

**METROPOLITAN BANK AND TRUST COMPANY, PETITIONER, VS. THE
HON. COURT OF APPEALS, RURAL BANK OF PADRE GARCIA, INC.
AND ISABEL R. KATIGBAK, RESPONDENTS.**

G.R. No. 112576 (CA-G.R. CV No. 26571). October 26, 1994

Ponente: ROMERO, J.

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ROMERO, J.:

This petition for certiorari seeks to annul the decision of respondent Court of Appeals dated October 29, 1992 in CA - GR CV No. 26571 affirming the decision of the Regional Trial Court of Lipa, Batangas - Branch XIII for damages, and the Resolution dated November 11, 1993 denying petitioner's motion for reconsideration of the aforesaid decision.

The case emanated from a dispute between the Rural Bank of Padre Garcia, Inc. (RBPG) and Metropolitan Bank and Trust Company (MBTC) relative to a credit memorandum dated April 5, 1982 from the Central Bank in the amount of P304,000.00 in favor of RBPG.

The records show that Isabel Katigbak is the president and director of RBPG, owning 65% of the shares thereof. Metropolitan Bank and Trust Company (MBTC) is the rural bank's depository bank, where Katigbak maintains current accounts with MBTC's main office in Makati as well as its Lipa City branch.

On April 6, 1982, MBTC received from the Central Bank a credit memo dated April 5, 1982 that its demand deposit account was credited with P304,000.00 for the account of RBPG, representing loans granted by the Central Bank to RBPG. On the basis of said credit memo, Isabel Katigbak issued several checks against its account with MBTC in the total amount of P300,000.00, two (2) of which (Metrobank Check Nos. 0069 and 0070) were payable to Dr. Felipe C. Roque and Mrs. Eliza Roque for P25,000.00 each. Said checks issued to Dr. and Mrs. Roque were deposited by the Roques with the Philippine Banking Corporation, Novaliches Branch in Quezon City. When these checks were forwarded to MBTC on April 12, 1982 for payment (six (6) days from receipt of the Credit Memo), the checks were returned by MBTC with the annotations "DAIF - TNC" (Drawn Against Insufficient Funds - Try Next Clearing) so they were redeposited on April 14, 1982. These were however again dishonored and returned unpaid for the following reason: "DAIF - TNC - NO ADVICE FROM CB."

After the second dishonor of the two (2) checks, Dr. Felipe Roque, a member of the Board of Directors of Philippine Banking Corporation, allegedly went to the Office of Antonio Katigbak, an officer of RBPG, chiding him for the bouncing checks. In order to appease the doctor, RBPG paid Dr. Roque P50,000.00 in cash to replace the aforesaid checks.

On April 13, 1982, Isabel Katigbak who was in Hongkong on a business-vacation trip together with her sons Alfredo and Antonio, both of whom were also officers of RBPG, received overseas phone calls from Mrs. Maris Katigbak-San Juan at her residence in San Lorenzo Village, Makati, informing Isabel Katigbak that a certain Mr. Rizal Dungo, Assistant Cashier of MBTC insisted on talking to her (Mrs. San Juan), berating her about the checks which bounced, saying "Nag-issue kayo ng tseke, wala namang pondo," even if it was explained to Mr. Dungo

that Mrs. San Juan was not in any way connected with RBPG.

Mrs. Katigbak testified that she informed Mrs. San Juan to request defendant MBTC to check and verify the records regarding the aforementioned Central Bank credit memo for P304,000.00 in favor of RBPG as she was certain that the checks were sufficiently covered by the CB credit memo as early as April 6, 1994, but the following day, Mrs. San Juan received another insulting call from Mr. Dungo ("Bakit kayo nag-issue ng tseke na wala namang pondo, Three Hundred Thousand na.")^[1] When Mrs. San Juan explained to him the need to verify the records regarding the Central Bank memo, he merely brushed it aside, telling her sarcastically that he was very sure that no such credit memo existed. Mrs. San Juan was constrained to place another long distance call to Mrs. Katigbak in Hongkong that evening. Tense and angered, the Katigbaks had to cut short their Hongkong stay with their respective families and flew back to Manila, catching the first available flight on April 15, 1982.

Immediately upon arrival, Mrs. Katigbak called up MBTC, through a Mr. Cochico, for a re-examination of the records of MBTC regarding the Central Bank credit memo dated April 5, 1982 for P304,000.00. Mr. Dungo, to whom Cochico handed over the phone, allegedly arrogantly said: "Bakit kayo magagalit, wala naman kayong pondo?" These remarks allegedly so shocked Mrs. Katigbak that her blood pressure rose to a dangerous level and she had to undergo medical treatment at the Makati Medical Center for two (2) days.

Metrobank not only dishonored the checks issued by RBPG, the latter was issued four (4) debit memos representing service and penalty charges for the returned checks.

RBPG and Isabel Katigbak filed Civil Case No. V-329 in the RTC of Lipa, Batangas - Branch XIII against the Metropolitan Bank and Trust Company for damages on April 26, 1983.

The ultimate facts as alleged by the defendant MBTC in its answer are as follows: that on April 6, 1982, its messenger, Elizer Gonzales, received from the Central Bank several credit advices on rural bank accounts, which included that of plaintiff RBPG in the amount of P304,000.00; that due to the inadvertence of said messenger, the credit advice issued in favor of plaintiff RBPG was not delivered to the department in charge of processing the same; consequently, when MBTC received from the clearing department the checks in question, the stated balance in RBPG's account was only P5,498.58 which excluded the unprocessed credit advice of P304,000.00 resulting in the dishonor of the aforementioned checks; that as regards the P304,000.00 which was a re-discounting loan from the Central Bank, the same was credited only on April 15, 1982 after the Central Bank finally confirmed that a credit advice was indeed issued in favor of RBPG; that after the confirmation, MBTC credited the amount of the credit advice to plaintiff RBPG's account and thru its officers, allegedly conveyed personally on two occasions its apologies to plaintiffs to show that the bank and its officers acted with no deliberate intent on their part to cause injury or damage to plaintiffs, explaining the circumstances that gave rise to the bouncing checks situation. Metrobank's negligence arising from their messenger's misrouting of the credit advice resulting in the return of the checks in question, despite daily reporting of credit memos and a corresponding daily radio message confirmation, (as shown by Exhibit "I," the Investigation Report of the bank's Mr. Valentino Elevado) and Mr. Dungo's improper handling of clients led to the messenger's dismissal from service and Mr. Dungo's transfer from Metro Manila to Mindoro.

The threshold issue was whether or not, under the facts and circumstances of the case, plaintiff may be allowed to recover actual, moral and exemplary damages, including attorney's fees, litigation expenses and the costs of the suit. On August 25, 1989, the RTC of Lipa City rendered a decision^[2] in favor of plaintiffs and against the defendant MBTC, ordering the latter to:

1. pay plaintiff Isabel Katigbak P50,000.00 as temperate damages;

2. pay P500,000.00 as moral damages, considering that RBPG's credit standing and business reputation were damaged by the wrongful acts of defendant's employees, coupled with the rude treatment received by Isabel Katigbak at the hands of Mr. Dungo, all of which impelled her to seek medical treatment;
3. pay P100,000.00 as attorney's fees and litigation expenses; and
4. pay the costs of suit.

The lower court did not award actual damages in the amount of P50,000.00 representing the amount of the two (2) checks payable to Dr. Felipe C. Roque and Mrs. Elisa Roque for P25,000 each, as it found no showing that Mr. Antonio Katigbak who allegedly paid the amount was actually reimbursed by plaintiff RBPG. Moreover, the court held that no actual damages could have been suffered by plaintiff RBPG because on April 15, 1982, the Central Bank credit advice in the amount of P304,000 which included the two (2) checks issued to the Roque spouses in the sum of P50,000.00 were already credited to the account of RBPG and the service, as well as penalty charges, were all reversed.

MBTC appealed from the decision to the Court of Appeals in CA - GR CV No. 26571, alleging that the trial court erred in awarding temperate and moral damages, as well as attorney's fees, plus costs and expenses of litigation without factual or legal basis therefor.

On October 29, 1992, the Court of Appeals rendered a decision^[3] affirming that of the trial court, except for the deletion of the award of temperate damages, the reduction of moral damages from P500,000.00 to P50,000.00 in favor of RBPG and P100,000.00 for Isabel Katigbak and P50,000.00, as attorney's fees. Plaintiffs-appellees filed a motion for reconsideration of the decision, questioning the deletion of the award of temperate damages and the reduction of the award of moral damages and attorney's fees. The motion was denied.

MBTC filed this petition, presenting the following issues for resolution:

1. whether or not private respondents RBPG and Isabel Rodriguez are legally entitled to moral damages and attorney's fees, and
2. assuming that they are so entitled, whether or not the amounts awarded are excessive and unconscionable.

The petition is devoid of merit.

The case at bench was instituted to seek damages caused by the dishonor through negligence of respondent bank's checks which were actually sufficiently funded, and the insults from petitioner bank's officer directed against private respondent Isabel R. Katigbak. The presence of malice and the evidence of besmirched reputation or loss of credit and business standing, as well as a reappraisal of its probative value, involves factual matters which, having been already thoroughly discussed and analyzed in the courts below, are no longer reviewable here. While this rule admits of exceptions, this case does not fall under any of these.

There is no merit in petitioner's argument that it should not be considered negligent, much less be held liable for damages on account of the inadvertence of its bank employee as Article 1173 of the Civil Code only requires it to exercise the diligence of a good pater familias.

As borne out by the records, the dishonoring of the respondent's checks committed through negligence by the petitioner bank on April 6, 1982 was rectified only on April 15, 1992 or nine (9) days after receipt of the credit memo. Clearly, petitioner bank was remiss in its duty and obligation to treat private respondents' account with the highest degree of care, considering the fiduciary nature of their relationship. The bank is under obligation to treat the accounts of its depositors with meticulous care, whether such account consists only of a few hundred pesos or of millions. It must bear the blame for failing to discover the mistake of its employee despite the established

procedure requiring bank papers to pass through bank personnel whose duty it is to check and countercheck them for possible errors.[4] Responsibility arising from negligence in the performance of every kind of obligation is demandable.[5] While the bank's negligence may not have been attended with malice and bad faith, nevertheless, it caused serious anxiety, embarrassment and humiliation to private respondents for which they are entitled to recover reasonable moral damages.[6]

As the records bear out, insult was added to injury by petitioner bank's issuance of debit memoranda representing service and penalty charges for the returned checks, not to mention the insulting remarks from its Assistant Cashier.

In the case of *Leopoldo Araneta v. Bank of America*,[7] we held that:

"The financial credit of a businessman is a prized and valuable asset, it being a significant part of the foundation of his business. Any adverse reflection thereon constitutes some financial loss to him. As stated in the case of *Atlanta National Bank vs. Davis*, 96 Ga 334, 23 SE 190, citing 2 *Morse Banks*, Sec. 458, 'it can hardly be possible that a customer's check can be wrongfully refused payment without some impeachment of his credit, which must in fact be an actual injury, though he cannot, from the nature of the case, furnish independent, distinct proof thereof'."

It was established that when Mrs. Katigbak learned that her checks were not being honored and Mr. Dungo repeatedly made the insulting phone calls, her wounded feelings and the mental anguish suffered by her caused her blood pressure to rise beyond normal limits, necessitating medical attendance for two (2) days at a hospital.

The damage to private respondents' reputation and social standing entitles them to moral damages. Moral damages include physical suffering, mental anguish, fright, serious anxiety, besmirched reputation, wounded feelings, moral shock, social humiliation and similar injury.[8] Temperate or moderate damages which are more than nominal but less than compensatory damages, may be recovered when the court finds that some pecuniary loss has been suffered but its amount cannot, from the nature of the case, be proved with certainty.[9] Temperate damages may be allowed in cases where from the nature of the case, definite proof of pecuniary loss cannot be adduced, although the court is convinced that there has been such loss. The appellate court, however, justified its deletion when MBTC reasoned out that the amount of P50,000.00 is not part of the relief prayed for in the complaint, aside from the fact that the amount allegedly suffered by Mrs. Katigbak is susceptible of proof.[10]

Moral and temperate damages which are not susceptible of pecuniary estimation are not awarded to penalize the petitioner but to compensate the respondents for injuries suffered as a result of the former's fault and negligence, taking into account the latter's credit and social standing in the banking community, particularly since this is the very first time such humiliation has befallen private respondents. The amount of such losses need not be established with exactitude, precisely due to their nature.[11]

The carelessness of petitioner bank, aggravated by the lack of promptness in repairing the error and the arrogant attitude of the bank officer handling the matter, justifies the grant of moral damages, which are clearly not excessive and unconscionable.

Moreover, considering the nature and extent of the services rendered by private respondents' counsel, both in the trial and appellate courts, the Court deems it just and equitable that attorney's fees in the amount of P50,000.00 be awarded.

WHEREFORE, the decision of respondent Court of Appeals is AFFIRMED in all respects.

SO ORDERED.

Bidin, (Acting Chairman), Melo, and Vitug, JJ., concur.
Feliciano, J., on leave.

[1] TSN of January 6, 1984, p. 13.

[2] Rollo, pp. 61-79.

[3] Rollo, pp. 35-45.

[4] BPI v. IAC, G.R. No. 69162, February 21, 1992, 206 SCRA 408, citing Simex International (Manila), Inc. v. CA, G.R. No. 88013, March 19, 1990, 183 SCRA 360.

[5] Art. 1172, Civil Code.

[6] American Express International, Inc. v. IAC, G.R. No. 70766, November 9, 1988, 167 SCRA 209.

[7] G.R. No. L-25414, July 30, 1971, 40 SCRA 144.

[8] De Leon v. CA, G.R. No. L-31931, August 31, 1988, 165 SCRA 166.

[9] Art. 2224, Civil Code.

[10] Rollo, CA decision, p. 40.

[11] Art. 2216, Civil Code.

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