Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

DUTY PAID IMPORT CO. INC., RAMON P. JACINTO, RAJAH BROADCASTING NETWORK, INC., and RJ MUSIC CITY, Petitioners,	**G.R. No. 238258**
	Present:
- versus -	PERALTA, *C.J., Chairperson,* CAGUIOA, *Working Chairperson,* REYES, J. JR., LAZARO-JAVIER, and LOPEZ, *JJ.*
LANDBANK OF THE PHILIPPINES, Respondent.	**Promulgated:** DEC 10 2019

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RESOLUTION

REYES, J. JR., *J.*:

This Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court challenges the Court of Appeals' (CA) Decision[2] dated June 29, 2017, and Resolution[3] dated March 20, 2018 which dismissed petitioners' appeal, and, thus, affirmed the Regional Trial Court's (RTC) Decision dated June 25, 2015, and Order dated January 20, 2016, finding petitioners solidarily liable to pay respondent its loan obligations.

Facts

On November 19, 1997, respondent Landbank of the Philippines (LBP) extended to petitioner Duty Paid Import Co. Inc., (DPICI) an

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1 *Rollo*, pp. 9-29.

2 Penned by Associate Justice Ma. Luisa C. Quijano-Padilla and concurred in by Associate Justices Sesinando E. Villon and Rodil V. Zalameda (now a Member of the Court); id. at 31-39.

3 Id. at 41-42.

Omnibus Credit Line Agreement for the amount of Two Hundred Fifty Million Pesos (₱250,000,000.00). A Comprehensive Surety Agreement was executed by petitioners Ramon P. Jacinto, Rajah Broadcasting Network, Inc., and RJ Music City, represented by Jaime J. Colayco (Colayco) and Ma. Belen B. Quejano (Quejano) (collectively, Jacinto, *et al.*).[4] Under the Comprehensive Surety Agreement, Jacinto, *et al.*, unconditionally, irrevocably, jointly and severally bound themselves to pay LBP the principal sum of ₱250,000,000.00 in the event DPICI fails to pay its loans, credits, advances, and other credit facilities and accommodation on maturity.[5]

From July 24, 1997 to August 4, 1998, Colayco and Quejano executed the following promissory notes in favor of LBP:[6]

Promissory Note	Date	Amount
B-2083 (15)	July 24, 1997	₱50,000,000.00
B-2083 (17)	July 24, 1997	₱40,000,000.00
B-2083 (18)	November 21, 1997	₱25,000,000.00
B-2083 (19)	November 26, 1997	₱15,000,000.00
B-2083 (20)	December 4, 1997	₱10,000,000.00
B-2083 (21)	May 22, 1998	₱50,000,000.00
B-2083 (22)	June 26, 1998	₱25,000,000.00
B-2083 (23)	August 4, 1998	₱35,000,000.00

As security for DPICI's loan in the amount of Ten Million Pesos (₱10,000,000.00), Colayco, in his capacity as Vice President of RJ Holdings, Inc., executed a real estate mortgage over a condominium unit covered by CCT No. 33328.

When DPICI failed to pay its obligations, LBP extrajudicially foreclosed the real estate mortgage over the condominium unit on December 17, 1998. LBP emerged as the highest bidder at the auction sale held on February 5, 1999, for the amount of Two Million Nine Hundred Seventy Thousand Pesos (₱2,970,000.00).

Despite applying the proceeds of the foreclosure sale to the outstanding loan obligations, there remained a deficiency in the amount of Three Hundred Four Million Five Hundred Twenty-four Thousand Four Hundred Thirty-eight Pesos and 98/100 cents (₱304,524,438.98). LBP then sent demand letters dated September 22, 1998 and October 7, 1998 to DPICI, to no avail.[7]

This led LBP to file the complaint *a quo* for collection of sum of money against herein petitioners.

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4 Id. at 11.
5 Id.
6 Id. at 32.
7 Id.

By way of answer, petitioners contended that the complaint was prematurely filed as LBP allegedly agreed to a restructuring of the loan agreement. They also argued that the actual amount of the obligations was less than that prayed for in LBP's complaint. Petitioners also raised the defense that their failure to pay was due to the Asian economic crisis in 1997, which was a *force majeure*.

On June 25, 2015, the RTC promulgated its Decision with the following conclusion:

> **WHEREFORE**, premises considered, judgment is hereby RENDERED in favor of [LBP] and against [petitioners] ordering the latter to jointly and severally pay the former the following:
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> (a) The principal obligation in the amount of [₱]166,853,078.57 plus interest thereon at the rate of 6% per annum from 7 October 1998 until the same are fully paid;
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> (b) The amount of [₱]100,000.00 as and by way of attorney's fees; and
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> (c) Cost of suit.
>
> The compulsory counterclaims of [petitioners] are DENIED for lack of merit.
>
> Furnish copies of this Decision to the parties and their respective [counsel].
>
> **SO ORDERED.**[8]

Petitioners' motion for reconsideration was likewise denied by the RTC, prompting them to bring their appeal to the CA.

In denying petitioners' appeal, the CA took note of the RTC's finding that the alleged restructuring of the loan obligations was not substantiated by evidence. The CA observed that petitioners' lone witness, Colayco, merely confirmed the existence of the Omnibus Credit Line Agreement and nothing more.[9] Contrariwise, that the proposed restructuring of the loan agreement never came to pass was proven by a letter sent by petitioners' Vice President for Finance to LBP which acknowledged that such proposal was denied by LBP.[10] Because of these, the CA disregarded petitioners' defense that LBP's complaint was prematurely filed.

The CA also agreed with the RTC when the latter rejected petitioners' contention that their failure to pay was due to the economic crisis in 1997, which should be treated as *force majeure*.[11] The CA was in further agreement

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8 Id. at 33.
9 Id. at 35.
10 Id. at 36.
11 Id. at 34.

with the RTC that petitioners were liable as sureties, and, as such, solidarily liable with DPICI as principal obligor.[12]

Finally, the CA refused petitioners' invocation of Republic Act No. 3765 or the Truth in Lending Act for having been raised for the first time on appeal.[13]

The CA disposed thus:

> **WHEREFORE**, premises considered, the present appeal is **DISMISSED** for lack of merit.
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> The Decision dated June 25, 2015 and Order dated January 20, 2016 issued by the Regional Trial Court, Branch 139, Makati City in Civil Case No. 99-1929 are **AFFIRMED in toto**.
>
> SO ORDERED.[14]

Dissatisfied with the denial of their appeal and subsequent motion for reconsideration, petitioners filed the instant petition raising the following:

Issues

A. RESPONDENT HAS NO CAUSE OF ACTION OR RIGHT OF ACTION AGAINST THE PETITIONERS.

B. THE PRESENT ACTION WAS PREMATURELY FILED.

C. THE OBLIGATION OF DPICI WAS MUCH LESS THAN THE AMOUNTS CLAIMED BY THE RESPONDENT.

D. PETITIONERS COULD NOT BE HELD LIABLE TO RESPONDENT FOR THE AMOUNTS CLAIMED WERE EXCESSIVE AND EXORBITANT ON ACCOUNT OF THE UNCONSCIONABLY HIGH INTEREST RATES AND PENALTIES IMPOSED BY THE RESPONDENT.

E. PETITIONERS RAMON P. JACINTO, RAJAH BROADCASTING CORP. AND RJ MUSIC SHOULD NOT BE HELD SOLIDARILY LIABLE WITH [DPICI].

F. PETITIONERS RAMON P. JACINTO, RAJAH BROADCASTING CORP. AND RJ MUSIC SHOULD NOT BE MADE TO PAY THE LIABILITIES OF [DPICI] CONSIDERING THAT IT[S] FAILURE TO PAY ITS DEBT WAS BASED ON JUSTIFIABLE REASONS.[15]

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12 Id. at 38.
13 Id. at 36.
14 Id. at 39.
15 Id. at 20.

In its Comment,[16] LBP seeks the outright denial of the petition for having raised issues not constituting questions of law. At any rate, LBP contends that petitioners failed to prove that the loan agreement was restructured and that petitioners knowingly executed the loan documents. LBP stresses that petitioners are liable not as guarantors but as sureties of DPICI's debts, and, consequently, are directly and absolutely bound with DPICI as principal debtor.[17] LBP also finds no error committed by the CA when it refused to treat the Asian economic crisis in 1997 as *force majeure*.[18]

In Reply,[19] petitioners assert that there was an agreement to restructure the loan albeit LBP abruptly declared that their loan already became due without consulting the account officer handling petitioners' loan.[20] Because of the agreement to restructure, petitioners contend that DPICI's loan was not yet due; thus, Jacinto *et al.*'s liability as sureties has yet to arise.[21] Again, petitioners allege that they do not seek to evade liability, they only seek that the restructuring of the loan agreement be implemented as their failure to pay was brought about by the economic crisis over which petitioners had no control.[22]

Ruling of the Court

For lack of merit, we deny the petition.

Only questions of law should be raised in Rule 45 petitions as this Court is not a trier of facts and will not entertain questions of fact as factual findings of the CA and trial courts are final, binding, or conclusive on the parties, and on this Court when supported by substantial evidence.[23]

The issues raised by petitioners in this petition are a virtual rehash, if not a verbatim reproduction, of the issues raised before the CA.[24] Whether the parties agreed on the restructuring of the loan, whether the amounts sought to be collected by LBP are much higher than DPICI's loan obligations, and whether petitioners bound themselves as sureties under the Comprehensive Surety Agreement, are questions of fact which have all been settled by the courts below.

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16 Id. at 73-91.
17 Id. at 84.
18 Id. at 85.
19 Id. at 98-103.
20 Id. at 98-99.
21 Id. at 100.
22 Id. at 101.
23 *Commissioner of Internal Revenue v. Embroidery and Garments Industries (Phil.), Inc.*, 364 Phil. 541, 546 (1999).
24 *Rollo*, p. 79.

As in all general rules, the rule that only questions of law may be entertained in a petition for review also permits exceptions. As enumerated in *Pascual v. Burgos*:[25]

> However, these rules do admit exceptions. Over time, the exceptions to these rules have expanded. At present, there are 10 recognized exceptions that were first listed in *Medina v. Mayor Asistio, Jr.*:
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> (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (2) When the inference made is manifestly mistaken, absurd or impossible; (3) Where there is a grave abuse of discretion; (4) When the judgment is based on a misapprehension of facts; (5) When the findings of fact are conflicting; (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee; (7) The findings of the Court of Appeals are contrary to those of the trial court; (8) When the findings of fact are conclusions without citation of specific evidence on which they are based; (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.[26] (Internal citations omitted)

None of the above exceptions exists in the instant case; thus, we find no reason to depart from the similar findings of the appellate and trial courts.

Even when the Court considers the facts as alleged by petitioners, it will still arrive at the conclusion that they failed to establish by preponderance of evidence that the loan agreement was restructured as to give merit to the argument that LBP's complaint was prematurely filed.

Basic is the evidentiary rule that he who allege a fact bears the burden of proof.[27] Petitioners merely allege that LBP had agreed to restructure the DPICI's loan obligations in the same manner that the obligations of DPICI's affiliate company, First Women's Credit Corporation, was allegedly restructured, and, that pending such restructuring, LBP had agreed to give DPICI a grace period within which to pay its obligations.[28] As unanimously found by the CA and the RTC, these allegations were never substantiated by evidence.[29] Petitioner's lone witness, Colayco, merely confirmed the existence of the Omnibus Credit Line Agreement in favor of DPICI. There was no evidence, documentary or testimonial, to prove the existence of the alleged agreement by the parties to restructure. Allegations are not evidence and without evidence, bare allegations do not prove facts.[30] At most, the letter[31] presented by LBP proves that there was a proposal on the part of the

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25 776 Phil. 167, 182-183 (2016).
26 Id. at 182.
27 *Lim v. Equitable PCI Bank*, 724 Phil. 453, 454 (2014).
28 *Rollo*, p. 13.
29 Id. at 82.
30 *Sabellina v. Buray*, 768 Phil. 224, 238 (2015).
31 Supra note 10.

petitioners to restructure the loan, but that said proposal was nevertheless denied by LBP. Hence, what this settles is that LBP did not give its consent to the proposed restructuring; as such, there was no restructuring to speak of.

Petitioners' argument that LBP was at fault for not having consulted its account officer before collecting the loan is, at best, specious. The account officer merely keeps track of records pertinent to the account. By no measure is the account officer a party to the loan agreement which is strictly between LBP and petitioners.

Anent petitioners' argument that the amount sought to be collected by LBP was much higher than its total obligations, suffice to say that the lower courts uniformly determined that even after the application of the proceeds of the foreclosure sale, there remained a balance on the loan obligation in the amount of ₱166,853,078.57.[32] Quite glaringly, petitioners did not bother to disprove this finding by offering contrary proof.

In the same manner, we sustain the finding that Jacinto, *et al.*, are liable as sureties. In fact, petitioners do not deny their liability as sureties under the Comprehensive Surety Agreement, but nevertheless argue that their liability arises only when the collaterals used to secure the obligation proved to be insufficient.[33] The terms of the Comprehensive Surety Agreement itself, which petitioners knowingly and intelligently entered into, belie such contention:

> WHEREAS, the BANK has granted to **DUTY-PAID IMPORT CO., INC. (Save-a-Lot)** (hereinafter referred to as the BORROWER) certain loans, credits, advances, and other credit facilities or accommodations up to a principal amount of **PESOS: TWO HUNDRED FIFTY MILLION PESOS, (₱250,000,000.00)**, Philippine Currency, (the OBLIGATIONS) with a condition, among others, that a joint and several liability undertaking be executed by the SURETY for the due and punctual payment of all loans, credits, advances, and other credit facilities or accommodations of the BORROWER due and payable to the BANK and for the faithful and prompt performance of any or all the terms and conditions thereof.
>
> WHEREAS, the SURETY has, for a valuable consideration received from the BORROWER agreed to irrevocably, unconditionally and jointly and severally undertake/guarantee the OBLIGATIONS.
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> x x x x
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> 14. Upon any default, the BANK may proceed directly against the SURETY without first proceeding against and without exhausting the property of the BORROWER;[34] (Emphasis and underscoring in the original)

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32 *Rollo*, p. 35.
33 Id. at 25.
34 Id. at 37.

Thus, under the terms of the Comprehensive Surety Agreement, Jacinto, *et al.,* become immediately liable upon DPICI's default without the need for LBP to first proceed against, and, exhaust the collaterals offered by DPICI.

Finally, petitioners' plea to be absolved of liability on account of the Asian financial crisis in 1997, deserves scant consideration. Upon the petitioners rest the burden of proving that its financial distress which it claim to have suffered was the proximate cause of its inability to comply with its obligations.[35] The loan agreement was entered into on November 19, 1997, or well after the start of the Asian economic crisis. Petitioners ought to be aware of the economic environment at that time, yet it chose to contract said obligations from LBP. It was a business judgment that entailed certain risks. In any case, the 1997 financial crisis that ensued in Asia did not constitute a valid justification to renege on one's obligations[36] and it is not among the fortuitous events contemplated under Article 1174 of the New Civil Code.[37]

In all, we find no error on the part of the appellate court necessitating the Court's exercise of its discretionary review power under Rule 45.

WHEREFORE, the petition is **DENIED**. The Decision dated June 29, 2017 and Resolution dated March 20, 2018 of the Court of Appeals are **AFFIRMED *in toto***.

SO ORDERED.

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Chief Justice
Chairperson

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35 See *Asian Construction and Development Corp. v. PCI Bank*, 522 Phil. 168, 180 (2006).
36 Id.
37 *Mondragon Leisure and Resorts Corp. v. Court of Appeals*, 499 Phil. 268, 279 (2005).

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

MARIO V. LOPEZ
Associate Justice

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.

DIOSDADO M. PERALTA
Chief Justice