



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

**BANCO DE ORO UNIBANK,  
 INC. (now BDO UNIBANK,  
 INC.),**

**G.R. No. 212024**

Petitioner,

Present:

versus

PERLAS-BERNABE, J.,  
 Chairperson,

HERNANDO,  
 INTING,

DELOS SANTOS, and

BALTAZAR-PADILLA,\* JJ.

**EDGARDO C. YPIL, SR.,  
 CEBU SUREWAY TRADING  
 CORPORATION, AND  
 LEOPOLDO KHO,**

Promulgated:

Respondents.

12 OCT 2020

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**DECISION**

**HERNANDO, J.:**

This is a Petition for Review on *Certiorari*<sup>1</sup> under Rule 45 of the Rules of Court challenging the January 15, 2014 Decision<sup>2</sup> and the March 26, 2014 Resolution<sup>3</sup> of the Court of Appeals (CA) in CA-G.R. SP No. 06217, affirming the August 11, 2008<sup>4</sup> and May 20, 2011<sup>5</sup> Orders of the Regional Trial Court (RTC) of Cebu City, Branch 16, in Civil Case No. CEB-29462 which directed the petitioner, BDO Unibank, Inc. (Bank), to guarantee the availability of the garnished amount of ₱300,000.00 from the account of respondent Cebu Sureway Trading Corporation (CSTC), represented by its Executive Vice-President, respondent Leopoldo Kho (Kho).

\* On leave.

<sup>1</sup> *Rollo*, pp. 39-67.

<sup>2</sup> *Id.* at 13-24; penned by Associate Justice Gabriel T. Ingles and concurred in by Associate Justices Marilyn B. Lagura-Yap and Ma. Luisa C. Quijano-Padilla.

<sup>3</sup> *Id.* at 36-37.

<sup>4</sup> *Id.* at 143-147; penned by Judge Sylva G. Aguirre-Paderanga.

<sup>5</sup> *Id.* at 156.

### The Antecedents

On August 20, 2002, Kho, representing CSTC, offered a proposal to respondent Edgardo C. Ypil, Sr. (Ypil) to invest in the Prudentiallife Plan – Millionaires in Business scheme. Ypil acquiesced and Kho was able to solicit the total amount of ₱300,000.00 from him. Eventually, though, Ypil opted to get a refund of the amounts he paid and manifested such intent through a letter dated February 11, 2003. However, CSTC or Kho did not answer. Ypil likewise made several oral demands but to no avail. Subsequently, Ypil's lawyer sent a demand letter dated May 19, 2003 to Kho but it was never answered.<sup>6</sup>

Ypil thus filed a Complaint<sup>7</sup> for Specific Performance with Attachment, Damages and Attorney's fees against CSTC and Kho before the RTC of Cebu City which was docketed as Civil Case No. CEB-29462.<sup>8</sup> Ypil asked for the sum of ₱300,000.00 as principal payment plus interest of two percent (2%) per month and two percent (2%) collection fee compounded monthly, as well as damages and attorney's fees.<sup>9</sup>

In an Order<sup>10</sup> dated October 15, 2003, the RTC granted Ypil's prayer for the *ex-parte* issuance of an attachment order. Afterwards, the trial court issued a Writ of Preliminary Attachment<sup>11</sup> on October 29, 2003.

Relevantly, on February 4, 2004, Pascual M. Guaren, Sheriff IV (Sheriff Guaren) of the RTC of Cebu City, Branch 7, issued a Notice of Garnishment<sup>12</sup> of the amount of ₱300,000.00 plus lawful expenses from the accounts of CSTC and/or Kho addressed to the Manager and/or Cashier of the Bank's North Mandaue Branch. The Bank received the said notice on the same day. Yet, on February 10, 2004, the Bank, through its North Mandaue Branch Head Cyrus M. Polloso (Polloso), sent its Reply<sup>13</sup> to Sheriff Guaren informing him that CSTC and/or Kho have no available garnishable funds.

On March 5, 2004, Kho filed his Answer<sup>14</sup> to Ypil's Complaint.

During the scheduled pre-trial conference, the trial court noted that Polloso failed to appear. Consequently, the pre-trial conference was deferred to October 24, 2007. Additionally, in an Order<sup>15</sup> dated September 19, 2007, the RTC directed the issuance of subpoenas *duces tecum* and *ad testificandum* for Polloso to appear in court and to bring the documents related to the bank accounts of CSTC and Kho.

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<sup>6</sup> Id. at 113-115.

<sup>7</sup> Id. at 112-119.

<sup>8</sup> "Edgardo C. Ypil, Sr. v. Cebu Sureway Trading Corporation and Leopoldo Kho."

<sup>9</sup> *Rollo*, p. 118.

<sup>10</sup> Id. at 120.

<sup>11</sup> Id. at 121.

<sup>12</sup> Id. at 122.

<sup>13</sup> Id. at 123.

<sup>14</sup> Id. at 124-127.

<sup>15</sup> Id. at 128-129.

Nonetheless, Polloso still failed to appear on October 24, 2007. Hence, the trial court issued another Order<sup>16</sup> dated October 24, 2007 directing Polloso to show cause why he should not be cited for contempt. The trial court again directed the issuance of the subpoenas to Polloso for him to testify on November 28, 2007 and to bring the pertinent documents. On February 1, 2008, Polloso was finally called to testify.<sup>17</sup>

Notably, the RTC discovered that the Bank already debited from CSTC's savings and current accounts some amounts to offset its (CSTC's) outstanding obligation with the Bank under a loan agreement. In view of this, the trial court issued an Order<sup>18</sup> dated May 9, 2008 directing the Bank, through Polloso, to show cause why it should not be held guilty of indirect contempt for debiting the money from the accounts of CSTC and Kho which was under *custodia legis*.

The Bank filed its Compliance/Explanation<sup>19</sup> on June 16, 2008 as a forced intervenor to the trial court's May 9, 2008 Order. Essentially, it averred that since CSTC defaulted in its obligations to the Bank as embodied in a Credit Agreement<sup>20</sup> and Promissory Note No. 3660195103<sup>21</sup> dated October 13, 2003, its entire obligation immediately became due and demandable without need of demand or notice. In other words, it asserted that since the Bank and CSTC were creditors and debtors of each other, legal compensation already took effect.

CSTC and Kho then filed their Comment<sup>22</sup> stating that the provisions of the Promissory Note should not affect third parties and court processes such as garnishment. They alleged that the Bank resorted to legal compensation to frustrate the order of garnishment. Moreover, they averred that legal compensation cannot take effect because CSTC's loan was not yet due and demandable.<sup>23</sup> Subsequently, Ypil filed his Memorandum<sup>24</sup> insisting that the trial court acquired jurisdiction over the Bank which in turn became a forced intervenor upon receipt of the Notice of Garnishment. Withal, he posited that the subject deposit was brought into *custodia legis* which the Bank cannot debit in its favor.<sup>25</sup>

### **Ruling of the Regional Trial Court:**

The RTC issued an Order<sup>26</sup> dated August 11, 2008 absolving Polloso

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<sup>16</sup> Id. at 130.

<sup>17</sup> Id. at 15.

<sup>18</sup> Id. at 131.

<sup>19</sup> Id. at 132-136.

<sup>20</sup> This was not attached in the records but mentioned in the instant Petition for Review on *Certiorari*; *rollo*, p. 54.

<sup>21</sup> *Rollo*, pp. 179-180.

<sup>22</sup> *CA rollo*, pp. 56-58.

<sup>23</sup> Id. at 56-57.

<sup>24</sup> *Rollo*, pp. 137-142.

<sup>25</sup> Id. at 139-141.

<sup>26</sup> Id. at 143-147.

from the charge of indirect contempt but ordering the Bank's North Mandaue Branch to make available the garnished deposits of CSTC and Kho pursuant to the Notice of Garnishment. It ruled that "[t]he bank, cannot, however, unilaterally debit the defendants' [CSTC and Kho] accounts which are already in *custodia legis*, even assuming for argument[']s sake that legal compensation ensued *ipso jure*. If the bank has any claims against the defendants [CSTC and Kho], it must file the proper pleading for intervention to protect whatever it claims to be its rights to include the right of legal compensation."<sup>27</sup> The dispositive portion of the said Order reads:

WHEREFORE, in view of the foregoing, this court absolves, as he is hereby absolved, Mr. Poloso from the charge of indirect contempt against this Court, but orders, as it is hereby ordered, Banco de Oro, North Mandaue Branch to make available the garnished amount in Exhibit "N" to be held by it for the court by virtue of the writ of garnishment to secure whatever amounts that this Court may award against herein defendants [CSTC and Kho].

x x x x

SO ORDERED.<sup>28</sup>

The Bank filed a Partial Motion for Reconsideration<sup>29</sup> insisting that legal compensation took place *ipso jure* and retroacted to the date when all the requisites were fulfilled. Kho also filed a Comment.<sup>30</sup> However, the trial court denied the Bank's motion for consideration in its Order<sup>31</sup> dated May 20, 2011. Thus, the Bank filed a Petition for *Certiorari*<sup>32</sup> with application for issuance of Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction before the CA.

Meanwhile, the RTC rendered a Judgment Based on Compromise Agreement<sup>33</sup> dated November 23, 2012. Apparently, Ypil and Kho submitted a Compromise Agreement<sup>34</sup> wherein Kho, in behalf of CSTC, agreed to pay the garnished amount of ₱300,000.00 as full and final settlement of CSTC's obligation, given that the said amount is more or less the same amount it owes Ypil. Moreover, Ypil and Kho agreed to waive any other claims and counterclaims in the specific performance case. Withal, the trial court, after finding that the Compromise Agreement did not appear to be contrary to any law, morals, good customs, public policy or public order, ordered the Bank to tender the garnished amount of ₱300,000.00 to Ypil.

Aggrieved, the Bank filed a Manifestation<sup>35</sup> dated January 30, 2013 before the RTC stating that the garnished amount is the subject of its pending

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<sup>27</sup> Id. at 146.

<sup>28</sup> Id. at 147.

<sup>29</sup> Id. at 148-152.

<sup>30</sup> Id. at 153-155.

<sup>31</sup> Id. at 156.

<sup>32</sup> Id. at 157-177.

<sup>33</sup> Id. at 186-188.

<sup>34</sup> This was not attached in the records but was quoted in the Judgment Based on Compromise Agreement.

<sup>35</sup> *Rollo*, pp. 189-193.

*certiorari* petition with the CA. As such, it requested the trial court to suspend any attempt to implement the Judgment Based on Compromise Agreement insofar as the garnished amount is concerned, at least until the CA resolves its *certiorari* petition.

Nevertheless, considering that the CA did not issue any injunctive order, the RTC issued an Order<sup>36</sup> dated March 12, 2013 denying the Bank's prayer for the suspension of the execution of the assailed Order dated August 11, 2008 which directed the Bank to make available the garnished amount of ₱300,000.00.

Subsequently, in a Resolution<sup>37</sup> dated May 6, 2013, the CA denied the Bank's application for a writ of injunction.

In its *certiorari* petition, the Bank contended that when the Notice of Garnishment was served upon it on February 4, 2004, CSTC had existing obligations with the Bank amounting to ₱3,823,000.00 which was in excess of its (CSTC's) deposit balance in the amount of ₱294,436.68. It argued that since CSTC's obligation with the Bank became due and demandable even before the Notice of Garnishment was served upon it, there could not have been any amount which could be garnished from CSTC's accounts.<sup>38</sup> This is because legal compensation took place by operation of law in accordance with Article 1279 of the Civil Code as apparently, CSTC defaulted in its monthly amortizations. As a consequence, CSTC's entire obligation with the Bank immediately became due and demandable even without demand pursuant to the stipulations in the Promissory Note.<sup>39</sup> Withal, the Bank claimed that the RTC committed grave abuse of discretion because it failed to affirm that the Bank correctly applied legal compensation.<sup>40</sup>

Conversely, Ypil contended that the RTC did not commit grave abuse of discretion. He maintained that when the Complaint was filed and when the Notice of Garnishment was served, CSTC and Kho had sufficient funds in their existing accounts with the Bank. He posited that the amounts in the savings and checking accounts of CSTC were immediately put under *custodia legis* and that the Bank cannot automatically and unilaterally debit the money in its favor especially after service of the Notice of Garnishment. He opined that according to Section 7(d), Rule 57 of the Rules of Court, the trial court which issued the Notice of Garnishment already acquired jurisdiction over the Bank, which in turn became a forced intervenor immediately upon service and receipt of the said notice.<sup>41</sup>

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<sup>36</sup> Id. at 197-199.

<sup>37</sup> Id. at 210-211.

<sup>38</sup> Id. at 80-81, 126.

<sup>39</sup> Id. at 81.

<sup>40</sup> Id. at 80-81, 130-132.

<sup>41</sup> Id. at 81-82, 114-115.

### The Ruling of the Court of Appeals:

The CA, in its assailed January 15, 2014 Decision,<sup>42</sup> declared that the RTC did not commit grave abuse of discretion when it issued the assailed Orders as it correctly held that the service of the Notice of Garnishment upon the Bank on February 4, 2004 effectively placed CSTC's deposits under *custodia legis*, notwithstanding the debiting of CSTC's accounts by the Bank on February 10, 2004.<sup>43</sup>

Moreover, the CA ruled that legal compensation takes place when two persons, in their own right, are debtors and creditors of each other. On one hand, CSTC is a depositor of the Bank in the amount of ₱301,838.27. On the other hand, CSTC owes the Bank purportedly in the amount of ₱3,823,000.00. Simply put, CSTC and the Bank are, in their own right, creditors and debtors of each other.<sup>44</sup> However, the appellate court found that not all the elements of legal compensation pursuant to Article 1279 of the Civil Code are present in this case. This is because notwithstanding CSTC's indebtedness to the Bank, there is no proof as to when the obligation became due, liquidated and demandable. While the Bank relied on the Promissory Note executed by CSTC in its favor, it (Bank) however failed to prove the exact date of the default which supposedly rendered CSTC's obligations due and demandable.<sup>45</sup> The CA additionally noted the following:

1. That the writ of garnishment was duly served on the petitioner bank on February 4, 2004;
2. That the bank debited the respondent corporation's [CSTC's] account as a legal set-off and compensation against their outstanding obligations with the bank on February 10, 2004;
3. That the petitioner bank, through its branch manager, Cyrus Poloso, sent a reply letter dated February 10, 2003 [2004] to Sheriff Pascual M. Guaren informing the latter that respondent corporation [CSTC] had no garnishable funds with petitioner bank.<sup>46</sup>

Significantly, the CA found that the Bank debited CSTC's account only on February 10, 2004 or six days after the Notice of Garnishment.<sup>47</sup> It added that the Bank conveniently failed to mention that there was a stipulation in the Promissory Note giving it the option to offset or not to offset the deposits of CSTC. The fact that CSTC had ₱301,838.27 in its savings and checking accounts when the Notice of Garnishment was served showed that the Bank had not yet opted to offset CSTC's deposits to pay for its obligations.<sup>48</sup> The appellate court explained that:

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<sup>42</sup> Id. at 13-24.

<sup>43</sup> Id. at 87.

<sup>44</sup> Id. at 83.

<sup>45</sup> Id. at 83-84.

<sup>46</sup> Id. at 84-85.

<sup>47</sup> Id. at 85.

<sup>48</sup> Id. at 86.

[b]y the time the petitioner [Bank] received the Notice of Garnishment on February 4, 2004, the petitioner bank's belated reliance on the retroactive effect of legal compensation necessarily failed because the service of said Notice of Garnishment had effectively put petitioner [Bank] on notice regarding the existing controversy commenced by respondent Edgardo C. Ypil, Sr., a third person, against the respondent corporation [CSTC]. Consequently, legal compensation could no longer take place since the fifth requisite<sup>49</sup> under Article 1279 of the Civil Code could no longer be complied with xxx<sup>50</sup>

Hence, the CA declared that the Bank became a forced intervenor in Civil Case No. CEB-29462 (the specific performance case) after the service of the Notice of Garnishment upon it on February 4, 2004.<sup>51</sup> The dispositive portion of the CA's assailed Decision reads:

**WHEREFORE**, foregoing premises considered, and after finding no grave abuse of discretion amounting to lack or excess of jurisdiction in the issuance of the Orders dated August 11, 2008 and May 20, 2011 in Civil Case No. CEB-29462 pending before the Regional Trial Court of Cebu City Branch 16, the petition is hereby **DISMISSED** for lack of merit. Let the records of this case be removed from the docket of this Court.

**SO ORDERED.**<sup>52</sup>

The Bank filed a motion for reconsideration<sup>53</sup> which the CA denied in a Resolution<sup>54</sup> dated March 26, 2014. Discontented, the Bank filed a Petition for Review on *Certiorari*<sup>55</sup> before the Court and raised the following issues:

**Issues:**

**A.**

**THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR IN NOT HOLDING THAT THE DISPUTED DEPOSIT IN THIS CASE HAD BEEN THE SUBJECT OF LEGAL COMPENSATION PRIOR TO THE SERVICE OF THE NOTICE OF GARNISHMENT TO PETITIONER [BANK] AND THAT SUCH SERVICE OF THE NOTICE, THEREFORE, DID NOT PUT THE SAID DEPOSIT IN *CUSTODIA LEGIS*.**

**B.**

**THE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERROR IN NOT HOLDING THAT RESPONDENTS ARE IN BAD FAITH IN MAKING THE SUBJECT DEPOSIT A PART OF THEIR COMPROMISE AGREEMENT, THUS LEADING TO ITS ERRONEOUS INCLUSION IN THE TRIAL COURT'S JUDGMENT**

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<sup>49</sup> (5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor.

<sup>50</sup> *Rollo*, p. 86.

<sup>51</sup> *Id.* at 87.

<sup>52</sup> *Id.* at 88.

<sup>53</sup> *Id.* at 25-32.

<sup>54</sup> *Id.* at 36-37.

<sup>55</sup> *Id.* at 39-67.

**BASED ON COMPROMISE AGREEMENT.<sup>56</sup>**

Thus, the pivotal issue in this case is whether or not legal compensation took place *ipso jure* as between the Bank and CSTC when CSTC defaulted in its obligations to the Bank.

**Our Ruling**

The Petition is unmeritorious.

The Bank insists that all the requisites of legal compensation under Article 1279 of the Civil Code are present in this case. It highlights that the Promissory Note stipulated that in the event of default, CSTC's remaining obligations with the Bank will immediately become due and payable even without a demand notice. It points out that CSTC had already defaulted on its obligations under the Promissory when the Notice of Garnishment was served to the Bank.<sup>57</sup> Hence, the Bank asserts that it acted correctly when it formally debited CSTC's deposit to reflect the legal compensation which automatically took place even prior to the service of the Notice of Garnishment on February 4, 2004.<sup>58</sup> Moreover, the Bank contends that since legal compensation occurs by operation of law, the deposits could not have been the proper subject of the Notice of Garnishment and could not be placed in *custodia legis*.<sup>59</sup>

Additionally, the Bank argues that the respondents acted in bad faith when they included the subject deposit a part of their Compromise Agreement which in turn became the trial court's basis in issuing the Judgment Based on Compromise Agreement. Respondents knew that the Bank has a valid claim on the deposit in view of the automatic application of legal compensation and that the ownership of the said deposit was under dispute.<sup>60</sup>

Ypil counters that the Bank unilaterally withdrew ₱301,838.27 from CSTC's account six days after the Notice of Garnishment was served upon it<sup>61</sup> and that it (Bank) failed to provide the exact date when CSTC allegedly defaulted on its obligation to pay the Bank.<sup>62</sup>

For its part, CSTC avers that when the Notice of Garnishment was served upon the Bank on February 4, 2004, it has an existing deposit since its checking account has not yet been closed by the Bank. It alleges that on February 10, 2004, the Bank belatedly informed the trial court that there was no available garnishable amount. Thus, it can be inferred that on or before February 4, 2004, the Bank did not initiate the application of legal compensation and only invoked this option after receipt of the Notice of

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<sup>56</sup> Id. at 52.

<sup>57</sup> Id. at 54-58.

<sup>58</sup> Id. at 58-59.

<sup>59</sup> Id. at 59-60.

<sup>60</sup> Id. at 61-63.

<sup>61</sup> Id. at 232.

<sup>62</sup> Id. at 236.

Garnishment. CSTC additionally asserts that the Bank did not present any document to prove the date when CSTC's loan obligation became due and demandable. Furthermore, when the Notice of Garnishment was served, it placed the Bank on notice regarding the case filed by Ypil against CSTC. Lastly, it contends that the Compromise Agreement was valid and approved by the trial court and that there was no bad faith in entering into the said contract.<sup>63</sup>

The Bank reiterates that prior to the service of the Notice of Garnishment upon it, CSTC had already defaulted on its obligation pursuant to the provisions of the Promissory Note. Withal, it properly debited CSTC's deposit to reflect the legal compensation that took place by operation of law.<sup>64</sup> Moreover, it maintains that even without notice or any positive act on its part, legal compensation occurred anyway. It likewise insists that the respondents were in bad faith when they made the subject deposit a part of their Compromise Agreement.<sup>65</sup>

It is settled that "[c]ompensation is a mode of extinguishing to the concurrent amount the debts of persons who in their own right are creditors and debtors of each other."<sup>66</sup> The object of compensation is the prevention of unnecessary suits and payments thru the mutual extinction by operation of law of concurring debts."<sup>67</sup> The said mode of payment is encapsulated in Article 1279 of the Civil Code, *viz.*:

ARTICLE 1279. In order that compensation may be proper, it is necessary:

- (1) That each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other;
- (2) That both debts consist in a sum of money, or if the things due are consumable, they be of the same kind, and also of the same quality if the latter has been stated;
- (3) That the two debts be due;
- (4) That they be liquidated and demandable;
- (5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor.

In relation to this, Article 1290 of the Civil Code states that "[w]hen all the requisites mentioned in Article 1279 are present, compensation takes effect by operation of law, and extinguishes both debts to the concurrent amount, even though the creditors and debtors are not aware of the compensation." Relevantly, this is the Bank's main contention.

Before proceeding to a further discussion on the main issue, the Court affirms the findings and conclusions of the CA which are supported by the

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<sup>63</sup> Id. at 265-267.

<sup>64</sup> Id. at 249-250, 297.

<sup>65</sup> Id. at 302.

<sup>66</sup> *Nadela v. Engineering and Construction Corp. of Asia*, 510 Phil. 653, 666 (2005) citing *PNB MADECOR v. Uj*, 415 Phil. 348 (2001) and CIVIL CODE, Art. 1278.

<sup>67</sup> Id., citing *Compania General de Tabacos v. French and Unson*, 39 Phil. 34 (1918).

evidence on record. Accordingly, We need not interfere with the same. To stress, “[f]actual findings of the CA, especially if they coincide with those of the RTC, as in the instant case, is generally binding on us. In a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, as amended, this Court, may not review the findings of facts all over again. It must be stressed that this Court is not a trier of facts, and it is not its function to re-examine and weigh anew the respective evidence of the parties. The jurisprudential doctrine that findings of the Court of Appeals are conclusive on the parties and carry even more weight when these coincide with the factual findings of the trial court, must remain undisturbed, unless the factual findings are not supported by the evidence on record.”<sup>68</sup>

In any case, guided by the conditions stated in Article 1279 of the Civil Code and to supplement the findings of the CA, We reiterate that there is no dispute that the Bank and CSTC are both creditors and debtors of each other. Moreover, the debts consist in or involve a sum of money, particularly CSTC’s loan and its deposit with the Bank. Notably, the Bank argues that CSTC’s debts became due given that it defaulted in its loan obligations even without need of demand pursuant to the Promissory Note. Neither CSTC nor Kho categorically refuted that CSTC indeed defaulted.

However, similar to the CA’s ruling, the flaw in the Bank’s argument is its failure to specify the date when CSTC actually defaulted in its obligation or particularly pinpoint which installment it failed to pay. The Bank merely revealed that CSTC owed it the amount of ₱3,823,000.00 without presenting a detailed computation or proof thereof except for the Promissory Note. Although CSTC and Kho did not question the computation made by the Bank, the fact remains that the actual date of default was not disclosed and verified with corroborating preponderant proof.<sup>69</sup> The Bank only stated that CSTC has not been paying its monthly obligations prior to February 4, 2004 which is not particular enough, even if the Promissory Note indicates that CSTC’s obligation will immediately become due after default and without need of notice.<sup>70</sup>

Thus, CSTC’s indebtedness cannot be considered as due and liquidated. It should be emphasized that “[a] claim is liquidated when the amount and time of payment is fixed. If acknowledged by the debtor, although not in writing, the claim must be treated as liquidated.”<sup>71</sup> In this case, the time of default and the amount due were not specific and particular. Without this information, a simple arithmetic computation cannot possibly be done without risking errors especially with regard to the application of interest and penalties. Similarly, despite CSTC’s failure to contest the Bank’s computation,

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<sup>68</sup> *Cortez v. Cortez*, G.R. No. 224638, April 10, 2019 citing *Villanueva v. Court of Appeals*, 536 Phil. 404, 408 (2006) and *Valdez v. Reyes*, 530 Phil. 605, 608 (2006).

<sup>69</sup> RULES OF COURT, Rule 133, § 1.

<sup>70</sup> *Rollo*, p. 46.

<sup>71</sup> *Lao v. Special Plans, Inc.*, 636 Phil. 28, 37 (2010) citing *Sentence Spanish Supr. Trib. March 21, 1898*, 83 Jur. Civ. 679, *Ogden v. Cain*, 5 La. Ann. 160; *Reynaud v. His Creditors*, 4 Rob. (La.) 514.

its debt still cannot be considered as liquidated. Further confirmation is necessary in order to treat CSTC's debt as due, demandable and liquidated, which the Bank unfortunately did not bother to elaborate on.

As regards respondents' claim that there exists a controversy commenced by a third person thereby negating legal compensation from taking place, the Bank insists that this did not bar the legal compensation from taking place by operation of law since CSTC's default happened even before it was served the Notice of Garnishment. Again, CSTC and Kho did not challenge this allegation. Nonetheless, given our finding that CSTC's debt cannot be considered as due and liquidated, thereby legal compensation did not take place by operation of law, it follows that the Notice of Garnishment served as proof of an existing controversy commenced by a third person, particularly Ypil, which likewise negated the application of legal compensation.

It is the Bank's position that "[l]egal compensation operates even against the will of the interested parties and *even without the consent of them*. Since this compensation takes place *ipso jure*, its effects arise on the very day on which all its requisites concur. When used as a defense, it retroacts to the date when its requisites are fulfilled."<sup>72</sup> There is no debate about the effects of legal compensation when applicable. However, as already discussed, the Court finds that CSTC's debt was not due and liquidated properly, and that there is an existing controversy involving CSTC's funds with the Bank. Stated differently, the subject of the Notice of Garnishment is likewise the object of the existing controversy.

The Bank should take note that "[g]arnishment has been defined as a specie of attachment for reaching credits belonging to the judgment debtor and owing to him from a stranger to the litigation. A writ of attachment is substantially a writ of execution except that it emanates at the beginning, instead of at the termination, of a suit. It places the attached properties in *custodia legis*, obtaining *pendente lite* a lien until the judgment of the proper tribunal on the plaintiff's claim is established, when the lien becomes effective as of the date of the levy."<sup>73</sup>

Hence, after service and receipt of the Notice of Garnishment, contrary to the Bank's view, the deposits of CSTC were placed under *custodia legis*, under the sole control of the trial court and remained subject to its orders "until such time that the garnishment is discharged, or the judgment in favor of [Ypil] is satisfied or the credit or deposit is delivered to the proper officer of

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<sup>72</sup> *Bank of the Philippine Islands v. Court of Appeals*, 325 Phil. 930 (1996) citing Padilla, Ambrosio, Civil Law, Civil Code Annotated, Vol. IV, 1987 ed., pp. 612-613; Tolentino, Arturo M., Commentaries and Jurisprudence on the Civil Code of the Philippines, Vol. IV, 1991 ed., p. 379; *Republic v. CA*, 160 Phil. 192 (1975).

<sup>73</sup> *Bank of the Philippine Islands v. Lee*, 692 Phil. 311, 323 (2012), citing *National Power Corporation v. Philippine Commercial and Industrial Bank*, 614 Phil. 506 (2009); *Santos v. Aquino, Jr.*, 282 Phil. 134 (1992).

the court.”<sup>74</sup> In the case at bench, the RTC already issued a Judgment Based on Compromise Agreement which ordered the Bank to tender the garnished amount of ₱300,000.00 to Ypil, effectively discharging the said amount from the effects of garnishment.

On a related note, there is no dispute that Kho, in behalf of CSTC, and Ypil entered into a Compromise Agreement which the trial court approved through a Judgment Based on Compromise Agreement. The Bank claims that the agreement was tainted with bad faith due to the existing contest regarding the garnished funds. We do not agree. The funds were validly garnished through an order of the trial court with competent jurisdiction. More importantly, no legal compensation took place which could have rendered CSTC’s deposits unavailable for garnishment. If, as the Bank claims, CSTC’s deposits amounted to only ₱294,436.68 and not ₱300,000.00<sup>75</sup> as provided in the Compromise Agreement, then such is a matter which Ypil has to settle with CSTC and Kho, and necessarily, the Bank. Nonetheless, this should likewise be considered in view of Ypil’s assertion that on the day the Notice of Garnishment was served upon the Bank, CSTC had a deposit of more than ₱300,000.00 (based on bank records marked as exhibits) which was more than enough to cover the subject amount of the garnishment.<sup>76</sup>

As a final reminder, jurisprudence states that “the diligence required of banks is more than that of a good father of a family.”<sup>77</sup> Banks are required to exercise the highest degree of diligence in its banking transactions.”<sup>78</sup> In view of this, BDO Unibank, Inc. should recognize that it should be diligent and circumspect in its dealings with its clients, especially with regard to transactions that involve loans and credits. If only it had properly monitored the accounts of its clients, BDO Unibank, Inc. would not have been remiss in assuring that CSTC fulfills its end of the loan or even in exercising its option to offset the company’s deposits with that of its outstanding obligations in order to protect the Bank’s interests. Unfortunately, it has to face the consequences of its inattention to detail.

**WHEREFORE**, the Petition for Review is **DENIED**. The assailed January 15, 2014 Decision and the March 26, 2014 Resolution of the Court of Appeals in CA-G.R. SP No. 06217 are **AFFIRMED**.

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<sup>74</sup> *Id.* citing the RULES OF COURT, Rule 57, § 8.

<sup>75</sup> *Rollo*, p. 63.

<sup>76</sup> *Id.* at 138.

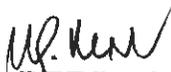
<sup>77</sup> *Bank of the Philippine Islands v. Spouses Quiaoit*, G.R. No. 199562, January 16, 2019 citing *Philippine National Bank v. Spouses Cheah*, 686 Phil. 760 (2012).

<sup>78</sup> *Id.*

**SO ORDERED.**

  
**RAMON PAUL L. HERNANDO**  
Associate Justice

WE CONCUR:

  
**ESTELA M. PERLAS-BERNABE**  
Senior Associate Justice  
Chairperson

  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

On leave.  
**PRISCILLA J. BALTAZAR-PADILLA**  
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.

  
**ESTELA M. PERLAS-BERNABE**  
Senior 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.

  
**DIOSDADO M. PERALTA**  
Chief Justice