

PHILIPPINE COMMERCIAL INTERNATIONAL BANK, PETITIONER, VS. ANTONIO B. BALMACEDA AND ROLANDO N. RAMOS, RESPONDENTS.

G.R. No. 158143. September 21, 2011

Ponente: BRION, J.

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BRION, J.:

Before us is a petition for review on certiorari,[1] filed by the Philippine Commercial International Bank[2] (Bank or PCIB), to reverse and set aside the decision[3] dated April 29, 2003 of the Court of Appeals (CA) in CA-G.R. CV No. 69955. The CA overturned the September 22, 2000 decision of the Regional Trial Court (RTC) of Makati City, Branch 148, in Civil Case No. 93-3181, which held respondent Rolando Ramos liable to PCIB for the amount of P895,000.00.

FACTUAL ANTECEDENTS

On September 10, 1993, PCIB filed an action for recovery of sum of money with damages before the RTC against Antonio Balmaceda, the Branch Manager of its Sta. Cruz, Manila branch. In its complaint, PCIB alleged that between 1991 and 1993, Balmaceda, by taking advantage of his position as branch manager, fraudulently obtained and encashed 31 Manager's checks in the total amount of Ten Million Seven Hundred Eighty Two Thousand One Hundred Fifty Pesos (P10,782,150.00).

On February 28, 1994, PCIB moved to be allowed to file an amended complaint to implead Rolando Ramos as one of the recipients of a portion of the proceeds from Balmaceda's alleged fraud. PCIB also increased the number of fraudulently obtained and encashed Manager's checks to 34, in the total amount of Eleven Million Nine Hundred Thirty Seven Thousand One Hundred Fifty Pesos (P11,937,150.00). The RTC granted this motion.

Since Balmaceda did not file an Answer, he was declared in default. On the other hand, Ramos filed an Answer denying any knowledge of Balmaceda's scheme. According to Ramos, he is a reputable businessman engaged in the business of buying and selling fighting cocks, and Balmaceda was one of his clients. Ramos admitted receiving money from Balmaceda as payment for the fighting cocks that he sold to Balmaceda, but maintained that he had no knowledge of the source of Balmaceda's money.

THE RTC DECISION

On September 22, 2000, the RTC issued a decision in favor of PCIB, with the following dispositive portion:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff and against the defendants as follows:

1. Ordering defendant Antonio Balmaceda to pay the amount of P11,042,150.00 with interest thereon at the legal rate from [the] date of his misappropriation of the said amount until full restitution shall have been made[.]

2. Ordering defendant Rolando Ramos to pay the amount of P895,000.00 with interest at the legal rate from the date of misappropriation of the said amount until full restitution shall have been made[.]
3. Ordering the defendants to pay plaintiff moral damages in the sum of P500,000.00 and attorney's fees in the amount of ten (10%) percent of the total misappropriated amounts sought to be recovered.
4. Plus costs of suit.

SO ORDERED.[4]

From the evidence presented, the RTC found that Balmaceda, by taking undue advantage of his position and authority as branch manager of the Sta. Cruz, Manila branch of PCIB, successfully obtained and misappropriated the bank's funds by falsifying several commercial documents. He accomplished this by claiming that he had been instructed by one of the Bank's corporate clients to purchase Manager's checks on its behalf, with the value of the checks to be debited from the client's corporate bank account. First, he would instruct the Bank staff to prepare the application forms for the purchase of Manager's checks, payable to several persons. Then, he would forge the signature of the client's authorized representative on these forms and sign the forms as PCIB's approving officer. Finally, he would have an authorized officer of PCIB issue the Manager's checks. Balmaceda would subsequently ask his subordinates to release the Manager's checks to him, claiming that the client had requested that he deliver the checks.[5] After receiving the Manager's checks, he encashed them by forging the signatures of the payees on the checks.

In ruling that Ramos acted in collusion with Balmaceda, the RTC noted that although the Manager's checks payable to Ramos were crossed checks, Balmaceda was still able to encash the checks.[6] After Balmaceda encashed three of these Manager's checks, he deposited most of the money into Ramos' account.[7] The RTC concluded that from the P11,937,150.00 that Balmaceda misappropriated from PCIB, P895,000.00 actually went to Ramos. Since the RTC disbelieved Ramos' allegation that the sum of money deposited into his Savings Account (PCIB, Pasig branch) were proceeds from the sale of fighting cocks, it held Ramos liable to pay PCIB the amount of P895,000.00.

THE COURT OF APPEALS DECISION

On appeal, the CA dismissed the complaint against Ramos, holding that no sufficient evidence existed to prove that Ramos colluded with Balmaceda in the latter's fraudulent manipulations.[8]

According to the CA, the mere fact that Balmaceda made Ramos the payee in some of the Manager's checks does not suffice to prove that Ramos was complicit in Balmaceda's fraudulent scheme. It observed that other persons were also named as payees in the checks that Balmaceda acquired and encashed, and PCIB only chose to go after Ramos. With PCIB's failure to prove Ramos' actual participation in Balmaceda's fraud, no legal and factual basis exists to hold him liable.

The CA also found that PCIB acted illegally in freezing and debiting P251,910.96 from Ramos' bank account. The CA thus decreed:

WHEREFORE, the appeal is granted. The Decision of the trial court rendered on September 22, 2000[,] insofar as appellant Ramos is concerned, is SET ASIDE, and the complaint below against him is DISMISSED.

Appellee is hereby ordered to release the amount of P251,910.96 to appellant Ramos plus interest at [the] legal rate computed from September 30, 1993 until appellee shall have fully complied therewith.

Appellee is likewise ordered to pay appellant Ramos the following:

- a) P50,000.00 as moral damages
- b) P50,000.00 as exemplary damages, and
- c) P20,000.00 as attorney's fees.

No costs.

SO ORDERED.[9]

THE PETITION

In the present petition, PCIB avers that:

I

THE APPELLATE COURT ERRED IN HOLDING THAT THERE IS NO EVIDENCE TO HOLD THAT RESPONDENT RAMOS ACTED IN COMPLICITY WITH RESPONDENT BALMACEDA

II

THE APPELLATE COURT ERRED IN ORDERING THE PETITIONER TO RELEASE THE AMOUNT OF P251,910.96 TO RESPONDENT RAMOS AND TO PAY THE LATTER MORAL AND EXEMPLARY DAMAGES AND ATTORNEY'S FEES[10]

PCIB contends that the circumstantial evidence shows that Ramos had knowledge of, and acted in complicity with Balmaceda in, the perpetuation of the fraud. Ramos' explanation that he is a businessman and that he received the Manager's checks as payment for the fighting cocks he sold to Balmaceda is unconvincing, given the large sum of money involved. While Ramos presented evidence that he is a reputable businessman, this evidence does not explain why the Manager's checks were made payable to him in the first place.

PCIB maintains that it had the right to freeze and debit the amount of P251,910.96 from Ramos' bank account, even without his consent, since legal compensation had taken place between them by operation of law. PCIB debited Ramos' bank account, believing in good faith that Ramos was not entitled to the proceeds of the Manager's checks and was actually privy to the fraud perpetrated by Balmaceda. PCIB cannot thus be held liable for moral and exemplary damages.

OUR RULING

We partly grant the petition.

At the outset, we observe that the petition raises mainly questions of fact whose resolution requires the re-examination of the evidence on record. As a general rule, petitions for review on certiorari only involve questions of law.[11] By way of exception, however, we can delve into evidence and the factual circumstance of the case when the findings of fact in the tribunals below (in this case between those of the CA and of the RTC) are conflicting. When the exception applies, we are given latitude to review the evidence on record to decide the case with finality.[12]

Ramos' participation in
Balmaceda's scheme not proven

From the testimonial and documentary evidence presented, we find it beyond question that Balmaceda, by taking advantage of his position as branch manager of PCIB's Sta. Cruz, Manila branch, was able to apply for and obtain Manager's checks drawn against the bank account of one of PCIB's clients. The unsettled question is whether Ramos, who received a portion of the money that Balmaceda took from PCIB, should also be held liable for the

return of this money to the Bank.

PCIB insists that it presented sufficient evidence to establish that Ramos colluded with Balmaceda in the scheme to fraudulently secure Manager's checks and to misappropriate their proceeds. Since Ramos' defense - anchored on mere denial of any participation in Balmaceda's wrongdoing - is an intrinsically weak defense, it was error for the CA to exonerate Ramos from any liability.

In civil cases, the party carrying the burden of proof must establish his case by a preponderance of evidence, or evidence which, to the court, is more worthy of belief than the evidence offered in opposition.[13] This Court, in *Encinas v. National Bookstore, Inc.*, [14] defined "preponderance of evidence" in the following manner:

"Preponderance of evidence" is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." Preponderance of evidence is a phrase which, in the last analysis, means probability of the truth. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.

The party, whether the plaintiff or the defendant, who asserts the affirmative of an issue has the onus to prove his assertion in order to obtain a favorable judgment, subject to the overriding rule that the burden to prove his cause of action never leaves the plaintiff. For the defendant, an affirmative defense is one that is not merely a denial of an essential ingredient in the plaintiff's cause of action, but one which, if established, will constitute an "avoidance" of the claim.[15]

Thus, PCIB, as plaintiff, had to prove, by preponderance of evidence, its positive assertion that Ramos conspired with Balmaceda in perpetrating the latter's scheme to defraud the Bank. In PCIB's estimation, it successfully accomplished this through the submission of the following evidence:

[1] Exhibits "A," "D," "PPPP," "QQQQ," and "RRRR" and their submarkings, the application forms for MCs, show that [these MCs were applied for in favor of Ramos;]

[2] Exhibits "K," "N," "SSSS," "TTTT," and "UUUU" and their submarkings prove that the MCs were issued in favor of x x x Ramos[; and]

[3] [T]estimonies of the witness for [PCIB].[16]

We cannot accept these submitted pieces of evidence as sufficient to satisfy the burden of proof that PCIB carries as plaintiff.

On its face, all that PCIB's evidence proves is that Balmaceda used Ramos' name as a payee when he filled up the application forms for the Manager's checks. But, as the CA correctly observed, the mere fact that Balmaceda made Ramos the payee on some of the Manager's checks is not enough basis to conclude that Ramos was complicit in Balmaceda's fraud; a number of other people were made payees on the other Manager's checks yet PCIB never alleged them to be liable, nor did the Bank adduce any other evidence pointing to Ramos' participation that would justify his separate treatment from the others. Also, while Ramos is Balmaceda's brother-in-law, their relationship is not sufficient, by itself, to render Ramos liable, absent concrete proof of his actual participation in the fraudulent scheme.

Moreover, the evidence on record clearly shows that Balmaceda acted on his own when he applied for the Manager's checks against the bank account of one of PCIB's clients, as well as when he encashed the fraudulently acquired Manager's checks.

Mrs. Elizabeth Costes, the Area Manager of PCIB at the time of the relevant events, testified that Balmaceda

committed all the acts necessary to obtain the unauthorized Manager's checks - from filling up the application form by forging the signature of the client's representative, to forging the signatures of the payees in order to encash the checks. As Mrs. Costes stated in her testimony:

Q: I am going into [these] particular instances where you said that Mr. Balmaceda [has] been making unauthorized withdrawals from particular account of a client or a client of yours at Sta. Cruz branch. Would you tell us how he effected his unauthorized withdrawals?

A: He prevailed upon the domestic remittance clerk to prepare the application of a Manager's check which [has] been debited to a client's account. This particular Manager's check will be payable to a certain individual thru his account as the instruction of the client.

Q: What was your findings in so far as the particular alleged instruction of a client is concerned?

A: We found out that he forged the signature of the client.

Q: On that particular application?

A: Yes sir.

Q: Showing to you several applications for Manager's Check previously attached as Annexes "A, B, C, D and E["] of the complaint. Could you please tell us where is that particular alleged signature of a client applying for the Manager's check which you claimed to have been forged by Mr. Balmaceda?

A: Here sir.

x x x x

Q: After the accomplishment of this application form as you stated Mrs. witness, do you know what happened to the application form?

A: Before that application form is processed it goes to several stages. Here for example this was signed supposed to be by the client and his signature representing that, he certified the signature based on their records to be authentic.

Q: When you said he to whom are you referring to?

A: Mr. Balmaceda. And at the same time he approved the transaction.

x x x x

Q: Do you know if the corresponding checks applied for in the application forms were issued?

A: Yes sir.

Q: Could you please show us where these checks are now, the one applied for in Exhibit "A" which is in the amount of P150,000.00, where is the corresponding check?

A: Rolando Ramos dated December 26, 1991 and one of the signatories with higher authority, this is Mr. Balmaceda's signature.

Q: In other words he is likewise approving signatory to the Manager's check?

A: Yes sir. This is an authority that the check [has] been encashed.

Q: In other words this check issued to Rolando Ramos dated December 26, 1991 is a cross check but nonetheless he allowed to encash by granting it.

Could you please show us?

ATTY. PACES: Witness pointing to an initial of the defendant Antonio Balmaceda, the notation cross check.

A: And this is his signature.

x x x x

Q: How about the check corresponding to Exhibit E-2 which is an application for P125,000.00 for a certain Rolando Ramos. Do you have the check?

A: Yes sir.

ATTY. PACES: Witness producing a check dated December 19, 1991 the amount of P125,000.00 payable to certain Rolando Ramos.

Q: Can you tell us whether the same *modus operandi* was adopted by Mr. Balmaceda in so far as he is concerned?

A: Yes sir he is also the right signer and he authorized the cancellation of the cross check.[17] (emphasis ours)

x x x x

Q: These particular checks [Mrs.] witness in your findings, do you know if Mr. Balmaceda [has] again any participation in these checks?

A: He is also the right signer and approved officer and he was authorized to debit on file.

x x x x

Q: And do you know if these particular checks marked as Exhibit G-2 to triple FFF were subsequently encashed?

A: Yes sir.

Q: Were you able to find out who encashed?

A: Mr. Balmaceda himself and besides he approved the encashment because of the signature that he allowed the encashment of the check.

x x x x

Q: Do you know if this particular person having in fact withdraw of received the proceeds of [these] particular checks, the payee?

A: No sir.

Q: It was all Mr. Balmaceda dealing with you?

A: Yes sir.

Q: In other words it would be possible that Mr. Balmaceda himself gotten the proceeds of the checks by forging the payees signature?

A: Yes sir.[18] (emphases ours)

Mrs. Nilda Laforteza, the Commercial Account Officer of PCIB's Sta. Cruz, Manila branch at the time the events of this case occurred, confirmed Mrs. Costes' testimony by stating that it was Balmaceda who forged Ramos' signature on the Manager's checks where Ramos was the payee, so as to encash the amounts indicated on the checks.[19] Mrs. Laforteza also testified that Ramos never went to the PCIB, Sta. Cruz, Manila branch to encash the checks since Balmaceda was the one who deposited the checks into Ramos' bank account. As revealed during Mrs. Laforteza's cross-examination:

Q: Mrs. Laforteza, these checks that were applied for by Mr. Balmaceda, did you ever see my client go to the bank to encash these checks?

A: No it is Balmaceda who is depositing in his behalf.

Q: Did my client ever call up the bank concerning this amount?

A: Yes he is not going to call PCIBank Sta. Cruz branch because his account is maintained at Pasig.

Q: So Mr. Balmaceda was the one who just remitted or transmitted the amount that you claimed [was sent] to

the account of my client?

A: Yes.[20] (emphases ours)

Even Mrs. Rodelia Nario, presented by PCIB as its rebuttal witness to prove that Ramos encashed a Manager's check for P480,000.00, could only testify that the money was deposited into Ramos' PCIB bank account. She could not attest that Ramos himself presented the Manager's check for deposit in his bank account.[21] These testimonies clearly dispute PCIB's theory that Ramos was instrumental in the encashment of the Manager's checks.

We also find no reason to doubt Ramos' claim that Balmaceda deposited these large sums of money into his bank account as payment for the fighting cocks that Balmaceda purchased from him. Ramos presented two witnesses - Vicente Cosculluela and Crispin Gadapan - who testified that Ramos previously engaged in the business of buying and selling fighting cocks, and that Balmaceda was one of Ramos' biggest clients.

Quoting from the RTC decision, PCIB stresses that Ramos' own witness and business partner, Cosculluela, testified that the biggest net profit he and Ramos earned from a single transaction with Balmaceda amounted to no more than P100,000.00, for the sale of approximately 45 fighting cocks.[22] In PCIB's view, this testimony directly contradicts Ramos' assertion that he received approximately P400,000.00 from his biggest transaction with Balmaceda. To PCIB, the testimony also renders questionable Ramos' assertion that Balmaceda deposited large amounts of money into his bank account as payment for the fighting cocks.

On this point, we find that PCIB misunderstood Cosculluela's testimony. A review of the testimony shows that Cosculluela specifically referred to the net profit that they earned from the sale of the fighting cocks;[23] PCIB apparently did not take into account the capital, transportation and other expenses that are components of these transactions. Obviously, in sales transactions, the buyer has to pay not only for the value of the thing sold, but also for the shipping costs and other incidental costs that accompany the acquisition of the thing sold. Thus, while the biggest net profit that Ramos and Cosculluela earned in a single transaction amounted to no more than P100,000.00,[24] the inclusion of the actual acquisition costs of the fighting cocks, the transportation expenses (i.e., airplane tickets from Bacolod or Zamboanga to Manila) and other attendant expenses could account for the P400,000.00 that Balmaceda deposited into Ramos' bank account.

Given that PCIB failed to establish Ramos' participation in Balmaceda's scheme, it was not even necessary for Ramos to provide an explanation for the money he received from Balmaceda. Even if the evidence adduced by the plaintiff appears stronger than that presented by the defendant, a judgment cannot be entered in the plaintiff's favor if his evidence still does not suffice to sustain his cause of action;[25] to reiterate, a preponderance of evidence as defined must be established to achieve this result.

PCIB itself at fault as employer

In considering this case, one point that cannot be disregarded is the significant role that PCIB played which contributed to the perpetration of the fraud. We cannot ignore that Balmaceda managed to carry out his fraudulent scheme primarily because other PCIB employees failed to carry out their assigned tasks - flaws imputable to PCIB itself as the employer.

Ms. Analiza Vega, an accounting clerk, teller and domestic remittance clerk working at the PCIB, Sta. Cruz, Manila branch at the time of the incident, testified that Balmaceda broke the Bank's protocol when he ordered the Bank's employees to fill up the application forms for the Manager's checks, to be debited from the bank account of one of the bank's clients, without providing the necessary Authority to Debit from the client.[26] PCIB also admitted that these Manager's checks were subsequently released to Balmaceda, and not to the client's representative, based solely on Balmaceda's word that the client had tasked him to deliver these checks.[27]

Despite Balmaceda's gross violations of bank procedures - mainly in the processing of the applications for Manager's checks and in the releasing of the Manager's checks - Balmaceda's co-employees not only turned a blind eye to his actions, but actually complied with his instructions. In this way, PCIB's own employees were unwitting accomplices in Balmaceda's fraud.

Another telling indicator of PCIB's negligence is the fact that it allowed Balmaceda to encash the Manager's checks that were plainly crossed checks. A crossed check is one where two parallel lines are drawn across its face or across its corner.[28] Based on jurisprudence, the crossing of a check has the following effects: (a) the check may not be encashed but only deposited in the bank; (b) the check may be negotiated only once -- to the one who has an account with the bank; and (c) the act of crossing the check serves as a warning to the holder that the check has been issued for a definite purpose and he must inquire if he received the check pursuant to this purpose; otherwise, he is not a holder in due course.[29] In other words, the crossing of a check is a warning that the check should be deposited only in the account of the payee. When a check is crossed, it is the duty of the collecting bank to ascertain that the check is only deposited to the payee's account.[30] In complete disregard of this duty, PCIB's systems allowed Balmaceda to encash 26 Manager's checks which were all crossed checks, or checks payable to the "payee's account only."

The General Banking Law of 2000[31] requires of banks the highest standards of integrity and performance. The banking business is impressed with public interest. Of paramount importance is the trust and confidence of the public in general in the banking industry. Consequently, the diligence required of banks is more than that of a Roman pater familias or a good father of a family.[32] The highest degree of diligence is expected.[33]

While we appreciate that Balmaceda took advantage of his authority and position as the branch manager to commit these acts, this circumstance cannot be used to excuse the manner the Bank - through its employees - handled its clients' bank accounts and thereby ignored established bank procedures at the branch manager's mere order. This lapse is made all the more glaring by Balmaceda's repetition of his *modus operandi* 33 more times in a period of over one year by the Bank's own estimation. With this kind of record, blame must be imputed on the Bank itself and its systems, not solely on the weakness or lapses of individual employees.

Principle of unjust enrichment not applicable

PCIB maintains that even if Ramos did not collude with Balmaceda, it still has the right to recover the amounts unjustly received by Ramos pursuant to the principle of unjust enrichment. This principle is embodied in Article 22 of the Civil Code which provides:

Article 22. Every person who through an act of performance by another, or any other means, acquires or comes into possession of something at the expense of the latter without just or legal ground, shall return the same to him.

To have a cause of action based on unjust enrichment, we explained in *University of the Philippines v. Philab Industries, Inc.*[34] that:

Unjust enrichment claims do not lie simply because one party benefits from the efforts or obligations of others, but instead it must be shown that a party was unjustly enriched in the sense that the term unjustly could mean illegally or unlawfully.

Moreover, to substantiate a claim for unjust enrichment, the claimant must unequivocally prove that another party knowingly received something of value to which he was not entitled and that the state of affairs are such that it would be unjust for the person to keep the benefit. Unjust enrichment is a term used to depict result or effect of failure to make remuneration of or for property or benefits received under circumstances that give rise to legal or equitable obligation to account for them; to be entitled to remuneration, one must confer benefit by

mistake, fraud, coercion, or request. Unjust enrichment is not itself a theory of reconvey. Rather, it is a prerequisite for the enforcement of the doctrine of restitution.[35] (emphasis ours)

Ramos cannot be held liable to PCIB on account of unjust enrichment simply because he received payments out of money secured by fraud from PCIB. To hold Ramos accountable, it is necessary to prove that he received the money from Balmaceda, knowing that he (Ramos) was not entitled to it. PCIB must also prove that Ramos, at the time that he received the money from Balmaceda, knew that the money was acquired through fraud. Knowledge of the fraud is the link between Ramos and PCIB that would obligate Ramos to return the money based on the principle of unjust enrichment.

However, as the evidence on record indicates, Ramos accepted the deposits that Balmaceda made directly into his bank account, believing that these deposits were payments for the fighting cocks that Balmaceda had purchased. Significantly, PCIB has not presented any evidence proving that Ramos participated in, or that he even knew of, the fraudulent sources of Balmaceda's funds.

PCIB illegally froze and debited Ramos' assets

We also find that PCIB acted illegally in freezing and debiting Ramos' bank account. In *BPI Family Bank v. Franco*,[36] we cautioned against the unilateral freezing of bank accounts by banks, noting that:

More importantly, [BPI Family Bank] does not have a unilateral right to freeze the accounts of Franco based on its mere suspicion that the funds therein were proceeds of the multi-million peso scam Franco was allegedly involved in. To grant [BPI Family Bank], or any bank for that matter, the right to take whatever action it pleases on deposits which it supposes are derived from shady transactions, would open the floodgates of public distrust in the banking industry.[37]

We see no legal merit in PCIB's claim that legal compensation took place between it and Ramos, thereby warranting the automatic deduction from Ramos' bank account. For legal compensation to take place, two persons, in their own right, must first be creditors and debtors of each other.[38] While PCIB, as the depositary bank, is Ramos' debtor in the amount of his deposits, Ramos is not PCIB's debtor under the evidence the PCIB adduced. PCIB thus had no basis, in fact or in law, to automatically debit from Ramos' bank account.

On the award of damages

Although PCIB's act of freezing and debiting Ramos' account is unlawful, we cannot hold PCIB liable for moral and exemplary damages. Since a contractual relationship existed between Ramos and PCIB as the depositor and the depositary bank, respectively, the award of moral damages depends on the applicability of Article 2220 of the Civil Code, which provides:

Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. The same rule applies to breaches of contract where the defendant acted fraudulently or in bad faith. [emphasis ours]

Bad faith does not simply connote bad judgment or negligence; it imports a dishonest purpose or some moral obliquity and conscious commission of a wrong; it partakes of the nature of fraud.[39]

As the facts of this case bear out, PCIB did not act out of malice or bad faith when it froze Ramos' bank account and subsequently debited the amount of P251,910.96 therefrom. While PCIB may have acted hastily and without regard to its primary duty to treat the accounts of its depositors with meticulous care and utmost fidelity,[40] we find that its actions were propelled more by the need to protect itself, and not out of malevolence or ill will. One may err, but error alone is not a ground for granting moral damages.[41]

We also disallow the award of exemplary damages. Article 2234 of the Civil Code requires a party to first prove that he is entitled to moral, temperate or compensatory damages before he can be awarded exemplary damages. Since no reason exists to award moral damages, so too can there be no reason to award exemplary damages.

We deem it just and equitable, however, to uphold the award of attorney's fees in Ramos' favor. Taking into consideration the time and efforts involved that went into this case, we increase the award of attorney's fees from P20,000.00 to P75,000.00.

WHEREFORE, the petition is **PARTIALLY GRANTED**. We **AFFIRM** the decision of the Court of Appeals dated April 29, 2003 in CA-G.R. CV No. 69955 with the **MODIFICATION** that the award of moral and exemplary damages in favor of Rolando N. Ramos is **DELETED**, while the award of attorney's fees is **INCREASED** to P75,000.00. Costs against the Philippine Commercial International Bank.

SO ORDERED.

Velasco, Jr.,[*] Perez, Sereno, and Reyes, JJ., concur.
Brion,**] (Acting Chairperson), J.

[*] Designated as Additional Member of the Second Division in lieu of Associate Justice Antonio T. Carpio per Special Order No. 1084 dated September 13, 2011.

[**] Designated as Acting Chairperson in lieu of Associate Justice Antonio T. Carpio per Special Order No. 1083 dated September 13, 2011.

[1] Rollo, pp. 16-36.

[2] Now the Equitable PCIBank.

[3] Penned by Associate Justice Eugenio S. Labitoria, and concurred in by Associate Justices Andres B. Reyes, Jr. and Regalado E. Maambong; rollo, pp. 38-49.

[4] Id. at 59.

[5] Id. at 51-52.

[6] Id. at 54.

[7] Balmaceda encashed PCIB Manager's Check No. 017979 dated February 28, 1992 in the amount of P250,000.00, and deposited P200,000.00 into Ramos' PCIB bank account, maintained in the Bank's Pasig branch, while he took P50,000.00. Balmaceda also encashed PCIB Manager's Check No. 019340 dated October 1992 in the amount of P425,000.00, and PCIB Manager's Check No. 019708 dated November 27, 1992 in the amount of P480,000.00, and deposited these amounts in Ramos' PCIB bank account, although he kept P10,000.00 from the latter check.

[8] Decision, dated April 29, 2003; supra note 3.

[9] Supra note 3, at 48.

[10] Supra note 1, at 22.

[11] RULES OF COURT, Rule 45, Section 1.

[12] F.A.T. Kee Computer Systems, Inc. v. Online Networks International Inc., G.R. No. 171238, February 2,

2011; and McDonald's Corporation v. L.C. Big Mak Burger, Inc., 480 Phil. 402 (2004).

[13] RULES OF COURT, Rule 133, Section 1.

[14] 485 Phil. 683, 695 (2004).

[15] Bank of the Philippine Islands v. Royeca, G.R. No. 176664, July 21, 2008, 559 SCRA 207.

[16] Supra note 1, at 25.

[17] TSN, September 16, 1993, pp. 8-17.

[18] Id. at 24-26.

[19] TSN, June 24, 1997, pp. 15-17.

[20] Id. at 77.

[21] TSN, January 28, 1999, pp. 7-13.

[22] TSN, August 6, 1998, p. 28.

[23] Id. at 29.

[24] Id. at 30.

[25] Ong v. Yap, 492 Phil. 188, 197 (2005), citing United Airlines, Inc. v. Court of Appeals, G.R. No. 124110, April 20, 2001, 357 SCRA 99, 106-107.

[26] TSN, September 13, 1996, p. 21.

[27] RTC Records, p. 164.

[28] Go v. Metropolitan Bank and Trust Company, G.R. No. 168842, August 11, 2010, 628 SCRA 107, 114, citing Bataan Cigar and Cigarette Factory, Inc. v. Court of Appeals, G.R. No. 93048, March 3, 1994, 230 SCRA 643, 647; Associated Bank v. Court of Appeals, G.R. No. 89802, May 7, 1992, 208 SCRA 465; State Investment House v. Intermediate Appellate Court, G.R. No. 72764, July 13, 1989, 175 SCRA 310; and De Ocampo & Co. v. Gatchalian, et al., 113 Phil. 574 (1961).

[29] Go v. Metropolitan Bank and Trust Company, supra, at 115, citing Bataan Cigar and Cigarette Factory, Inc. v. Court of Appeals, supra, at 648.

[30] Philippine Commercial International Bank v. Court of Appeals, 403 Phil. 361, 364 (2001).

[31] Republic Act No. 8791.

[32] Bank of the Philippine Islands v. Court of Appeals, 383 Phil. 538 (2000); and Philippine Bank of Commerce v. Court of Appeals, 336 Phil. 667 (1997).

[33] Philippine Commercial International Bank v. Court of Appeals, supra note 30.

[34] 482 Phil. 693 (2004).

[35] Id. at 709-710.

[36] G.R. No. 123498, November 23, 2007, 538 SCRA 184.

[37] Id. at 197.

[38] CIVIL CODE, Article 1278.

[39] BPI Family Bank v. Franco, *supra* note 36, at 203, citing Board of Liquidators v. Kalaw, No. L-18805, August 14, 1967, 20 SCRA 987.

[40] Central Bank of the Philippines v. Court of Appeals, G.R. Nos. 88353 and 92943, May 8, 1992, 208 SCRA 652, 684-685.

[41] Bank of the Philippine Islands v. Casa Montessori Internationale, G.R. No. 149454, May 28, 2004, 430 SCRA 261, 294.

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