

FIRST DIVISION

[G.R. No. 143490, February 02, 2007]

CHINA BANKING CORPORATION, PETITIONER, VS. DOLORES PADILLA, RESPONDENT.

D E C I S I O N

GARCIA, J.:

Via this petition for review under Rule 45 of the Rules of Court, petitioner China Banking Corporation (CBC) seeks the annulment and setting aside of the Resolution^[1] dated January 26, 2000 of the Court of Appeals (CA), as reiterated in its Resolution of June 2, 2000,^[2] denying due course to and dismissing CBC's Petition for Certiorari (with Prayer for Issuance of Restraining Order/Preliminary Injunction) in CA-G.R. SP No. 55795, entitled *China Banking Corporation v. Hon. Jose R. Bautista, in his capacity as Presiding Judge of the Regional Trial Court, Makati City, Branch 136, and Dolores Padilla*, for petitioner's failure to comply with the requirement of Section 3, Rule 46, of the 1997 Rules of Civil Procedure, as amended.

The facts:

On December 22, 1997, in the Regional Trial Court (RTC) of Makati City, private respondent Dolores Padilla, who had a checking account with the petitioner's branch at Tuguegarao, Cagayan filed a complaint^[3] for sum of money with damages against the petitioner. In her complaint, docketed as Civil Case No. 97-3020 and raffled to now Branch 136 of the court, Padilla, as plaintiff, alleges the following causes of action against the petitioner:

1. Erroneous deductions from her Current Account No. 164-001371-5 of the following:
 - a. The amount of P23,425.00 on March 4, 1997;
 - b. The amount of P10,000.00, P35,000.00 and P100,000.00 or a total of P168,425.00 on April 1, 1997;
 - c. The total amount of P4,540,000.00 without debit memos on different dates;
2. Erroneous payment of China Bank Check No. 47050 with the amount in words stated therein as **Eighteen Thousand Pesos** only but the figures were written as **P80,000.00**, resulting in an alleged loss of P62,000.00;

3. Erroneous debiting from her account of PVB -Tuguegarao Branch Check No. 6969 in the amount of P20,000.00.

Prior to the filing of the complaint, petitioner bank audited the transactions involving the respondent's checking account with its Tuguegarao branch and came to the conclusion that if the foregoing allegations were true, the same were imputable to its branch manager Emelina T. Quitan, who, in violation of the petitioner's Code of Ethics and Operations Procedure and Policy Manual, exceeded her authority in the performance of her duties as branch manager. Petitioner also found out that Quitan had committed the following acts, prompting it to terminate the latter's services on November 13, 1998:^[4]

1. Allowing the unauthorized overdraft of the respondent in the total amount of P1,475,731.43.
2. Accommodating the overdrawn checks of respondent, i.e., CBC Check Nos. 120935 and 120938 for P100,000.00 each, depositing and posting them as available despite knowledge that they were drawn from insufficient funds in order to fund another depositor's CBC Check No. 116461.
3. Making good CBC Check No. 111459 drawn by respondent for P250,000.00 despite the fact that said check was not sufficiently funded.
4. Granting bills purchased facility without approval of the petitioner.
5. Allowing fund transfers from client's accounts to other accounts in violation of the petitioner's policy prohibiting fund transfers between accounts not owned by the same party.
6. Defying the lawful order of her superior.
7. And other numerous acts and omissions.

Believing that there was sufficient cause to hold its branch manager liable to it by way of indemnity, subrogation and contribution in respect to Padilla's complaint, petitioner filed with the trial court a motion for leave of court to file a third-party complaint^[5] against Quitan.

In its Order^[6] of August 17, 1999, the trial court denied the motion on the ground that petitioner, as a corporation, could act only through its employees and was responsible for the acts committed by them in the discharge of their function, adding that Quitan's inclusion in the case was not proper and whatever claims the petitioner may have had against her should be ventilated in another forum. Petitioner moved for a reconsideration but to no avail.

From the adverse action of the trial court, petitioner went to the CA on a petition for certiorari, docketed as *CA-G.R. SP No. 55795*.

In the herein challenged Resolution^[7] dated January 26, 2000, the CA denied due course to and dismissed the petition for petitioner's failure to comply with Section 3,

Rule 46, *infra*, of the 1997 Rules of Civil Procedure, as amended, which mandates that certified true copies of the documents or pleadings mentioned in the petition must be attached thereto. Partly says the CA in its assailed Resolution:

Except for the orders of the court *a quo* denying the motion for leave of court to file third-party complaint dated July 26, 1999 and August 17, 1999 and the order dated September 20, 1999 clarifying the above two (2) orders and denying the motion for reconsideration, other relevant documents attached to the petition are plain photo copies and not certified copies pursuant to the Rules (Annexes "D", p. 29; "E", p. 103; and "F", p. 133, Rollo).

There are also pertinent documents which were referred to but not appended to the petition, such as petitioner's motion for reconsideration filed on August 20, 1999, the pre-trial order dated February 25, 1998, motion for consolidation, order dated March 11, 1999 granting the motion for consolidation, order of inhibition dated April 21, 1998, motion for consolidation filed on May 25, 1998, and comment on the motion for leave of court including the counter-comment/reply.

In time, petitioner filed a motion for reconsideration, thereunder explaining that its failure to adhere to the rule was due to honest mistake and excusable negligence and was not meant, in any slightest degree, to defy the mandate of the procedural rules. In the same motion, petitioner also maintained that it had now fully complied with Section 3 of Rule 46 because certified true copies of the documents/pleadings mentioned in its petition were already attached to its motion.

In its subsequent Resolution^[8] of June 2, 2000, the CA denied the petitioner's motion for reconsideration, explaining that the latter's subsequent compliance, without any compelling reason for its failure to do so in the first instance, did not warrant the reconsideration sought.

Hence, this recourse by the petitioner raising the following issues:^[9]

I

WHETHER THE COURT *A QUO* ERRED IN ADAMANTLY REFUSING TO RECONSIDER ITS RESOLUTION OF JANUARY 26, 2000 AND TO REINSTATE THE PETITION DESPITE COMPLIANCE BY PETITIONER WITH THE REQUIREMENT IN SECTION 3, RULE 46 OF THE 1997 RULES OF CIVIL PROCEDURE.

II

WHETHER THE TRIAL COURT ACTED WITH GRAVE ABUSE OF DISCRETION IN DENYING PETITIONER'S MOTION FOR LEAVE TO FILE THIRD PARTY COMPLAINT.

We **DENY**.

Section 3, Rule 46, of the 1997 Rules of Civil Procedure, as amended, provides: