

SECOND DIVISION

[G.R. No. 180144, September 24, 2014]

LEONARDO BOGNOT, PETITIONER, VS. RRI LENDING CORPORATION, REPRESENTED BY ITS GENERAL MANAGER, DARIO J. BERNARDEZ, RESPONDENT.

D E C I S I O N

BRION, J.:

Before the Court is the petition for review on *certiorari*^[1] filed by Leonardo Bognot (*petitioner*) assailing the March 28, 2007 decision^[2] and the October 15, 2007 resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV No. 66915.

Background Facts

RRI Lending Corporation (*respondent*) is an entity engaged in the business of lending money to its borrowers within Metro Manila. It is duly represented by its General Manager, Mr. Dario J. Bernardez (*Bernardez*).

Sometime in September 1996, the petitioner and his younger brother, Rolando A. Bognot (*collectively referred to as the "Bognot siblings"*), applied for and obtained a loan of Five Hundred Thousand Pesos (P500,000.00) from the respondent, payable on November 30, 1996.^[4] The loan was evidenced by a promissory note and was secured by a post dated check^[5] dated November 30, 1996.

Evidence on record shows that the petitioner renewed the loan several times on a monthly basis. He paid a renewal fee of P54,600.00 for each renewal, issued a new post-dated check as security, and executed and/or renewed the promissory note previously issued. The respondent on the other hand, cancelled and returned to the petitioner the post-dated checks issued prior to their renewal.

Sometime in March 1997, the petitioner applied for another loan renewal. He again executed as principal and signed Promissory Note No. 97-035^[6] payable on April 1, 1997; his co-maker was again Rolando. As security for the loan, the petitioner also issued BPI Check No. 0595236,^[7] post dated to April 1, 1997.^[8]

Subsequently, the loan was again renewed on a monthly basis (until June 30, 1997), as shown by the Official Receipt No. 797^[9] dated May 5, 1997, and the Disclosure Statement dated May 30, 1997 duly signed by Bernardez. The petitioner purportedly paid the renewal fees and issued a post-dated check dated June 30, 1997 as security. As had been done in the past, the respondent superimposed the date "*June 30, 1997*" on the upper right portion of Promissory Note No. 97-035 to make it appear that it would mature on the said date.

Several days before the loan's maturity, Rolando's wife, Julieta Bognot (*Mrs. Bognot*), went to the respondent's office and applied for another renewal of the loan. She issued in favor of the respondent Promissory Note No. 97-051, and International Bank Exchange (*IBE*) Check No. 00012522, dated July 30, 1997, in the amount of P54,600.00 as renewal fee.

On the excuse that she needs to bring home the loan documents for the Bognot siblings' signatures and replacement, Mrs. Bognot asked the respondent's clerk to release to her the promissory note, the disclosure statement, and the check dated July 30, 1997. Mrs. Bognot, however, never returned these documents nor issued a new post-dated check. Consequently, the respondent sent the petitioner follow-up letters demanding payment of the loan, plus interest and penalty charges. These demands went unheeded.

On November 27, 1997, the respondent, through Bernardez, filed a complaint for sum of money before the Regional Trial Court (*RTC*) against the Bognot siblings. The respondent mainly alleged that the loan renewal payable on June 30, 1997 which the Bognot siblings applied for remained unpaid; that before June 30, 1997, Mrs. Bognot applied for another loan extension and issued IBE Check No. 00012522 as payment for the renewal fee; that Mrs. Bognot convinced the respondent's clerk to release to her the promissory note and the other loan documents; that since Mrs. Bognot never issued any replacement check, no loan extension took place and the loan, originally payable on June 30, 1997, became due on this date; and despite repeated demands, the Bognot siblings failed to pay their joint and solidary obligation.

Summons were served on the Bognot siblings. However, only the petitioner filed his answer.

In his Answer,^[10] the petitioner claimed that the complaint states no cause of action because the respondent's claim had been paid, waived, abandoned or otherwise extinguished. He denied being a party to any loan application and/or renewal in May 1997. He also denied having issued the BPI check post-dated to June 30, 1997, as well as the promissory note dated June 30, 1997, claiming that this note had been tampered. He claimed that the one (1) month loan contracted by Rolando and his wife in November 1996 which was lastly renewed in March 1997 had already been fully paid and extinguished in April 1997.^[11]

Trial on the merits thereafter ensued.

The Regional Trial Court Ruling

In a decision^[12] dated January 17, 2000, the RTC ruled in the respondent's favor and ordered the Bognot siblings to pay the amount of the loan, plus interest and penalty charges. It considered the wordings of the promissory note and found that the loan they contracted was joint and solidary. It also noted that the petitioner signed the promissory note as a principal (and not merely as a guarantor), while Rolando was the co-maker. It brushed the petitioner's defense of full payment aside, ruling that the respondent had successfully proven, by preponderance of evidence, the non-payment of the loan. The trial court said:

Records likewise reveal that while he claims that the obligation had been fully paid in his Answer, he did not, in order to protect his right filed (sic) a cross-claim against his co-defendant Rolando Bognot despite the fact that the latter did not file any responsive pleading.

In fine, defendants are liable solidarily to plaintiff and must pay the loan of P500,000.00 plus 5% interest monthly as well as 10% monthly penalty charges from the filing of the complaint on December 3, 1997 until fully paid. As plaintiff was constrained to engage the services of counsel in order to protect his right, defendants are directed to pay the former jointly and severally the amount of P50,000.00 as and by way of attorney's fee.

The petitioner appealed the decision to the Court of Appeals.

The Court of Appeals Ruling

In its decision dated March 28, 2007, the CA affirmed the RTC's findings. It found the petitioner's defense of payment untenable and unsupported by clear and convincing evidence. It observed that the petitioner did not present any evidence showing that the check dated June 30, 1997 had, in fact, been encashed by the respondent and the proceeds applied to the loan, or any official receipt evidencing the payment of the loan. It further stated that the only document relied upon by the petitioner to substantiate his defense was the April 1, 1997 check he issued which was cancelled and returned to him by the respondent.

The CA, however, noted the respondent's established policy of cancelling and returning the post-dated checks previously issued, as well as the subsequent loan renewals applied for by the petitioner, as manifested by the official receipts under his name. The CA thus ruled that the petitioner failed to discharge the burden of proving payment.

The petitioner moved for the reconsideration of the decision, but the CA denied his motion in its resolution of October 15, 2007, hence, the present recourse to us pursuant to Rule 45 of the Rules of Court.

The Petition

The petitioner submits that the CA erred in holding him solidarily liable with Rolando and his wife. He claimed that based on the legal presumption provided by Article 1271 of the Civil Code,^[13] his obligation had been discharged by virtue of his possession of the post-dated check (stamped "CANCELLED") that evidenced his indebtedness. He argued that it was Mrs. Bognot who subsequently assumed the obligation by renewing the loan, paying the fees and charges, and issuing a check. Thus, there is an entirely new obligation whose payment is her sole responsibility.

The petitioner also argued that as a result of the alteration of the promissory note without his consent (*e.g., the superimposition of the date "June 30, 1997" on the upper right portion of Promissory Note No. 97-035 to make it appear that it would mature on this date*), the respondent can no longer collect on the tampered note, let alone, hold him solidarily liable with Rolando for the payment of the loan. He

maintained that even without the proof of payment, the material alteration of the promissory note is sufficient to extinguish his liability.

Lastly, he claimed that he had been released from his indebtedness by novation when Mrs. Bognot renewed the loan and assumed the indebtedness.

The Case for the Respondents

The respondent submits that the issues the petitioner raised hinge on the appreciation of the adduced evidence and of the factual lower courts' findings that, as a rule, are not reviewable by this Court.

The Issues

The case presents to us the following issues:

1. Whether the CA committed a reversible error in holding the petitioner solidarily liable with Rolando;
2. Whether the petitioner is relieved from liability by reason of the material alteration in the promissory note; and
3. Whether the parties' obligation was extinguished by: (i) payment; and (ii) novation by substitution of debtors.

Our Ruling

We find the petition partly meritorious.

As a rule, the Court's jurisdiction in a Rule 45 petition is limited to the review of pure questions of law.^[14] Appreciation of evidence and inquiry on the correctness of the appellate court's factual findings are not the functions of this Court; we are not a trier of facts.^[15]

A question of law exists when the doubt or dispute relates to the application of the law on given facts. On the other hand, a question of fact exists when the doubt or dispute relates to the truth or falsity of the parties' factual allegations.^[16]

As the respondent correctly pointed out, the petitioner's allegations are **factual issues** that are not proper for the petition he filed. In the absence of compelling reasons, the Court cannot re-examine, review or re-evaluate the evidence and the lower courts' factual conclusions. This is especially true when the CA affirmed the lower court's findings, as in this case. Since the CA's findings of facts affirmed those of the trial court, they are binding on this Court, rendering any further factual review unnecessary.

If only to lay the issues raised - both factual and legal - to rest, we shall proceed to discuss their merits and demerits.

No Evidence Was Presented to Establish the Fact of Payment

Jurisprudence tells us that one who pleads payment has the burden of proving it; [17] the burden rests on the defendant to prove payment, rather than on the plaintiff to prove non-payment. [18] Indeed, once the existence of an indebtedness is duly established by evidence, the burden of showing with legal certainty that the obligation has been discharged by payment rests on the debtor. [19]

In the present case, the petitioner failed to satisfactorily prove that his obligation had already been extinguished by payment. As the CA correctly noted, the petitioner failed to present any evidence that the respondent had in fact encashed his check and applied the proceeds to the payment of the loan. Neither did he present official receipts evidencing payment, nor any proof that the check had been dishonored.

We note that the petitioner merely relied on the respondent's cancellation and return to him of the check dated April 1, 1997. The evidence shows that this check was issued to secure the indebtedness. The acts imputed on the respondent, standing alone, do not constitute sufficient evidence of payment.

Article 1249, paragraph 2 of the Civil Code provides:

x x x x

The delivery of promissory notes payable to order, or bills of exchange or other mercantile documents shall **produce the effect of payment only when they have been cashed**, or when through the fault of the creditor they have been impaired. (Emphasis supplied)

Also, we held in *Bank of the Philippine Islands v. Spouses Royeca*: [20]

Settled is the rule that payment must be made in legal tender. A check is not legal tender and, therefore, cannot constitute a valid tender of payment. Since a negotiable instrument is only a substitute for money and not money, the delivery of such an instrument does not, by itself, operate as payment. Mere delivery of checks does not discharge the obligation under a judgment. **The obligation is not extinguished and remains suspended until the payment by commercial document is actually realized.** (Emphasis supplied)

Although Article 1271 of the Civil Code provides for a legal presumption of renunciation of action (in cases where a private document evidencing a credit was voluntarily returned by the creditor to the debtor), this presumption is merely *prima facie* and is not conclusive; the presumption loses efficacy when faced with evidence to the contrary.

Moreover, the cited provision merely raises a presumption, **not of payment, but of the renunciation of the credit** where more convincing evidence would be required than what normally would be called for to prove payment. [21] Thus, reliance by the petitioner on the legal presumption to prove payment is misplaced.