

## THIRD DIVISION

[ G.R. NO. 153758, February 22, 2006 ]

**FELICITAS YCONG AND TERESA POLAN, PETITIONERS VS.  
COURT OF APPEALS AND MOLLER LENDING INVESTOR,  
RESPONDENTS.**

### D E C I S I O N

**CARPIO, J**

#### The Case

Before the Court is a petition for certiorari<sup>[1]</sup> assailing the 21 May 2001 Decision<sup>[2]</sup> and the 15 March 2002 Resolution<sup>[3]</sup> of the Court of Appeals in CA-G.R. CV No. 64751. The Court of Appeals reversed and set aside the Decision<sup>[4]</sup> of the Regional Trial Court of Lapu-Lapu City, Branch 54 ("trial court"), which dismissed the complaint filed by Moller Lending Investor ("respondent") against Felicitas Ycong ("Ycong") and Teresa Polan ("Polan") in Civil Case No. 4167-L.

#### The Antecedent Facts

Respondent alleged that on 28 July 1994, Ycong and Polan ("petitioners") obtained a loan of P125,000 from respondent. Petitioners executed a promissory note with maturity date on 30 September 1994. Ycong signed as principal borrower while Polan signed as co-maker. Respondent further alleged that petitioners received P105,000 out of the P125,000 loan. Respondent deducted the 8% monthly interest for the first three months, amounting to P20,000, from the principal amount.

Under the promissory note, petitioners undertook to pay the loan on installment at P600 daily for 60 days, with the balance due on 30 September 1994. Petitioners also agreed to pay 12% interest a month on any outstanding balance after the maturity date. Respondent alleged that petitioners made a total payment of P32,700 from July to September 1994. After the loan's maturity date, petitioners paid P48,000 in October and November 1994. Petitioners failed to pay the outstanding balance despite repeated demands, prompting respondent to file an action for sum of money and damages against petitioners.

Ycong, on the other hand, alleged that in August 1993, she obtained a loan ("first loan") from respondent. She paid the first loan in full by November 1993. Ycong obtained a second loan ("second loan"). This time, she was unable to pay the second loan in full. In January 1994, respondent granted her a third loan ("third loan") amounting to P50,000 to enable her to pay the second loan. Of the P50,000 third loan, Ycong only received about P30,000 because part of the third loan was applied to pay the second loan. When the third loan matured in March 1994, Ycong had an outstanding balance of P5,000. In March 1994, respondent granted Ycong a fourth loan ("fourth loan") amounting to P30,000. Ycong received P21,000 because

the P5,000 balance from the third loan plus interest was deducted from the fourth loan. The fourth loan matured in May 1994. Again, Ycong failed to pay the fourth loan in full although she allegedly continued paying the installments after the fourth loan's maturity.

On 28 July 1994, Joy Moller<sup>[5]</sup> ("Moller"), the proprietress of Moller Lending Investor, summoned Ycong to respondent's office to discuss the subsisting fourth loan. Moller instructed her employees to block Ycong's Toyota Tamaraw to prevent Ycong from taking it out of the Moller compound. Later, Ycong fetched Polan and brought her to respondent's office. Moller then forced petitioners to sign a blank promissory note. The principal amount of P125,000 and the interest rate were allegedly filled out after petitioners signed the promissory note. Ycong denied that she received in full or in part the P125,000 indicated in the promissory note.

### **The Ruling of the Trial Court**

In its 21 January 1999 Decision, the trial court dismissed respondent's complaint. The trial court ruled that the 28 July 1994 promissory note did not involve any new loan and that Ycong did not receive the amount of P125,000. According to the trial court, Moller "intimidated, pressured and coerced" petitioners to sign the promissory note. The trial court also ruled that respondent was not a holder in due course because Moller acted in bad faith.

The trial court concluded that the last loan granted to Ycong was the fourth loan. Upon the fourth loan's maturity, Ycong only had an outstanding balance of P5,000. Applying the legal rate of interest at 12% a year, the trial court ruled that petitioners had fully paid the fourth loan since all payments made after May 1994, whether before or after the execution of the promissory note, should be applied to the fourth loan.

Respondent moved for the reconsideration of the trial court's decision. In its Order<sup>[6]</sup> dated 12 April 1999, the trial court denied respondent's motion for reconsideration for lack of merit.

Respondent appealed to the Court of Appeals.

### **The Ruling of the Court of Appeals**

In its 21 May 2001 Decision, the Court of Appeals set aside the trial court's decision. The Court of Appeals ruled that respondent's cause of action was based on a promissory note. Petitioners admitted the validity of the promissory note although they claimed that it was an update of a previous loan. The Court of Appeals ruled that the partial payments made based on the promissory note amount to petitioners' express acknowledgment of the obligation. The Court of Appeals rejected the trial court's finding that duress and intimidation attended the execution of the promissory note.

The dispositive portion of the Decision of the Court of Appeals states:

WHEREFORE, the decision appealed from is REVERSED and SET ASIDE. Defendants are ordered to pay plaintiff the sum of P77,000 with 12% interest per annum effective October 1, 1994 until fully paid.

SO ORDERED.<sup>[7]</sup>

In its 15 March 2002 Resolution, the Court of Appeals denied petitioners' motion for reconsideration.

Hence, the petition before this Court.

### **The Issue**

Petitioners raise this sole issue before the Court:

Whether the Court of Appeals committed grave abuse of discretion amounting to lack or excess of jurisdiction in reversing the factual findings of the trial court.

### **The Ruling of This Court**

The petition has no merit.

### **The Proper Remedy**

Petitioners assail the 21 May 2001 Decision and the 15 March 2002 Resolution of the Court of Appeals through a petition for certiorari. For a writ of certiorari under Rule 65 to issue, petitioners must show that they have no plain, speedy and adequate remedy in the ordinary course of law against their perceived grievance.<sup>[8]</sup> Certiorari cannot be a substitute for an appeal where the latter remedy is available.<sup>[9]</sup> In ***A.F. Sanchez Brokerage, Inc. v. Court of Appeals***,<sup>[10]</sup> the Court explained:

In another vein, the rule is well settled that in a petition for certiorari, the petitioner must prove not merely reversible error but also grave abuse of discretion amounting to lack or excess of jurisdiction.

*Petitioner alleges that the appellate court erred in reversing and setting aside the decision of the trial court based on its finding that petitioner is liable for the damage to the cargo as a common carrier. What petitioner is ascribing is an error of judgment, not of jurisdiction, which is properly the subject of an ordinary appeal.*

Where the issue or question involves or affects the wisdom or legal soundness of the decision – not the jurisdiction of the court to render said decision – the same is beyond the province of a petition for certiorari. The supervisory jurisdiction of this Court to issue a cert writ cannot be exercised in order to review the judgment of lower courts as to its intrinsic correctness, either upon the law or the facts of the case. (Emphasis in the original)

Hence, factual issues are beyond the scope of certiorari because they do not involve any jurisdictional issue.<sup>[11]</sup>

***Factual Findings of the Court of Appeals  
are Supported by Evidence***

In any event, the evidence on record supports the factual findings of the Court of Appeals.

Petitioners allege that respondent failed to show any receipt to show that they received the P125,000. Ycong claims she did not receive the amount indicated in the promissory note. Petitioners also allege that the promissory note did not cover a new loan but was merely an updating of the fourth loan.

The Court sustains the Court of Appeals in reversing the factual findings of the trial court.

The Court of Appeals correctly ruled that the basis of the action was the promissory note signed by Ycong as principal borrower and Polan as a co-maker. The promissory note is the best evidence to prove the existence of the loan. There is no need for respondent to submit a separate receipt to prove that Ycong received the money because the promissory note states:

I, Felicitas Ycong and Teresa Polan, a resident of Sacred Heart Village, Gun-ob, Lapu-Lapu City hereby promise to pay to the order of MOLLER LENDING INVESTOR the sum of PESOS One hundred twenty five thousand (P125,000) **for a loan received today** x x x.<sup>[12]</sup> (Emphasis supplied)

The Court finds no merit in the allegation that Ycong did not receive any amount from respondent. Granting that petitioners executed the promissory note to "update" the fourth loan, the usual practice of the parties was to deduct from the new loan the outstanding balance of the last loan incurred and to release the remaining amount to petitioners.

In their answer to the complaint, petitioners clearly stated that they "do not deny that they owe the plaintiff a balance of their obligation, but the latter's claim of P92,300 is exorbitantly erroneous."<sup>[13]</sup> They alleged that "[t]heir balance is much lesser than claimed, but the exact amount can only be ascertained if the plaintiff agrees to a proper accounting."<sup>[14]</sup> Petitioners also stated that they are willing to pay the lawful balance. This only shows that petitioners admit the existence of the loan.

Further, from the tenor of the cross-examination of Moller, petitioners' counsel tried to make it appear that the obligation was only P105,000. Thus:

Q. In this particular case Madam Witness, since the obligation as appearing in the contract is P125,000.00, how much interest did you deduct from the actual amount that was received by the defendant[s]?

A. P20,000.00.

Q. In other words Madam Witness, the actual amount that was received by the defendants as of the time he [sic] contracted the obligation is only P105,000.00?

A. Yes.

Q. Now, besides the interest, is it not a fact that when an