Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

BP OIL AND CHEMICALS INTERNATIONAL PHILIPPINES, INC., Petitioner,	G.R. No. 214406
	Present:
- *versus* -	CARPIO, *J.*, *Chairperson*, PERALTA, MENDOZA, LEONEN, and JARDELEZA,* *JJ.*
TOTAL DISTRIBUTION & LOGISTIC SYSTEMS, INC., Respondents.	Promulgated: 06 FEB 2017

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DECISION

PERALTA, *J.*:

Before this Court is the Petition for Review on *Certiorari* under Rule 45, dated November 10, 2014 of petitioner BP Oil and Chemicals International Philippines, Inc. (*BP Oil*) that seeks to reverse and set aside the Decision[1] dated April 30, 2014 of the Court of Appeals (*CA*) which, in turn, reversed and set aside the Decision[2] dated January 21, 2011 of the Regional Trial Court (*RTC*), Branch 148, Makati City, in a case for a collection of sum of money.

The antecedent facts follow.

A Complaint for Sum of Money was filed by petitioner BP Oil against respondent Total Distribution & Logistic Systems, Inc. (*TDLSI*) on April 15,

* Designated Additional Member per Special Order No. 2416 dated January 4, 2017.

[1] Penned by Associate Justice Vicente S.E. Veloso, with the concurrence of Associate Justices Jane Aurora C. Lantion and Nina G. Antonio-Valenzuela.

[2] Penned by Judge Oscar B. Pimentel.

2002, seeking to recover the sum of ₱36,440,351.79 representing the total value of the moneys, stock and accounts receivables that TDLSI has allegedly refused to return to BP Oil.

The allegations of the parties, as summarized by the RTC, are as follows:

> According to the allegations in the complaint, the defendant entered into an Agency Agreement (the Agreement) with BP Singapore on September 30, 1997, whereby it was given the right to act as the exclusive agent of the latter for the sales and distribution of its industrial lubricants in the Philippines. The agency was for a period of five years from 1997 to 2002. In return, the defendant was supposed to meet the target sales volume set by BP Singapore for each year of the Agreement. As agreed in the Supplemental Agreement they executed on January 6, 1998, the defendant was supposed to deposit the proceeds of the sales it made to a depositary account that the defendant will open for the purpose. On April 27, 1998, BP Singapore assigned its rights under the Agreement to the plaintiff effective March 1, 1998.
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> When the defendant did not meet its target sales volume for the first year of the Agreement, the plaintiff informed the defendant that it was going to appoint other distributors to sell the BP's industrial lubricant products in the Philippines. The defendant did not object to the plan of the plaintiff but asked for ₱10,000,000.00 as compensation for the expenses. The plaintiff did not agree to the demand made by the defendant.
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> On August 19, 1999, the defendant through its lawyer, wrote the plaintiff a letter where it demanded that it be paid damages in the amount of ₱40,000,000.00 and announced that it was withholding remittance of the sales until it was paid by the plaintiff. On September 1, 1999, the plaintiff wrote the defendant back to give notice that it was terminating the Agreement unless the defendant rectified the breaches it committed within a period of 30 days. The plaintiff also demanded that the defendant pay the plaintiff its outstanding obligations and return the unsold stock in its possession.
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> On October 11, 1999, the plaintiff gave the defendant formal notice of [sic] that it was terminating the Agreement after it did not hear from the defendant. The plaintiff would find out that the defendant had filed a request for arbitration with the Philippine Dispute Resolution Center, Inc. (PDRCI).
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> On October 9, 2000, the plaintiff, through Mr. Lau Hock Lee, sent the defendant another letter to reiterate its demand for the defendant to return the unremitted collections and stocks in its possession.
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> On April 30, 2001, the defendant, through Mr. Miguel G. de Asis, its Chief Finance Officer, wrote the plaintiff a letter admitting that as of the said date, it had in its possession collections against sales in the amount of ₱27,261,305.75, receivables in the amount of ₱8,767,656.26 and stocks valued at ₱1,155,000.00.

On July 9, 2001, the law firm of Siguion Reyna Montecillo & Ongsiako sent the defendant a formal demand letter for the payment of the total amount of ₱36,440,351.79 representing the total amount of the collections, receivables and stocks that defendant should have returned to the plaintiff as of May 31, 2001. The amount was based on a summary of account prepared by Ms. Aurora B. Osanna, plaintiff's Business Development Supervisor.

On April 15, 2002, the plaintiff filed the instant complaint for collection against the defendant. The defendant initially filed a Motion to Dismiss the complaint on the ground for [sic] lack of cause of action because of the existence of an arbitration agreement, as well as a previously filed arbitration proceeding between the parties. This Court denied the defendant's Motion to Dismiss for lack of merit in its Order dated February 21, 2003. The Motion for Reconsideration filed by the defendant was likewise denied by this Court on April 30, 2003. The Defendant went up to the Court of Appeals to question the denial of its Motion to Dismiss via a Petition for *Certiorari* and Prohibition.

On June 9, 2003, the Defendant filed its Answer *Ad Cautelam* with Compulsory Counterclaim *Ad Cautelam.*

In its answer, the defendant alleged that it was appointed as the exclusive agent of the plaintiff to sell BP brand industrial lubricants in the Philippines. The agency was to last for five years from signing of the Agreement, or until September 29, 2001. As the exclusive agent of BP products, the defendant was tasked to promote, market, distribute and sell the BP products supplied the plaintiff.

The defendant further alleged that it did not fail to meet the sales target for Year I. Delays on the part of the plaintiff in shipping the products moved the commencement of the Agreement from January 1997 to August 1997, making the stipulated sales target no longer applicable.

On June 8, 1999, the plaintiff unexpectedly informed the defendant of its intention to assume more control of Philippine operations, including the appointment of a full-time representative in the Philippines and new distributors. No reason was given for this policy change.

Although the defendant pointed out to the plaintiff that the appointment of a new distributor would violate the Agency Agreement, the plaintiff ignored the defendant's protests and affirmed that it would proceed with taking over control of the distribution in the Philippines of BP products and with appointing additional distributors.

While business proceeded, the defendant's counsel, Atty. Eugeniano E. Perez III, sent the plaintiff a letter dated August 19, 1999 pointing out, among others, that: a) The plaintiff's plan to take over the lubricant business and appoint other distributors was in breach of the Agency Agreement; b) the defendant incurred losses because of the plaintiff's non-compliance with the Agreement and lack of support; and c) the defendant would be carrying on the business would be withholding any funds to be collected pending compliance with the demand.

> Instead of heeding the consequences of its proposed illegal acts, the plaintiffs took steps to take over the distribution of BP Products in the Philippines and to appoint new agents for this purpose. Even before the termination of the Agreement, the plaintiff cut off the supply of BP products to the defendant, and even tried to sell directly to the defendant's customers, without the defendant's knowledge. To protect its rights, and pursuant to the arbitration clause under the Agreement, the defendant filed a Request for Arbitration before the Philippine Dispute Resolution Center, Inc. (PDRCI) on 5 October 1999.
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> By way of affirmative defenses, the defendant argued that: 1.) it has the right to retain in pledge objects subject of the agency until it is indemnified by the plaintiff for the damages it suffered under Article 1914 in relation to Articles 1912 and 1913 of the Civil Code; 2.) the complaint is dismissible on the ground of lack of cause of action for being prematurely filed and/or *litis pendencia* because the issue in the case is already a sub-issue in the arbitration proceedings; and 3.) the action should be stayed in accordance with Republic Act No. 876.
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> On March 21, 2004, the Court of Appeals came out with its Decision affirming this Court's denial of the defendant's Motion to Dismiss after the defendant filed it Answer *Ad Cautelam*. The Court of Appeals also denied the defendant's Motion for Reconsideration on August 16, 2004. The Decision of the Court of Appeals sustaining this Court attained finality with the denial by the Supreme Court on November 10, 2004 of the Petition for Review on *Certiorari* filed by the defendant as well as its Motion for Reconsideration from the said denial.
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> In light of the finality of the decision of the Court of Appeals, the defendant lost its right to invoke the pendency of the arbitration proceedings as part of its affirmative defenses. The defendant is therefore left with only one affirmative defense to the complaint of the plaintiff, and this is the right of retention given to an agent under Article 1912, 1913 and 1914 of the Civil Code.
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> This makes the issue to be resolved by this Court uncomplicated: 1) whether the plaintiff has the right to collect the amount of ₱36,440,351.79 from the defendant together with legal interest computed from September 1, 1999, attorney's fees and costs of suit; and 2) whether the defendant is justified in retaining the amounts and stocks in its possession by virtue of the aforementioned provisions of the Civil Code on agency.[3]

In its Decision dated January 21, 2011, the RTC ruled in favor of the petitioner, the dispositive portion of which reads as follows:

> WHEREFORE, premises considered, judgment is hereby rendered, granting the claim of the plaintiff and directing the defendant to pay the plaintiff the sum of:

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3 *Rollo*, pp. 95-98.

> (1) Thirty-Six Million Nine Hundred Forty-Three Thousand Eight Hundred Twenty-Nine Pesos and Thirteen Centavos (₱36,943,829.13) for the value of the stocks and the moneys received and retained by the defendant in its possession pursuant to the Agreement with legal interest computed at 6% per annum from July 19, 2001 up to the finality of this decision and at 12% per annum from finality of this decision up to the date of payment.
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> (2) Attorney's fees in the amount of One Million Five Hundred Thousand Pesos (₱1,500,000.00) and costs of suit amounting to Four Hundred Thirty-Nine Thousand Eight Hundred Forty Pesos (₱439,840.00).
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> SO ORDERED.[4]

After the respondent elevated the case to the CA, the latter court reversed and set aside the decision of the RTC and found in favor of the respondent in its Decision dated April 30, 2014, thus:

> WHEREFORE, the instant appeal is GRANTED. The assailed Decision dated January 21, 2011 of the Regional Trial Court of Makati City, Branch 148 is REVERSED and SET ASIDE. The instant complaint is DISMISSED.
>
> SO ORDERED.[5]

The CA ruled, among others, that the admission made by respondent in Exhibit "J," that it was withholding moneys, receivables and stocks respectively valued at ₱27,261,305.75, ₱8,767,656.26 and ₱1,155,000.00 from petitioner, has no evidentiary weight, thus, petitioner was not able to preponderantly establish its claim.

Hence, the present petition where petitioner states the following grounds:

> THE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW IN RENDERING ITS DECISION AS WELL AS IN DENYING BP OIL'S MOTION FOR RECONSIDERATION. SPECIFICALLY:
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> I
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> THE COURT OF APPEALS ERRED IN NOT RULING THAT TDLSI HAS MADE A JUDICIAL ADMISSION THAT IT HAS POSSESSION OF THE STOCKS, MONEYS AND RECEIVABLES THAT BP OIL SEEKS TO RECOVER IN THE COMPLAINT BELOW, CONSIDERING THAT:

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[4] *Id.* at 105.

[5] *Id.* at 75.

a. EXHIBIT "J' QUALIFIES AS AN ACTIONABLE DOCUMENT WHOSE AUTHENTICITY AND DUE EXECUTION WERE DEEMED ADMITTED BY TDLSI FOLLOWING ITS FAILURE TO SPECIFICALLY DENY THE SAME UNDER OATH IN ITS ANSWER.

b. REGARDLESS OF WHETHER EXHIBIT "J" MAY BE CONSIDERED AS AN ACTIONABLE DOCUMENT, THE FACT REMAINS THAT TDLSI HAD ACTUALLY ADMITTED PREPARING AND SENDING THE SAME TO BP OIL IN ITS ANSWER.

i. NO RESERVATION WAS EVER MADE BY TDLSI REGARDING THE AUTHENTICITY OF ITS CONTENTS AND NO WITNESS WAS EVER PRESENTED BY TDLSI TO DISOWN ITS DUE EXECUTION.

ii. ASIDE FROM BEING SELF-SERVING, THE ANSWER TO WRITTEN INTERROGATORIES GIVEN BY TDLSI'S MR. MIGUEL DE ASIS AND CITED IN THE DECISION AS A BASIS TO NEGATE TDLSI'S ADMISSION OF EXHIBIT "J" WAS NEVER OFFERED IN EVIDENCE. THE COURT OF APPEALS SHOULD NOT HAVE EVEN CONSIDERED THE SAME IN RENDERING ITS DECISION.

c. THE RIGHT OF RETENTION INVOKED BY TDLSI IN ITS ANSWER CARRIES WITH IT THE ADMISSION: (i) THAT BP OIL IS ENTITLED TO THE STOCKS, MONEYS AND RECEIVABLES SUBJECT OF THE COMPLAINT BELOW, AND (ii) THAT TDLSI IS WITHHOLDING THE SAME FROM BP OIL.

II

THE COURT OF APPEALS SERIOUSLY ERRED IN NOT RULING THAT WITH OR WITHOUT EXHIBIT "J," BP OIL HAS MET THE QUANTUM OF PROOF REQUIRED BY LAW TO PROVE ITS CLAIM.

a. CIVIL CASES ONLY REQUIRE A PREPONDERANCE OF EVIDENCE AND BP OIL HAS DISCHARGED ITS BURDEN OF MEETING THIS STANDARD OF PROOF.

b. THE REFUSAL OF THE COURT TO GIVE WEIGHT TO SOME OF THE PIECES OF EVIDENCE PRESENTED BY BP OIL HAS NO LEGAL BASIS.

c. THE DENIAL OF TDLSI'S DEMURRER TO EVIDENCE SHOWS THAT BP OIL HAS MADE OUT A

PRIMA FACIE CASE IN SUPPORT OF ITS CLAIMS AGAINST TDLSI AND TDLSI'S FAILURE TO CONTROVERT THIS PRIMA FACIE CASE JUSTIFIES A RULING IN FAVOR OF BP OIL.

According to petitioner, Exhibit "J" qualifies as an actionable document whose authenticity and due execution were deemed admitted by respondent or TDLSI following its failure to specifically deny the same under oath. Petitioner insists that it has met the quantum of proof required by law.

In its Comment dated March 24, 2015, respondent reiterates the ruling of the CA that Exhibit "J" is not an actionable document and cannot be considered a judicial admission on its part.

The petition is devoid of any merit.

The Rules of Court require that only questions of law should be raised in petitions filed under Rule 45.[6] This court is not a trier of facts. It will not entertain questions of fact as the factual findings of the appellate courts are "final, binding[,] or conclusive on the parties and upon this [c]ourt"[7] when supported by substantial evidence.[8] Factual findings of the appellate courts will not be reviewed nor disturbed on appeal to this court.[9]

This Court's Decision in *Cheesman v. Intermediate Appellate Court*[10] distinguished questions of law from questions of fact:

> As distinguished from a question of law – which exists "when the doubt or difference arises as to what the law is on a certain state of facts" – "there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts;" or when the "query necessarily invites calibration of the whole evidence considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabilities of the situation."[11]
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> Seeking recourse from this court through a petition for review on certiorari under Rule 45 bears significantly on the manner by which this

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[6] Sec. 1, Rule 45, Rules of Court.

[7] *Commissioner of Internal Revenue v. Embroidery and Garments Industries (Phil), Inc.*, 364 Phil. 541, 546 (1999) [Per J. Pardo, First Division].

[8] *Siasat v. Court of Appeals*, 425 Phil. 139, 145 (2002) [Per J. Pardo, First Division]; *Tabaco v. Court of. Appeals*, 239 Phil. 485, 490 (1994) [Per J. Bellosillo, First Division]; and *Padilla v. Court of Appeals*, 241 Phil. 776, 781 (1988) [Per J. Paras, Second Division].

[9] *Bank of the Philippine Islands v. Leobrera*, 461 Phil. 461, 469 (2003) [Per J. Ynares-Santiago, Special First Division].

[10] 271 Phil. 89 (1991) [Per J. Narvasa, Second Division].

[11] *Cheesman v. Intermediate Appellate Court, supra*, at 97-98.

> court shall treat findings of fact and evidentiary matters. As a general rule, it becomes improper for this court to consider factual issues: the findings of fact of the trial court, as affirmed on appeal by the Court of Appeals, are conclusive on this court. "The reason behind the rule is that [this] Court is not a trier of facts and it is not its duty to review, evaluate, and weigh the probative value of the evidence adduced before the lower courts."[12]

However, these rules do admit exceptions.[13] Over time, the exceptions to these rules have expanded. At present, there are 10 recognized exceptions that were first listed in *Medina v. Mayor Asistio, Jr.*:[14]

> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.[15]

A close reading of the present petition shows that what this Court is being asked to resolve is, what should prevail – the findings of facts of the RTC or the findings of facts of the CA on the alleged misapprehension of facts of the RTC. The findings of facts of both Courts are obviously conflicting, hence, the need for this Court to rule on the present petition.

On the issue of whether Exhibit "J" is an actionable document, the CA ruled:

> Here, plaintiff-appellee relies heavily on its Exhibit "J", defendant-appellant's purported letter dated April 30, 2001, which it alleged to be an "actionable document" which defendant-appellant failed to deny under oath. It does amounts to a judicial admission on the part of defendant-appellant that it has possession of its stocks, moneys and receivables belonging to plaintiff-appellee.
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12 *Frondarina v. Malazarte*, 539 Phil. 279, 290-291 (2006) [Per J. Velasco, Third Division].
13 *Remedios Pascual v. Benito Burgos, et al.*, G.R. No. 171722, January 11, 2016.
14 269 Phil. 225 (1990) [Per J. Bidin, Third Division].
15 *Medina v. Mayor Asistio, Jr., supra*, at 232.

Here, the purported April 30, 2001 letter is not an actionable document *per se*. The present complaint is an action for collection of sum of money arising from the termination of the Agency Agreement between the parties. Plaintiff-appellee's cause of action is primarily based on the alleged non-payment of outstanding debts of defendant-appellant as well as the unremitted collections/payments and unsold stocks, despite demand. In other words, plaintiff-appellee's cause of action is not based solely on the April 30, 2001 letter allegedly stating the "present value of stocks, collections and accounts receivables" of defendant-appellant. Clearly, said document is not an actionable document contemplated in Section 7, Rule 8 of the 1997 Rules of Court but is merely evidentiary in nature. As such, there was no need for defendant-appellant to deny its genuineness and due execution under oath. We thus cannot sustain plaintiff-appellee's contention that the aforesaid Exhibit "J" amounted to a judicial admission because it's due execution and authenticity was never denied under oath by defendant appellant.

Verily, an admission is any statement of fact made by a party against its interest or unfavorable to the conclusion for which he contends or is inconsistent with the facts alleged by him. To be admissible, an admission must (a) involve matters of fact, and not of law; (b) be categorical and definite; (c) be knowingly and voluntarily made; and (d) be adverse to the admitter's interests, otherwise it would be self-serving and inadmissible.

In this case, the alluded Exhibit "J" was introduced in evidence by plaintiff-appellee alleging in its Complaint that:

> "18. Under date of 30 April 2001, TDLSI wrote BP Oil a letter admitting that the following stocks, collections and accounts receivable were still in their possession as of even date:
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> | | |
> |---|---|
> | Amount collected against sales | ₱27,261,305.75 |
> | Accounts Receivable | 8,767,656.26 |
> | Estimated Value of Stocks | 1,155,000.00 |
>
> A copy of the 30 April 2001 letter of TDLSI is hereto attached as Annex "J" and made an integral part hereof."

In its Answer *Ad Cautelam* with Compulsory Counterclaim *Ad Cautelam*, defendant-appellant TDLSI averred, *viz.*:

> "17. Paragraph 18 is admitted, with qualification [that] TDLSI's letter dated 30 April 2001 was prepared and sent to BP Oil solely on the latter's representations that the figures were being sought only to negotiate a settlement of the parties' dispute and end the pending arbitration. Instead, in shocking bad faith, BP Oil refused to settle and made TDLSI's letter the basis of the instant Complaint."

Hence, while defendant-appellant admitted said Exhibit "J", it nevertheless qualified and limited said admission to, merely, the existence

thereof. In fact, in its Comment to Plaintiff's Exhibits, defendant clearly stated:

> "(9) EXH. "J" – only the existence of the letter sent by Defendant to Plaintiff dated April 30, 2001, signed by Miguel de Asis and addressed to Hok Lee Hau, is admitted. The contents as well as the factual basis thereof, are not admitted. Besides, the circumstances leading to the sending of this letter were thoroughly explained by Miguel de Asis in his answer to Plaintiff's written interrogatories."
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> x x x x

Evidently, the afore-quoted letter does not, in any way, categorically declare that the figures stated therein are "still in [the] possession of" or, in the hands of, defendant-appellant TDLSI. The "present value" of the accounts receivables, collections and stocks is one thing, the "value in possession or on hand" of said accounts is another.

Sans the above-discussed Exhibit "J", therefore, this Court is not convinced that plaintiff-appellee BP Oil was able to preponderantly establish its claim against defendant-appellant TDLSI in the amount of ₱36,440,351.79 for the value of the moneys, stock and accounts receivables which the latter allegedly refused to deliver to the former. As aptly argued by defendant-appellant TDLSI, the purported Acknowledgment Receipts and Delivery Receipts presented by plaintiff-appellee BP Oil the purpose of which is "to prove that TDLSI, through its General manager, Mr. Ivor Williams, acknowledged receipt and delivery of the stocks" are totally baseless since the same were never signed as having been "received by" said Mr. Ivor Williams. Hence, without the latter's signature, the purpose for which said documents were offered becomes nil.

The above findings of the CA are partially correct.

Exhibit "J" reads as follows:

Mr. Lau,

Some considerable time has passed since either party had the opportunity to review their respective position (sic) on the disagreement between us. It was pleasing to note that a discussion has now started between us again and you give the impression that a settlement is a better solution for both parties than to continue through the legal route.

The present value of stocks, collections and accounts receivable was requested. As of today, we can state the following:

Amount Collected against Sales	₱27,261,305.75
Accounts receivables	P8,767,656.26
Estimated Value of Stocks	P1,155,000.00

> Please note that the stock value is estimated because the drums are no longer sealable due to their condition. However, this is not significant in number.

To the mind of the Court, Exh. "J" is not an actionable document but is an evidence that may be admissible and; hence, need not be denied under oath. Sections 7 and 8 of the 1997 Rules of Court provide:

> Section 7. *Action or defense based on document.* – Whenever an action or defense is based upon a written instrument or document, the substance of such instrument or document shall be set forth in the pleading, and the original or a copy thereof shall be attached to the pleading as an exhibit, which shall be deemed to be a part of the pleading, or said copy may with like effect be set forth in the pleading.
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> Section 8. *How to contest such documents.* – 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 denied them, and sets forth what he claims to be the facts, but the requirement of an oath does not apply when the adverse party does not appear to be a party to the instrument or when compliance with an order for an inspection of the original instrument is refused.

A document, therefore, is actionable when an action or defense is grounded upon such written instrument or document. The complaint filed by petitioner is an action for collection of sum of money arising from the termination of the Agency Agreement with TDLSI. The CA, therefore, was correct when it stated that petitioner's cause of action is primarily based on the alleged non-payment of outstanding debts of respondent as well as the unremitted collections/payments and unsold stocks, despite demand. Thus, petitioner's cause of action is not based solely on the April 30, 2001 letter allegedly stating the "present value of stocks, collections and accounts receivables" of TDLSI. Noteworthy is the denial of respondent TDLSI's Demurrer to Evidence by the RTC because it clearly discussed petitioner's cause of action and the sufficiency of the evidence it presented, thus:

> Upon consideration of the pleadings and arguments filed by the parties, the Court is convinced to DENY the demurrer.
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> The record shows that the plaintiff presented sufficient evidence that will preponderantly establish its claim against the defendant. Among the evidence presented which might prove the claim or right to relief of the plaintiff against the defendant include (1) the purchase orders of TDLSI's third party customers; (2) original approved copies of the requests for approval sent by TDLSI to BP Oil from May 21, 1998 to August 14, 1999; (3) TDLSI invoices covering the products subject of the purchase orders and requests for approval; and (4) The sales invoices issued by BP Oil to TDLSI to its customers.

> **The aforesaid evidence presented was to the mind of the Court contain pertinent facts and such evidence will prove that the plaintiff has a cause of action against the defendant.** As correctly pointed out by the plaintiff, TDLSI cannot premise its demurrer on any supposed lack of proof of delivery by BP Oil of certain moneys and receivables. The allegations in the complaint, as well as the evidence presented by BP Oil, establish that generated as they were by the sales made by TDLSI, the moneys and receivables have always been in TDLSI's possession and it is the obligation of the latter to deliver them to BP Oil.
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> The Court is of the view that the better way to weigh and decide this case based on merits is for the defendant to present its own evidence to refute the plaintiff's allegations. It is better that the defendant be given a day in court to prove its defenses in a full-blown trial.
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> **The Court cannot just dismiss the case on the ground that upon the facts and law presented by the plaintiff it was not able to show a right to relief when in fact the evidence presented, testimonial and documentary, show otherwise and its claim appears to be meritorious.** To ensure that justice would be served and that the case be decided on its real merits upon a careful review and appreciation of facts and evidence presented it would be best that defendant should instead present its own defenses in a formal trial and not just to dismiss the case allegedly in the absence of clear proof that plaintiff has no right to the reliefs prayed for.
>
> Moreover, the Court noted that this case has been prolonged for so long and this Court can no longer allow any more delay to this case.
>
> WHEREFORE, premises considered, the Demurrer to Evidence is hereby DENIED for lack of merit.[16]

It is basic that whoever alleges a fact has the burden of proving it because a mere allegation is not evidence.[17] In civil cases, the burden of proof is on the party who would be defeated if no evidence is given on either side.[18] The RTC's denial of TDLSI's Demurrer to Evidence shows and proves that petitioner had indeed laid a *prima facie* case in support of its claim. Having been ruled that petitioner's claim is meritorious, the burden of proof, therefore, was shifted to TDLSI to controvert petitioner's *prima facie* case.

The CA, however, ruled that while TDLSI admitted Exhibit "J", it nevertheless qualified and limited said admission to, merely, the existence thereof, thus, without Exhibit "J" the same court was not convinced that petitioner was able to preponderantly establish its claim against TDLSI in the amount of ₱36,440,351.79 for the value of the moneys, stock and

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16 *Rollo*, pp. 206-207. (Emphasis supplied)

17 *Luxuria Homes, Inc. v. Court of Appeals,* G.R. No. 125986, January 28, 1999, 302 SCRA 315, 325; *Coronel v. Court of Appeals,* G.R. No. 103577, October 7, 1996, 263 SCRA 15, 35.

18 *Pacific Banking Corporation Employees Organization v. Court of Appeals*, G.R. No. 109373, March 27, 1998, 288 SCRA 197, 206.

accounts receivables which TDLSI allegedly refused to deliver to petitioner. This is erroneous. The fact is, TDLSI indeed admitted the existence of Exhibit "J." Thus, Exhibit "J" can be considered as an admission against interest. Admissions against interest are those made by a party to a litigation or by one in privity with or identified in legal interest with such party, and are admissible whether or not the declarant is available as a witness.[19] An admission against interest is the best evidence that affords the greatest certainty of the facts in dispute, based on the presumption that no man would declare anything against himself unless such declaration is true.[20] It is fair to presume that the declaration corresponds with the truth, and it is his fault if it does not.[21] No doubt, admissions against interest may be refuted by the declarant.[22] In this case, however, respondent failed to refute the contents of Exhibit "J."

Be that as it may, the qualification made by respondent in the admission of Exhibit "J" is immaterial as the contents thereof were merely corroborative of the other pieces of evidence presented by petitioner and that respondent failed in its defense, to present evidence to defeat the claim of petitioner. As aptly ruled by the RTC:

> After going over the allegations and the evidence presented by the parties, the Court finds as it did in its Order denying the Demurrer to Evidence of the defendant that the plaintiff presented sufficient evidence that will preponderantly establish its claim against the defendant. **The Court notes that apart from not presenting any evidence in support of its defense, the defendant did not really put up any serious defense to defeat the claim of the plaintiff, and its only remaining defense consisting of the right of retention given to agents under Articles 1912, 1913 and 1914 of the Civil Code, even if proven to exist, will not negate the finding that the plaintiff is entitled to the value of the moneys and stocks in the defendant's possession.**
>
> **To the mind of the court, the evidence presented by the plaintiff, unrebutted by any evidence on the part of the defendant and even aided by the admissions made by the defendant in its letter dated April 30, 2001 to the plaintiff (Exhibit "J"), proves that the plaintiff has a cause of action for the payment of the amount of Thirty-Six Million Nine Hundred Forty-Three Thousand Eight Hundred Twenty-Nine Pesos and Thirteen Centavos (₱36,943,829.13) for the value of the stocks and the moneys received and retained by the defendant in its possession pursuant to the Agreement with legal interest computed at 6% per annum from July 19, 2001, when formal demand (Exhibit "L") was made by the plaintiff for the liquidated**

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[19] *Alejandra S. Lazaro, et al. v. Modesta Agustin, et al.*, G.R. No. 152364, April 15, 2010, 618 SCRA 298, 308, citing *Unchuan v. Lozada*, G.R. No. 172671, April 16, 2009, 585 SCRA 421, 435.

[20] *Taghoy v. Tigol, Jr.*, G.R. No. 159665, August 3, 2010, 626 SCRA 341, 350, citing *Heirs of Miguel Franco v. Court of Appeals*, 463 Phil. 417, 425 (2003); *Yuliongsiu v. PNB*, 130 Phil. 575, 580 (1968); *Republic v. Bautista*, G.R. No. 169801, September 11, 2007, 532 SCRA 598, 609; and *Bon v. People*, 464 Phil. 125, 138 (2004).

[21] *Rufina Patis Factory v. Alusitain*, 478 Phil. 544, 558 (2004).

[22] *Id.*

> **amount of ₱36,943,829.13, up to the finality of this decision up to the date of payment thereof.**
>
> Considering that the plaintiff was compelled to engage in litigation for almost 10 years, it must also be indemnified for the costs of suit corresponding to filing fees in the amount of ₱429,840.00 and attorney's fees equivalent to ₱1,500,000.00.[23]

Section 1,[24] Rule 133 of the Rules of Court mandates that in civil cases, the party having the burden of proof must establish his case by a preponderance of evidence. By preponderance of evidence, according to *Raymundo v. Lunaria*,[25] [means] that the evidence as a whole adduced by one side is superior to that of the other. It refers to the weight, credit and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of evidence" or "greater weight of the credible evidence." It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.

Upon close analysis, therefore, this Court is inclined to believe the findings of the RTC that petitioner was able to prove its case by a preponderance of evidence and that respondent failed to disprove petitioner's claim. As such, the CA gravely erred in reversing the decision of the RTC.

A modification, however, must be made as to the rate of interest applied by the RTC. The RTC ordered the respondent to pay the amount adjudged "with legal interest computed at 6% *per annum* from July 19, 2001 up to the finality of the decision and at 12% *per annum* from finality of the decision up to the date of payment." Now, the interest imposed should be 12% *per annum* from July 19, 2001 until June 30, 2013 and 6% *per annum* from July 1, 2013 until full satisfaction per decision of this Court in *Secretary of the Department of Public Works and Highways, et al. v. Spouses Heracleo and Ramona Tecson*[26] which set forth the following guidelines:

> In summary, the interest rates applicable to loans and forbearance of money, in the absence of an express contract as to such rate of interest, for the period of 1940 to present are as follows:

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[23] *Id.* at 104-105. (Emphasis supplied)

[24] Section 1. *Preponderance of evidence, how determined.* – In civil cases, the party having burden of proof must establish his case by a preponderance of evidence. In determining where the preponderance or superior weight of evidence on the issues involved lies, the court may consider all the facts and circumstances of the case, the witnesses' manner of testifying, their intelligence, their means and opportunity of knowing the facts to which there are testifying, the nature of the facts to which they testify, the probability or improbability of their testimony, their interest or want of interest, and also their personal credibility so far as the same may legitimately appear upon the trial. The court may also consider the number of witnesses, though the preponderance is not necessarily with the greater number.

[25] G.R. No. 171036, October 17, 2008, 569 SCRA 526, 532.

[26] G.R. No. 179334, April 21, 2015 (Reso).

Law, Rule and Regulations, BSP Issuances	Date of Effectivity	Interest Rate
Act No. 2655	May 1, 1916	6%
CB Circular No. 416	July 29, 1974	12%
CB Circular No. 905	December 22, 1982	12%
CB Circular No. 799	July 1, 2013	6%

It is important to note, however, that interest shall be compounded at the time judicial demand is made pursuant to Article 2212[27] of the Civil Code of the Philippines, and sustained in *Eastern Shipping Lines v. Court of Appeals*,[28] then later on in *Nacar v. Gallery Frames*,[29] save for the reduction of interest rate to 6% for loans or forbearance of money, thus:

> 1. When the obligation is breached, and it consists in the payment of a sum of money, *i.e.*, a loan or forbearance of money, the interest due should be that which may have been stipulated in writing. Furthermore, the interest due shall itself earn legal interest from the time it is judicially demanded. In the absence of stipulation, the rate of interest shall be 6% per annum to be computed from default, *i.e.*, from judicial or extrajudicial demand under and subject to the provisions of Article 1169 of the Civil Code.[30]

WHEREFORE, the Petition for Review on *Certiorari* under Rule 45 of the Rules of Court dated November 10, 2014 of BP Oil and Chemicals International Philippines, Inc. is **GRANTED**. Consequently, the Decision dated April 30, 2014 of the Court of Appeals is **REVERSED** and **SET ASIDE** and the Decision dated January 21, 2011 of the Regional Trial Court, Branch 148, Makati City is **AFFIRMED** and **REINSTATED**, with the **MODIFICATION** that the interest imposed should be 12% *per annum* from July 19, 2001 until June 30, 2013 and 6% *per annum* from July 1, 2013 until fully paid.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

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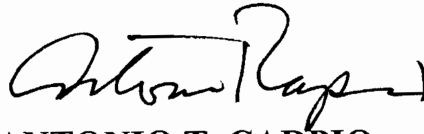
27 Art. 2212. Interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point.

28 G.R. No. 97412, July 12, 1994, 234 SCRA 78.

29 G.R. No. 189871, August 13, 2013, 703 SCRA 439.

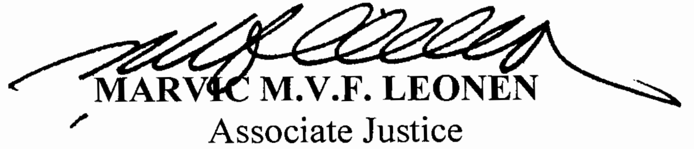
30 *Nacar v. Gallery Frames, supra,* at 457-458.

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson

JOSE CATRAL MENDOZA
Associate Justice

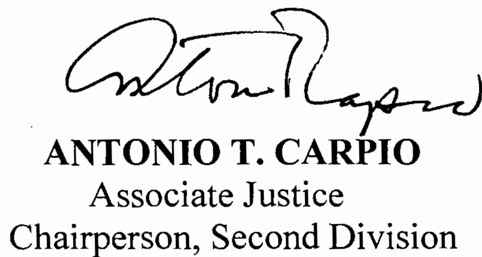


MARVIC M.V.F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ATTESTATION

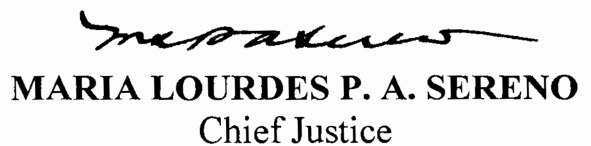
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice