

REPUBLIC BANK, PETITIONER, VS. COURT OF APPEALS AND FIRST NATIONAL CITY BANK, RESPONDENTS.

G.R. No. L-42725. April 22, 1991

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

On January 25, 1966, San Miguel Corporation (SMC for short), drew a dividend Check No. 108854 for P240, Philippine currency, on its account in the respondent First National City Bank ("FNCB" for brevity) in favor of J. Roberto C. Delgado, a stockholder. After the check had been delivered to Delgado, the amount on its face was fraudulently and without authority of the drawer, SMC, altered by increasing it from P240 to P9,240. The check was indorsed and deposited on March 14, 1966 by Delgado in his account with the petitioner Republic Bank (hereafter "Republic").

Republic accepted the check for deposit without ascertaining its genuineness and regularity. Later, Republic endorsed the check to FNCB by stamping on the back of the check "all prior and/or lack of indorsement guaranteed" and presented it to FNCB for payment through the Central Bank Clearing House. Believing the check was genuine, and relying on the guaranty and endorsement of Republic appearing on the back of the check, FNCB paid P9,240 to Republic through the Central Bank Clearing House on March 15, 1966.

On April 19, 1966, SMC notified FNCB of the material alteration in the amount of the check in question. FNCB lost no time in recrediting P9,240 to SMC. On May 19, 1966, FNCB informed Republic in writing of the alteration and the forgery of the endorsement of J. Roberto C. Delgado. By then, Delgado had already withdrawn his account from Republic.

On August 15, 1966, FNCB demanded that Republic refund the P9,240 on the basis of the latter's endorsement and guaranty. Republic refused, claiming there was delay in giving it notice of the alteration; that it was not guilty of negligence; that it was the drawer's (SMC's) fault in drawing the check in such a way as to permit the insertion of numerals increasing the amount; that FNCB, as drawee, was absolved of any liability to the drawer (SMC), thus, FNCB had no right of recourse against Republic.

On April 8, 1968, the trial court rendered judgment ordering Republic to pay P9,240 to FNCB with 6% interest per annum from February 27, 1967 until fully paid, plus P2,000 for attorney's fees and costs of the suit. The Court of Appeals affirmed that decision, but modified the award of attorney's fees by reducing it to P1,000 without pronouncement as to costs (CA-G.R. No. 41691-R, December 22, 1975).

In this petition for review, the lone issue is whether Republic, as the collecting bank, is protected, by the 24-hour clearing house rule, found in CB Circular No. 9, as amended, from liability to refund the amount paid by FNCB, as drawee of the SMC dividend check.

The petition for review is meritorious and must be granted.

The 24-hour clearing house rule embodied in Section 4(c) of Central Bank Circular No. 9, as amended, provides:

"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 presented 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 A.M. of the following day."

The 24-hour clearing house rule is a valid rule applicable to commercial banks (*Republic vs. Equitable Banking Corporation*, 10 SCRA 8 [1964]; *Metropolitan Bank & Trust Co. vs. First National City Bank*, 118 SCRA 537).

It is true that when an endorsement is forged, the collecting bank or last endorser, as a general rule, bears the loss (*Banco de Oro Savings & Mortgage Bank vs. Equitable Banking Corp.*, 157 SCRA 188). But the unqualified endorsement of the collecting bank on the check should be read together with the 24-hour regulation on clearing house operation (*Metropolitan Bank & Trust Co. vs. First National City Bank*, *supra*). Thus, when the drawee bank fails to return a forged or altered check to the collecting bank within the 24-hour clearing period, the collecting bank is absolved from liability. The following decisions of this Court are also relevant and persuasive:

In *Hongkong & Shanghai Banking Corp. vs. People's Bank & Trust Co.* (35 SCRA 140), a check for P14,608.05 was drawn by the Philippine Long Distance Telephone Company on the Hongkong & Shanghai Banking Corporation payable to the same bank. It was mailed to the payee but fell into the hands of a certain Florentino Changco who erased the name of the payee, typed his own name, and thereafter deposited the altered check in his account in the People's Bank & Trust Co. which presented it to the drawee bank with the following indorsement:

"For clearance, clearing office. All prior endorsements and/or lack of endorsements guaranteed. People's Bank and Trust Company."

The check was cleared by the drawee bank (Hongkong & Shanghai Bank), whereupon the People's Bank credited Changco with the amount of the check. Changco thereafter withdrew the contents of his bank account. A month later, when the check was returned to PLDT, the alteration was discovered. The Hongkong & Shanghai Bank sued to recover from the People's Bank the sum of P14,608.05. The complaint was dismissed. Affirming the decision of the trial court, this Court held:

"The entire case of plaintiff is based on the indorsement that has been heretofore copied — namely, a guarantee of all prior indorsements made by People's Bank and since such an indorsement carries with it a concomitant guarantee of genuineness, the People's Bank is liable to the Hongkong Shanghai Bank for alteration made in the name of payee. On the other hand, the People's 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 P.M. of the following business day. And since the Hongkong Shanghai Bank only advised the People's Bank as to the alteration on April 12, 1965 or 27 days after clearing, the People's 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 banking system and both are subject to regulations of the Central Bank — they are both bound by such regulations. x x x But Plaintiff Bank insists that Defendant Bank is liable on its indorsement during clearing house operations. The indorsement, 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."

"xxx xxx xxx

"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.' (Interstate Trust Co. vs. United States National Bank, 185 Pac. 260 [1919].) 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. x x x." (35 SCRA 140, 142-143; 145-146.)

In *Metropolitan Bank & Trust Co. vs. First National City Bank, et al.* (118 SCRA 537, 542) a check for P50, drawn by Joaquin Cunanan and Company on its account at FNCB and payable to Manila Polo Club, was altered by changing the amount to P50,000 and the payee was changed to "Cash." It was deposited by a certain Salvador Sales in his current account in the Metropolitan Bank which sent it to the clearing house. The check was cleared the same day by FNCB which paid the amount of P50,000 to Metro Bank. Sales immediately withdrew the whole amount and closed his account. Nine (9) days later, the alteration was discovered and FNCB sought to recover from Metro Bank what it had paid. The trial court and the Court of Appeals rendered judgment for FNCB but this Court reversed it. We ruled:

"The validity of the 24-hour clearing house regulation has been upheld by this Court in *Republic vs. Equitable Banking Corporation*, 10 SCRA 8 (1964). As held therein, since both parties are part of our banking system, and both are subject to the regulations of the Central Bank, they are bound by the 24-hour clearing house rule of the Central Bank.

"In this case, the check was not returned to Metro Bank in accordance with the 24-hour clearing house period, but was cleared by FNCB. Failure of FNCB, therefore, to call the attention of Metro Bank to the alteration of the check in question until after the lapse of nine days, negates whatever right it might have had against Metro Bank in the light of the said Central Bank Circular. Its remedy lies not against Metro Bank, but against the party responsible for changing the name of the payee (*Hongkong & Shanghai Banking Corp. vs. People's Bank & Trust Co.*, 35 SCRA 140) and the amount on the face of the check." (p. 542.)

Every bank that issues checks for the use of its customers should know whether or not the drawer's signature thereon is genuine, whether there are sufficient funds in the drawer's account to cover checks issued, and it should be able to detect alterations, erasures, superimpositions or intercalations thereon, for these instruments are prepared, printed and issued by itself, it has control of the drawer's account, and it is supposed to be familiar with the drawer's signature. It should possess appropriate detecting devices for uncovering forgeries and/or alterations on these instruments. Unless an alteration is attributable to the fault or negligence of the drawer himself, such as when he leaves spaces on the check which would allow the fraudulent insertion of additional numerals in the amount appearing thereon, the remedy of the drawee bank that negligently clears a forged and/or altered check for payment is against the party responsible for the forgery or alteration (*Hongkong & Shanghai Banking Corp. vs. People's Bank & Trust Co.*, 35 SCRA 140), otherwise, it bears the loss. It may not charge the amount so paid to the account of the drawer, if the latter was free from blame, nor recover it from the collecting bank if the latter made payment after proper clearance from the drawee. As this Court pointed out in *Philippine National Bank vs. Quimpo, et al.*, 158 SCRA 582, 584:

"There is nothing inequitable in such a rule for if in the regular course of business the check comes to the

drawee bank which, having the opportunity to ascertain its character, pronounces it to be valid and pays it, it is not only a question of payment under mistake, but payment in neglect of duty which the commercial law places upon it, and the result of its negligence must rest upon it."

The Court of Appeals erred in laying upon Republic, instead of on FNCB the drawee bank, the burden of loss for the payment of the altered SMC check, the fraudulent character of which FNCB failed to detect and warn Republic about, within the 24-hour clearing house rule. The Court of Appeals departed from the ruling of this Court in an earlier PNB case, that:

"Where a loss, which must be borne by one of two parties alike innocent of forgery, can be traced to the neglect or fault of either, it is reasonable that it would be borne by him, even if innocent of any intentional fraud, through whose means it has succeeded. (Phil. National Bank vs. National City Bank of New York, 63 Phil. 711, 733.)"

WHEREFORE, the petition for review is granted. The decision of the Court of Appeals is hereby reversed and set aside, and another is entered absolving the petitioner Republic Bank from liability to refund to the First National City Bank the sum of P9,240, which the latter paid on the check in question. No costs.

SO ORDERED.

Narvasa, (Chairman), Gancayco, and Medialdea, JJ., concur.

Cruz, J., No part. Related to respondents' counsel.

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