



**REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY**

FIFTH DIVISION

**REPUBLIC OF THE PHILIPPINES,
Plaintiff,**

CV Case No. 0186

**For: Recovery of Ill-gotten
Wealth with Damages**

-vs-

**ATLAS TEXTILE &
DEVELOPMENT INC., ET AL.,**

Present:

Defendant.

**LAGOS, J., Chairperson,
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.**

Promulgated:

July 09, 2018 *lal*

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RESOLUTION

MENDOZA-ARCEGA, J.:

This resolves the following: 1) Motion for Reconsideration filed by the Republic of the Philippines as represented by the Presidential Commission on Good Government (PCGG) and the Presidential Ad Hoc Fact-Finding Committee on Behest Loans, through the Office of the Solicitor General, on May 21, 2018; 2) Comment and Opposition filed by defendant Alicia LL. Reyes, through counsel, on May 29, 2018; 3) Comment to Plaintiff's Motion for Reconsideration of the April

24, 2018 Decision, filed by defendant Jose R. Tengco, Jr., on June 4, 2018; and 4) Consolidated Reply by the Republic on June 26, 2018.

The plaintiff, Republic, in its Motion, moves for the reconsideration of the Court's Decision dated April 24, 2018, alleging that it was able to prove by preponderance of evidence that the loan accommodation granted to Atlas Textile and Development, Inc. (Atlas) is a behest loan as it was undercapitalized and at the time of the application for said loan, the borrower corporation was undercollateralized. Moreover, it asserts that the defendant failed to substantiate its assertion that the loan accommodation had already been sufficiently satisfied. Finally, it maintains that the Court committed an error in declaring that the defendants are not jointly and severally liable to pay plaintiff ill-gotten wealth in the sum of Fifty-Seven Million Three Hundred Ninety Thousand Pesos (PhP57,390,000.00), exemplary damages and attorney's fees.

In response to the subject motion, defendant Alicia LL. Reyes (Reyes) filed her opposition stating that the Court did not commit a reversible error when it said that the accommodation is not a behest loan as the plaintiff failed to prove by preponderance of evidence that it was uncollateralized and that defendant, Atlas, was undercapitalized at the time of its application. She added that the finding of the Court was supported by the testimony of witness Juliana N. Gamilla, then Chief of Division at Industrial Project Department I (IPD-I) of the Development Bank of the Philippines, who testified that the subject loan was in fact a refinancing of the previous loans of Atlas and as such, there was no cash outlay. Moreover, no evidence was presented by the plaintiff of the alleged deviation of defendant, DBP, from the normal banking practice, in fact, the approval of the loan accommodation was compliant with all the requirements and was based on sound business discretion of the officials of the bank.

By way of Comment, defendant Jose R. Tengco, Jr. (Tengco) through counsel said that the motion of the plaintiff failed to state substantial arguments that would warrant a reconsideration of its Decision dated April 24, 2018. He said that the issues posed by the plaintiff in its motion are the very same issues it raised in its memorandum, which the Court has already passed upon and resolved in the assailed Decision.

The plaintiff in challenging the respective comments of defendants Reyes and Tengco, Jr. argue that the existence of the collateral ratio and debt-equity ratio requirements of the DBP are not of common knowledge to the general public, thus the court should not take judicial notice of the same. Also, the plaintiff avers that the unrealized increment in the fixed assets of Atlas should not be included in the computation of the corporation's total equity because the same is inchoate.

Hence, this resolution.

Rule 37, Section 1 of the Rules of Court¹ enumerates the grounds upon which an aggrieved party may file a motion for new trial or a motion for reconsideration.

¹ Section 1. Grounds of and period for filing motion for new trial or reconsideration.

A careful examination of the present motion for reconsideration shows that the matters raised therein are mere reiterations which had been exhaustively discussed and resolved in the assailed Decision.

In addition to the repetitive issues ventilated by the plaintiff, it also assigned as an error the apparent judicial notice by the Court of the collateral ratio and debt equity ratio requirement of the Development Bank of the Philippines (DBP).

The Court however is not persuaded. The said collateral ratio and debt equity ratio of DBP have been testified to by witness Juliana N. Gamilla. The witness testified on said matters as a former officer of the bank who was accustomed not to mention competent to testify on such matters. In addition, the plaintiff during the presentation of said witness, did not raise any question as to the qualification of the witness nor questioned the matters testified to. It is only at this almost conclusion stage of the case that the plaintiff raised this particular question. This belated assertion of the plaintiff, to the mind of the Court can only be viewed as a flimsy, if not desperate attempt to disturb its earlier ruling.

In addition, the Court's ruling was based on the totality of evidence presented by the parties including documentary and testimonial evidence. The admissibility and probative value of evidence presented still belong to the sound discretion of the Court irrespective of parties' position or conclusion.

Finally, the plaintiff cannot question the reference of the Court as to the debt and equity ratio as well as the collateral ratio requirement of DBP as the same has been recognized and was used by the Supreme Court in various decided cases² of alleged behest loans, which are akin to the present case.

All told, for failure of the plaintiff to present new matters that could warrant the reversal of the Decision dated April 24, 2018, the Court finds no cogent reason to set aside the same. In view thereof, the Motion for Reconsideration is hereby **DENIED** for lack of merit.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

¹ Within the period for taking an appeal, the aggrieved party may move the trial court to set aside the judgment or final order and grant a new trial for one or more of the following causes materially affecting the substantial rights of said party:

(a) Fraud, accident, mistake or excusable negligence which ordinary prudence could not have guarded against and by reason of which such aggrieved party has probably been impaired in his rights; or


(b) Newly discovered evidence, which he could not, with reasonable diligence, have discovered and produced at the trial, and which if presented would probably alter the result.

Within the same period, the aggrieved party may also move for reconsideration upon the grounds that the damages awarded are excessive, that the evidence is insufficient to justify the decision or final order, or that the decision or final order is contrary to law.

² The Presidential Ad Hoc Fact-Finding Committee on Behest Loans and Presidential Commission on Good Government v. Ombudsman Aniano A. Desierto, et al., G.R. No. 138142, September 19, 2007; Dino A. Crucillo v. Office of the Ombudsman, et al., G.R. No. 159876, June 26, 2007; Jose R. Tengco, Jr. v. Hon. Simeon V. Marcelo, et al., G.R. No. 159877, June 26, 2007; Development Bank of the Philippines and Asset Privatization Trust v. Court of Appeals and Continental Cement Corporation, G.R. No. 119712, January 29, 1999.

WE CONCUR:


RAFAEL R. LAGOS
Chairperson


MARYANN E. CORPUS-MAÑALAC
Associate Justice

