

## SECOND DIVISION

[ G.R. No. 202514, July 25, 2016 ]

**ANNA MARIE L. GUMABON, PETITIONER, VS. PHILIPPINE  
NATIONAL BANK, RESPONDENT.**

### D E C I S I O N

**BRION, J.:**

Before us is a petition for review on *certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court filed by Anna Marie Gumabon (*Anna Marie*) assailing the December 16, 2011 decision<sup>[2]</sup> and June 26, 2012 resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CV. No. 96289. The CA reversed the Regional Trial Court (RTC)'s ruling<sup>[4]</sup> in Civil Case No. Q-04-53432 favoring Anna Marie.

#### The Facts

On August 12, 2004, Anna Marie filed a complaint for recovery of sum of money and damages before the RTC against the Philippine National Bank (PNB) and the PNB Delta branch manager Silverio Fernandez (*Fernandez*). The case stemmed from the PNB's refusal to release Anna Marie's money in a consolidated savings account and in two foreign exchange time deposits, evidenced by ***Foreign Exchange Certificates of Time Deposit (FXCTD)***.

In 2001, Anna Marie, together with her mother Angeles and her siblings Anna Elena and Santiago, (*the Gumabons*) deposited with the PNB Delta Branch \$10,945.28 and \$16,830.91, for which they were issued FXCTD Nos. **A-993902**<sup>[5]</sup> and **A-993992**,<sup>[6]</sup> respectively.

The Gumabons also maintained eight (8) savings accounts<sup>[7]</sup> in the same bank. Anna Marie decided to consolidate the eight (8) savings accounts and to withdraw P-2,727,235.85 from the consolidated savings account to help her sister's financial needs.

Anna Marie called the PNB employee handling her accounts, Reino Antonio Salvoro (*Salvoro*), to facilitate the consolidation of the savings accounts and the withdrawal. When she went to the bank on April 14, 2003, she was informed that she could not withdraw from the savings accounts since her bank records were missing and Salvoro could not be contacted.

On April 15, 2003, Anna Marie presented her two FXCTDs, but was also unable to withdraw against them. Fernandez informed her that the bank would still verify and investigate before allowing the withdrawal since Salvoro had not reported for work.

Thus, Anna Marie sent two demand letters<sup>[8]</sup> dated April 23 and April 25, 2003 to

the PNB.

After a month, the PNB finally consolidated the savings accounts and issued a passbook for **Savings Account (SA) No. 6121200**.<sup>[9]</sup> The PNB also confirmed that the total deposits amounted to P-2,734,207.36. Anna Marie, her mother, and the PNB executed a *Deed of Waiver and Quitclaim* dated May 23, 2003<sup>[10]</sup> to settle all questions regarding the consolidation of the savings accounts. After withdrawals, the balance of her consolidated savings account was P250,741.82.

On July 30, 2003, the PNB sent letters to Anna Marie to inform her that the PNB refused to honor its obligation under FXCTD Nos. 993902 and 993992,<sup>[11]</sup> and that the PNB withheld the release of the balance of P-250,741.82 in the consolidated savings account.<sup>[12]</sup> According to the PNB, Anna Marie pre-terminated, withdrew and/or debited sums against her deposits.

Thus, Anna Marie filed before the RTC a **complaint** for sum of money and damages against the PNB and Fernandez.<sup>[13]</sup>

As to the two FXCTDs, Anna Marie contended that the PNB's refusal to pay her time deposits is contrary to law. The PNB cannot claim that the bank deposits have been paid since the certificates of the time deposits are still with Anna Marie.<sup>[14]</sup>

As to the consolidated savings account, Anna Marie stated that the PNB had already acknowledged the account's balance in the *Deed of Waiver and Quitclaim* amounting to P2,734,207.36. As of January 26, 2004, the remaining balance was P250,741.82. PNB presented no concrete proof that this amount had been withdrawn.

Anna Marie prayed that the PNB and Fernandez be held solidarily liable for actual, moral, and exemplary damages, as well as attorney's fees, costs of suit, and legal interests because of the PNB's refusal to honor its obligations.

In its *answer*,<sup>[15]</sup> the PNB argued that: (1) Anna Marie is not entitled to the balance of the consolidated savings account based on *solutio indebiti*; (2) the PNB already paid the \$10,058.01 covered by FXCTD No. 993902; (3) the PNB is liable to pay only \$10,718.87 of FXCTD No. 993992, instead of the full amount of \$17,235.41; and (4) Anna Marie is guilty of contributory negligence. The PNB's arguments are discussed below.

*First*, Anna Marie is not entitled to the alleged balance of P250,741.82. The PNB's investigation showed that Anna Marie withdrew a total of P251,246.81<sup>[16]</sup> from two of the eight savings accounts and she used this amount to purchase manager's check no. 0000760633.<sup>[17]</sup> Hence, P251,246.81 should be deducted from the sum agreed upon in the *Deed of Waiver and Quitclaim*. The PNB offered photocopies of the PNB's **miscellaneous ticket**<sup>[18]</sup> and the **manager's check** as evidence to prove the withdrawals. The PNB argued that unjust enrichment would result if Anna Marie would be allowed to collect P-250,741.82 from the consolidated savings account without deducting her previous withdrawal of P251,246.81.

*Second*, Anna Marie is not entitled to receive \$10,058.01 covered by FXCTD No. 993902. Based on the PNB's records, Anna Marie pre-terminated FXCTD No. 993902

on March 11, 2002, and used the deposit, together with another deposit covered by FXCTD No. 993914 (for \$8,111.35), to purchase a **foreign demand draft** (FX Demand Draft No. 4699831) payable to Anna Rose/Angeles Gumabon. The PNB presented a facsimile copy of **Anna Rose's Statement of Account (SOA)**<sup>[19]</sup> from the PNB Bank to prove that the amount covered by FXCTD No. 993902 was already paid.

*Third*, Anna Marie is only entitled to receive \$10,718.87 instead of the full amount of \$17,235.41 covered by FXCTD No. 993992 because: (a) the amount of \$1,950.00 was part of the money used by Anna Marie to purchase the manager's check; (2) the amount of \$2,566.54 was credited to Current Account No. 227-810961-8 owned by Anna Marie's aunt, Lolita Lim; and (3) the amount of \$2,000.00 was credited to Current Account No. 2108107498 of Anna Marie and Savings Account No. 212-5057333 of Anna Marie/or Angeles or Santiago/or Elena (all surnamed Gumabon). Hence, these amounts should be deducted from the amount payable to Anna Marie.

*Finally*, the PNB alleged that Anna Marie was guilty of contributory negligence in her bank dealings.

In her reply,<sup>[20]</sup> Anna Marie argued that the best evidence of her withdrawals is the withdrawal slips duly signed by her and the passbooks pertaining to the accounts. PNB, however, failed to show any of the withdrawal slips and/or passbooks, and also failed to present sufficient evidence that she used her accounts' funds.

#### The RTC Ruling

The RTC ruled in Anna Marie's favour.<sup>[21]</sup>

The RTC held that the PNB had not yet paid the remaining balance of \$10,058.01 under FXCTD No. 993902. Anna Marie's SOA,<sup>[22]</sup> which the PNB relied upon, is a mere photocopy and does not satisfy the best evidence rule. Moreover, there is no indication on the stated amounts in the SOA that the funds have come from FXCTD No. 993902.<sup>[23]</sup> The PNB failed to obtain the deposition of a PNC Bank officer or present any other evidence to show that the amounts stated in the SOA came from FXCTD No. 993902. The RTC also held that the alleged pre-termination of FXCTD No. 993902 on March 11, 2002, is hard to believe since the certificate shows that the last entry was made on March 24, 2003, with a reflected balance of \$10,058.01.

**On FXCTD No. 993992**, the RTC held that the PNB failed to prove Anna Marie's alleged withdrawals. These alleged withdrawals are not reflected at the back of the certificate. Anna Marie's ledger was also not presented as evidence to show that several withdrawals had been made against FXCTD No. 993992.

**On the consolidated savings account**, the RTC held that the PNB failed to prove that Anna Marie withdrew the balance of P250,741.82. The RTC excluded PNB's evidence, **i.e., photocopies of the miscellaneous ticket and manager's check**, to prove the alleged withdrawals, since these documents were just photocopies and thus failed to satisfy the best evidence rule.

The RTC awarded damages to Anna Marie due to the PNB's mishandling of her account through its employee, Salvoro. The RTC also held that the PNB failed to

establish Anna Marie's contributory negligence.

In conclusion, the RTC ordered the PNB to pay Anna Marie these amounts:

(1) Actual damages of:

- (a) \$10,058.01, as the outstanding balance of FXCTD No. 993902;
- (b) \$20,244.42, as the outstanding balance of FXCTD No. 993992; and
- (c) P-250,741.82, as the outstanding balance of SA No. 6121200;

- (2) P-100,000.00 as moral damages;
- (3) P-50,000.00 as exemplary damages;
- (4) P150,000.00 as attorney's fees; and
- (5) Costs of suit.

From this ruling, the PNB appealed before the CA.

#### The CA Ruling

The CA **reversed** the RTC's ruling.<sup>[24]</sup>

The CA held that the PNB had paid the actual amounts claimed by Anna Marie in her complaint. The CA noted Anna Marie's suspicious and exclusive dealings with Salvoro and the Gumabons' instruction to Salvoro to make unauthorized and unrecorded withdrawals. Hence, there are no entries of withdrawals reflected in Anna Marie's passbook.

The CA also considered Anna Rose's SOA as proof that the PNB had paid the remaining balance of \$10,058.01 on FXCTD No. 993902. The CA held that the PNB verified the SOA and it was corroborated by the **affidavit**<sup>[25]</sup> of the PNB Branch Operations Officer in New York. The CA stated that the RTC should have allowed the taking of the deposition of the PNB bank officer.

The CA also relied on the PNB's investigation and concluded that the PNB had already paid the amounts claimed by Anna Marie under FXCTD Nos. 993902 and 993992.

As to Anna Marie's consolidated savings account, the CA gave credence to the miscellaneous ticket and the manager's check presented by the PNB to prove that it had already paid the balance.

Anna Marie moved but failed to obtain reconsideration of the CA's decision; hence, the present petition.<sup>[26]</sup>

#### **The Petition**

Anna Marie filed the present petition for review to question the CA's decision and resolution which reversed the RTC's ruling.

Anna Marie argues that: *first*, the CA should not have disregarded the RTC's conclusive findings; *second*, the CA erred in considering the PNB New York bank officer's affidavit because it was not formally offered as evidence; *third*, the CA erroneously relied on a foreign demand draft<sup>[27]</sup> to prove the PNB's payment of the amount due under FXCTD No. 993902; *fourth*, the CA erroneously considered the miscellaneous ticket and the manager's check because these documents are mere photocopies and inadmissible under the best evidence rule; and *fifth*, the CA's conclusion about a purported "connivance" between Anna Marie and Salvoro has no evidentiary basis.

In its comment, the PNB counters that: *first*, the CA can rectify the RTC's factual findings since the RTC committed errors in its appreciation of the evidence; *second*, the RTC completely ignored the PNB's several evidence proving its payment of Anna Marie's FXCTDs; *third*, Anna Marie did not refute the PNB's allegations of payment; *fourth*, the CA has the right to review even those exhibits which were excluded by the RTC; and *fifth*, the CA correctly ruled that the PNB should not be faulted about the unrecorded transactions, and that the PNB had done its duty to its depositors when it conducted investigations and an internal audit of Anna Marie's accounts.

### The Issues

The issue before this Court is whether Anna Marie is entitled to the payment of the following amounts:

- (a) \$10,058.01 or the outstanding balance under FXCTD No. 993902;
- (b) \$20,244.42 for FXCTD No. 993992;
- (c) P250.741.82 for SA No. 6121200; and (3) Damages.

### Our Ruling

#### ***We grant the petition and reverse the CA 's ruling.***

The core issue raised in the present petition is a question of fact. As a general rule, a petition for review under Rule 45 of the Rules of Court covers *only* questions of law. Questions of fact are not reviewable and cannot be passed upon by the Court in the exercise of its power to review under Rule 45.<sup>[28]</sup>

There are, however, exceptions to the general rule. Questions of fact may be raised before this Court in any of these instances: (1) when the findings are grounded entirely on speculations, surmises, or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on misappreciation of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the same are contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioners main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.<sup>[29]</sup>