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THIRD DIVISION

[G.R. No. 137932, March 28, 2001]

CHIANG YIA MIN, PETITIONER, VS. COURT OF APPEALS, RIZAL COMMERCIAL BANKING CORPORATION, PAPERCON (PHILIPPINES), INC. AND TOM PEK, RESPONDENTS.

DECISION

GONZAGA-REYES, J.:

The instant petition concerns the recovery of a sum of money and damages, initiated by herein petitioner, a Chinese national based in Taiwan, against Rizal Commercial Banking Corporation (hereafter, "RCBC" or "respondent bank") before Branch 151^[1] of the Regional Trial Court of Pasig City. The case, docketed as Civil Case No. 54694, sought the collection of US\$100,000.00, or its equivalent per Central Bank rates, legal interest, moral and exemplary damages, and attorney's fees.

Petitioner's version of the case, which was upheld by the trial court, alleges that the said US\$100,000.00 was sent by Hang Lung Bank Ltd. of Hong Kong on February 7, 1979 through the Pacific Banking Corporation to respondent bank's head office.^[2] The remittance was for petitioner's own account and was intended to qualify him as a foreign investor under Philippine laws. As found by the trial court, it was sent by petitioner himself prior to his arrival in the Philippines.^[3]

When petitioner checked on his money sometime in mid-1985, he found out that that the dollar deposit was transferred to the Shaw Boulevard branch of respondent bank and converted to a peso account, which had a balance of only P1,362.10 as of October 29, 1979. A letter of respondent bank dated August 9, 1985 stated that petitioner's Current Account No. 12-2009 was opened on February 8, 1979, with an initial deposit of P729,752.20; a total of P728,390.00 was withdrawn by way of five checks respectively dated February 13, 19 and 23, 1979 and October 5 and 29, 1979, apparently issued by petitioner in favor of Papercon (Phils.), Inc., (hereafter, "Papercon") one of the herein private respondents and a business venture of Tom Pek.^[4] Thus, the balance of the account was reduced to P1,362.10 as of October 29, 1979 and no transactions were made on the account since.^[5] In the same letter, the bank stated that it was no longer able to locate the microfilm copies of the issued checks, specimen signature cards, and other records related to the questioned account, since the account had been inactive for more than five years.

Petitioner insisted that he did not cause the transfer of his money to the Shaw Boulevard branch of RCBC, as his instructions in the telegraphic transfer were for the money to be remitted to the RCBC head office in Makati, nor its conversion to pesos

and the subsequent withdrawals. Nor did he authorize anyone to perform these acts.

In its Answer, respondent bank alleged that there is no indication from its records of the transfer of US\$100,000.00 for petitioner's account from Hang Lung Bank Ltd. through the Pacific Banking Corporation. However, after plaintiff-petitioner had adduced his evidence, it filed a third-party complaint against Papercon and Tom Pek, "admitting that plaintiff conclusively appeared to have deposited the sum of US\$100,000.00 with the bank and said foreign currency deposit was converted, adopting the prevailing rate of interest at the time, to P730,000.00 and deposited to plaintiff's Current Account No. 12-2009 which he opened with Shaw Boulevard branch, after which plaintiff issued Check No. 492327 to third-party defendant Papercon (Phils.), Inc. for the amount of P700,000.00 and Check No. 492328 to third-party defendant Tom Pek for the amount of P12,700.00."^[6] Respondent bank thus contended that should it be made liable to petitioner, said third-party defendants as payees and beneficiaries of the issued checks should be held solidarily liable with it.

Tom Pek and Papercon did not deny receiving the checks worth P712,700.00 but argued that unless proven otherwise, the said checks should be presumed to have been issued in their favor for a sufficient and valuable consideration.

Based on the evidence and arguments before it, the trial court determined that the withdrawals were not made by petitioner nor authorized by him, and held respondent bank liable for the US\$100,000.00 (and the interest thereon from date of filing of the complaint), damages, attorney's fees, and costs.

It is not disputed that petitioner did not personally go to respondent bank to open the account; it was Catalino Reyes, an employee of Tom Pek, who obtained the blank application forms from the Shaw Boulevard branch and returned them bearing petitioner's signature; and, the application forms were not completely filled out. The trial court found the actuations of the bank's officers of allowing Reyes to take out the forms, approving the scarcely-completed application form, validating petitioner's signature thereon even when they have not met petitioner, and permitting the hefty withdrawals made from the account to be in contravention with sound and well-recognized banking procedures, and contrary to "its (the bank's) primordial duty of safeguarding the interest of its depositors, because for having allowed the same, it enabled an unscrupulous person to open an account for the plaintiff without the latter's consent."^[7]

The trial court also took against respondent bank its inability to present in evidence the depositor's card showing petitioner's specimen signatures and the requisition slip for the issuance of a checkbook, and disregarded the bank's contention that they could not anymore be located. From this, the trial court concluded that petitioner did not submit any card showing his specimen signature since he did not open the said current account, and that the withdrawals made on the said account were unauthorized and in fraud of petitioner.^[8]

The trial court further concluded that the withdrawals from petitioner's account could not have been made possible without the collusion of the officers and employees of

respondent bank. In its decision dated May 24, 1991, it held respondent bank solely culpable and fully exonerated the other private respondents. It also upheld petitioner's claims for moral damages, for the mental anguish that he suffered, and exemplary damages, to remind respondent bank "that it should always act with care and caution in handling the money of its depositors in order to uphold the faith and confidence of its depositors to banking institutions xxx".^[9] Thus, the dispositive part of the said decision read:

WHEREFORE, judgment is hereby rendered in favor of plaintiff and against defendant and third-party plaintiff, Rizal Commercial Banking Corporation, ordering the latter to pay plaintiff the following sums:

- 1) US\$100,000.00, or its equivalent according to Central Bank rate at the time payment is actually made with interest thereon at 12% per annum from June 26, 1987, when the complaint was filed, until fully paid;
- 2) P30,000.00 as moral damages;
- 3) P20,000.00 as exemplary damages; and
- 4) 20% of the total amount due to the plaintiff as attorney's fees and litigation expenses, all three foregoing items with interest at 12% per annum from date hereof.

The defendant bank's counterclaims and third-party complaint are dismissed.

The third-party defendants' counterclaims are likewise dismissed.

Costs against defendant.

SO ORDERED.^[10]

Respondent bank and third-party defendants sought reconsideration of the above decision and on September 2, 1991, Judge Migriño amended his decision to hold Papercon and Tom Pek solidarily liable with respondent bank. He also changed the interest rate for the US\$100,000 from 12% to 6% per annum, charged interest for the awards of moral damages and exemplary damages until they are paid, and reduced the award of attorney's fees from 20% to 10% of the total monetary awards. Following is the dispositive portion of the RTC decision, as modified:

WHEREFORE, judgment is hereby rendered:

On the Main Action

1. Ordering the defendant Rizal Commercial Banking Corporation to pay the plaintiff Chiang Yia Min the following sums:
 - a) US\$100,000.00, or its equivalent in Philippine

currency at the time of actual payment, with interest thereon at the legal rate of 6% per annum from June 26, 1987, the date of filing of the complaint, until fully paid;

- b) P30,000.00 as moral damages;
- c) P20,000.00 as exemplary damages;
- d) 10% of the total amount due for and as attorney's fees, all three foregoing items with interest at 6% per annum from date hereof; and
- e) the costs of the suit.

On the Third-Party Complaint

Judgment is hereby rendered in favor of the defendant-third-party plaintiff and against third-party defendants, ordering the latter, jointly and severally, to pay and reimburse the third-party plaintiff the aforeadjudged amounts which it is ordered to pay to the plaintiff in accordance with this decision.

The defendant bank's counterclaims are hereby dismissed.

The counterclaims of the third-party defendants are likewise dismissed.

SO ORDERED.^[11]

The Court of Appeals, on the other hand, found that the opening of the current account and the withdrawals therefrom were authorized by petitioner; accordingly, it reversed the decision of the RTC and absolved private respondents of liability.

Respondent court gave credence to the statements of Catalino Reyes, an accountant of Pioneer Business Forms, Inc., another business venture of Tom Pek, who testified that petitioner and Tom Pek were close friends and business partners. Sometime in January or February 1979 Reyes was instructed by petitioner to withdraw the US\$100,000.00 from Pacific Banking Corporation and to deposit the peso equivalent of the same in the Shaw Boulevard branch of RCBC. These were undertaken to facilitate petitioner's change of visa from tourist to foreign investor. Respondent court also accepted Reyes's testimony that he was instructed by petitioner to prepare two of the checks drawn against the questioned account, and that he witnessed petitioner sign these checks and hand them over to Tom Pek. It declared that Reyes's testimony that petitioner caused the opening of the said account was more believable than petitioner's mere denial of the same.^[12] Moreover, Reyes's testimony was supported by a memorandum of the Board of Special Inquiry, Bureau of Immigration which stated that the peso equivalent of the US\$100,000.00 had been tendered and delivered to applicant Chiang Yia Min as evidenced by a cashier's check dated February 8, 1979 and issued to the latter.^[13] According to the Court of Appeals, this coincides with Catalino Reyes's testimony that petitioner's money was deposited by him in respondent bank, and was contrary to

petitioner's contention that the money was transferred by Pacific Banking Corporation to respondent bank through a bank-to-bank transaction.

Respondent court was also not convinced by petitioner's allegation that the conversion of the US\$100,000.00 and its being deposited in the Shaw Boulevard branch of respondent bank was made without his knowledge and consent. It pointed out that it was petitioner himself who wrote the Shaw Boulevard branch inquiring about the status of his current account; thus, he could not later be heard to maintain that he thought his money was deposited with the head office of respondent bank in Makati.

Further contrary to the findings of the trial court, the Court of Appeals determined that the inward remittance of US\$100,000.00 was made while petitioner was already in the Philippines. Based on the records of the Bureau of Immigration, petitioner arrived in the country as a tourist on or about January 25, 1979,^[14] but subsequently applied for a change of status of admission to special non-immigrant as a foreign investor.^[15] Because of this, petitioner's initial argument --- that he could not have authorized the deposit in the Shaw Boulevard branch and the withdrawals therefrom because he was not yet in the country at the time --- could not be believed.

Moreover, respondent court found it incredible that petitioner checked on his dollar remittance only in 1985, long after it was sent into the country. As for respondent bank's inability to produce the depositor's card bearing petitioner's specimen signatures, the checkbook requisition slip, and other documents requested by petitioner, respondent court found plausible the explanation of respondent bank that it only holds records for a period of five years after the last transaction on an account was made. It also noted several other inconsistencies in the testimony of petitioner, such as his inability to recall his date of arrival in the country,^[16] the date or even the year when he made inquiries with respondent bank,^[17] or his presence before the Commission on Immigration and Deportation when he applied for a change of status.^[18] Thus, petitioner lost credibility with respondent court which found his testimony to be false on material points and applied the principle of *falsus in uno, falsus in omnibus*.

Hence, the dispositive portion of the Court of Appeals decision provides:

WHEREFORE, premises considered, the decision of the court *a quo* is hereby REVERSED and SET ASIDE. Herein defendant/third-party plaintiff and third-party defendants are hereby absolved of any liability arising out of this case. Likewise, the third-party complaint is hereby DISMISSED.

Costs against plaintiff-appellant.

SO ORDERED.^[19]

Petitioner is now before us seeking the reversal of the above decision, maintaining that the evidence on record preponderated in his favor and was enough to sustain the finding that the opening of Current Account No. 12-2009 and the withdrawals thereon were unauthorized by him and that respondent bank connived with third persons to defraud petitioner. Private respondents, for their part, ask that the petition be

dismissed and the factual findings of the Court of Appeals be sustained.

The grounds set out in the petition are:

1. The findings of facts of the trial court and the Court of Appeals are conflicting hence, an examination by this Honorable Court of the evidence on record is in order. There is an imperative need for this Honorable Court to exercise its power of supervision and review of the questioned decision of the Court of Appeals as an exception to the rule (*Solidbank vs. Court of Appeals*, G.R. No. 91494, July 14, 1995) because the Court of Appeals for no plausible reason at all had completely substituted its findings of fact in place of the well-founded findings of fact made by the trial court. It is a serious departure from the well-accepted rules of procedure.
2. There is preponderance of evidence to show that respondent bank connived with third persons to defraud petitioner, hence, it should be held liable for reimbursement with interest and damages.
3. The application of the maxim "*falsus in uno, falsus in omnibus*" by the Honorable Court of Appeals is not in accord with law and the applicable decisions of the Supreme Court. The Honorable Court of Appeals has so far departed from the accepted principles in the exercise of judicial discretion as to call for an exercise of the power of review and supervision of this Honorable Court.^[20]

Settled is the rule that where the factual findings of the Court of Appeals and the trial court are at variance this Court will review the evidence on record in order to arrive at the correct findings.^[21] Our evaluation of the numerous testimonies and documentary evidence persuades us that the findings of the Court of Appeals are well-founded and merit the dismissal of the instant petition.

The determinative issue in this case, as phrased out in the instant petition, is whether petitioner has proved, by a preponderance of the evidence, that respondent bank connived with private respondents and third party defendants Papercon and Tom Pek in allowing the withdrawals from Current Account No. 12-2009, knowing these to be unauthorized by petitioner, and with the purpose of defrauding him.

A review of the complaint filed before the RTC, however, indicates that petitioner originally sued upon an allegation of negligence on the part of respondent bank's officers and employees in allowing the said withdrawals.^[22]

Under either theory of fraud or negligence, it is incumbent upon petitioner to show that the withdrawals were not authorized by him. If he is unable to do so, his allegations of fraud or negligence are unsubstantiated and the presumption that he authorized the said withdrawals will apply.

Petitioner's allegation that he did not authorize the opening of the current account and

the issuance of the checks was countered by private respondents by presenting Catalino Reyes as a witness. Reyes, the accountant of Pioneer Business Forms, Inc., another business venture of Tom Pek, testified that the opening of Current Account No. 12-2009 and the issuance of the questioned checks were all upon the instructions of petitioner. Reyes stated that he first met petitioner in January or February 1979 when the latter was introduced to him by Tom Pek.^[23] He and his fellow employees were advised by Tom Pek to "personally help (Chiang Yia Min) in all his personal accounts."^[24] Reyes, in particular, was charged with working on the incorporation of Philippine Color Scanning, a new business venture where petitioner will be the general manager.^[25] He also assisted petitioner when the latter applied for a change of visa from tourist to special non-immigrant. Reyes testified that on the first week of February 1979, petitioner asked him to pick up the US\$100,000.00 which he caused to be remitted in compliance with the capital requirements for foreign investors at Pacific Banking Corporation.^[26] Bringing with him the letter of advise from the bank, Reyes did as he was told and the bank released to him a cashier's check representing the peso equivalent of the US\$100,000.00. Reyes then showed the check to petitioner and upon the latter's instructions, he went to the Shaw Boulevard branch of respondent bank to open a checking account in petitioner's name, using the proceeds of the check as initial deposit.^[27]

Reyes describes the opening of the current account as having been done in haste, since petitioner was in a hurry to have the proceeds of the remittance credited to his checking account.^[28] Because Reyes was well-known to the officers and employees of RCBC-Shaw Boulevard, he was allowed to bring out of the bank the application form, depositor's card, and other forms which required petitioner's signature as depositor.^[29] He then filled out the forms,^[30] and brought them to petitioner for signing. He witnessed petitioner sign the forms.^[31] Then he brought the signed forms, and petitioner's passport, back to the bank, which approved the opening of the current account upon a comparison of the signatures on the forms and the passport.^[32]

The documentary evidence accurately supports Reyes's statements. Pacific Banking Corporation confirmed receipt of the US\$100,000.00 from Hang Lung Bank, Ltd. by telegraphic transfer on February 7, 1979.^[33] It had instructions to transmit the money "to Rizal Commercial Banking Corporation, Head Office, for (the) account of Chiang Yia Min";^[34] however, the records also show that on February 8, 1979 Pacific Banking Corporation released the money to petitioner by way of Cashier's Check No. DD 244955, representing the peso equivalent of the US\$100,000.00, which check was in turn presented before the Board of Special Inquiry of the Bureau of Immigration as proof of petitioner's compliance with the requirements for change of status from tourist to special non-immigrant, i.e., foreign investor.^[35] On the same day, February 8, 1979, Current Account No. 12-2009, in the name of Chiang Yia Min, was opened in RCBC-Shaw Boulevard with an initial deposit of P729,752.20, "representing proceeds of inward remittance received from Pacific Banking Corporation."^[36]

As established by the records, there were five issued checks: two made payable to Papercon, and three made payable to cash (these three checks were all negotiated to

Tom Pek).^[37] Catalino Reyes testified that on two separate instances, petitioner asked him to prepare two of the five checks questioned in this case, specifically, the check for P700,000.00, dated February 19, 1979 and payable to Papercon, and the check for P12,700.00, dated February 23, 1979 and payable to cash.^[38] He witnessed petitioner study the information typed on the checks, sign the checks, and hand them over to Tom Pek.^[39]

The microfilm copies of these checks were submitted in evidence.^[40] They all bear the signature of petitioner.

Confronted with such direct and positive evidence that he authorized the opening of the account and signed the questioned checks, it is curious that petitioner did not take the witness stand to refute Reyes's testimony. He did present as his rebuttal witness a teller of Metrobank (in which he also maintained a checking account) who testified that she had assisted petitioner in some withdrawals with Metrobank and in these instances it was petitioner himself, unassisted, who filled out his checks.^[41] Thus, petitioner attempted to show that he prepared his own checks as a matter of practice. However, we note that the Metrobank teller testified to checks issued on December 1989, or long after the herein questioned checks were issued. It would neither be fair nor accurate to compare the practice of petitioner in issuing checks in 1979, when admittedly he was still unfamiliar with the English language, with the manner by which he prepared his checks ten years later.

To our mind, the best witness to counter the testimony of Catalino Reyes would be petitioner himself, simply because, based on the statements of Reyes, the only persons present when petitioner allegedly instructed Reyes to open the account and signed the checks were Reyes, petitioner himself, and Tom Pek. (Tom Pek died during the course of the proceedings.) Besides, if indeed Catalino Reyes lied in saying that petitioner instructed the opening of the account and issued the checks, we cannot imagine a more natural reaction of petitioner than wanting to set the record right.

Moreover, petitioner's signatures on the questioned checks amounts to *prima facie* evidence that he issued those checks. By denying that he issued the said checks it is he who puts into question the genuineness and authenticity of the signatures appearing thereon, and it is he who has the burden of proving that those signatures were forgeries.

No shred of evidence was presented by petitioner to show that the signatures were not his. All that this petition relies on insofar as concerning the authenticity of the signatures is the finding of the trial court judge that there was a discrepancy between the signatures on the bank form and petitioner's passport. As stated in the RTC decision:

xxx An examination of the signatures of the plaintiff on the said documents will, however, show to an ordinary person the discrepancy in the said signatures. The letter "H" in Chiang as appearing in the application form is in "script" whereas the said letter appearing in his passport is in "print".^[42]

The Court, however, believes that since what is at issue here is whether petitioner issued the questioned checks the essential comparison should be between the signatures appearing on the checks and the specimen signatures on the depositor's card. Such is the normal process followed in verifying signatures for purposes of bank withdrawals. Considering that the depositor's card was not produced in evidence in the instant case, resort may thus be made to such other documents as would bear the authentic signature of petitioner.^[43] The record is replete with documents bearing petitioner's signature, among them, his residence certificate^[44], alien certificate of registration^[45], investor's passport^[46], tourist's passport^[47], and the application forms for an RCBC current account^[48]. From our examination of these records we find no significant disparity between the signatures on the checks and those on the abovesaid documents, and will not risk a finding of forgery where the same had not been clearly alleged nor proved. Forgery, as any other mechanism of fraud, must be proven clearly and convincingly, and the burden of proof lies on the party alleging forgery.^[49]

On the other hand, private respondents have presented evidence that petitioner did sign and issue these checks. The testimony of Catalino Reyes that petitioner told him to prepare the checks, and that he saw petitioner sign these checks and give them to Tom Pek, stands un rebutted.

There is thus no evidence to demonstrate that respondent bank and respondents Papercon and Tom Pek colluded to defraud petitioner of his money. What the evidence in fact establishes is that the opening of the account and the withdrawals were authorized by petitioner, and that the signatures appearing on the questioned checks were petitioner's.

Petitioner, however, insists that respondent bank acted with negligence in opening Current Account No. 12-2009 without properly verifying the identity of the depositor and in contravention of sound and well-recognized banking procedures. The petition capitalizes on the following purported irregularities surrounding the opening of the account: (1) the alleged depositor never appeared at the bank; (2) the person who transacted for the alleged depositor was not shown to have been authorized for that purpose; (3) the application form and other documents required to open the account were brought out of the bank premises; and (4) the application form, when submitted, was not properly accomplished, but was left blank on most of the required details.^[50]

The arguments are unmeritorious for failure to show that such irregularities attending the opening of the account resulted in the unauthorized withdrawal of petitioner's money. The evidence stands un rebutted that petitioner instructed the opening of the said account and signed the pertinent application forms. Quite contrary to petitioner's insinuations of fraud or negligence, the evidence indicates that the reason why respondent bank relaxed its rules in handling petitioner's application was because, in addition to having been referred by a well-known client,^[51] petitioner was in a hurry to have the remittance credited to his account.^[52]

The person who alleges fraud or negligence must prove it, because the general presumption is that men act with care and prudence. Good faith is always presumed

and it is the burden of the party claiming otherwise to adduce clear and convincing evidence to the contrary.^[53] No judgment for damages could arise where the source of injury, be it fraud, fault, or negligence, was not affirmatively established by competent evidence.^[54]

Additionally, circumstances may be obtained from the record that cast serious doubts on the legitimacy of petitioner's claims. The Court of Appeals had correctly taken into consideration petitioner's lack of candor in declaring his status of entry into the Philippines. Petitioner's testimony that he came into the country after February 7, 1979 (the date of remittance of the US\$100,000.00) was exposed in open court as an outright lie,^[55] it being shown that he was admitted into the country as a tourist as early as January 25, 1979.^[56] Thus, there is no truth to petitioner's contention that he could not have authorized the opening of Current Account No. 12-2009 because he was not yet in the country at the time. The fact is, by February 7, 1979, his 7-day visa had already expired (counting from January 25, 1979); he was plainly an overstaying tourist, working against time to secure an investor's visa to legitimize his stay in the Philippines, which explains the haste by which he ordered the withdrawal of the money from Pacific Banking Corporation and the opening of the account in RCBC.

It also strains credulity that an investor like petitioner would allow a substantial amount of money to lie insipid and unproductive in a bank account for six years before he bothered to check on it. The earliest known record of his having gotten in touch with respondent bank to check about his money was on August 5, 1985, by a letter of his lawyer. The bank replied on August 9, 1985, stating that "the account was inactive since October, 1979 with a present balance of P1,362.10."^[57] Instead of alarm and indignation at the news that he had lost all his investment money, petitioner and his lawyer waited until January 27, 1987 when they again wrote the bank to once more inquire about the status of the current account. The bank simply reiterated its report, and stated that they can no longer produce the records of that account since their retention period for records of inactive accounts is only five years.^[58] The complaint was filed with the RTC only on June 29, 1987, or almost two years after his supposed discovery of the loss of his money.

Moreover, petitioner's claim that he felt no need to check on the US\$100,000.00 because he still had cash at hand was contradicted by his own testimony that in 1983 and 1984 he could not put up the money to fund a letter of credit, lost a major client in the process, and was put out of business.^[59] If it was true that the proceeds of the US\$100,000.00 remittance were not used up at that time, why did he not check on the money then?

Besides, the fact that petitioner, through his lawyer, wrote the Shaw Boulevard branch of respondent bank to inquire about the status of his current account is fundamentally inconsistent with his position that he had no knowledge of the opening of the account in that branch. It simply does not jive with his representation that he thought the money was remitted directly to the RCBC head office in Makati.

These matters certainly reveal a malicious intention on petitioner's part to conceal

material circumstances and pervert the truth, and cast serious doubt on the legitimacy of his claims.

As for respondents and third party defendants Papercon and Tom Pek, upon the finding that the checks issued to them were in order, and there being no indication that respondent bank colluded in paying the checks to them for any unlawful cause, or was otherwise deceived or misled into doing the same, the presumption lies that they were holders for value and in good faith.

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CV No. 35442 is **AFFIRMED**. Costs against petitioner.

SO ORDERED.

Melo, (Chairman), Vitug, and Sandoval-Gutierrez, JJ., concur.
Panganiban, J., No part. Former partner of a party's counsel.

[1] Presided by Judge Eutropio Migriño.

[2] RTC Decision; Rollo, 91.

[3] TSN, March 4, 1988, 6.

[4] *Ibid.*

[5] *Ibid.*

[6] *Ibid.*, 94.

[7] RTC Decision; Rollo, 99.

[8] *Ibid.*, 96.

[9] *Ibid.*, 100.

[10] *Ibid.*, 100-101.

[11] Amended RTC Decision; Rollo, 108-109.

[12] *Ibid.*, 47.

[13] *Ibid.*, 49.

[14] Exh. "3-B"; Records of the Case, 202.

[15] *Ibid.*

[16] TSN, May 10, 1988, 10.

[17] TSN, March 4, 1988, 14.

[18] TSN, May 10, 1988, 10-11.

[19] CA Decision; Rollo, 52-53. Decided by the Seventh Division, composed of Associate Justice Emeterio C. Cui (Chairman), Associate Justice Jose C. dela Rama (*ponente*), and Associate Justice Eduardo G. Montenegro.

[20] Petition; Rollo, 22-23.

[21] Caoili vs. Court of Appeals, 314 SCRA 345; Sarmiento vs. Court of Appeals, 291 SCRA 656; Roman Catholic Bishop of Malolos vs. Intermediate Appellate Court, 191 SCRA 411.

[22] Complaint; Records of the Case, 139-140.

[23] TSN, October 30, 1989, 1.

[24] TSN, November 3, 1989, 15.

[25] TSN, February 9, 1990, 30.

[26] TSN, November 3, 1989, 19.

[27] *Ibid.*, 22.

[28] *Ibid.*, 20.

[29] *Ibid.*, 16.

[30] *Ibid.*, 13.

[31] *Ibid.*, 17.

[32] TSN, September 13, 1988, 5.

[33] Exhibits "C" and "C-3"; Records of the Case, 75, 77.

[34] *Ibid.*

- [35] Exhibit "4"; Records of the Case, 202.
- [36] Exhibit "C-1"; Records of the Case, 76.
- [37] Exhibit "E"; Records of the Case, 79; TSN, July 13, 1989, 2.
- [38] TSN, October 30, 1989, 3-6.
- [39] *Ibid.*, 4, 6.
- [40] Exhibits "11", "12", "13", "14"; Records of the Case, 212-215.
- [41] TSN, August 7, 1990, 3-4.
- [42] RTC Decision; Rollo, 98.
- [43] See Heirs of Severa P. Gregorio vs. Court of Appeals, 300 SCRA 565.
- [44] Exhibit "N"; Records of the Case, 95.
- [45] Exhibit "B"; Records of the Case, 74-A.
- [46] Exhibit "M"; Records of the Case, 93.
- [47] Exhibit "9"; Records of the Case, 207-208.
- [48] Exhibits "5", "6", "7", "8"; Records of the Case, 203-206.
- [49] Heirs of Severa P. Gregorio vs. Court of Appeals, *supra*.
- [50] TSN, September 13, 1988, 13-15.
- [51] TSN, September 13, 1988, 4.
- [52] TSN, November 3, 1989, 20.
- [53] Heirs of Severa P. Gregorio vs. Court of Appeals, *supra*.
- [54] Philippine Long Distance Company vs. Court of Appeals, 178 SCRA 98.
- [55] TSN, May 10, 1988, 10.
- [56] Exhibits "3-B" and "9-F"; Records of the Case, 202, 211.

[57] Annex "C" to Complaint; Records of the Case, 144.

[58] Annex "D" to Complaint; Records of the Case, 145.

[59] TSN, February 5, 1988, 20.



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