

SECOND DIVISION

[G.R. No. 186433, November 27, 2013]

**NUCCIO SAVERIO AND NS INTERNATIONAL, INC., PETITIONERS,
VS. ALFONSO G. PUYAT, RESPONDENT.**

D E C I S I O N

BRION, J.:

We resolve the petition for review on *certiorari*,^[1] filed by petitioners Nuccio Saverio and NS International, Inc. (NSI) against respondent Alfonso G. Puyat, challenging the October 27, 2008 decision^[2] and the February 10, 2009 resolution^[3] of the Court of Appeals (CA) in CA-G.R. CV. No. 87879. The CA decision affirmed the December 15, 2004 decision^[4] of the Regional Trial Court (RTC) of Makati City, Branch 136, in Civil Case No. 00-594. The CA subsequently denied the petitioners' motion for reconsideration.

The Factual Antecedents

On July 22, 1996, the respondent granted a loan to NSI. The loan was made pursuant to the Memorandum of Agreement and Promissory Note (MOA)^[5] between the respondent and NSI, represented by Nuccio. It was agreed that the respondent would extend a credit line with a limit of P500,000.00 to NSI, to be paid within thirty (30) days from the time of the signing of the document. The loan carried an interest rate of 17% per annum, or at an adjusted rate of 25% per annum if payment is beyond the stipulated period. The petitioners received a total amount of P300,000.00 and certain machineries intended for their fertilizer processing plant business (*business*). The proposed business, however, failed to materialize.

On several occasions, Nuccio made personal payments amounting to P600,000.00. However, as of December 16, 1999, the petitioners allegedly had an outstanding balance of P460,505.86. When the petitioners defaulted in the payment of the loan, the respondent filed a collection suit with the RTC, alleging mainly that the petitioners still owe him the value of the machineries as shown by the Breakdown of Account^[6] he presented.

The petitioners refuted the respondent's allegation and insisted that they have already paid the loan, evidenced by the respondent's receipt for the amount of P600,000.00. They submitted that their remaining obligation to pay the machineries' value, if any, had long been extinguished by their business' failure to materialize. They posited that, even assuming without conceding that they are liable, the amount being claimed is inaccurate, the penalty and the interest imposed are unconscionable, and an independent accounting is needed to determine the exact amount of their liability.

The RTC Ruling

In its decision dated December 15, 2004, the RTC found that aside from the cash loan, the petitioners' obligation to the respondent also covered the payment of the machineries' value. The RTC also brushed aside the petitioners' claim of partnership. The RTC thus ruled that the payment of P600,000.00 did not completely extinguish the petitioners' obligation.

The RTC also found merit in the respondent's contention that the petitioners are one and the same. Based on Nuccio's act of entering a loan with the respondent for purposes of financing NSI's proposed business and his own admission during cross-examination that the word "NS" in NSI's name stands for "Nuccio Saverio," the RTC found that the application of the doctrine of piercing the veil of corporate fiction was proper.

The RTC, moreover, concluded that the interest rates stipulated in the MOA were not usurious and that the respondent is entitled to attorney's fees on account of the petitioners' willful breach of the loan obligation. Thus, principally relying on the submitted Breakdown of Account, the RTC ordered the petitioners, jointly and severally, to pay the balance of P460,505.86, at 12% interest, and attorney's fees equivalent to 25% of the total amount due.

The CA Ruling

The petitioners appealed the RTC ruling to the CA. There, they argued that in view of the lack of proper accounting and the respondent's failure to substantiate his claims, the exact amount of their indebtedness had not been proven. Nuccio also argued that by virtue of NSI's separate and distinct personality, he cannot be made solidarily liable with NSI.

On October 27, 2008, the CA rendered a decision^[7] declaring the petitioners jointly and severally liable for the amount that the respondent sought. The appellate court likewise held that since the petitioners neither questioned the delivery of the machineries nor their valuation, their obligation to pay the amount of P460,505.86 under the Breakdown of Account remained unrefuted.

The CA also affirmed the RTC ruling that petitioners are one and the same for the following reasons: (1) Nuccio owned forty percent (40%) of NSI; (2) Nuccio personally entered into the loan contract with the respondent because there was no board resolution from NSI; (3) the petitioners were represented by the same counsel; (4) the failure of NSI to object to Nuccio's acts shows the latter's control over the corporation; and (5) Nuccio's control over NSI was used to commit a wrong or fraud. It further adopted the RTC's findings of bad faith and willful breach of obligation on the petitioners' part, and affirmed its award of attorney's fees.

The Petition

The petitioners submit that the CA gravely erred in ruling that a proper accounting was not necessary. They argue that the Breakdown of Account - which the RTC used as a basis in awarding the claim, as affirmed by the CA - is hearsay since the person who prepared it, Ramoncito P. Puyat, was not presented in court to authenticate it. They also point to the absence of the award's computation in the RTC ruling, arguing

that assuming they are still indebted to the respondent, the specific amount of their indebtedness remains undetermined, thus the need for an accounting to determine their exact liability.

They further question the CA's findings of solidary liability. They submit that in the absence of any showing that corporate fiction was used to defeat public convenience, justify a wrong, protect fraud or defend a crime, or where the corporation is a mere alter ego or business conduit of a person, Nuccio's mere ownership of forty percent (40%) does not justify the piercing of the separate and distinct personality of NSI.

The Case for the Respondent

The respondent counters that the issues raised by the petitioners in the present petition – pertaining to the correctness of the calibration of the documentary and testimonial evidence by the RTC, as affirmed by the CA, in awarding the money claims – are essentially factual, not legal. These issues, therefore, cannot, as a general rule, be reviewed by the Supreme Court in an appeal by *certiorari*. In other words, the resolution of the assigned errors is beyond the ambit of a Rule 45 petition.

The Issue

The case presents to us the issue of whether the CA committed a reversible error in affirming the RTC's decision holding the petitioners jointly and severally liable for the amount claimed.

Our Ruling

After a review of the parties' contentions, we hold that a remand of the case to the court of origin for a complete accounting and determination of the actual amount of the petitioners' indebtedness is called for.

The determination of questions of fact is improper in a Rule 45 proceeding; Exceptions.

The respondent questions the present petition's propriety, and contends that in a petition for review on certiorari under Rule 45 of the Rules of Court, only questions of law may be raised. He argues that the petitioners are raising factual issues that are not permissible under the present petition and these issues have already been extensively passed upon by the RTC and the CA.

The petitioners, on the other hand, assert that the exact amount of their indebtedness has not been determined with certainty. They insist that the amount of P460,505.86 awarded in favor of the respondent has no basis because the latter failed to substantiate his claim. They also maintain that the Breakdown of Account used by the lower courts in arriving at the collectible amount is unreliable for the respondent's failure to adduce supporting documents for the alleged additional expenses charged against them. With no independent determination of the actual amount of their indebtedness, the petitioners submit that an order for a proper accounting is imperative.

We agree with the petitioners. While we find the fact of indebtedness to be undisputed, the determination of the extent of the adjudged money award is not, because of the lack of any supporting documentary and testimonial evidence. These evidentiary issues, of course, are necessarily factual, but as we held in *The Insular Life Assurance Company, Ltd. v. Court of Appeals*,^[8] this Court may take cognizance even of factual issues under exceptional circumstances. In this cited case, we held:

It is a settled rule that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the CA are conclusive and binding on the Court. However, the Court had recognized several exceptions to this rule, to wit: (1) **when the findings are grounded entirely on speculation, surmises or conjectures;** (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to 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 petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion.

We note in this regard that the RTC, in awarding the amount of P460,505.86 in favor of the respondent, principally relied on the Breakdown of Account. Under this document, numerous entries, including the cash loan, were enumerated and identified with their corresponding amounts. It included the items of expenses allegedly chargeable to the petitioners, the value of the machineries, the amount credited as paid, and the interest and penalty allegedly incurred.

A careful perusal of the records, however, reveals that the entries in the Breakdown of Account and their corresponding amounts are not supported by the respondent's presented evidence. The itemized expenses, as repeatedly pointed out by the petitioners, were not proven, and the remaining indebtedness, after the partial payment of P600,000.00, was merely derived by the RTC from the Breakdown of Account.

Significantly, the RTC ruling neither showed how the award was computed nor how the interest and penalty were calculated. In fact, it merely declared the petitioners liable for the amount claimed by the respondent and adopted the breakdown of liability in the Breakdown of Account. This irregularity is even aggravated by the RTC's explicit refusal to explain why the payment of P600,000.00 did not extinguish the debt. While it may be true that the petitioners' indebtedness, aside from the