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SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

SALLY GO-BANGAYAN, *Petitioner,*	**G.R. No. 203020**
-versus-	Members:
	PERLAS-BERNABE, *S.A.J.,* *Chairperson,*
SPOUSES LEONCIO and JUDY CHAM HO, *Respondents.*	LAZARO-JAVIER, LOPEZ, M., ROSARIO, and LOPEZ, J. *JJ.*
	Promulgated: JUN 28 2021

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DECISION

LAZARO-JAVIER, *J.*:

The Case

Petitioner Sally Go-Bangayan assails the following dispositions of the Court of Appeals in CA-G.R. CV No. 88214 entitled *SALLY GO-BANGAYAN, represented by SIXTA L. GO v. SPOUSES LEONCIO HO AND JUDY CHAM HO*:

1) ***Decision***[1] dated May 11, 2012 dismissing petitioner's complaint for failure to prove her cause of action for sum of money against respondent Spouses Leoncio and Judy Cham Ho, by preponderance of evidence; and

2) ***Resolution***[2] dated July 30, 2012 denying reconsideration.

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[1] Penned by Associate Justice Normandie B. Pizzaro, concurred in by Associate Justices Rebecca De Guia-Salvador and Rodil V. Zalameda (now a member of this Court), all members of the Third Division, *rollo*, pp. 80-92.

[2] *Rollo*, pp. 43-44.

Antecedents

By **Complaint**[3] dated October 3, 2001, petitioner, through her sister-in-law Sixta L. Go sued respondents Spouses Leoncio Ho and Judy Cham Ho for sum money and damages. She essentially alleged:

In October 1997, respondents obtained a ₱700,000.00 loan from her for three percent (3%) monthly interest. Though respondents were able to pay the monthly interest, they failed to promptly settle the principal loan. Eventually, after a series of verbal demands for payment, respondent Judy issued two (2) **crossed checks** from her joint account with Leoncio at Philippine Bank of Communications: A336519 dated October 6, 1997 and A336520 dated October 30, 1997 for ₱200,000.00 and ₱500,000.00, respectively. Sixta personally received these checks at respondents' office in Dimasalang, Manila.

Before the respective maturity dates of the checks, respondents pleaded with her not to deposit the checks as they planned to redeem them in cash. She accommodated their request. A month later, she followed up with respondents on their promise but to no avail. Meantime, she entrusted the collection to Sixta as she had to go to Canada.

When she returned to the Philippines in August 2001, she and Sixta demanded payment from respondents anew. But still, respondents failed to settle their obligation.

Finally losing temper and patience, she had Sixta's husband Alan S. Go personally deliver a final demand letter dated September 20, 2001 to respondents. Despite Judy's receipt of the letter, however, respondents just continued to ignore her. Thus, she sued respondents and prayed that they be ordered to jointly and severally pay the following:

(a) ₱700,000.00 as principal obligation;
(b) ₱329,000.00 as accrued interest of ₱700,000.00 for four (4) years reckoned from October 1997 until October 2001 at the rate of 12% per *annum* plus accruing interests;
(c) ₱140,000.00 as attorney's fees at the rate of 20% on the principal obligation of ₱700,000.00; and
(d) ₱50,000.00 as actual damages.

The case was raffled to the Regional Trial Court - Branch 217, Quezon City and summonses were issued as a matter of course.

In their **Answer**,[4] respondents sought the outright dismissal of the complaint for alleged lack of jurisdiction since there was supposedly no loan

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[3] RTC Record, pp. 2-6.
[4] Record, pp. 26-29.

agreement to begin with. They denied ever obtaining a loan from petitioner who allegedly failed to prove that they received the ₱700,000.00 loan. Petitioner's claim, therefore, was unfounded pursuant to the Statute of Frauds which provided that no suit or action shall be maintained unless there shall be a note or memorandum in writing signed by the party to be charged.

They further countered that petitioner requested Judy to issue the subject checks for discounting by financiers known to petitioner. Failing to find one, petitioner returned and requested that Judy write her (petitioner's) name in the checks. Despite their agreement to have the checks discounted, petitioner suddenly made herself scarce. They were surprised when they received summons relative to the present case.

As for the subject checks, they were already stale by the year 2001, hence, it was fraudulent to revive them as evidence of petitioner's false claim of indebtedness. Leoncio, on the other hand, was never privy to the discounting arrangement between petitioner and Judy.

By way of counterclaim, respondents sought:

(a) Moral damages of ₱2,000,000.00;
(b) Exemplary damages of ₱1,000,000.00;
(c) Attorney's fees of ₱150,000.00;
(d) Litigation expenses of ₱50,000.00; and
(e) ₱2,000.00 per court appearance.

In her **Reply**,[5] petitioner maintained that the trial court correctly assumed jurisdiction over the complaint. Too, the Statute of Frauds was not applicable to respondents' obligation.

During the pre-trial,[6] the parties stipulated on the following:

1) The due execution and issuance of Philippine Bank of Communications Checks Nos. A336519 dated October 6, 1997 and A336520 dated October 30, 1997, for Php200,000.00 and Php500,000.00, respectively; and
2) The subject checks were crossed checks.

At the trial proper, **petitioner** essentially affirmed the allegations in her complaint: She handed respondents ₱700,000.00 in October 1997 and respondents, in turn, issued the subject checks. The exchange of loan proceeds and the subject checks was not simultaneous as the checks were issued for the pre-existing debt of ₱700,000.00.

In response to the court's clarificatory questions, petitioner testified that she personally granted respondents the ₱200,000.00 loan on July 6, 1997 and

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5 Record, pp. 32-33.
6 Pre-trial Order dated February 27, 2003; RTC Record, p. 80.

another ₱500,000.00 loan on July 30, 1997. In exchange, respondents issued the subject post-dated checks - October 6, 1997 for ₱200,000.00 and October 30, 1997 for ₱500,000.00. She entrusted the collection thereof to Sixta.[7]

Sixta corroborated petitioner's testimony. She testified that respondents received ₱200,000.00 and ₱500,000.00 cash loans on July 6 and 30, 1997, respectively. In exchange, respondents issued the subject checks. She added that she even accompanied petitioner sometime in September 1997 to collect interest on respondents' loans.[8]

Respondent **Leoncio** stood firm in his position that he and Judy never obtained any loan from petitioner and that the checks were issued for rediscounting purposes.[9]

Ruling of the Trial Court

By Decision [10] dated October 27, 2006, the trial court ruled in petitioner's favor:

> **WHEREFORE,** judgment is hereby rendered in favor of the plaintiff and against the defendant spouses Leoncio Ho and Judy Cham Ho[,] ordering said spouses[,] jointly and severally[,] to pay the plaintiff:
>
> 1. the amount of P700,000.00 with interest thereon at the rate of 12% per annum starting October 04, 2001 (when the complaint was filed) and until paid; and[,]
>
> 2. the amount of P70,000.00 as and for attorney's fees.
>
> Cost as[sic] against[the] defendants.
>
> SO ORDERED.[11]

The trial court held that petitioner sufficiently established her cause of action. Under Section 24[12] of the Negotiable Instruments Law, a party to an instrument like herein petitioner was presumed to have acquired the same for a consideration or for value, which, in this case, was a pre-existing debt. The fact that the subject checks were crossed checks negated any supposed rediscounting arrangement.

The trial court awarded attorney's fees of ₱70,000.00 only.

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7 TSN dated July 15, 2003, p. 42.
8 TSN dated April 27, 2004, pp. 5-8.
9 TSN dated August 30, 2005, pp. 4-5.
10 *Rollo,* pp. 45-51.
11 *Id* at 27.
12 **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. (Negotiable Instruments Law, Act No. 2031, February 3, 1911)

Proceedings before the Court of Appeals

On appeal,[13] respondents faulted the trial court for granting petitioner's complaint despite her purported failure to support her cause of action. They insisted that the trial court had no jurisdiction over the case because there never was a loan agreement between them and petitioner. Too, they faulted the trial court for not applying the Statute of Frauds and for holding that a crossed check cannot be rediscounted.

On the other hand,[14] petitioner supported the trial court's dispositions. She averred that respondents' admission that the checks were genuine and duly executed was sufficient proof of their indebtedness.

Ruling of the Court of Appeals

Through its assailed Decision[15] dated May 11, 2012, the Court of Appeals reversed. It held that petitioner failed to prove the existence of the loan, let alone, that the checks were issued in payment thereof. The appellate court hinged such conclusion on the following supposed inconsistencies:

One. Petitioner failed to establish the exact date the loan was given to respondents. On direct, petitioner testified that respondents obtained the loan from her sometime in October 1997. On cross, however, she stated that respondents did not issue the subject checks on the same date the loan was obtained. To the court's clarificatory question, she said that respondents obtained the loan on July 6 and 30, 1997.

Two. In the complaint, petitioner alleged that respondents obtained the loan first, paid interest for a few months, then issued the subject checks after they were unable to settle the obligation. During the trial, however, petitioner categorically stated the checks were issued on the same day she gave them the loan.

Three. In the complaint, petitioner allegedly made several demands a month before the maturity dates of the checks and before she left for Canada. But during the clarificatory hearings, she said she was already in Canada at the time the checks became due and demandable in October 1997.

The Present Petition

Petitioner[16] now seeks affirmative relief from the Court, claiming she sufficiently established respondents' indebtedness to her. She points out that respondents admitted the authenticity and due execution of the checks during the pre-trial conference which served as indubitable proof of their

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[13] CA *rollo*, pp. 41-53.
[14] *Id.* at 62-72.
[15] *Rollo*, pp. 23-35.
[16] *Id.* at 8-20.

indebtedness. Under the Negotiable Instruments Law, such admission entitles her to collect payment of the amount indicated therein.

In their Comment,[17] respondents defend the dispositions of the Court of Appeals. They counter that petitioner failed to prove her cause of action against them by preponderance of evidence. This is bolstered by the absence of a written agreement to establish petitioner's claim as required under the Statute of Frauds.

Threshold Issue

Was petitioner able to establish her cause of action for sum of money against respondents by preponderance of evidence?

Ruling

Preliminarily, the Court finds that the issue presented for resolution is a question of fact which, as a general rule, cannot be entertained. For this Court is not a trier of facts; only errors of law are generally reviewed in petitions for review on *certiorari* criticizing decisions of the Court of Appeals.[18] This rule, however, admits of exceptions as when the inference made is manifestly mistaken, absurd or impossible; when the judgment is based on a misapprehension of facts; and when the findings of fact by the Court of Appeals are contrary to those of the trial court, as in here.[19] In all these instances, the Court will review the factual findings of the tribunals and make its own factual appreciation relevant to the issue at hand to prevent grave injustice.

Here, petitioner alleged that respondents obtained from her two (2) separate loans, *i.e.*, ₱200,000.00 on July 6, 1997 and for ₱500,000.00 on July 30, 1997, or a total of ₱700,000.00. As proof of their indebtedness, respondents issued and delivered to petitioner two (2) Philippine Bank of Communications crossed checks, A336519 dated October 6, 1997 and A336520 dated October 30, 1997 for ₱200,000.00 and ₱500,000.00, respectively. Both crossed checks were in the name of petitioner as payee. On their respective maturity dates, respondents requested that petitioner hold the encashment or deposit of the checks as they planned to redeem them in cash. As it was though, respondents never again communicated with her, ignored her subsequent demands to pay, and never paid their indebtedness.

Respondents, however, denied that they incurred the loans in question. For although they issued and delivered the crossed checks to petitioner, the same were meant only to be discounted supposedly by financiers known to petitioner.

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[17] *Id.* at 113-122.
[18] See *Acebedo Optical v. National Labor Relations Commission,* 554 Phil 524, 541 (2007).
[19] See *Spouses Miano v. Manila Electric Co.,* 800 Phil 118, 123 (2016).

We find for petitioner.

First. Section 24 of the Negotiable Instruments Law embodies the presumption that when negotiable instruments such as checks are delivered to their intended payees, such instruments have been issued for value, *viz.*:

> **Sec. 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.

Meanwhile, Section 25 of the same law expressly recognizes a pre-existing debt as valid consideration to support the issuance of a negotiable instrument like a check:

> **Sec. 25.** *Value, what constitutes.* – Value is any consideration sufficient to support a simple contract. **An antecedent or pre-existing debt constitutes value**; and is deemed such whether the instrument is payable on demand or at a future time.

Here, respondents admitted the genuineness and due execution of the crossed checks they issued in petitioner's name. As such, the presumption that said checks were for valuable consideration comes into play. Notably, respondents failed to rebut this presumption. All they offered was a bare denial that they incurred the loans in exchange for their checks. Surely, bare denial, without more, is not sufficient to overthrow the presumption under Section 24 of the Negotiable Instruments Law. We therefore give credence to petitioner's claim that the checks were issued and delivered to her by respondents in payment of their indebtedness to her.

At any rate, it is contrary to human experience for a person to issue checks without receiving valuable consideration, even in rediscounting agreements. It is also contrary to human experience for respondents to sit on their right to retrieve or at least issue a stop payment order for the subject checks which remained with petitioner for four (4) years, especially so if they did not receive anything in exchange as they claim. For the indiscriminate issuance of checks could have exposed them to possible criminal liability for violation of Batas Pambansa Blg. 22.

Second. The fact that the subject checks are crossed checks in the name of petitioner, by itself, negates respondents' theory of a rediscounting arrangement.

Under accepted banking practice, crossing a check is done by writing two parallel lines diagonally on the left top portion of the checks. It has the following effects:

(a) the check may not be encashed but only deposited in the bank;

(b) the check may be negotiated *only once* — to one who has an account with a bank; and
(c) the act of crossing the check serves as *warning* to the holder that the check has been issued *for a definite purpose* so that he must inquire if he has received the check pursuant to that purpose, otherwise, he is *not a holder in due course*.[20]

In ***Bank of America, NT & SA v. Associated Citizens Bank***,[21] the Court has taken judicial cognizance of the practice that a check with two (2) parallel lines in the upper left-hand corner means that it could only be deposited and could not be converted into cash. Thus, the effect of crossing a check relates to the mode of payment, meaning that the drawer had intended the check for deposit only by the rightful person, *i.e.*, the payee named therein.

Here, respondents do not deny, as they in fact admitted during the pre-trial, that the subject checks in the name of petitioner were crossed. Respondents claim, though, that said checks were issued solely for purposes of rediscounting. **But it is not possible to rediscount a crossed check in the name of a particular payee**. For check rediscounting requires the re-indorsement of the negotiable instrument; an act precluded by the crossing of a check. No financier in his or her right mind would part with his or her money for a crossed check in the name of another.

Third. Respondents did not deny, much less, protest the demand letter dated September 20, 2001 which respondent Judy received, *viz.*:

ATTY. RIVERA:	Can you recall sometime on September 20, 2001, the brother of the plaintiff Sally Bangayan went to your residence and delivered a demand letter and likewise you having signed and acknowledged receipt in relation to that demand letter?
ATTY. ESLAO:	You show the demand letter.
A:	I did receive the demand letter but I didn't sign, but it seems this is not my signature, Sir.
x x x x	
COURT:	The question is, do you admit having received that demand letter?
A:	I received a demand letter, yes but. (interrupted)
x x x x	
COURT:	Don't qualify. If you are admitting that you received it?
A:	Yes, your Honor.[22]

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[20] See *Bataan Cigar and Cigarette Factory, Inc. v. Court of Appeals*, 300 Phil 690, 695 (1994).
[21] See *Bank of America, NT & SA v. Associated Citizens Bank*, 606 Phil 35, 44 (2009).
[22] TSN dated November 20, 2003, pp. 22-24.

If there was never a loan agreement to begin with as respondents would have this Court believe, reason and experience dictates that they should have disputed or at least protested the alleged indebtedness. But respondents did not. They even claimed surprise when they received summonses from the trial court relative to this case.

Finally. Respondents' invocation of the Statute of Frauds is misplaced. Contrary to their claim, the checks themselves serve as the written note or memorandum they were looking for. That the checks themselves are the evidence of indebtedness and no separate document is required as proof.

In ***Ubas, Sr. v. Chan***,[23] the Court held that where the plaintiff-creditor possesses and submits in evidence an instrument showing indebtedness, a presumption that the credit has not been satisfied arises in his or her favor. Thus, the defendant-debtor is required to overcome the said presumption and present countervailing evidence to prove the fact of payment so that no judgment will be entered against him or her.

In accordance with ***Ubas***, petitioner herein is deemed to have substantiated her cause of action by a preponderance of evidence by simply being the holder and named payee of respondents' crossed checks which are presumed to have been issued for a valuable consideration.

The Court of Appeals, nevertheless, ruled otherwise. It made much ado of the inconsistencies in petitioner's testimony pertaining to the date when the loan was obtained, whether the checks were issued upon turn-over of the cash loan, and when demands for payment were made.

But these inconsistencies did not diminish petitioner's credibility. For they pertain wholly to trivial matters and are irrelevant in determining whether respondents actually took out a loan from petitioner. Whether the ₱700,000.00 loan was released in its entirety in October 1997 or in two tranches in July 1997, the fact remains that respondents received the entire amount. Petitioner's previous demands for payment, too, became immaterial in light of the final demand letter dated September 20, 2001 personally delivered to respondents by her husband Alan S. Go.

At any rate, the factual findings of the trial court on the credibility of witnesses and their testimonies are entitled to great respect and the highest consideration. Deviation from the rule is allowed only when the circumstances of the case show that the trial court has overlooked facts which will substantially alter the results of its adjudication. Corollary to this, it has likewise been consistently ruled that credibility is a matter that is peculiarly within the province of the trial judge, who had first-hand opportunity to watch

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[23] 805 Phil 264, 727 (2017).

and observe the demeanor and behavior of the witnesses at the time of their testimony.[24]

Thus, as with the trial court, we find that the evidence on record and the attendant circumstances preponderates in favor of petitioner. Respondents, therefore, are ordered to jointly and severally settle their principal obligation of ₱700,000.00.

As for petitioner's claim of stipulated interest of three percent (3%) per month, we are constrained to deny the same. Article 1956 ordains that No interest shall be due unless it has been expressly stipulated in writing. Thus, in the absence of any written proof of the supposed stipulation, petitioner's claim of interest has no factual basis. At any rate, even if proved, the Court would have just struck it down for being unconscionable.[25]

Instead, we impose the legal interest rates in accordance with pertinent jurisprudence. Consequently, legal interest of twelve percent (12%) per *annum* is imposed pursuant to ***Eastern Shipping Lines, Inc. v. Court of Appeals***[26] from extrajudicial demand on September 21, 2001 until June 30, 2013. Thereafter, the legal interest rate is reduced to six percent (6%) per *annum* from July 1, 2013 until finality of this decision pursuant to ***Nacar v. Gallery Frames***.[27]

Meanwhile, since respondents' act has compelled petitioner to litigate and incur expenses to protect her interest,[28] the Court deems it proper to award attorney's fees of ₱30,000.00 as shown by the cash voucher issued by Rivera Law Office.[29]

All monetary awards further shall earn six percent (6%) interest per *annum* from finality of this decision until fully paid.[30]

WHEREFORE, the petition is **GRANTED**, the Decision dated May 11, 2012 and Resolution dated July 30, 2012 of the Court of Appeals in CA-G.R. CV No. 88214, **REVERSED and SET ASIDE**. Respondents Spouses **Leoncio** and **Judy Cham Ho** are hereby **ORDERED** to **PAY** petitioner jointly and severally of the following:

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24 See *People v. De Jesus*, 282 Phil 390, 396 (1992).

25 See *Spouses Abella v. Spouses Abella*, 763 Phil 372, 378 (2015).

26 304 Phil 236-254 (1994).

27 716 Phil 267-283 (2013).

28 **ARTICLE 2208.** In the absence of stipulation, attorney's fees and expenses of litigation, other than judicial costs, cannot be recovered, except:
x x x x
(2) When the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest;
(Civil Code of the Philippines, Republic Act No. 386, June 18, 1949).

29 RTC Record, p. 119.

30 Supra note 27 at 279. When the judgment of the court awarding a sum of money becomes final and executory, the rate of legal interest, whether the case falls under paragraph 1 or paragraph 2, above, shall be 6% per annum from such finality until its satisfaction, this interim period being deemed to be by then an equivalent to a forbearance of credit.

a) the **PRINCIPAL OBLIGATION** of ₱ 700,000.00 with legal interest rate of 12% per *annum* reckoned from September 21, 2001 until June 30, 2013, and thereafter, legal interest rate of 6% until finality of this decision; and

b) **ATTORNEY'S FEES** of ₱30,000.00.

These awards shall earn six percent (6%) interest *per annum* from finality of this decision until fully paid.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

MARIO V. LOPEZ
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP Y. LOPEZ
Associate Justice

ATTESTATION

I attest that the conclusion 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.

ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson

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.

ALEXANDER G. GESMUNDO
Chief Justice