

PHILIPPINE NATIONAL BANK, PETITIONER, VS. ERLANDO T. RODRIGUEZ AND NORMA RODRIGUEZ, RESPONDENTS.

G.R. No. 170325. September 26, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

WHEN the payee of the check is not intended to be the true recipient of its proceeds, is it payable to order or bearer? What is the fictitious-payee rule and who is liable under it? Is there any exception?

These questions seek answers in this petition for review on certiorari of the Amended Decision[1] of the Court of Appeals (CA) which affirmed with modification that of the Regional Trial Court (RTC).[2]The Facts

The facts as borne by the records are as follows:

Respondents-Spouses Erlando and Norma Rodriguez were clients of petitioner Philippine National Bank (PNB), Amelia Avenue Branch, Cebu City. They maintained savings and demand/checking accounts, namely, PNB Big Demand Deposits (Checking/Current Account No. 810624-6 under the account name Erlando and/or Norma Rodriguez), and PNB Big Demand Deposit (Checking/Current Account No. 810480-4 under the account name Erlando T. Rodriguez).

The spouses were engaged in the informal lending business. In line with their business, they had a discounting[3] arrangement with the Philnabank Employees Savings and Loan Association (PEMSLA), an association of PNB employees. Naturally, PEMSLA was likewise a client of PNB Amelia Avenue Branch. The association maintained current and savings accounts with petitioner bank.

PEMSLA regularly granted loans to its members. Spouses Rodriguez would rediscount the postdated checks issued to members whenever the association was short of funds. As was customary, the spouses would replace the postdated checks with their own checks issued in the name of the members.

It was PEMSLA's policy not to approve applications for loans of members with outstanding debts. To subvert this policy, some PEMSLA officers devised a scheme to obtain additional loans despite their outstanding loan accounts. They took out loans in the names of unknowing members, without the knowledge or consent of the latter. The PEMSLA checks issued for these loans were then given to the spouses for rediscounting. The officers carried this out by forging the indorsement of the named payees in the checks.

In return, the spouses issued their personal checks (Rodriguez checks) in the name of the members and delivered the checks to an officer of PEMSLA. The PEMSLA checks, on the other hand, were deposited by the spouses to their account.

Meanwhile, the Rodriguez checks were deposited directly by PEMSLA to its savings account without any indorsement from the named payees. This was an irregular procedure made possible through the facilitation of Edmundo Palermo, Jr., treasurer of PEMSLA and bank teller in the PNB Branch. It appears that this became the

usual practice for the parties.

For the period November 1998 to February 1999, the spouses issued sixty nine (69) checks, in the total amount of P2,345,804.00. These were payable to forty seven (47) individual payees who were all members of PEMSLA.[4]

Petitioner PNB eventually found out about these fraudulent acts. To put a stop to this scheme, PNB closed the current account of PEMSLA. As a result, the PEMSLA checks deposited by the spouses were returned or dishonored for the reason "Account Closed." The corresponding Rodriguez checks, however, were deposited as usual to the PEMSLA savings account. The amounts were duly debited from the Rodriguez account. Thus, because the PEMSLA checks given as payment were returned, spouses Rodriguez incurred losses from the rediscounting transactions.

RTC Disposition

Alarmed over the unexpected turn of events, the spouses Rodriguez filed a civil complaint for damages against PEMSLA, the Multi-Purpose Cooperative of Philnabankers (MCP), and petitioner PNB. They sought to recover the value of their checks that were deposited to the PEMSLA savings account amounting to P2,345,804.00. The spouses contended that because PNB credited the checks to the PEMSLA account even without indorsements, PNB violated its contractual obligation to them as depositors. PNB paid the wrong payees, hence, it should bear the loss.

PNB moved to dismiss the complaint on the ground of lack of cause of action. PNB argued that the claim for damages should come from the payees of the checks, and not from spouses Rodriguez. Since there was no demand from the said payees, the obligation should be considered as discharged.

In an Order dated January 12, 2000, the RTC denied PNB's motion to dismiss.

In its Answer,[5] PNB claimed it is not liable for the checks which it paid to the PEMSLA account without any indorsement from the payees. The bank contended that spouses Rodriguez, the makers, actually did not intend for the named payees to receive the proceeds of the checks. Consequently, the payees were considered as "fictitious payees" as defined under the Negotiable Instruments Law (NIL). Being checks made to fictitious payees which are bearer instruments, the checks were negotiable by mere delivery. PNB's Answer included its cross-claim against its co-defendants PEMSLA and the MCP, praying that in the event that judgment is rendered against the bank, the cross-defendants should be ordered to reimburse PNB the amount it shall pay.

After trial, the RTC rendered judgment in favor of spouses Rodriguez (plaintiffs). It ruled that PNB (defendant) is liable to return the value of the checks. All counterclaims and cross-claims were dismissed. The dispositive portion of the RTC decision reads:

WHEREFORE, in view of the foregoing, the Court hereby renders judgment, as follows:

- Defendant is hereby ordered to pay the plaintiffs the total amount of P2,345,804.00 or reinstate or restore the amount of P775,337.00 in the PNBig Demand Deposit Checking/Current Account No. 810480-4 of Erlando T. Rodriguez, and the amount of P1,570,467.00 in the PNBig Demand Deposit, Checking/Current Account No. 810624-6 of Erlando T. Rodriguez and/or Norma Rodriguez, plus legal rate of interest thereon to be computed from the filing of this complaint until fully paid;
- The defendant PNB is hereby ordered to pay the plaintiffs the following reasonable amount of damages suffered by them taking into consideration the standing of the plaintiffs being sugarcane planters, realtors, residential subdivision owners, and other businesses:

(a)

Consequential damages, unearned income in the amount of P4,000,000.00, as a result of their having incurred great difficulty (sic) especially in the residential subdivision business, which was not pushed through and the contractor even threatened to file a case against the plaintiffs;

(b)

Moral damages in the amount of P1,000,000.00;

(c)

Exemplary damages in the amount of P500,000.00;

(d)

Attorney's fees in the amount of P150,000.00 considering that this case does not involve very complicated issues; and for the

(e)

Costs of suit.

- Other claims and counterclaims are hereby dismissed.[6]

CA Disposition

PNB appealed the decision of the trial court to the CA on the principal ground that the disputed checks should be considered as payable to bearer and not to order.

In a Decision[7] dated July 22, 2004, the CA reversed and set aside the RTC disposition. The CA concluded that the checks were obviously meant by the spouses to be really paid to PEMSLA. The court a quo declared:

We are not swayed by the contention of the plaintiffs-appellees (Spouses Rodriguez) that their cause of action arose from the alleged breach of contract by the defendant-appellant (PNB) when it paid the value of the checks to PEMSLA despite the checks being payable to order. Rather, we are more convinced by the strong and credible evidence for the defendant-appellant with regard to the plaintiffs-appellees' and PEMSLA's business arrangement - that the value of the rediscounted checks of the plaintiffs-appellees would be deposited in PEMSLA's account for payment of the loans it has approved in exchange for PEMSLA's checks with the full value of the said loans. This is the only obvious explanation as to why all the disputed sixty-nine (69) checks were in the possession of PEMSLA's errand boy for presentment to the defendant-appellant that led to this present controversy. It also appears that the teller who accepted the said checks was PEMSLA's officer, and that such was a regular practice by the parties until the defendant-appellant discovered the scam. The logical conclusion, therefore, is that the checks were never meant to be paid to order, but instead, to PEMSLA. We thus find no breach of contract on the part of the defendant-appellant.

According to plaintiff-appellee Erlando Rodriguez' testimony, PEMSLA allegedly issued post-dated checks to its qualified members who had applied for loans. However, because of PEMSLA's insufficiency of funds, PEMSLA approached the plaintiffs-appellees for the latter to issue rediscounted checks in favor of said applicant members. Based on the investigation of the defendant-appellant, meanwhile, this arrangement allowed the plaintiffs-appellees to make a profit by issuing rediscounted checks, while the officers of PEMSLA and other members would be able to claim their loans, despite the fact that they were disqualified for one reason or another. They were able to achieve this conspiracy by using other members who had loaned lesser amounts of money or had not applied at all. x x x.[8] (Emphasis added)

The CA found that the checks were bearer instruments, thus they do not require indorsement for negotiation; and that spouses Rodriguez and PEMSLA conspired with each other to accomplish this money-making scheme. The

payees in the checks were "fictitious payees" because they were not the intended payees at all.

The spouses Rodriguez moved for reconsideration. They argued, inter alia, that the checks on their faces were unquestionably payable to order; and that PNB committed a breach of contract when it paid the value of the checks to PEMSLA without indorsement from the payees. They also argued that their cause of action is not only against PEMSLA but also against PNB to recover the value of the checks.

On October 11, 2005, the CA reversed itself via an Amended Decision, the last paragraph and fallo of which read:

In sum, we rule that the defendant-appellant PNB is liable to the plaintiffs-appellees Sps. Rodriguez for the following:

- Actual damages in the amount of P2,345,804 with interest at 6% per annum from 14 May 1999 until fully paid;
- Moral damages in the amount of P200,000;
- Attorney's fees in the amount of P100,000; and
- Costs of suit.

WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by Us AFFIRMING WITH MODIFICATION the assailed decision rendered in Civil Case No. 99-10892, as set forth in the immediately next preceding paragraph hereof, and SETTING ASIDE Our original decision promulgated in this case on 22 July 2004.

SO ORDERED.[9]

The CA ruled that the checks were payable to order. According to the appellate court, PNB failed to present sufficient proof to defeat the claim of the spouses Rodriguez that they really intended the checks to be received by the specified payees. Thus, PNB is liable for the value of the checks which it paid to PEMSLA without indorsements from the named payees. The award for damages was deemed appropriate in view of the failure of PNB to treat the Rodriguez account with the highest degree of care considering the fiduciary nature of their relationship, which constrained respondents to seek legal action.

Hence, the present recourse under Rule 45.

Issues

The issues may be compressed to whether the subject checks are payable to order or to bearer and who bears the loss?

PNB argues anew that when the spouses Rodriguez issued the disputed checks, they did not intend for the named payees to receive the proceeds. Thus, they are bearer instruments that could be validly negotiated by mere delivery. Further, testimonial and documentary evidence presented during trial amply proved that spouses Rodriguez and the officers of PEMSLA conspired with each other to defraud the bank.

Our Ruling

Prefatorily, amendment of decisions is more acceptable than an erroneous judgment attaining finality to the prejudice of innocent parties. A court discovering an erroneous judgment before it becomes final may, *motu proprio* or upon motion of the parties, correct its judgment with the singular objective of achieving justice for the litigants.[10]

However, a word of caution to lower courts, the CA in Cebu in this particular case, is in order. The Court does not

sanction careless disposition of cases by courts of justice. The highest degree of diligence must go into the study of every controversy submitted for decision by litigants. Every issue and factual detail must be closely scrutinized and analyzed, and all the applicable laws judiciously studied, before the promulgation of every judgment by the court. Only in this manner will errors in judgments be avoided.

Now to the core of the petition.

As a rule, when the payee is fictitious or not intended to be the true recipient of the proceeds, the check is considered as a bearer instrument. A check is "a bill of exchange drawn on a bank payable on demand."^[11] It is either an order or a bearer instrument. Sections 8 and 9 of the NIL states:

SEC. 8. When payable to order. - The instrument is payable to order where it is drawn payable to the order of a specified person or to him or his order. It may be drawn payable to the order of -

(a)

A payee who is not maker, drawer, or drawee; or

(b)

The drawer or maker; or

(c)

The drawee; or

(d)

Two or more payees jointly; or

(e)

One or some of several payees; or

(f)

The holder of an office for the time being.

Where the instrument is payable to order, the payee must be named or otherwise indicated therein with reasonable certainty.

SEC. 9. When payable to bearer. - The instrument is payable to bearer -

(a)

When it is expressed to be so payable; or

(b)

When it is payable to a person named therein or bearer; or

(c)

When it is payable to the order of a fictitious or non-existing person, and such fact is known to the person making it so payable; or

(d)

When the name of the payee does not purport to be the name of any person; or

(e)

Where the only or last indorsement is an indorsement in blank.[12] (Underscoring supplied)

The distinction between bearer and order instruments lies in their manner of negotiation. Under Section 30 of the NIL, an order instrument requires an indorsement from the payee or holder before it may be validly negotiated. A bearer instrument, on the other hand, does not require an indorsement to be validly negotiated. It is negotiable by mere delivery. The provision reads:

SEC. 30. What constitutes negotiation. - An instrument is negotiated when it is transferred from one person to another in such manner as to constitute the transferee the holder thereof. If payable to bearer, it is negotiated by delivery; if payable to order, it is negotiated by the indorsement of the holder completed by delivery.

A check that is payable to a specified payee is an order instrument. However, under Section 9(c) of the NIL, a check payable to a specified payee may nevertheless be considered as a bearer instrument if it is payable to the order of a fictitious or non-existing person, and such fact is known to the person making it so payable. Thus, checks issued to "Prinsipe Abante" or "Si Malakas at si Maganda," who are well-known characters in Philippine mythology, are bearer instruments because the named payees are fictitious and non-existent.

We have yet to discuss a broader meaning of the term "fictitious" as used in the NIL. It is for this reason that We look elsewhere for guidance. Court rulings in the United States are a logical starting point since our law on negotiable instruments was directly lifted from the Uniform Negotiable Instruments Law of the United States.[13]

A review of US jurisprudence yields that an actual, existing, and living payee may also be "fictitious" if the maker of the check did not intend for the payee to in fact receive the proceeds of the check. This usually occurs when the maker places a name of an existing payee on the check for convenience or to cover up an illegal activity.[14] Thus, a check made expressly payable to a non-fictitious and existing person is not necessarily an order instrument. If the payee is not the intended recipient of the proceeds of the check, the payee is considered a "fictitious" payee and the check is a bearer instrument.

In a fictitious-payee situation, the drawee bank is absolved from liability and the drawer bears the loss. When faced with a check payable to a fictitious payee, it is treated as a bearer instrument that can be negotiated by delivery. The underlying theory is that one cannot expect a fictitious payee to negotiate the check by placing his indorsement thereon. And since the maker knew this limitation, he must have intended for the instrument to be negotiated by mere delivery. Thus, in case of controversy, the drawer of the check will bear the loss. This rule is justified for otherwise, it will be most convenient for the maker who desires to escape payment of the check to always deny the validity of the indorsement. This despite the fact that the fictitious payee was purposely named without any intention that the payee should receive the proceeds of the check.[15]

The fictitious-payee rule is best illustrated in *Mueller & Martin v. Liberty Insurance Bank*.^[16] In the said case, the corporation *Mueller & Martin* was defrauded by *George L. Martin*, one of its authorized signatories. *Martin* drew seven checks payable to the *German Savings Fund Company Building Association (GSFCBA)* amounting to \$2,972.50 against the account of the corporation without authority from the latter. *Martin* was also an officer of the *GSFCBA* but did not have signing authority. At the back of the checks, *Martin* placed the rubber stamp of the *GSFCBA* and signed his own name as indorsement. He then successfully drew the funds from *Liberty Insurance Bank* for his own personal profit. When the corporation filed an action against the bank to recover the amount of the checks, the claim was denied.

The US Supreme Court held in *Mueller* that when the person making the check so payable did not intend for the specified payee to have any part in the transactions, the payee is considered as a fictitious payee. The check is

then considered as a bearer instrument to be validly negotiated by mere delivery. Thus, the US Supreme Court held that Liberty Insurance Bank, as drawee, was authorized to make payment to the bearer of the check, regardless of whether prior indorsements were genuine or not.[17]

The more recent *Getty Petroleum Corp. v. American Express Travel Related Services Company, Inc.*[18] upheld the fictitious-payee rule. The rule protects the depositary bank and assigns the loss to the drawer of the check who was in a better position to prevent the loss in the first place. Due care is not even required from the drawee or depositary bank in accepting and paying the checks. The effect is that a showing of negligence on the part of the depositary bank will not defeat the protection that is derived from this rule.

However, there is a commercial bad faith exception to the fictitious-payee rule. A showing of commercial bad faith on the part of the drawee bank, or any transferee of the check for that matter, will work to strip it of this defense. The exception will cause it to bear the loss. Commercial bad faith is present if the transferee of the check acts dishonestly, and is a party to the fraudulent scheme. Said the US Supreme Court in *Getty*:

Consequently, a transferee's lapse of wary vigilance, disregard of suspicious circumstances which might have well induced a prudent banker to investigate and other permutations of negligence are not relevant considerations under Section 3-405 x x x. Rather, there is a "commercial bad faith" exception to UCC 3-405, applicable when the transferee "acts dishonestly - where it has actual knowledge of facts and circumstances that amount to bad faith, thus itself becoming a participant in a fraudulent scheme. x x x Such a test finds support in the text of the Code, which omits a standard of care requirement from UCC 3-405 but imposes on all parties an obligation to act with "honesty in fact." x x x[19] (Emphasis added)

Getty also laid the principle that the fictitious-payee rule extends protection even to non-bank transferees of the checks.

In the case under review, the Rodriguez checks were payable to specified payees. It is unrefuted that the 69 checks were payable to specific persons. Likewise, it is uncontroverted that the payees were actual, existing, and living persons who were members of PEMSLA that had a rediscounting arrangement with spouses Rodriguez.

What remains to be determined is if the payees, though existing persons, were "fictitious" in its broader context.

For the fictitious-payee rule to be available as a defense, PNB must show that the makers did not intend for the named payees to be part of the transaction involving the checks. At most, the bank's thesis shows that the payees did not have knowledge of the existence of the checks. This lack of knowledge on the part of the payees, however, was not tantamount to a lack of intention on the part of respondents-spouses that the payees would not receive the checks' proceeds. Considering that respondents-spouses were transacting with PEMSLA and not the individual payees, it is understandable that they relied on the information given by the officers of PEMSLA that the payees would be receiving the checks.

Verily, the subject checks are presumed order instruments. This is because, as found by both lower courts, PNB failed to present sufficient evidence to defeat the claim of respondents-spouses that the named payees were the intended recipients of the checks' proceeds. The bank failed to satisfy a requisite condition of a fictitious-payee situation - that the maker of the check intended for the payee to have no interest in the transaction.

Because of a failure to show that the payees were "fictitious" in its broader sense, the fictitious-payee rule does not apply. Thus, the checks are to be deemed payable to order. Consequently, the drawee bank bears the loss.[20]

PNB was remiss in its duty as the drawee bank. It does not dispute the fact that its teller or tellers accepted the 69 checks for deposit to the PEMSLA account even without any indorsement from the named payees. It bears stressing that order instruments can only be negotiated with a valid indorsement.

A bank that regularly processes checks that are neither payable to the customer nor duly indorsed by the payee is apparently grossly negligent in its operations.[21] This Court has recognized the unique public interest possessed by the banking industry and the need for the people to have full trust and confidence in their banks.[22] For this reason, banks are minded to treat their customer's accounts with utmost care, confidence, and honesty.[23]

In a checking transaction, the drawee bank has the duty to verify the genuineness of the signature of the drawer and to pay the check strictly in accordance with the drawer's instructions, i.e., to the named payee in the check. It should charge to the drawer's accounts only the payables authorized by the latter. Otherwise, the drawee will be violating the instructions of the drawer and it shall be liable for the amount charged to the drawer's account.[24]

In the case at bar, respondents-spouses were the bank's depositors. The checks were drawn against respondents-spouses' accounts. PNB, as the drawee bank, had the responsibility to ascertain the regularity of the indorsements, and the genuineness of the signatures on the checks before accepting them for deposit. Lastly, PNB was obligated to pay the checks in strict accordance with the instructions of the drawers. Petitioner miserably failed to discharge this burden.

The checks were presented to PNB for deposit by a representative of PEMSLA absent any type of indorsement, forged or otherwise. The facts clearly show that the bank did not pay the checks in strict accordance with the instructions of the drawers, respondents-spouses. Instead, it paid the values of the checks not to the named payees or their order, but to PEMSLA, a third party to the transaction between the drawers and the payees.

Moreover, PNB was negligent in the selection and supervision of its employees. The trustworthiness of bank employees is indispensable to maintain the stability of the banking industry. Thus, banks are enjoined to be extra vigilant in the management and supervision of their employees. In *Bank of the Philippine Islands v. Court of Appeals*,[25] this Court cautioned thus:

Banks handle daily transactions involving millions of pesos. By the very nature of their work the degree of responsibility, care and trustworthiness expected of their employees and officials is far greater than those of ordinary clerks and employees. For obvious reasons, the banks are expected to exercise the highest degree of diligence in the selection and supervision of their employees.[26]

PNB's tellers and officers, in violation of banking rules of procedure, permitted the invalid deposits of checks to the PEMSLA account. Indeed, when it is the gross negligence of the bank employees that caused the loss, the bank should be held liable.[27]

PNB's argument that there is no loss to compensate since no demand for payment has been made by the payees must also fail. Damage was caused to respondents-spouses when the PEMSLA checks they deposited were returned for the reason "Account Closed." These PEMSLA checks were the corresponding payments to the Rodriguez checks. Since they could not encash the PEMSLA checks, respondents-spouses were unable to collect payments for the amounts they had advanced.

A bank that has been remiss in its duty must suffer the consequences of its negligence. Being issued to named payees, PNB was duty-bound by law and by banking rules and procedure to require that the checks be properly indorsed before accepting them for deposit and payment. In fine, PNB should be held liable for the amounts of the checks.

One Last Note

We note that the RTC failed to thresh out the merits of PNB's cross-claim against its co-defendants PEMSLA and MPC. The records are bereft of any pleading filed by these two defendants in answer to the complaint of respondents-spouses and cross-claim of PNB. The Rules expressly provide that failure to file an answer is a

ground for a declaration that defendant is in default.[28] Yet, the RTC failed to sanction the failure of both PEMSLA and MPC to file responsive pleadings. Verily, the RTC dismissal of PNB's cross-claim has no basis. Thus, this judgment shall be without prejudice to whatever action the bank might take against its co-defendants in the trial court.

To PNB's credit, it became involved in the controversial transaction not of its own volition but due to the actions of some of its employees. Considering that moral damages must be understood to be in concept of grants, not punitive or corrective in nature, We resolve to reduce the award of moral damages to P50,000.00.[29]

WHEREFORE, the appealed Amended Decision is AFFIRMED with the MODIFICATION that the award for moral damages is reduced to P50,000.00, and that this is without prejudice to whatever civil, criminal, or administrative action PNB might take against PEMSLA, MPC, and the employees involved.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Chico-Nazario, and Nachura, JJ., concur.

[1] CA-G.R. CV No. 76645 dated October 11, 2005. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Pampio A. Abarintos and Ramon M. Bato, Jr., concurring; rollo, pp. 29-42.

[2] Civil Case No. 99-10892, Regional Trial Court in Negros Occidental, Branch 51, Bacolod City, dated May 10, 2002; CA rollo, pp. 63-72.

[3] A financing scheme where a postdated check is exchanged for a current check with a discounted face value.

[4] Current Account No. 810480-4 in the name of Erlando T. Rodriguez

Name of Payees Check No. Date Issued Amount

01. Simon Carmelo B. Libo-on 0001110 11.27.98 40,934.00

02. Simon Carmelo Libo-on 0000011589 02.01.99 29,877.00

03. Simon Libo-on 0000011567 01.25.99 50,350.00

04. Pacifico Castillo 0000011565 01.22.99 39,995.00

05. Jose Bago-od 0000011587 02.01.99 38,000.00

06. Dioleto Delcano 0000011594 02.02.99 28,500.00

07. Antonio Maravilla 0000011593 02.02.99 37,715.00

08. Josel Juguan 0000011595 02.02.99 45,002.00

09. Domingo Roa, Jr. 0000011591 02.01.99 35,373.00

10. Antonio Maravilla 0001657 02.05.99 39,900.00

11. Christy Mae Berden 0001655 02.05.99 28,595.00

12. Nelson Guadalupe 0000011588 02.01.99 34,819.00

13. Antonio Londres 0000011596 02.05.99 32,851.00

14. Arnel Navarosa 0000011597 02.05.99 28,785.00

15. Estrella Alunan 0000011600 02.05.99 32,509.00
16. Dennis Montemayor 0000011598 02.05.99 43,691.00
17. Mickle Argusar 0000011599 02.05.99 31,498.00
18. Perlita Gallego 0000011564 01.21.99 38,000.00
19. Sheila Arcobillas 0000011563 01.19.99 38,000.00
20. Danilo Villarosa 0001656 02.05.99 32,006.00
21. Almie Borce 0000011583 02.01.99 20,093.00
22. Ronie Aragon 0000011566 01.20.99 28,844.00

Total: 775,337.00

Current Account No. 810624-6 in the name of Erlando and/or Norma Rodriguez

Name of Payees Check No. Date Issued Amount

01. Elma Bacarro 0001944 01.15.99 37,449.00
02. Delfin Recarder 0001927 01.14.99 30,020.00
03. Elma Bacarro 0001926 01.14.99 34,884.00
04. Perlita Gallego 0001924 01.14.99 35,502.00
05. Jose Weber 0001932 01.14.99 38,323.00
06. Rogelio Alfonso 0001922 01.14.99 43,852.00
07. Gianni Amantillo 0001928 01.14.99 32,414.00
08. Eddie Bago-od 0001929 01.14.99 38,361.00
09. Manuel Longero 0001933 01.14.99 38,285.00
10. Anavic Lorenzo 0001923 01.14.99 29,982.00
11. Corazon Salva 0001945 01.15.99 37,449.00
12. Arlene Diamante 0001951 01.18.99 39,995.00
13. Joselin Laurilla 0001955 01.18.99 37,221.00
14. Andy Javellana 0001960 01.22.99 30,923.00
15. Erdelinda Porras 0001958 01.22.99 40,679.00
16. Nelson Guadalupe 0001956 01.18.99 24,700.00
17. Barnard Escano 0001969 01/22/99 38,304.00
18. Buena Coscolluela 0001968 01/22/99 37,706.00
19. Erdelinda Porras 0002021 02/01/99 36,727.00
20. Neda Algara 0002023 02/01/99 38,000.00

21. Eddie Bago-od	0002030	02/02/99	26,600.00
22. Gianni Amantillo	0002032	02/02/99	19,000.00
23. Alfredo Llena	0002020	02/01/99	32,282.00
24. Emmanuel Fermo	0001972	01/22/99	36,376.00
25. Yvonne Ano-os	0001967	01/22/99	36,566.00
26. Joel Abibuag	0002022	02/01/99	37,981.00
27. Ma. Corazon Salva	0002029	02/02/99	25,270.00
28. Jose Bago-od	0001957	01/18/99	34,656.00
29. Avelino Brion	0001965	01/22/99	31,882.00
30. Mickle Algusar	0001962	01/22/99	25,004.00
31. Jose Weber	0001959	01/22/99	37,001.00
32. Joel Velasco	0002028	02/02/99	9,500.00
33. Elma Bacarro	0002031	02/02/99	23,750.00
34. Grace Tambis	0001952	01/18/99	39,995.00
35. Proceso Mailim	0001980	01/21/99	37,193.00
36. Ronnie Aragon	0001983	01/22/99	30,324.00
37. Danilo Villarosa	0001931	01/14/99	31,008.00
38. Joel Abibuag	0001954	01/18/99	26,600.00
39. Danilo Villarosa	0001984	01/22/99	26,790.00
40. Reynard Guia	0001985	01/22/99	42,959.00
41. Estrella Alunan	0001925	01/14/99	39,596.00
42. Eddie Bago-od	0001982	01/22/99	31,018.00
43. Jose Bago-od	0001982	01/22/99	37,240.00
44. Nicandro Aguilar	0001964	01/22/99	52,250.00
45. Guandencia Banaston	0001963	01/22/99	38,000.00
46. Dennis Montemayor	0001961	01/22/99	26,600.00
47. Eduardo Buglosa	0002027	01/02/99	14,250.00
Total			1,570,467.00
Grand Total			2,345,804.00

[5] Rollo, pp. 64-69.

[6] CA rollo, pp. 71-72.

[7] Rollo, pp. 44-49. Penned by Associate Justice Isaias P. Dicdican, with Associate Justices Elvi John S. Asuncion and Ramon M. Bato, Jr., concurring.

[8] Id. at 47.

[9] Id. at 41.

[10] Veluz v. Justice of the Peace of Sariaga, 42 Phil. 557 (1921).

[11] Negotiable Instruments Law, Sec. 185. Check defined. - A check is a bill of exchange drawn on a bank payable on demand. Except as herein otherwise provided, the provisions of this Act applicable to a bill of exchange payable on demand apply to a check.

Section 126. Bill of exchange defined. - A bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer.

[12] Id.

[13] Campos, J.C., Jr. and Lopez-Campos, M.C., Notes and Selected Cases on Negotiable Instruments Law (1994), 5th ed., pp. 8-9.

[14] Bourne v. Maryland Casualty, 192 SE 605 (1937); Norton v. City Bank & Trust Co., 294 F. 839 (1923); United States v. Chase Nat. Bank, 250 F. 105 (1918).

[15] Mueller & Martin v. Liberty Insurance Bank, 187 Ky. 44, 218 SW 465 (1920).

[16] Id.

[17] Mueller & Martin v. Liberty Insurance Bank, id.

[18] 90 NY 2d 322 (1997), citing the Uniform Commercial Code, Sec. 3-405.

[19] Getty Petroleum Corp. v. American Express Travel Related Services Company, Inc., id., citing Peck v. Chase Manhattan Bank, 190 AD 2d 547, 548-549 (1993); Touro Coll. v. Bank Leumi Trust Co., 186 AD 2d 425, 427 (1992); Prudential-Bache Sec. v. Citibank, N.A., 73 NY 2d 276 (1989); Merrill Lynch, Pierce, Fenner & Smith v. Chemical Bank, 57 NY 2d 447 (1982).

[20] See Traders Royal Bank v. Radio Philippines Network, Inc., G.R. No. 138510, October 10, 2002, 390 SCRA 608.

[21] Id.

[22] Metropolitan Bank and Trust Company v. Cabilzo, G.R. No. 154469, December 6, 2006, 510 SCRA 259.

[23] Citytrust Banking Corporation v. Intermediate Appellate Court, G.R. No. 84281, May 27, 1994, 232 SCRA 559; Bank of the Philippine Islands v. Intermediate Appellate Court, G.R. No. 69162, February 21, 1992, 206 SCRA 408.

[24] Associated Bank v. Court of Appeals, G.R. Nos. 107382 & 107612, January 31, 1996, 252 SCRA 620, 631.

[25] G.R. No. 102383, November 26, 1992, 216 SCRA 51.

[26] Bank of the Philippine Islands v. Court of Appeals, id. at 71.

[27] Id. at 77.

[28] Rules of Civil Procedure, Rule 9, Sec. 3. Default: declaration of. - If the defending party fails to answer within the time allowed therefor, the court shall, upon motion of the claiming party with notice to the defending party, and proof of such failure, declare the defending party in default. Thereupon, the court shall proceed to render judgment granting the claimant such relief as his pleading may warrant, unless the court in its discretion requires the claimant to submit evidence. Such reception of evidence may be delegated to the clerk of court.

[29] Morales v. Court of Appeals, G.R. No. 117228, June 19, 1997, 274 SCRA 282.

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