

FIRST DIVISION

[G.R. NO. 166704, December 20, 2006]

**AGRIFINA AQUINTEY, PETITIONER, VS. SPOUSES FELICIDAD
AND RICO TIBONG, RESPONDENTS.**

DECISION

CALLEJO, SR., J.:

Before us is a petition for review under Rule 45 of the Revised Rules on Civil Procedure of the Decision^[1] of the Court of Appeals in CA-G.R. CV No. 78075, which affirmed with modification the Decision^[2] of the Regional Trial Court (RTC), Branch 61, Baguio City, and the Resolution^[3] of the appellate court denying reconsideration thereof.

The Antecedents

On May 6, 1999, petitioner Agrifina Aquintey filed before the RTC of Baguio City, a complaint for sum of money and damages against the respondents, spouses Felicidad and Rico Tibong. Agrifina alleged that Felicidad had secured loans from her on several occasions, at monthly interest rates of 6% to 7%. Despite demands, the spouses Tibong failed to pay their outstanding loan, amounting to P773,000.00 exclusive of interests. The complaint contained the following prayer:

WHEREFORE, premises considered, it is most respectfully prayed of this Honorable Court, after due notice and hearing, to render judgment ordering defendants to pay plaintiff the following:

- a). SEVEN HUNDRED SEVENTY-THREE THOUSAND PESOS (P773,000.00) representing the principal obligation of the defendants with the stipulated interests of six (6%) percent per month from May 11, 1999 to date and or those that are stipulated on the contracts as mentioned from paragraph two (2) of the complaint.
- b). FIFTEEN PERCENT (15%) of the total accumulated obligations as attorney's fees.
- c). Actual expenses representing the filing fee and other charges and expenses to be incurred during the prosecution of this case.

Further prays for such other relief and remedies just and equitable under the premises.^[4]

Agrifina appended a copy of the Counter-Affidavit executed by Felicidad in I.S. No. 93-334, as well as copies of the promissory notes and acknowledgment receipts

executed by Felicidad covering the loaned amounts.^[5]

In their Answer with Counterclaim,^[6] spouses Tibong admitted that they had secured loans from Agrifina. The proceeds of the loan were then re-lent to other borrowers at higher interest rates. They, likewise, alleged that they had executed deeds of assignment in favor of Agrifina, and that their debtors had executed promissory notes in Agrifina's favor. According to the spouses Tibong, this resulted in a novation of the original obligation to Agrifina. They insisted that by virtue of these documents, Agrifina became the new collector of their debtors; and the obligation to pay the balance of their loans had been extinguished.

The spouses Tibong specifically denied the material averments in paragraphs 2 and 2.1 of the complaint. While they did not state the total amount of their loans, they declared that they did not receive anything from Agrifina without any written receipt.^[7] They prayed for that the complaint be dismissed.

In their Pre-Trial Brief, the spouses Tibong maintained that they have never obtained any loan from Agrifina without the benefit of a written document.^[8]

On August 17, 2000, the trial court issued a Pre-Trial Order where the following issues of the case were defined:

Whether or not plaintiff is entitled to her claim of P773,000.00;

Whether or not plaintiff is entitled to stipulated interests in the promissory notes; and

Whether or not the parties are entitled to their claim for damages.^[9]

The Case for Petitioner

Agrifina and Felicidad were classmates at the University of Pangasinan. Felicidad's husband, Rico, also happened to be a distant relative of Agrifina. Upon Felicidad's prodding, Agrifina agreed to lend money to Felicidad. According to Felicidad, Agrifina would be earning interests higher than those given by the bank for her money. Felicidad told Agrifina that since she (Felicidad) was engaged in the sale of dry goods at the GP Shopping Arcade, she would use the money to buy bonnels and thread.^[10] Thus, Agrifina lent a total sum of P773,000.00 to Felicidad, and each loan transaction was covered by either a promissory note or an acknowledgment receipt.^[11] Agrifina stated that she had lost the receipts signed by Felicidad for the following amounts: P100,000.00, P34,000.00 and P2,000.00.^[12] The particulars of the transactions are as follows:

Amount	Date Obtained	Interest Per Mo.	Due Date
P 100,000.00	May 11, 1989	6%	August 11, 1989
4,000.00	June 8, 1989	-	-
50,000.00	June 13, 1989	6%	On demand
60,000.00	Aug. 16,	7%	January 1990

	1989		
205,000.00	Oct. 13, 1989	7%	January 1990
128,000.00	Oct. 19, 1989	7%	January 1990
2,000.00	Nov. 12, 1989	6%	April 28, 1990
10,000.00	June 13, 1990	-	-
80,000.00	Jan. 4, 1990	-	-
34,000.00	-	6%	October 19, 1989
100,000.00	July 14, 1989	5%	October 1989 ^[13]

According to Agrifina, Felicidad was able to pay only her loans amounting to P122,600.00.^[14]

In July 1990, Felicidad gave to Agrifina City Trust Bank Check No. 126804 dated August 25, 1990 in the amount of P50,000.00 as partial payment.^[15] However, the check was dishonored for having been drawn against insufficient funds.^[16] Agrifina then filed a criminal case against Felicidad in the Office of the City Prosecutor. An Information for violation of *Batas Pambansa Bilang 22* was filed against Felicidad, docketed as Criminal Case No. 11181-R. After trial, the court ordered Felicidad to pay P50,000.00. Felicidad complied and paid the face value of the check.^[17]

In the meantime, Agrifina learned that Felicidad had re-loaned the amounts to other borrowers.^[18] Agrifina sought the assistance of Atty. Torres G. A-ayo who advised her to require Felicidad to execute deeds of assignment over Felicidad's debtors. The lawyer also suggested that Felicidad's debtors execute promissory notes in Agrifina's favor, to "turn over" their loans from Felicidad. This arrangement would facilitate collection of Felicidad's account. Agrifina agreed to the proposal.^[19] Agrifina, Felicidad, and the latter's debtors had a conference^[20] where Atty. A-ayo explained that Agrifina could apply her collections as payments of Felicidad's account.^[21]

From August 7, 1990 to October, 1990, Felicidad executed deeds of assignment of credits (obligations)^[22] duly notarized by Atty. A-ayo, in which Felicidad transferred and assigned to Agrifina the total amount of P546,459.00 due from her debtors.^[23] In the said deeds, Felicidad confirmed that her debtors were no longer indebted to her for their respective loans. For her part, Agrifina conformed to the deeds of assignment relative to the loans of Virginia Morada and Corazon Dalisay.^[24] She was furnished copies of the deeds as well as the promissory notes.^[25]

The following debtors of Felicidad executed promissory notes where they obliged themselves to pay directly to Agrifina:

Debtors	Account	Date of Instrument	Date Payable
Juliet &	P50,000.00	August 7,	November 4, 1990

Tommy Tibong		1990	and February 4, 1991
Corazon Dalisay	8,000.00	August 7, 1990	No date
Rita Chomacog	4,480.00	August 8, 1990	September 23, 1990
Antoinette Manuel	12,000.00	October 19, 1990	March 30, 1991
Rosemarie Bandas	8,000.00	August 8, 1990	February 3, 1991
Fely Cirilo	63,600.00	September 13, 1990	No date
Virginia Morada	62,379.00	August 9, 1990	February 9, 1991
Carmelita Casuga	59,000.00	August 28, 1990	February 28, 1991
Merlinda Gelacio	17,200.00	August 29, 1990	November 29, 1990 ^[26]

T o t a l – P284,659.00

Agrifina narrated that Felicidad showed to her the way to the debtors' houses to enable her to collect from them. One of the debtors, Helen Cabang, did not execute any promissory note but conformed to the Deed of Assignment of Credit which Felicidad executed in favor of Agrifina.^[27] Eliza Abance conformed to the deed of assignment for and in behalf of her sister, Fely Cirilo.^[28] Edna Papat-iw was not able to affix her signature on the deed of assignment nor sign the promissory note because she was in Taipei, Taiwan.^[29]

Following the execution of the deeds of assignment and promissory notes, Agrifina was able to collect the total amount of P301,000.00 from Felicidad's debtors.^[30] In April 1990, she tried to collect the balance of Felicidad's account, but the latter told her to wait until her debtors had money.^[31] When Felicidad reneged on her promise, Agrifina filed a complaint in the Office of the *Barangay* Captain for the collection of P773,000.00. However, no settlement was arrived at.^[32]

The Case for Respondents

Felicidad testified that she and her friend Agrifina had been engaged in the money-lending business.^[33] Agrifina would lend her money with monthly interest,^[34] and she, in turn, would re-lend the money to borrowers at a higher interest rate. Their business relationship turned sour when Agrifina started complaining that she (Felicidad) was actually earning more than Agrifina.^[35] Before the respective maturity dates of her debtors' loans, Agrifina asked her to pay her account since Agrifina needed money to buy a house and lot in Manila. However, she told Agrifina that she could not pay yet, as her debtors' loan payments were not yet due.^[36] Agrifina then came to her store every afternoon to collect from her, and persuaded her to go to Atty. Torres G. A-ayo for legal advice.^[37] The lawyer suggested that she indorse the accounts of her debtors to Agrifina so that the latter would be the one to

collect from her debtors and she would no longer have any obligation to Agrifina.^[38] She then executed deeds of assignment in favor of Agrifina covering the sums of money due from her debtors. She signed the deeds prepared by Atty. A-ayo in the presence of Agrifina.^[39] Some of the debtors signed the promissory notes which were likewise prepared by the lawyer. Thereafter, Agrifina personally collected from Felicidad's debtors.^[40] Felicidad further narrated that she received P250,000.00 from one of her debtors, Rey Rivera, and remitted the payment to Agrifina.^[41]

Agrifina testified, on rebuttal, that she did not enter into a re-lending business with Felicidad. When she asked Felicidad to consolidate her loans in one document, the latter told her to seek the assistance of Atty. A-ayo.^[42] The lawyer suggested that Felicidad assign her credits in order to help her collect her loans.^[43] She agreed to the deeds of assignment to help Felicidad collect from the debtors.^[44]

On January 20, 2003, the trial court rendered its Decision^[45] in favor of Agrifina. The *fallo* of the decision reads:

WHEREFORE, judgment is rendered in favor of the plaintiff and against the defendants ordering the latter to pay the plaintiffs (sic) the following amounts:

1. P472,000 as actual obligation with the stipulated interest of 6% per month from May 11, 1999 until the said obligation is fully paid. However, the amount of P50,000 shall be deducted from the total accumulated interest for the same was already paid by the defendant as admitted by the plaintiff in her complaint,
2. P25,000 as attorney's fees,
3. [T]o pay the costs.

SO ORDERED.^[46]

The trial court ruled that Felicidad's obligation had not been novated by the deeds of assignment and the promissory notes executed by Felicidad's borrowers. It explained that the documents did not contain any express agreement to novate and extinguish Felicidad's obligation. It declared that the deeds and notes were separate contracts which could stand alone from the original indebtedness of Felicidad. Considering, however, Agrifina's admission that she was able to collect from Felicidad's debtors the total amount of P301,000.00, this should be deducted from the latter's accountability.^[47] Hence, the balance, exclusive of interests, amounted to P472,000.00.

On appeal, the CA affirmed with modification the decision of the RTC and stated that, based on the promissory notes and acknowledgment receipts signed by Felicidad, the appellants secured loans from the appellee in the total principal amount of only P637,000.00, not P773,000.00 as declared by the trial court. The CA found that, other than Agrifina's bare testimony that she had lost the promissory notes and acknowledgment receipts, she failed to present competent documentary evidence to substantiate her claim that Felicidad had, likewise, borrowed the amounts of P100,000.00, P34,000.00, and P2,000.00. Of the P637,000.00 total