



CERTIFIED TRUE COPY
Wilfredo V. Lapid
WILFREDO V. LAPID
Division Clerk of Court
Third Division

AUG 10 2018

Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FEDERAL
CORPORATION,

Petitioner,

EXPRESS G.R. No. 199455

Present:

VELASCO, JR., J., *Chairperson*,
BERSAMIN,
LEONEN,
MARTIRES, and
GISMUNDO, JJ.

-versus-

LUWALHATI R. ANTONINO AND
ELIZA BETTINA RICASA
ANTONINO,

Respondents.

Promulgated:

June 27, 2018

Wilfredo V. Lapid

X-----X

DECISION

LEONEN, J.:

The duty of common carriers to observe extraordinary diligence in shipping goods does not terminate until delivery to the consignee or to the specific person authorized to receive the shipped goods. Failure to deliver to the person authorized to receive the goods is tantamount to loss of the goods, thereby engendering the common carrier's liability for loss. Ambiguities in contracts of carriage, which are contracts of adhesion, must be interpreted against the common carrier that prepared these contracts.

①

This resolves a Petition for Review on Certiorari¹ under Rule 45 of the 1997 Rules of Civil Procedure praying that the assailed Court of Appeals August 31, 2011 Decision² and November 21, 2011 Resolution³ in CA-G.R. CV No. 91216 be reversed and set aside and that Luwalhati R. Antonino (Luwalhati) and Eliza Bettina Ricasa Antonino (Eliza) be held liable on Federal Express Corporation's (FedEx) counterclaim.

The assailed Court of Appeals August 31, 2011 Decision denied the appeal filed by FedEx and affirmed the May 8, 2008 Decision⁴ of Branch 217, Regional Trial Court, Quezon City, awarding moral and exemplary damages, and attorney's fees to Luwalhati and Eliza.⁵ In its assailed November 21, 2011 Resolution, the Court of Appeals denied FedEx's Motion for Reconsideration.⁶

Eliza was the owner of Unit 22-A (the Unit) in Allegro Condominium, located at 62 West 62nd St., New York, United States.⁷ In November 2003, monthly common charges on the Unit became due. These charges were for the period of July 2003 to November 2003, and were for a total amount of US\$9,742.81.⁸

On December 15, 2003, Luwalhati and Eliza were in the Philippines. As the monthly common charges on the Unit had become due, they decided to send several Citibank checks to Veronica Z. Sison (Sison), who was based in New York. Citibank checks allegedly amounting to US\$17,726.18 for the payment of monthly charges and US\$11,619.35 for the payment of real estate taxes were sent by Luwalhati through FedEx with Account No. x2546-4948-1 and Tracking No. 8442 4588 4268. The package was addressed to Sison who was tasked to deliver the checks payable to Maxwell-Kates, Inc. and to the New York County Department of Finance. Sison allegedly did not receive the package, resulting in the non-payment of Luwalhati and Eliza's obligations and the foreclosure of the Unit.⁹

Upon learning that the checks were sent on December 15, 2003, Sison contacted FedEx on February 9, 2004 to inquire about the non-delivery. She

¹ *Rollo*, pp. 10-54.

² *Id.* at 56-70. The Decision was penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Ricardo R. Rosario of the Special Fourth Division, Court of Appeals, Manila.

³ *Id.* at 72-73. The Resolution was penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Ricardo R. Rosario of the Former Special Fourth Division, Court of Appeals, Manila.

⁴ *Id.* at 203-209. The Decision, docketed as Civil Case No. Q-04-52325, was penned by Pair Judge Hilario L. Laqui.

⁵ *Id.* at 69.

⁶ *Id.* at 73.

⁷ *Id.* at 118 and 203.

⁸ *Id.* at 256.

⁹ *Id.* at 203.

was informed that the package was delivered to her neighbor but there was no signed receipt.¹⁰

On March 14, 2004, Luwalhati and Eliza, through their counsel, sent a demand letter to FedEx for payment of damages due to the non-delivery of the package, but FedEx refused to heed their demand.¹¹ Hence, on April 5, 2004, they filed their Complaint¹² for damages.

FedEx claimed that Luwalhati and Eliza “ha[d] no cause of action against it because [they] failed to comply with a condition precedent, that of filing a written notice of claim within the 45 calendar days from the acceptance of the shipment.”¹³ It added that it was absolved of liability as Luwalhati and Eliza shipped prohibited items and misdeclared these items as “documents.”¹⁴ It pointed to conditions under its Air Waybill prohibiting the “transportation of money (including but not limited to coins or negotiable instruments equivalent to cash such as endorsed stocks and bonds).”¹⁵

In its May 8, 2008 Decision,¹⁶ the Regional Trial Court ruled for Luwalhati and Eliza, awarding them moral and exemplary damages, and attorney’s fees.¹⁷

The Regional Trial Court found that Luwalhati failed to accurately declare the contents of the package as “checks.”¹⁸ However, it ruled that a check is not legal tender or a “negotiable instrument equivalent to cash,” as prohibited by the Air Waybill.¹⁹ It explained that common carriers are presumed to be at fault whenever goods are lost.²⁰ Luwalhati testified on the non-delivery of the package. FedEx, on the other hand, claimed that the shipment was released without the signature of the actual recipient, as authorized by the shipper or recipient. However, it failed to show that this authorization was made; thus, it was still liable for the loss of the package.²¹

On non-compliance with a condition precedent, it ruled that under the Air Waybill, the prescriptive period for filing an action was “within two (2) years from the date of delivery of the shipment or from the date on which the

¹⁰ Id. at 256.

¹¹ Id. at 203.

¹² Id. at 74–81.

¹³ Id. at 58.

¹⁴ Id.

¹⁵ Id. at 282.

¹⁶ Id. at 203–209.

¹⁷ Id. at 209.

¹⁸ Id. at 204.

¹⁹ Id. at 205.

²⁰ Id.

²¹ Id. at 206.

shipment should have been delivered.”²² Luwalhati and Eliza’s demand letter made on March 11, 2004 was within the two (2)-year period sanctioned by the Air Waybill.²³ The trial court also noted that they were given a “run-around” by FedEx employees, and thus, were deemed to have complied with the filing of the formal claim.²⁴

The dispositive portion of the Regional Trial Court May 8, 2008 Decision read:

WHEREFORE, judgment is hereby rendered in favor of plaintiffs Luwalhati R. Antonino and Eliza Bettina Ricasa Antonino ordering the following:

- 1) The amount of P200,000.00 by way of moral damages;
- 2) The amount of P100,000.00 by way of exemplary damages;
- and
- [3]) The amount of P150,000.00 as and for attorney’s fees.

Costs against defendant.

The counterclaim is ordered dismissed.

SO ORDERED.²⁵

In its assailed August 31, 2011 Decision,²⁶ the Court of Appeals affirmed the ruling of the Regional Trial Court.²⁷ According to it, by accepting the package despite its supposed defect, FedEx was deemed to have acquiesced to the transaction. Thus, it must deliver the package in good condition and could not subsequently deny liability for loss.²⁸ The Court of Appeals sustained the Regional Trial Court’s conclusion that checks are not legal tender, and thus, not covered by the Air Waybill’s prohibition.²⁹ It further noted that an Air Waybill is a contract of adhesion and should be construed against the party that drafted it.³⁰

The dispositive portion of the Court of Appeals August 31, 2011 Decision read:

WHEREFORE, premises considered, the present appeal is hereby DENIED. The assailed May 08, 2008 Decision of the Regional Trial Court, Branch 217, Quezon City in Civil Case No. Q-04-52325 is AFFIRMED. Costs against the herein appellant.

²² Id. at 207.

²³ Id.

²⁴ Id. at 207–208.

²⁵ Id. at 209.

²⁶ Id. at 56–70.

²⁷ Id. at 69.

²⁸ Id. at 60.

²⁹ Id. at 61.

³⁰ Id. at 61–62.

R

SO ORDERED.³¹

Following the Court of Appeals' denial³² of its Motion for Reconsideration, FedEx filed the present Petition.

For resolution of this Court is the sole issue of whether or not petitioner Federal Express Corporation may be held liable for damages on account of its failure to deliver the checks shipped by respondents Luwalhati R. Antonino and Eliza Bettina Ricasa Antonino to the consignee Veronica Sison.

I

Petitioner disclaims liability because of respondents' failure to comply with a condition precedent, that is, the filing of a written notice of a claim for non-delivery or misdelivery within 45 days from acceptance of the shipment.³³ The Regional Trial Court found the condition precedent to have been substantially complied with and attributed respondents' non-compliance to FedEx for giving them a run-around.³⁴ This Court affirms this finding.

A provision in a contract of carriage requiring the filing of a formal claim within a specified period is a valid stipulation. Jurisprudence maintains that compliance with this provision is a legitimate condition precedent to an action for damages arising from loss of the shipment:

More particularly, where the contract of shipment contains a reasonable requirement of giving notice of loss of or injury to the goods, the giving of such notice is a condition precedent to the action for loss or injury or the right to enforce the carrier's liability. Such requirement is not an empty formalism. The fundamental reason or purpose of such a stipulation is not to relieve the carrier from just liability, but reasonably to inform it that the shipment has been damaged and that it is charged with liability therefor, and to give it an opportunity to examine the nature and extent of the injury. This protects the carrier by affording it an opportunity to make an investigation of a claim while the matter is fresh and easily investigated so as to safeguard itself from false and fraudulent claims.³⁵ (Citation omitted)

Petitioner's Air Waybill stipulates the following on filing of claims:

³¹ Id. at 69.

³² Id. at 73.

³³ Id. at 289-290.

³⁴ Id. at 207-208.

³⁵ *Philippine American General Insurance Co., Inc. v. Sweet Lines, Inc.*, 287 Phil. 212, 226-227 (1992) [Per J. Regalado, Second Division].

Claims for Loss, Damage, or Delay. All claims must be made in writing and within strict time limits. See any applicable tariff, our service guide or our standard conditions for carriage for details.

The right to damages against us shall be extinguished unless an action is brought within two (2) years from the date of delivery of the shipment or from the date on which the shipment should have been delivered.

Within forty-five (45) days after notification of the claim, it must be documented by sending to us [all the] relevant information about it.³⁶

For their claim to prosper, respondents must, thus, surpass two (2) hurdles: first, the filing of their formal claim within 45 days; and second, the subsequent filing of the action within two (2) years.

There is no dispute on respondents' compliance with the second period as their Complaint was filed on April 5, 2004.³⁷

In appraising respondents' compliance with the first condition, this Court is guided by settled standards in jurisprudence.

In *Philippine Airlines, Inc. v. Court of Appeals*,³⁸ Philippine Airlines alleged that shipper Gilda Mejia (Mejia) failed to file a formal claim within the period stated in the Air Waybill.³⁹ This Court ruled that there was substantial compliance with the period because of the zealous efforts demonstrated by Mejia in following up her claim.⁴⁰ These efforts coupled with Philippine Airlines' "tossing around the claim and leaving it unresolved for an indefinite period of time" led this Court to deem the requisite period satisfied.⁴¹ This is pursuant to Article 1186 of the New Civil Code which provides that "[t]he condition shall be deemed fulfilled when the obligor voluntarily prevents its fulfillment".⁴²

Considering the abovementioned incidents and private respondent Mejia's own zealous efforts in following up the claim, it was clearly not her fault that the letter of demand for damages could only be filed, after months of exasperating follow-up of the claim, on August 13, 1990. If there was any failure at all to file the formal claim within the prescriptive period contemplated in the air waybill, this was largely because of PAL's own doing, the consequences of which cannot, in all fairness, be attributed to private respondent.

³⁶ *Rollo*, pp. 206-207.

³⁷ *Id.* at 74.

³⁸ *Philippine Airlines, Inc. v. Court of Appeals*, 325 Phil. 303 (1996) [Per. J. Regalado, Second Division].

³⁹ *Id.* at 310.

⁴⁰ *Id.* at 328.

⁴¹ *Id.*

⁴² CIVIL CODE, art. 1186.

Even if the claim for damages was conditioned on the timely filing of a formal claim, under Article 1186 of the Civil Code that condition was deemed fulfilled, considering that the collective action of PAL's personnel in tossing around the claim and leaving it unresolved for an indefinite period of time was tantamount to "voluntarily preventing its fulfillment." On grounds of equity, the filing of the baggage freight claim, which sufficiently informed PAL of the damage sustained by private respondent's cargo, constituted substantial compliance with the requirement in the contract for the filing of a formal claim.⁴³ (Citations omitted)

Here, the Court of Appeals detailed the efforts made by respondent Luwalhati and consignee Sison. It also noted petitioner's ambiguous and evasive responses, nonchalant handling of respondents' concerns, and how these bogged down respondents' actions and impaired their compliance with the required 45-day period:

Anent the issues concerning lack of cause of action and their so-called "run-around" matter, We uphold the lower court's finding that the herein appellees complied with the requirement for the immediate filing of a formal claim for damages as required in the Air Waybill or, at least, We find that there was substantial compliance therewith. Luwalhati testified that the addressee, Veronica Z. Sison promptly traced the whereabouts of the said package, but to no avail. Her testimony narrated what happened thereafter, thus:

"...

"COURT: All right. She was informed that it was lost. What steps did you take to find out or to recover back this package?

"ATTY. ALENTAJAN:

"Q What did you do to Fedex?

"...

"WITNESS: First, I asked the secretary here to call Fedex Manila and they said, the record show that it was sent to New York, Your Honor.

"...

"ATTY. ALENTAJAN:

"Q After calling Fedex, what did Fedex do?

"A None, sir. They washed their hands because according to them it is New York because they have sent it. Their records show that New York received it, Sir.

"Q New York Fedex?

"A Yes, Sir.

⁴³ *Philippine Airlines, Inc. v. Court of Appeals*, 325 Phil. 303, 328 (1996) [Per. J Regalado, Second Division].

“Q Now what else did you do after that?”

“A And then I asked my friend Mrs. Veronica Sison to trace it, Sir.

“... ”

“Q What did she report to you?”

“A She reported to me that first, she checked with the Fedex and the first answer was they were going to trace it. The second answer was that, it was delivered to the lady, her neighbor and the neighbor completely denied it and as they show a signature that is not my signature, so the next time she called again, another person answered. She called to say that the neighbor did not receive and the person on the other line I think she got his name, said that, it is because it is December and we usually do that just leave it and then they cut the line and so I asked my friend to issue a sworn statement in the form of affidavit and have it notarized in the Philippine Embassy or Consulate, Sir That is what she did.

“Q On your part here in the Philippines after doing that, after instructing Veronica Sison, what else did you do because of this violation?”

“A I think the next step was to issue a demand letter because any way I do not want to go to Court, it is so hard, Sir.”

The foregoing event show Luwalhati's own ardent campaign in following up the claim. To the Court's mind, it is beyond her control why the demand letter for damages was only sent subsequent to her infuriating follow-ups regarding the whereabouts of the said package. We can surmise that if there was any omission at all to file the said claim within the prescriptive period provided for under the Air Waybill it was mostly due to herein appellant's own behavior, the outcome thereof cannot, by any chance, be imputed to the herein appellees.⁴⁴ (Grammatical errors in the original)

Petitioner has been unable to persuasively refute Luwalhati's recollection of the efforts that she and Sison exerted, and of the responses it gave them. It instead insists that the 45-day period stated in its Air Waybill is sacrosanct. This Court is unable to bring itself to sustaining petitioner's appeal to a convenient reprieve. It is one with the Regional Trial Court and the Court of Appeals in stressing that respondents' inability to expediently file a formal claim can only be attributed to petitioner hampering its fulfillment. Thus, respondents must be deemed to have substantially complied with the requisite 45-day period for filing a formal claim.

⁴⁴ *Rollo*, pp. 62-64.

II

The Civil Code mandates common carriers to observe extraordinary diligence in caring for the goods they are transporting:

Article 1733. Common carriers, from the nature of their business and for reasons of public policy, are bound to observe extraordinary diligence in the vigilance over the goods and for the safety of the passengers transported by them, according to all the circumstances of each case.

“Extraordinary diligence is that extreme measure of care and caution which persons of unusual prudence and circumspection use for securing and preserving their own property or rights.”⁴⁵ Consistent with the mandate of extraordinary diligence, the Civil Code stipulates that in case of loss or damage to goods, common carriers are presumed to be negligent or at fault,⁴⁶ except in the following instances:

- (1) Flood, storm, earthquake, lightning, or other natural disaster or calamity;
- (2) Act of the public enemy in war, whether international or civil;
- (3) Act or omission of the shipper or owner of the goods;
- (4) The character of the goods or defects in the packing or in the containers;
- (5) Order or act of competent public authority.⁴⁷

In all other cases, common carriers must prove that they exercised extraordinary diligence in the performance of their duties, if they are to be absolved of liability.⁴⁸

The responsibility of common carriers to exercise extraordinary diligence lasts from the time the goods are unconditionally placed in their possession until they are delivered “to the consignee, or to the person who has a right to receive them.”⁴⁹ Thus, part of the extraordinary responsibility of common carriers is the duty to ensure that shipments are received by none but “the person who has a right to receive them.”⁵⁰ Common carriers must ascertain the identity of the recipient. Failing to deliver shipment to the designated recipient amounts to a failure to deliver. The shipment shall then be considered lost, and liability for this loss ensues.

⁴⁵ *Loadstar Shipping Co., Inc. v. Malayan Insurance Co., Inc.*, G.R. No. 185565, April 26, 2017 <<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2017/april2017/185565.pdf>> 4 [Per J. Reyes, Special Third Division].

⁴⁶ CIVIL CODE, art. 1735.

⁴⁷ CIVIL CODE, art. 1734.

⁴⁸ CIVIL CODE, art. 1735.

⁴⁹ CIVIL CODE, art. 1736.

⁵⁰ CIVIL CODE, art. 1736.

Petitioner is unable to prove that it exercised extraordinary diligence in ensuring delivery of the package to its designated consignee. It claims to have made a delivery but it even admits that it was not to the designated consignee. It asserts instead that it was authorized to release the package without the signature of the designated recipient and that the neighbor of the consignee, one identified only as "LGAA 385507," received it.⁵¹ This fails to impress.

The assertion that receipt was made by "LGAA 385507" amounts to little, if any, value in proving petitioner's successful discharge of its duty. "LGAA 385507" is nothing but an alphanumeric code that outside of petitioner's personnel and internal systems signifies nothing. This code does not represent a definite, readily identifiable person, contrary to how commonly accepted identifiers, such as numbers attached to official, public, or professional identifications like social security numbers and professional license numbers, function. Reliance on this code is tantamount to reliance on nothing more than petitioner's bare, self-serving allegations. Certainly, this cannot satisfy the requisite of extraordinary diligence consummated through delivery to none but "the person who has a right to receive"⁵² the package.

Given the circumstances in this case, the more reasonable conclusion is that the package was not delivered. The package shipped by respondents should then be considered lost, thereby engendering the liability of a common carrier for this loss.

Petitioner cannot but be liable for this loss. It failed to ensure that the package was delivered to the named consignee. It admitted to delivering to a mere neighbor. Even as it claimed this, it failed to identify that neighbor.

III

Petitioner further asserts that respondents violated the terms of the Air Waybill by shipping checks. It adds that this violation exempts it from liability.⁵³

This is untenable.

Petitioner's International Air Waybill states:

⁵¹ *Rollo*, p. 66.

⁵² CIVIL CODE, art. 1736.

⁵³ *Rollo*, p. 284.

Items Not Acceptable for Transportation. We do not accept transportation of money (including but not limited to coins or negotiable instruments equivalent to cash such as endorsed stocks and bonds). We exclude all liability for shipments of such items accepted by mistake. Other items may be accepted for carriage only to limited destinations or under restricted conditions. We reserve the right to reject packages based upon these limitations or for reasons of safety or security. You may consult our Service Guide, Standard Conditions of Carriage, or any applicable tariff for specific details.⁵⁴ (Emphasis in the original)

The prohibition has a singular object: money. What follows the phrase “transportation of *money*” is a phrase enclosed in parentheses, and commencing with the words “including but not limited to.” The additional phrase, enclosed as it is in parentheses, is not the object of the prohibition, but merely a postscript to the word “money.” Moreover, its introductory words “including but not limited to” signify that the items that follow are illustrative examples; they are not qualifiers that are integral to or inseverable from “money.” Despite the utterance of the enclosed phrase, the singular prohibition remains: money.

Money is “what is generally acceptable in exchange for goods.”⁵⁵ It can take many forms, most commonly as coins and banknotes. Despite its myriad forms, its key element is its general acceptability.⁵⁶ Laws usually define what can be considered as a generally acceptable medium of exchange.⁵⁷ In the Philippines, Republic Act No. 7653, otherwise known as The New Central Bank Act, defines “legal tender” as follows:

All notes and coins issued by the *Bangko Sentral* shall be fully guaranteed by the Government of the Republic of the Philippines and shall be legal tender in the Philippines for all debts, both public and private: *Provided, however,* That, unless otherwise fixed by the Monetary Board, coins shall be legal tender in amounts not exceeding Fifty pesos (P50.00) for denominations of Twenty-five centavos and above, and in amounts not exceeding Twenty pesos (P20.00) for denominations of Ten centavos or less.⁵⁸

It is settled in jurisprudence that checks, being only negotiable instruments, are only substitutes for money and are not legal tender; more so when the check has a named payee and is not payable to bearer. In *Philippine Airlines, Inc. v. Court of Appeals*,⁵⁹ this Court ruled that the payment of a check to the sheriff did not satisfy the judgment debt as checks are not considered legal tender. This has been maintained in other cases decided by this Court. *In Cebu International Finance Corporation v. Court*

⁵⁴ Id. at 282.

⁵⁵ IRVING FISHER, THE PURCHASING POWER OF MONEY: ITS DETERMINATION AND RELATION TO CREDIT INTEREST AND CRISES 8 (2007).

⁵⁶ Id.

⁵⁷ Id.

⁵⁸ Rep. Act No. 7653 (1993), sec. 52.

⁵⁹ 260 Phil. 606 (1990) [Per. J Gutierrez Jr., En Banc].

of Appeals,⁶⁰ this Court held that the debts paid in a money market transaction through the use of a check is not a valid tender of payment as a check is not legal tender in the Philippines. Further, in *Bank of the Philippine Islands v. Court of Appeals*,⁶¹ this Court held that “a check, whether a manager’s check or ordinary check, is not legal tender.”⁶²

The Air Waybill’s prohibition mentions “negotiable instruments” only in the course of making an example. Thus, they are not prohibited items themselves. Moreover, the illustrative example does not even pertain to negotiable instruments *per se* but to “negotiable instruments *equivalent to cash*.”⁶³

The checks involved here are payable to specific payees, Maxwell-Kates, Inc. and the New York County Department of Finance.⁶⁴ Thus, they are *order instruments*. They are not payable to their bearer, i.e., *bearer instruments*. Order instruments differ from bearer instruments in their manner of negotiation:

Under Section 30 of the [Negotiable Instruments Law], an order instrument requires an indorsement from the payee or holder before it may be validly negotiated. A bearer instrument, on the other hand, does not require an indorsement to be validly negotiated.⁶⁵

There is no question that checks, whether payable to order or to bearer, so long as they comply with the requirements under Section 1 of the Negotiable Instruments Law, are negotiable instruments.⁶⁶ The more relevant consideration is whether checks with a specified payee are *negotiable instruments equivalent to cash*, as contemplated in the example added to the Air Waybill’s prohibition.

This Court thinks not. An order instrument, which has to be endorsed by the payee before it may be negotiated,⁶⁷ cannot be a negotiable instrument equivalent to cash. It is worth emphasizing that the instruments given as

⁶⁰ 374 Phil. 844 (1999) [Per J. Quisumbing, Second Division].

⁶¹ 383 Phil. 538 (2000) [Per J. Ynares-Santiago, First Division].

⁶² Id. at 553.

⁶³ *Rollo*, p. 282.

⁶⁴ Id. at 203.

⁶⁵ *Philippine National Bank v. Spouses Rodriguez*, 588 Phil. 196, 210 (2008) [Per J. Reyes, Third Division].

⁶⁶ Section 1. Form of negotiable instruments. — An instrument to be negotiable must conform to the following requirements:

- (a) It must be in writing and signed by the maker or drawer;
- (b) Must contain an unconditional promise or order to pay a sum certain in money;
- (c) Must be payable on demand, or at a fixed or determinable future time;
- (d) Must be payable to order or to bearer; and
- (e) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

⁶⁷ See *Philippine National Bank v. Spouses Rodriguez*, 588 Phil. 196 (2008) [Per J. Reyes, Third Division].

further examples under the Air Waybill must be endorsed to be considered equivalent to cash:⁶⁸

Items Not Acceptable for Transportation. We do not accept transportation of money (including but not limited to coins or negotiable instruments equivalent to cash such as *endorsed stocks and bonds*). . . . (Emphasis in the original)⁶⁹

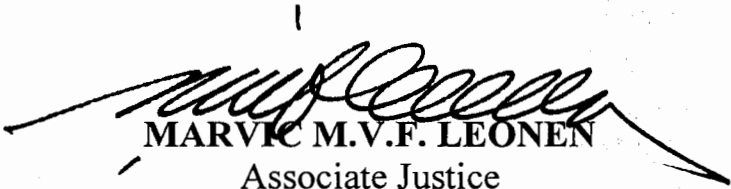
What this Court's protracted discussion reveals is that petitioner's Air Waybill lends itself to a great deal of confusion. The clarity of its terms leaves much to be desired. This lack of clarity can only militate against petitioner's cause.

The contract between petitioner and respondents is a contract of adhesion; it was prepared solely by petitioner for respondents to conform to.⁷⁰ Although not automatically void, any ambiguity in a contract of adhesion is construed strictly against the party that prepared it.⁷¹ Accordingly, the prohibition against transporting money must be restrictively construed against petitioner and liberally for respondents. Viewed through this lens, with greater reason should respondents be exculpated from liability for shipping documents or instruments, which are reasonably understood as not being money, and for being unable to declare them as such.

Ultimately, in shipping checks, respondents were not violating petitioner's Air Waybill. From this, it follows that they committed no breach of warranty that would absolve petitioner of liability.

WHEREFORE, the Petition for Review on Certiorari is **DENIED**. The assailed August 31, 2011 Decision and November 21, 2011 Resolution of the Court of Appeals in CA-G.R. CV No. 91216 are **AFFIRMED**.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

⁶⁸ *Rollo*, p. 282.


⁶⁹ *Id.*

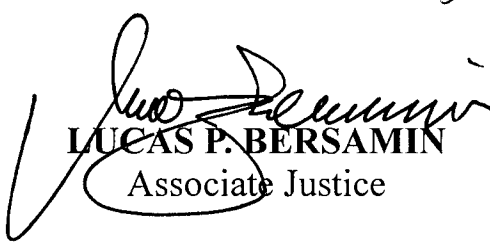
⁷⁰ *Radio Communications of the Philippines, Inc. v. Verchez*, 516 Phil. 725, 742 (2006) [Per J. Carpio Morales, Third Division] citing *Philippine Commercial International Bank v. Court of Appeals*, 325 Phil. 588-600 (1996) [Per J. Francisco, Third Division].

"A contract of adhesion is defined as one in which one of the parties imposes a ready-made form of contract, which the other party may accept or reject, but which the latter cannot modify. One party prepares the stipulation in the contract, while the other party merely affixes his signature or his 'adhesion' thereto, giving no room for negotiation and depriving the latter of the opportunity to bargain on equal footing."

⁷¹ *Id.*

WE CONCUR:


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson

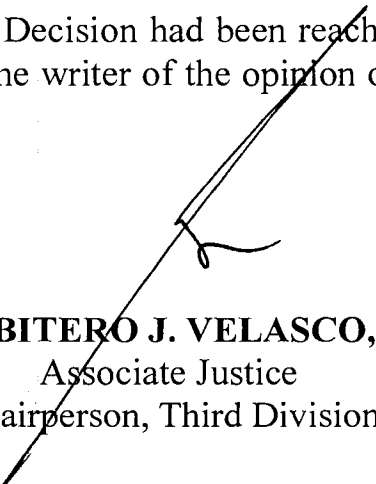

LUCAS P. BERSAMIN
 Associate Justice


SAMUEL R. MARTIRES
 Associate Justice


ALEXANDER G. GESMUNDO
 Associate Justice


ATTESTATION

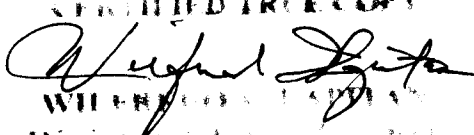
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson, Third 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.


ANTONIO T. CARPIO
 Acting Chief Justice

VERIFIED TRUE COPY

 WILFREDO S. ESPINA
 DIVISION CLERK
 Third Division