

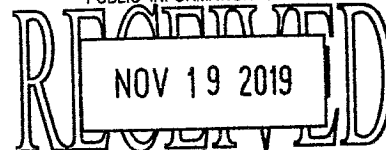


Mis D C Batt
MISAEEL DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

NOV 13 2019

Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



THIRD DIVISION

BY:
TIME:

TERP CONSTRUCTION G.R. No. 221771
CORPORATION,
Petitioner, Present:

-versus-

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,
HERNANDO,* and
INTING, J.

BANCO FILIPINO SAVINGS AND
MORTGAGE BANK,
Respondent.

Promulgated:
September 18, 2019

Mis D C Batt

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DECISION

LEONEN, J.:

A corporation's repeated payment of an allegedly unauthorized obligation contracted by one (1) of its officers effectively ratifies that corporate officer's allegedly unauthorized act.

This Court resolves a Petition for Review on Certiorari¹ assailing the Decision² and Resolution³ of the Court of Appeals, which reversed and set aside the Regional Trial Court Decision and ordered Terp Construction

* On Leave.

¹ Rollo, pp. 3-22.

² Id. at 27-41. The Decision dated October 16, 2014 was penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Vicente S.E. Veloso and Jane Aurora C. Lantion of the Tenth Division, Court of Appeals, Manila.

³ Id. at 24-25. The Resolution dated December 9, 2015 was penned by Associate Justice Nina G. Antonio-Valenzuela and concurred in by Associate Justices Jane Aurora C. Lantion and Amy C. Lazaro-Javier (now a member of this Court) of the Special Tenth Division, Court of Appeals, Manila.

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Corporation (Terp Construcion) to pay Banco Filipino Savings and Mortgage Bank (Banco Filipino) interest differentials of ₱18,104,431.33.

Sometime in 1995, Terp Construction planned to develop a housing project called the Margarita Eastville and a condominium called Margarita Plaza. To finance the projects, Terp Construction, Home Insurance Guaranty Corporation, and Planters Development Bank (Planters Bank) agreed to raise funds through the issuance of bonds worth ₱400 million called the Margarita Project Participation Certificates (Margarita Bonds).⁴

The three (3) companies entered into a Contract of Guaranty in which they agreed that Terp Construction would sell the Margarita Bonds and convey the funds generated into an asset pool named the Margarita Asset Pool Formation and Trust Agreement. Planters Bank, as trustee, would be the custodian of the assets in the asset pool with the corresponding obligation to pay the interests and redeem the bonds at maturity. Home Insurance Guaranty Corporation, as guarantor, would pay investors the value of the bond at maturity plus 8.5% interest per year.⁵

Banco Filipino purchased Margarita Bonds for ₱100 million. It asked for additional interest other than the guaranteed 8.5% per annum, based on the letters dated February 3, 1997 and April 8, 1997 written by Terp Construction Senior Vice President Alberto Escalona (Escalona).⁶

Terp Construction began constructing Margarita Eastville and Margarita Plaza. After the economic crisis in 1997, however, it suffered unrealized income and could not proceed with the construction.⁷

When the Margarita Bonds matured, the funds in the asset pool were insufficient to pay the bond holders. Pursuant to the Contract of Guaranty, Planters Bank conveyed the asset pool funds to Home Insurance Guaranty Corporation, which then paid Banco Filipino interest earnings of 8.5% per year. Banco Filipino, however, sent Terp Construction a demand letter dated January 31, 2001, alleging that it was entitled to a 15.5% interest on its investment and that as of July 1, 2001, it was entitled to a seven percent (7%) remaining unpaid interest of ₱18,104,431.33.⁸ Terp Construction refused to pay the demanded interest.⁹

Terp Construction filed a Complaint for declaration of nullity of interest, damages, and attorney's fees against Banco Filipino. It alleged that

⁴ Id. at 28.

⁵ Id.

⁶ Id. at 28 and 34.

⁷ Id. at 28-29.

⁸ Id.

⁹ Id. at 30.

it only agreed to pay the seven percent (7%) additional interest on the condition that all the asset pool funds would be released to Terp Construction for it to pay the additional interest. However, it could not have paid the additional interest since the funds of the asset pool were never released to it.¹⁰

Banco Filipino, on the other hand, alleged that it was induced into buying the Margarita Bonds after Terp Construction, through its senior vice president's letters, committed to pay 15.5% interest on a ₱50 million bond that Banco Filipino held for a client and 16.5% interest on a ₱50 million bond it held for another client. It alleged that Terp Construction paid the additional interest twice during the Margarita Bonds' holding period.¹¹

Banco Filipino claimed that in September 1998, after no payment of interest on the bonds had been made, Planters Bank called on the guaranty of Home Insurance Guaranty Corporation, which only paid 8.5% interest instead of the 15.5% and 16.5% interests that Terp Construction had committed to pay. Thus, it demanded the interest differentials, but to no avail.¹²

Banco Filipino further alleged that it investigated the cause of default and found that it was because Terp Construction was unable to finish the Margarita projects. It also found that despite raising ₱400 million from the bonds, only ₱39 million was actually used for the projects. It alleged that as of November 30, 2001, the unpaid interest differentials already amounted to ₱29,932,827.71.¹³

On May 29, 2010, the Regional Trial Court issued a Decision in favor of Terp Construction. It found that there was no evidence to show that Terp Construction was obligated to pay the interest differentials, and that the acts of Escalona, the senior vice president, were not binding on the corporation since they were not ratified.¹⁴

Banco Filipino appealed before the Court of Appeals, arguing, among others, that the two (2) letters sent by Escalona were sufficient evidence to prove that Terp Construction committed to pay the interest differentials.¹⁵

On October 16, 2014, the Court of Appeals rendered a Decision¹⁶ setting aside the Regional Trial Court Decision and ordering Terp

¹⁰ Id. at 28–29.

¹¹ Id. at 30–34.

¹² Id. at 31.

¹³ Id.

¹⁴ Id. at 33.

¹⁵ Id. at 34.

¹⁶ Id. at 27–41.

Construction to pay Banco Filipino interest differentials of ₱18,104,431.33.¹⁷

According to the Court of Appeals, both parties agreed that Terp Construction would pay Banco Filipino additional interest other than the guaranteed 8.5%. The only issue was Terp Construction's allegation that the payment of this additional interest was subject to a condition that the asset pool funds would be released to Terp Construction.¹⁸

The Court of Appeals, however, found that from the February 3, 1997 and April 8, 1997 letters of Terp Construction to Banco Filipino, the obligation to pay 16.5% and 15.5% interest was a pure obligation since the condition alleged was never mentioned.¹⁹

The Court of Appeals also found unmeritorious Terp Construction's defense that the letters were unauthorized acts of Escalona, its then senior vice president, since his acts were ratified when Terp Construction paid interest differentials twice to Banco Filipino during the Margarita Bonds' holding period.²⁰

Terp Construction filed a Motion for Reconsideration, but this was denied in a December 9, 2015 Resolution.²¹ Hence, this Petition²² was filed.

Petitioner submits that while a petition under Rule 45 of the Rules of Court is generally limited to questions of law, its case falls under one (1) of the recognized exceptions since the factual findings of the trial court and the Court of Appeals are conflicting.²³

Petitioner also argues that it was not liable for the payment of interest differentials since there was no written contract between the parties on any additional payment beyond the stipulated 8.5%.²⁴ It asserts that Escalona's acts as then senior vice president cannot bind the corporation since he was not authorized to make such commitments.²⁵ It also points out that its erroneous payment of additional interest over the agreed interest of 8.5% cannot be interpreted as a ratification of its senior vice president's acts

¹⁷ Id. at 40.

¹⁸ Id. at 36.

¹⁹ Id. at 36-37.

²⁰ Id. at 37-40.

²¹ Id. at 24-25.

²² Id. at 3-22. The Comment (*rollo*, pp. 76-87) was filed on May 2, 2016, while the Reply (*rollo*, pp. 95-106) was filed on August 16, 2017. The Philippine Deposit Insurance Corporation, as Banco Filipino's liquidator, filed the Comment on Banco Filipino's behalf.

²³ Id. at 7-8, Petition.

²⁴ Id. at 9-10.

²⁵ Id. at 14-15.

because it was never obligated itself to pay in the first place.²⁶

Respondent, on the other hand, counters that conflicting findings of fact between the trial court and the Court of Appeals do not automatically grant petitioner an exception to the general rule in Rule 45 of the Rules of Court.²⁷ It contends that there was overwhelming evidence that petitioner agreed to pay respondent interest differentials in view of the two (2) letters from Escalona.²⁸ It maintains that Escalona's acts as then senior vice president were subsequently ratified by the Board of Directors when petitioner paid respondent additional interests during the Margarita Bonds' term.²⁹

In rebuttal, petitioner insists that no agreement existed from the very beginning to pay these interest differentials since the two (2) letters of its then senior vice president were merely offers made in a contract's negotiation stage that was not perfected.³⁰ It maintains that respondent, as a bank accorded with a higher standard of diligence, cannot merely rely on the legal precept of apparent authority to prove the existence of a monetary obligation.³¹

This Court is asked to resolve the issue of whether or not the Court of Appeals erred in ruling that petitioner Terp Construction Corporation expressly agreed to be bound to respondent Banco Filipino Savings and Mortgage Bank for additional interest in the bonds it purchased.

Before resolving this issue, however, this Court must first pass upon the procedural issue of whether or not factual questions are proper in this case in view of the conflicting factual findings of the Regional Trial Court and the Court of Appeals.

The Petition is denied.

As a general rule, only questions of law may be brought in a petition for review on certiorari under Rule 45 of the Rules of Court.³² This Court will not disturb the factual findings of the lower courts if they are supported by substantial evidence.³³ There are, of course, recognized exceptions to this

²⁶ Id. at 15-16.

²⁷ Id. at 82-84, Comment.

²⁸ Id. at 79-80.

²⁹ Id. at 80-81.

³⁰ Id. at 96, Reply.

³¹ Id. at 100.

³² See RULES OF COURT, Rule 45, sec. 1.

³³ See *Pascual v. Burgos*, 776 Phil. 167 (2016) [Per J. Leonen; Second Division] citing *Commissioner of Internal Revenue v. Embroidery and Garments Industries (Phil.), Inc.*, 364 Phil. 541, 546 (1999) [Per J. Pardo, First Division]; *Siasat v. Court of Appeals*, 425 Phil. 189, 145 (2002) [Per J. Pardo, First Division]; *Tabaco v. Court of Appeals*, 239 Phil. 485, 490 (1994) [Per J. Bellosillo, First Division];

or agencies. "The authority of such individuals to bind the corporation is generally derived from law, corporate bylaws or authorization from the board, either expressly or impliedly by habit, custom or acquiescence in the general course of business[.]"⁴⁴

The authority of the board of directors to delegate its corporate powers may either be: (1) actual; or (2) apparent.⁴⁵

Actual authority may be express or implied. Express actual authority refers to the corporate powers expressly delegated by the board of directors. Implied actual authority, on the other hand, "can be measured by his or her prior acts which have been ratified by the corporation or whose benefits have been accepted by the corporation."⁴⁶

Petitioner's subsequent act of twice paying the additional interest Escalona committed to during the term of the Margarita Bonds is considered a ratification of Escalona's acts. Petitioner's only defense that they were "erroneous payment[s]"⁴⁷ since it never obligated itself from the start cannot stand. Corporations are bound by errors of their own making.

Escalona likewise had apparent authority to transact on behalf of petitioner. In *Yao Ka Sin Trading v. Court of Appeals*:⁴⁸

The rule is of course settled that "[a]lthough an officer or agent acts without, or in excess of, his actual authority if he acts within the scope of an apparent authority with which the corporation has clothed him by holding him out or permitting him to appear as having such authority, the corporation is bound thereby in favor of a person who deals with him in good faith in reliance on such apparent authority, as where an officer is allowed to exercise a particular authority with respect to the business, or a particular branch of its continuously and publicly, for a considerable time."⁴⁹

Apparent authority is ascertained through:

(1) the general manner by which the corporation holds out an officer or agent as having power to act or, in other words, the apparent authority with which it clothes him to act in general, or (2) the acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof,

⁴⁴ *People's Aircargo and Warehousing Company, Inc. v. Court of Appeals*, 357 Phil. 850, 863 (1998) [Per J. Panganiban, First Division].

⁴⁵ *Calubad v. Ricarcen Development Corporation*, G.R. No. 202364, August 30, 2017, 838 SCRA 303, 321 [Per J. Leonen, Third Division].

⁴⁶ *Id.*

⁴⁷ *Rollo*, p. 15.

⁴⁸ 285 Phil. 345 (1992) [Per J. Davide, Jr., Third Division].

⁴⁹ *Id.* at 367 citing 19 C.J.S. 458.


whether within or without the scope of his ordinary powers.⁵⁰ (Citation omitted)

Here, respondent relied on Escalona's apparent authority to promise interest payments over and above the guaranteed 8.5%, considering that Escalona was petitioner's then senior vice president. His apparent authority was further demonstrated by petitioner paying respondent what Escalona promised during the Margarita Bonds' term.

It should likewise be noted that at the time this Petition was filed, Escalona signed the Verification and Certification⁵¹ as the president of the corporation, signifying that petitioner did not consider his alleged unauthorized acts as fatal to his continued involvement in corporate affairs.


WHEREFORE, the Petition is **DENIED**. Petitioner Terp Construction Corporation is ordered to pay respondent Banco Filipino Savings and Mortgage Bank the amount of Eighteen Million One Hundred Four Thousand and Four Hundred Thirty-One Pesos and Thirty-Three Centavos (₱18,104,431.33) with legal interest of twelve percent (12%) to be computed from January 31, 2001 until June 30, 2013 and six percent (6%) from July 1, 2013 until its full satisfaction. The total amount payable shall likewise earn interest at the rate of six percent (6%) per annum from the finality of this Decision until its full satisfaction.⁵²

SO ORDERED.



MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:



DIOSDADO M. PERALTA
Associate Justice
Chairperson

⁵⁰ Id. citing FLETCHER, CYCLOPEDIA OF THE LAW OF PRIVATE CORPORATIONS, vol. 2 (Perm. Ed.), 1969 Revised Volume, 354.

⁵¹ *Rollo*, p. 18.

⁵² The legal interest originally imposed is modified in view of *Nacar v. Gallery Frames*, 716 Phil. 267 (2013) [Per J. Peralta, En Banc].

Reyes
ANDRES B. REYES, JR.
Associate Justice

(On Leave)
RAMON PAUL L. HERNANDO
Associate Justice

[Signature]
HENRI JEAN PAUL B. INTING
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.

[Signature]
DIOSDADO M. PERALTA
Associate Justice
Chairperson

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.

CERTIFIED TRUE COPY

Mis + DC B. H.
MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

[Signature]
ANTONIO T. CARPIO
Acting Chief Justice
(Per Special Order No. 2703)

NOV 13 2019