

SOLIDBANK CORPORATION/ METROPOLITAN BANK AND TRUST COMPANY, [] PETITIONER, VS. SPOUSES PETER AND SUSAN TAN, RESPONDENTS.*G.R. NO. 167346. April 02, 2007*

Ponente: CORONA, J.

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Assailed in this petition for review by certiorari under Rule 45 of the Rules of Court are the decision[1] and resolution[2] of the Court of Appeals (CA) dated November 26, 2004 and March 1, 2005, respectively, in CA-G.R. CV No. 58618,[3] affirming the decision of the Regional Trial Court (RTC) of Manila, Branch 31.[4]

On December 2, 1991, respondents' representative, Remigia Frias, deposited with petitioner ten checks worth P455,962. Grace Neri, petitioner's teller no. 8 in its Juan Luna, Manila Branch, received two deposit slips for the checks, an original and a duplicate. Neri verified the checks and their amounts in the deposit slips then returned the duplicate copy to Frias and kept the original copy for petitioner.

In accordance with the usual practice between petitioner and respondents, the latter's passbook was left with petitioner for the recording of the deposits on the bank's ledger. Later, respondents retrieved the passbook and discovered that one of the checks, Metropolitan Bank and Trust Company (Metrobank) check no. 403954, payable to cash in the sum of P250,000 was not posted therein.

Immediately, respondents notified petitioner of the problem. Petitioner showed respondent Peter Tan a duplicate copy of a deposit slip indicating the list of checks deposited by Frias. But it did not include the missing check. The deposit slip bore the stamp mark "teller no. 7" instead of "teller no. 8" who previously received the checks.

Still later, respondent Peter Tan learned from Metrobank (where he maintained an account) that Metrobank check no. 403954 had cleared after it was inexplicably deposited by a certain Dolores Lagsac in Premier Bank in San Pedro, Laguna. Respondents demanded that petitioner pay the amount of the check but it refused, hence, they filed a case for collection of a sum of money in the RTC of Manila, Branch 31.

In its answer, petitioner averred that the deposit slips Frias used when she deposited the checks were spurious. Petitioner accused respondents of engaging in a scheme to illegally exact money from it. It added that, contrary to the claim of respondents, it was "teller no. 7" who received the deposit slips and, although respondents insisted that Frias deposited ten checks, only nine checks were actually received by said teller. By way of counterclaim, it sought payment of P1,000,000 as actual and moral damages and P500,000 as exemplary damages.

After trial, the RTC found petitioner liable to respondents:

Upon examination of the oral, as well as of the documentary evidence which the parties presented at the trial in support of their respective contentions, and after taking into consideration all the circumstances of the case, this Court believes that the loss of Metrobank Check No. 403954 in the sum of P250,000.00 was due to the fault of [petitioner]...[It] retained the original copy of the [deposit slip marked by "Teller No. 7"]. There is a

presumption in law that evidence willfully suppressed would be adverse if produced.

Art. 1173 of the Civil Code states that "the fault or negligence of the obligor consists in the omission of that diligence which is required by the nature of the obligation and corresponds with the circumstances of the person of the time and of the place"; and that "if the law or contract does not state the diligence which is to be observed in the performance, the same as expected of a good father of a family shall be required."

"For failure to comply with its obligation, [petitioner] is presumed to have been at fault or to have acted negligently unless they prove that they observe extraordinary diligence as prescribed in Arts. 1733 and 1735 of the Civil Code (Art. 1756)"

xxx xxx xxx

WHEREFORE, premises considered, judgment is hereby rendered in favor of [respondents], ordering [petitioner] to pay the sum of P250,000, with legal interest from the time the complaint [for collection of a sum of money] was filed until satisfied; P25,000.00 moral damages; P25,000.00 exemplary damages plus 20% of the amount due [respondents] as and for attorney's fees. With costs.

SO ORDERED.[5]

Petitioner appealed to the CA which affirmed in toto the RTC's assailed decision:

Serious doubt [was] engendered by the fact that [petitioner] did not present the original of the deposit slip marked with "Teller No. 7" and on which the entry as to Metrobank Check No. 403954 did not appear. Even the most cursory look at the handwriting thereon reveal[ed] a very marked difference with that in the other deposit slips filled up [by Frias] on December 2, 1991. Said circumstances spawn[ed] the belief thus, the said deposit slip was prepared by [petitioner] itself to cover up for the lost check.[6]

Petitioner filed a motion for reconsideration but the CA dismissed it. Hence, this appeal.

Before us, petitioner faults the CA for upholding the RTC decision. Petitioner argues that: (1) the findings of the RTC and the CA were not supported by the evidence and records of the case; (2) the award of damages in favor of respondents was unwarranted and (3) the application by the RTC, as affirmed by the CA, of the provisions of the Civil Code on common carriers to the instant case was erroneous.[7]

The petition must fail.

On the first issue, petitioner contends that the lower courts erred in finding it negligent for the loss of the subject check. According to petitioner, the fact that the check was deposited in Premier Bank affirmed its claim that it did not receive the check.

At the outset, the Court stresses that it accords respect to the factual findings of the trial court and, unless it overlooked substantial matters that would alter the outcome of the case, this Court will not disturb such findings.[8] We meticulously reviewed the records of the case and found no reason to deviate from the rule. Moreover, since the CA affirmed these findings on appeal, they are final and conclusive on us.[9] We therefore sustain the RTC's and CA's findings that petitioner was indeed negligent and responsible for respondents' lost check.

On the issue of damages, petitioner argues that the moral and exemplary damages awarded by the lower courts had no legal basis. For the award of moral damages to stand, petitioner avers that respondents should have proven the existence of bad faith by clear and convincing evidence. According to petitioner, simple negligence cannot be a basis for its award. It insists that the award of exemplary damages is justified only when the act complained of was done in a wanton, fraudulent and oppressive manner.[10]

We disagree.

While petitioner may argue that simple negligence does not warrant the award of moral damages, it nonetheless cannot insist that that was all it was guilty of. It refused to produce the original copy of the deposit slip which could have proven its claim that it did not receive respondents' missing check. Thus, in suppressing the best evidence that could have bolstered its claim and confirmed its innocence, the presumption now arises that it withheld the same for fraudulent purposes.[11]

Moreover, in presenting a false deposit slip in its attempt to feign innocence, petitioner's bad faith was apparent and unmistakable. Bad faith imports a dishonest purpose or some moral obliquity or conscious doing of a wrong that partakes of the nature of fraud.[12]

As to the award of exemplary damages, the law allows it by way of example for the public good. The business of banking is impressed with public interest and great reliance is made on the bank's sworn profession of diligence and meticulousness in giving irreproachable service.[13] For petitioner's failure to carry out its responsibility and to account for respondents' lost check, we hold that the lower courts did not err in awarding exemplary damages to the latter.

On the last issue, we hold that the trial court did not commit any error. A cursory reading of its decision reveals that it anchored its conclusion that petitioner was negligent on Article 1173 of the Civil Code.[14]

In citing the different provisions of the Civil Code on common carriers,[15] the trial court merely made reference to the kind of diligence that petitioner should have performed under the circumstances. In other words, like a common carrier whose business is also imbued with public interest, petitioner should have exercised extraordinary diligence to negate its liability to respondents.

Assuming arguendo that the trial court indeed used the provisions on common carriers to pin down liability on petitioner, still we see no reason to strike down the RTC and CA rulings on this ground alone.

In one case,[16] the Court did not hesitate to apply the doctrine of last clear chance (commonly used in transportation laws involving common carriers) to a banking transaction where it adjudged the bank responsible for the encashment of a forged check. There, we enunciated that the degree of diligence required of banks is more than that of a good father of a family in keeping with their responsibility to exercise the necessary care and prudence in handling their clients' money.

We find no compelling reason to disallow the application of the provisions on common carriers to this case if only to emphasize the fact that banking institutions (like petitioner) have the duty to exercise the highest degree of diligence when transacting with the public. By the nature of their business, they are required to observe the highest standards of integrity and performance, and utmost assiduousness as well.[17]

WHEREFORE, the assailed decision and resolution of the Court of Appeals dated November 26, 2004 and March 1, 2005, respectively, in CA-G.R. CV No. 58618 are hereby AFFIRMED. Accordingly, the petition is DENIED.

Costs against petitioner.

SO ORDERED.

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

[*] On June 8, 2005, the Court granted the motion of private respondents to implead Metropolitan Bank and Trust Company as petitioner following the latter's acquisition of Solidbank. Under Rule 3, Section 19 of the Rules of

Court, the person or entity which acquired the interest of a party to a case may be substituted in the action or joined with the original party.

[1] Penned by Associate Justice Arcangelita M. Romilla-Lontok and concurred in by Associate Justices Rodrigo V. Cosico and Danilo B. Pine (retired) of the Twelfth Division of the Court of Appeals; rollo, pp. 9-20.

[2] Id., pp. 22-23.

[3] Entitled Peter and Susan Tan v. Solidbank Corporation.

[4] Decided by Judge Zenaida R. Daguna, rollo, pp. 74-80.

[5] Rollo, pp. 79-80.

[6] Rollo, p. 17.

[7] Rollo, pp. 150-159.

[8] Lipat v. Pacific Banking Corporation, 450 Phil. 410 (2003).

[9] Bortalba v. Court of Appeals, 425 Phil. 407 (2002).

[10] Petitioner's Memorandum, rollo, p. 157.

[11] Philippine Banking Corporation v. Court of Appeals, G.R. No. 127469, 15 January 2004, 419 SCRA 487.

[12] Petitioner's Memorandum, rollo, p. 157.

[13] See Prudential Bank v. Court of Appeals, 384 Phil. 817 (2000); Bank of the Philippine Islands v. Casa Montessori International, G.R. No. 149454, 28 May 2004, 430 SCRA 261.

[14] Supra, at 5.

[15] Id., Articles 1733, 1735 and 1756 of the Civil Code.

[16] Canlas v. Asian Savings Bank et al., 383 Phil. 315 (2000); see also Bank of the Philippine Islands v. Court of Appeals, G.R. No. 102383, 26 November 1992, 216 SCRA 51.

[17] Simex International (Manila) v. Court of Appeals, G.R. No. 88013, 19 March 1990, 183 SCRA 360.

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