

THIRD DIVISION

[G.R. No. 133710, January 13, 2004]

PHILIPPINE BANKING CORPORATION, PETITIONER, VS. COURT OF APPEALS AND AMALIO L. SARMIENTO, DOING BUSINESS UNDER THE FIRM NAME "A.L. SARMIENTO CONSTRUCTION," RESPONDENTS.

DECISION

CORONA, J.:

Before us is a petition for review seeking the reversal of the decision of the Court of Appeals^[1] dated October 22, 1997, which affirmed with modification the decision of the Regional Trial Court, Branch 20, Makati City, dismissing the complaint filed by petitioner Philippine Banking Corporation against private respondent Amalio L. Sarmiento, as well as the resolution of the Court of Appeals dated May 14, 1998 denying petitioner's motion for reconsideration.

The facts follow.

Amalio L. Sarmiento, registered owner of A.L. Sarmiento Construction, applied for a loan from Philippine Banking Corporation in the sum of P4,126,000, evidenced by promissory note no. 626-84. Pursuant thereto, Sarmiento obligated himself to pay the amount with interest at the rate of 29% per annum. Additionally, it was stipulated that if payment was not made upon maturity of the loan, penalty charges of 1% per month and 25% of the total amount due would be charged against him. Sarmiento signed the aforesaid promissory note together with the disclosure statement on loan/credit transaction provided by the bank.

Sarmiento failed to pay the aforesaid obligation on maturity, prompting Philippine Banking Corporation to send him a letter of demand dated January 2, 1989. Despite the demand, however, Sarmiento still failed to settle his indebtedness. Thus, on February 20, 1989, Philippine Banking Corporation filed a complaint for a sum of money against him. In his answer, Sarmiento denied that he received the proceeds of the loan transaction and prayed that the case against him be dismissed.

On August 26, 1991, the trial court rendered its decision, thus:

WHEREFORE, in view of the foregoing, plaintiff has miserably failed to prove its case by preponderance of evidence. The above-entitled case is ordered dismissed with costs against plaintiff.

Judgment over counterclaim in the sum of P30,000.00 as attorney's fees and P20,000.00 as litigation expenses is hereby awarded in favor of the defendant. No moral or exemplary damages adjudged.^[2]

On September 25, 1991, Philippine Banking Corporation filed a motion for new trial which the trial court subsequently granted despite the opposition of Sarmiento.

On August 3, 1992, after the reception of evidence, the trial court rendered a decision finding the evidence adduced by the bank to be insufficient to substantiate its claim. The trial court reinstated its earlier dismissal of the case against Sarmiento and denied Philippine Banking Corporation's subsequent motion for reconsideration.

Aggrieved, Philippine Banking Corporation appealed to the Court of Appeals raising the following assignments of error:

First Assignment of Error

THE TRIAL COURT ERRED IN NOT FINDING THAT PLAINTIFF-APPELLANT HAS ESTABLISHED ITS CAUSE OF ACTION WITH AN OVERWHELMING PREPONDERANCE OF EVIDENCE

Second Assignment of Error

THE TRIAL COURT ERRED IN CONCLUDING THAT WHEN PLAINTIFF-APPELLANT WITHDREW THE AMOUNT OF P4,126,000.00 SIMULTANEOUSLY TO THE TIME THAT IT CREDITED THE SAME TO DEFENDANT'S ACCOUNT, PLAINTIFF BANK ABORTED THE LOAN TRANSACTION UNDER PROMISSORY NOTE 626-84

Third Assignment of Error

THE TRIAL COURT SERIOUSLY ERRED IN AWARDING DEFENDANT-APPELLEE P30,000.00 AS ATTORNEY'S FEES AND P20,000.00 AS LITIGATION EXPENSES, THE SAME BEING WITHOUT FACTUAL AND LEGAL BASIS, AND EXCESSIVE UNDER THE CIRCUMSTANCES.^[3]

On October 22, 1997, the Court of Appeals affirmed with modification the trial court's decision:

WHEREFORE, the August 3, 1992 decision appealed from is MODIFIED to delete the trial court's award of attorney's fees. The rest is AFFIRMED *in toto*.^[4]

Hence, the instant petition anchoring its plea for reversal on the following errors allegedly committed by the Court of Appeals:

IN NOT HOLDING THAT PETITIONER HAS OVERCOME ITS BURDEN OF PROOF THROUGH THE PRESENTATION OF OVERWHELMING PREPONDERANCE OF EVIDENCE ESTABLISHING ITS CAUSE OF ACTION

IN NOT HOLDING THAT THE RESPONDENT'S EVIDENCE FAILED TO SUCCESSFULLY CONTROVERT HIS OWN JUDICIAL ADMISSION OF THE GENUINENESS AND DUE EXECUTION OF THE ACTIONABLE DOCUMENTS UPON WHICH THE PETITIONER'S CAUSE OF ACTION IS BASED

IN NOT HOLDING THAT THE SUBJECT PROMISSORY NOTE WAS