

THIRD DIVISION

[G.R. No. 250523, June 28, 2021]

**ATCI OVERSEAS CORPORATION AND AMALIA G. IKDAL,
PETITIONERS, VS. ASSET POOL A (SPV-AMC), INC.,
RESPONDENT.**

D E C I S I O N

DELOS SANTOS, J.:

This Petition for Review on *Certiorari*^[1] under Rule 45 assails the Decision^[2] dated November 19, 2018 and Resolution^[3] dated November 14, 2019 of the Court of Appeals (CA) in CA-G.R. CV No. 106371, which affirmed the Decision^[4] dated April 17, 2015 of the Regional Trial Court (RTC) of Makati City, Branch 145, in Civil Case No. 07-102 for sum of money.

Factual Antecedents

On February 2, 2007, respondent Asset Pool A (SPV-AMC), Inc. (APA) filed a complaint against petitioners ATCI Overseas Corporation (ATCI) and Amalia G. Ildal (Ikdal), seeking to recover the sum of US\$1,000,000.00, representing the remaining balance of the loan allegedly extended by APA's predecessor-in-interest, United Coconut Planters Bank (UCPB), to petitioners.^[5]

According to APA, ATCI obtained a loan from UCPB in the amount of US\$1,500,000.00, as embodied in a *Loan Agreement*^[6] dated July 2, 1993 and *Promissory Note No. 8103-93-30001*^[7] dated July 9, 1993, both signed by Ikdal as ATCI's authorized representative. The loan was secured by a *Surety Agreement*^[8] dated July 2, 1993 in favor of UCPB, which was also signed by Ikdal, binding herself jointly and severally liable with ATCI for the payment of the loan. APA alleged that ATCI left an unpaid balance in the amount of US\$1,000,000.00 of its principal obligation. In a *Deed of Absolute Sale*^[9] dated June 23, 2005, UCPB assigned its rights/interests pertaining to petitioners' balance in favor of respondent.^[10]

In their separate answers, ATCI and Ikdal disowned the loan, alleging that it was a simulated transaction initiated and proposed by UCPB. According to petitioners, no credit accommodation was intended, and no loan was actually granted to them, as the real intention of the parties was merely to provide UCPB a means or vehicle to release funds for the operating capital of its dollar remittance venture in Kuwait.^[11]

Availing that foreign banks, like UCPB, are prohibited from directly operating a dollar remittance in Kuwait, petitioners claimed that under their agreement, ATCI were to act as a front for UCPB for said purpose. Petitioners added that it was UCPB that prepared the loan documents for the purpose of showing ostensible security for

the loan, and providing cover-up for the release of the funds for its (UCPB) dollar remittance venture.^[12]

To support their claim that the loan was simulated, petitioners advanced the following: (1) the purported loan is a "clean loan," unsecured by any asset or collateral; (2) the unsatisfactory financial condition of ATCI when the loan was granted could not have merited the amount of US\$1,500,000.00, based on its financial statements for the preceding years, 1990 to 1992; and, (3) from the time the dollar remittance center was established, no legal action was taken by UCPB against petitioners for the payment of the loan, as well as its interests and charges.^[13]

Trial on the merits ensued, during which the parties respectively presented their witnesses.

Evidence for respondent APA

APA presented its corporate and in-house counsel, Atty. Cecile R. Gonzales-Yumul (Atty. Yumul), and its manager, Ian M. Concepcion. The RTC summarized their testimonies as follows:

On June 23, 2005, UCPB assigned a non-performing loan to ATCI pursuant to a *Deed of Absolute Sale* signed by President Jose Querubin and Vice-President Hignio Macadaeg, Jr. of UCPB; and Atty. Eduardo Gana and Atty. Yumul for APA. The transfer was approved by the Central Bank of the Philippines in accordance with RA 9182, as shown in a Certificate of Eligibility.^[14]

Owing to the assignment, UCPB turned over the following documents: (1) *Loan Agreement* dated July 2, 1993;^[15] (2) and *Promissory Note No. 8103-93-30001* dated July 9, 1993;^[16] (3) ATCI Board of Directors' *Minutes of the Special Meeting* dated June 25, 1993,^[17] authorizing ATCI to borrow the amount of US\$1,500,000.00 and designating IkdaI to sign relevant documents on behalf of ATCI; (4) *Surety Agreement* dated July 2, 1993^[18] signed by IkdaI, binding herself solidarily with ATCI to pay the loan; (5) *ATCI Letter* dated July 23, 1996,^[19] authorizing UCPB to debit from ATCI's dollar account the sum of US\$502,265.41 representing partial refund of the financial accommodation in the amount of US\$500,000, as well as its interest earned from June 27, 1996 to July 23, 1996 in the amount of US\$2,265.41 (hereinafter, "partial refund and interests"); and, (6) *Letter* dated July 23, 1999,^[20] authorizing UCPB to debit US\$13,616.43, representing the interest earned from US\$1,000,000.00, from ATCI's dollar account.^[21]

Evidence for petitioners

The testimonies of witnesses for petitioners, as summarized by the RTC, sought to establish the following:

Sometime in 1990, Alex Bangcola (Bangcola), Assistant Vice-President and Head of International Remittance of UCPB, approached IkdaI and two officers of ATCI, Antonio Dejas (Dejas) and Renato Dragon (Dragon). Bangcola intimated to them

his plan of setting up a dollar remittance business in Kuwait through ATCI.^[22]

Bangcola proposed that Ikdal should be the one to set up a licensed dollar remittance business in Kuwait, and for UCPB to manage its operations and provide the required funds. Ikdal acceded to the proposal.^[23]

Pursuant to the arrangement, Bangcola prepared the loan agreement and promissory note, and made it appear that Ikdal and ATCI borrowed the amount of US\$1,500,000.00 from UCPB. UCPB also prepared and required Ikdal to sign a Surety Agreement making her liable with ATCI, and Dejas to sign *Minutes of the Special Meeting* of the ATCI Board of Directors authorizing Ikdal to enter into the loan transaction. Bangcola also affixed his signature on the Loan and Surety Agreements in the presence of Ikdal. Since the loan was only simulated, neither Ikdal nor ATCI was required to furnish collaterals to UCPB as security for the loan, despite the huge amount involved and the fact that ATCI owned the condominium unit where UCPB held office at the time of the simulated loan. Moreover, ATCI was not required to submit financial statements, cash flow or repayment program; pay amortization or interest; or submit financial capability to borrow or repay the loan.^[24]

Upon confirmation from Bangcola that UCPB had agreed to the arrangements, Ikdal proceeded to set up the remittance company for UCPB in Kuwait, named Viking International Exchange Company (VIEC), secured its office spaces in a prime location, and worked on producing the remittance license. On January 1, 1994, UCPB sent Evangeline Reyes (Reyes) to Kuwait as remittance officer to conduct the remittance operations. The company was set up as a partnership with no incorporators having limited liability under Kuwaiti laws. VIEC was registered in the names of the Kuwaiti local sponsors, Achmed Dawis Jusien Awar as majority owner, and Amalia Ikdal, as minority owner (Exhs. 23, 23-A to 23-D), to conform to Kuwaiti Law requiring that a local company be owned by a Kuwaiti local sponsor, as majority owner, and one or more resident non-citizens, as minority owner/s.^[25]

When the license was ready for approval, Ikdal told Bangcola that the funds needed for capitalization had to be received in Kuwait, as a requirement for issuance of the license. At that time, the amount required to be deposited for the remittance business in Kuwait was US\$1,500,000.00. In response, Bangcola had the simulated loan approved, and then deposited the USD1,500,000.00 million to ATCI's dollar account in UCPB on July 9, 1993. The funds did not stay in the hands of ATCI, as they were intended for VIEC as conduit of UCPB for the funds.^[26]

When Evangeline Reyes, former comptroller of UCPB, left in December 1994, Ikdal and her staff were left to operate the business. Not equipped with experience in remittance business, Ikdal failed to achieve the volumes necessary for proper operation. After the Kuwait government found that VIEC was operating below volume, the deposit requirement was reduced upon finding that only US\$1,000,000.00 in deposit was needed to maintain the business instead of the original US\$1,500,000.00. Accordingly, Ikdal caused the refund of the amount of US\$500,000.00, including interest earned in the amount of US\$2,265.41, by depositing said amount to ATCI's account with UCPB. UCPB was authorized to the said amount from ATCI's account, as shown from Dejas' letter dated 22 July 1996 (Exh. 11, also plaintiff's Exh. E).^[27]

On August 16, 2001, VIEC had to close down due to continued losses. After VIEC's closure on August 16, 2001, petitioners never heard any word from UCPB. On December 13, 2005, they received APA's demand letter dated December 13, 2005 for the payment of US\$1,000,000.00.^[28]

Petitioners presented ATCI's Financial Reports for the years 1990 to 1993 prior to the purported loan showing the corporation's total assets and net worth in the following amounts: P4,970,940.10 and P16,056.95 in 1990; P3,507,446.53 and P27,164.31 in 1991; P7,644,907.12 and P64,738.05 in 1992; P6,499,402.69 and P33,020.57 in 1993; and P5,007,501.93 and P54,430.40 in 1994. To petitioners, ATCI's financial capacity prior to the supposed loan transactions could not have merited a loan in the amount of US\$1,500,000.00, more so without collateral to secure it.^[29]

Submitted for the RTC's resolution are the following issues, thus:

1. Whether or not the agreement entered into by UCPB and ATCI was a contract of loan;
2. Whether or not ATCI made partial payments acknowledging the loan;
3. Whether or not the transaction in question was validly transferred from UCPB to APA pursuant to the SPY Act of 2002; and
4. Whether or not APA's cause of action had been barred by prescription.

Ruling of the RTC

On April 17, 2015, the RTC rendered a Decision in favor of APA, disposing as follows:

WHEREFORE, premises considered, preponderance of evidence having been established by plaintiff to prove its cause of action, defendants ATCI Overseas Corporation and Amalia G. Ikdal are ordered to solidarily pay plaintiff ASSET POOL A (SPV-AMC) INC., the following amount:

1. ONE MILLION US DOLLARS (USD1,000,000.00), plus interest of twelve percent (12%) per annum from November 2, 2006 to June 30, 2013, and six percent (6%) per annum from July 1, 2013, until the said amount is fully paid;
2. ONE MILLION TWO HUNDRED FIFTY EIGHT THOUSAND SEVENTY TWO PESOS AND THIRTY CENTAVOS (Php 1,258,072.30) as reimbursement of litigation expenses;
3. TWO PERCENT[T] (2%) of the total monetary award by way of attorney's fees; and
4. Costs of suit.

The counterclaims of defendants are dismissed for lack of merit.

SO ORDERED.^[30]

First, the RTC sustained the validity of the questioned loan, holding that APA's documents (*i.e.*, promissory note, loan agreement, ATCI *Minutes of Special Meeting*, and *Surety Agreement*), being notarized, except for the promissory note, enjoy the presumption of regularity, which petitioners failed to overcome. Further, the RTC treated ATCI's Letters dated July 23, 1996 and July 23, 1999 to UCPB as proofs of partial payments of the loan.^[31]

Second, the RTC did not lend credence to petitioners' theory that UCPB merely used ATCI, through VIEC, to pose as a dummy for UCPB to operate a remittance business in Kuwait.^[32]

Third, the RTC found nothing irregular in UCPB's act of extending a "clean loan" in the US\$1,500,000.00, where ATCI was not required to submit financial statements or secure the loan with collateral. The RTC took judicial notice of some bank practices extending clean or uncollateralized loans to reputed or influential personalities.^[33]

Fourth, the RTC was convinced that ATCI's Letter dated July 23, 1996, authorizing UCPB to debit the amount of US\$500,000.00 from its (ATCI) dollar account with UCPB, constituted proof that petitioners acknowledged their obligation under the questioned loan.^[34]

Fifth, the RTC ruled out prescription or laches, holding that the partial payments made by petitioners to UCPB in 1996 and 1997, as well as APA's extrajudicial demand in 2005 for the payment of the loan, tolled the running of the prescriptive period for the filing of this case.^[35]

Lastly, the RTC sustained the transfer of the rights/interest to the loan from UCPB to APA pursuant to the SPV Act of 2002, relying on the *Certificate of Eligibility* issued by the Central Bank. Also, the RTC ruled that petitioners have no personality to question the assignment for not being privy thereto.^[36]

Aggrieved, petitioners appealed to the CA.

Ruling of the CA

The CA resolved the core issue whether or not the agreement entered into between the UCPB and ATCI was a *bona fide* contract of loan or a simulated one.

Essentially echoing the findings and ratiocination of the RTC, the CA rendered the challenged Decision dated November 19, 2018, affirming the RTC's ruling, thus:

WHEREFORE, the appeal is **DENIED**. **ACCORDINGLY**, the Decision dated April 17, 2015 of the Regional Trial Court of Makati City, Branch 145, is hereby **AFFIRMED**.

SO ORDERED.^[37]