

FIRST DIVISION

[G.R. No. 115997, November 27, 2000]

**SECURITY BANK & TRUST COMPANY, PETITIONER, VS. COURT
OF APPEALS AND TRANSWORLD ENTERPRISES AND TURIANO
SAN ANDRES, RESPONDENTS.**

D E C I S I O N

KAPUNAN, J.:

For the Court's resolution is a petition for review of the Decision^[1] of the Court of Appeals in CA-G.R. CV No. 39515, entitled "Security Bank & Trust Company vs. Transworld Enterprises and Turiano San Andres," dated 30 June 1994, involving an action for sum of money.

The antecedents of this case, as found by the trial court and the Court of Appeals, are as follows:

On February 11, 1977, Security Bank & Trust Co. (SBTC) delivered to defendants Transworld Enterprises and Turiano San Andres (Transworld being the trade name and business style of San Andres) one (1) unit Caterpillar 950 Payloader Engine D330 Diesel 132 HP/2150 RPM 4 cylinders, with a principal value of P250,000.00 under terms and conditions set forth in Trust Receipt No. 77/0007. Other letters of credit availed of by defendants in the same year included a March 8, 1977 domestic letter of credit 77-0015 for P140,000.00 and a March 14, 1977 foreign domestic letter of credit for P300,000.00. This action refers only to LC No. 77/007.*

As required, defendants put up a marginal deposit of P75,000.00 for LC 77/007. Certain payments were remitted by defendants to SBTC which were applied as partial settlement of the obligations under the trust receipt. SBTC claims that upon maturity of the trust receipt, defendants failed to account for the proceeds of the sale and collection of the goods, notwithstanding repeated demands, in payment of the obligation, which as of March 21, 1983, amounted to P119,614.38.

Defendants claimed that they had not only paid the obligation sued upon in the complaint, but had in fact made an overpayment of P8,374.62.^[2]

On 23 December 1983, petitioner filed a collection case against private respondents before the Regional Trial Court of Makati, Branch 146. In response, private respondents filed a counterclaim for damages.

During pre-trial, the trial court noted that both parties were in agreement with regard to the aggregate amount of payments made by private respondents.

However, what the parties disagreed on was the proper basis for determining interests and charges on the subject trust receipt. Petitioner insisted that the starting basis for computing interests and charges should be the gross amount of the face value of the letter of credit covered by the trust receipt, i.e., P250,000.00 (hereinafter referred to as "gross amount computation/basis"). On the other hand, private respondents claimed that the starting basis for computing interests and charges should be the outstanding obligation on the amount loaned for the letter of credit after deducting private respondents' marginal deposit of P75,000.00, i.e., P175,000.00 (hereinafter referred to as "net of marginal deposit computation/basis"). In view of the conflict in computation, both parties arrived at different results in computing for the total amount payable on the subject trust receipt.

In support of its claim for a gross amount computation, petitioner primarily relied on Rule No. 6 of the Banker's Association of the Philippines (hereinafter BAP Rule No. 6) and the testimony of Lina Gobencion, the Manager of its Foreign Department and Officer-in-Charge of the Loans Discounts Department. On the other hand, private respondents' net of marginal deposit computation is based on their previous experience with petitioner concerning Letters of Credit No. 77/0015 and 77/0056 wherein the latter applied such computation in determining interests and charges.

In weighing the evidence of both parties, the trial court made the following disquisition:

There is no dispute on the aggregate of payments so made by defendants. The pivotal issue is, therefore, which mode of computation is proper in respect of the subject P250,000.00 domestic letter of credit. Otherwise stated, should such computation be on gross outstanding obligation as claimed by plaintiff, or on such outstanding obligation after deduction of marginal deposit.

In aid of plaintiff's stated cause of action, its (sic) Lina Gobencion would invoke BAP Rule No. 6 as militating against a net-of-margin computation on interest and charges. Plaintiff's failure to produce BAP Rule 6 or even to quote the text thereof is regrettable, if perhaps understandable. The Court is familiar with the rule, which is really a guideline to banks in respect to cash marginal deposits for opening letters of credit, to the effect that "cash marginal deposits against foreign and domestic letters of credit are received by banks merely as collateral security. Consequently, no interest is to be allowed on said deposits."

A reading of said rule so relied upon does not translate into a policy on exclusion of a marginal deposit in the computation of interest and charges on the letter of credit, whether foreign or domestic. It merely characterizes the marginal deposit as collateral security for the loan accommodation, and appears not to militate against a net-of-margin computation of interest and charges. The Court is unable to find decisional jurisprudence in point one way or the other, and must accordingly resolve the pivotal issue in this case vis-à-vis evidence extant on record.

Plaintiff bank, thru Gobencion, admits "flexibility" in the mode of

computation of interest and charges on letters of credit, having effectively admitted application of a net-to-margin interest computation insofar as the March 14, 1977 P300,000.00 foreign letter of credit is concerned. Gobencion would distinguish between foreign and domestic letters of credit - a distinction not fortified by the same BAP Rule 6 invoked by plaintiff bank, in the hypothesis that said rule allows for no flexibility insofar as domestic letters of credit are concerned.

The Gobencion testimony is that plaintiff bank must maintain the 30% marginal deposit of P75,000.00 on the subject P250,000.00 domestic letter of credit, as capable of reduction in relation with the unpaid balance of the principal loan obligation secured thereby. This does not square with a pertinent BAP rule on marginal requirements "that the entire marginal deposit shall be held until full liquidation of the relative import bill" (BAP Circular Letter dated October 2, 1970; underscoring supplied). The clear impression of the Court is that plaintiff bank does not invariably comply with BAP guidelines for member banks which, parenthetically, may not be said to be binding on applicants for letters of credit). Plaintiff bank has in fact played fast and loose with the same BAP rules it would now invoke in a construction not fortified thereby.

Indeed, even the mongrelized 30% marginal deposit retention on the balances of the subject letter of credit is not borne out in plaintiff's state of account for the period ending October 15, 1980 (Exh. "D") and in the Gobencion statement of account for the period ending November 10, 1980 (Exh. "B"), in that the therein reflected marginal deposit retentions are not fixed at 30% of the outstanding obligation from time to time.

In overview, plaintiff's evidence in aid of its stated cause of action is ambivalent at best, less than probative of a just and rational finding for entitlement thereto, if not indeed inducive of perplexity in material respect.

Evidence on record in aid of full payment of a net-of-margin basis is unchallenged in its correctness. Plaintiff bank, having accommodated defendants on net-of-margin computation on other contemporary letters of credit, must be found estopped from insisting on a different mode of computation relative to the subject P250,000.00 letter of credit.

On the other hand, even a finding that plaintiff's hypothesis in this case cannot warrant entitlement to its claim, for failure to sufficiently fortify and establish the same, may not be equated with malice and bad faith in the filing of the above-entitled action as would warrant an award on the counterclaim for moral and exemplary damages. The Court is, however, satisfied that plaintiff having compelled defendants into litigation, plaintiff should be condemned to pay the latter attorney's fees and litigation expenses occasioned thereby.

WHEREFORE, premises considered, and finding that plaintiff has failed to establish its cause of action by clear and preponderant evidence, the herein complaint is hereby dismissed forthwith. Plaintiff is ordered to pay defendants P50,000.00 as and for attorney's fees, plus costs and

expenses of suit. Defendants' other counterclaims are similarly dismissed forthwith.^[3]

Both parties, not being satisfied with the above decision, appealed the case to the Court of Appeals. Petitioner submitted the following assignment of errors:

I. THE TRIAL COURT ERRED IN FINDING THAT PLAINTIFF SBTC HAS FAILED TO ESTABLISH ITS CAUSE OF ACTION BY CLEAR AND PREPONDERANT EVIDENCE.

II. THE TRIAL COURT ERRED IN HOLDING THAT PLAINTIFF BANK HAVING ACCOMMODATED DEFENDANTS ON NET-OF-MARGIN COMPUTATIONS ON OTHER CONTEMPORARY LETTER OF CREDIT, MUST BE FOUND ESTOPPED FROM INSISTING ON A DIFFERENT MODE OF COMPUTATION RELATIVE TO THE SUBJECT P250,000.00 LETTER OF CREDIT.

III. THE TRIAL COURT ERRED IN DISMISSING THE COMPLAINT.

IV. THE TRIAL COURT ERRED IN ORDERING PLAINTIFF SBTC TO PAY DEFENDANTS-APPELLANTS THE AMOUNT OF P50,000.00 AS AND FOR ATTORNEY'S FEES, PLUS COSTS AND EXPENSES OF SUIT.^[4]

On the other hand, private respondents claim that:

THE TRIAL COURT ERRED IN DISMISSING DEFENDANT-APPELLANTS' COUNTERCLAIM FOR DAMAGES NOTWITHSTANDING CLEAR AND PREPONDERANT EVIDENCE SHOWING THAT PLAINTIFF HAS MALICIOUSLY AND ILLEGALLY PROSECUTED DEFENDANT-APPELLANT, FIRST BY FILING AN UTTERLY BASELESS COMPLAINT FOR ESTAFA, BY INSTITUTING THIS EQUALLY BASELESS COMPLAINT FOR RECOVERY OF SUM OF MONEY.^[5]

The Court of Appeals affirmed with modification the decision of the trial court, to wit:

WHEREFORE, the judgment appealed from is affirmed with the modification that the award of P50,000.00 as and for attorney's fees in favor of the defendants is hereby deleted.^[6]

Hence, the present petition wherein petitioner advances the following arguments:

1. *Revised Bankers Association of the Philippines (BAP) Rules and Regulations No. 6 clearly states that cash marginal deposits against foreign and domestic letters of credit are received by banks merely as*