

**ASSOCIATED BANK, PETITIONER, VS. HON. COURT OF APPEALS,
HON. MARINA L. BUZON, AS PRESIDING JUDGE OF RTC, QUEZON
CITY, MM, BR. 91, VISITACION SERRA FLORES RTC, QUEZON CITY,
MM, B...**

G.R. No. 107918. June 14, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is a petition for review on certiorari seeking the reversal of the decision of the Court of Appeals on November 18, 1992 affirming in toto the Order of the Regional Trial Court of Quezon City, Branch 91 dismissing the petitioner's third-party complaint against private respondent banks for lack of jurisdiction.

The facts of the case, as found by both the trial court and the Court of Appeals are undisputed:

"In a complaint for Violation of the Negotiable Instrument Law and Damages, plaintiffs[1] seek the recovery of the amount of P900,913.60 which defendant bank[2] charged against their current account by virtue of the sixteen (16) checks drawn by them despite the apparent alterations therein with respect to the name of the payee, that is, the name Filipinas Shell was erased and substituted with Ever Trading and DBL Trading by their supervisor Jeremias Cabrera, without their knowledge and consent.

"Answering the complaint, defendant bank claimed that the subject checks appeared to have been regularly issued and free from any irregularity which would excite or arouse any suspicion or warrant their dishonor when the same were negotiated and honored by it; that it observed and exercised the required diligence, care and the prescribed standard verification procedures before finally accepting and honoring the subject checks and that the proximate cause of plaintiffs' loss, if any, was their own laxity, negligence and lack of control, due care and diligence in the conduct of their business affairs.

"With leave of court, defendant bank filed a Third-Party Complaint against Philippine Commercial International Bank, Far East Bank & Trust Company, Security Bank and Trust Company and Citytrust Banking Corporation for reimbursement, contribution, indemnity from said third-party defendants for being the collecting banks of the subject checks and by virtue of their bank guarantee for all checks sent for clearing to the Philippine Clearing House Corporation (PCHC), as provided for in Section 17, PCHC), as provided for in Section 17, PCHC Clearing House Rules and Regulations.

"In its Answer to the Third-Party Complaint, Citytrust Banking Corporation averred that the subject checks appeared to be complete and regular on their face with no indication that an original payee's name was erased and superimposed with another; that plaintiffs' fault and negligence in failing to examine their monthly bank statements, together with the returned checks and their own check stubs, put them under estoppel and cannot recover the proceeds of the checks against it, an innocent third-party, and plaintiff must suffer the loss as their negligence was the proximate cause thereof; and that third party plaintiff is barred from recovering from it based on the provisions of Sections 20 and 21 of the Philippine Clearing Rules and Regulations.

"Philippine Commercial International Bank alleged that the subject check was complete and regular on its face

and was paid by it only upon presentment to the drawee bank for clearing who, upon examination thereof, found the same to be complete and regular on its face; that it was only after said check was cleared by third-party plaintiff for payment that it allowed the payee to withdraw the proceeds of the check from its account; that the cause of action of the third-party plaintiff is barred by estoppel and/or laches for its failure to return the check to it within the period provided for under Clearing House Rules and Regulations; that this Court has no jurisdiction over the suit as it and third-party plaintiff are members of the Philippine Clearing House and bound by the Rules and Regulations thereof providing for arbitration.

"A Motion To Dismiss was filed by Security Bank and Trust Company on the grounds that third-party plaintiff failed to resort to arbitration as provided for in Section 36 of the Clearing House Rules and Regulations of the Philippine Clearing House Corporation, and that it was released from any liability with the acceptance by third-party plaintiff of the subject check.

"The record does not show of any Answer to the Third-Party Complaint having been filed by Far East Bank & Trust Company, although a 'Reply To FEBTC Answer' was filed by third-party plaintiff.

"On the other hand, third-party plaintiff maintains that this Court has jurisdiction over the suit as the provisions of the Clearing House Rules and Regulations are applicable only if the suit or action is between participating member banks, whereas the plaintiffs are private persons and the third-party complaint between participating member banks is only a consequence of the original action initiated by the plaintiffs." [3]

The trial court dismissed the third-party complaint for lack of jurisdiction citing Section 36 of the Clearing House Rules and Regulations of the PCHC providing for settlement of disputes and controversies involving any check or item cleared through the body with the PCHC. It ruled -- citing the Arbitration Rules of Procedure -- that the decision or award of the PCHC through its arbitration committee/arbitrator is appealable only on questions of law to any of the Regional Trial Courts in the National Capital Region where the head office of any of the parties is located. [4]

On the plaintiffs' contention that jurisdiction vests with the court only if the suit or action is between participating member banks without the involvement of private parties the trial court held:

"The third-party complaint concerning a dispute or controversy among clearing participants involving the subject checks cleared through PCHC is actually independent of, separate and distinct from the plaintiff's complaint. x x x

x x x

"As the plaintiffs are not parties to the third party complaint, the provisions of the clearing house rules and regulations on arbitration are, therefore, applicable to Third-Party plaintiff and third party defendant. Consequently this court has no jurisdiction over the third party complaint." [5]

After the trial court denied plaintiffs Motion for Reconsideration, [6] petitioner appealed to the Court of Appeals which promulgated the challenged decision on November 18, 1992 dismissing the petition for lack of merit.

Undaunted, petitioner is now before this Court seeking a review of respondent court's decision on a lone assignment of error:

"RESPONDENT COURT OF APPEALS ERRED IN HOLDING THAT PETITIONER DRAWEE BANK'S THIRD PARTY COMPLAINT AGAINST PRIVATE RESPONDENT COLLECTING BANKS FALL WITHIN THE JURISDICTION OF THE PCHC AND NOT THE REGULAR COURT."

We find no merit in the petition.

The Clearing House Rules and Regulations on Arbitration of the Philippine Clearing House Corporation are

clearly applicable to petitioner and private respondents, third party plaintiff and defendants, respectively, in the court below. Petitioner Associated Bank's third party complaint in the trial court was one for reimbursement, contribution and indemnity against the Philippine Commercial and Industrial Bank (PCIB), the Far East Bank and Trust, Co. (FEBTC), Security Bank and Trust Co. (SBTC), and the CityTrust Banking Corporation (CTBC), in connection with petitioner's having honored sixteen checks which said respondent banks supposedly endorsed to the former for collection in 1989. Under the rules and regulations of the Philippine Clearing House Corporation (PCHC), the mere act of participation of the parties concerned in its operations in effect amounts to a manifestation of agreement by the parties to abide by its rules and regulations.[7] As a consequence of such participation, a party cannot invoke the jurisdiction of the courts over disputes and controversies which fall under the PCHC Rules and Regulations without first going through the arbitration processes laid out by the body. Since claims relating to the regularity of checks cleared by banking institutions are among those claims which should first be submitted for resolution by the PCHC's Arbitration Committee, petitioner Associated Bank, having voluntarily bound itself to abide by such rules and regulations, is estopped from seeking relief from the Regional Trial Court on the coattails of a private claim and in the guise of a third party complaint without first having obtained a decision adverse to its claim from the said body. It cannot bypass the arbitration process on the basis of its averment that its third party complaint is inextricably linked to the original complaint in the Regional Trial Court.

Under its Articles of Incorporation, the PCHC provides "an effective, convenient, efficient, economical and relevant exchange and facilitate service limited to check processing and sorting by way of assisting member banks, entities in clearing checks and other clearing items as defined and existing in future Central Bank of the Philippines Circulars, memoranda, circular letters rules and regulations and policies in pursuance of Section 107 of RA 265." Pursuant to its function involving the clearing of checks and other clearing items, the PCHC has adopted rules and regulations designed to provide member banks with a procedure whereby disputes involving the clearance of checks and other negotiable instruments undergo a process of arbitration prior to submission to the courts below. This procedure not only ensures a uniformity of rulings relating to factual disputes involving checks and other negotiable instruments but also provides a mechanism for settling minor disputes among participating and member banks which would otherwise go directly to the trial courts. While the PCHC Rules and Regulations allow appeal to the Regional Trial Courts only on questions of law, this does not preclude our lower courts from dealing with questions of fact already decided by the PCHC arbitration when warranted and appropriate.

In *Banco de Oro Savings and Mortgage Banks vs. Equitable Banking Corporation*[8] this Court had the occasion to rule on the validity of these rules as well as the jurisdiction of the PCHC as a forum for resolving disputes and controversies involving checks and other clearing items when it held that "the participation of two banks . . . in the Clearing Operations of the PCHC (was) a manifestation of its submission to its jurisdiction." [9]

The applicable PCHC provisions on the question of jurisdiction provide:

"Sec. 3 - AGREEMENT TO THESE RULES

"It is the general agreement and understanding, that any participant in the PCHC MICR clearing operations, by the mere act of participation, thereby manifests its agreement to these Rules and Regulations, and its subsequent amendments.

x x x

"Sec. 36 - ARBITRATION

"36.1 Any dispute or controversy between two or more clearing participants involving any check/item cleared thru PCHC shall be submitted to the Arbitration Committee, upon written complaint of any involved

participant by filing the same with the PCHC serving the same upon the other party or parties, who shall within fifteen (15) days after receipt thereof, file with the Arbitration Committee its written answer to such written complaint and also within the same period serve the same upon the complaining participant. This period of fifteen (15) days may be extended by the Committee not more than once for another period of fifteen (15) days, but upon agreement in writing of the complaining party, said extension may be for such period as the latter may agree to."

Section 36.6 is even more emphatic:

"36.6 The fact that a bank participates in the clearing operations of PCHC shall be deemed its written and subscribed consent to the binding effect of this arbitration agreement as if it had done so in accordance with Section 4 of the Republic Act No. 876 otherwise known as the Arbitration Law."

Thus, not only do the parties manifest by mere participation their consent to these rules, but such participation is deemed (their) written and subscribed consent to the binding effect of arbitration agreements under the PCHC rules. Moreover, a participant subject to the Clearing House Rules and Regulations of the PCHC may go on appeal to any of the Regional Trial Courts in the National Capital Region where the head office of any of the parties is located only after a decision or award has been rendered by the arbitration committee or arbitrator on questions of law.[10]

Clearly therefore, petitioner Associated Bank, by its voluntary participation and its consent to the arbitration rules cannot go directly to the Regional Trial Court when it finds it convenient to do so. The jurisdiction of the PCHC under the rules and regulations is clear, undeniable and is particularly applicable to all the parties in the third party complaint under their obligation to first seek redress of their disputes and grievances with the PCHC before going to the trial court.

Finally, the contention that the third party complaint should not have been dismissed for being a necessary and inseparable offshoot of the main case over which the court a quo had already exercised jurisdiction misses the fundamental point about such pleading. A third party complaint is a mere procedural device which under the Rules of Court is allowed only with the court's permission. It is an action "actually independent of, separate and distinct from the plaintiffs' complaint" (s)uch that, were it not for the Rules of Court, it would be necessary to file the action separately from the original complaint by the defendant against the third party.[11]

IN VIEW OF THE FOREGOING, the petition is DENIED for lack of merit. With costs against petitioner.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., and Bellosillo, JJ., concur.

Quiason, J., no part.

[1] Herein private respondents Visitacion Serra Flores and Ma. Asuncion Flores

[2] Associated Bank

[3] Rollo, pp. 28-30.

[4] CA Rollo, pp. 66-68.

[5] Ibid., p. 76.

[6] Ibid., Ibid.

[7] PCHC Rules and Regulations, Sec. 3 (hereinafter cited as Rules.

[8] 157 SCRA 188 (1988)

[9] Ibid., p. 196.

[10] Rules, Sec. 13.

[11] Allied Banking Corporation vs. Court of Appeals, 178 SCRA 526 (1989)

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