

PHILIPPINE SAVINGS BANK, PETITIONER, VS. CHOWKING FOOD CORPORATION, RESPONDENT.

G.R. No. 177526. July 04, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

IT is the peculiar quality of a fool to perceive the fault of others and to forget his own. Ang isang kakatuwang katangian ng isang hangal ay punahin ang kamalian ng iba at kalimutan naman ang sa kanya.

This is a petition for review on certiorari of the Decision[1] of the Court of Appeals (CA) reinstating the Decision of the Regional Trial Court (RTC), Manila, Branch 5. The RTC ordered petitioner Philippine Savings Bank (PSBank) and its Bustos Branch Head, Erlinda O. Santos, to reimburse respondent Chowking Food Corporation (Chowking) the amount corresponding to five (5) illegally encashed checks.

The Facts

Between March 15, 1989 and August 10, 1989, Joe Kuan Food Corporation issued in favor of Chowking five (5) PSBank checks with the following numbers, dates and denominations:

Check No. Amount Date

017069 P 44,120.00 15 March 1989

053528 P135,052.87 09 May 1989

074602 P160,138.12 08 August 1989

074631 P159,634.13 08 August 1989

017096 P 60,036.74 10 August 1989[2]

The total amount of the subject checks reached P556,981.86.

On the respective due dates of each check, Chowking's acting accounting manager, Rino T. Manzano, endorsed and encashed said checks with the Bustos branch of respondent PSBank.[3]

All the five checks were honored by defendant Santos, even with only the endorsement of Manzano approving them. The signatures of the other authorized officers of respondent corporation were absent in the five (5) checks, contrary to usual banking practice.[4] Unexpectedly, Manzano absconded with and misappropriated the check proceeds.[5]

When Chowking found out Manzano's scheme, it demanded reimbursement from PSBank.[6] When PSBank refused to pay, Chowking filed a complaint[7] for a sum of money with damages before the RTC. Likewise impleaded were PSBank's president, Antonio S. Abacan, and Bustos branch head, Santos.[8]

Both PSBank and Santos filed cross claims and third party complaints against Manzano.[9] Despite all

diligent efforts, summonses were not served upon third party defendant Manzano. Santos did not take any further action and her third party complaint was archived.[10]

Meanwhile, petitioner caused the service of its summons on the cross-claim and third party complaints through publication. On its subsequent motion, Manzano was declared in default for failure to file a responsive pleading.[11]

Respondent filed a motion for summary judgment. Petitioner opposed the motion. On February 1, 1995, the trial court denied the motion via an order of even date.[12]

In its Answer, petitioner did not controvert the foregoing facts, but denied liability to respondent for the encashed checks.[13] Petitioner bank maintained it exercised due diligence in the supervision of all its employees. It even dismissed defendant Santos after she was found guilty of negligence in the performance of her duties.[14]

Defendant Santos, on the other hand, denied that she had been negligent in her job. She averred that she merely followed the bank's practice of honoring respondent's checks even if accompanied only by Manzano's endorsement. [15]

Defendant Abacan likewise denied any liability to respondent. He alleged that, as president and officer of petitioner bank, he played no role in the transactions complained of.[16] Thus, respondent has no cause of action against him.

Petitioner, Santos and Abacan were unanimous in asserting that respondent is estopped from claiming reimbursement and damages since it was negligent in allowing Manzano to take hold, endorse, and encash its checks. Petitioner pointed out that the proximate cause of respondent's loss was its own negligence.[17]

RTC Disposition

On August 24, 1998, the RTC rendered judgment in favor of respondent, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff and as against defendant Philippine Savings Bank and Erlinda O. Santos ordering the said defendants to pay plaintiff, jointly and severally:

- The amount of P556,981.86 plus interest at the rate of 12% per annum from August 15, 1989 until said amount shall have been paid;
- 20% of the total amount due plaintiff as attorney's fees;
- The sum of P100,000.00 as exemplary damages;
- The sum of P1,000,000.00 for plaintiff's unrealized profits.

The complaint with respect to defendant Antonio Abacan, Jr. as well as his counterclaim and cross claim are hereby DISMISSED.

With respect to the cross claim of defendant PSBank against Erlinda Santos and its third-party complaint against Rino T. Manzano, both Santos and Manzano are hereby ordered to jointly and severally, reimburse defendant PSBank whatever amount the latter shall be constrained to pay plaintiff in connection with this case.

SO ORDERED.[18]

Aggrieved, petitioner filed a motion for reconsideration. Through an Order dated January 11, 1999, the RTC reversed its earlier ruling and held that it was respondent's own negligence that was the proximate cause of the loss. The fallo of the amended RTC decision now reads:

In light of the foregoing grounds and observations, the Decision of August 24, 1998, by this Court is accordingly modified as follows:

- Ordering the dismissal of the complaint by the plaintiff Chowking Food Corporation against the defendants, Philippine Savings Bank (PSBank) and Erlinda Santos for lack of basis in fact and law;
- Ordering the third party defendant, Regino or Rino T. Manzano to pay the plaintiff Chowking Food Corporation, the following:
- To reimburse the plaintiff the amount of P556,981.86 plus interest at the rate of 12% per annum from August 15, 1989, until said amount has been fully satisfied;
- To pay an attorney's fee equivalent to 20% of the total amount due the plaintiff;
- To pay an amount of P100,000.00 the plaintiff for actual and compensatory damages, plus the costs of this suit.

SO ORDERED.[19]

Dissatisfied with the modified ruling of the RTC, respondent appealed to the CA.

CA Disposition

In its appeal, respondent Chowking contended, inter alia, that the RTC erred in ruling that the proximate cause of the loss was its own negligence; and that its claim was barred by estoppel.

On January 31, 2007, the CA granted the appeal, disposing as follows:

WHEREFORE, the instant appeal is GRANTED. The order appealed from is hereby SET ASIDE and the 24 August 1998 decision is consequently REINSTATED with modification that the awards of attorney's fees, exemplary damages, and alleged P1,000,000.00 unrealized profits of the appellant are DELETED.

IT IS SO ORDERED.[20]

The CA held that both petitioner PSBank and Santos should bear the loss. Said the appellate court:

It is admitted that PSB cashed, over the counter, the checks of the appellant indorsed by Manzano alone. Since there is no more dispute on the negligent act of Santos in honoring the appellant's checks, over the counter, despite the proper indorsements, the categorical finding of negligence against her, remaining unrebutted, is deemed established. This in effect warrants a finding that Santos is liable for damages to the appellant. The lower court therefore erred in dismissing the complaint against her.[21]

Further, the CA held that:

Contrary to PSB's contention that it should not be held liable because it neither consented to nor had knowledge of Santos' (sic) violations, such liability of Santos is solidary with PSB pursuant to Article 2176 in relation to Article 2180 of the Civil Code which states:

"Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done....

Art. 2180. The obligation imposed by Art. 2176 is demandable not only for one's own acts or omissions but also for those of persons for whom one is responsible.

x x x x

Employers shall be liable for the damage caused by their employees and household helpers acting within the scope of their assigned tasks even though the former are not engaged in any business or activity.

x x x x

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage."

x x x However, with banks like PSB, the degree of diligence required is more than that of a good father of a family considering that the business of banking is imbued with public interest due to the nature of its functions. Highest degree of diligence is needed which PSB, in this case, failed to observe.

x x x Its argument that it should not be held responsible for the negligent acts of Santos because those were independent acts x x x perpetrated without its knowledge and consent is without basis in fact and in law. Assuming that PSB did not err in hiring Santos for her position, its lack of supervision over her made it solidarily liable for the unauthorized encashment of the checks involved. In the supervision of employees, the employer must formulate standard operating procedures, monitor their implementation and impose disciplinary measures for the breach thereof. The appellee, in this case, presented no evidence that it formulated rules/guidelines for the proper performance of functions of its employees and that it strictly implemented and monitored compliance therewith. x x x[22]

The CA also disagreed with petitioner's contention that respondent's own negligence was the proximate cause of its loss. The CA opined that even assuming that respondent was also negligent in allowing Manzano to encash its checks, petitioner had the last clear chance to avert injury and loss to respondent. This could have been done if petitioner, through Santos, faithfully and carefully observed its encashment rules and procedures.

The CA ratiocinated:

x x x Had Santos not been remiss in verifying the indorsements of the checks involved, she would not have cashed the same because Manzano, whose only signature appears therein, is apparently not an authorized signatory of the appellant x x x had every means to determine the validity of those indorsements but for one reason or another she was neglectful of her duty x x x as admitted by PSB, such over the counter encashments are not even sanctioned by its policies but Santos simply ignored the same. It appears clear that Santos let the opportunity slip by when an exercise of ordinary prudence expected of bank employees would have sufficed to prevent the loss.[23]

Issues

Petitioner has resorted to the present recourse and assigns to the CA the following errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN NOT RULING THAT RESPONDENT WAS ESTOPPED FROM ASSERTING ITS CLAIM AGAINST PETITIONER.

II

THE HONORABLE COURT OF APPEALS ERRED WHEN IT DID NOT RULE THAT RESPONDENT'S NEGLIGENCE WAS THE PROXIMATE CAUSE OF ITS OWN LOSS (Underscoring supplied)

Our Ruling

The doctrine of equitable estoppel or estoppel in pais finds no application in the present case. The equitable doctrine of estoppel was explained by this Court in *Caltex (Philippines), Inc.*

v. Court of Appeals:[24]

Under the doctrine of estoppel, an admission or representation is rendered conclusive upon the person making it, and cannot be denied or disproved as against the person relying thereon. A party may not go back on his

own acts and representations to the prejudice of the other party who relied upon them. In the law of evidence, whenever a party has, by his own declaration, act, or omission, intentionally and deliberately led another to believe a particular thing true, to act upon such belief, he cannot, in any litigation arising out of such declaration, act, or omission, be permitted to falsify it.[25]

The principle received further elaboration in *Maneclang v. Baun*: [26]

In estoppel by pais, as related to the party sought to be estopped, it is necessary that there be a concurrence of the following requisites: (a) conduct amounting to false representation or concealment of material facts or at least calculated to convey the impression that the facts are otherwise than, and inconsistent with, those which the party subsequently attempts to assert; (b) intent, or at least expectation that this conduct shall be acted upon, or at least influenced by the other party; and (c) knowledge, actual or constructive of the actual facts.[27]

Estoppel may vary somewhat in definition, but all authorities agree that a party invoking the doctrine must have been misled to one's prejudice. That is the final and, in reality, most important of the elements of equitable estoppel.[28] It is this element that is lacking here.

We agree with the CA that Chowking did not make any false representation or concealment of material facts in relation to the encashments of the previous checks. As adverted to earlier, respondent may have allowed Manzano to previously encash its checks, but it has always been accompanied with the endorsements of the other authorized signatories. Respondent did not allow petitioner to have its checks encashed without the signature of all of its authorized signatories.

The CA pointed out:

We find at the back of those checks, whereon indorsement usually appears, the signature of Manzano together with other signature/signatures though mostly are illegible. It appears then that, assuming the appellant impliedly tolerated the act of Manzano in indorsing the checks, it did not allow Manzano "alone" to indorse its checks as what actually happened in this case because his previous indorsements were coupled with other indorsements of the appellant's signatories. There is, therefore, no sufficient evidence to sustain PSB's submission. On this score alone, the defense of estoppel must fail.[29](Underscoring and emphasis supplied)

Neither can estoppel be appreciated in relation to petitioner itself. In *Kalalo v. Luz*, [30] the Court enumerated the elements of estoppel in this wise:

x x x As related to the party claiming the estoppel, the essential elements are (1) lack of knowledge and of the means of knowledge of the truth as the facts in question; (2) reliance, in good faith, upon the conduct and statements of the party to be estopped; (3) action or inaction based thereon of such character as to change the position or status of the party claiming the estoppel, to his injury, detriment or prejudice.[31]

Here, the first two elements are wanting. Petitioner has knowledge of the truth and the means to it as to the proper endorsements necessary in encashing respondent's checks. Respondent has an account with petitioner bank and, as such, is privy to the proper signatories to endorse respondent's checks.

Neither can petitioner claim good faith.

It is elementary that estoppel cannot be sustained in doubtful inference. Absent the conclusive proof that its essential elements are present, estoppel must fail. Because estoppel, when misapplied, becomes a most effective weapon to accomplish an injustice, inasmuch as it shuts a man's mouth from speaking the truth.[32]

Petitioner failed to prove that it has observed the due diligence required of banks under the law. Contrary to petitioner's view, its negligence is the proximate cause of respondent's loss.

It cannot be over emphasized that 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.[33] The highest degree of diligence is expected.[34]

In its declaration of policy, the General Banking Law of 2000[35] requires of banks the highest standards of integrity and performance. Needless to say, a bank is "under obligation to treat the accounts of its depositors with meticulous care.[36] The fiduciary nature of the relationship between the bank and the depositors must always be of paramount concern.[37]

checks with the lone endorsement of Manzano. In the similar case of Philippine Bank of Commerce v. Court of Appeals,[38] an employee of Rommel's Marketing Corporation (RMC) was able to illegally deposit in a different account the checks of the corporation. This Court found that it was the bank teller's failure to exercise extraordinary diligence to validate the deposit slips that caused the crime to be perpetrated.

The Court held thus:

Negligence here lies not only on the part of Ms. Mabayad but also on the part of the bank itself in its lackadaisical selection and supervision of Ms. Mabayad. This was exemplified in the testimony of Mr. Romeo Bonifacio, then Manager of the Pasig Branch of the petitioner bank and now its Vice-President, to the effect that, while he ordered the investigation of the incident, he never came to know that blank deposit slips were validated in total disregard of the bank's validation procedures, viz.:

Q:

Did he ever tell you that one of your cashiers affixed the stamp mark of the bank on the deposit slips and they validated the same with the machine, the fact that those deposit slips were unfilled up, is there any report similar to that?

A: No, it was not the cashier but the teller.

Q: The teller validated the blank deposit slip?

A: No it was not reported.

Q: You did not know that any one in the bank tellers or cashiers validated the blank deposit slip?

A: I am not aware of that.

Q: It is only now that you are aware of that?

A: Yes, Sir.

x x x x

It was this negligence x x x coupled by the negligence of the petitioner bank in the selection and supervision of its bank teller, which was the proximate cause of the loss suffered by private respondent, and not the latter's act of entrusting cash to a dishonest employee, as insisted by the petitioners.[39]

Proximate cause is determined by the facts of the case. It is that cause which, in natural and continuous sequence, unbroken by any efficient intervening cause, produces the injury, and without which the result would not have occurred.[40]

Measured by the foregoing yardstick, the proximate cause of the loss is not respondent's alleged negligence in allowing Manzano to take hold and encash respondent's checks. The proximate cause is petitioner's own

negligence in the supervision of its employees when it overlooked the irregular practice of encashing checks even without the requisite endorsements.

In *Bank of the Philippine Islands v. Casa Montessori Internationale*,^[41] this Court similarly held:

For allowing payment on the checks to a wrongful and fictitious payee, BPI - the drawee bank - becomes liable to its depositor-drawer. Since the encashing bank is one of its branches, BPI can easily go after it and hold it liable for reimbursement. x x x In both law and equity, when one of two innocent persons "must suffer by the wrongful act of a third person, the loss must be borne by the one whose negligence was the proximate cause of the loss or who put it into the power of the third person to perpetrate the wrong."^[42]

Further, the Court ruled:

Pursuant to its prime duty to ascertain well the genuineness of the signatures of its client-depositors on checks being encashed, BPI is "expected to use reasonable business prudence." In the performance of that obligation, it is bound by its internal banking rules and regulations that form part of the contract it enters into with its depositors.

Unfortunately, it failed in that regard. x x x Without exercising the required prudence on its part, BPI accepted and encashed the eight checks presented to it. As a result, it proximately contributed to the fraud and should be held primarily liable for the "negligence of its officers or agents when acting within the course and scope of their employment." It must bear the loss.^[43]

WHEREFORE, the petition is DENIED for lack of merit.

SO ORDERED.

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

[1] Rollo, pp. 39-55. Dated January 31, 2007. Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Bienvenido L. Reyes and Aurora Santiago-Lagman, concurring.

[2] Id. at 58.

[3] Id.

[4] Id. at 40.

[5] Id. at 58.

[6] Id. at 58-59.

[7] Docketed as Civil Case No. 94-50776.

[8] Rollo, p. 57.

[9] Id.

[10] Id.

[11] Id. at 58.

[12] Id.

[13] Id.

- [14] Id.
- [15] Id.
- [16] Id.
- [17] Id. at 41.
- [18] Id. at 42.
- [19] Id. at 43.
- [20] Id. at 54.
- [21] Id. at 44.
- [22] Id. at 44-46.
- [23] Id. at 51-52.
- [24] G.R. No. 97753, August 10, 1992, 212 SCRA 448.
- [25] Caltex (Philippines), Inc. v. Court of Appeals, id. at 457.
- [26] G.R. No. 27876, April 22, 1992, 208 SCRA 179.
- [27] Maneciang v. Baun, id. at 192.
- [28] Vega v. San Carlos Milling Company Limited, G.R. No. 21549, October 22, 1924.
- [29] Rollo, p. 49.
- [30] G.R. No. L-27782, July 31, 1970, 34 SCRA 337.
- [31] Kalalo v. Luz , id. at 347.
- [32] 28 Am. Jur. 2d, pp. 601-602.
- [33] Bank of the Philippine Islands v. Court of Appeals, 383 Phil. 538 (2000); Philippine Bank of Commerce v. Court of Appeals, 336 Phil. 667 (1997).
- [34] Philippine Commercial International Bank v. Court of Appeals, G.R. No. 121413, January 29, 2000, 350 SCRA 446.
- [35] Republic Act No. 8791.
- [36] Westmont Bank v. Ong, G.R. No. 132560, January 30, 2002, 375 SCRA 212; citing Citytrust Banking Corp. v. Intermediate Appellate Court, G.R. No. 84281, May 27, 1994, 232 SCRA 559.
- [37] Simex International (Manila), Inc. v. Court of Appeals, G.R. No. 88013, March 14, 1997, 183 SCRA 360.
- [38] G.R. No. 97626, March 14, 1997, 269 SCRA 695.
- [39] Philippine Bank of Commerce v. Court of Appeals, id. at 705-706.
- [40] Bataclan v. Medina, 109 Phil. 181 (1960).
- [41] G.R. No. 149454, May 28, 2004, 430 SCRA 261.
- [42] Bank of the Philippine Islands v. Casa Montessori Internationale, id. at 287.

[43] Id. at 288.

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