



Republic of the Philippines  
**SUPREME COURT**  
Manila

**THIRD DIVISION**

**TING TING PUA,**

Petitioner,

**G.R. No. 198660**

Present:

- versus -

VELASCO, JR., *J.*, Chairperson,  
PERALTA,  
ABAD,  
MENDOZA, and  
LEONEN, *JJ.*

**SPOUSES BENITO LO BUN  
TIONG and CAROLINE  
SIOK CHING TENG,**

Respondents.

Promulgated:

October 23, 2013

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*Accopied*

**RESOLUTION**

**VELASCO, JR., *J.*:**

Under consideration is the Motion for Reconsideration interposed by petitioner Ting Ting Pua (Pua) of our Resolution dated April 18, 2012 effectively affirming the Decision<sup>1</sup> and Resolution<sup>2</sup> dated March 31, 2011 and September 26, 2011, respectively, of the Court of Appeals (CA) in CA-G.R. CV No. 93755, which, in turn, reversed the Decision of the Regional Trial Court (RTC) of the City of Manila, Branch 29 in Civil Case No. 97-83027.

As culled from the adverted RTC Decision, as adopted for the most part by the CA, the antecedent facts may be summarized as follows:

The controversy arose from a Complaint for a Sum of Money<sup>3</sup> filed by petitioner Pua against respondent-spouses Benito Lo Bun Tiong (Benito) and Caroline Siok Ching Teng (Caroline). In the complaint, Pua prayed that, among other things, respondents, or then defendants, pay Pua the amount of

<sup>1</sup> *Rollo*, pp. 47-65. Penned by Associate Justice Vicente S.E. Veloso and concurred in by Associate Justices Francisco P. Acosta and Ramon A. Cruz.

<sup>2</sup> *Id.* at 67-68.

<sup>3</sup> Records, pp. 1-4, dated April 11, 1997.

eight million five hundred thousand pesos (PhP 8,500,000), covered by a check. (Exhibit “A,” for plaintiff)

During trial, petitioner Pua clarified that the PhP 8,500,000 check was given by respondents to pay the loans they obtained from her under a compounded interest agreement on various dates in 1988.<sup>4</sup> As Pua narrated, her sister, Lilian Balboa (Lilian), vouched for respondents’ ability to pay so that when respondents approached her, she immediately acceded and lent money to respondents without requiring any collateral except post-dated checks bearing the borrowed amounts.<sup>5</sup> In all, respondents issued 17<sup>6</sup> checks for a total amount of one million nine hundred seventy-five thousand pesos (PhP 1,975,000). These checks were dishonored upon presentment to the drawee bank.<sup>7</sup>

As a result of the dishonor, petitioner demanded payment. Respondents, however, pleaded for more time because of their financial difficulties.<sup>8</sup> Petitioner Pua obliged and simply reminded the respondents of their indebtedness from time to time.<sup>9</sup>

Sometime in September 1996, when their financial situation turned better, respondents allegedly called and asked petitioner Pua for the computation of their loan obligations.<sup>10</sup> Hence, petitioner handed them a computation dated October 2, 1996<sup>11</sup> which showed that, at the agreed 2% compounded interest rate per month, the amount of the loan payable to petitioner rose to thirteen million two hundred eighteen thousand five hundred forty-four pesos and 20/100 (PhP 13,218,544.20).<sup>12</sup> On receiving the computation, the respondents asked petitioner to reduce their indebtedness to PhP 8,500,000.<sup>13</sup> Wanting to get paid the soonest possible time, petitioner Pua agreed to the lowered amount.<sup>14</sup>

Respondents then delivered to petitioner Asiastrust Check No. BND057750 bearing the reduced amount of PhP 8,500,000 dated March 30, 1997 with the assurance that the check was good.<sup>15</sup> In turn, respondents demanded the return of the 17 previously dishonored checks. Petitioner,

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<sup>4</sup> TSN, February 5, 1998, pp. 5, 8-9, 11-13.

<sup>5</sup> Id. at 16.

<sup>6</sup> Exhibits “C” to “C-16”; TSN, February 5, 1998, pp. 12-14, 19.

<sup>7</sup> Exhibits “E” to “E-11.”

<sup>8</sup> TSN, February 5, 1998, p. 20; TSN, October 9, 2002, p. 20; TSN, April 23, 2003, p. 15.

<sup>9</sup> Id. at 22; TSN, October 9, 2002, p. 22.

<sup>10</sup> TSN, February 5, 1998, p. 22; TSN, March 18, 1998, p. 12.

<sup>11</sup> Exhibit “D”; TSN, March 18, 1998, p. 12.

<sup>12</sup> Id.; TSN, October 9, 2002, p. 18.

<sup>13</sup> TSN, April 16, 1998, p. 5.

<sup>14</sup> Id. at 6-7.

<sup>15</sup> TSN, June 18, 2003, pp. 4, 7.

however, refused to return the bad checks and advised respondents that she will do so only after the encashment of Asiatrust Check No. BND057750.<sup>16</sup>

Like the 17 checks, however, Check No. BND057750 was also dishonored when it was presented by petitioner to the drawee bank. Hence, as claimed by petitioner, she decided to file a complaint to collect the money owed her by respondents.

For the defense, both respondents Caroline and Benito testified along with Rosa Dela Cruz Tuazon (Tuazon), who was the OIC-Manager of Asiatrust-Binondo Branch in 1997. Respondents categorically denied obtaining a loan from petitioner.<sup>17</sup> Respondent Caroline, in particular, narrated that, in August 1995, she and petitioner's sister, Lilian, forged a partnership that operated a *mahjong* business. Their agreement was for Lilian to serve as the capitalist while respondent Caroline was to act as the cashier. Caroline also agreed to use her personal checks to pay for the operational expenses including the payment of the winners of the games.<sup>18</sup> As the partners anticipated that Caroline will not always be in town to prepare these checks, she left with Lilian five (5) pre-signed and consecutively numbered checks<sup>19</sup> on the condition that these checks will only be used to cover the costs of the business operations and in no circumstance will the amount of the checks exceed PhP 5,000.<sup>20</sup>

In March 1996, however, respondent Caroline and Lilian had a serious disagreement that resulted in the dissolution of their partnership and the cessation of their business. In the haste of the dissolution and as a result of their bitter separation, respondent Caroline alleged that she forgot about the five (5) pre-signed checks she left with Lilian.<sup>21</sup> It was only when Lilian's husband, Vicente Balboa (Vicente), filed a complaint for sum of money in February 1997 against respondents to recover five million one hundred seventy-five thousand two hundred fifty pesos (PhP 5,175,250), covering three of the five post-dated and pre-signed checks.<sup>22</sup>

Respondent Caroline categorically denied having completed Check No. BND057750 by using a check writer or typewriter as she had no check writer and she had always completed checks in her own handwriting.<sup>23</sup> She insisted that petitioner and her sister completed the check after its delivery.<sup>24</sup> Furthermore, she could not have gone to see petitioner Pua with her husband

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<sup>16</sup> TSN, February 5, 1998, p. 25; TSN, March 18, 1998, pp. 12-13.

<sup>17</sup> TSN, August 13, 2003, p. 6.

<sup>18</sup> TSN, July 16, 1998, pp. 5-6.

<sup>19</sup> TSN, July 16, 1998, p. 5; Exhibits "6" to "10."

<sup>20</sup> TSN, July 16, 1998, p. 7.

<sup>21</sup> Id. at 9.

<sup>22</sup> See *Spouses Benito Lo Bun Tiong and Caroline Siok Ching Teng v. Vicente Balboa*, G.R. No. 158177, January 28, 2008, 542 SCRA 504.

<sup>23</sup> TSN, July 16, 1998, p. 11; TSN, September 10, 2003, pp. 10, 14.

<sup>24</sup> TSN, September 10, 2003, pp. 9-11.

as they had been separated in fact for nearly 10 years.<sup>25</sup> As for the 17 checks issued by her in 1988, Caroline alleged that they were not intended for Pua but were issued for the benefit of other persons.<sup>26</sup> Caroline postulated that the complaint is designed to allow Pua's sister, Lilian, to recover her losses in the foreign exchange business she had with Caroline in the 1980s.

Respondent Benito corroborated Caroline's testimony respecting their almost a decade separation.<sup>27</sup> As such, he could not have had accompanied his wife to see petitioner to persuade the latter to lower down any alleged indebtedness.<sup>28</sup> In fact, Benito declared, before the filing of the Complaint, he had never met petitioner Pua, let alone approached her with his wife to borrow money.<sup>29</sup> He claimed that he was impleaded in the case to attach his property and force him to enter into an amicable settlement with petitioner.<sup>30</sup> Benito pointed out that Check No. BND057750 was issued under Asiatrust Account No. 5513-0054-9, which is solely under the name of his wife.<sup>31</sup>

The witness for the respondents, Ms. Tuazon, testified that respondent Caroline opened Asiatrust Account No. 5513-0054-9 in September 1994.<sup>32</sup> She claimed that the average maintaining balance of respondent Caroline was PhP 2,000 and the highest amount issued by Caroline from her account was PhP 435,000.<sup>33</sup> She maintained that respondent Caroline had always completed her checks with her own handwriting and not with a check writer. On October 15, 1996, Caroline's checking account was closed at the instance of the bank due to 69 instances of check issuance against insufficient balance.<sup>34</sup>

After trial, the RTC issued its Decision dated January 31, 2006 in favor of petitioner. In holding thus, the RTC stated that the possession by petitioner of the checks signed by Caroline, under the Negotiable Instruments Law, raises the presumption that they were issued and delivered for a valuable consideration. On the other hand, the court *a quo* discounted the testimony for the defense completely denying respondents' loan obligation to Pua.<sup>35</sup>

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<sup>25</sup> TSN, July 16, 1998, p. 12.

<sup>26</sup> TSN, July 15, 1999, p. 11.

<sup>27</sup> TSN, June 22, 2000, pp. 12-14; TSN, February 4, 2002, p. 20.

<sup>28</sup> TSN, August 23, 2000, p. 3.

<sup>29</sup> TSN, June 22, 2000, pp. 5-6; TSN, August 23, 2000, p. 3; TSN, February 4, 2002, pp. 8, 14, 16.

<sup>30</sup> TSN, June 22, 2000, p. 6.

<sup>31</sup> TSN, June 22, 2000, p. 11; TSN, August 23, 2000, pp. 3,5-6; TSN, February 4, 2002, pp. 15-16.

<sup>32</sup> TSN, May 29, 2002, p. 18.

<sup>33</sup> *Id.* at 15.

<sup>34</sup> TSN, May 29, 2002, pp. 20, 24-28, 31.

<sup>35</sup> The trial court held:

In the present case, the Tiongs dispute Pua's allegation that they contracted several loans with the latter. They try to persuade this Court that the claim holds no water largely because the existence of said loan has not in the first place been established. Anent such assertion, the evidence presented before this Court belie such contention.

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The trial court, however, refused to order respondents to pay petitioner the amount of PhP 8,500,000 considering that the agreement to pay interest on the loan was not expressly stipulated in writing by the parties. The RTC, instead, ordered respondents to pay the principal amount of the loan as represented by the 17 checks plus legal interest from the date of demand. As rectified,<sup>36</sup> the dispositive portion of RTC's Decision reads:

Defendant-spouses Benito Lo Bun Tiong and Caroline Siok Ching Teng, are hereby ordered jointly and solidarily:

1. To pay plaintiff P1,975,000.00 plus 12% interest per annum from September 30, 1998, until fully paid;
2. To pay plaintiff attorney's fees of P200,000.00; and
3. To pay the costs of the suit.

Aggrieved, respondents went to the CA arguing that the court *a quo* erred in finding that they obtained and are liable for a loan from petitioner. To respondents, petitioner has not sufficiently proved the existence of the loan that they supposedly acquired from her way back in the late 1980s by any written agreement or memorandum.

By Decision of March 31, 2011, as reiterated in a Resolution dated September 26, 2011, the appellate court set aside the RTC Decision holding that Asiatrust Bank Check No. BND057550 was an incomplete delivered instrument and that petitioner has failed to prove the existence of

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Thus, in a case of an incomplete but delivered negotiable instrument, **the law creates a disputable presumption of valid and regular delivery in favor of the holder.** Furthermore, **once issued, the law likewise gives the holder the benefit of the presumption that said instrument was issued for a sufficient consideration and that the signatory thereof has been a party thereto for value.** The law therefore dispenses the party in possession of the duty of proving rightful delivery as well the fact that it has been issued for a valuable consideration and participation of the signatory thereof. x x x

In the course of the trial, several checks were presented by Pua. Seventeen (17) checks were offered as representing the principal amount of the loan of P1,975,000.00. And the check subject of the herein controversy was likewise presented as replacement of the 17 dishonored checks and covering the agreed compounded interest that accrued since the time of borrowing. Caroline, however, tried to discredit said testimony through its concocted mahjong business story.

x x x x

[Caroline's] testimony deserves scant consideration if not, unworthy of belief. x x x Moreover, **defendant Caroline admitted the genuineness and the due execution of the checks (Exhibit C [to] C-16) offered by Pua as those which make up the P1,975,000 accumulated loan of Caroline Teng.** However, despite such admission she denies that the same were issued in favor of Pua. According to her these were issued in favor of other people and not the herein plaintiff. Such denial does not have a leg to stand on. How could all seventeen (17) checks find their way to Ting Ting Pua's hands if they were not indeed personally handed to her? It is highly unlikely for a busy person like the plaintiff to spend her time appropriating or much less trouble herself in getting checks which might even place her in serious trouble and put her business operations in jeopardy. A likely impossibility is always preferable to an unconvincing possibility. *Rollo*, pp. 77-82. (Emphasis supplied.)

<sup>36</sup> By Order dated April 10, 2007 to reflect the exact date from which to reckon the computation of the interest. Records, pp. 621-622.

respondents' indebtedness to her. Hence, the CA added, petitioner does not have a cause of action against respondents.<sup>37</sup>

Hence, petitioner came to this Court via a Petition for Review on Certiorari<sup>38</sup> alleging grievous reversible error on the part of the CA in reversing the findings of the court *a quo*.

As adverted to at the outset, the Court, in a Minute Resolution dated April 18, 2012, resolved to deny the petition.<sup>39</sup>

In this Motion for Reconsideration,<sup>40</sup> petitioner pleads that this Court take a second hard look on the facts and issues of the present case and affirm the RTC's case disposition. Petitioner argues, in the main, that the finding of the appellate court that petitioner has not established respondents' indebtedness to her is not supported by the evidence on record and is based solely on respondents' general denial of liability.

Respondents, on the other hand, argued in their Comment on the Motion for Reconsideration dated October 6, 2012 that the CA correctly ruled that Asiatrust Check No. BND057550 is an incomplete instrument which found its way into petitioner's hands and that the petitioner failed to prove respondents' indebtedness to her. Petitioner, so respondents contend, failed to show to whom the 17 1988 checks were delivered, for what consideration or purpose, and under whose account said checks were deposited or negotiated.

Cearly, the issue in the present case is factual in nature as it involves an inquiry into the very existence of the debt supposedly owed by respondents to petitioner.

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<sup>37</sup> The Court of Appeals held: For one, **Ting Ting has not established defendants-appellants' indebtedness to her. She failed to establish this alleged indebtedness in writing. No proof of any sort, not even a memorandum or a jotting in a notebook that she released money in favor defendants-appellants sometime in 1988 was presented.** Thus, the RTC erred when it failed to consider this fact in giving credence to Ting Ting's testimony.

Moreover, **the seventeen (17) checks, though they may prove to have been issued for valuable considerations, do not sufficiently prove [respondents'] indebtedness to Ting Ting.** While now in her possession, Ting Ting failed to establish for whose accounts they were deposited and subsequently dishonored. If at all, they bolster [respondents'] position that the seventeen (17) checks were issued and delivered to different people and not [petitioner]. Especially so that some of these checks were not even deposited nor dishonored, but remained stale under circumstances that are not attributable to the fault of [respondents].

Ting Ting's handicaps – her having no contract that proves indebtedness; her lack of memorandum, journal, or evidence proving that money was actually released to [respondents] with a needed note on the amount involved – more than sufficiently prove the absence of consideration to support the check. And in so failing to dispense with her burden of proving [respondent'] indebtedness, Ting Ting consequently has no cause of action to pursue here. Necessarily therefore, her Complaint filed on April 18, 1997 must be dismissed. *Rollo*, pp. 63-64 (Emphasis supplied.)

<sup>38</sup> Dated November 17, 2011; *rollo*, pp. 8-42.

<sup>39</sup> *Rollo*, p. 112.

<sup>40</sup> *Id.* at 113-140.

The general rule is that this Court in petitions for review on certiorari only concerns itself with questions of law, not of fact,<sup>41</sup> the resolution of factual issues being the primary function of lower courts.<sup>42</sup> However, several exceptions have been laid down by jurisprudence to allow the scrutiny of the factual arguments advanced by the contending parties, viz: (1) the conclusion is grounded on speculations, surmises or conjectures; (2) **the inference is manifestly mistaken, absurd or impossible**; (3) there is grave abuse of discretion; (4) the judgment is based on a misapprehension of facts; (5) **the findings of fact are conflicting**; (6) there is no citation of specific evidence on which the factual findings are based; (7) **the findings of absence of fact are contradicted by the presence of evidence on record**; (8) **the findings of the CA are contrary to those of the trial court**; (9) **the CA manifestly overlooked certain relevant and undisputed facts that, if properly considered, would justify a different conclusion**; (10) the findings of the CA are beyond the issues of the case; and (11) such findings are contrary to the admissions of both parties.<sup>43</sup> At the very least, therefore, the inconsonance of the findings of the RTC and the CA regarding the existence of the loan sanctions the recalibration of the evidence presented by the parties before the trial court.

In the main, petitioner asserts that respondents owed her a sum of money way back in 1988 for which the latter gave her several checks. These checks, however, had all been dishonored and petitioner has not been paid the amount of the loan plus the agreed interest. In 1996, respondents approached her to get the computation of their liability including the 2% compounded interest. After bargaining to lower the amount of their liability, respondents supposedly gave her a postdated check bearing the discounted amount of the money they owed to petitioner. Like the 1988 checks, the drawee bank likewise dishonored this check. To prove her allegations, petitioner submitted the original copies of the 17 checks issued by respondent Caroline in 1988 and the check issued in 1996, Asiastrust Check No. BND057750. In ruling in her favor, the RTC sustained the version of the facts presented by petitioner.

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<sup>41</sup> Rules of Court, Rule 45, Sec 1. Filing of Petition with Supreme Court. — A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. **The petition** may include an application for a writ of preliminary injunction or other provisional remedies and **shall raise only questions of law, which must be distinctly set forth**. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency. (Emphasis supplied.)

<sup>42</sup> *Express Investments III Private Ltd. v. Bayan Telecommunications, Inc.*, G.R. Nos. 175418-20, December 5, 2012, 687 SCRA 50; citing *Dela Rosa v. Michaelmar Philippines, Inc.*, G.R. No. 182262, April 13, 2011, 648 SCRA 721, 729 and *Vallacar Transit, Inc. v. Catubig*, G.R. No. 175512, May 30, 2011, 649 SCRA 281, 293-294.

<sup>43</sup> *Cereno v. CA*, G.R. No. 167366, September 26, 2012, 682 SCRA 18, citing *International Container Terminal Services, Inc. v. FGU Insurance Corporation*, G.R. No. 161539, June 28, 2008, 556 SCRA 194, 199; *Abalos and Sps. Salazar v. Heirs of Vicente Torio*, G.R. No. 175444, December 14, 2011, 662 SCRA 450, 456-457, citing *Spouses Andrada v. Pilhino Sales Corporation*, G.R. No. 156448, February 23, 2011, 644 SCRA 1, 10.

Respondents, on the other hand, completely deny the existence of the debt asserting that they had never approached petitioner to borrow money in 1988 or in 1996. They hypothesize, instead, that petitioner Pua is simply acting at the instance of her sister, Lilian, to file a false charge against them using a check left to fund a gambling business previously operated by Lilian and respondent Caroline. While not saying so in express terms, the appellate court considered respondents' denial as worthy of belief.

After another circumspect review of the records of the present case, however, this Court is inclined to depart from the findings of the CA.

Certainly, in a suit for a recovery of sum of money, as here, the plaintiff-creditor has the burden of proof to show that defendant had not paid her the amount of the contracted loan. However, it has also been long established that where the plaintiff-creditor possesses and submits in evidence an instrument showing the indebtedness, a presumption that the credit has not been satisfied arises in her favor. Thus, the defendant is, in appropriate instances, required to overcome the said presumption and present evidence to prove the fact of payment so that no judgment will be entered against him.<sup>44</sup>

In overruling the trial court, however, the CA opined that petitioner "failed to establish [the] alleged indebtedness in writing."<sup>45</sup> Consequently, so the CA held, respondents were under no obligation to prove their defense. Clearly, the CA had discounted the value of the only hard pieces of evidence extant in the present case—the checks issued by respondent Caroline in 1988 and 1996 that were in the possession of, and presented in court by, petitioner.

In *Pacheco v. Court of Appeals*,<sup>46</sup> this Court has expressly recognized that a check "constitutes an evidence of indebtedness"<sup>47</sup> and is a veritable "proof of an obligation."<sup>48</sup> Hence, it can be used "in lieu of and for the same purpose as a promissory note."<sup>49</sup> In fact, in the seminal case of *Lozano v. Martinez*,<sup>50</sup> We pointed out that a check functions more than a promissory note since it not only contains an undertaking to pay an amount of money but is an "order addressed to a bank and partakes of a **representation** that the drawer has funds on deposit against which the check is drawn, sufficient to **ensure payment** upon its presentation to the bank."<sup>51</sup> This Court reiterated this rule in the relatively recent *Lim v. Mindanao Wines and*

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<sup>44</sup> Francisco, Ricardo J., EVIDENCE: RULES OF COURT IN THE PHILIPPINES, RULES 128-134 (3<sup>rd</sup> ed., 1996), pp. 386-387; citations omitted.

<sup>45</sup> *Rollo*, p. 63.

<sup>46</sup> 377 Phil. 627 (1999).

<sup>47</sup> *Id.* at 637.

<sup>48</sup> *Id.*

<sup>49</sup> *Id.*

<sup>50</sup> No. L-63419, December 18, 1986, 146 SCRA 323.

<sup>51</sup> *Id.*, emphasis supplied.



*Liquor Galleria* stating that “[a] check, the entries of which are in writing, could prove a loan transaction.”<sup>52</sup> This very same principle underpins Section 24 of the Negotiable Instruments Law (NIL):

Section 24. *Presumption of consideration.* – Every negotiable instrument is deemed *prima facie* to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party for value.

Consequently, the 17 original checks, completed and delivered to petitioner, are sufficient by themselves to prove the existence of the loan obligation of the respondents to petitioner. Note that **respondent Caroline had not denied the genuineness of these checks.**<sup>53</sup> Instead, respondents argue that they were given to various other persons and petitioner had simply collected all these 17 checks from them in order to damage respondents’ reputation.<sup>54</sup> This account is not only incredible; it runs counter to human experience, as enshrined in Sec. 16 of the NIL which provides that **when an instrument is no longer in the possession of the person who signed it and it is complete in its terms “a valid and intentional delivery by him is presumed until the contrary is proved.”**

The appellate court’s justification in giving credit to respondents’ contention that the respondents had delivered the 17 checks to persons other than petitioner lies on the supposed failure of petitioner “to establish for whose accounts [the checks] were deposited and subsequently dishonored.”<sup>55</sup> This is clearly contrary to the evidence on record. It seems that the appellate court overlooked the original copies of the bank return slips offered by petitioner in evidence. These return slips show that the 1988 checks issued by respondent Caroline were dishonored by the drawee bank[s] because they were “drawn against insufficient funds.”<sup>56</sup> Further, a close scrutiny of these return slips will reveal that the checks were deposited either in petitioner’s account<sup>57</sup> or in the account of her brother, Ricardo Yulo—a fact she had previously testified to explaining that petitioner

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<sup>52</sup> G.R. No. 175851, July 4, 2012, 675 SCRA 628, citing *Gaw v. Chua*, 574 Phil. 640, 654 (2008).

<sup>53</sup> TSN, July 15, 1999, pp. 10-11.

Atty. Abdul:

I am showing to you, Madam Witness, several checks which were previously marked as Exhibit C, C-1, C-2, C-3 and up to Exhibit C-16 inclusive, signed by Caroline Lo, can you please tell the Honorable Court whose checks are those?

[Caroline]: Me sir.

Atty. Abdul: And the signatures Caroline Lo are your signatures?

[Caroline]: Yes sir.

Atty. Abdul: And that you issued these checks in favor of the plaintiffs in payment of your obligation to the said plaintiff?

[Caroline]: I issued these checks not for [her] but for other persons, for different depositors.

<sup>54</sup> *Id.*

<sup>55</sup> *Rollo*, p. 64.

<sup>56</sup> See Exhibits “E” to “E-11.”

<sup>57</sup> Under the name Ting Ting Yulo, as acknowledged by respondents.

indorsed some checks to her brother to pay for a part of the capital she used in her financing business.<sup>58</sup>

As for the Asiatruster check issued by respondent Caroline in 1996 to substitute the compounded value of the 1988 checks, the appellate court likewise sympathized with respondents' version of the story holding that it is buttressed by respondents' allegations describing the same defense made in the two related cases filed against them by petitioner's brother-in-law, Vicente Balboa. These related cases consisted of a criminal case for violation of BP 22<sup>59</sup> and a civil case for collection of sum of money<sup>60</sup> involving three (3) of the five (5) consecutively numbered checks she allegedly left with Lilian.<sup>61</sup> It should be noted, however, that while respondents were exculpated from their criminal liability,<sup>62</sup> in *Sps. Benito Lo Bun Tiong and Caroline Siok Ching Teng v. Vicente Balboa*,<sup>63</sup> this Court sustained the factual findings of the appellate court in the civil case finding respondents civilly liable to pay the amount of the checks.

It bears to note that the Decision of the appellate court categorically debunked the same defense advanced by respondents in the present case primarily because of Caroline's admission to the contrary. The Decision of the appellate court found without any reversible error by this Court reads, thus:

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<sup>58</sup> TSN, October 9, 2002, pp. 19-20; TSN, August 13, 2003, pp. 9-10.

<sup>59</sup> These cases were docketed as Criminal Case Nos. 277576 to 78 in the MTC of Manila. On appeal, the RTC docketed the case as Criminal Case Nos. 02-204544-46.

<sup>60</sup> Docketed as Civil Case No. 97-82225 in the RTC of Manila. On appeal, it was docketed as CA-G.R. CV No. 61457. See Exhibit "G."

<sup>61</sup> The CA held:

Second, defendants-appellants insists that the subject check bearing the amount of Eight Million Five Hundred Thousand Pesos (P8,500,000.00) was never issued in favor of plaintiff-appellee, but was actually one of the five (5) blank checks which Caroline pre-signed and left with Lilian sometime in January 1996, but because of a squabble between the two, both decided to fold up their mahjong business without Caroline retrieving the five (5) blank checks left in Lilian's possession. Caroline even claimed that the payee "CASH," the amount of "Eight Million Five Hundred Thousand Only," its numerical expression "P8,500,000.00," and the date "March 30, 1997" were all typewritten insertions of the subject check, and are thus contrary to her usual manner of issuing checks.

Third, a separate civil case was filed against defendants-appellants involving three (3) of the five (5) checks referred to by Caroline as those which she pre-signed and left with Lilian on account of their mahjong business.

Fourth, Caroline's allegation that she pre-signed five (5) blank checks and left with Lilian was further bolstered in her Counter-Affidavit she filed relative to a preliminary investigation on a case filed by Vicente Balboa, Lilian's husband. Indicated therein were the Asia Trust Bank blank checks bearing the numbers BNDO57546, BNDO57547, BNDO57548, BNDO57549, and BNDO57550, the last check being the same check offered in evidence in this case. *Rollo*, pp. 61-62.

<sup>62</sup> The MTC acquitted Caroline of the offenses charged for failure of the prosecution to prove her guilt beyond reasonable doubt. The MTC, however, found Caroline civilly liable in favor of respondent for the amounts covered by these checks. On appeal to the RTC, the civil liability was deleted on the ground that a civil case for collection of money involving the same checks were filed prior to the filing of the criminal case. See Respondents' Exhibit "2."

<sup>63</sup> 566 Phil. 492, 501 (2008). The dispositive portion of the Decision reads: "WHEREFORE, the petition is DENIED for lack of merit. The Decision dated November 20, 2002 and Resolution dated April 21, 2003 of the Court of Appeals are AFFIRMED."

The claim of Caroline Siok Ching Teng that the three (3) checks were part of the blank checks she issued and delivered to Lilian Balboa, wife of plaintiff-appellee, and intended solely for the operational expenses of their mahjong business is belied by her admission that she issued three (3) checks (Exhs. “A”, “B” “C”) because Vicente showed the listing of their account totaling P5,175,250.00 (TSN, November 17, 1997, p. 10).<sup>64</sup> x  
x x

Clearly, respondents’ defense that Caroline left blank checks with petitioner’s sister who, it is said, is now determined to recoup her past losses and bring financial ruin to respondents by falsifying the same blank checks, had already been thoroughly passed upon and rejected by this Court. It cannot, therefore, be used to support respondents’ denial of their liability.

Respondents’ other defenses are equally unconvincing. They assert that petitioner could not have accepted a check worth PhP 8.5 million considering that she should have known that respondent Caroline had issued several checks for PhP 25,000 each in favor of Lilian and all of them had bounced.<sup>65</sup> Needless to state, an act done contrary to law cannot be sustained to defeat a legal obligation; repeated failure to honor obligations covered by several negotiable instruments cannot serve to defeat yet another obligation covered by another instrument.

Indeed, it seems that respondent Caroline had displayed a cavalier attitude towards the value, and the obligation concomitant with the issuance, of a check. As attested to by respondents’ very own witness, respondent Caroline has a documented history of issuing insufficiently funded checks for 69 times, at the very least.<sup>66</sup> This fact alone bolsters petitioner’s allegation that the checks delivered to her by respondent Caroline were similarly not funded.

In *Magdiwang Realty Corp. v. Manila Banking Corp.*, We stressed that the quantum of evidence required in civil cases—preponderance of evidence—“is a phrase which, in the last analysis, means probability to truth. It is **evidence which is more convincing to the court as worthier of belief than that which is offered in opposition thereto.**”<sup>67</sup> Based on the evidence submitted by the parties and the legal presumptions arising therefrom, petitioner’s evidence outweighs that of respondents. This preponderance of evidence in favor of Pua requires that a judgment ordering respondents to pay their obligation be entered.

As aptly held by the court *a quo*, however, respondents cannot be obliged to pay the interest of the loan on the ground that the supposed

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<sup>64</sup> CA Decision in CA-G.R. CV No. 61457, pp. 7-8; exhibit “G.”

<sup>65</sup> TSN, July 16, 1998, p. 17. Exhibits “6” to “10.”

<sup>66</sup> TSN, May 29, 2002, pp. 20, 24-28, 31.

<sup>67</sup> G.R. No. 195592, September 5, 2012, 680 SCRA 251, 265, emphasis supplied.

agreement to pay such interest was not reduced to writing. Article 1956 of the Civil Code, which refers to monetary interest, specifically mandates that no interest shall be due unless it has been expressly stipulated in writing.<sup>68</sup> Thus, the collection of interest in loans or forbearance of money is allowed only when these two conditions concur: (1) there was an express stipulation for the payment of interest; (2) the agreement for the payment of the interest was reduced in writing.<sup>69</sup> Absent any of these two conditions, the money debtor cannot be made liable for interest. Thus, petitioner is entitled only to the principal amount of the loan plus the allowable legal interest from the time of the demand,<sup>70</sup> at the rate of 6% per annum.<sup>71</sup>

Respondent Benito cannot escape the joint and solidary liability to pay the loan on the ground that the obligation arose from checks solely issued by his wife. Without any evidence to the contrary, it is presumed that the proceeds of the loan redounded to the benefit of their family. Hence, the conjugal partnership is liable therefor.<sup>72</sup> The unsupported allegation that respondents were separated in fact, standing alone, does not persuade this Court to solely bind respondent Caroline and exempt Benito. As the head of the family, there is more reason that respondent Benito should answer for the liability incurred by his wife presumably in support of their family.

**WHEREFORE**, the Motion for Reconsideration is **GRANTED**. The Resolution of this Court dated April 18, 2012 is set aside and a new one entered **REVERSING** and **SETTING ASIDE** the Decision dated March 31, 2011 and the Resolution dated September 26, 2011 of the Court of Appeals in CA-G.R. CV No. 93755. The Decision in Civil Case No. 97-83027 of the Regional Trial Court (RTC) of the City of Manila, Branch 29 is **REINSTATED** with **MODIFICATION**.

Accordingly, respondents Benito Lo Bun Tiong and Caroline Siok Ching Teng are ordered jointly and solidarily to pay petitioner PhP 1,975,000 plus 6% interest per annum from April 18, 1997, until fully paid, and P200,000.00 as attorney's fees.

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<sup>68</sup> See also *Pan Pacific Service Contractors, Inc. and Ricardo Del Rosario v. Equitable PCI Bank, formerly The Philippine Commercial International Bank*, G.R. No. 169975, March 18, 2010, 616 SCRA 102.


<sup>69</sup> *Prisma Construction and Development Corporation and Rogelio S. Pantaleon v. Arthur Menchavez*, G.R. No. 160545, March 9, 2010, 614 SCRA 590; citing *Tan v. Valdehueza*, 160 Phil. 760, 767 (1975) and *Ching v. Nicdao*, G.R. No. 141181, April 27, 2007, 522 SCRA 316, 361.

<sup>70</sup> See *Eastern Shipping Lines, Inc. v. Court of Appeals*, G.R. No. 97412, July 12, 1994, 234 SCRA 78, 95; citing Article 1169 of the Civil Code, which provides: "Those obliged to deliver or to do something incur in delay from the time the obligee judicially or extrajudicially demands from them the fulfillment of their obligation."

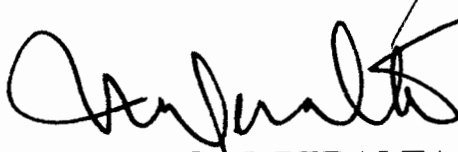
<sup>71</sup> See Circular No. 799 of the *Bangko Sentral ng Pilipinas* which took effect on July 1, 2013.


<sup>72</sup> Article 121, Family Code: The conjugal partnership shall be liable for: x x x (3) Debts and obligations contracted by either spouse without the consent of the other to the extent that the family may have been benefited x x x. See also *Carlos v. Abelardo*, G.R. No. 146504, April 9, 2002, 380 SCRA 361.

**SO ORDERED.**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice

WE CONCUR:

  
**DIOSDADO M. PERALTA**  
Associate Justice


  
**ROBERTO A. ABAD**  
Associate Justice

  
**JOSE CATRAL MENDOZA**  
Associate Justice

  
**MARVIC MARIO VICTOR F. LEONEN**  
Associate Justice

**ATTESTATION**

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

  
**PRESBITERO J. VELASCO, JR.**  
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 Resolution 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