

**HONGKONG & SHANGHAI BANKING CORPORATION,
PLAINTIFF-APPELLANT, VS. PEOPLES BANK & TRUST
COMPANY, DEFENDANT-APPELLEE.***G.R. No. L-28226. September 30, 1970*

Ponente: FERNANDO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/26dba339c85a/>**FERNANDO, J.:**

Defendant, now appellee Peoples Bank & Trust Company, is sought to be held liable in the amount of P14, 608.05, the sum payable in a check issued by the Philippine Long Distance Telephone Company drawn on plaintiff Hongkong & Shanghai Banking Corporation, now appellant, with itself as payee, the check thereafter falling into the hands of a third party who substituted his name there-on and was able to collect such amount from defendant Bank where it was deposited. Plaintiff was unsuccessful, the Court of First Instance of Manila, the Honorable Jesus de Veyra presiding, dismissing the complaint. It considered as decisive the fact that plaintiff Bank allowed 27 days to elapse after clearing before notifying defendant Bank as to such alteration, the applicable Central Bank regulation providing for a 24-hour period. Hence, this appeal. Relying as the lower court did on a controlling decision,^[1] its decision cannot be reversed. We affirm.

The undisputed facts, as noted in the appealed decision, follow: "On March 8, 1965, the Philippine Long Distance Telephone Company drew the check * * * on the Hongkong & Shanghai Banking Corporation and in favor of the same bank in the sum of P14, 608.05. This check was sent by mail to the Payee. Somehow or other, the check fell in the hands of a certain Florentino Changco, who was able to erase the name of the payee Bank and instead typed his own name on the check. Four days before, Changco had opened a current account with Defendant Peoples Bank and Trust Company and on March 16, 1965, he deposited the altered check in his name. This check was presented by the Peoples Bank for clearing wherein the Peoples Bank made the following indorsement: 'For clearance, clearing office. All prior endorsements and/or lack of endorsements guaranteed. Peoples Bank and Trust Company'. The check was duly cleared by the Hongkong Shanghai Bank, so that the Peoples Bank credited Changco with the amount of the check. Beginning March 17, 1965, Changco began to withdraw from his account and on March 31, 1965 he closed his account. In the meantime, the cancelled check went the route of the regular routine and on April 12, 1965 it was returned to the Philippine Long Distance Telephone Company when the alteration in the name of the payee was discovered. On that same date, Peoples Bank was notified of the alteration, so that the Hongkong Shanghai Bank requested Peoples Bank to refund to it the sum of P14, 608.05 which had been previously credited by Plaintiff Bank in favor of Defendant Bank. Upon its refusal to do so, this case has been filed."^[2]

Why the complaint had to be dismissed was made clear in such decision. Thus: "The entire case of Plaintiff is based on the indorsement that has been heretofore copied – namely, a guarantee of all prior indorsements made by Peoples Bank and since such an indorsement carries with it a concomitant guarantee of genuineness, the Peoples Bank is liable to the Hongkong Shanghai Bank for alteration made in the name of payee. On the other hand, the Peoples Bank relies on the '24-hour' regulation of the Central Bank that requires after a clearing, that all cleared

items must be returned not later than 3:00 PM of the following business day. And since the Hongkong Shanghai Bank only advised the Peoples Bank as to the alteration on April 12, 1965 or 27 days after clearing, the Peoples Bank claims that it is now too late to do so. This regulation of the Central Bank as to 24 hours is challenged by Plaintiff Bank as being merely part of an ingenious device to facilitate banking transactions. Be that what it may – as both Plaintiff as well as Defendant Banks are part of our bank-ing system and both are subject to regulations of the Central Bank – they are both bound by such regulations. In fact, our Supreme Court has already held that the 24-hour regulation of the Central Bank in clearing house operations is valid and if banks feel the 24-hour period is unwise, they should make proper representations with the Central Bank. But until they do so, they are bound by such a 24-hour period (*Republic v. Equitable Banking Corporation*, GR No. L-15894; January 30, 1964). But Plaintiff Bank insists that Defendant Bank is liable on its indorsement during clearing house operations. The indorse-ment, itself, is very clear when it begins with the words 'For clearance, clearing office * * *'. In other words, such an indorsement must be read together with the 24-hour regulation on clearing House Operations of the Central Bank. Once that 24-hour period is over, the liability on such an indorsement has ceased. This being so, Plaintiff Bank has not made out a case for relief." [3]

The complaint was therefore dismissed, resulting in this appeal to us on a question of law, which, as set forth in the principal assigned error is predicated on the inapplicability of the 24-hour clearing house rule of the Central Bank. Plaintiff does not deny that in *Republic v. Equitable Banking Corporation*, [4] this Honorable Court, through the then Justice, now Chief Justice Concepcion, applied the "24-hour" clearing house rule issued by the Central Bank in accordance with its rule-making authority. As noted in the aforesaid decision, its adoption came after a conference with representatives and officials of different banking institutions in the Philippines. It is embodied in section 4, subsection(c) of Circular No. 9 of the Central Bank dated February 17, 1949, as amended by the then Governor of the Central Bank on June 4, 1949, and reads thus: "Items which should be returned for any reason whatsoever shall be returned directly to the bank, institution or entity from which the item was received. For this purpose, the Receipt for Returned Checks (Cash Form No. 9) should be used. The original and duplicate copies of said Receipt shall be given to the bank, institution or entity which returned the items and the triplicate copy should be retained by the bank, institution or entity whose demand is being returned. At the following clearing, the original of the Receipt for Returned Checks shall be pre-sented through the Clearing Office as a demand against the bank, institution or entity whose item has been returned. Nothing in this section shall prevent the returned items from being settled by direct reimbursement to the bank, institution or entity returning the items. All items cleared at 11:00 o'clock a.m. shall be returned not later than 2:00 o'clock p.m. on the same day and all items cleared at 3:00 o'clock p.m. shall be returned not later than 8:30 a. m. of the following business day, except for items cleared on Saturday which may be returned not later than 8:30 of the following day.' (Italics supplied)" [5] It is apparent from the above that the attempted distinction sought to be made by plaintiff to the effect that it refers to forged, but not to altered checks is not warranted. The circular is clear and comprehensive; the facts of the present case fall within it. The lower court acted correctly in relying on the doctrine announced in the above *Republic v. Equitable Banking Corporation* decision.

An excerpt from the opinion of the Chief Justice is likewise relevant as indicative of the correctness of the decision appealed from. Thus: "At any rate, the aforementioned twenty-eight (28) warrants were cleared and paid by the Treasurer, in view of which the PI Bank and the Equitable Bank credited the correspond-ing amounts to the respective depositors of the warrants and then honored their checks for said amounts. Thus, the Treasury had not only been negligent in clearing its own warrants, but had, also, thereby induced the PI Bank and the Equitable Bank to pay the amounts thereof to said depositors. The gross nature of the negligence of the Treasury becomes more apparent when we consider that each one of the twenty-four (24) warrants involved in G.R. No. L-15895 was for over P5, 000, and, hence; beyond the authority of the auditor of the Treasury – whose signature thereon

had been forged – to approve. In other words, the irregularity of said warrants was apparent on the face thereof, from the viewpoint of the Treasury. Moreover, the same had not advertised the loss of genuine forms of its warrants. Neither had the PI Bank nor the Equitable Bank been informed of any irregularity in connection with any of the warrants involved in these two (2) cases, until after December 23, 1952, – or after the warrants had been cleared and honored – when the Treasury gave notice of the forgeries adverted to above. As a consequence, the loss of the amounts thereof is mainly imputable to acts and omissions of the Treasury, for which the PI Bank and the Equitable Bank should not and cannot be penalized.”[6]

Moreover, in one of the very cases relied upon by plaintiff, as appellant mention is made of a principle on which defendant Bank could have acted without incurring the liability now sought to be imposed by plaintiff. Thus: "It is a settled rule that a person who presents for payment checks such as are here involved guarantees the genuineness of the check, and the drawee bank need concern itself with nothing but the genuineness of the signature, and the state of the account with it of the drawee.”[7] If at all, then, whatever remedy the plaintiff has would lie not against defendant Bank but as against the party responsible for changing the name of the payee. Its failure to call the attention of defendant Bank as to such alteration until after the lapse of 27 days would, in the light of the above Central Bank circular, negate whatever right it might have had against defendant Bank. While not exactly in point, a later decision of the Chief Justice announced in 1968, involving a forged check, argues for the correctness of the conclusion reached by the lower court even assuming that a fault could be imputed to defendant Bank. Thus: "Then, again, it has, likewise, been held that, where the collecting (PCIB) and the drawee (PNB) banks are equally at fault, the court will leave the parties where it finds them.”[8]

WHEREFORE, the appealed decision of April 24, 1967, dismissing the complaint, is affirmed. With costs against plaintiff Hongkong & Shanghai Banking Corporation.

Reyes, Acting C.J., Dizon, Makalintal, Zaldivar, Ruiz Castro, Teehankee, Barredo, and Makasiar, JJ., concur.
Villamor, J., did not take part.
Concepcion, J., on official leave.

[1] Republic v. Equitable Banking Corporation, L-15894, Jan. 30, 1964, 10 SCRA 8.

[2] Decision, Record on Appeal, pp. 11-12.

[3] Ibid, pp. 13-14.

[4] L-15894, Jan, 30, 1964, 10 SCRA 8.

[5] Ibid, p. 12.

[6] Ibid, pp. 13-14.

[7] Interstate Trust Co. v. United States National Bank, 185 Pac. 260 (1919).

[8] Philippine National Bank v. Court of Appeals, L-26001, Oct. 29, 1968, 25 SCRA 693, 699.

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