

CHANROBLES PUBLISHING COMPANY

**SUPREME COURT  
FIRST DIVISION**

**RIZAL COMMERCIAL BANKING  
CORPORATION,**  
*Petitioner,*

*-versus-*

**G.R. No. 133107  
March 25, 1999**

**COURT OF APPEALS and FELIPE  
LUSTRE,**  
*Respondents.*

X-----X

**D E C I S I O N**

**KAPUNAN, J.:**

A simple telephone call and an ounce of good faith on the part of petitioner could have prevented, the present controversy.

On March 10, 1993, private respondent Atty. Felipe Lustre purchased a Toyota Corolla from Toyota Shaw, Inc. for which he made a down payment of P164,620.00, the balance of the purchase price to be paid in 24 equal monthly installments. Private respondent thus issued 24 postdated checks for the amount of P14,976.00 each. The first was dated April 10, 1991; subsequent checks were dated every 10th day of each succeeding month.

To secure the balance, private respondent executed a promissory note<sup>[1]</sup> and a contract of chattel mortgage<sup>[2]</sup> over the vehicle in favor of Toyota Shaw, Inc. The contract of chattel mortgage, in paragraph 11 thereof, provided for an acceleration clause stating that should the mortgagor default in the payment of any installment, the whole amount remaining unpaid shall become due. In addition, the mortgagor shall be liable for 25% of the principal due as liquidated damages.

On March 14, 1991, Toyota Shaw, Inc. assigned all its rights and interests in the chattel mortgage to petitioner Rizal Commercial Banking Corporation (RCBC).

All the checks dated April 10, 1991 to January 10, 1993 were thereafter encashed and debited by RCBC from private respondent's account, except for RCBC Check No. 279805 representing the payment for August 10, 1991, which was unsigned. Previously, the amount represented by RCBC Check No. 279805 was debited from private respondent's account but was later recalled and re-credited to him. Because of the recall, the last two checks, dated February 10, 1993 and March 10, 1993, were no longer presented for payment. This was purportedly in conformity with petitioner bank's procedure that once a client's account was forwarded to its account representative, all remaining checks outstanding as of the date the account was forwarded were no longer presented for payment.

On the theory that respondent defaulted in his payments, the check representing the payment for August 10, 1991 being unsigned, petitioner, in a letter dated January 21, 1993, demanded from private respondent the payment of the balance of the debt, including liquidated damages. The latter refused, prompting petitioner to file an action for replevin and damages before the Pasay City Regional Trial Court (RTC). Private respondent, in his Answer, interposed a counterclaim for damages.

After trial, the RTC<sup>[3]</sup> rendered a decision disposing of the case as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

- I. The complaint, for lack of cause of action, is hereby DISMISSED and plaintiff RCBC is hereby ordered.
  - A. To accept the payment equivalent to the three checks amounting to a total of P44,938.00, without interest.
  - B. To release/cancel the mortgage on the car upon payment of the amount of P44,938.00 without interest.
  - C. To pay the cost of suit
- II. On The Counterclaim.
  - A. Plaintiff RCBC to pay Atty. Lustre the amount of P200,000.00 as moral damages.
  - B. RCBC to pay P100,000.00 as exemplary damages.
  - C. RCBC to pay Atty. Obispo P50,000.00 as Attorney's fees. Atty. Lustre is not entitled to any fee for lawyering for himself.

All awards for damages are subject to payment of fees to be assessed by the Clerk of Court, RTC, Pasay City.

SO ORDERED.

On appeal by petitioner, the Court of Appeals affirmed the decision of the RTC, thus:

We concur with the trial court's ruling that the Chattel Mortgage contract being a contract of adhesion — that is, one wherein a party, usually a corporation, prepares the stipulations in the contract, while the other party merely affixes his signature or his "adhesion" thereto — is to be strictly construed against appellant bank which prepared the form Contract.

Hence paragraph 11 of the Chattel Mortgage contract [containing the acceleration clause] should be construed to cover only deliberate and advertent failure on the part of the mortgagor to pay an amortization as it became due in line with the consistent holding of the Supreme Court construing obscurities and ambiguities in the restrictive sense against the drafter thereof in the light of Article 1377 of the Civil Code.

In the case at bench, plaintiff-appellant's imputation of default to defendant-appellee rested solely on the fact that the 5<sup>th</sup> check issued by appellee was recalled for lack of signature. However, the check was recalled only after the amount covered thereby had been deducted from defendant-appellee's account, as shown by the testimony of plaintiff's own witness Francisco Bulatao who was in charge of the preparation of the list and trial balances of bank customers. The "default" was therefore not a case of failure to pay, the check being sufficiently funded, and which amount was in fact already debitted [sic] from appellee's account by the appellant bank which subsequently re-credited the amount to defendant-appellee's account for lack of signature. All these actions RCBC did on its own without notifying defendant until sixteen (16) months later when it wrote its demand letter dated January 21, 1993.

Clearly, appellant bank was remiss in the performance of its functions for it could have easily called the defendant's attention to the lack of signature on the check and sent the check to, or summoned, the latter to affix his signature. It is also to be noted that the demand letter contains no explanation as to how defendant-appellee incurred arrearages in the amount of P66,255.70, which is why defendant-appellee made a protest notation thereon.

Notably, all the other checks issued by the appellee dated subsequent to August 10, 1991 and dated earlier than the demand letter, were duly encashed. This fact should have already prompted the appellant bank to review its action relative to the unsigned check.<sup>[4]</sup>

We take exception to the application by both the trial and appellate courts of Article 1377 of the Civil Code, which states:

The interpretation of obscure words or stipulations in a contract shall not favor the party who caused the obscurity.

It bears stressing that a contract of adhesion is just as binding as ordinary contracts.<sup>[5]</sup> It is true that we have, on occasion, struck down such contracts as void when the weaker party is imposed upon in dealing with the dominant bargaining party and is reduced to the alternative of taking it or leaving it, completely deprived of the opportunity to bargain on equal footing.<sup>[6]</sup> Nevertheless, contracts of adhesion are not invalid per se;<sup>[7]</sup> they are not entirely prohibited.<sup>[8]</sup> The one who adheres to the contract is in reality free to reject it entirely; if he adheres, he gives his consent.<sup>[9]</sup>

While ambiguities in a contract of adhesion are to be construed against the party that prepared the same,<sup>[10]</sup> this rule applies only if the stipulations in such contract are obscure or ambiguous. If the terms thereof are clear and leave no doubt upon the intention of the contracting parties, the literal meaning of its stipulations shall control.<sup>[11]</sup> In the latter case, there would be no need for construction.<sup>[12]</sup>

Here, the terms of paragraph 11 of the Chattel Mortgage Contract<sup>[13]</sup> are clear. Said paragraph states:

11. In case the MORTGAGOR fails to pay any of the installments, or to pay the interest that may be due as provided in the said promissory note, the whole amount remaining unpaid therein shall immediately become due and payable and the mortgage on the property (ies) herein-above described may be foreclosed by the MORTGAGEE, or the MORTGAGEE may take any other legal action to enforce collection of the obligation hereby secured, and in either case the MORTGAGOR further agrees to pay the MORTGAGEE an additional sum of 25% of the principal due and unpaid, as liquidated damages, which said sum shall become part thereof. The MORTGAGOR hereby

waives reimbursement of the amount heretofore paid by him/it to the MORTGAGEE.

The above terms leave no room for construction. All that is required is the application thereof.

Petitioner claims that private respondent's check representing the fifth installment was "not encashed,"<sup>[14]</sup> such that the installment for August 1991 was not paid. By virtue of paragraph 11 above, petitioner submits that it "was justified in treating the entire balance of the obligation as due and demandable."<sup>[15]</sup> Despite demand by petitioner, however, private respondent refused to pay the balance of the debt. Petitioner, in sum, imputes delay on the part of private respondent.

We do not subscribe to petitioner's theory.

Article 1170 of the Civil Code states that those who in the performance of their obligations are guilty of delay are liable for damages. The delay in the performance of the obligation, however, must be either malicious or negligent.<sup>[16]</sup> Thus, assuming that private respondent was guilty of delay in the payment of the value of the unsigned check, private respondent cannot be held liable for damages. There is no imputation, much less evidence, that private respondent acted with malice or negligence in failing to sign the check. Indeed, we agree with the Court of Appeals' finding that such omission was mere "inadvertence" on the part of private respondent. Toyota salesperson Jorge Geronimo testified that he even verified whether private respondent had signed all the checks and in fact returned three or four unsigned checks to him for signing:

Atty. Obispo:

After these receipts were issued, what else did you do about the transaction?

A: During our transaction with Atty. Lustre, I found out when he issued to me the 24 checks, I found out 3 to 4 checks are assigned and I asked him to sign these checks.

Atty. Obispo:

What did you do?

A: I asked him to sign the checks. After signing the checks, I reviewed again all the documents, after I reviewed all the documents and found out that all are completed and the downpayments was completed, we released to him the car.<sup>[17]</sup>

Even when the checks were delivered to petitioner, it did not object to the unsigned check. In view of the lack of malice or negligence on the part of private respondent, petitioner's blind and mechanical invocation of paragraph 11 of the contract of chattel mortgage was unwarranted.

Petitioner's conduct, in the light of the circumstances of this case, can only be described as mercenary. Petitioner had already debited the value of the unsigned check from private respondent's account only to re-credit it much later to him. Thereafter, petitioner encashed checks subsequently dated, then abruptly refused to encash the last two. More than a year after the date of the unsigned check, petitioner, claiming delay and invoking paragraph 11, demanded from private respondent payment of the value of said check and that of the last two checks, including liquidated damages. As pointed out by the trial court, this whole controversy could have been avoided if only petitioner bothered to call up private respondent and ask him to sign the check. Good faith not only in compliance with its contractual obligations,<sup>[18]</sup> but also in observance of the standard in human relations, for every person "to act with justice, give everyone his due, and observe honesty and good faith,"<sup>[19]</sup> behooved the bank to do so.

Failing thus, petitioner is liable for damages caused to private respondent.<sup>[20]</sup> These include moral damages for the mental anguish, serious anxiety, besmirched reputation, wounded feelings and social humiliation suffered by the latter.<sup>[21]</sup> The trial court found that private respondent was:

[a] client who has shared transactions for over twenty years with a bank. The shabby treatment given the defendant is unpardonable since he was put to shame and embarrassment after the case was filed in Court. He is a lawyer in his own right,

married to another member of the bar. He sired children who are all professionals in their chosen field. He is known to the community of golfers with whom he gravitates. Surely, the filing of the case made defendant feel bad and bothered.

To deter others from emulating petitioner's callous example, we affirm the award of exemplary damages.<sup>[22]</sup> As exemplary damages are warranted, so are attorney's fees.<sup>[23]</sup>

We, however, find excessive the amount of damages awarded by the trial court in favor of private respondent with respect to his counterclaims and, accordingly, reduce the same as follows:

- (a) Moral damages from P200,000.00 to P100,000.00,
- (b) Exemplary damages from P100,000.00 to P75,000.00,
- (c) Attorney's fees from P50,000.00 to P30,000.00.

**WHEREFORE**, subject to these modifications, the Decision of the Court of Appeals is **AFFIRMED**.

**SO ORDERED.**

**Davide, Jr., C.J., Melo and Pardo, JJ., concur.**

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- [1] Exhibit "A."
  - [2] Exhibit "B."
  - [3] Branch 108, presided by Judge Priscilla Mijares.
  - [4] Rollo, pp. 6-8.
  - [5] Articles 1305, 1308, Civil Code. *Serra vs. Court of Appeals*, 229 SCRA 60 (1994).
  - [6] *Phil. Commercial International Bank vs. Court Bank vs. Court of Appeals*, 255 SCRA 299 (1996).
  - [7] *Philippine Airlines, Inc. vs. Court of Appeals*, 255 SCRA 48 (1996); *Telengtan Brothers & Sons, Inc. vs. Court of Appeals*, 236 SCRA 617 (1994).
  - [8] *Telengtan Brothers & Sons, Inc. vs. Court of Appeals*, supra, *Philippine American General Insurance Co., Inc. vs. Sweet Lines, Inc.*, 212 SCRA 194 (1992); *Pan American World Airways vs. Rapadas*, 209 SCRA 67 (1992); *Saludo, Jr. vs. Court of Appeals*, 207 SCRA 498 (1992).

- [9] Serra vs. Court of Appeals, supra; Philippine American General Insurance Co., Inc. vs. Sweet Lines, Inc., supra; Saludo, Jr. vs. Court of Appeals, supra.
- [10] Angeles vs. Calasanz, 135 SCRA 323 (1985).
- [11] Article 1370, Civil Code. Salvatierra vs. Court of Appeals, 261 SCRA 45 (1996); Abella vs. Court of Appeals, 257 SCRA 482 (1996); Syquia vs. Court of Appeals, 217 SCRA 624 (1993); Lufthansa German Airlines vs. Court of Appeals, 208 SCRA 708 (1992); Papa vs. Alonzo, 198 SCRA 564 (1991).
- [12] Leveriza vs. Intermediate Appellate Court, 157 SCRA 283 (1988).
- [13] Exhibit "B."
- [14] Rollo, p. 12.
- [15] Id., at 13.
- [16] IV Tolentino, Commentaries and Jurisprudence on the Civil Code of the Philippines, 1991 ed., p. 113.
- [17] TSN, March 10, 1994, pp. 15-16.
- [18] Article 1159, Civil Code.
- [19] Article 19, Civil Code.
- [20] Article 19 in relation to Article 21, id.
- [21] Article 2217, id.
- [22] Article 2229, id.
- [23] Article 2208 (1), id.