

## FIRST DIVISION

[ G.R. No. 202573, April 19, 2017 ]

**BANKARD, INC., \* PETITIONER, VS. LUZ P. ALARTE,  
RESPONDENT.**

### D E C I S I O N

**DEL CASTILLO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> assails the September 28, 2011 Decision<sup>[2]</sup> of the Court of Appeals (CA) denying the Petition for Review in CA G.R. SP No. 114345, and its July 4, 2012 Resolution<sup>[3]</sup> denying herein petitioner's Motion for Reconsideration<sup>[4]</sup> in said case.

#### ***Factual Antecedents***

Petitioner Bankard, Inc. (Bankard, now RCBC Bankard Services Corporation) is a duly constituted domestic corporation doing business as a credit card provider, extending credit accommodations to its member-cardholders for the purchase of goods and services obtained from Bankard accredited business establishments, to be paid later on by the member-cardholders following billing.

In 2007, petitioner filed a collection case against respondent Luz P. Alarte before the Metropolitan Trial Court of Pasig City (MeTC). The case was docketed as Civil Case No. 13956 and ultimately assigned to Branch 72. In its Complaint,<sup>[5]</sup> petitioner alleged that respondent applied for and was granted credit accommodations under Bankard myDream JCB Card No. 3562-8688-5155-1006; that respondent, using the said Bankard myDream JCB credit card, availed herself of credit accommodations by "purchasing various products";<sup>[6]</sup> that per Statement of Account<sup>[7]</sup> dated July 9, 2006, respondent's credit availments amounted to a total of P67,944.82, inclusive of unbilled monthly installments, charges and penalties or at least the minimum amount due under the credit card; and that respondent failed and refuses to pay her obligations despite her receipt of a written demand.<sup>[8]</sup> Thus, it prayed that respondent be ordered to pay the amount of P67,944.82, with interest, attorney's fees equivalent to 25% of the sum due, and costs of suit.

Despite service of summons, respondent failed to file her answer. For this reason, petitioner filed a Motion to Render Judgment<sup>[9]</sup> which was granted.

#### ***Ruling of the Metropolitan Trial Court***

On July 15, 2009, the MeTC issued its Decision<sup>[10]</sup> dismissing the case, thus:

Inasmuch as this case falls under the Rule on Summary Procedure, judgment shall be rendered as may be warranted by the facts alleged in

the complaint and limited to what was prayed for.

For decision is whether x x x plaintiff is entitled to its claims against herein defendant.

It bears stressing that in civil cases, the party having the burden of proof must establish his case by preponderance of evidence. As mentioned in the case of Amoroso vs. Alegre (G.R. No. 142766, June 15, 2007), "Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence" If plaintiff claims a right granted or created by law, he must prove his claim by competent evidence. He must rely on the strength of his own evidence and not upon the weakness of that of his opponent.

Scrutiny of the pieces of evidence submitted by plaintiff, particularly the single statement of account dated July 7[,] 2006, discloses that what were merely reflected therein are the amounts imposed as late charges and interest charges. Nothing in the said document would indicate the alleged purchases made by defendant. Considering that there is sans [sic] of evidence showing that defendant made use [sic] plaintiff's credit facilities, it could no [sic] be said then that the amount of P67,944.82 alleged to be defendant's outstanding balance was the result of the latter's availment of plaintiff's credit card.

WHEREFORE, judgment is hereby rendered, DISMISSING herein complaint for lack of preponderance of evidence.

SO ORDERED.<sup>[11]</sup>

### ***Ruling of the Regional Trial Court***

Petitioner appealed before the Regional Trial Court (RTC) which, in a May 6, 2010 Decision,<sup>[12]</sup> affirmed the MeTC. It held:

In essence, Appellant argued that the Lower Court erred in dismissing the case on the ground of insufficiency of evidence. Accordingly, the evidence presented by Appellant is enough to pass the requirement of preponderance of evidence based on the disputable presumption enunciated under Rule 131, Section 3 (q) of the Revised Rules of Court. Appellant added that the account of the defendant-appellee Luz Alarte x x x could not have incurred penalties and interest charges if no purchases were made thereon. That likewise, Appellee was deemed to have admitted her obligation when she did not object to the amounts stated on the statement of accounts sent by the Appellant in the regular course of its business and as well, upon receiving the demand letter dated 03 October 2007 tor the payment of Php67,944.82.

A careful review of the Decision appealed from reveals that there really was no clear proof on how the amount claimed by the Appellant was incurred by the Appellee. This is so became if ever, the disputable

presumption under the Rule only showed to the Court that the statement of accounts were indeed sent by the Appellant to the Appellee on a "regular basis" but not the details itself of the purchase transactions showing the fact that Appellee made use of the Appellant's credit facilities up to the amount claimed together with the imposition of unconscionable interest and penalties as basis for the grant thereof. In short, the presumed existence of the statement of accounts cannot be considered as repository of the truth of the facts stated in the single statement of account dated 07 July 2006 presented by the Appellant considering that only the presentation of the detailed purchase transactions had by the Appellee in using the credit card facilities of the Appellant can show that the amount claimed by the latter was actually incurred by the former.

Appellant further argued that the Lower Court should have issued an order setting a clarificatory hearing to establish the principal amount due and required the plaintiff to submit affidavits on that matter pursuant to Section 10 of the Rules on Summary Procedure.

Section 10 of the Revised Rules of Summary Procedure speaks of matters that requires [sic] clarification in the affidavits and position papers which the Court might require the parties through an order, [sic] it does not in any way speak of the appreciation of evidence by the Court as subject matter for clarificatory hearing. Be that as it may, the Order of the Lower Court dated 29 April 2009 was enough in giving the Appellant the opportunity to submit supporting details of the monthly statement to prove its case.

WHEREFORE, premises considered, finding no reversible error on [sic] the Decision of the Court a quo, being supported by substantial evidence as basis thereof, the same is hereby AFFIRMED in toto. Costs against the Plaintiff-Appellant.

SO ORDERED.<sup>[13]</sup>

### ***Ruling of the Court of Appeals***

Petitioner filed a Petition for Review<sup>[14]</sup> before the CA docketed as CA-G.R. SP No. 114345. In a September 28, 2011 Decision, however, the CA affirmed the Decisions of the MeTC and RTC. It held:

Petitioner posits that the RTC erred in sustaining the [MeTC] in dismissing the case for lack of evidence since it was able to prove its claim by preponderance of evidence.

Section 1, Rule 133 of the Revised Rules of Court provides:

'SECTION 1. *Preponderance of evidence, how determined.* - In civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case. x x x.'

Based on the facts and circumstances in this case, there is indeed no basis for the claim. As aptly observed by the RTC, there was no clear proof on how the amount claimed by petitioner was incurred by respondent, thus:

'xxx    xxx    xxx

A careful review of the Decision appealed from reveals that there really was no clear proof on how the amount claimed by the Appellant was incurred by the appellee. This is so because if ever, the disputable presumption under the Rule only showed to the Court that the statement of accounts were indeed sent by the Appellant to the Appellee on a 'regular basis' but not the details itself of the purchase transactions showing the fact that Appellee made use of the Appellant's credit facilities up to the amount claimed together with the imposition of unconscionable interest and penalties as basis for the grant thereof. In short, the presumed existence of the statement of accounts cannot be considered as repository of the truth of the facts stated in the single statement of account dated 07 July 2006 presented by the Appellant considering that only the presentation of the detailed purchase transactions had by the Appellee in using the credit card facilities of the Appellant can show that the amount claimed by the latter was actually incurred by the former.

xxx    xxx    xxx'

Burden of proof is the duty of a party to present evidence to establish his claim or defense by the amount of evidence required by law, which is preponderance of evidence in civil cases. As a rule, he who alleges the affirmative of the issue has the burden of proof. Here, the burden of proof lies with the petitioner. As such, it has the obligation to present such quantum of evidence necessary to prove its claim. Unfortunately, the petitioner not only failed to overturn this burden but also failed to adduce [sic] the evidence required to prove such claim. While it may be true that respondent applied for and was granted a credit accommodation by petitioner, the latter failed to adduce enough evidence to establish that it is entitled to the payment of the amount of Php67,944.82. The Statement of Account submitted by petitioner showing the alleged obligation of the respondent merely states the late charges and penalty incurred but did not enumerate the alleged purchases/transactions made by the respondent while using the credit card issued by the petitioner. Thus, having failed to establish its claim by preponderance of evidence, the dismissal of the petition is warranted.

WHEREFORE, premises considered, the petition under consideration is DISMISSED and the assailed Decision dated May 06, 2010 of Regional Trial Court of Pasig, Branch 167 is hereby AFFIRMED.

SO ORDERED. <sup>[15]</sup>