

**PHILIPPINE NATIONAL BANK, PLAINTIFF AND APPELLEE VS,
BERNARDO BAGAMASPAD AND BIENVENIDO M. FERRER,
DEFENDANTS AND APPELLANTS.***G. R. No. L-3407. June 29, 1951*

Ponente: MONTEMAYOR, J.

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On May 25, 1948, the plaintiff Philippine National Bank, a banking corporation organized and operating under the laws of the Philippines, with main office in the City of Manila and agencies in different provinces like the province of Cotabato, initiated this suit in the Court of First Instance of Cotabato for the purpose of collecting from the defendants Bernardo Bagamaspad and Bienvenido M. Ferrer who, in the years 1946 and 1947, were its Agent and Assistant Agent, respectively, in its Cotabato Agency, the sum of P704,903.18, said to have been disbursed and released by them as special crop loans, without authority and in a careless manner to manifestly insolvent, unqualified or fictitious borrowers, all contrary to the rules and regulations of the plaintiff Bank. In the course of the trial, upon petition of plaintiff's counsel, the amount of the claim was reduced to P699,803.57, due to payments made by some of the borrowers. On March 31, 1949, the trial court rendered judgment in favor of the plaintiff, ordering both defendants to pay jointly and severally to it the sum of P699,803.57, representing the uncollected balance of the special crop loans improperly released by said defendants, with legal interest thereon from the date of the filing of the complaint, plus costs. The two defendants appealed from that decision. The appeal was first taken to the Court of Appeals but in view of the amount involved it was certified to this Tribunal by the said Court of Appeals.

The uncontroverted facts in the present case may be briefly stated as follows. Because of the Pacific War and by reason of the destruction and loss of animals of labor, farm implements, and damage to or abandonment of farm lands, after liberation there was acute shortage of foodstuffs. President Roxas in order to foment and encourage food production, instructed the plaintiff Philippine National Bank to extend special facilities to farmers in the form of crop loans in order to enable them to rehabilitate their farms. In pursuance of said instructions and to cooperate with the Administration, the plaintiff Bank passed the corresponding resolution (Exhibit B) authorizing the granting of ten-month special crop loans to bona fide food producers, land-owners or their tenants, under certain conditions. Delfin Buencamino, one of the Vice-Presidents of the Bank and head of the Branches and Agencies Department of said institution, was entrusted with the supervision of the granting of these loans. Juan Tueres, one of the Assistant Managers of said Department drafted the corresponding rules and regulations regarding the granting of said special crop loans. After approval by Buencamino, these rules and regulations were embodied in a circular letter (Exhibit C), a copy of which was personally delivered to defendant Ferrer. These rules and regulations were later amplified by another circular letter (Exhibit D). Besides circularizing its branches and agencies with these rules and regulations, on June 14, 1946, the Bank held in Manila a conference of all its Managers and Agents. Defendant Ferrer, Assistant Agent of the Cotabato Agency attended the conference in representation of said Agency. He arrived late but Tueres explained to him what had been discussed during the

conference, emphasizing to him the necessity of exercising diligence and care in the granting of the crop loans to see to it that they are granted only to bona fide planters, land-owners or tenants, as well as repeating to him the advice of Vicente Carmona, President of the bank, that the Managers and Agents of the Bank should not allow themselves to be fooled.

The Cotabato Agency under the management of the two defendants began granting these special crop loans in July, 1946, and by March of the following year, 1947, said Agency had granted to over 5,000 borrowers, loans in the total amount of a little over eight and a half million pesos.

The theory on which the Bank's claim and complaint are based is that the two defendants Bagamaspad and Ferrer acting as Agent and Assistant Agent of the Cotabato Agency, in granting new crop loans after November 13, 1946, violated the instructions of the Bank, and that furthermore, in granting said crop loans, they acted negligently and did not exercise the care and precaution required of them in order to prevent the release of crop loans to persons who were neither qualified borrowers nor entitled to the assistance being rendered by the Government and the Bank, all contrary to the rules and regulations issued by the Bank.

Because of the heavy disbursements made by the Cotabato Agency in the form of crop loans and because of exhaustion of its funds, said agency sent a telegram, Exhibit 11, dated November 11, 1946, requesting authority from the central office to secure cash from the Zamboanga Agency. Replying to this telegram, Delfin Buencamino sent a letter, Exhibit E, dated November 13, 1946, addressed to the Cotabato Agency stating among other things that the purpose of these funds (to be obtained from the Zamboanga Agency) was to meet the releases of the second installment crop loans being granted which according to the telegram aggregated P60,000 daily. The letter reminded the Agency that the central office had not yet received the Agency's monthly reports on special crop loans granted, as required by the regulations, and it emphasized the necessity of performing inspection of the field to verify whether the amount released as first installment was actually used for the purpose for which it was granted, before releasing the second installment. In relation with said letter, Exhibit E, defendant Bagamaspad wrote a letter, Exhibit F, dated November 18, 1946, to the central office making reference to said Exhibit E, reiterating the Agency's heavy disbursements on second installments for crop loans and stating that Ferrer had been instructed to proceed to Zamboanga to secure the needed cash, and that Ferrer was able to secure P300,000 from the Zamboanga Agency. Then making reference to and quoting a portion of the letter of Buencamino, Exhibit E, Bagamaspad in his letter said:

"In connection with the following portion:

'In this connection, we would like to state that the purpose of these funds is to meet the release of the second installment of crop loans being granted by that agency, which, according to your said telegram, will run to P600,000 daily.'

of your above mentioned letter, may we know if we could still entertain new applicants on Special Crop Loans? We are constrained to request for this matter because there are now on file no less than 1,000 new applicants which we could not entertain because of your above quoted statement. Yesterday they held a demonstration and copy of the picture is hereto attached. In addition, there are about 6,000 settlers in Koronadal Valley who, according to your indorsement of Oct. 31, 1946 to the Technical Assistant to the President of the Philippines, could be given crop loans. If we could not therefore disburse from the funds taken from Zamboanga Agency against first installment of applicants on crop loans, we shall appreciate if you could give us definite course of action towards the clarification of our stand to the public.

"We are again sending Asst. Agent B. M. Ferrer to Zamboanga to despatch this letter without delay and wait there for whatever instruction that you may give with reference to our desire to secure more cash from our Zamboanga Agency, say P1,000,000 and whether we shall continue granting special crop loans or not.

"With reference to the cash that we desire to secure more, we could tell you with assurance that the same shall arrive there safely under guard on a chartered plane which will cost not more than P300 only."

From this letter of Bagamaspad of which his co-defendant Ferrer must have been aware, because he himself prepared it upon order of Bagamaspad (pp. 340-344, t. s. n.), particularly the portion above-quoted, it will be seen that without waiting for authority to secure funds from the Zamboanga Agency, Ferrer obtained P300,000 from said Agency, and that Bagamaspad again had sent Ferrer to Zamboanga to await instruction from the central office regarding their desire and intention to secure in additional P1,000,000 for the Cotabato Agency. As a matter of fact, however, once in Zamboanga, and without waiting for instructions, Ferrer again secured P500,000 from the Zamboanga Agency. It was while Ferrer already carrying the P500,000 was about to board the plane that was to take him to Cotabato, that he received the answer from the central office, Exhibit G, authorizing him to obtain only P300,000 from the Zamboanga Agency, with the statement that as soon as the said amount was exhausted, the Cotabato Agency may again request for replenishment. This letter of the Central Office again emphasized the necessity of strict compliance with the rules and regulations regarding the required field inspection before releasing the second installment. The said letter, Exhibit G, ended with the following:

"Concerning the new special crop loan applications numbering about 1,000, we would like to be informed whether the farms of the said applicants have already been actually planted, considering that at this advanced period planting season in low-land palay region is now over. As the purpose for which special crop loans are being granted by the Bank is to provide the farmers with funds to meet the expenses of their farms and if said farms have already been planted, we believe that the farmers may not need said credit facilities unless it has been found out by actual investigation and verification that said loans are needed by them.

"Please, therefore, let us hear from you regarding this matter." (Italics ours)

In answer to this letter, Exhibit G, defendants sent a telegram, Exhibit H, dated November 25, 1946, to the central office in Manila, stating that for Cotabato, the planting season for second crops ended December. In answer to Exhibit H, the central office sent a telegram, Exhibit I, dated November 28, 1946, expressly instructing the Cotabato Agency to discontinue granting new crop loans. The defendants claim that this telegram, Exhibit I, was received by them by mail on December 7, 1946.

In their brief the appellants contend that the trial court erred in finding and holding that in extending new special crop loans after November 26, 1946, amounting to P726,680, they as Agent and Assistant Agent, respectively, of the Cotabato Agency, did so at their own risk and in violation of the instructions received from the Manila office; also that the court erred in holding that they (appellants) acted with extreme laxity, negligence and carelessness in granting said new special crop loans. On the first assigned error appellants maintain that outside of the telegram, Exhibit I, which they claim to have received only on December 7, 1946, there was no instruction by the central office stopping the granting of new special crop loans.

It may be that there was no such express instruction couched in so many words directly ordering the defendants to stop granting new special crop loans, but that said idea of the central office could be gathered from its letter, Exhibit E, and that it was understood and clearly, by the defendants, is evident. If defendants did not so understand it, namely, that they were no longer authorized to grant new special crop loans, how else may we interpret the contents of the letter of Bagamaspad, Exhibit F, particularly that portion wherein after quoting a portion of the central office letter Exhibit E, he asks if they (defendants) could still entertain new applications for special crop loans? At least, they then doubted their authority to grant new special crop loans and until that doubt was cleared up and determined by new instructions from their superiors, it was their bounden duty to stop granting new loans. Appellant Ferrer himself, in response to questions asked by the trial court during the hearing, said that in case of doubt as to whether or not to disburse funds of the bank, he should consult and await

instructions. Appellants asked for instructions as to whether or not they should grant new special crop loans. This request for instructions is contained clearly in Bagamaspad's letter, Exhibit F, where in one paragraph he asks: "May we know if we could still entertain new applications on special crop loans?" And, in another paragraph he says: "We are again sending Asst. Agent B. M. Ferrer to Zamboanga * * * and wait there for further instructions that you may give * * * and whether we shall continue granting special crops loans or not." The trouble is that without waiting for said requested instructions, appellants proceeded to grant new special crop loans from November 26, 1946 to January 4, 1947.

Appellants not only granted new special crop loans after they were given to understand by the central office that they should no longer grant said new loans and before appellants received instructions as to what they should do in that regard, but they also violated the express instructions of the Bank to the effect that funds received from the Zamboanga Agency should be utilized only to pay second installments on special crop loans. Of course, defendants contend that the total of P800,000 secured from the Zamboanga Agency were all used in paying second installments, but the contrary is amply established by Exhibit T, a statement prepared by Felicisimo Lopez, Chief Examiner of the Bank showing that out of the P500,000 secured from the Zamboanga Agency on or about November 18, 1946, the amount of P232,931.58 was paid on account of new special crop loans or first installments. The plaintiff-appellee Bank in its brief explains in details this use of part of the Zamboanga funds in paying first installments on new crop loans.

As to the alleged error committed by the trial court in finding and holding that the appellants were extremely lax, negligent and careless in granting new special crop loans, we quote with approval a portion of the well considered decision of the trial Judge, Hon. Arsenio Solidum, on this point:

"From the evidence of record, one cannot help but be amazed at the extreme laxity, negligence and carelessness on the part of the defendants in the granting of the special crop loans. It seems that all precautions to protect the interest of the Philippine National Bank as the principal of the defendants were thrown overboard. From all appearances, the door of the Cotabato Agency was left wide open by the defendants as an invitation for all persons to come in and secure from them special crop loans regardless of whether or not under the rules prescribed therefor they were rightfully entitled thereto. * * *" (p. 165, Record on Appeal)

* * * * *

"What really happened was that in those days of crop loan boom, the borrowers made a holiday of the funds of the Cotabato Agency of the Philippine National Bank with the indulgence and tolerance of the defendants as the managing officials of the Agency. And the saddest part of it all was that the money did not go to the farmers who needed it the most but to unscrupulous persons, who, taking undue advantage of the laxity and looseness of the defendants in doling out these loans, secured special crop loan funds without the least idea of investing them in food production campaign for which they were primarily intended. Part of the booty went to the pockets of those who acted as intermediaries in the procurement of the loans under the very noses of the defendants fully knowing that such practice was prohibited by the rules and regulations of the Philippine National Bank governing the operation of provincial agencies (Exhibits 'W', 'T', 'T-1', to 'T-11', 'U', 'U-1' to 'U-2') * * *" (PP. 176-177, Record on Appeal)

The lower court as may be seen, severely criticised and condemned the acts of laxity, negligence and carelessness of the appellants. But the severity of this criticism and condemnation would appear to be amply warranted by the evidence. Out of the numerous acts of laxity, negligence and carelessness established by the record, a few cases may be cited. Exhibits C and D which contain instructions and rules and regulations governing the granting of special crop loans, provide that before a crop loan is granted the Agent or Sub-Agent of the Bank must be satisfied that the applicant is either a landowner well known to be possessing the particular property on which the crop is to be produced, or if the applicant be a tenant he must be recommended by the landowner concerned or in

the absence of said landowner must be properly identified that he is the bona fide tenant actually tilling the land from which the crop to be mortgaged would be harvested.

The evidence shows that in violation of these instructions and regulations, the defendants released large loans aggregating P348,768.22 to about 103 borrowers who were neither landowners or tenants but only public land sales applicants, that is to say, persons who have merely filed applications to buy public lands. It is a well known fact that when a person desires to apply for the purchase of public lands usually containing trees, underbrush, cogon or other wild vegetation, and never previously cultivated, he merely goes over the land, stakes it out and then files his application with the Public Land Office. Subsequently and in due time the Bureau of Lands examines the application, tries to determine the location of the land, its identity, proceeds to classify it to see if it is open to sale and if so, perhaps makes a rough survey of it to establish its exact location and fix boundaries with respect to the entire area of the public domain. The application naturally carries no implication of occupancy, possession, much less cultivation and dominion. And yet, in spite of all this, the appellants had been granting loans to these public lands sale applicants who were neither landowners or tenants.

The record further shows that Mr. Villamarzo, District Land Officer for Cotabato with whom these sale applications had been filed, came to know that the certificates that he had been issuing to the applicants, which were nothing but acknowledgments of the filing of the applications, had been used by said applicants to secure special crop loans, and so he went to see the appellants as early as the middle of August of 1946 and advised them that those certificates were issued merely to show that the applications had been filed with him but that it did not mean that said applications had already been investigated, much less that the lands covered by them had been surveyed. Then about the end of the same month Villamarzo accompanied by Almonte, a Division Land Inspector of the Bureau of Lands, again went to the defendants and repeated the advice and warning. Despite all these, as already stated, appellants granted new special crop loans to 103 of these public land sales applicants, knowing as they must have known that the borrowers were neither landowners nor tenants. Furthermore, it should be remembered that these special crop loans according to regulations were payable in ten (10) months, and were to be secured by chattel mortgages on the crops to be produced. A virgin land, especially if covered with trees or underbrush, needs to be cleared and placed in condition for cultivation before crops may be produced. That work of clearing would take some time. A public land sale applicant, even assuming that he immediately began to clear the land applied for even before favorable action on his application is taken, is hardly in a position to meet the requirements of the regulations governing the granting of special crop loans, namely, to mortgage the crop he is going to produce, and pay the loan within ten months.

Appellants in their over-enthusiasm and seemingly inordinate desire to grant as many loans as possible and in amounts disproportionate to the needs of the borrowers, admitted and passed upon more loan applications than they could properly handle. From July, 1946 to March, 1947 the total amount of about eight and a half (8 1/2) million pesos was released in the form of special crop loans to about 5,105 borrowers and this, in a relatively sparsely populated province like Cotabato, As a consequence of this big volume of business the bookkeeper of the Agency could not keep up with the posting of the daily transactions in his books and ledgers and he was several months behind. There were so many applications acted upon and accepted that they could not all be carefully examined and many of them do not even bear the initials or signatures of the appellants as required by regulations. Some of the chattel mortgages given to secure the payments of the loans, contrary to regulations, do not show the number of cavans of pal ay to be produced on the land and to be mortgaged in favor of the Bank.

Contrary to the Bank's rules and regulations regarding the granting of special crop loans, the defendants allowed intermediaries to intervene in the granting of special crop loans. Many lawyers, business agents and other persons intervened in the granting of the loans. We may have an idea of the part played by these intermediaries by

referring to a portion of the report, Exhibit V, prepared by Mr. Lagdameo, one of the Assistant Managers of the Agencies and Branches Department of the plaintiff Bank, sent to Cotabato to investigate the crop loan anomalies in the Cotabato Agency, which portion we quote below:

"On top of this, were the heavy expenses incurred by the borrowers to secure crop loans. The rush was so unprecedented that applicants had to stay for weeks in hotels in Cotabato to lobby for the approval of their applications. They even went to the extent of engaging intermediaries who in the words of some borrowers were the best ones to fix things with the agency for the approval and immediate release of the loan. These intermediaries are government employees and business agents and particularly practicing attorneys who charged fees up to 5 per cent of the total loans approved. Instances have been Bhown that the Agency itself collected the attorney's fees and delivered them to the parties concerned. In other cases, the intermediaries themselves were the ones who received the proceeds of the loans and distributed them to the borrowers. It has also been found that loan papers including the preparation of promissory notes, debit tickets, etc., were prepared by said intermediaries and submitted to the Agency already executed.* * *."

There is evidence to the effect that sometimes the fees of these intermediaries were collected by the Agency itself and were later turned over to appellant Ferrer, perhaps to be later given by him to said intermediaries.

One of the provisions of the rules and regulations concerning the granting of loans is to the effect that loans to be released by a Provincial Agency like that of the appellants' should be approved by a Loan Board to be composed of the Agent, like defendant Bagamaspad; the Assistant Agent, like Ferrer or the Inspector if there is no Assistant Agent; and the Municipal Treasurer where the borrower resides. The evidence, however, shows that many of the special crop loans released by the appellants have not been approved by this Board and others have not even been approved by anyone of them.

It will be remembered that in the letter of Vice President Buencamino, Exhibit G, dated November 19, 1946, speaking of the new special crop loan applications numbering about 1,000 mentioned by appellant Bagamaspad in his letter, Exhibit F, the plaintiff Bank wanted to know whether on that date, November 19th, the farmers in Cotabato had already planted their farms in which case there was no need for their obtaining crop loans to meet the expenses of planting. Answering this query, the Cotabato Agency under the appellants, sent a telegram (Exhibit H) dated November 25, 1946, to the plaintiff Bank saying that the planting season for Cotabato for second crops ends in December. This was evidently intended to justify the granting of special crop loans even at the end of the year. The evidence however, belies the correctness of this statement and information. Mr. Aniceto Padilla, Assistant Provincial Agricultural Supervisor, a graduate of the College of Agriculture of the University of the Philippines, told the court that his office, which is the Provincial Agricultural Station in Cotabato, has determined the proper period for planting crops raised in that province, and that for upland palay, the planting season is during the months of March, April up to May; that for lowland palay is June and July; and that second crops may be planted in September even as late as October. From this, one may conclude that it is not true as the appellants informed the Bank that the planting season for palay (second crop) in Cotabato ends in December. Whether this incorrect information was given deliberately or thru negligence and carelessness, we deem it unnecessary to determine.

To give a further idea of the confusion, lack of care and method with which the Cotabato Agency was managed by the appellants, the record shows that in January, 1947, Mr. Simeon Intal, Traveling Auditor of the Philippine National Bank, was sent to Cotabato with instructions to make an audit of the accounts of the Cotabato Agency and to see for himself the reported irregularities being committed in said Agency with respect to the granting of special crop loans. According to Mr. Intal he found the Cotabato Agency like a market place full of people. He saw crop loan papers like promissory notes, loan applications and chattel mortgages scattered all over the office of the Agency, some on the desks of employees, on open shelves or on top of filing cabinets, and others on the floor.

He found that transactions which had taken place five months before were not yet posted in the books of the Agency. In February, 1947, Mr. Amado Lagdameo, then one of the Assistant Managers of the Branches and Agencies Department of the Bank, was also sent to Cotabato and there he found the same conditions found and reported by Intal. In order to make thorough investigation of the anomalies reportedly obtaining in the Cotabato Agency, Felicisimo Lopez, a certified public accountant and Chief Examiner of the plaintiff Bank, was sent to Cotabato in June, 1947. He checked up the findings of Intal about the deplorable condition of the books and records of the Agency and he agreed with said findings. Lopez and Intal assisted by Benjamin de Guzman, Branch Auditor of the Bank at the Davao Branch, Mr. Macuja (who later succeeded Benjamin de Guzman), Mr. Juan B. Sanchez, now Branch Auditor in Legaspi, Mr. Antonio Cruz of the Head Office, Mr. Danao from Oriental Misamis, Mr. Fernandez from Zamboanga and Mr. Romena of the Davao Branch, went to work on the books and records of the Cotabato Agency and it took them almost four months to straighten out the special crop loan accounts and bring the books up-to-date, after which, they found that as of June 10, 1947, the Gotabato Agency had released special crop loans in the aggregate sum of P8,688,864.

To us who have always had the impression and the idea that the business of a Bank is conducted in an orderly, methodical and businesslike manner, that its papers, especially those relating to loans with their corresponding securities, are properly filed, well-kept and in a safe place, its books kept up-to-date, and that its funds are not given out in loans without careful and scrupulous scrutiny of the responsibility and solvency of the borrowers and the sufficiency of the security given by them, the conditions obtaining in the Gotabato Agency due to the apparent indifference, carelessness or negligence of the appellants, is indeed shocking. And it is because of these shortcomings of the appellants, their disregard of the elementary rules and practice of banking and their violation of instructions of their superiors, that these anomalies resulting in financial losses to the Bank were made possible.

The trial court based the civil liability of the appellants herein on the provisions of Arts. 1718 and 1719 of the Civil Code, denning and enumerating the duties and obligations of an agent and his liability for failure to comply with such duties, and Art. 259 of the Code of Commerce which provides that an agent must observe the provisions of law and regulations with respect to business transactions entrusted to him otherwise he shall be responsible for the consequences resulting from their breach or omissions; and also Art. 1902 of the Civil Code which provides for the liability of one for his tortious act, that is to say, any act or omission which causes damage to another by his fault or negligence. Appellants while agreeing with the meaning and scope of the legal provisions cited, nevertheless insist that those provisions are not applicable to them inasmuch as they are not guilty of any violation of instructions or regulations of the plaintiff Bank; and that neither are they guilty of negligence or carelessness as found by the trial court. A careful study and consideration of the record, however, convinces us and we agree with the trial court that the defendants-appellants have not only violated instructions of the plaintiff Bank, including things which said Bank wanted done or not done, all of which were fully understood by them, but they (appellants) also violated standing regulations regarding the granting of loans; and, what is more, thru their carelessness, laxity and negligence, they allowed loans to be granted to persons who were not entitled to receive loans.

It is the contention of the appellants that the act of plaintiff Bank in filing suits against the borrowers to whom appellants were said to have granted loans without authority, which suits resulted in the payment of part of said loans resulting in the reduction of the original claim of the plaintiff Bank from P704,903.18 to P699,803.57, should be interpreted and considered as a ratification of the acts of the appellants. What is more, it is contended that it would be iniquitous for the plaintiff to go against the defendants for whatever amounts may have been loaned by the latter and at the same time go against the individual borrowers for collection of the respective sums borrowed by them. That would be enriching the plaintiff at the expense of the defendants." We cannot subscribe to this theory. As pointed out by Counsel for appellee, ordinarily, a principal who collects either judicially or extra

judicially a loan made by an agent without authority, thereby ratifies the said act of the agent. In the present case, however, in filing suits against some of the borrowers to collect at least part of the unauthorized loans, there was no intention on the part of the plaintiff Bank to ratify the acts of appellants. Neither did the plaintiff receive any substantial benefit by its act of filing these suits if we consider the fact that the collections so far made, form a small or insignificant portion of the entire principal and interest. And, we fail to see any iniquity in this act of the plaintiff in suing some of the borrowers to collect what it could at the same time holding the appellants liable for the balance, because the plaintiff Bank is not trying to enrich itself at the expense of the defendants but is merely trying to diminish as much as possible the loss to itself and automatically decrease the financial liability of appellants. Considering the large amount for which appellants are found liable, it is a matter of serious doubt if they are in a position to pay it. Moreover, whatever amount is collected by the plaintiff Bank from borrowers, serves to diminish the financial liability of the appellants, in the same way that the original claim of P704,903.18, at the very instance of plaintiff was reduced to P699,803.57. In other words, the act of the plaintiff Bank in this matter, far from being iniquitous, is really beneficial to the appellants.

Appellants further contend that the present action is rather premature for the reason that there is no showing that the borrowers to whom they allegedly gave loans without authority, are manifestly insolvent or unqualified, and that the loans granted to them are uncollectible and have been written off the books of the Bank as "bad debts". We find this contention untenable. It is not necessary for the plaintiff Bank to first go against the individual borrowers, exhaust all remedies against them and then hold the defendants liable only for the balance which cannot be collected. The case of *Corsicana National Bank vs. Johnson*, 64 L. ed. 141, cited by the trial court and by the plaintiff Bank is in point. The issue in that case whether or not a bank could proceed against one of its officials for losses which it had sustained in consequence of the unauthorized loans released by said official, or whether it should first pursue its remedies against the borrowers or await the liquidation of their estates. The Supreme Court of the United States in said case held that the cause of action of the Bank accrued and the injury to it was complete on the very day that the amounts of the unauthorized loans were released by the erring official. We quote a part of that decision:

"Assuming the Fleming and Templeton notes were found to represent an excessive loan, knowingly participated in or assented to by defendant as a director of the Bank, in our opinion the cause of action against him accrued on or about June 10, 1907, when the Bank, through his act, parted with the money loaned, receiving in return only negotiable paper that it could not lawfully accept because the transaction was prohibited by section 5200, Rev. Stat. (Comp. Stat. section 9761, 6 Fed. Stat. Anno. 2d ed., p. 761). The damage as well as the injury was complete at that time, and the Bank was not obliged to await the maturity of the notes, because immediately it became the duty of the officers or directors who knowingly participated in making the excessive loan to undo the wrong done by taking the notes off the hands of the Bank and restoring to it the money that had been loaned. Of course, whatever of value the Bank recovered from the borrowers on account of the loan would go in diminution of the damages; but the responsible officials would have no right to require the Bank to pursue its remedies against the borrowers or await the liquidation of their estates. The liability imposed by the statute upon the director is a direct liability, not contingent or collateral."

In view of all the foregoing, and finding no reversible error in the decision appealed from, the same is hereby affirmed with costs against the appellants. So ordered.

Paras, C. J., Feiiia, Pablo, Bengzon, Tuason, Jugo and Bautista Angelo, JJ., concur.

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