

PILIPINAS BANK, PETITIONER, VS. HON. COURT OF APPEALS AND FLORENCIO REYES, RESPONDENTS.

G.R. No. 105410. July 25, 1994

Ponente: PUNO, J.

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PUNO, J.:

This is a petition for review of the Decision of the respondent court[1] in CA-G.R. CV No. 29524 dated May 13, 1992 which ordered petitioner to pay the private respondent the sum of P50,000.00 as moral damages, P25,000.00 as attorney's fees and cost of suit.

The facts as found both by the trial court[2] and the respondent court are:

"As payments for the purchased shoe materials and rubber shoes, Florencio Reyes issued postdated checks to Winner Industrial Corporation for P20,927.00 and Vicente Tui, for P11,419.50, with due dates on October 10 and 12, 1979, respectively.

To cover the face value of the checks, plaintiff, on October 10, 1979, requested PCIB Money Shop's manager Mike Potenciano to effect the withdrawal of P32,000.00 from his savings account therein and have it deposited with his current account with Pilipinas Bank (then Filman Bank), Biñan Branch. Roberto Santos was requested to make the deposit.

In depositing in the name of FLORENCIO REYES, he inquired from the teller the current account number of Florencio Reyes to complete the deposit slip he was accomplishing. He was informed that it was '815' and so this was the same current account number he placed on the deposit slip below the depositor's name FLORENCIO REYES.

Noting that the account number coincided with the name Florencio, Efren Alagasi, then Current Account Bookkeeper of Pilipinas Bank, thought it was for Florencio Amador who owned the listed account number. He, thus, posted the deposit in the latter's account not noticing that the depositor's surname in the deposit slip was REYES.

On October 11, 1979, the October 10 check in favor of Winner Industrial Corporation was presented for payment. Since the ledger of Florencio Reyes indicated that his account had only a balance of P4,078.43, it was dishonored and the payee was advised to try it for next clearing.

On October 15, 1979, the October 10, 1979 check was redeposited but was again dishonored. Likewise, the October 12, 1979 check in favor of Vicente Tui when presented for payment on that same date met the same fate but was advised to try the next clearing. Two days after the October 10 check was again dishonored, the payee returned the same to Florencio Reyes and demanded a cash payment of its face value which he did if only to save his name. The October 12, 1979 check was redeposited on October 18, 1979, but again dishonored for the reason that the check was drawn against insufficient fund.

Furious over the incident, he immediately proceeded to the bank and urged an immediate verification of his account.

Upon verification, the bank noticed the error. The P32,000.00 deposit posted in the account of Florencio Amador was immediately transferred to the account of Reyes upon being cleared by Florencio Amador that he did not effect a deposit in the amount of P32,000.00. The transfer having been effected, the bank then honored the October 12, 1979 check (Exh. "C")."

On the basis of these facts, the trial court ordered petitioner to pay to the private respondent: (1) P200,000.00 as compensatory damages; (2) P100,000.00 as moral damages; (3) P25,000.00 as attorney's fees, and (4) the costs of suit. On appeal to the respondent court, the judgment was modified as aforestated.

In this petition for review, petitioner argues:

I. Respondent Court of Appeals erred on a matter of law, in not applying the first sentence of Article 2179, New Civil Code, in view of its own finding that respondent Reyes' own representative committed the mistake in writing down the correct account number;

II. Respondent Court of Appeals erred, on a matter of law, in holding that respondent Reyes has the right to recover moral damages and in awarding the amount of P50,000.00, when there is no legal nor factual basis for it;

III. The Honorable Court of Appeals erred, on a matter of law, in holding petitioner liable for attorney's fees in the amount of P20,000.00, when there is no legal nor factual basis for it."

We find no merit in the petition.

First. For Article 2179[3] of the Civil Code to apply, it must be established that private respondent's own negligence was the immediate and proximate cause of his injury. The concept of proximate cause is well defined in our corpus of jurisprudence as "any cause which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the result complained of and without which would not have occurred and from which it ought to have been foreseen or reasonably anticipated by a person of ordinary case that the injury complained of or some similar injury, would result therefrom as a natural and probable consequence." [4] In the case at bench, the proximate cause of the injury is the negligence of petitioner's employee in erroneously posting the cash deposit of private respondent in the name of another depositor who had a similar first name. As held by the trial court:

x x x

"Applying the test, the bank employee is, on that basis, deemed to have failed to exercise the degree of care required in the performance of his duties. As earlier stated, the bank employee posted the cash deposit in the account of Florencio Amador from his assumption that the name Florencio appearing on the ledger without, however, going through the full name, is the same Florencio stated in the deposit slip. He should have continuously gone beyond mere assumption, which was proven to be erroneous, and proceeded with clear certainty, considering the amount involved and the repercussions it would create on the totality of the person notable of which is the credit standing of the person involved should a mistake happen. The checks issued by the plaintiff in the course of his business were dishonored by the bank because the ledger of Florencio Reyes indicated a balance insufficient to cover the face value of checks."

Second. In light of this negligence, the liability of petitioner for moral damages cannot be impugned. So we held in *Bank of the Philippine Islands vs. IAC, et al.*[5]

"The bank is not expected to be infallible but, as correctly observed by respondent Appellate Court, in this instance, it must bear the blame for not discovering the mistake of its teller despite the established procedure requiring the papers and bank books to pass through a battery of bank personnel whose duty it is to check and countercheck them for possible errors. Apparently, the officials and employees tasked to do that did not perform their duties with due care, as may be gathered from the testimony of the bank's lone witness, Antonio Enciso,

who casually declared that 'the approving officer does not have to see the account numbers and all those things. Those are very petty things for the approving manager to look into' (p. 78, Record on Appeal). Unfortunately, it was a 'petty thing,' like the incorrect account number that the bank teller wrote on the initial deposit slip for the newly-opened joint current account of the Canlas spouses, that sparked this half-a-million-peso damage suit against the bank.

While the bank's negligence may not have been attended with malice and bad faith, nevertheless, it caused serious anxiety, embarrassment and humiliation to the private respondents for which they are entitled to recover reasonable moral damages (*American Express International, Inc. IAC*, 167 SCRA 209). The award of reasonable attorney's fees is proper for the private respondents were compelled to litigate to protect their interest (Art. 2208, Civil Code). However, the absence of malice and bad faith renders the award of exemplary damages improper (*Globe Mackay Cable and Radio Corp. vs. Court of Appeals*, 176 SCRA 778)."

IN VIEW WHEREOF, the petition is denied there being no reversible error in the Decision of the respondent court. Cost against petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Padilla, Regalado, and Mendoza, JJ., concur.

[1] Second Division composed of Justices Jose A.R. Melo (Chairman), Segundino Chua (ponente) and Artemon D. Luna (member).

[2] RTC of Biñan, Laguna, Br. XXV.

[3] It states in part: "When the plaintiff's own negligence was the immediate and proximate cause of his injury, he cannot recover damages..."

[4] *People vs. Desalina*, 57 OG 8694.

[5] G.R. No. 69162, February 21, 1992, 206 SCRA 408, 413.

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