

ASSOCIATED BANK, PETITIONER, VS. HON. COURT OF APPEALS, PROVINCE OF TARLAC AND PHILIPPINE NATIONAL BANK, RESPONDENTS.

G.R. No. 107382. January 31, 1996

Ponente: ROMERO, J.

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ROMERO, J.:

Where thirty checks bearing forged endorsements are paid, who bears the loss, the drawer, the drawee bank or the collecting bank?

This is the main issue in these consolidated petitions for review assailing the decision of the Court of Appeals in "Province of Tarlac v. Philippine National Bank v. Associated Bank v. Fausto Pangilinan, et. al." (CA-G.R. No. CV No. 17962).[1]

The facts of the case are as follows:

The Province of Tarlac maintains a current account with the Philippine National Bank (PNB) Tarlac Branch where the provincial funds are deposited. Checks issued by the Province are signed by the Provincial Treasurer and countersigned by the Provincial Auditor or the Secretary of the Sangguniang Bayan.

A portion of the funds of the province is allocated to the Concepcion Emergency Hospital.[2] The allotment checks for said government hospital are drawn to the order of "Concepcion. Emergency Hospital, Concepcion, Tarlac" or "The Chief, Concepcion Emergency Hospital, Concepcion, Tarlac." The checks are released by the Office of the Provincial Treasurer and received for the hospital by its administrative officer and cashier.

In January 1981, the books of account of the Provincial Treasurer were post-audited by the Provincial Auditor. It was then discovered that the hospital did not receive several allotment checks drawn by the Province.

On February 19, 1981, the Provincial Treasurer requested the manager of the PNB to return all of its cleared checks which were issued from 1977 to 1980 in order to verify the regularity of their encashment. After the checks were examined, the Provincial Treasurer learned that 30 checks amounting to P203,300.00 were encashed by one Fausto Pangilinan, with the Associated Bank acting as collecting bank.

It turned out that Fausto Pangilinan, who was the administrative officer and cashier of payee hospital until his retirement on February 28, 1978, collected the questioned checks from the office of the Provincial Treasurer. He claimed to be assisting or helping the hospital follow up the release of the checks and had official receipts.[3] Pangilinan sought to encash the first check[4] with Associated Bank. However, the manager of Associated Bank refused and suggested that Pangilinan deposit the check in his personal savings account with the same bank. Pangilinan was able to withdraw the money when the check was cleared and paid by the drawee bank, PNB.

After forging the signature of Dr. Adena Canlas who was chief of the payee hospital, Pangilinan followed the same procedure for the second check, in the amount of P5,000.00 and dated April 20, 1978,[5] as well as for

twenty-eight other checks, of various amounts and on various dates. The last check negotiated by Pangilinan was for P8,000.00 and dated February 10, 1981.[6] All the checks bore the stamp of Associated Bank which reads "All prior endorsements guaranteed ASSOCIATED BANK."

Jesus David, the manager of Associated Bank testified that Pangilinan made it appear that the checks were paid to him for certain projects with the hospital.[7] He did not find as irregular the fact that the checks were not payable to Pangilinan but to the Concepcion Emergency Hospital. While he admitted that his wife and Pangilinan's wife are first cousins, the manager denied having given Pangilinan preferential treatment on this account.[8]

On February 26, 1981, the Provincial Treasurer wrote the manager of the PNB seeking the restoration of the various amounts debited from the current account of the Province.[9]

In turn, the PNB manager demanded reimbursement from the Associated Bank on May 15, 1981.[10]

As both banks resisted payment, the Province of Tarlac brought suit against PNB which, in turn, impleaded Associated Bank as third-party defendant. The latter then filed a fourth-party complaint against Adena Canlas and Fausto Pangilinan.[11]

After trial on the merits, the lower court rendered its decision on March 21, 1988, disposing as follows:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered:

1. On the basic complaint, in favor of plaintiff Province of Tarlac and against defendant Philippine National Bank (PNB), ordering the latter to pay to the former, the sum of Two Hundred Three Thousand Three Hundred (P203,300.00) Pesos with legal interest thereon from March 20, 1981 until fully paid;
2. On the third-party complaint, in favor of defendant/third-party plaintiff Philippine National Bank (PNB) and against third-party defendant/fourth-party plaintiff Associated Bank ordering the latter to reimburse to the former the amount of Two Hundred Three Thousand Three Hundred (P203,300.00) Pesos with legal interests thereon from March 20, 1981 until fully paid;
3. On the fourth-party complaint, the same is hereby ordered dismissed for lack of cause of action as against fourth-party defendant Adena Canlas and lack of jurisdiction over the person of fourth-party defendant Fausto Pangilinan as against the latter.
4. On the counterclaims on the complaint, third-party complaint and fourth-party complaint, the same are hereby ordered dismissed for lack of merit.

SO ORDERED.[12]

PNB and Associated Bank appealed to the Court of Appeals.[13] Respondent court affirmed the trial court's decision in toto on September 30, 1992.

Hence these consolidated petitions which seek a reversal of respondent appellate court's decision.

PNB assigned two errors. First, the bank contends that respondent court erred in exempting the Province of Tarlac from liability when, in fact, the latter was negligent because it delivered and released the questioned checks to Fausto Pangilinan who was then already retired as the hospital's cashier and administrative officer. PNB also maintains its innocence and alleges that as between two innocent persons, the one whose act was the cause of the loss, in this case the Province of Tarlac, bears the loss.

Next, PNB asserts that it was error for the court to order it to pay the province and then seek reimbursement from Associated Bank. According to petitioner bank, respondent appellate Court should have directed Associated Bank to pay the adjudged liability directly to the Province of Tarlac to avoid circuitry.[14]

Associated Bank, on the other hand, argues that the order of liability should be totally reversed, with the drawee bank (PNB) solely and ultimately bearing the loss.

Respondent court allegedly erred in applying Section 23 of the Philippine Clearing House Rules instead of Central Bank Circular No. 580, which, being an administrative regulation issued pursuant to law, has the force and effect of law.[15] The PCHC Rules are merely contractual stipulations among and between member-banks. As such, they cannot prevail over the aforesaid CB Circular.

It likewise contends that PNB, the drawee bank, is estopped from asserting the defense of guarantee of prior indorsements against Associated Bank, the collecting bank. In stamping the guarantee (for all prior indorsements), it merely followed a mandatory requirement for clearing and had no choice but to place the stamp of guarantee; otherwise, there would be no clearing. The bank will be in a "no-win" situation and will always bear the loss as against the drawee bank.[16]

Associated Bank also claims that since PNB already cleared and paid the value of the forged checks in question, it is now estopped from asserting the defense that Associated Bank guaranteed prior indorsements. The drawee bank allegedly has the primary duty to verify the genuineness of payee's indorsement before paying the check.[17]

While both banks are innocent of the forgery, Associated Bank claims that PNB was at fault and should solely bear the loss because it cleared and paid the forged checks.

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The case at bench concerns checks payable to the order of Concepcion Emergency Hospital or its Chief. They were properly issued and bear the genuine signatures of the drawer, the Province of Tarlac. The infirmity in the questioned checks lies in the payee's (Concepcion Emergency Hospital) indorsements which are forgeries. At the time of their indorsement, the checks were order instruments.

Checks having forged indorsements should be differentiated from forged checks or checks bearing the forged signature of the drawer.

Section 23 of the Negotiable Instruments Law (NIL) provides:

Sec. 23. FORGED SIGNATURE, EFFECT OF. - When a signature is forged or made without authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto, can be acquired through or under such signature unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority.

A forged signature, whether it be that of the drawer or the payee, is wholly inoperative and no one can gain title to the instrument through it. A person whose signature to an instrument was forged was never a party and never consented to the contract which allegedly gave rise to such instrument.[18] Section 23 does not avoid the instrument but only the forged signature.[19] Thus, a forged indorsement does not operate as the payee's indorsement.

The exception to the general rule in Section 23 is where "a party against whom it is sought to enforce a right is precluded from setting up the forgery or want of authority. "Parties who warrant or admit the genuineness of the signature in question and those who, by their acts, silence or negligence are estopped from setting up the defense of forgery, are precluded from using this defense. Indorsers, persons negotiating by delivery and acceptors are warrantors of the genuineness of the signatures on the instrument.[20]

In bearer instruments, the signature of the payee or holder is unnecessary to pass title to the instrument. Hence,

when the indorsement is a forgery, only the person whose signature is forged can raise the defense of forgery against a holder in due course.[21]

The checks involved in this case are order instruments, hence, the following discussion is made with reference to the effects of a forged indorsement on an instrument payable to order.

Where the instrument is payable to order at the time of the forgery, such as the checks in this case, the signature of its rightful holder (here, the payee hospital) is essential to transfer title to the same instrument. When the holder's indorsement is forged, all parties prior to the forgery may raise the real defense of forgery against all parties subsequent thereto.[22]

An indorser of an order instrument warrants "that the instrument is genuine and in all respects what it purports to be; that he has a good title to it; that all prior parties had capacity to contract; and that the instrument is at the time of his indorsement valid and subsisting." [23] He cannot interpose the defense that signatures prior to him are forged.

A collecting bank where a check is deposited and which indorses the check upon presentment with the drawee bank, is such an indorser. So even if the indorsement on the check deposited by the bank's client is forged, the collecting bank is bound by his warranties as an indorser and cannot set up the defense of forgery as against the drawee bank.

The bank on which a check is drawn, known as the drawee bank, is under strict liability to pay the check to the order of the payee. The drawer's instructions are reflected on the face and by the terms of the check. Payment under a forged indorsement is not to the drawer's order. When the drawee bank pays a person other than the payee, it does not comply with the terms of the check and violates its duty to charge its customer's (the drawer) account only for properly payable items. Since the drawee bank did not pay a holder or other person entitled to receive payment, it has no right to reimbursement from the drawer.²⁴ The general rule then is that the drawee bank may not debit the drawer's account and is not entitled to indemnification from the drawer.[25] The risk of loss must perforce fall on the drawee bank.

However, if the drawee bank can prove a failure by the customer/drawer to exercise ordinary care that substantially contributed to the making of the forged signature, the drawer is precluded from asserting the forgery.

If at the same time the drawee bank was also negligent to the point of substantially contributing to the loss, then such loss from the forgery can be apportioned between the negligent drawer and the negligent bank.[26]

In cases involving a forged check, where the drawer's signature is forged, the drawer can recover from the drawee bank. No drawee bank has a right to pay a forged check. If it does, it shall have to recredit the amount of the check to the account of the drawer. The liability chain ends with the drawee bank whose responsibility it is to know the drawer's signature since the latter is its customer.[27]

In cases involving checks with forged indorsements, such as the present petition, the chain of liability does not end with the drawee bank. The drawee bank may not debit the account of the drawer but may generally pass liability back through the collection chain to the party who took from the forger and, of course, to the forger himself, if available.[28] In other words, the drawee bank can seek reimbursement or a return of the amount it paid from the presentor bank or person.[29] Theoretically, the latter can demand reimbursement from the person who indorsed the check to it and so on. The loss falls on the party who took the check from the forger, or on the forger himself.

In this case, the checks were indorsed by the collecting bank (Associated Bank) to the drawee bank (PNB). The

former will necessarily be liable to the latter for the checks bearing forged indorsements. If the forgery is that of the payee's or holder's indorsement, the collecting bank is held liable, without prejudice to the latter proceeding against the forger.

Since a forged indorsement is inoperative, the collecting bank had no right to be paid by the drawee bank. The former must necessarily return the money paid by the latter because it was paid wrongfully.[30]

More importantly, by reason of the statutory warranty of a general indorser in Section 66 of the Negotiable Instruments Law, a collecting bank which indorses a check bearing a forged indorsement and presents it to the drawee bank guarantees all prior indorsements, including the forged indorsement. It warrants that the instrument is genuine, and that it is valid and subsisting at the time of his indorsement. Because the indorsement is a forgery, the collecting bank commits a breach of this warranty and will be accountable to the drawee bank. This liability scheme operates without regard to fault on the part of the collecting/presenting bank. Even if the latter bank was not negligent, it would still be liable to the drawee bank because of its indorsement.

The Court has consistently ruled that "the collecting bank or last endorser generally suffers the loss because it has the duty to ascertain the genuineness of all prior endorsements considering that the act of presenting the check for payment to the drawee is an assertion that the party making the presentment has done its duty to ascertain the genuineness of the endorsements." [31]

The drawee bank is not similarly situated as the collecting bank because the former makes no warranty as to the genuineness of any indorsement.[32] The drawee bank's duty is but to verify the genuineness of the drawer's signature and not of the indorsement because the drawer is its client.

Moreover, the collecting bank is made liable because it is privy to the depositor who negotiated the check. The bank knows him, his address and history because he is a client. It has taken a risk on his deposit. The bank is also in a better position to detect forgery, fraud or irregularity in the indorsement.

Hence, the drawee bank can recover the amount paid on the check bearing a forged indorsement from the collecting bank. However, a drawee bank has the duty to promptly inform the presentor of the forgery upon discovery. If the drawee bank delays in informing the presentor of the forgery, thereby depriving said presentor of the right to recover from the forger, the former is deemed negligent and can no longer recover from the presentor.[33]

Applying these rules to the case at bench, PNB, the drawee bank, cannot debit the current account of the Province of Tarlac because it paid checks which bore forged indorsements. However, if the Province of Tarlac as drawer was negligent to the point of substantially contributing to the loss, then the drawee bank PNB can charge its account. If both drawee bank-PNB and drawer-Province of Tarlac were negligent, the loss should be properly apportioned between them.

The loss incurred by drawee bank-PNB can be passed on to the collecting bank-Associated Bank which presented and indorsed the checks to it. Associated Bank can, in turn, hold the forger, Fausto Pangilinan, liable.

If PNB negligently delayed in informing Associated Bank of the forgery, thus depriving the latter of the opportunity to recover from the forger, it forfeits its right to reimbursement and will be made to bear the loss.

After careful examination of the records, the Court finds that the Province of Tarlac was equally negligent and should, therefore, share the burden of loss from the checks bearing a forged indorsement.

The Province of Tarlac permitted Fausto Pangilinan to collect the checks when the latter, having already retired from government service, was no longer connected with the hospital. With the exception of the first check (dated

January 17, 1978), all the checks were issued and released after Pangilinan's retirement on February 28, 1978. After nearly three years, the Treasurer's office was still releasing the checks to the retired cashier. In addition, some of the aid allotment checks were released to Pangilinan and the others to Elizabeth Juco, the new cashier. The fact that there were now two persons collecting the checks for the hospital is an unmistakable sign of an irregularity which should have alerted employees in the Treasurer's office of the fraud being committed. There is also evidence indicating that the provincial employees were aware of Pangilinan's retirement and consequent dissociation from the hospital. Jose Meru, the Provincial Treasurer, testified:.

"ATTY. MORGA:

Q : Now, is it true that for a given month there were two releases of checks, one went to Mr. Pangilinan and one went to Miss Juco?

JOSE MERU:

A : Yes, sir.

Q : Will you please tell us how at the time (sic) when the authorized representative of Concepcion Emergency Hospital is and was supposed to be Miss Juco?

A : Well, as far as my investigation show (sic) the assistant cashier told me that Pangilinan represented himself as also authorized to help in the release of these checks and we were apparently misled because they accepted the representation of Pangilinan that he was helping them in the release of the checks and besides according to them they were, Pangilinan, like the rest, was able to present an official receipt to acknowledge these receipts and according to them since this is a government check and believed that it will eventually go to the hospital following the standard procedure of negotiating government checks, they released the checks to Pangilinan aside from Miss Juco."[34]

The failure of the Province of Tarlac to exercise due care contributed to a significant degree to the loss tantamount to negligence. Hence, the Province of Tarlac should be liable for part of the total amount paid on the questioned checks.

The drawee bank PNB also breached its duty to pay only according to the terms of the check. Hence, it cannot escape liability and should also bear part of the loss.

As earlier stated, PNB can recover from the collecting bank.

In the case of *Associated Bank v. CA*,^[35] six crossed checks with forged indorsements were deposited in the forger's account with the collecting bank and were later paid by four different drawee banks. The Court found the collecting bank (*Associated*) to be negligent and held:

"The Bank should have first verified his right to endorse the crossed checks, of which he was not the payee, and to deposit the proceeds of the checks to his own account. The Bank was by reason of the nature of the checks put upon notice that they were issued for deposit only to the private respondent's account. xxx"

The situation in the case at bench is analogous to the above case, for it was not the payee who deposited the checks with the collecting bank. Here, the checks were all payable to Concepcion Emergency Hospital but it was Fausto Pangilinan who deposited the checks in his personal savings account.

Although *Associated Bank* claims that the guarantee stamped on the checks (All prior and/or lack of endorsements guaranteed) is merely a requirement forced upon it by clearing house rules, it cannot but remain liable. The stamp guaranteeing prior indorsements is not an empty rubric which a bank must fulfill for the sake of convenience. A bank is not required to accept all the checks negotiated to it. It is within the bank's discretion to

receive a check for no banking institution would consciously or deliberately accept a check bearing a forged indorsement. When a check is deposited with the collecting bank, it takes a risk on its depositor. It is only logical that this bank be held accountable for checks deposited by its customers.

A delay in informing the collecting bank (Associated Bank) of the forgery, which deprives it of the opportunity to go after the forger, signifies negligence on the part of the drawee bank (PNB) and will preclude it from claiming reimbursement.

It is here that Associated Bank's assignment of error concerning C.B. Circular No. 580 and Section 23 of the Philippine Clearing House Corporation Rules comes to fore. Under Section 4(c) of CB Circular No. 580, items bearing a forged endorsement shall be returned within twenty-four (24) hours after discovery of the forgery but in no event beyond the period fixed or provided by law for filing of a legal action by the returning bank. Section 23 of the PCHC Rules deleted the requirement that items bearing a forged endorsement should be returned within twenty-four hours. Associated Bank now argues that the aforementioned Central Bank Circular is applicable. Since PNB did not return the questioned checks within twenty-four hours, but several days later, Associated Bank alleges that PNB should be considered negligent and not entitled to reimbursement of the amount it paid on the checks.

The Court deems it unnecessary to discuss Associated Bank's assertions that CB Circular No. 580 is an administrative regulation issued pursuant to law and as such, must prevail over the PCHC rule. The Central Bank circular was in force for all banks until June 1980 when the Philippine Clearing House Corporation (PCHC) was set up and commenced operations. Banks in Metro Manila were covered by the PCHC while banks located elsewhere still had to go through Central Bank Clearing. In any event, the twenty-four-hour return rule was adopted by the PCHC until it was changed in 1982. The contending banks herein, which are both branches in Tarlac province, are therefore not covered by PCHC Rules but by CB Circular No. 580. Clearly then, the CB circular was applicable when the forgery of the checks was discovered in 1981.

The rule mandates that the checks be returned within twenty-four hours after discovery of the forgery but in no event beyond the period fixed by law for filing a legal action. The rationale of the rule is to give the collecting bank (which indorsed the check) adequate opportunity to proceed against the forger. If prompt notice is not given, the collecting bank maybe prejudiced and lose the opportunity to go after its depositor.

The Court finds that even if PNB did not return the questioned checks to Associated Bank within twenty-four hours, as mandated by the rule, PNB did not commit negligent delay. Under the circumstances, PNB gave prompt notice to Associated Bank and the latter bank was not prejudiced in going after Fausto Pangilinan. After the Province of Tarlac informed PNB of the forgeries, PNB necessarily had to inspect the checks and conduct its own investigation. Thereafter, it requested the Provincial Treasurer's office on March 31, 1981 to return the checks for verification. The Province of Tarlac returned the checks only on April 22, 1981. Two days later, Associated Bank received the checks from PNB.[36]

Associated Bank was also furnished a copy of the Province's letter of demand to PNB dated March 20, 1981, thus giving it notice of the forgeries. At this time, however, Pangilinan's account with Associated had only P24.63 in it.[37] Had Associated Bank decided to debit Pangilinan's account, it could not have recovered the amounts paid on the questioned checks. In addition, while Associated Bank filed a fourth-party complaint against Fausto Pangilinan, it did not present evidence against Pangilinan and even presented him as its rebuttal witness.[38] Hence, Associated Bank was not prejudiced by PNB's failure to comply with the twenty-four-hour return rule.

Next, Associated Bank contends that PNB is estopped from requiring reimbursement because the latter paid and cleared the checks. The Court finds this contention unmeritorious. Even if PNB cleared and paid the checks, it can

still recover from Associated Bank. This is true even if the payee's Chief Officer who was supposed to have indorsed the checks is also a customer of the drawee bank.[39] PNB's duty was to verify the genuineness of the drawer's signature and not the genuineness of payee's indorsement. Associated Bank, as the collecting bank, is the entity with the duty to verify the genuineness of the payee's indorsement.

PNB also avers that respondent court erred in adjudging circuitous liability by directing PNB to return to the Province of Tarlac the amount of the checks and then directing Associated Bank to reimburse PNB. The Court finds nothing wrong with the mode of the award. The drawer, Province of Tarlac, is a client or customer of the PNB, not of Associated Bank. There is no privity of contract between the drawer and the collecting bank.

The trial court made PNB and Associated Bank liable with legal interest from March 20, 1981, the date of extrajudicial demand made by the Province of Tarlac on PNB. The payments to be made in this case stem from the deposits of the Province of Tarlac in its current account with the PNB. Bank deposits are considered under the law as loans.[40] Central Bank Circular No. 416 prescribes a twelve percent (12%) interest per annum for loans, forbearance of money, goods or credits in the absence of express stipulation. Normally, current accounts are likewise interest-bearing, by express contract, thus excluding them from the coverage of CB Circular No. 416. In this case, however, the actual interest rate, if any, for the current account opened by the Province of Tarlac with PNB was not given in evidence. Hence, the Court deems it wise to affirm the trial court's use of the legal interest rate, or six percent (6%) per annum. The interest rate shall be computed from the date of default, or the date of judicial or extrajudicial demand.[41] The trial court did not err in granting legal interest from March 20, 1981, the date of extrajudicial demand.

The Court finds as reasonable, the proportionate sharing of fifty percent - fifty percent (50%-50%). Due to the negligence of the Province of Tarlac in releasing the checks to an unauthorized person (Fausto Pangilinan), in allowing the retired hospital cashier to receive the checks for the payee hospital for a period close to three years and in not properly ascertaining why the retired hospital cashier was collecting checks for the payee hospital in addition to the hospital's real cashier, respondent Province contributed to the loss amounting to. P203,300.00 and shall be liable to the PNB for fifty (50%) percent thereof. In effect, the Province of Tarlac can only recover fifty percent (50%) of P203,300.00 from PNB.

The collecting bank, Associated Bank, shall be liable to PNB for fifty (50%) percent of P203,300.00. It is liable on its warranties as indorser of the checks which were deposited by Fausto Pangilinan, having guaranteed the genuineness of all prior indorsements, including that of the chief of the payee hospital, Dr. Adena Canlas. Associated Bank was also remiss in its duty to ascertain the genuineness of the payee's indorsement.

IN VIEW OF THE FOREGOING, the petition for review filed by the Philippine National Bank (G.R. No. 107612) is hereby PARTIALLY GRANTED. The petition for review filed by the Associated Bank (G.R. No. 107382) is hereby DENIED. The decision of the trial court is MODIFIED. The Philippine National Bank shall pay fifty percent (50%) of P203,300.00 to the Province of Tarlac, with legal interest from March 20, 1981 until the payment thereof. Associated Bank shall pay fifty percent (50%) of P203,300.00 to the Philippine National Bank, likewise, with legal interest from March 20, 1981 until payment is made.
SO ORDERED.

Regalado (Chairman), Puno and Mendoza, JJ., concur.

[1] Penned by Justice Asaali S. Isnani, with Associate, Justices Arturo B. Buena and Ricardo P. Galvez, concurring, dated September 30, 1992. Rollo, p. 22.

[2] Provincial aid was given irregularly. Hospital staff would often call the provincial treasurer's office to inquire whether there was an allotment check for the hospital. The hospital's administrative officer and cashier would then go to the provincial treasurer's office to pick up the check.

Checks received by the hospital are deposited in the account of the National Treasury with the PNB. All income of the hospital in excess of the amount which the National Government has directed it to raise, is excess income. The latter is given back to the hospital after a supplemental budget is prepared. When the latter is approved, an advice of allotment is made. Then the hospital requests a cash disbursement ceiling. When approved, this is brought to the Ministry of Health. The regional office of said Ministry then prepares a check for the hospital. The check will be deposited in the hospital's current account at the PNB. (Culled from the testimony of Dr. Adena Canlas, TSN, October 17, 1983, pp. 8-11; December 6, 1983, pp. 43-44).

[3] TSN., March 13, 1984, pp. 5 1-60.

[4] Check No. 530863 K, dated January 17, 1978 for P10,000.00.

[5] Check No. 526788 K.

[6] Check No. 391351 L.

[7] TSN, July 10, 1985, pp. 14-15.

[8]TSN, July 10, 1985, pp. 20-21; 34-35; September 24, 1985.

[9] Exhibit FF for Province of Tarlac. On March 20, 1981, the Province of Tarlac reiterated its request in another letter to PNB. Associated Bank was allegedly furnished with a copy of this letter. (Records, pp. 246-247) PNB requested the Province to return the checks in a letter dated March 31, 1981. The checks were returned to PNB on April 22, 1981. (Exhibit GG) On April24, 1981, PNB gave the checks to Associated Bank. (Exhibit 5) Associated Bank returned the checks to PNB on April 28, 1981, along with a letter stating its refusal to return the money paid by PNB. (Exhibit 6)

[10] Exhibit "MM" for Province of Tarlac.

[11] Civil Case No. 6227, "Province of Tarlac v. Philippine National Bank; Philippine National Bank v. Associated Bank; Associated Bank v. Fausto Pangilinan and Adena G. Canlas," Regional Trial Court Branch 64, Tarlac, Tarlac.

[12] Penned by Judge Arturo U. Barias, Jr., Rollo, pp. 391-392.

[13]CA-G.R. CV No. 17962.

[14] Petition, pp.6-7; Rollo, pp. 13-14, G.R. No. 107612.

[15] Citing Antique Sawmills, Inc. v. Zayco, 17 SCRA 316, et al., Petition, p. 9, Rollo, p. 10.

[16] Associated Bank's Petition, p. 13.

[17] Id., at 12.

[18] J. CAMPOS & M. LOPEZ-CAMPOS, NEGOTIABLE INSTRUMENTS LAW, 227-230(4th ed., 1990).

[19] I A. AGBAYANI, COMMENTARIES AND JURISPRUDENCE ON THE COMMERCIAL LAWS OF THE PHILIPPINES 198(1989 ed.).

[20] Id.,at199.

[21] J. VITUG, PANDECT OF COMMERCIAL LAW AND JURISPRUDENCE 5 1-53 (Revised., 1990).

[22] Id.

[23] Section 66, Negotiable Instruments Law.

[24] S. NICKLES, NEGOTIABLE INSTRUMENTS AND OTHER RELATED COMMERCIAL PAPER 416(2nd ed., 1993).

[25] Great Eastern Life Insurance Co. v. Hongkong and Shanghai Banking Corp., 43 Phil. 678; Banco de Oro Savings and Mortgage Bank v. Equitable Banking Corporation, G.R. No. L-749 17, January 20, 1988, 157 SCRA 188; CAMPOS & LOPEZ-CAMPOS, op cit. note 18 at 283, citing La Fayette v. Merchants Bank, 73 Ark 561; Wills v. Barney, 22 Cal 240; Wellington National Bank v. Robbins, 71 Kan 748.

[26] R. JORDAN & W. WARREN, NEGOTIABLE INSTRUMENTS AND LETTERS OF CREDIT 216 (1992).

[27] Id.

[28] Id., at 216-235; VITUG, op. cit. note 21 at 53.

[29] Banco de Oro v. Equitable Banking Corp., supra; Great Eastern Life Insurance Co. v. HSBC, supra.

[30] Article 2154 of the Civil Code provides: "If Something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises." Banco de Oro v. Equitable Banking Corp., supra.

[31] Bank of the Phil. Islands v. CA, G.R. No. 102383, November 26, 1992, 216 SCRA 51, 63 citing Banco de Oro v. Equitable Banking Corp., supra; Great Eastern Life Insurance Co. v. HSBC, supra.

[32] CAMPOS & LOPEZ-CAMPOS, op. cit. note 18 at 283 citing Inter-state Trust Co. v. U.S. National Bank, 185 Pac. 260; Hongkong and Shanghai Banking Corp. v. People's Bank and Trust Co., supra.

[33] JORDAN & WARREN, op. cit. note 26 at 217; CAMPOS & LOPEZ-CAMPOS, op. cit. note 18 at 283.

[34] TSN., June 19, 1984, pp. 10-11.

[35] G.R. No. 89802, May 7, 1992, 208 SCRA 465.

[36] See footnote 9.

[37] Exhibit "3-G" for Associated Bank.

[38] TSN., January 8, 1987.

[39] San Carlos Milling Co. Ltd. v. BPI, 59 Phil. 59.

[40] Article 1980 of the Civil Code reads: Fixed savings, and current deposits of money in banks and similar institutions shall be governed by the provisions concerning simple loan.

[41] Eastern Shipping Lines, Inc. v. CA, G.R. No. 97412, July 12, 1994, 234 SCRA 78.

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