PHILIPPINE NATIONAL BANK, PETITIONER, VS. HELEN JOYCE CAMPOS, RESPONDENT.

G.R. NO. 167270. June 30, 2006

Ponente: CORONA, J.

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CORONA, J.:

This petition for review under Rule 45 of the Rules of Court assails the December 7, 2004 decision[1] of the Court of Appeals (CA) in CA-G.R. CV No. 77331.

Respondent Helen Joyce Campos maintained current and savings accounts in the Bacolod City branch of petitioner Philippine National Bank (PNB).[2]

In the morning of April 18, 1995, a certain Jasmin Gequillana presented PNB Check No. 983765 dated March 2, 1995 to PNB for encashment. The check in the amount of P450,000 was purportedly issued by respondent. PNB refused to pay it for insufficiency of funds in respondent's accounts.

In the afternoon of the same day, PNB received the same check from Rizal Commercial Banking Corporation, as collecting bank, for clearing. Due to the breakdown of its computers, PNB was not able to verify whether respondent had sufficient funds to cover the check. However, it still went ahead and cleared the check.

PNB discovered the overdraft only on April 24, 1995. It demanded the restitution of P359,930.75 (i.e., P450,000 less respondent's remaining account balance of P90,069.25 which was debited to partially cover the amount of the check).

Respondent refused to pay claiming that she never issued a check to Gequillana. While she admitted having pre-signed the check, she never filled it up. She had kept the blank check in a locked drawer in her bedroom. When respondent was in Manila from April 11 to May 1, 1995 to attend to her sick mother, her housemaid forcibly opened her drawer and took the check together with several pieces of jewelry.

For respondent's refusal to pay, PNB filed a complaint for a sum of money against respondent and Gequillana[3] in the RTC of Bacolod City, Branch 47, where it was docketed as Civil Case No. 95-9000.

After trial, the court a quo rendered a decision[4] on August 15, 2002 dismissing PNB's complaint against respondent. It found PNB negligent in debiting P90,065.25[5] from respondent's accounts and ruled:

> WHEREFORE, judgment is hereby rendered:
>
> - Dismissing the complaint of plaintiff PNB only as against defendant Helen Joyce Campos;
>
> - Ordering plaintiff PNB to restore to the current or savings account of Campos the amount of P90,065.25 which it debited in part payment of the check, or pay or refund Campos said amount if the restoration is no longer feasible, with interest of 12% per annum from April 18, 1995 until fully paid, refunded or restored;
>
> - Ordering plaintiff [PNB] to also pay defendant Campos moral damages of P50,000.00 and attorney's fees of

P20,000.00;

- Ordering defendant Jasmin Gequillana to pay back plaintiff PNB the amount of P450,000.00, the face value of the check it paid to Gequillana, plus interest of 12% per annum from April 18, 1995 until fully paid;

- Condemning defendant Gequillana to pay or reimburse PNB the amounts of P50,000.00 as moral damages and attorney's fees of P20,000.00 that PNB shall have paid Campos, plus interest at 12% per annum from the date of payment or reimbursement by PNB to Campos until the amounts are fully paid; and

- Ordering defendant Gequillana to pay the costs of litigation.

SO ORDERED.[6]

Aggrieved, PNB appealed the RTC decision to the CA insofar as PNB was held liable to respondent for P90,065.25 plus legal interest, moral damages and attorney's fees. However, in its December 7, 2004 decision,[7] the appellate court agreed with the trial court's finding that PNB was guilty of negligence. It affirmed the RTC decision holding PNB liable to respondent. PNB moved for reconsideration but it was denied. Hence, this recourse.

The petition must be denied.

PNB primarily questions the finding of negligence on its part and claims that it acted in good faith when it cleared the check. However, this is a factual matter.

The finding of negligence is a question of fact.[8] In the same vein, whether one acted in good faith or in bad faith is a factual issue.[9] Hence, they are not proper subjects of our discretionary power of judicial review under Rule 45 of the Rules of Court which is concerned solely with questions of law.

Both the RTC and CA found that PNB failed to exercise the diligence necessary in the nature of its business. It acted negligently when it cleared the check even though its computers were off-line and incapable of confirming whether there were available funds in respondent's accounts. We agree.

PNB already knew that respondent's funds were inadequate when the check was first presented for encashment. Yet, the bank cleared the check later that same day without ascertaining if enough funds had been deposited to cover it.

PNB asserts that respondent was herself negligent when she signed a check in blank. But again, the issue of negligence is one of fact. The truth is that the overdraft would not have occurred had PNB only bothered to verify the sufficiency of respondent's funds.

WHEREFORE, the petition is hereby DENIED.

Costs against petitioner.

SO ORDERED.

Puno, Acting C.J., (Chairperson), Azcuna, and Garcia, JJ., concur.
Sandoval-Gutierrez, J., on official business.

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[1] Penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Sesinando E. Villon and Ramon M. Bato, Jr. of the Twentieth Division of the Court of Appeals; rollo, pp. 21-26.

[2] Respondent's accounts were "combo accounts" where funds from her savings account, if available, were

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automatically transferred to her current account to cover the amount of checks issued.

[3] For failure of Gequillana to file her answer, she was declared in default in an order dated July 6, 1998.

[4] Penned by Judge Edgar G. Garvilles; rollo, pp. 28-46.

[5] Apparently, the trial court inadvertently wrote P90,065.25 in the dispositive portion of the decision when its statement of facts showed that the amount debited by PNB was P90,069.25.

[6] Rollo, pp. 45-46.

[7] Supra at note 1.

[8] Pacific Airways Corporation v. Tonda, 441 Phil. 156 (2002).

[9] See Palon v. Brillante, G.R. No. 138042, 28 February 2001, 353 SCRA 204, citing Bermudez v. Gonzales, 401 Phil. 38 (2000).

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