims provides: "A small claims action is commenced by filing with the court an accomplished and verified Statement of Claim (*Form 1-SCC*) in duplicate, accompanied by a Certification Against Forum Shopping, Splitting a Single Cause of Action, and Multiplicity of Suits (*Form 1-A-SCC*), and two (2) duly certified photocopies of the actionable document/s subject of the claim, as well as the affidavits of witnesses and other evidence to support the claim. No evidence shall be allowed during the hearing which was not attached to or submitted together with the Statement of Claim, unless good cause is shown for the admission of additional evidence."

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52 THE 1991 REVISED RULE ON SUMMARY PROCEDURE, Sec. 9.

53 Total amount of claim inclusive of charges and penalties (based on the complaint) of ₱117,157.98 less total late charges and interest charges of ₱25,747.20 equals ₱91,410.78.

If petitioner took this option, then it would have been incumbent upon it to attach to its Statement of Claim even the affidavits of its witnesses. If that was the option that petitioner took, then maybe its complaint might not have been dismissed for lack of preponderance of evidence. Unfortunately, petitioner included the late and interest charges in its claim and prosecuted its cause under the Rule on Summary Procedure.

Proceeding to the second issue, petitioner begs for the relaxation of the application of the Rules on Evidence and seeks the Court's equity jurisdiction.

Firstly, petitioner cannot, on one hand, seek the review of its case by the Court on a pure question of law and afterward, plead that the Court, on equitable grounds, grant its Petition, nonetheless. For the Court to exercise its equity jurisdiction, certain facts must be presented to justify the same. A review on a pure question of law necessarily negates the review of facts.

Petitioner has not presented any compelling equitable arguments to persuade the Court to relax the application of elementary evidentiary rules in its cause.

Secondly, petitioner has not been candid in admitting its error as pointed out by both the MeTC and the RTC. After being apprised that the annexes to its complaint do not conform to the Best Evidence Rule, petitioner did not make any effort to comply so that the lower courts could have considered its claim. Rather, it persisted in insisting that the annexes are compliant. **Even before the Court, petitioner did not even attach such documents which would convince the Court that petitioner could adduce the original documents as required by the Best Evidence Rule to prove its claim against respondents**.

A Final Note

The present Petition is clearly a frivolous appeal. An appeal is frivolous if it presents no justiciable question and is so readily recognizable as devoid of any merit on the face of the record that there is little, if any, prospect that it can ever succeed.[54] The Petition indubitably shows the counsel's frantic search for any ground to resuscitate petitioner's lost cause, which due to the counsel's fault was doomed with the filing of a deficient complaint.[55] Thus, pursuant to Section 3, Rule 142 of the Rules the imposition of treble costs on petitioner, to be paid by its counsel, is justified.

WHEREFORE, the Petition is hereby **DENIED**. The Decision dated August 13, 2013 and the Order dated March 1, 2016 of the Regional Trial Court, Branch 71, Pasig City in Civil Case No. 73756 are **AFFIRMED**. Treble costs are hereby charged against the counsel for petitioner RCBC Bankard Services Corporation. Let a copy of this Decision be attached to the personal records of Atty. Xerxes E. Cortel in the Office of the Bar Confidant.

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54 See *De la Cruz v. Blanco*, 73 Phil. 596, 597 (1942).

55 See *Maglana Rice and Corn Mill, Inc. v. Spouses Tan*, 673 Phil. 532, 544 (2011).

SO ORDERED.

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:

ANTONIO T. CARPIO
Associate Justice
Chairperson

ESTELA M. PERLAS-BERNABE
Associate Justice

JOSE C. REYES, JR.
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

ATTESTATION

I attest 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.

ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, 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.

LUCAS P. BERSAMIN
Chief Justice