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THIRD DIVISION

[G.R. No. 170782. June 22, 2009]

SIAIN ENTERPRISES, INC., *petitioner, vs.* **CUPERTINO REALTY CORP. and EDWIN R. CATACUTAN,** *respondents.*

SYLLABUS

1. REMEDIAL LAW; APPEALS; FACTUAL FINDINGS OF THE TRIAL COURT ARE ACCORDED THE HIGHEST DEGREE OF RESPECT AND GREAT WEIGHT ON APPEAL; EXCEPTIONS; ABSENT IN CASE AT BAR. — Well-entrenched in jurisprudence is the rule that factual findings of the trial court, especially when affirmed by the appellate court, are accorded the highest degree of respect and are considered conclusive between the parties. A review of such findings by this Court is not warranted except upon a showing of highly meritorious circumstances, such as: (1) when the findings of a trial court are grounded entirely on speculation, surmises or conjectures; (2) when a lower court's inference from its factual findings is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion in the appreciation of facts; (4) when the findings of the appellate court go beyond the issues of the case, or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; (5) when there is a misappreciation of facts; (6) when the findings of fact are conclusions without mention of the specific evidence on which they are based, are premised on the absence of evidence, or are contradicted by evidence on record. None of these exceptions necessitating a reversal of the assailed decision obtains in this instance.

2. ID.; EVIDENCE; BURDEN OF PROOF; THE PLAINTIFF HAS THE DUTY TO PRESENT A PREPONDERANCE OF EVIDENCE TO ESTABLISH ITS CLAIM; CASE AT BAR. — x x x [P]etitioner was the plaintiff in the trial court, the party that brought suit against respondent. Accordingly, it had the burden of proof, the duty to present a preponderance of evidence to establish its claim. However, petitioner's evidence

consisted only of a barefaced denial of receipt and a vaguely drawn theory that in their previous loan transaction with respondent covered by the first promissory note, it did not receive the proceeds of the ₱37,000,000.00. Petitioner conveniently ignores that this particular promissory note secured by the real estate mortgage was under an escrow arrangement and taken out to pay its obligation to DBP. Thus, petitioner, quite obviously, would not be in possession of the proceeds of the loan. Contrary to petitioner's contention, there is no precedent to explain its stance that respondent undertook to release the ₱160,000,000.00 loan only after it had first signed the Amended Real Estate Mortgage.

3. MERCANTILE LAW; CORPORATIONS; PIERCING THE VEIL OF CORPORATE FICTION, WHEN PROPER; CASE AT BAR. — As a general rule, a corporation will be deemed a separate legal entity until sufficient reason to the contrary appears. But the rule is not absolute. A corporation's separate and distinct legal personality may be disregarded and the veil of corporate fiction pierced when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime. In this case, Cupertino presented overwhelming evidence that petitioner and its affiliate corporations had received the proceeds of the ₱160,000,000.00 loan increase which was then made the consideration for the Amended Real Estate Mortgage. We quote with favor the RTC's and the CA's disquisitions on this matter: That the checks, debit memos and the pledges of the jewelries, condominium units and trucks were constituted not exclusively in the name of [petitioner] but also either in the name of Yuyek Manufacturing Corporation, Siain Transport, Inc., Cua Leleng and Alberto Lim is of no moment. For the facts established in the case at bar has convinced the Court of the propriety to apply the principle known as "piercing the veil of the corporate entity" by virtue of which, the juridical personalities of the various corporations involved are disregarded and the ensuing liability of the corporation to attach directly to its responsible officers and stockholders. x x x The conjunction of the identity of the [petitioner] corporation in relation to Siain Transport, Inc. (Siain Transport), Yuyek Manufacturing Corp. (Yuyek), as well as the individual personalities of Cua Leleng and Alberto Lim has been indubitably shown in the instant case x x x.

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APPEARANCES OF COUNSEL

Misa & Gonzales Law Offices for petitioner.
Dy Tagra & Yam Law Firm for respondents.

D E C I S I O N

NACHURA, *J.*:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the decision of the Court of Appeals in CA-G.R. CV No. 71424[1] which affirmed the decision of the Regional Trial Court, Branch 29, Iloilo City in Civil Case No. 23244.[2]

On April 10, 1995, petitioner Siain Enterprises, Inc. obtained a loan of ₱37,000,000.00 from respondent Cupertino Realty Corporation (Cupertino) covered by a promissory note signed by both petitioner's and Cupertino's respective presidents, Cua Le Leng and Wilfredo Lua. The promissory note authorizes Cupertino, as the creditor, to place in escrow the loan proceeds of ₱37,000,000.00 with Metropolitan Bank & Trust Company to pay off petitioner's loan obligation with Development Bank of the Philippines (DBP). To secure the loan, petitioner, on the same date, executed a real estate mortgage over two (2) parcels of land and other immovables, such as equipment and machineries.

Two (2) days thereafter, or on April 12, 1995, the parties executed an amendment to promissory note which provided for a seventeen percent (17%) interest per *annum* on the ₱37,000,000.00 loan.[3] The amendment to promissory note was likewise signed by Cua Le Leng and Wilfredo Lua on behalf of petitioner and Cupertino, respectively.

On August 16, 1995, Cua Le Leng signed a second promissory note in favor of Cupertino for ₱160,000,000.00. Cua Le Leng

[1] Penned by Associate Justice Vicente L. Yap, with Associate Justices Isaias P. Dicdican and Enrico A. Lanzanas, concurring; *rollo*, pp. 66-81.

[2] Penned by Judge Rene B. Honrado; *rollo*, pp. 159-179.

[3] Records, p. 438.

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signed the second promissory note as maker, on behalf of petitioner, and as co-maker, liable to Cupertino in her personal capacity. This second promissory note provides:

PROMISSORY NOTE

AMOUNT DATE: AUGUST 16, 1995
ONE HUNDRED SIXTY MILLION PESOS
(PHP 160,000,000.00)

FOR VALUE RECEIVED, after one (1) year from this date on or August 16, 1996, WE, SIAIN ENTERPRISES INC. with Metro Manila office address at 306 J.P. Rizal St., Mandaluyong City, represented herein by its duly authorized President, Ms. LELENG CUA, (a copy of her authority is hereto attached as Annex "A") and Ms. LELENG CUA in her personal capacity, a resident of ILOILO CITY, jointly and severally, unconditionally promise to pay CUPERTINO REALTY CORPORATION, or order, an existing corporation duly organized under Philippine laws, the amount/sum of ONE HUNDRED SIXTY MILLION PESOS (PHP 160,000,000.00), Philippine Currency, without further need of any demand, at the office of CUPERTINO REALTY CORPORATION;

The amount/sum of ONE HUNDRED SIXTY MILLION PESOS (PHP 160,000,000.00) shall earn a compounding interest of 30% per annum which interest shall be payable to CUPERTINO REALTY CORPORATION at its above given address ON THE FIRST DAY OF EVERY MONTH WITHOUT THE NEED OF DEMAND.

In case We fail to pay the principal amount of this note at maturity or in the event of bankruptcy or insolvency, receivership, levy of execution, garnishment or attachment or in case of conviction for a criminal offense carrying with it the penalty of civil interdiction or in any of the cases covered by Article 1198 of the Civil Code of the Philippines, then the entire principal of this note and other interests and penalties due thereon shall, at the option of CUPERTINO REALTY CORPORATION, immediately become due and payable and We jointly and severally agree to pay additionally a penalty at the rate of THREE PERCENT (3%) per month on the total amount/sum due until fully paid. Furthermore, We jointly and severally agree to pay an additional sum equivalent to 20% of the total amount due but in no case less than PHP 100,000.00 as and for attorney's fees in addition to expenses and costs of suit.

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We hereby authorize and empower CUPERTINO REALTY CORPORATION at its option at any time, without notice, to apply to the payment of this note and or any other particular obligation or obligations of all or any one of us to CUPERTINO REALTY CORPORATION, as it may select, irrespective of the dates of maturity, whether or not said obligations are then due, any and all moneys, checks, securities and things of value which are now or which may hereafter be in its hand on deposit or otherwise to the credit of, or belonging to, both or any one of us, and CUPERTINO REALTY CORPORATION is hereby authorized to sell at public or private sale such checks, securities, or things of value for the purpose of applying the proceeds thereof to such payments of this note.

We hereby expressly consent to any extension and/or renewals hereof in whole or in part and/or partial payment on account which may be requested by and granted to us or any one of us for the payment of this note as long as the remaining unpaid balance shall earn an interest of THREE percent (3%) a month until fully paid. Such renewals or extensions shall, in no case, be understood as a novation of this note or any provision thereof and We will thereby continue to be liable for the payment of this note.

We submit to the jurisdiction of the Courts of the City of Manila or of the place of execution of this note, at the option of CUPERTINO REALTY CORPORATION without divesting any other court of the its jurisdiction, for any legal action which may arise out of this note. In case of judical (sic) execution of this obligation, or any part of it, we hereby waive all our rights under the provisions of Rule 39, section 12 of the Rules of Court.

We, who are justly indebted to CUPERTINO REALTY CORPORATION, agree to execute respectively a real estate mortgage and a pledge or a chattel mortgage covering securities to serve as collaterals for this loan and to execute likewise an irrevocable proxy to allow representatives of the creditor to be able to monitor acts of management so as to prevent any premature call of this loan. We further undertake to execute any other kind of document which CUPERTINO REALTY CORPORATION may solely believe is necessary in order to effect any security over any collateral.

For this purpose, Ms. LELENG CUA, upon the foregoing promissory note, has this 16th day of Aug 1995, pledged her shares of stocks in SIAIN ENTERPRISES, INC., worth PHP 1,800,000.00

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which she hereby confesses as representing 80% of the total outstanding shares of the said company.

In default of payment of said note or any part thereof at maturity, Ms. LELENG CUA hereby authorizes CUPERTINO REALTY CORPORATION or its assigns, to dispose of said security or any part thereof at public sale. The proceeds of such sale or sales shall, after payment of all expenses and commissions attending said sale or sales, be applied to this promissory note and the balance, if any, after payment of this promissory note and interest thereon, shall be returned to the undersigned, her heirs, successors and administrators; it shall be optional for the owner of the promissory note to bid for and purchase the securities or any part thereof.

(signed)

SIAIN ENTERPRISES, INC. LELENG CUA
In her personal capacity
CO-MAKER

By:

(signed)
LELENG CUA
MAKER

WITNESSES:

(signed)
EDGARDO LUA

(signed)
ROSE MARIE RAGODON[4]

Parenthetically, on even date, the parties executed an amendment of real estate mortgage, providing in pertinent part:

WHEREAS, on 10 April 1995, the [petitioner] executed, signed and delivered a Real Estate Mortgage to and in favor of [Cupertino] on certain real estate properties to secure the payment to [Cupertino] of a loan in the amount of THIRTY SEVEN MILLION PESOS

[4] *Id.* at 439-441.

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(₱37,000,000.00) Philippine Currency, granted by [Cupertino] was ratified (sic) on 10 April 1995 before Constancio Mangoba, Jr., Notary Public in Makati City, as Doc. No. 242; in Page No. 50; Book No., XVI; Series of 1995, and duly recorded in the Office of the Register of Deeds for the said City of Iloilo;

WHEREAS, the [petitioner] has increased its loan payable to [Cupertino] which now amounts to ONE HUNDRED NINETY SEVEN MILLION PESOS (197,000,000.00); and

WHEREAS, the [petitioner] and [Cupertino] intend to amend the said Real Estate Mortgage in order to reflect the current total loan secured by the said Real Estate Mortgage;

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereto have agreed and by these presents do hereby agree to amend said Real Estate Mortgage dated 10 April 1995 mentioned above by substituting the total amount of the loan secured by said Real Estate Mortgage from ₱37,000,000.00 to ₱197,000,000.00.

It is hereby expressly understood that with the foregoing amendment, all other terms and conditions of said Real Estate Mortgage dated 10 April 1995 are hereby confirmed, ratified and continued to be in full force and effect, and that this agreement be made an integral part of said Real Estate Mortgage.[5]

Curiously however, and contrary to the tenor of the foregoing loan documents, petitioner, on March 11, 1996, through counsel, wrote Cupertino and demanded the release of the ₱160,000,000.00 loan increase covered by the amendment of real estate mortgage.[6] In the demand letter, petitioner's counsel stated that despite repeated verbal demands, Cupertino had yet to release the ₱160,000,000.00 loan. On May 17, 1996, petitioner demanded anew from Cupertino the release of the ₱160,000,000.00 loan.[7]

In complete refutation, Cupertino, likewise through counsel, responded and denied that it had yet to release the ₱160,000,000.00 loan. Cupertino maintained that petitioner had

[5] *Id.* at 24-25.

[6] *Id.* at 27-28.

[7] *Id.* at 31-32.

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long obtained the proceeds of the aforesaid loan. Cupertino declared petitioner's demand as made to "abscond from a just and valid obligation," a mere afterthought, following Cupertino's letter demanding payment of the ₱37,000,000.00 loan covered by the first promissory note which became overdue on March 5, 1996.

Not surprisingly, Cupertino instituted extrajudicial foreclosure proceedings over the properties subject of the amended real estate mortgage. The auction sale was scheduled on October 11, 1996 with respondent Notary Public Edwin R. Catacutan commissioned to conduct the same. This prompted petitioner to file a complaint with a prayer for a restraining order to enjoin Notary Public Catacutan from proceeding with the public auction.

The following are the parties' conflicting claims, summarized by the RTC, and quoted verbatim by the CA in its decision:

"The verified complaint alleges that [petitioner] is engaged in the manufacturing and retailing/wholesaling business. On the other hand, Cupertino is engaged in the realty business. That on April 10, 1995, [petitioner] executed a Real Estate Mortgage over its real properties covered by Transfer Certificates of title Nos. T-75109 and T-73481 ("the mortgage properties") of the Register of Deeds of Iloilo in favor of Cupertino to secure the former's loan obligation to the latter in the amount of Php37,000,000.00. That it has been the agreement between [petitioner] and Cupertino that the aforesaid loan will be non-interest bearing. Accordingly, the parties saw to it that the promissory note (evidencing their loan agreement) did not provide any stipulation with respect to interest. On several occasions thereafter, [petitioner] made partial payments to Cupertino in respect of the aforesaid loan obligation by the former to the latter in the total amount of Php7,985,039.08, thereby leaving a balance of Php29,014,960.92. On August 16, 1995, [petitioner] and Cupertino executed an amendment of Real Estate Mortgage (Annex "C") increasing the total loan covered by the aforesaid REM from Php37,000,000.00 to ₱197,000,000.00. This amendment to REM was executed preparatory to the promised release by Cupertino of additional loan proceeds to [petitioner] in the total amount of Php160,000,000.00. However, despite the execution of the said amendment to REM and its subsequent registration with the Register of Deeds of Iloilo City and notwithstanding the clear agreement

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between [petitioner] and Cupertino and the latter will release and deliver to the former the aforesaid additional loan proceeds of ₱160,000,000.00 after the signing of pertinent documents and the registration of the amendment of REM, Cupertino failed and refused to release the said additional amount for no apparent reason at all, contrary to its repeated promises which [petitioner] continuously relied on. On account of Cupertino's unfulfilled promises, [petitioner] repeatedly demanded from Cupertino the release and/or delivery of the said Php160,000,000.00 to the former. However, Cupertino still failed and refused and continuously fails and refuses to release and/or deliver the Php160,000,000.00 to [petitioner]. When [petitioner] tendered payment of the amount of Php29,014,960.92 which is the remaining balance of the Php37,000,000.00 loan subject of the REM, in order to discharge the same, Cupertino unreasonably and unjustifiably refused acceptance thereof on the ground that the previous payment amounting to Php7,985,039.08, was applied by Cupertino to alleged interests and not to principal amount, despite the fact that, as earlier stated, the aforesaid loan by agreement of the parties, is non-interest bearing. Worst, unknown to [petitioner], Cupertino was already making arrangements with [respondent] Notary Public for the extrajudicial sale of the mortgage properties even as [petitioner] is more than willing to pay the Php29,014,960.92 which is the remaining balance of the Php37,000,000.00 loan and notwithstanding Cupertino's unjustified refusal and failure to deliver to [petitioner] the amount of Php160,000,000.00. In fact, a notarial sale of the mortgaged properties is already scheduled on 04 October 1996 by [respondent] Notary Public at his office located at Rm. 100, Iloilo Casa Plaza, Gen Luna St., Iloilo City. In view of the foregoing, Cupertino has no legal right to foreclose the mortgaged properties. In any event, Cupertino cannot extrajudicially cause the foreclosure by notarial sale of the mortgage properties by [respondent] Notary Public as there is nothing in the REM (dated 10 April 1995) or in the amendment thereto that grants Cupertino the said right.

x x x x x x x x x

"Respondents] finally filed an answer to the complaint, alleging that the loan have (sic) an interest of 17% per annum: that no payment was ever made by [petitioner], that [petitioner] has already received the amount of the loan prior to the execution of the promissory note and amendment of Real Estate Mortgage, xxx."

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"[Petitioner] filed a supplemental complaint alleging subsequent acts made by defendants causing the subsequent auction sale and registering the Certificates of Auction Sale praying that said auction sale be declared null and void and ordering the Register of Deeds to cancel the registration and annotation of the Certificate of Notarial Sale."

Thereafter, the Pre-Trial conference was set. Both parties submitted their respective Brief and the following facts were admitted, *viz*:

1. Execution of the mortgage dated April 10, 1995;
2. Amendment of Real Estate Mortgage dated August 16, 1995;
3. Execution of an Extra-Judicial Foreclosure by the [Cupertino];
4. Existence of two (2) promissory notes;
5. Existence but not the contents of the demand letter March 11, 1996 addressed to Mr. Wilfredo Lua and receipt of the same by [Cupertino]; and
6. Notice of Extra-Judicial Foreclosure Sale."

For failing to arrive at an amicable settlement, trial on the merits ensued. The parties presented oral and documentary evidence to support their claims and contentions. [Petitioner] insisted that she never received the proceeds of Php160,000,000.00, thus, the foreclosure of the subject properties is null and void. [Cupertino] on the other hand claimed otherwise.[8]

After trial, the RTC rendered a decision dismissing petitioner's complaint and ordering it to pay Cupertino ₱100,000.00 each for actual and exemplary damages, and ₱500,000.00 as attorney's fees. The RTC recalled and set aside its previous order declaring the notarial foreclosure of the mortgaged properties as null and void. On appeal, the CA, as previously adverted to, affirmed the RTC's ruling.

In dismissing petitioner's complaint and finding for Cupertino, both the lower courts upheld the validity of the amended real estate mortgage. The RTC found, as did the CA, that although the amended real estate mortgage fell within the exceptions to

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[8] *Rollo*, pp. 67-70.

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the parol evidence rule under Section 9, Rule 130 of the Rules of Court, petitioner still failed to overcome and debunk Cupertino's evidence that the amended real estate mortgage had a consideration, and petitioner did receive the amount of ₱160,000,000.00 representing its incurred obligation to Cupertino. Both courts ruled that as between petitioner's bare denial and negative evidence of non-receipt of the ₱160,000,000.00, and Cupertino's affirmative evidence on the existence of the consideration, the latter must be given more weight and value. In all, the lower courts gave credence to Cupertino's evidence that the ₱160,000,000.00 proceeds were the total amount received by petitioner and its affiliate companies over the years from Wilfredo Lua, Cupertino's president. In this regard, the lower courts applied the doctrine of "piercing the veil of corporate fiction" to preclude petitioner from disavowing receipt of the ₱160,000,000.00 and paying its obligation under the amended real estate mortgage.

Undaunted, petitioner filed this appeal insisting on the nullity of the amended real estate mortgage. Petitioner is adamant that the amended real estate mortgage is void as it did not receive the agreed consideration therefor *i.e.* ₱160,000,000.00. Petitioner avers that the amended real estate mortgage does not accurately reflect the agreement between the parties as, at the time it signed the document, it actually had yet to receive the amount of ₱160,000,000.00. Lastly, petitioner asseverates that the lower courts erroneously applied the doctrine of "piercing the veil of corporate fiction" when both gave credence to Cupertino's evidence showing that petitioner's affiliates were the previous recipients of part of the ₱160,000,000.00 indebtedness of petitioner to Cupertino.

We are in complete accord with the lower courts' rulings.

Well-entrenched in jurisprudence is the rule that factual findings of the trial court, especially when affirmed by the appellate court, are accorded the highest degree of respect and are considered conclusive between the parties.[9] A review of such findings by

[9] *Titan Construction Corporation v. Uni-Field Enterprises, Inc.*, G.R. No. 153874, March 1, 2007, 517 SCRA 180, 180; *Sigaya v. Mayuga*, G.R.

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this Court is not warranted except upon a showing of highly meritorious circumstances, such as: (1) when the findings of a trial court are grounded entirely on speculation, surmises or conjectures; (2) when a lower court's inference from its factual findings is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion in the appreciation of facts; (4) when the findings of the appellate court go beyond the issues of the case, or fail to notice certain relevant facts which, if properly considered, will justify a different conclusion; (5) when there is a misappreciation of facts; (6) when the findings of fact are conclusions without mention of the specific evidence on which they are based, are premised on the absence of evidence, or are contradicted by evidence on record.[10] None of these exceptions necessitating a reversal of the assailed decision obtains in this instance.

Conversely, we cannot subscribe to petitioner's faulty reasoning.

First. All the loan documents, on their face, unequivocally declare petitioner's indebtedness to Cupertino:

1. Promissory Note dated April 10, 1995, prefaced with a "[f]or value received," and the escrow arrangement for the release of the ₱37,000,000.00 obligation in favor of DBP, another creditor of petitioner.

2. Mortgage likewise dated April 10, 1995 executed by petitioner to secure its ₱37,000,000.00 loan obligation with Cupertino.

3. Amendment to Promissory Note for ₱37,000,000.00 dated April 12, 1995 which tentatively sets the interest rate at seventeen percent (17%) per annum.

4. Promissory Note dated August 16, 1995, likewise prefaced with "[f]or value received," and unconditionally promising to pay Cupertino ₱160,000,000.00 with a stipulation on compounding interest at thirty percent (30%) per annum. The Promissory Note requires, among others, the execution of a real estate

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No. 143254, August 18, 2005, 467 SCRA 341, 343.

[10] *Ilao-Quianay v. Mapile*, G.R. No. 154087, October 25, 2005, 474 SCRA 246, 247; *See Child Learning Center, Inc. v. Tagorio*, G.R. No. 150920, November 25, 2005, 476 SCRA 236, 236-237.

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mortgage to serve as collateral therefor. In case of default in payment, petitioner, specifically, through its president, Cua Le Leng, authorizes Cupertino to "dispose of said security or any part thereof at [a] public sale."

5. Amendment of Real Estate Mortgage also dated August 16, 1995 with a recital that the mortgagor, herein petitioner, has increased its loan payable to the mortgagee, Cupertino, from ₱37,000,000.00 to ₱197,000,000.00. In connection with the increase in loan obligation, the parties confirmed and ratified the Real Estate Mortgage dated April 10, 1995.

Unmistakably, from the foregoing chain of transactions, a presumption has arisen that the loan documents were supported by a consideration.

Rule 131, Section 3 of the Rules of Court specifies that a disputable presumption is satisfactory if uncontradicted and not overcome by other evidence. Corollary thereto, paragraphs (r) and (s) thereof and Section 24 of the Negotiable Instruments Law read:

SEC. 3. *Disputable presumptions*.— The following presumptions are satisfactory if uncontradicted, but may be contradicted and overcome by other evidence:

x x x x x x x x x

(r) That there was sufficient consideration for a contract;

(s) That a negotiable instrument was given or indorsed for a sufficient consideration;

x x x x x x x x x

SEC. 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 thereto for value.

Second. The foregoing notwithstanding, petitioner insists that the Amended Real Estate Mortgage was not supported by a consideration, asserting non-receipt of the ₱160,000,000.00 loan increase reflected in the Amended Real Estate Mortgage. However, petitioner's bare-faced assertion does not even dent, much less,

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overcome the aforesaid presumptions on consideration for a contract. As deftly pointed out by the trial court:

x x x In this case, this Court finds that the [petitioner] has not been able to establish its claim of non-receipt by a preponderance of evidence. Rather, the Court is inclined to give more weight and credence to the affirmative and straightforward testimony of [Cupertino] explaining in plain and categorical words that the Php197,000,000.00 loan represented by the amended REM was the total sum of the debit memo, the checks, the real estate mortgage and the amended real estate mortgage, the pledges of jewelries, the trucks and the condominiums plus the interests that will be incurred which all in all amounted to Php197,000,000.00. It is a basic axiom in this jurisdiction that as between the plaintiff's negative evidence of denial and the defendant's affirmative evidence on the existence of the consideration, the latter must be given more weight and value. Moreover, [Cupertino's] foregoing testimony on the existence of the consideration of the Php160,000,000.00 promissory note has never been refuted nor denied by the [petitioner], who while initially having manifested that it will present rebuttal evidence eventually failed to do so, despite all available opportunities accorded to it. By such failure to present rebutting evidence, [Cupertino's] testimony on the existence of the consideration of the amended real estate mortgage does not only become impliedly admitted by the [petitioner], more significantly, to the mind of this Court, it is a clear indication that [petitioner] has no counter evidence to overcome and defeat the [Cupertino's] evidence on the matter. Otherwise, there is no logic for [petitioner] to withhold it if available. Assuming that indeed it exists, it may be safely assumed that such evidence having been willfully suppressed is adverse if produced.

The presentation by [petitioner] of its cash Journal Receipt Book as proof that it did not receive the proceeds of the Php160,000,000.00 promissory note does not likewise persuade the Court. In the first place, the subject cash receipt journal only contained cash receipts for the year 1995. But as appearing from the various checks and debit memos issued by Wilfredo Lua and his wife, Vicky Lua and from the former's unrebutted testimony in Court, the issuance of the checks, debit memos, pledges of jewelries, condominium units, trucks and the other components of the Php197,000,000.00 amended real estate mortgage had all taken place prior to the year 1995, hence, they could not have been recorded therein. What is more, the said cash receipt journal appears to be prepared solely at the behest of

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the [petitioner], hence, can be considered as emanating from a "poisonous tree" therefore self-serving and cannot be given any serious credibility.[11]

Significantly, petitioner asseverates that the parol evidence rule, which excludes other evidence, apart from the written agreement, to prove the terms agreed upon by the parties contained therein,[12] is not applicable to the Amended Real Estate Mortgage. Both the trial and appellate courts agreed with petitioner and did not apply the parol evidence rule. Yet, despite the allowance to present evidence and prove the invalidity of the Amended Real Estate Mortgage, petitioner still failed to substantiate its claim of non-receipt of the proceeds of the ₱160,000,000.00 loan increase.

Moreover, petitioner was the plaintiff in the trial court, the party that brought suit against respondent. Accordingly, it had the burden of proof, the duty to present a preponderance of evidence to establish its claim.[13] However, petitioner's evidence consisted only of a barefaced denial of receipt and a vaguely drawn theory that in their previous loan transaction with respondent covered by the first promissory note, it did not receive the proceeds of the ₱37,000,000.00. Petitioner conveniently ignores that this particular promissory note secured by the real estate mortgage was under an escrow arrangement and taken out to pay its obligation to DBP. Thus, petitioner, quite obviously, would not be in possession of the proceeds of the loan. Contrary to petitioner's contention, there is no precedent to explain its stance that respondent undertook to release the ₱160,000,000.00 loan only after it had first signed the Amended Real Estate Mortgage.

Third. Petitioner bewails the lower courts' application of the doctrine of "piercing the veil of corporate fiction."

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[11] *Rollo*, pp. 173-174.

[12] RULES OF COURT, Rule 130, Sec. 9.

[13] *See* RULES OF COURT, Rule 131, Sec. 1.

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As a general rule, a corporation will be deemed a separate legal entity until sufficient reason to the contrary appears.[14] But the rule is not absolute. A corporation's separate and distinct legal personality may be disregarded and the veil of corporate fiction pierced when the notion of legal entity is used to defeat public convenience, justify wrong, protect fraud, or defend crime.[15]

In this case, Cupertino presented overwhelming evidence that petitioner and its affiliate corporations had received the proceeds of the ₱160,000,000.00 loan increase which was then made the consideration for the Amended Real Estate Mortgage. We quote with favor the RTC's and the CA's disquisitions on this matter:

> That the checks, debit memos and the pledges of the jewelries, condominium units and trucks were constituted not exclusively in the name of [petitioner] but also either in the name of Yuyek Manufacturing Corporation, Siain Transport, Inc., Cua Leleng and Alberto Lim is of no moment. For the facts established in the case at bar has convinced the Court of the propriety to apply the principle known as "piercing the veil of the corporate entity" by virtue of which, the juridical personalities of the various corporations involved are disregarded and the ensuing liability of the corporation to attach directly to its responsible officers and stockholders. x x x
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> x x x x x x x x x
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> The conjunction of the identity of the [petitioner] corporation in relation to Siain Transport, Inc. (Siain Transport), Yuyek Manufacturing Corp. (Yuyek), as well as the individual personalities of Cua Leleng and Alberto Lim has been indubitably shown in the instant case by the following established considerations, to wit:
>
> *1. Siain and Yuyek have [a] common set of [incorporators], stockholders and board of directors;*
>
> *2. They have the same internal bookkeeper and accountant in the person of Rosemarie Ragodon;*
>
> *3. They have the same office address at 306 Jose Rizal St., Mandaluyong City;*

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[14] CORPORATION CODE, Sec. 2. *See* also CIVIL CODE, Art. 44.

[15] *United States v. Milwaukee Refirigerator Transit Co.*, 142 Fed. 247 (1905).

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4. They have the same majority stockholder and president in the person of Cua Le Leng; and

5. In relation to Siain Transport, Cua Le Leng had the unlimited authority by and on herself, without authority from the Board of Directors, to use the funds of Siain Trucking to pay the obligation incurred by the [petitioner] corporation.

Thus, it is crystal clear that [petitioner] corporation, Yuyek and Siain Transport are characterized by oneness of operations vested in the person of their common president, Cua Le Leng, and unity in the keeping and maintenance of their corporate books and records through their common accountant and bookkeeper, Rosemarie Ragodon. Consequently, these corporations are proven to be the mere alter-ego of their president Cua Leleng, and considering that Cua Leleng and Alberto Lim have been living together as common law spouses with three children, this Court believes that while Alberto Lim does not appear to be an officer of Siain and Yuyek, nonetheless, his receipt of certain checks and debit memos from Willie Lua and Victoria Lua was actually for the account of his common-law wife, Cua Leleng and her alter ego corporations. While this Court agrees with Siain that a corporation has a personality separate and distinct from its individual stockholders or members, this legal fiction cannot, however, be applied to its benefit in this case where to do so would result to injustice and evasion of a valid obligation, for well settled is the rule in this jurisdiction that the veil of corporate fiction may be pierced when it is used as a shield to further an end subversive of justice, or for purposes that could not have been intended by the law that created it; or to justify wrong, or for evasion of an existing obligation. Resultantly, the obligation incurred and/or the transactions entered into either by Yuyek, or by Siain Trucking, or by Cua Leleng, or by Alberto Lim with Cupertino are deemed to be that of the [petitioner] itself.

The same principle equally applies to Cupertino. Thus, while it appears that the issuance of the checks and the debit memos as well as the pledges of the condominium units, the jewelries, and the trucks had occurred prior to March 2, 1995, the date when Cupertino was incorporated, the same does not affect the validity of the subject transactions because applying again the principle of piercing the

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corporate veil, the transactions entered into by Cupertino Realty Corporation, it being merely the alter ego of Wilfredo Lua, are deemed to be the latter's personal transactions and vice-versa.[16]

x x x x x x x x x

x x x **Firstly.** As can be viewed from the extant record of the instant case, Cua Leleng is the majority stockholder of the three (3) corporations namely, Yuyek Manufacturing Corporation, Siain Transport, Inc., and Siain Enterprises Inc., at the same time the President thereof. **Second.** Being the majority stockholder and the president, Cua Le leng has the unlimited power, control and authority without the approval from the board of directors to obtain for and in behalf of the [petitioner] corporation from [Cupertino] thereby mortgaging her jewelries, the condominiums of her common law husband, Alberto Lim, the trucks registered in the name of [petitioner] corporation's sister company, Siain Transport Inc., the subject lots registered in the name of [petitioner] corporation and her oil mill property at Iloilo City. And, to apply the proceeds thereof in whatever way she wants, to the prejudice of the public.

As such, [petitioner] corporation is now estopped from denying the above apparent authorities of Cua Le Leng who holds herself to the public as possessing the power to do those acts, against any person who dealt in good faith as in the case of Cupertino.[17]

WHEREFORE, premises considered, the petition is *DENIED.* The Decision of the Court of Appeals in CA-G.R. CV No. 71424 is *AFFIRMED.* Costs against the petitioner.

SO ORDERED.

Ynares-Santiago (Chairperson), Chico-Nazario, Velasco, Jr., and *Peralta, JJ.,* concur.

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[16] *Rollo,* pp. 174-176.

[17] *Id.* at 75.