

SECOND DIVISION

[G.R. No. 142435, April 30, 2003]

**ESTELITA BURGOS LIPAT AND ALFREDO LIPAT, PETITIONERS,
VS. PACIFIC BANKING CORPORATION, REGISTER OF DEEDS, RTC
EX-OFFICIO SHERIFF OF QUEZON CITY AND THE HEIRS OF
EUGENIO D. TRINIDAD, RESPONDENTS.**

QUISUMBING, J.:

This petition for review on *certiorari* seeks the reversal of the Decision^[1] dated October 21, 1999 of the Court of Appeals in CA-G.R. CV No. 41536 which dismissed herein petitioners' appeal from the Decision^[2] dated February 10, 1993 of the Regional Trial Court (RTC) of Quezon City, Branch 84, in Civil Case No. Q-89-4152. The trial court had dismissed petitioners' complaint for annulment of real estate mortgage and the extra-judicial foreclosure thereof. Likewise brought for our review is the Resolution^[3] dated February 23, 2000 of the Court of Appeals which denied petitioners' motion for reconsideration.

The facts, as culled from records, are as follows:

Petitioners, the spouses Alfredo Lipat and Estelita Burgos Lipat, owned "Bela's Export Trading" (BET), a single proprietorship with principal office at No. 814 Aurora Boulevard, Cubao, Quezon City. BET was engaged in the manufacture of garments for domestic and foreign consumption. The Lipats also owned the "Mystical Fashions" in the United States, which sells goods imported from the Philippines through BET. Mrs. Lipat designated her daughter, Teresita B. Lipat, to manage BET in the Philippines while she was managing "Mystical Fashions" in the United States.

In order to facilitate the convenient operation of BET, Estelita Lipat executed on December 14, 1978, a special power of attorney appointing Teresita Lipat as her attorney-in-fact to obtain loans and other credit accommodations from respondent Pacific Banking Corporation (Pacific Bank). She likewise authorized Teresita to execute mortgage contracts on properties owned or co-owned by her as security for the obligations to be extended by Pacific Bank including any extension or renewal thereof.

Sometime in April 1979, Teresita, by virtue of the special power of attorney, was able to secure for and in behalf of her mother, Mrs. Lipat and BET, a loan from Pacific Bank amounting to P583,854.00 to buy fabrics to be manufactured by BET and exported to "Mystical Fashions" in the United States. As security therefor, the Lipat spouses, as represented by Teresita, executed a Real Estate Mortgage over their property located at No. 814 Aurora Blvd., Cubao, Quezon City. Said property was likewise made to secure "other additional or new loans, discounting lines, overdrafts and credit accommodations, of whatever amount, which the Mortgagor and/or Debtor may subsequently obtain from the Mortgagee as well as any renewal or extension by the Mortgagor and/or Debtor of the whole or part of said original,

additional or new loans, discounting lines, overdrafts and other credit accommodations, including interest and expenses or other obligations of the Mortgagor and/or Debtor owing to the Mortgagee, whether directly, or indirectly, principal or secondary, as appears in the accounts, books and records of the Mortgagee.”^[4]

On September 5, 1979, BET was incorporated into a family corporation named Bela’s Export Corporation (BEC) in order to facilitate the management of the business. BEC was engaged in the business of manufacturing and exportation of all kinds of garments of whatever kind and description^[5] and utilized the same machineries and equipment previously used by BET. Its incorporators and directors included the Lipat spouses who owned a combined 300 shares out of the 420 shares subscribed, Teresita Lipat who owned 20 shares, and other close relatives and friends of the Lipats.^[6] Estelita Lipat was named president of BEC, while Teresita became the vice-president and general manager.

Eventually, the loan was later restructured in the name of BEC and subsequent loans were obtained by BEC with the corresponding promissory notes duly executed by Teresita on behalf of the corporation. A letter of credit was also opened by Pacific Bank in favor of A. O. Knitting Manufacturing Co., Inc., upon the request of BEC after BEC executed the corresponding trust receipt therefor. Export bills were also executed in favor of Pacific Bank for additional finances. These transactions were all secured by the real estate mortgage over the Lipats’ property.

The promissory notes, export bills, and trust receipt eventually became due and demandable. Unfortunately, BEC defaulted in its payments. After receipt of Pacific Bank’s demand letters, Estelita Lipat went to the office of the bank’s liquidator and asked for additional time to enable her to personally settle BEC’s obligations. The bank acceded to her request but Estelita failed to fulfill her promise.

Consequently, the real estate mortgage was foreclosed and after compliance with the requirements of the law the mortgaged property was sold at public auction. On January 31, 1989, a certificate of sale was issued to respondent Eugenio D. Trinidad as the highest bidder.

On November 28, 1989, the spouses Lipat filed before the Quezon City RTC a complaint for annulment of the real estate mortgage, extrajudicial foreclosure and the certificate of sale issued over the property against Pacific Bank and Eugenio D. Trinidad. The complaint, which was docketed as Civil Case No. Q-89-4152, alleged, among others, that the promissory notes, trust receipt, and export bills were all ultra vires acts of Teresita as they were executed without the requisite board resolution of the Board of Directors of BEC. The Lipats also averred that assuming said acts were valid and binding on BEC, the same were the corporation’s sole obligation, it having a personality distinct and separate from spouses Lipat. It was likewise pointed out that Teresita’s authority to secure a loan from Pacific Bank was specifically limited to Mrs. Lipat’s sole use and benefit and that the real estate mortgage was executed to secure the Lipats’ and BET’s P583,854.00 loan only.

In their respective answers, Pacific Bank and Trinidad alleged in common that petitioners Lipat cannot evade payments of the value of the promissory notes, trust receipt, and export bills with their property because they and the BEC are one and

the same, the latter being a family corporation. Respondent Trinidad further claimed that he was a buyer in good faith and for value and that petitioners are estopped from denying BEC's existence after holding themselves out as a corporation.

After trial on the merits, the RTC dismissed the complaint, thus:

WHEREFORE, this Court holds that in view of the facts contained in the record, the complaint filed in this case must be, as is hereby, dismissed. Plaintiffs however has five (5) months and seventeen (17) days reckoned from the finality of this decision within which to exercise their right of redemption. The writ of injunction issued is automatically dissolved if no redemption is effected within that period.

The counterclaims and cross-claim are likewise dismissed for lack of legal and factual basis.

No costs.

IT IS SO ORDERED.^[7]

The trial court ruled that there was convincing and conclusive evidence proving that BEC was a family corporation of the Lipats. As such, it was a mere extension of petitioners' personality and business and a mere *alter ego* or business conduit of the Lipats established for their own benefit. Hence, to allow petitioners to invoke the theory of separate corporate personality would sanction its use as a shield to further an end subversive of justice.^[8] Thus, the trial court pierced the veil of corporate fiction and held that Bela's Export Corporation and petitioners (Lipats) are one and the same. Pacific Bank had transacted business with both BET and BEC on the supposition that both are one and the same. Hence, the Lipats were estopped from disclaiming any obligations on the theory of separate personality of corporations, which is contrary to principles of reason and good faith.

The Lipats timely appealed the RTC decision to the Court of Appeals in CA-G.R. CV No. 41536. Said appeal, however, was dismissed by the appellate court for lack of merit. The Court of Appeals found that there was ample evidence on record to support the application of the doctrine of piercing the veil of corporate fiction. In affirming the findings of the RTC, the appellate court noted that Mrs. Lipat had full control over the activities of the corporation and used the same to further her business interests.^[9] In fact, she had benefited from the loans obtained by the corporation to finance her business. It also found unnecessary a board resolution authorizing Teresita Lipat to secure loans from Pacific Bank on behalf of BEC because the corporation's by-laws allowed such conduct even without a board resolution. Finally, the Court of Appeals ruled that the mortgage property was not only liable for the original loan of P583,854.00 but likewise for the value of the promissory notes, trust receipt, and export bills as the mortgage contract equally applies to additional or new loans, discounting lines, overdrafts, and credit accommodations which petitioners subsequently obtained from Pacific Bank.

The Lipats then moved for reconsideration, but this was denied by the appellate court in its Resolution of February 23, 2000.^[10]

Hence, this petition, with petitioners submitting that the court a quo erred—

- 1)IN HOLDING THAT THE DOCTRINE OF PIERCING THE VEIL OF CORPORATE FICTION APPLIES IN THIS CASE.
- 2)IN HOLDING THAT PETITIONERS' PROPERTY CAN BE HELD LIABLE UNDER THE REAL ESTATE MORTGAGE NOT ONLY FOR THE AMOUNT OF P583,854.00 BUT ALSO FOR THE FULL VALUE OF PROMISSORY NOTES, TRUST RECEIPTS AND EXPORT BILLS OF BELA'S EXPORT CORPORATION.
- 3)IN HOLDING THAT "THE IMPOSITION OF 15% ATTORNEY'S FEES IN THE EXTRA-JUDICIAL FORECLOSURE IS BEYOND THIS COURT'S JURISDICTION FOR IT IS BEING RAISED FOR THE FIRST TIME IN THIS APPEAL."
- 4)IN HOLDING PETITIONER ALFREDO LIPAT LIABLE TO PAY THE DISPUTED PROMISSORY NOTES, THE DOLLAR ACCOMMODATIONS AND TRUST RECEIPTS DESPITE THE EVIDENT FACT THAT THEY WERE NOT SIGNED BY HIM AND THEREFORE ARE NOT VALID OR ARE NOT BINDING TO HIM.
- 5)IN DENYING PETITIONERS' MOTION FOR RECONSIDERATION AND IN HOLDING THAT SAID MOTION FOR RECONSIDERATION IS "AN UNAUTHORIZED MOTION, A MERE SCRAP OF PAPER WHICH CAN NEITHER BIND NOR BE OF ANY CONSEQUENCE TO APPELLANTS."^[11]

In sum, the following are the relevant issues for our resolution:

1. Whether or not the doctrine of piercing the veil of corporate fiction is applicable in this case;
2. Whether or not petitioners' property under the real estate mortgage is liable not only for the amount of P583,854.00 but also for the value of the promissory notes, trust receipt, and export bills subsequently incurred by BEC; and
3. Whether or not petitioners are liable to pay the 15% attorney's fees stipulated in the deed of real estate mortgage.

On the *first issue*, petitioners contend that both the appellate and trial courts erred in holding them liable for the obligations incurred by BEC through the application of the doctrine of piercing the veil of corporate fiction absent any clear showing of fraud on their part.

Respondents counter that there is clear and convincing evidence to show fraud on part of petitioners given the findings of the trial court, as affirmed by the Court of Appeals, that BEC was organized as a business conduit for the benefit of petitioners.

Petitioners' contentions fail to persuade this Court. A careful reading of the judgment of the RTC and the resolution of the appellate court show that in finding petitioners' mortgaged property liable for the obligations of BEC, both courts below relied upon the *alter ego* doctrine or instrumentality rule, rather than fraud in piercing the veil of corporate fiction. When the corporation is the mere *alter ego* or business conduit of a person, the separate personality of the corporation may be disregarded.^[12] This is commonly referred to as the "instrumentality rule" or the *alter ego* doctrine, which the courts have applied in disregarding the separate juridical personality of corporations. As held in one case,

Where one corporation is so organized and controlled and its affairs are conducted so that it is, in fact, a mere instrumentality or adjunct of the other, the fiction of the corporate entity of the 'instrumentality' may be disregarded. The control necessary to invoke the rule is not majority or even complete stock control but such domination of finances, policies and practices that the controlled corporation has, so to speak, no separate mind, will or existence of its own, and is but a conduit for its principal. xxx^[13]

We find that the evidence on record demolishes, rather than buttresses, petitioners' contention that BET and BEC are separate business entities. Note that Estelita Lipat admitted that she and her husband, Alfredo, were the owners of BET^[14] and were two of the incorporators and majority stockholders of BEC.^[15] It is also undisputed that Estelita Lipat executed a special power of attorney in favor of her daughter, Teresita, to obtain loans and credit lines from Pacific Bank on her behalf.^[16] Incidentally, Teresita was designated as executive-vice president and general manager of both BET and BEC, respectively.^[17] We note further that: (1) Estelita and Alfredo Lipat are the owners and majority shareholders of BET and BEC, respectively;^[18] (2) both firms were managed by their daughter, Teresita;^[19] (3) both firms were engaged in the garment business, supplying products to "Mystical Fashion," a U.S. firm established by Estelita Lipat; (4) both firms held office in the same building owned by the Lipats;^[20] (5) BEC is a family corporation with the Lipats as its majority stockholders; (6) the business operations of the BEC were so merged with those of Mrs. Lipat such that they were practically indistinguishable; (7) the corporate funds were held by Estelita Lipat and the corporation itself had no visible assets; (8) the board of directors of BEC was composed of the Burgos and Lipat family members;^[21] (9) Estelita had full control over the activities of and decided business matters of the corporation;^[22] and that (10) Estelita Lipat had benefited from the loans secured from Pacific Bank to finance her business abroad^[23] and from the export bills secured by BEC for the account of "Mystical Fashion."^[24] It could not have been coincidental that BET and BEC are so intertwined with each other in terms of ownership, business purpose, and management. Apparently, BET and BEC are one and the same and the latter is a conduit of and merely succeeded the former. Petitioners' attempt to isolate themselves from and hide behind the corporate personality of BEC so as to evade their liabilities to Pacific Bank is precisely what the classical doctrine of piercing the