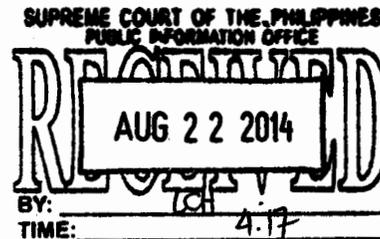




Republic of the Philippines  
Supreme Court  
Manila  
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated July 23, 2014 which reads as follows:*

**“G.R. No. 156746 – GERARDO VILLANUEVA, Petitioner, v. ST. MARTIN OF TOURS KILUSANG BAYAN SA PAGPAPAUTANG, INC., Respondent.**

This appeal is taken from the decision promulgated on March 25, 2002,<sup>1</sup> whereby the Court of Appeals (CA) affirmed the judgment rendered on October 1, 1998 by the Regional Trial Court (RTC), Branch 77, in Malolos, Bulacan<sup>2</sup> finding merit in the complaint for judicial foreclosure filed by the respondent against the petitioner.

**Antecedents**

Petitioner Gerardo Villanueva (Villanueva) was a member of respondent St. Martin of Tours Kilusang Bayan sa Pagpapautang, Inc., a corporation engaged in cooperative banking activities (like accepting savings deposit and lending financial assistance).

On December 9, 1996, the respondent filed a complaint for judicial foreclosure against Villanueva pertinently alleging as follows:

3. THAT on November 28, 1994, defendant executed Deed of Chattel Mortgage on one (1) motor vehicle, description of the said motor vehicle is hereto described as follows:

<sup>1</sup> *Rollo*, pp. 28-37; penned by Associate Justice Renato C. Dacudao, with Associate Justice Ruben T. Reyes and Associate Justice Mariano C. Del Castillo (now a Member of this Court) concurring.

<sup>2</sup> *Id.* at 24-27.

Make & Type ..... Isuzu Dropside  
Motor No. .... 4BAI-552710  
Chassis No. .... TLD54-9851865  
Plate No. .... PJJ-142  
Reg. Cert. No. .... 25873571

X X X X

4. THAT the amount of ONE HUNDRED THIRTY FIVE THOUSAND PESOS (₱135,000.00) was loaned and evidenced in the said Deed of Chattel Mortgage;

5. THAT the condition of the said Chattel Mortgage is such that if within the period stated from and after the execution of the same, defendant shall pay to the plaintiff the amount stated therein plus the stipulated interest of SIXTEEN (16%) per annum and the same mortgage shall be discharge, otherwise it shall remain in full force and effect;

6. THAT in case of non-payment of such indebtedness of the defendant or a part thereof remains unpaid the Chattel Mortgage contract shall be enforceable in the manner prescribed by law or for foreclosure;

7. THAT of said amount of indebtedness, defendant have (sic) remitted nothing thereby still indebted in its full amount of ONE HUNDRED THIRTY FIVE THOUSAND PESOS (₱135,000.00) exclusive of interest and other charges, which amount defendant failed to pay despite demand made both oral and written, the last of which was through its undersigned counsel by registered mail, copy of which is hereto attached as Annex "D" the registry receipt as Annex "D-1" and the return card as Annex "D-2";

8. THAT payment of said obligation is long now overdue but defendant have failed and refused and still fail and refuse to pay the same or any part thereof, notwithstanding repeated demands from plaintiff;

9. THAT by reason of defendant's unjustified refusal to satisfy plaintiff's plainly valid, just and demandable claim, the latter was compelled to engage the services of counsel and was obliged to pay the sum equivalent to 20% of the total amount due, litigation and incidental expenses which defendant have (sic) expressly agreed to pay under the terms of the promissory note, interests due thereon and fines;<sup>3</sup>

Villanueva filed his answer with counterclaim,<sup>4</sup> in which he admitted the existence of the loan as well as his execution of the deed of chattel mortgage, but raised the defenses of lack of cause of action and prematurity of the filing of the complaint. He claimed therein that he did not refuse to pay his obligation, for, in fact, he had tendered payment to the respondent, but the latter's counsel made unreasonable demands for attorney's fees; that the respondent and its former manager had verbally agreed on an out-of-court settlement of the case; and that the dispute was not first brought to

<sup>3</sup> Records, pp. 1-2.

<sup>4</sup> Id. at 25-26.

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a *barangay* mediation, in violation of Republic Act No. 7160 (RA No. 7160), or the *Local Government Code of 1991*.

In its reply,<sup>5</sup> the respondent reiterated that Villanueva did not settle his obligation; that the parties did not enter into any compromise agreement; and that the provisions of RA No. 7160 did not apply to the respondent by virtue of its being a corporation.

Villanueva did not appear at the scheduled pre-trial conference despite notice. Hence, upon the motion of its counsel, the respondent was allowed to present its evidence *ex parte*.<sup>6</sup>

### Decision of the RTC

On October 1, 1998, the RTC rendered its decision, disposing:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- a) Defendant is ordered to pay the plaintiff the following:
  - 1) The sum of One Hundred Thirty Five Thousand Pesos (₱135,000.00) representing the total amount of indebtedness;
  - 2) Interest at 16% per annum based on the principal from April 30, 1996 until full payment is made;
  - 3) Fines at 2% per month based on the principal from April 30, 1996 until full payment is made;
  - 4) The sum equivalent to 10% of the total amount due as attorney's fees; and
  - 5) The costs of suit.
- b) In case of default of such payment, the plaintiff as mortgagee, may cause the motor vehicle subject matter of the Deed of Chattel Mortgage dated November 28, 1994, particularly described as follows:

Make & Type ..... Isuzu Dropside  
 Motor No. .... 4BAI-552710  
 Chassis No. .... TLD54-[0]851865 (sic)  
 Plate No. .... PJJ-142  
 Reg. Cert. No. .... 2587357[1]

<sup>5</sup> Id. at 27.

<sup>6</sup> Id. at 109.

to be sold at public auction by the Deputy Sheriff of this Branch in the manner prescribed in Section 14 of Act No. 1508, as amended, otherwise known as The Chattel Mortgage Law.

SO ORDERED.<sup>7</sup>

Villanueva moved for reconsideration or new trial,<sup>8</sup> assailing for the first time the respondent's lack of juridical personality and its capacity to sue, the absence of proof of the existence from the deed of chattel mortgage.

On February 26, 1999,<sup>9</sup> the RTC denied Villanueva's motion for reconsideration or new trial.

### Judgment of the CA

Villanueva appealed, but on March 25, 2002, the CA promulgated its assailed decision,<sup>10</sup> viz:

**UPON THE VIEW WE TAKE OF THIS CASE, THUS,** the judgment appealed from must be, as it hereby is **AFFIRMED**, and the present appeal ordered **DISMISSED**. Costs against appellant.

**SO ORDERED.**<sup>11</sup>

Villanueva sought reconsideration, but the CA denied his motion for reconsideration on January 14, 2003.<sup>12</sup>

### Issues

Hence, this appeal by petition for review on *certiorari*, with Villanueva positing as grounds the following:

- A. THE COURT OF APPEALS COMMITTED ERROR OF LAW IN EQUATING JURIDICAL EXISTENCE TO AUTHORITY OF THE BOARD TO FILE THE ACTION IN COURT OR IN EQUATING PETITIONER'S ADMISSION OF JURIDICAL EXISTENCE OF THE RESPONDENT TO ADMISSION OF AUTHORITY OF THE BOARD OF DIRECTORS TO FILE THE ACTION IN COURT;

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<sup>7</sup> Id. at 159-160.

<sup>8</sup> Id. at 165-172.

<sup>9</sup> Id. at 193.

<sup>10</sup> Id. at 197.

<sup>11</sup> Supra note 1, at 37.

<sup>12</sup> Id. at 39.

- B. THE COURT OF APPEALS ERRED IN NOT HOLDING, THAT WITHOUT THE PROMISSORY NOTE HAVING BEEN MARKED AND PRESENTED IN EVIDENCE, THE CHATTEL MORTGAGE, HAS NO BINDING EFFECT, AND THE AUCTION SALE OF THE MORTGAGED VEHICLE CANNOT BE ALTERNATIVE TO BE HELD TO SATISFY THE JUDGMENT AMOUNT;
- C. THE COURT OF APPEALS ERRED IN NOT HOLDING THAT WITHOUT VALID AND SUFFICIENT DEMAND, FIRST MADE ON THE PETITIONER, THE ACTION IS PREMATURE.<sup>13</sup>

The legal issues for resolution by the Court are, therefore: (a) whether or not the respondent had the capacity to sue; and (b) whether or not the cause of action was premature.

### **Ruling**

The appeal lacks merit.

#### **1.**

#### **Respondent had capacity to sue**

In his answer with counterclaim, Villanueva raised only the following as defenses, namely: (a) that the respondent had no cause of action because he had not refused to pay his obligation; (b) that there had been a compromise agreement between the parties; and (c) that the complaint was premature for failure to comply with the requirement of prior *barangay* conciliation. It was only by his motion for reconsideration vis-à-vis the decision of the RTC rendered on October 1, 1998 that he raised for the first time the defense of lack of cause of action premised on the respondent's lack of capacity to sue and the prematurity of the complaint based on the absence of a provision in the deed of chattel mortgage indicating the maturity of the obligation.

Villanueva's failure to raise in his answer the respondent's alleged lack of capacity to sue, absence of the promissory note, and prematurity of the filing of the complaint for lack of a definite maturity date, was fatal to his cause as he is already deemed to have waived such defenses.<sup>14</sup> Indeed, Rule 9, Section 1 of the *Rules of Court* provides that defenses and objections not pleaded either in a motion to dismiss or in the answer are deemed waived.

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<sup>13</sup> Id. at 14-15.

<sup>14</sup> *Anunciacion v. Bocanegra*, G.R. No. 152496, July 30, 2009, 594 SCRA 318, 329.

Nonetheless, the records indicate that the grounds claimed by Villanueva were unfounded.

Villanueva contends that there was no board resolution that authorized Minerva R. Tamayo, then Acting General Manager of the respondent and a signatory to the verification, to file the complaint.<sup>15</sup> What was offered in evidence was the letter dated April 3, 1995 signed by Rustico U. Galang, Jr. authorizing Elvira M. Nieto to appear and testify in all pending cases involving the respondent.<sup>16</sup> Villanueva maintains that without the board resolution the complaint should be dismissed considering that the respondent had not established its capacity to sue.<sup>17</sup>

The power of a corporation to sue and be sued is lodged in the Board of Directors, a body that exercises the corporate powers. It necessarily follows that an individual corporate officer cannot solely exercise any corporate power pertaining to the corporation without authority from the board of directors. Thus, the physical acts of the corporation, like the signing of documents, can be performed only by natural persons duly authorized for the purpose by corporate by-laws or by a specific act of the Board of Directors.<sup>18</sup>

Worth reiterating, to begin with, is the CA's observation that Villanueva's admission of the respondent's capacity to sue could not be negated by his belated attempt to assail such fact in his motion for reconsideration, viz:

The first issue raised by herein appellant is clearly a desperate attempt by him to shore up his tottering posture. After acknowledging that herein plaintiff-appellee is a juridical person existing under the laws of the Philippines, appellant now makes a 180-degree turn-around and impugns the appellee's juridical personality and capacity to sue. It must be stressed here that the complaint of herein plaintiff-appellee specifically avers the following, to wit –

“1. THAT plaintiff is a domestic corporation duly **organized and existing under and by virtue of the laws of the Philippines**, with principal office address at Poblacion, Bocaue, Bulacan, represented herein by its Acting General Manager Minerva R. Tamayo, by virtue of a Board Resolution, copy of which is hereto attached as Annex ‘A’ while defendant (Maker) GERARDO VILLANUEVA of Villson's Comp., Bunlo, Bocaue,

<sup>15</sup> Rollo, p. 16.

<sup>16</sup> Records, pp. 149, 156.

<sup>17</sup> Rollo, p. 17.

<sup>18</sup> *Swedish Match Philippines, Inc. v. Treasurer of the City of Manila*, G.R. No. 181277, July 3, 2013, 700 SCRA 428, 433-434.

Bulacan, Filipino citizen, of legal age, where he may be served with summons and other Court processes;

“2. THAT plaintiff is **engaged in cooperative banking activities** such as accepting savings deposit and lending financial assistance.”

The aforementioned fact was admitted by appellant himself in his answer with counterclaim, and was reiterated in his pre-trial Brief. Furthermore, the deed of chattel mortgage itself explicitly stipulates that St. Martin of Tours Kilusang Bayan sa Pagpapautang, Inc. (SMTKBPI) is a credit cooperative duly organized and existing under and by virtue of the laws of the Philippines, with principal place of business at Bocaue, Bulacan. Notably, appellant himself did not dispute or challenge the existence of the said chattel mortgage. Suffice it to state here that a corporation, duly existing and organized under and by virtue of the laws of the Philippines has a juridical or legal personality of its own, and as a consequence, it can sue and be sued. Thus, the Board Resolution of appellee, appointing its Collection Officer and/or Credit Officer and/or Accountant, Elvira Nieto, as its duly authorized representative in the instant case, was presented and remained uncontested by appellant.<sup>19</sup>

Moreover, in *Cagayan Valley Drug Corporation v. Commissioner of Internal Revenue*,<sup>20</sup> the Court has clarified who were the officers of the corporation who could execute and sign the verification and the certification on non-forum shopping without a board resolution, to wit:

In a slew of cases, however, we have recognized the authority of some corporate officers to sign the verification and certification against forum shopping. In *Mactan-Cebu International Airport Authority v. CA*, we recognized the authority of a general manager or acting general manager to sign the verification and certificate against forum shopping; in *Pfizer v. Galan*, we upheld the validity of a verification signed by an "employment specialist" who had not even presented any proof of her authority to represent the company; in *Novelty Philippines, Inc., v. CA*, we ruled that a personnel officer who signed the petition but did not attach the authority from the company is authorized to sign the verification and non-forum shopping certificate; and in *Lepanto Consolidated Mining Company v. WMC Resources International Pty. Ltd.* (Lepanto), we ruled that the Chairperson of the Board and President of the Company can sign the verification and certificate against non-forum shopping even without the submission of the board's authorization.

**In sum, we have held that the following officials or employees of the company can sign the verification and certification without need of a board resolution: (1) the Chairperson of the Board of Directors, (2) the President of a corporation, (3) the General Manager or Acting General Manager, (4) Personnel Officer, and (5) an Employment Specialist in a labor case.**

<sup>19</sup> *Rollo*, pp. 32-33.

<sup>20</sup> G.R. No. 151413, February 13, 2008, 545 SCRA 10, 18-19.

While the above cases do not provide a complete listing of authorized signatories to the verification and certification required by the rules, the determination of the sufficiency of the authority was done on a case to case basis. The rationale applied in the foregoing cases is to justify the authority of corporate officers or representatives of the corporation to sign the verification or certificate against forum shopping, being "in a position to verify the truthfulness and correctness of the allegations in the petition." (Emphasis supplied)

Even if no board resolution showing the authority of Tamayo to sign the verification and the certification in behalf of the respondent, a copy of the excerpts of the minutes of the regular meeting of the Board of Directors attached to the complaint showed that she was then the Acting General Manager and had then been designated by the Board of Directors as the respondent's duly authorized representative. The excerpts read:

Inasmuch as the Acting General Manager, Minerva R. Tamayo, has appointed the Collection Officer and/or the Credit Officer and/or the Accountant as the duly authorized representatives of the Cooperative in all collection cases filed before the Municipal and Regional Trial Courts, this Board passed a new resolution to formally delegate the authority given her, to wit:

B.O.D. RESOLUTION (Unnumbered)  
Series of 1996

On a motion presented and duly seconded:

RESOLVED, AS IT IS HEREBY RESOLVED to appoint the Acting General Manager as the duly authorized representative of the SMTKBPI in all pending collection cases of the Cooperative filed before the Regional Trial Courts in Malolos, Bulacan and Municipal Trial Court in Bocaue, Bulacan except in cases where she may authorize the Collection Officer and/or the Credit Officer and/or the Accountant to represent, appear and testify before said courts at her discretion;

RESOLVED FINALLY THAT this resolution cancels and supersedes all previous resolutions on the appointment of SMTKBPI's authorized representative in collection cases filed in court.<sup>21</sup>

**2.**

**Although the promissory note was not offered in evidence, Villanueva admitted that his obligation already matured when the complaint was filed**

The deed of chattel mortgage provides:

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<sup>21</sup> Records, pp. 5-6.

That as security for the payment of the loan or advance in the principal sum of ONE HUNDRED THIRTY FIVE THOUSAND PESOS ONLY (₱135,000.00), and such other loans or advances already obtained, or still to be obtained by the MORTGAGOR/S as MAKER/S from the MORTGAGEE, payable on the dates mentioned in the corresponding promissory note, the MORTGAGOR/S hereby transfer and convey by way of chattel mortgage, unto the MORTGAGEE, its successors or assigns the following personal property or properties free from all liens and/or encumbrances: x x x<sup>22</sup>

Given that the deed of chattel mortgage made reference to a promissory note, Villanueva argues that the presentation and marking of the promissory note as evidence were indispensable to the determination of the maturity of his obligation;<sup>23</sup> that the deed of chattel mortgage could not be considered as an accessory contract without the promissory note being presented and admitted in evidence due to its being the best evidence of the principal obligation;<sup>24</sup> that because his obligation had not been proved to have matured, the filing of the complaint against him was premature, or, at least, the complaint did not state a cause of action; and that the proper and sufficient demand was not made by the respondent because the demand letter sent to him indicated the amount of his obligation as ₱900,000.00, but such amount was not mentioned in the deed of chattel mortgage.<sup>25</sup>

Villanueva's arguments are unworthy of consideration.

The issue on the existence of the promissory note and the maturity of the obligation, being a question of fact, is not the proper subject of an appeal by petition for review on *certiorari*. An issue is factual when the doubt or difference arises as to the truth or falsehood of alleged facts, or when the query invites the calibration of the whole evidence, considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole, and the probabilities of the situation.<sup>26</sup>

Moreover, the Court reiterates that it is bound by the factual findings by the trial court. Such findings are final when affirmed by the CA.<sup>27</sup> Hence, the Court cannot re-evaluate evidence that the RTC and the CA had already passed upon.<sup>28</sup>

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<sup>22</sup> Id. at 7.

<sup>23</sup> *Rollo*, pp. 18-19.

<sup>24</sup> Id. at 19.

<sup>25</sup> Id. at 19-20.

<sup>26</sup> *Agner v. BPI Family Savings Bank, Inc.*, G.R. No. 182963, June 3, 2013, 697 SCRA 89, 93.

<sup>27</sup> *Dumayag v. People*, G.R. No. 172778, November 26, 2012, 686 SCRA 347, 357-358.

<sup>28</sup> *Supra* note 26.

At any rate, a promissory note, albeit proof of the obligation, is not the only means of proof, for, like now, Villanueva himself admitted his obligation.<sup>29</sup> That was enough to establish his personal liability, for, as the CA fittingly stressed:

There is no doubt or question that appellant received the sum of ₱135,000.00 as the principal amount of loan. He even acknowledged the existence of the loan, which was secured by a mortgage, and further claimed that he offered and tried to settle his obligations to appellee. He cannot now disavow this obligation and question its validity, claiming that the same cannot exist by itself in the absence of a promissory note. The absence of such promissory note (if indeed there is no such promissory note) does not nullify or invalidate the contract, as a promissory note is only an evidence of indebtedness and does not indicate lack of consideration of the mortgage. A contract of loan, being a consensual contract, is perfected at the time of its execution; thus, appellant herein, having freely and voluntarily executed the said contract, duly secured by a chattel mortgage, bound himself not only to the fulfillment of what has been expressly stipulated but also to all the consequences which, according to their nature, may be in keeping with good faith, usage and law.<sup>30</sup>

Villanueva's indebtedness was further sufficiently established by the testimony of Nieto, who was the respondent's account officer.

Contrary to Villanueva's insistence, his loan obligation matured at a definite period, as confirmed by Nieto, to wit:

Q : Now, will you please tell the Court how is the system or mode of payment of this ₱135,000.00 secured as a chattel mortgage by Gerardo Villanueva?

A : The system or mode of payment is on a lump sum basis, sir.

Q : What do you mean by lump sum basis? How many payments will be made?

A : One payment.

Q : One payment?

A : If it is due and demandable.

Q : Now, in this document, it states that the payment should be made on ....When will this mature, by the way, the ₱135,000.00?

A : The Chattel Mortgage is good for one (1) year and renewable each year.

<sup>29</sup> *Guinsatao v. Court of Appeals*, G.R. No. 95083, February 9, 1993, 218 SCRA 708, 711-712.  
<sup>30</sup> *Rollo*, p. 34.

Q : Was this renewed?

A : Yes, sir.

Q : When this was renewed, when is the latest maturity date of the document...of the indebtedness?

A : The last maturity date of this document is on 1996 April.

Q : On April 1996, you said that the whole amount of ₱135,000.00 should be paid in lump sum. Was there payment made on a lump sum basis on April of 1996?

A : None, sir.<sup>31</sup>

Even where no date of payment was indicated either in the promissory note or in the deed of chattel mortgage, Villanueva's obligation under the law should be immediately demandable. This is in accordance with the first paragraph of Article 1179 of the *Civil Code*:

Article 1179. Every obligation whose performance does not depend upon a future or uncertain event, or upon a past event unknown to the parties, is **demandable at once**.

Under the circumstances, Villanueva's obligation matured upon the demand for payment by the respondent. As held in *Wood Technology Corporation v. Equitable Banking Corporation*:<sup>32</sup>

We note that this is a case for a sum of money, and petitioners have admitted that they obtained the loan. They also admitted the due execution of the loan documents and their receipt of the final demand letter made by the respondent. These documents were all attached to the Complaint. Petitioners merely claimed that the obligation has not matured. Notably, based on the promissory note, the RTC and the Court of Appeals found this defense not a factual issue for trial, the loan being payable on demand. We are bound by this factual finding. This Court is not a trier of facts.

When respondent made its demand, in our view, the obligation matured. We agree with both the trial and the appellate courts that this matter proffered as a defense could be resolved judiciously by plain resort to the stipulations in the promissory note which was already before the trial court. A full-blown trial to determine the date of maturity of the loan is not necessary. x x x

The relevance of the respondent's demand letter cannot be affected by the discrepancy between the total amount stated in the letter and the

<sup>31</sup> TSN of June 23, 1998, pp. 7-9.

<sup>32</sup> G.R. No. 153867, February 17, 2005, 451 SCRA 724, 733.

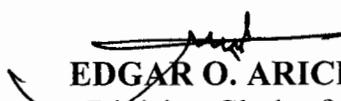
July 23, 2014

amount subject of the complaint. It is to be noted that the demand letter dated July 25, 1996 was offered in evidence to prove that Villanueva had owed the total amount of ₱900,000.00, inclusive of the ₱135,000.00 that is now the subject matter of this case, and of other loans.<sup>33</sup>

**WHEREFORE**, the Court **AFFIRMS** the decision promulgated on March 25, 2002; and **ORDERS** the petitioner to pay the costs of suit.

**SO ORDERED.”**

Very truly yours,

  
**EDGAR O. ARICHETA**  
 Division Clerk of Court *per*

**51-A**

PEOPLE'S LAW OFFICE  
 Counsel for Petitioner  
 Suite 511, Victoria Bldg.  
 11<sup>th</sup> Ave., Caloocan City 1400

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 (CA-G.R. CV No. 63732)

Atty. Ramon H. Clemente  
 Counsel for Respondent  
 c/o SMTKBPI  
 Poblacion, Bocaue  
 3018 Bulacan

The Hon. Presiding Judge  
 Regional Trial Court, Br. 77  
 3000 Malolos City, Bulacan  
 (Civil Case No. 893-M-96)

SR

<sup>33</sup> Records, p. 148; see also TSN of June 23, 1998, p. 10.