

## SECOND DIVISION

[ G.R. No. 119800, November 12, 2003 ]

**FILIPINAS TEXTILE MILLS, INC. AND BERNARDINO  
VILLANUEVA, PETITIONERS, VS. COURT OF APPEALS AND STATE  
INVESTMENT HOUSE, INC. RESPONDENTS.**

### D E C I S I O N

**TINGA, J.:**

Before this Court is a Petition for Review on *Certiorari* assailing the *Decision*<sup>[1]</sup> and *Resolution*<sup>[2]</sup> of the Court of Appeals dated June 16, 1994 and April 19, 1995, respectively, affirming the *Decision*<sup>[3]</sup> of the Regional Trial Court dated July 23, 1990 which found the petitioners Filipinas Textile Mills, Inc. ("Filtex") and Bernardino Villanueva ("Villanueva") jointly and severally liable to respondent State Investment House, Inc. ("SIHI") for the amount of P7,868,881.11.

The antecedent facts are as follows:

On December 6, 1985, SIHI instituted a *Complaint*<sup>[4]</sup> for the collection of the sum of P3,118,949.75, with interest, penalties, exemplary damages, attorneys fees and costs of suit against herein petitioners Filtex and Villanueva.

In its *Complaint*, SIHI alleged that sometime in 1983, Filtex applied for domestic letters of credit to finance the purchase of various raw materials for its textile business. Finding the application to be in order, SIHI issued on various dates domestic letters of credit<sup>[5]</sup> authorizing Indo-Philippine Textile Mills, Inc. ("Indo-Phil"), Texfiber Corporation ("Texfiber"), and Philippine Polyamide Industrial Corporation ("Polyamide") "to value" on SIHI such drafts as may be drawn by said corporations against Filtex for an aggregate amount not exceeding P3,737,988.05.

Filtex used these domestic letters of credit to cover its purchase of various textile materials from Indo-Phil, Texfiber and Polyamide. Upon the sale and delivery of the merchandise, Indo-Phil, Texfiber and Polyamide issued several sight drafts<sup>[6]</sup> on various dates with an aggregate value of P3,736,276.71 payable to the order of SIHI, which were duly accepted by Filtex. Subsequently, the sight drafts were negotiated to and acquired in due course by SIHI which paid the value thereof to Indo-Phil, Texfiber and Polyamide for the account of Filtex.

Allegedly by way of inducement upon SIHI to issue the aforesaid domestic letters of credit and "to value" the sight drafts issued by Indo-Phil, Texfiber and Polyamide, Villanueva executed a comprehensive surety agreement<sup>[7]</sup> on November 9, 1982, whereby he guaranteed, jointly and severally with Filtex, the full and punctual payment at maturity to SIHI of all the indebtedness of Filtex. The essence of the comprehensive surety agreement was that it shall be a continuing surety until such

time that the total outstanding obligation of Filtex to SIHI had been fully settled.

In order to ensure the payment of the sight drafts aforementioned, Filtex executed and issued to SIHI several trust receipts<sup>[8]</sup> of various dates, which were later extended with the issuance of replacement trust receipts all dated June 22, 1984, covering the merchandise sold. Under the trust receipts, Filtex agreed to hold the merchandise in trust for SIHI, with liberty to sell the same for SIHI's account but without authority to make any other disposition of the said goods. Filtex likewise agreed to hand the proceeds, as soon as received, to SIHI "to apply" against any indebtedness of the former to the latter. Filtex also agreed to pay SIHI interest at the rate of 25% per annum from the time of release of the amount to Indo-Phil, Texfiber and Polyamide until the same is fully paid, subject to SIHI's option to reduce the interest rate. Furthermore, in case of delay in the payment at maturity of the aggregate amount of the sight drafts negotiated to SIHI, said amount shall be subject to two percent (2%) per month penalty charge payable from the date of default until the amount is fully paid.

Because of Filtex's failure to pay its outstanding obligation despite demand, SIHI filed a *Complaint* on December 6, 1985 praying that the petitioners be ordered to pay, jointly and severally, the principal amount of P3,118,949.75, plus interest and penalties, attorney's fees, exemplary damages, costs of suit and other litigation expenses.

In its *Answer with Counterclaim*,<sup>[9]</sup> Filtex interposed special and affirmative defenses, *i.e.*, the provisions of the trust receipts, as well as the comprehensive surety agreement, do not reflect the true will and intention of the parties, full payment of the obligation, and lack of cause of action. For his part, Villanueva interposed the same special and affirmative defenses and added that the comprehensive surety agreement is null and void and damages and attorney's fees are not legally demandable.<sup>[10]</sup> The petitioners, however, failed to specifically deny under oath the genuineness and due execution of the actionable documents upon which the *Complaint* was based.

On July 23, 1990, the Regional Trial Court of Manila rendered judgment <sup>[11]</sup> holding Filtex and Villanueva jointly and severally liable to SIHI. Dissatisfied, Filtex and Villanueva filed an *Appeal*,<sup>[12]</sup> primarily contending that they have fully paid their indebtedness to SIHI and asserting that the letters of credit, sight drafts, trust receipts and comprehensive surety agreement upon which the *Complaint* is based are inadmissible in evidence supposedly because of non-payment of documentary stamp taxes as required by the Internal Revenue Code.<sup>[13]</sup>

In its assailed *Decision*, the Court of Appeals debunked the petitioners' contention that the letters of credit, sight drafts, trust receipts and comprehensive surety agreement are inadmissible in evidence ruling that the petitioners had "in effect, admitted the genuineness and due execution of said documents because of their failure to have their answers placed under oath, the complaint being based on actionable documents in line with Section 7, Rule 8 of the Rules of Court."<sup>[14]</sup> The appellate court also ruled that there remained an unpaid balance as of January 31, 1989 of P868,881.11 for which Filtex and Villanueva are solidarily liable. <sup>[15]</sup>

The appellate court denied the petitioners' *Motion for Reconsideration* <sup>[16]</sup> in its *Resolution*, <sup>[17]</sup> ruling that the petitioners failed to raise new and substantial matters that would warrant the reversal of its *Decision*. However, due to certain typographical oversights, the Court of Appeals modified its *Decision* and stated that the correct unpaid balance as of January 31, 1989 was actually P7,868,881.11, excluding litigation and other miscellaneous expenses and filing fees. <sup>[18]</sup>

In asking this Court to reverse and set aside the aforementioned *Decision* and *Resolution* of the Court of Appeals, the petitioners argued that the appellate court should not have admitted in evidence the letters of credit, sight drafts, trust receipts and comprehensive surety agreement for lack of the requisite documentary stamps thereon. They hypothesized that their implied admission of the genuineness and due execution of these documents for failure to specifically deny the same under oath should not be equated with an admission in evidence of the documents and an admission of their obligation. They also maintained that they have fully paid the obligation and, in fact, have made an excess payment in the amount of P415,722.53. In addition, Villanueva asserted that the comprehensive surety agreement which he executed is null and void, inadmissible in evidence and contains material alterations. Thus, he claimed that he should not be held solidarily liable with Filtex.

Traversing the allegations in the instant petition, SIHI stated in its *Comment* <sup>[19]</sup> that in their respective answers to the complaint, the petitioners expressly admitted the due execution of the letters of credit, sight drafts and trust receipts and their obligation arising from these documents. Having done so, they could no longer question the admissibility of these documents. Moreover, their allegation of inadmissibility of these documents is inconsistent with their defense of full payment. SIHI also reasoned that the documentary stamps, assuming they are required, are for the sole account of Filtex not only because the letters of credit were issued at its instance and application but also because it was the issuer and acceptor of the trust receipts and sight drafts, respectively. As regards the petitioners' allegation of full payment, SIHI stressed that the appellate court had already resolved this issue in its favor by ruling that there remained an unpaid balance of P7,868,881.11 as of January 31, 1989 for which the petitioners were held solidarily liable. Besides, by quoting substantial portions of their appellants' *Brief* in the instant petition, the petitioners merely repeated the issues that have already been passed upon by the appellate court. Finally, SIHI asserted the validity and admissibility of the comprehensive surety agreement.

The threshold issue in this case is whether or not the letters of credit, sight drafts, trust receipts and comprehensive surety agreement are admissible in evidence despite the absence of documentary stamps thereon as required by the Internal Revenue Code. <sup>[20]</sup>

We rule in the affirmative. As correctly noted by the respondent, the *Answer with Counterclaim* <sup>[21]</sup> and *Answer*, <sup>[22]</sup> of Filtex and Villanueva, respectively, did not contain any specific denial under oath of the letters of credit, sight drafts, trust receipts and comprehensive surety agreement upon which SIHI's *Complaint* <sup>[23]</sup> was based, thus giving rise to the implied admission of the genuineness and due execution of these documents. Under Sec. 8, Rule 8 of the Rules of Court, when an

action or defense is founded upon a written instrument, copied in or attached to the corresponding pleading as provided in the preceding section, the genuineness and due execution of the instrument shall be deemed admitted unless the adverse party, under oath, specifically denies them, and sets forth what he claims to be the facts.

In *Benguet Exploration, Inc. vs. Court of Appeals*,<sup>[24]</sup> this Court ruled that the admission of the genuineness and due execution of a document means that the party whose signature it bears admits that he voluntarily signed the document or it was signed by another for him and with his authority; that at the time it was signed it was in words and figures exactly as set out in the pleading of the party relying upon it; that the document was delivered; and that any formalities required by law, such as a seal, an acknowledgment, or revenue stamp, which it lacks, are waived by him.

Moreover, under Section 173 of the Internal Revenue Code the liability for payment of the stamp taxes is imposed on "the person making, signing, issuing, accepting, or transferring" the document. As correctly pointed out by SIHI, Filtex was the issuer and acceptor of the trust receipts and sight drafts, respectively, while the letters of credit were issued upon its application. On the other hand, Villanueva signed the comprehensive surety agreement. Thus, being among the parties obliged to pay the documentary stamp taxes, the petitioners are estopped from claiming that the documents are inadmissible in evidence for non-payment thereof.

Interestingly, the petitioners questioned the admissibility of these documents rather belatedly, at the appeal stage even. Their respective answers<sup>[25]</sup> to SIHI's *Complaint* were silent on this point. The rule is well-settled that points of law, theories, issues and arguments not adequately brought to the attention of the trial court need not, and ordinarily will not, be considered by a reviewing court as they cannot be raised for the first time on appeal because this would be offensive to the basic rules of fair play, justice and due process.<sup>[26]</sup>

Hence, the petitioners can no longer dispute the admissibility of the letters of credit, sight drafts, trust receipts and comprehensive surety agreement. However, this does not preclude the petitioners from impugning these documents by evidence of fraud, mistake, compromise, payment, statute of limitations, estoppel and want of consideration.<sup>[27]</sup>

This brings us to the petitioners' contention that they have already fully paid their obligation to SIHI and have, in fact, overpaid by P415,722.53. This matter is purely a factual issue. In *Fortune Motors (Phils.) Corporation vs. Court of Appeals*,<sup>[28]</sup> it was held that "the jurisdiction of this Court in cases brought before it from the Court of Appeals under Rule 45 of the Rules of Court is limited to reviewing or revising errors of law. It is not the function of this Court to analyze or weigh evidence all over again unless there is a showing that the findings of the lower court are totally devoid of support or are glaringly erroneous as to constitute serious abuse of discretion. Factual findings of the Court of Appeals are conclusive on the parties and carry even more weight when said court affirms the factual findings of the trial court."<sup>[29]</sup>

It should be noted that the issue of overpayment as well as the proof presented by the petitioners on this point merely rehash those submitted before the Court of