

FIRST DIVISION

[G.R. No. 145578, November 18, 2005]

**JOSE C. TUPAZ IV AND PETRONILA C. TUPAZ, PETITIONERS, VS.
THE COURT OF APPEALS AND BANK OF THE PHILIPPINE
ISLANDS, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review^[1] of the Decision^[2] of the Court of Appeals dated 7 September 2000 and its Resolution dated 18 October 2000. The 7 September 2000 Decision affirmed the ruling of the Regional Trial Court, Makati, Branch 144 in a case for estafa under Section 13, Presidential Decree No. 115. The Court of Appeals' Resolution of 18 October 2000 denied petitioners' motion for reconsideration.

The Facts

Petitioners Jose C. Tupaz IV and Petronila C. Tupaz ("petitioners") were Vice-President for Operations and Vice-President/Treasurer, respectively, of El Oro Engraver Corporation ("El Oro Corporation"). El Oro Corporation had a contract with the Philippine Army to supply the latter with "survival bolos."

To finance the purchase of the raw materials for the survival bolos, petitioners, on behalf of El Oro Corporation, applied with respondent Bank of the Philippine Islands ("respondent bank") for two commercial letters of credit. The letters of credit were in favor of El Oro Corporation's suppliers, Tanchaoco Manufacturing Incorporated^[3] ("Tanchaoco Incorporated") and Maresco Rubber and Retreading Corporation^[4] ("Maresco Corporation"). Respondent bank granted petitioners' application and issued Letter of Credit No. 2-00896-3 for P564,871.05 to Tanchaoco Incorporated and Letter of Credit No. 2-00914-5 for P294,000 to Maresco Corporation.

Simultaneous with the issuance of the letters of credit, petitioners signed trust receipts in favor of respondent bank. On 30 September 1981, petitioner Jose C. Tupaz IV ("petitioner Jose Tupaz") signed, in his personal capacity, a trust receipt corresponding to Letter of Credit No. 2-00896-3 (for P564,871.05). Petitioner Jose Tupaz bound himself to sell the goods covered by the letter of credit and to remit the proceeds to respondent bank, if sold, or to return the goods, if not sold, on or before 29 December 1981.

On 9 October 1981, petitioners signed, in their capacities as officers of El Oro Corporation, a trust receipt corresponding to Letter of Credit No. 2-00914-5 (for P294,000). Petitioners bound themselves to sell the goods covered by that letter of credit and to remit the proceeds to respondent bank, if sold, or to return the goods,

if not sold, on or before 8 December 1981.

After Tanchaoco Incorporated and Maresco Corporation delivered the raw materials to El Oro Corporation, respondent bank paid the former P564,871.05 and P294,000, respectively.

Petitioners did not comply with their undertaking under the trust receipts. Respondent bank made several demands for payments but El Oro Corporation made partial payments only. On 27 June 1983 and 28 June 1983, respondent bank's counsel^[5] and its representative^[6] respectively sent final demand letters to El Oro Corporation. El Oro Corporation replied that it could not fully pay its debt because the Armed Forces of the Philippines had delayed paying for the survival bolos.

Respondent bank charged petitioners with estafa under Section 13, Presidential Decree No. 115 ("Section 13")^[7] or Trust Receipts Law ("PD 115"). After preliminary investigation, the then Makati Fiscal's Office found probable cause to indict petitioners. The Makati Fiscal's Office filed the corresponding Informations (docketed as Criminal Case Nos. 8848 and 8849) with the Regional Trial Court, Makati, on 17 January 1984 and the cases were raffled to Branch 144 ("trial court") on 20 January 1984. Petitioners pleaded not guilty to the charges and trial ensued. During the trial, respondent bank presented evidence on the civil aspect of the cases.

The Ruling of the Trial Court

On 16 July 1992, the trial court rendered judgment acquitting petitioners of estafa on reasonable doubt. However, the trial court found petitioners solidarily liable with El Oro Corporation for the balance of El Oro Corporation's principal debt under the trust receipts. The dispositive portion of the trial court's Decision provides:

WHEREFORE, judgment is hereby rendered ACQUITTING both accused Jose C. Tupaz, IV and Petronila Tupaz based upon reasonable doubt.

However, El Oro Engraver Corporation, Jose C. Tupaz, IV and Petronila Tupaz, are hereby ordered, jointly and solidarily, to pay the Bank of the Philippine Islands the outstanding principal obligation of P624,129.19 (as of January 23, 1992) with the stipulated interest at the rate of 18% per annum; plus 10% of the total amount due as attorney's fees; P5,000.00 as expenses of litigation; and costs of the suit.^[8]

In holding petitioners civilly liable with El Oro Corporation, the trial court held:

[S]ince the civil action for the recovery of the civil liability is deemed impliedly instituted with the criminal action, as in fact the prosecution thereof was actively handled by the private prosecutor, the Court believes that the El Oro Engraver Corporation and both accused Jose C. Tupaz and Petronila Tupaz, jointly and solidarily should be held civilly liable to the Bank of the Philippine Islands. The mere fact that they were unable to collect in full from the AFP and/or the Department of National Defense the proceeds of the sale of the delivered survival bolos manufactured from the raw materials covered by the trust receipt agreements is no valid defense to the civil claim of the said complainant and surely could

not wipe out their civil obligation. After all, they are free to institute an action to collect the same.^[9]

Petitioners appealed to the Court of Appeals. Petitioners contended that: (1) their acquittal "operates to extinguish [their] civil liability" and (2) at any rate, they are not personally liable for El Oro Corporation's debts.

The Ruling of the Court of Appeals

In its Decision of 7 September 2000, the Court of Appeals affirmed the trial court's ruling. The appellate court held:

It is clear from [Section 13, PD 115] that civil liability arising from the violation of the trust receipt agreement is distinct from the criminal liability imposed therein. In the case of *Vintola vs. Insular Bank of Asia and America*, our Supreme Court held that acquittal in the estafa case (P.D. 115) is no bar to the institution of a civil action for collection. This is because in such cases, the civil liability of the accused does not arise *ex delicto* but rather based *ex contractu* and as such is distinct and independent from any criminal proceedings and may proceed regardless of the result of the latter. Thus, an independent civil action to enforce the civil liability may be filed against the corporation aside from the criminal action against the responsible officers or employees.

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[W]e hereby hold that the acquittal of the accused-appellants from the criminal charge of estafa did not operate to extinguish their civil liability under the letter of credit-trust receipt arrangement with plaintiff-appellee, with which they dealt both in their personal capacity and as officers of El Oro Engraver Corporation, the letter of credit applicant and principal debtor.

Appellants argued that they cannot be held solidarily liable with their corporation, El Oro Engraver Corporation, alleging that they executed the subject documents including the trust receipt agreements only in their capacity as such corporate officers. They said that these instruments are mere *pro-forma* and that they executed these instruments on the strength of a board resolution of said corporation authorizing them to apply for the opening of a letter of credit in favor of their suppliers as well as to execute the other documents necessary to accomplish the same.

Such contention, however, is contradicted by the evidence on record. The trust receipt agreement indicated in clear and unmistakable terms that the accused signed the same as surety for the corporation and that they bound themselves directly and immediately liable in the event of default with respect to the obligation under the letters of credit which were made part of the said agreement, without need of demand. Even in the application for the letter of credit, it is likewise clear that the undertaking of the accused is that of a surety as indicated [in] the following words: "In consideration of your establishing the commercial

letter of credit herein applied for substantially in accordance with the foregoing, the undersigned Applicant and Surety hereby agree, jointly and severally, to each and all stipulations, provisions and conditions on the reverse side hereof."

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Having contractually agreed to hold themselves solidarily liable with El Oro Engraver Corporation under the subject trust receipt agreements with appellee Bank of the Philippine Islands, herein accused-appellants may not, therefore, invoke the separate legal personality of the said corporation to evade their civil liability under the letter of credit-trust receipt arrangement with said appellee, notwithstanding their acquittal in the criminal cases filed against them. The trial court thus did not err in holding the appellants solidarily liable with El Oro Engraver Corporation for the outstanding principal obligation of P624,129.19 (as of January 23, 1992) with the stipulated interest at the rate of 18% per annum, plus 10% of the total amount due as attorney's fees, P5,000.00 as expenses of litigation and costs of suit.^[10]

Hence, this petition. Petitioners contend that:

1. A JUDGMENT OF ACQUITTAL OPERATE[S] TO EXTINGUISH THE CIVIL LIABILITY OF PETITIONERS[;]
2. GRANTING WITHOUT ADMITTING THAT THE QUESTIONED OBLIGATION WAS INCURRED BY THE CORPORATION, THE SAME IS NOT YET DUE AND PAYABLE;
3. GRANTING THAT THE QUESTIONED OBLIGATION WAS ALREADY DUE AND PAYABLE, xxx PETITIONERS ARE NOT PERSONALLY LIABLE TO xxx RESPONDENT BANK, SINCE THEY SIGNED THE LETTER[S] OF CREDIT AS 'SURETY' AS OFFICERS OF EL ORO, AND THEREFORE, AN EXCLUSIVE LIABILITY OF EL ORO; [AND]
4. IN THE ALTERNATIVE, THE QUESTIONED TRANSACTIONS ARE SIMULATED AND VOID.^[11]

The Issues

The petition raises these issues:

- (1) Whether petitioners bound themselves personally liable for El Oro Corporation's debts under the trust receipts;
- (2) If so —
 - (a) whether petitioners' liability is solidary with El Oro Corporation; and
 - (b) whether petitioners' acquittal of estafa under Section 13, PD 115 extinguished their civil liability.

The Ruling of the Court

The petition is partly meritorious. We affirm the Court of Appeals' ruling with the modification that petitioner Jose Tupaz is liable as guarantor of El Oro Corporation's debt under the trust receipt dated 30 September 1981.

On Petitioners' Undertaking Under the Trust Receipts

A corporation, being a juridical entity, may act only through its directors, officers, and employees. Debts incurred by these individuals, acting as such corporate agents, are not theirs but the direct liability of the corporation they represent.^[12] As an exception, directors or officers are personally liable for the corporation's debts only if they so contractually agree or stipulate.^[13]

Here, the dorsal side of the trust receipts contains the following stipulation:

To the Bank of the Philippine Islands

In consideration of your releasing to
under the terms of this Trust Receipt the goods described herein, I/We,
jointly and severally, agree and promise to pay to you, on demand,
whatever sum or sums of money which you may call upon me/us to pay
to you, arising out of, pertaining to, and/or in any way connected with,
this Trust Receipt, in the event of default and/or non-fulfillment in any
respect of this undertaking on the part of the said
..... I/we further agree that my/our
liability in this guarantee shall be DIRECT AND IMMEDIATE, without any
need whatsoever on your part to take any steps or exhaust any legal
remedies that you may have against the said
..... before making demand upon
me/us.^[14] (Capitalization in the original)

In the trust receipt dated 9 October 1981, petitioners signed below this clause as officers of El Oro Corporation. Thus, under petitioner Petronila Tupaz's signature are the words "Vice-Pres-Treasurer" and under petitioner Jose Tupaz's signature are the words "Vice-Pres-Operations." By so signing that trust receipt, petitioners did not bind themselves personally liable for El Oro Corporation's obligation. In ***Ong v. Court of Appeals***,^[15] a corporate representative signed a solidary guarantee clause in two trust receipts in his capacity as corporate representative. There, the Court held that the corporate representative did not undertake to guarantee personally the payment of the corporation's debts, thus:

[P]etitioner did not sign in his personal capacity the solidary guarantee clause found on the dorsal portion of the trust receipts. Petitioner placed his signature after the typewritten words "ARMCO INDUSTRIAL CORPORATION" found at the end of the solidary guarantee clause. Evidently, petitioner did not undertake to guaranty personally the payment of the principal and interest of ARMAGRI's debt under the two trust receipts.