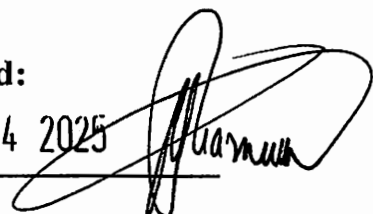


SECOND DIVISION

G.R. No. 271304 (UNIFIED FINANCING CORPORATION, Petitioner, v. SPOUSES JUAN and ESTELITA TOLENTINO and SPOUSES JAMES and LIWAYWAY TOLENTINO, Respondent).

Promulgated:

FEB 24 2025



X-----X

DISSENT

I respectfully disagree with the *ponencia*, which held respondents Spouses James and Liwayway G. Tolentino (Spouses Liwayway) liable to petitioner Unified Financing Corporation (UFC) in the total amount of PHP 6,231,755.35 representing the principal amount of their loan plus interest computed from the loans' respective maturity dates.

Spouses James and Liwayway obtained two loans from respondent Juan Tolentino (Juan) for which the former executed two promissory notes: *first*, in the amount of PHP 970,184.00 dated August 25, 2003 with a maturity date of February 20, 2004 and an interest rate of 25% per annum; and *second*, in the amount of PHP 1,082,340.00 dated October 27, 2003 with a maturity date of April 24, 2004 and an interest rate of 25% per annum.¹

Subsequently, Juan assigned the loans to UFC through Assignment Contracts with Warranty of Soundness. After making partial payments of PHP 200,000.00, spouses James and Liwayway defaulted. As such, UFC filed a complaint for sum of money against spouses Juan and Estelita Tolentino (spouses Juan and Estelita) and spouses James and Liwayway.² Both the trial court and Court of Appeals, however, uniformly dismissed UFC's complaint for failure to prove its cause of action by preponderance of evidence. Particularly, UFC's failure to submit the original copies of the promissory notes and assignment contracts was considered fatal to its case.³

The Majority reversed, holding that the promissory notes and assignment contracts have been brought beyond the ambit of the Original Document Rule given that their genuineness and due execution were not

¹ *Ponencia*, pp. 1-2.

² *Id.* at 2.

³ *Id.* at 3-4.



specifically denied under oath by Spouses James and Liwayway and Spouses Juan and Estelita in their respective answers. Having been deemed admitted under Rule 8, Section 8 of the Revised Rules of Court, Spouses James and Liwayway's obligation to UFC has not been duly established.⁴

I respectfully diverge and submit that Spouses James and Liwayway and Spouses Juan and Estelita substantially complied with Rule 8, Section 8 of the Revised Rules of Court and sufficiently refuted the genuineness and due execution of the subject documents.

Rule 8, Section 8 of the Revised Rules of Court reads:

Section 8. *How to contest such documents.* – When an action or defense is founded upon a written instrument, or attached to the corresponding pleadings 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 or she 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.

To deny the genuineness and due execution of an actionable document: (1) there must be specific denial in the responsive pleading of the adverse party; (2) the said pleading must be under oath; and (3) the adverse party must set forth what he or she claims to be the facts. Failure to comply with the prescribed procedure results in the admission of the genuineness and due execution of the actionable document.⁵

The Majority found that Spouses James and Liwayway and Spouses Juan and Estelita failed to strictly comply with the above requisites since they “failed to *directly* contest the genuineness and due execution of the promissory notes and the assignment contracts” and “[t]here is no explicit claim that the actionable documents were forged, falsified, or otherwise not genuine” nor did they “provide any factual allegations that might reasonably challenge the execution of the documents.”⁶ The respective answers of Spouses James and Liwayway and Spouses Juan and Estelita, however, identically state:

2. Defendants MR. AND MRS. JAMES G. TOLENTINO deny the allegations in paragraphs 3, 4, and 5 of the complaint for lack of personal knowledge and contrary to human practice and experience. **Defendants MR. AND MRS. JAMES G. TOLENTINO did not borrow money from SPOUSES JUAN AND ESTELITA TOLENTINO.** If ever they borrowed

⁴ *Id.* at 4–6.

⁵ *Sps. Sy v. Westmont Bank*, 797 Phil. 694, 703 (2016) [Per J. Mendoza, Second Division].

⁶ *Ponencia*, p. 5.

money from them, **being brothers and sisters-in-law, they do not require written documents.** With more reason, that they will [sic] borrow money and use pro forma promissory notes of the plaintiff. In addition, granting that they borrowed money from each other, there is no known reason for them to assign it to the plaintiff. If there [sic] intention is to borrow money from the plaintiff, then they will go directly to the plaintiff and there is no reason for them to resort to such scheme. These sequences of event cast doubt to the truthfulness of the money obligation being collected from the defendants. Lastly, there is no consideration to the alleged contract of loan. Granting that they assigned their respective indebtedness to the plaintiff, they did not receive any consideration, in cash or in kind. The defendants did not benefit from the proceeds of the loan which in truth and in fact are loan and only in paper; hence, they could not be held liable to pay to an [sic] non-existent obligation.⁷ (Emphasis supplied)

In my humble view, the answers of Spouses James and Liwayway and Spouses Juan and Estelita clearly and adequately refuted the genuineness and due execution of UFC's actionable documents.

In *Sps. Sy v. Westmont*,⁸ the Court found that while petitioners did not spell out the words "specifically deny the genuineness and due execution of the promissory notes," when the answer is read as a whole, it can be deduced that petitioners specifically denied the paragraphs of the complaint regarding the promissory notes and were able to set forth what they claim to be the facts, i.e., the loans they applied for with Westmont were disapproved and they never received the loan proceeds from the bank. In sum, they asserted that the promissory notes and disclosure statement attached to the complaint were false. The Court thus considered the same as substantial compliance with Rule 8, Section 8 of the Revised Rules of Court.⁹

Here, albeit the words "specifically deny the genuineness and due execution of the promissory notes and assignment contracts" are nowhere indicated in the answer of Spouses James and Liwayway and Spouses Juan and Estelita, their allegations, when considered as whole, deliver a single tenor: they never executed the alleged promissory notes and assignment contracts, hence, the same are false. This much can be gleaned from Spouses James and Liwayway's claim that "they did not borrow money" from Spouses Juan and Estelita and they would never execute written documents evidencing loan obligations since they are in-laws. They even further clarified that "they did not receive any consideration, in cash or in kind" from the supposed loan obligation. For me, there can be no greater denial of a document's genuineness and due execution than the claim that no such document was executed by the purported author thereof.

⁷ *Id.* at 2-3.

⁸ 797 Phil. 694 (2016) [Per J. Mendoza, Second Division].

⁹ *Id.* at 708.

Too, *Toribio v. Bidin*¹⁰ teaches that the reason for the rule on denial of actionable documents is to enable a party to know beforehand whether he or she will have to meet the issue of genuineness or due execution of the document during trial. Thus, while the rule is mandatory, it must be reasonably construed to attain its purpose, and in a way as not to effect a denial of substantial justice.¹¹

In *Toribio*, the petitioners failed to file a responsive pleading specifically denying a deed of sale attached in the respondent's answer. Nonetheless, the Court ordained that Rule 8, Section 8 of the Rules of Court was substantially complied with since petitioners stated under oath in their complaint that they never sold, transferred, or disposed of their shares to others. Verily, they were deemed to have sufficiently notified respondents that the genuineness and due execution of the deed of sale would be put in issue during trial.

Here, by denying that they incurred loan obligations or that the same would have been reduced in writing, Spouses James and Liwayway and Spouses Juan and Estelita placed UFC on adequate notice that the genuineness and due execution of the documents upon which it hinged its claim ought to be proved during trial. In fine, the purpose of the rule has been satisfied, especially since Spouses James and Liwayway and Spouses Juan and Estelita have offered their own version of the facts, i.e., the non-existence of the loan.

Contrary to the Majority's supposition, I do not believe that Spouses James and Liwayway and Spouses Juan and Estelita are inconsistent in their assertions insofar as they claimed that first, they never executed such promissory notes; and second, the loan is void for lack of consideration.¹² In simple terms, the following points can be gleaned from their answer, viz.:

(1) Spouses James and Liwayway did not borrow money from Spouses Juan and Estelita (*Defendants MR. AND MRS. JAMES G. TOLENTINO did not borrow money from SPOUSES JUAN AND ESTELITA TOLENTINO*);

(2) even assuming they did, such loan was and could not have been reduced in writing because they are relatives (*If ever they borrowed money from them, being brothers and sisters-in-law, they do not require written documents from each other*);

(3) with more reason, they would never use pro forma promissory notes as the ones presented here (*With more reason, that they will [sic] borrow money and use pro forma promissory notes of the plaintiff*);

¹⁰ 219 Phil. 139 (1985) [Per J. Gutierrez, Jr., First Division].

¹¹ *Id.* at 146.

¹² *Ponencia*, p. 6.

(4) they do not owe UFC any money because if they did, they would have contracted the loan directly from UFC instead of making it appear that they borrowed money from Spouses Juan and Estelita who in turn assigned their rights to UFC (*In addition, granting that they borrowed money from each other, there is no known reason for them to assign it to the plaintiff. If there [sic] intention is to borrow money from the plaintiff, then they will go directly to the plaintiff and there is no reason for them to resort to such scheme*); and

(5) *even granting that they contracted a loan from UFC, they never received any amount therefrom, thus, such loan is merely in paper (Lastly, there is no consideration to the alleged contract of loan. Granting that they assigned their respective indebtedness to the plaintiff, they did not receive any consideration, in cash or in kind).*

It is clear from the answer of Spouses James and Liwayway that the non-existence of the loan refers to their alleged obligation to Spouses Juan and Estelita, while the allegation that the loan was only in paper refers to the obligation owed to UFC. As such, there is no inconsistency to speak of. On the contrary, the foregoing points show that Spouses James and Liwayway pose consistent claims denying the genuineness of the promissory notes and assignment contracts.

Second. The admission made in the motion to lift the order of default was made only by Spouses Juan and Estelita, *not* Spouses James and Liwayway. Consequently, because Spouses Juan and Estelita entered into an out-of-court settlement with UFC, the separate case filed by UFC against them in Civil Case No. 15375 was dismissed.¹³ Any liability sought to be enforced against Spouses Juan and Estelita in the present case has thus become *res judicata*. In any case, their admission is not binding upon Spouses James and Liwayway based on the principle of *res inter alios acta*, i.e., the rights of a party cannot be prejudiced by an act, declaration, or omission of another.¹⁴

Rule 8, Section 8 of the Revised Rules of Court having been substantially complied with, UFC had the burden to prove the genuineness and due execution of the promissory notes and assignment contracts. Thus, under the Original Document Rule, when the subject of inquiry is the contents of a document,¹⁵ *as here*, no evidence is admissible other than the original document itself. The trial court and Court of Appeals thus correctly dismissed UFC's complaint for failure to adduce the originals of the documents upon which it based its claim. Sans the originals, UFC's claim has no leg to stand on.

¹³ *Id.*

¹⁴ REVISED RULES ON EVIDENCE, Rule 128, Sec. 29.

¹⁵ *See Sps. Basa v. Vda. De Senly Loy*, 832 Phil. 82, 89 (2018) [Per J. Del Castillo, First Division].

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Verily, I **VOTE** to **DENY** the Petition and affirm the assailed Decision dated March 15, 2023 and Resolution dated September 14, 2023 of the Court of Appeals in CA-G.R. CV No. 117139.


AMY C. LAZARO-JAVIER
Associate Justice