



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**CAPITAL SHOES FACTORY,
LTD.,**

Petitioner,

- versus -

TRAVELER KIDS, INC.,

Respondent.

G.R. No. 200065

Present:

CARPIO, *J.*, Chairperson,
BRION,
DEL CASTILLO,
MENDOZA, and
LEONEN, *JJ.*

Promulgated:

SEP 24 2014 *W. Cabalag*

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DECISION

MENDOZA, J.:

Questioned in this petition is the October 5, 2011 Decision¹ of the Court of Appeals (*CA*), and its January 16, 2012 Resolution,² in CA-G.R. SP No. 120413, which affirmed with modification the May 13, 2011³ and June 23, 2011⁴ Orders of the Regional Trial Court, Branch 170, Malabon City (*RTC*), regarding the admissibility of duplicate originals as evidence in an action for sum of money and damages.

¹ *Rollo*, pp. 31-42. Penned by Associate Justice Juan Q. Enriquez, Jr. and concurred in by Associate Justices Ramon M. Bato, Jr. and Florito S. Macalino.

² *CA Resolution*, *id.* at 110-115.

³ *Id.* at 146.

⁴ *Id.* at 147-150.

The Facts

Sometime in 2000, petitioner Capital Shoes Factory Ltd., (*CSFL*), a foreign corporation engaged in the manufacturing and trading of children's shoes and similar products, and respondent Traveller Kids, Inc. (*TKI*), a domestic corporation engaged in the business of manufacturing, importing and distributing shoes, sandals and other footwear entered into an agreement, wherein they agreed that TKI would import the shoes and sandals made by CSFL from its China factory. After TKI placed numerous purchase orders, CSFL began manufacturing the goods pursuant to the special designs and specifications of TKI. CSFL then shipped the goods to TKI.

It was their arrangement that TKI would pay thirty (30%) percent of the purchase price of the goods by way of letters of credit, and the balance of seventy (70%) percent by way of telegraphic transfer, thirty (30) days from the date of delivery of the goods.

For the first three years, TKI was able to pay its purchase orders and the shipments made by CSFL. In 2004, however, TKI started to default in its payments. CSFL granted numerous concessions and extensions to TKI. Thereafter, TKI was able to make a partial payment on its unpaid accounts.

As of July 10, 2005, the total unpaid accounts of TKI amounted to U.S. \$325,451.39, exclusive of the interest accruing thereto. In addition, CSFL also manufactured \$92,000.00 worth of children's shoes and sandals pursuant to the design and specifications of TKI in its purchase orders.

Both verbal and written demand letters were made by CSFL to TKI for the payment of its unpaid accounts, but to no avail.

To protect its interest, CSFL filed a complaint for collection of sum of money and damages against TKI before the RTC. During the trial, CSFL, through its witness, identified several sales invoices and order slips it issued as evidence of its transactions with TKI. The latter objected to the identification pointing out that the documents being presented were mere photocopies. TKI also objected to the evidence presented by CSFL to prove the amount of attorney's fees on the ground that it was not an issue raised during the pre-trial. The RTC noted the objections.

After the presentation of its last witness, CSFL filed its Formal Offer of Exhibits⁵ seeking the admission of, among others, the sales invoices and order slips earlier objected to by TKI. The latter objected to the admission of the documents offered, contending that several of the sales invoices and order slips should not be admitted because they were merely photocopies. TKI also objected to the admission of documents by which CSFL sought to prove its claim for attorney's fees.⁶

On May 13, 2011, the RTC issued the Order⁷ admitting all the exhibits offered by CFSL. The Order reads:

ORDER

Acting on Plaintiff's Formal Offer of Exhibits as well as Defendant's Comment/Opposition on/thereto and finding the said offer to be well-taken and in order – despite the objections made to the admission of said exhibits by defendant, Exhibits "A" to ZZZ-1-A," inclusive, are all admitted for the purposes for which the same are offered and as part of the testimony of the witness who testified thereon.

Let the presentation of defendant's evidence commence on May 25, 2011 at 8:30 o'clock in the morning, as previously scheduled.

SO ORDERED. [Emphasis supplied]

Not in conformity, TKI filed a motion for reconsideration⁸ arguing that the exhibits formally offered by CSFL were inadmissible in evidence for being mere photocopies. TKI also argued that the evidence relating to the claimed "legal fees" were erroneously admitted because the matter was not raised as an issue during the pre-trial.

On June 23, 2011, the RTC issued the order⁹ denying TKI's motion for reconsideration, ruling that the sales invoices and order slips could be admitted because the duplicate originals of the invoices were already sufficiently established by the testimony of CSFL's officer and principal

⁵ Id. at 164-179.

⁶ Id. at 314-322.

⁷ Id. at 146.

⁸ Id. at 323-329.

⁹ Id. at 147-150.

witness, Ms. Susan Chiu (*Chiu*). Regarding the documents offered by CSFL to prove its claim for attorney's fees, the RTC stated that the demand for attorney's fees was impliedly included in the issue of whether or not TKI was liable to CSFL for the entire amount claimed.

Instead of presenting evidence, TKI opted to file a petition for *certiorari* with prayer for Temporary Restraining Order (*TRO*) and/or Writ of Preliminary Injunction before the CA in which it reiterated its argument regarding the inadmissibility of the photocopied evidence and the erroneous inclusion of those documents proving entitlement to attorney's fees which matter was not raised during the pre-trial.

As there was no injunction order issued by the CA, the RTC continued the proceedings and directed TKI to present evidence. TKI refused, citing the petition for *certiorari* it filed with the CA. Because of its refusal, the RTC considered TKI's right to adduce countervailing evidence as waived and ordered CSFL to submit its memorandum.¹⁰

On October 5, 2011, the CA rendered a decision partially granting TKI's petition. The dispositive portion of which reads:

WHEREFORE, premises considered, the Petition for Certiorari is **PARTIALLY GRANTED**. Accordingly, the assailed Orders dated May 13, 2011 and June 23, 2011 of public respondent judge are hereby **AFFIRMED** with the modification that Exhibits "D" to "GG-1" and "HH" to "KK-1" should be denied admission for being merely photocopies. As such, they are inadmissible for failure of private respondent to prove any of the exceptions provided under Section 3, Rule 130 of the Rules of Court.

SO ORDERED.¹¹

[Underscoring supplied]

Applying Section 3, Rule 130 of the Rules of Court,¹² the CA explained that while it was true that the original copies of the sales invoices

¹⁰ RTC Order, dated October 3, 2011, RTC Records, p. 832.

¹¹ *Rollo*, p. 41.

¹² Sec. 3. *Original document must be produced; exceptions.* — When the subject of inquiry is the contents of a document, no evidence shall be admissible other than the original document itself, except in the following cases:chanroblesvirtuallawlibrary

(a)When the original has been lost or destroyed, or cannot be produced in court, without bad faith on the part of the offeror;

(b)When the original is in the custody or under the control of the party against whom the evidence is offered, and the latter fails to produce it after reasonable notice;

(c)When the original consists of numerous accounts or other documents which cannot be examined in court without great loss of time and the fact sought to be established from them is only the general result of the whole; and

(d)When the original is a public record in the custody of a public officer or is recorded in a public office.

were the best evidence to prove TKI's obligation, CSFL merely presented photocopies of the questioned exhibits. It stated that Chiu's testimony merely established the existence or due execution of the original invoices. CSFL, however, did not present the original invoices, only the photocopies, contrary to Section 5, Rule 130 of the Rules of Court.¹³ Nonetheless, the CA agreed with the RTC's admission of CSFL's evidence proving attorney's fees, quoting verbatim its logic and reasoning.

CSFL filed a motion for partial reconsideration, but it was denied by the CA in its Resolution, dated January 16, 2012.

Hence, this petition.

GROUND

THE COURT OF APPEALS GRAVELY ERRED IN DELVING INTO THE LOWER COURT'S EVALUATION OF EVIDENCE AND FACTUAL FINDINGS SINCE IT IS BEYOND THE VERY LIMITED JURISDICTIONAL PARAMETERS OF A CERTIORARI PROCEEDING, THAT IS, THE CORRECTION OF ERRORS OF JURISDICTION.¹⁴

Stripped of non-essentials, the only issue to be resolved is whether or not the CA correctly modified the RTC order admitting the exhibits offered by CSFL.¹⁵

CSFL basically argues that the excluded documents are admissible in evidence because it was duly established during the trial that the said documents were duplicate originals, and not mere photocopies, considering that they were prepared at the same time as the originals.

On the other hand, TKI counters that CSFL's claim that the photocopied documents were duplicate originals was just a unilateral and self-serving statement without any supportive evidence.

¹³ Sec. 5. *When original document is unavailable.* — When the original document has been lost or destroyed, or cannot be produced in court, the offeror, upon proof of its execution or existence and the cause of its unavailability without bad faith on his part, may prove its contents by a copy, or by a recital of its contents in some authentic document, or by the testimony of witnesses in the order stated.

¹⁴ *Rollo*, p. 17.

¹⁵ *Id.* at 164-179.

The Court's Ruling

The Court finds merit in the petition.

After a review of the RTC and the CA records, which were ordered elevated, the Court is of the considered view that the CA erred in not admitting the invoices and order slips denominated as Exhibits "D" to "GG-1" and "HH" to "KK-1," which were duplicate originals. Section 4(b), Rule 130 of the Rules of Court reads:

Sec. 4 . *Original of document.* —

x x x x

(b) When a document is in two or more copies executed at or about the same time, with identical contents, all such copies are equally regarded as originals.

x x x x

In *Trans-Pacific Industrial Supplies v. The Court of Appeals and Associated Bank*,¹⁶ it was stressed that duplicate originals were admissible as evidence. Pertinent portions of the said decision read:

Respondent court is of the view that the above provision must be construed to mean the original copy of the document evidencing the credit and not its duplicate, thus:

. . . [W]hen the law speaks of the delivery of the private document evidencing a credit, it must be construed as referring to the original. In this case, appellees (Trans-Pacific) presented, not the originals but the duplicates of the three promissory notes." (Rollo, p. 42)

The above pronouncement of respondent court is **manifestly groundless**. It is undisputed that the documents presented were **duplicate originals** and are therefore **admissible as evidence**. Further, it must be noted that respondent bank itself did not bother to challenge the authenticity of the duplicate copies submitted by petitioner. In *People vs. Tan, (105 Phil. 1242 [1959])*, we said:

¹⁶ G.R. No. 109172, August 19, 1994, 235 SCRA 494.

When carbon sheets are inserted between two or more sheets of writing paper so that the writing of a contract upon the outside sheet, including the signature of the party to be charged thereby, produces a facsimile upon the sheets beneath, such signature being thus reproduced by the same stroke of pen which made the surface or exposed impression, all of the sheets so written on are regarded as duplicate originals and either of them may be introduced in evidence as such without accounting for the nonproduction of the others.

[Emphases supplied]

Records reveal that Chiu, CSFL's principal witness, was able to satisfactorily explain that Exhibits "D" to "GG-1" and "HH" to "KK-1" were duplicate originals of invoices and order slips, and not mere photocopies. She testified as follows:

Atty. Fernandez:

Q The documents that you have brought today, to what records do they belong?

A Those originals are from our company because one copy was sent to the customer and one we keep in our company, Sir.

Q When you prepare a particular invoice pertaining to a particular transaction Miss Witness, how many copies do you prepare for that invoice? How many copies of the invoice will you prepare?

A Two sets of invoice, one to the customer and one for our office sir.

Q And the copies that you brought today, are those the ones that were retained to you in your office, the copies you brought to court?

A Yes sir.¹⁷

[Emphases supplied]

¹⁷ TSN, December 15, 2010, p. 14.

The transcripts of stenographic notes (*TSNs*) clearly show that Chiu convincingly explained that CSFL usually prepared two (2) copies of invoices for a particular transaction, giving one copy to a client and retaining the other copy. The Court combed through her testimony and found nothing that would indicate that the documents offered were mere photocopies. She remained firm and consistent with her statement that the subject invoices were duplicate originals as they were prepared at the same time. The Court sees no reason why Section 4(b), Rule 130 of the Rules of Court should not apply. At any rate, those exhibits can be admitted as part of the testimony of Chiu.

The Court went over the RTC records and the *TSNs* and found that, contrary to the assertion of TKI, the duplicate originals were produced in court and compared with their photocopies during the hearing before the trial court. The transcripts bare all of these but were missed by the appellate court, which believed the assertion of TKI that what were produced in court and offered in evidence were mere photocopies. The *TSNs* further reveal that after the comparison, the photocopies were the ones retained in the records.¹⁸

The Court notes that this case involves a foreign entity and has been pending since October 6, 2005.¹⁹ It is about time that this case be decided on the merits. At this juncture, the Court reminds counsel for TKI of his duty, as an officer of the court, to see to it that the orderly administration of justice be not unduly impeded.

After the admission of CSFL's exhibits as evidence, TKI should have let trial proceed in due course instead of immediately resorting to *certiorari*, by presenting its own testimonial and documentary evidence and in case of an unfavorable decision, appeal the same in accordance with law. After all, the RTC stated that, granting that the questioned exhibits were not admissible, "there still remained enough evidence to substantiate plaintiff's claim on which the Court can validly render judgment upon application of the pertinent law and/or jurisprudence."²⁰ In the case of *Johnson Lee v. People of the Philippines*,²¹ it was written:

¹⁸ TSN, December 15, 2010, pp. 10-43.

¹⁹ RTC Records, p. 3.

²⁰ RTC Order, dated January 13, 2012, *id.* at 918.

²¹ 483 Phil. 684, 701 (2004).

In this case, there is no dispute that the RTC had jurisdiction over the cases filed by the public respondent against the petitioner for estafa. **The Order admitting in evidence the photocopies of the charge invoices and checks was issued by the RTC in the exercise of its jurisdiction. Even if erroneous, the same is a mere error of judgment and not of jurisdiction. Additionally, the admission of secondary evidence in lieu of the original copies predicated on proof of the offeror of the conditions sine qua non to the admission of the said evidence is a factual issue addressed to the sound discretion of the trial court.** Unless grave abuse of discretion amounting to excess or lack of jurisdiction is shown to have been committed by the trial court, the resolution of the trial court admitting secondary evidence must be sustained. **The remedy of the petitioner, after the admission of the photocopies of the charge invoices and the checks, was to adduce his evidence, and if after trial, he is convicted, to appeal the decision to the appropriate appellate court.** Moreover, under Rule 45 of the Rules of Court, as amended, only questions of law may be properly raised.

[Emphases supplied]

WHEREFORE, the October 5, 2011 Decision and the January 16, 2012 Resolution of the Court of Appeals in CA-G.R. SP No. 120413, are hereby **REVERSED** and **SET ASIDE** insofar as the exclusion of Exhibits “D” to “GG-1” and “HH” to “KK-1” are concerned. The May 13, 2011 Order of the Regional Trial Court, Branch 170, Malabon City, is **REINSTATED**.

The pertinent records of the case are hereby ordered remanded to the Regional Trial Court, Branch 170, Malabon City, for appropriate proceedings.

The trial court is directed to give priority to this case and act on it with dispatch.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



ARTURO D. BRION
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice

ATTESTATION

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



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division



CERTIFICATION

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



MARIA LOURDES P. A. SERENO
Chief Justice