

THIRD DIVISION

[G.R. No. 192443, November 23, 2015]

**ALLIED BANKING CORPORATION AND ERNESTO PASCUAL,
PETITIONERS, VS. CRISTINA B. FUKUOKA, AND SPOUSES
CRISOSTOMO AND WARLITA BORILLO, RESPONDENTS.**

DECISION

REYES, J.:

This is a petition for review on *certiorari*^[1] under Rule 45 of the 1997 Rules of Court brought by Allied Banking Corporation (Allied Bank) and Ernesto Pascual (collectively, the petitioners) against Cristina B. Fukuoka (Fukuoka) and Spouses Crisostomo (Crisostomo) and Warlita Borillo, assailing the Decision^[2] dated September 18, 2009 and Resolution^[3] dated May 27, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 85063.

The facts of the case are as follows:

[Crisostomo] x x x is a long time client of [Allied Bank]. Sometime in 1993, [Fukuoka] x x x engaged the services of [Crisostomo] for the renovation of her house located at No. 25 Camino Real St., Pilar Village, Las Piñas City covered by Transfer Certificate of Title No. 347720 [herein subject property]. After the renovation of her house, [Fukuoka] became interested in buying the adjacent lot owned by Emily Costalcs but she had no money. [Fukuoka] intimated her plan and her financial problem to [Crisostomo] who answered that it was easy as long as she has the title to her land. [Fukuoka] requested [Crisostomo] to inquire from [Allied Bank] as to how much is the monthly amortization for a loan of P1 million. The next day, [Crisostomo] met [Fukuoka] and gave her a Schedule of Monthly Amortization, which shows that the monthly amortization for sixty (60) months is P29,583.34.

Thereafter, [Crisostomo] applied for a loan which was approved by [Allied Bank] on December 15, 1995 and the former executed Promissory Note No. 0036-95-00767. Consequently, a Loan Release Manifold was issued in the name of [Crisostomo] showing that the amount of P984,937.50 was credited to his Current Account No. 0361-005542. On even date, [Crisostomo] accompanied [Fukuoka], Emily Costales, and Evelyn Pajarillaga x x x, to [Allied Bank's] Talon Branch in Las Piñas City. Thereupon, [Crisostomo] gave P979,000.00 to [Fukuoka] who subsequently signed a Real Estate Mortgage over the subject property in the presence of [Allied Bank's] Talon Branch Manager, Ernesto Pascual xxx. The deed of Real Estate Mortgage states that for and in consideration of the credit accommodation obtained from [Allied Bank] in the amount of P1 million, [Fukuoka] mortgages the subject property in

favor of the former. The deed likewise contains a note which states "[t]o secure the loan of [Crisostomo]/C.P. Borillo Const."

[Fukuoka] subsequently requested that her monthly amortizations for the P1 million loan should be deducted through an automatic deduction scheme. Thus, sometime in January 1996, [Fukuoka] directed Evelyn Pajarillaga to open a savings account at [Allied Bank's] Talon Branch. From January 1996 up to May 1999, [Allied Bank] had been deducting the monthly amortizations from Evelyn Pajarillaga's savings account with account number 0360166289.

It appears, however, that from December 18, 1995 until July 1996, [Crisostomo] executed several promissory notes in favor of [Allied Bank], viz:

| Date of Execution | Promissory Note Number | Amount | Due Date |
|-------------------|------------------------|---------------|-------------------|
| December 18, 1995 | 0036-95-00783 | P300,000.00 | December 12, 1996 |
| December 19, 1995 | 0036-95-00791 | P600,000.00 | December 13, 1996 |
| January 17, 1996 | 0036-96-00044 | P1,500,000.00 | December 13, 1996 |
| February 23, 1996 | 0036-96-00265 | P2,000,000.00 | December 31, 1996 |
| February 26, 1996 | 0036-96-00281 | P800,000.00 | December 31, 1996 |
| March 27, 1996 | 0036-96-00478 | P500,000.00 | December 31, 1996 |
| May 31, 1996 | 0036-96-00801 | P300,000.00 | December 31, 1996 |
| July 3, 1996 | 0036-96-00931 | P1,000,000.00 | December 31, 1996 |

In June 1999, [Allied Bank] refused to deduct the monthly amortization from Evelyn Pajarillaga's account. Evelyn Pajarillaga informed [Fukuoka] who was then in Japan. [Fukuoka] immediately returned to the Philippines and proceeded to [Allied Bank's] Talon Branch, [Fukuoka] confronted defendant-appellant Pascual and the latter told her that she signed other documents and that she should look for [Crisostomo] and secure the services of a lawyer. On June 23, 1999, [Fukuoka's] counsel sent a letter demanding from [Allied Bank] to make the deduction for the month of June.

On July 7, 1999, [Fukuoka] filed a *Complaint for Reformation of Contract, Specific Performance, Consignation, and Damages* against [the petitioners] and [Crisostomo] before the Regional Trial Court of Las Piñas City, Branch 275, docketed as Civil Case No. LP-99-0153. The complaint was later amended to implead [Crisostomo's] spouse, Warlita Borillo. x x x.^[4] (Citations omitted and italics in the original)

In her Complaint,^[5] Fukuoka prayed for the deletion of the name of Crisostomo as a party in the Real Estate Mortgage (REM) contract^[6] dated December 15, 1995, and insofar as it authorizes Crisostomo to use her mortgaged property for other purposes. According to Fukuoka, the petitioners and Crisostomo jointly conspired to impose the latter's unrelated obligations upon her mortgaged property.^[7]

The petitioners filed their Amended Answer with Counterclaim and Cross-claim,^[8] alleging that it was Crisostomo who obtained the loan from Allied Bank and executed the promissory note evidencing the same. They also claimed that Fukuoka expressly bound herself solidarity with Crisostomo to pay all the obligations of the latter with Allied Bank and volunteered to pay the said obligation by virtue of an automatic deduction arrangement.^[9] The petitioners prayed that judgment be rendered ordering the dismissal of the case against them; for the payment of damages and attorney's fees; and for Fukuoka, Crisostomo and his wife, Warlita, to jointly and severally pay Allied Bank the amounts indicated in the promissory notes covering Crisostomo's loan.^[10]

Ruling of the Regional Trial Court

On February 12, 2004, the Regional Trial Court (RTC) of Las Piñas City rendered its Decision,^[11] the *fallo* of which is as follows:

WHEREFORE, judgment is hereby rendered on the Complaint in favor of [Fukuoka] and against the [petitioners and Crisostomo] directing the latter to pay, jointly and severally, to [Fukuoka], as follows:

1. Php100,000.00 as moral damages;
2. Php50,000.00 as exemplary damages;
3. Php580,800.00 to cover lost income for one year;
4. Php100,000.00 as Attorney's fees and the cost of the suit.

As to the cross-claim of [the petitioners] against [Crisostomo], the same is hereby DISMISSED for lack of merit.

SO ORDERED.^[12]

Allied Bank claimed that Fukuoka is liable not only for the P1,000,000.00 loan but also for all the loans obtained by Crisostomo, past, present and future. Allied Bank argued that the phrase in the REM contract stating, *viz*: "NOTE" [t]o secure the loan of [Crisostomo]/CP Borillo Const., is sufficient basis for Fukuoka to be liable for all the loans obtained by Crisostomo.^[13]

But the RTC was not swayed. The RTC explained clearly that Fukuoka borrowed P1,000,000.00 only to purchase a lot, payable in 60 months with a monthly amortization of P29,583.34.^[14] Crisostomo, however, deceived Fukuoka into signing such "NOTE" to secure the loan of Crisostomo/CP Borillo Const. It was only Crisostomo who talked with the people with the Allied Bank and that Fukuoka did

not know the tenor of their discussion. She was simply told "*pumirma ka diyan, dalian mo at ako ay nagmamadali*."^[15]

The RTC established that there were irregularities committed by the petitioners and Crisostomo relative to the execution of the mortgage contracts, which are indicative of conspiracy.^[16]

In granting the complaint, the RTC pointed out that what governs is not the letter of that "NOTE" but the intention of the parties, considering the surrounding circumstances obtaining leading to its execution. The Latin maxim "*lex succurrit ignorantibus*" (the law assists the ignorant) is relevant. The REM between Fukuoka and Allied Bank shall stand but the "NOTE" to secure the loan of Crisostomo/CP Borillo Const, must be stricken off, as the RTC strikes the same, to reflect the true intention of the parties.^[17] The RTC also dismissed the petitioners' cross-claim since the RTC considered the acts of Crisostomo as the acts of the petitioners for which the latter are not entitled to reimbursement.^[18]

On July 6, 2004, the RTC issued an Order^[19] denying the Motion for Reconsideration filed by the petitioners for lack of merit.

Ruling of the CA

The petitioners appealed the RTC decision before the CA under Rule 41 of the 1997 Rules of Court. On September 18, 2009, the CA dismissed the appeal for lack of merit. The petitioners' cross-claim against Crisostomo was also dismissed for the reason that the cross-claim did not arise out of the subject matter in the Complaint. The CA deemed the petitioners' cross claim for Crisostomo's supposed outstanding obligation as a new matter raising a new cause of action that must be litigated in a separate action.^[20]

On May 27, 2010, the CA issued a Resolution denying the motion for reconsideration^[21] filed by the petitioners.

Issues

The petitioners raised the following arguments before the Court in their petition for review on *certiorari*:

I

THE HONORABLE [CA] GRAVELY ERRED IN NOT FINDING THAT THE REQUISITES FOR REFORMATION OF CONTRACT ARE NOT PRESENT AS [FUKUOKA] NEVER OBTAINED ANY LOAN FROM [ALLIED BANK] BUT BOUND HERSELF AS SURETY OF THE LOAN OBLIGATIONS OF [CRISOSTOMO] OBTAINED FROM [ALLIED BANK].

II.

THE HONORABLE [CA] GRAVELY ERRED IN NOT FINDING THAT [THE PETITIONERS] ARE NOT BOUND BY THE INTERNAL ARRANGEMENT BETWEEN [FUKUOKA] AND [CRISOSTOMO] AS THEY HAVE NO PRIVITY

THERETO.

III.

THE HONORABLE [CA] GRAVELY ERRED IN NOT FINDING THAT [CRISOSTOMO] ACTED ALONE IN DEFRAUDING [FUKUOKA].

IV.

THE HONORABLE [CA] GRAVELY ERRED IN NOT GRANTING THE CROSS[-]CLAIM OF [THE PETITIONERS] AGAINST [CRISOSTOMO].^[22]

Ruling of the Court

According to the petitioners, Crisostomo was granted an additional credit facility of P1,000,000.00 covered by Promissory Note No. 0036-95-00767. Prior to the approval of the aforesaid additional credit line accommodation, Crisostomo offered Fukuoka's property as security for the payment of such. After Allied Bank approved Crisostomo's proposal, a third party mortgage as well as a continuing guaranty and comprehensive suretyship agreement was voluntarily executed by Fukuoka. Thus, the reformation of the contract will make it appear that a loan with mortgage was actually granted to Fukuoka and is tantamount to creating a new contract for the parties.^[23]

After a careful scrutiny of the facts of the instant case, the Court affirms the CA ruling that there exists a contract of loan secured by a REM between Allied Bank and Fukuoka. Hence, a reformation of the instrument is proper.

Under Article 1359 of the New Civil Code, it is stated that "[w]hen, there having been a meeting of the minds of the parties to a contract, their true intention is not expressed in the instrument purporting to embody the agreement, by reason of mistake, fraud, inequitable conduct or accident, one of the parties may ask for the reformation of the instrument to the end that such true intention may be expressed."

In order to judge the intention of the contracting parties, their contemporaneous and subsequent acts shall be principally considered.^[24]

The CA observed that the petitioners' intention to grant the loan of P1,000,000.00 to Fukuoka was evident from the following circumstances:

- 1) *Credit Ticket* in the amount of P979,000.00 was issued in her name; and
- 2) the monthly amortizations written in the *Schedule of Monthly Amortizations* given by Crisostomo to Fukuoka correspond with the monthly amortizations actually deducted from Evelyn Pajarillaga's (Pajarillaga) account.^[25] On Fukuoka's side, she claimed that she executed the REM over her property solely for the purpose of securing the P1,000,000.00 loan extended to her by Allied Bank.^[26]

The CA discoursed that while the petitioners contend that the Credit Ticket was unsigned by any of Allied Bank's authorized officer, hence, an unofficial document,