

METROPOLITAN BANK AND TRUST COMPANY (FORMERLY ASIANBANK CORPORATION), PETITIONER, VS. BA FINANCE CORPORATION AND MALAYAN INSURANCE CO., INC., RESPONDENTS.

G.R. No. 179952. December 04, 2009

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Lamberto Bitanga (Bitanga) obtained from respondent BA Finance Corporation (BA Finance) a P329,280[1] loan to secure which, he mortgaged his car to respondent BA Finance.[2] The mortgage contained the following stipulation:

The MORTGAGOR covenants and agrees that he/it will cause the property(ies) hereinabove mortgaged to be insured against loss or damage by accident, theft and fire for a period of one year from date hereof with an insurance company or companies acceptable to the MORTGAGEE in an amount not less than the outstanding balance of mortgage obligations and that he/it will make all loss, if any, under such policy or policies, payable to the MORTGAGEE or its assigns as its interest may appear x x x.[3] (emphasis and underscoring supplied)

Bitanga thus had the mortgaged car insured by respondent Malayan Insurance Co., Inc. (Malayan Insurance)[4] which issued a policy stipulating that, inter alia,

Loss, if any shall be payable to BA FINANCE CORP. as its interest may appear. It is hereby expressly understood that this policy or any renewal thereof, shall not be cancelled without prior notification and conformity by BA FINANCE CORPORATION.[5] (emphasis and underscoring supplied)

The car was stolen. On Bitanga's claim, Malayan Insurance issued a check payable to the order of "B.A. Finance Corporation and Lamberto Bitanga" for P224,500, drawn against China Banking Corporation (China Bank). The check was crossed with the notation "For Deposit Payees' Account Only." [6]

Without the indorsement or authority of his co-payee BA Finance, Bitanga deposited the check to his account with the Asianbank Corporation (Asianbank), now merged with herein petitioner Metropolitan Bank and Trust Company (Metrobank). Bitanga subsequently withdrew the entire proceeds of the check.

In the meantime, Bitanga's loan became past due, but despite demands, he failed to settle it.

BA Finance eventually learned of the loss of the car and of Malayan Insurance's issuance of a crossed check payable to it and Bitanga, and of Bitanga's depositing it in his account at Asianbank and withdrawing the entire proceeds thereof.

BA Finance thereupon demanded the payment of the value of the check from Asianbank[7] but to no avail, prompting it to file a complaint before the Regional Trial Court (RTC) of Makati for sum of money and damages against Asianbank and Bitanga,[8] alleging that, inter alia, it is entitled to the entire proceeds of the check.

In its Answer with Counterclaim,[9] Asianbank alleged that BA Finance "instituted [the] complaint in bad faith to coerce [it] into paying the whole amount of the CHECK knowing fully well that its rightful claim, if any, is against Malayan [Insurance]."[10]

Asianbank thereafter filed a cross-claim against Bitanga,[11] alleging that he fraudulently induced its personnel to release to him the full amount of the check; and that on being later informed that the entire amount of the check did not belong to Bitanga, it took steps to get in touch with him but he had changed residence without leaving any forwarding address.[12]

And Asianbank filed a third-party complaint against Malayan Insurance,[13] alleging that Malayan Insurance was grossly negligent in issuing the check payable to both Bitanga and BA Finance and delivering it to Bitanga without the consent of BA Finance.[14]

Bitanga was declared in default in Asianbank's cross-claim.[15]

Branch 137 of the Makati RTC, finding that Malayan Insurance was not privy to the contract between BA Finance and Bitanga, and noting the claim of Malayan Insurance that it is its policy to issue checks to both the insured and the financing company, held that Malayan Insurance cannot be faulted for negligence for issuing the check payable to both BA Finance and Bitanga.

The trial court, holding that Asianbank was negligent in allowing Bitanga to deposit the check to his account and to withdraw the proceeds thereof, without his co-payee BA Finance having either indorsed it or authorized him to indorse it in its behalf,[16] found Asianbank and Bitanga jointly and severally liable to BA Finance following Section 41 of the Negotiable Instruments Law and *Associated Bank v. Court of Appeals*. [17]

Thus the trial court disposed:

WHEREFORE, premises considered, judgment is hereby rendered ordering defendants Asian Bank Corporation and Lamberto Bitanga:

- 1) To pay plaintiff jointly and severally the sum of P224,500.00 with interest thereon at the rate of 12% from September 25, 1992 until fully paid;
- 2) To pay plaintiff the sum of P50,000.00 as exemplary damages; P20,000.00 as actual damages; P30,000.00 as attorney's fee; and
- 3) To pay the costs of suit.

Asianbank's and Bitanga's [sic] counterclaims are dismissed.

The third party complaint of defendant/third party plaintiff against third-party defendant Malayan Insurance, Co., Inc. is hereby dismissed. Asianbank is ordered to pay Malayan attorney's fee of P50,000.00 and a per appearance fee of P500.00.

On the cross-claim of defendant Asianbank, co-defendant Lamberto Bitanga is ordered to pay the former the amounts the latter is ordered to pay the plaintiff in Nos. 1, 2 and 3 above-mentioned.

SO ORDERED.[18] (emphasis and underscoring supplied)

Before the Court of Appeals, Asianbank, in its Appellant's Brief, submitted the following issues for consideration:

- 3.01.1.1 Whether BA Finance has a cause of action against Asianbank.
- 3.01.1.2 Assuming that BA Finance has a valid cause of action, may it claim from Asianbank more than one-half of the value of the check considering that it is a mere co-payee or joint payee of the check?

3.01.1.3 Whether BA Finance is liable to Asianbank for actual and exemplary damages for wrongfully bringing the case to court.

3.01.1.4 Whether Malayan is liable to Asianbank for reimbursement of any sum of money which this Honorable Court may award to BA Finance in this case.[19] (underscoring supplied)

And it proffered the following arguments:

A. BA Finance has no cause of action against Asianbank as it has no legal right and title to the check considering that the check was not delivered to BA Finance. Hence, BA Finance is not a holder thereof under the Negotiable Instruments Law.

B. Asianbank, as collecting bank, is not liable to BA Finance as there was no privity of contract between them.

C. Asianbank, as collecting bank, is not liable to BA Finance, considering that, as the intermediary between the payee and the drawee Chinabank, it merely acted on the instructions of drawee Chinabank to pay the amount of the check to Bitanga, hence, the consequent damage to BA Finance was due to the negligence of Chinabank.

D. Malayan's act of issuing and delivering the check solely to Bitanga in violation of the "loss payee" clause in the Policy, is the proximate cause of the alleged damage to BA Finance.

E. Assuming Asianbank is liable, BA Finance can claim only his proportionate interest on the check as it is a joint payee thereof.

F. Bitanga alone is liable for the amount to BA Finance on the ground of unjust enrichment or solutio indebiti.

G. BA Finance is liable to pay Asianbank actual and exemplary damages.[20] (underscoring supplied)

The appellate court, "summarizing" the errors attributed to the trial court by Asianbank to be "whether...BA Finance has a cause of action against [it] even if the subject check had not been delivered to...BA Finance by the issuer itself," held in the affirmative and accordingly affirmed the trial court's decision but deleted the award of P20,000 as actual damages.[21]

Hence, the present Petition for Review on Certiorari[22] filed by Metrobank (hereafter petitioner) to which Asianbank was, as earlier stated, merged, faulting the appellate court

I. x x x in applying the case of Associated Bank v. Court of Appeals, in the absence of factual similarity and of the legal relationships necessary for the application of the desirable shortcut rule. x x x

II. x x x in not finding that x x x the general rule that the payee has no cause of action against the collecting bank absent delivery to him must be applied.

III. x x x in finding that all the elements of a cause of action by BA Finance Corporation against Asianbank Corporation are present.

IV. x x x in finding that Article 1208 of the Civil Code is not applicable.

V. x x x in awarding of exemplary damages even in the absence of moral, temperate, liquidated or compensatory damages and a finding of fact that Asianbank acted in a wanton, fraudulent, reckless, oppressive or malevolent manner.

x x x x

VII. x x x in dismissing Asianbank's counterclaim and Third Party complaint [against Malayan Insurance].[23] (*italics in the original; underscoring supplied*)

Petitioner proffers the following arguments against the application of Associated Bank v. CA to the case:

x x x [T]he rule established in the Associated Bank case has provided a speedier remedy for the payee to recover from erring collecting banks despite the absence of delivery of the negotiable instrument. However, the application of the rule demands careful consideration of the factual settings and issues raised in the case x x x.

One of the relevant circumstances raised in Associated Bank is the existence of forgery or unauthorized indorsement. x x x

x x x x

In the case at bar, Bitanga is authorized to indorse the check as the drawer names him as one of the payees. Moreover, his signature is not a forgery nor has he or anyone forged the signature of the representative of BA Finance Corporation. No unauthorized indorsement appears on the check.

x x x x

Absent the indispensable fact of forgery or unauthorized indorsement, the desirable shortcut rule cannot be applied,[24] (underscoring supplied)

The petition fails.

Section 41 of the Negotiable Instruments Law provides:

Where an instrument is payable to the order of two or more payees or indorsees who are not partners, all must indorse unless the one indorsing has authority to indorse for the others. (emphasis and underscoring supplied)

Bitanga alone endorsed the crossed check, and petitioner allowed the deposit and release of the proceeds thereof, despite the absence of authority of Bitanga's co-payee BA Finance to endorse it on its behalf.[25]

Denying any irregularity in accepting the check, petitioner maintains that it followed normal banking procedure. The testimony of Imelda Cruz, Asianbank's then accounting head, shows otherwise, however, viz:

Q

Now, could you be familiar with a particular policy of the bank with respect to checks with joined (sic) payees?

A

Yes, sir.

Q

And what would be the particular policy of the bank regarding this transaction?

A

The bank policy and procedure regarding the joint checks. Once it is deposited to a single account, we are not accepting joint checks for single account, depositing to a single account (sic).

Q

What happened to the bank employee who allowed this particular transaction to occur?

A

Once the branch personnel, the bank personnel (sic) accepted it, he is liable.

Q

What do you mean by the branch personnel being held liable?

A

Because since (sic) the bank policy, we are not supposed to accept joint checks to a [single] account, so we mean that personnel would be held liable in the sense that (sic) once it is withdrawn or encashed, it will not be allowed.

Q

In your experience, have you encountered any bank employee who was subjected to disciplinary action by not following bank policies?

A

The one that happened in that case, since I really don't know who that personnel is, he is no longer connected with the bank.

Q

What about in general, do you know of any disciplinary action, Madam witness?

A

Since there's a negligence on the part of the bank personnel, it will be a ground for his separation [from] the bank.[26] (emphasis, italics and underscoring supplied)

Admittedly, petitioner dismissed the employee who allowed the deposit of the check in Bitanga's account.

Petitioner's argument that since there was neither forgery, nor unauthorized indorsement because Bitanga was a co-payee in the subject check, the dictum in *Associated Bank v. CA* does not apply in the present case fails. The payment of an instrument over a missing indorsement is the equivalent of payment on a forged indorsement[27] or an unauthorized indorsement in itself in the case of joint payees.[28]

Clearly, petitioner, through its employee, was negligent when it allowed the deposit of the crossed check, despite the lone endorsement of Bitanga, ostensibly ignoring the fact that the check did not, it bears repeating, carry the indorsement of BA Finance.[29]

As has been repeatedly emphasized, the banking business is imbued with public interest such that the highest degree of diligence and highest standards of integrity and performance are expected of banks in order to maintain the trust and confidence of the public in general in the banking sector.[30] Undoubtedly, BA Finance has a cause of action against petitioner.

Is petitioner liable to BA Finance for the full value of the check?

Petitioner, at all events, argue that its liability to BA Finance should only be one-half of the amount covered by the check as there is no indication in the check that Bitanga and BA Finance are solidary creditors to thus make them presumptively joint creditors under Articles 1207 and 1208 of the Civil Code which respectively provide:

Art. 1207. The concurrence of two or more creditors or of two or more debtors in one and the same obligation does not imply that each one of the former has a right to demand, or that each one of the latter is bound to render, entire compliance with the prestations. There is a solidary liability only when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity.

Art. 1208. If from the law, or the nature or wording of the obligations to which the preceding article refers to the contrary does not appear, the credit or debt shall be presumed to be divided into as many equal shares as

there are creditors or debtors, the debts or credits being considered distinct from one another, subject to the Rules of Court governing the multiplicity of suits.

Petitioner's argument is flawed.

The provisions of the Negotiable Instruments Law and underlying jurisprudential teachings on the black-letter law provide definitive justification for petitioner's full liability on the value of the check.

To be sure, a collecting bank, Asianbank in this case, where a check is deposited and which indorses the check upon presentment with the drawee bank, is an indorser.[31] This is because in indorsing a check to the drawee bank, a collecting bank stamps the back of the check with the phrase "all prior endorsements and/or lack of endorsement guaranteed"[32] and, for all intents and purposes, treats the check as a negotiable instrument, hence, assumes the warranty of an indorser.[33] Without Asianbank's warranty, the drawee bank (China Bank in this case) would not have paid the value of the subject check.

Petitioner, as the collecting bank or last indorser, generally suffers the loss because it has the duty to ascertain the genuineness of all prior endorsements considering that the act of presenting the check for payment to the drawee is an assertion that the party making the presentment has done its duty to ascertain the genuineness of prior endorsements.[34]

Accordingly, one who credits the proceeds of a check to the account of the indorsing payee is liable in conversion to the non-indorsing payee for the entire amount of the check.[35]

It bears noting that in petitioner's cross-claim against Bitanga, the trial court ordered Bitanga to return to petitioner the entire value of the check "P224,500.00" with interest as well as damages and cost of suit. Petitioner never questioned this aspect of the trial court's disposition, yet it now prays for the modification of its liability to BA Finance to only one-half of said amount. To pander to petitioner's supplication would certainly amount to unjust enrichment at BA Finance's expense. Petitioner's remedy--which is the reimbursement for the full amount of the check from the perpetrator of the irregularity -- lies with Bitanga.

Articles 1207 and 1208 of the Civil Code cannot be applied to the present case as these are completely irrelevant. The drawer, Malayan Insurance in this case, issued the check to answer for an underlying contractual obligation (payment of insurance proceeds). The obligation is merely reflected in the instrument and whether the payees would jointly share in the proceeds or not is beside the point.

Moreover, granting petitioner's appeal for partial liability would run counter to the existing principles on the liabilities of parties on negotiable instruments, particularly on Section 68 of the Negotiable Instruments Law which instructs that joint payees who indorse are deemed to indorse jointly and severally.[36] Recall that when the maker dishonors the instrument, the holder thereof can turn to those secondarily liable -- the indorser -- for recovery.[37] And since the law explicitly mandates a solidary liability on the part of the joint payees who indorse the instrument, the holder thereof (assuming the check was further negotiated) can turn to either Bitanga or BA Finance for full recompense.

Respecting petitioner's challenge to the award by the appellate court of exemplary damages to BA Finance, the same fails. Contrary to petitioner's claim that no moral, temperate, liquidated or compensatory damages were awarded by the trial court,[38] the RTC did in fact award compensatory or actual damages of P224,500, the value of the check, plus interest thereon.

Petitioner argues, however, that assuming arguendo that compensatory damages had been awarded, the same contravened Article 2232 of the Civil Code which provides that in contracts or quasi-contracts, the court may award exemplary damages only if the defendant acted in a wanton, fraudulent, reckless, oppressive, or malevolent

manner. Since, so petitioner concludes, there was no finding that it acted in a wanton, fraudulent, reckless, oppressive, or malevolent manner,[39] it is not liable for exemplary damages.

The argument fails. To reiterate, petitioner's liability is based not on contract or quasi-contract but on quasi-delict since there is no pre-existing contractual relation between the parties.[40] Article 2231 of the Civil Code, which provides that in quasi-delict, exemplary damages may be granted if the defendant acted with gross negligence, thus applies. For "gross negligence" implies a want or absence of or failure to exercise even slight care or diligence, or the entire absence of care,[41] evincing a thoughtless disregard of consequences without exerting any effort to avoid them.[42]

x x x The law allows the grant of exemplary damages to set an example for the public good. The business of a bank is affected with public interest; thus it makes a sworn profession of diligence and meticulousness in giving irreproachable service. For this reason, the bank should guard against injury attributable to negligence or bad faith on its part. The award of exemplary damages is proper as a warning to [the petitioner] and all concerned not to recklessly disregard their obligation to exercise the highest and strictest diligence in serving their depositors.[43] (*Italics and underscoring supplied*)

As for the dismissal by the appellate court of petitioner's third-party complaint against Malayan Insurance, the same is well-taken. Petitioner based its third-party complaint on Malayan Insurance's alleged gross negligence in issuing the check payable to both BA Finance and Bitanga, despite the stipulation in the mortgage and in the insurance policy that liability for loss shall be payable to BA Finance.[44] Malayan Insurance countered, however, that it

x x x paid the amount of P224,500 to 'BA Finance Corporation and Lamberto Bitanga' in compliance with the decision in the case of "Lamberto Bitanga versus Malayan Insurance Co., Inc., Civil Case No. 88-2802, RTC-Makati Br. 132, and affirmed on appeal by the Supreme Court [3rd] Division], G.R. no. 101964, April 8, 1992 x x x.[45] (*underscoring supplied*)

It is noted that Malayan Insurance, which stated that it was a matter of company policy to issue checks in the name of the insured and the financing company, presented a witness to rebut its supposed negligence. [46] Perforce, it thus wrote a crossed check with joint payees so as to serve warning that the check was issued for a definite purpose.[47] Petitioner never ever disputed these assertions.

The Court takes exception, however, to the appellate court's affirmance of the trial court's grant of legal interest of 12% per annum on the value of the check. For the obligation in this case did not arise out of a loan or forbearance of money, goods or credit. While Article 1980 of the Civil Code provides that:

Fixed savings, and current deposits of money in banks and similar institutions shall be governed by the provisions concerning simple loan,

said provision does not find application in this case since the nature of the relationship between BA Finance and petitioner is one of agency whereby petitioner, as collecting bank, is to collect for BA Finance the corresponding proceeds from the check.[48] Not being a loan or forbearance of money, the interest should be 6% per annum computed from the date of extrajudicial demand on September 25, 1992 until finality of judgment; and 12% per annum from finality of judgment until payment, conformably with *Eastern Shipping Lines, Inc. v. Court of Appeals*. [49]

WHEREFORE, the Decision of the Court of Appeals dated May 18, 2007 is AFFIRMED with MODIFICATION in that the rate of interest on the judgment obligation of P224,500 should be 6% per annum, computed from the time of extrajudicial demand on September 25, 1992 until its full payment before finality of judgment; thereafter, if the amount adjudged remains unpaid, the interest rate shall be 12% per annum computed from the time the

judgment becomes final and executory until fully satisfied.

Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Villarama, Jr., concur.

[1] Exhibit "A," records, pp. 210-211.

[2] Exhibit "B," id. at 212-215.

[3] Id. at 213.

[4] Exhibit "D," id. at 217.

[5] Exhibit "D-1," ibid.

[6] Exhibit "F," id. at 219.

[7] Exhibits "H," id. at 221-222.

[8] Id. at 1-4.

[9] Id. at 40-45.

[10] Id. at 43.

[11] Id. at 53-63.

[12] Id. at 60-61.

[13] Id. at 69-72.

[14] Id. at 82.

[15] Id. at 142-143; Order of May 23, 1994.

[16] Id. at 306.

[17] G.R. No. 89802, May 7, 1992, 208 SCRA 465.

[18] Records, p. 307.

[19] CA rollo, pp. 39-40.

[20] Id. at 40-41.

[21] Decision of May 18, 2007, penned by Court of Appeals Associate Justice Ramon M. Bato, Jr. with the concurrence of Associate Justices Andres B. Reyes, Jr. and Jose C. Mendoza.

[22] Rollo, pp. 10-57.

[23] Id. at 20-22.

[24] Id. at 23-25.

[25] TSN, May 30, 1995, pp. 7-8; The testimony of John Agbayani, vice president of BA Finance, reads as

follows:

Q Thereafter what happened next, if you know?

A Upon further verification, we were informed by Malayan Insurance Company that in deed a check, a cross check was issued to BA Finance Corporation and Lamberto Bitanga and the check was delivered to Lamberto Bitanga.

Q So, after the said check was delivered to Mr. Lamberto Bitanga, do you have any knowledge Mr. witness, if you know, what happened to the check?

A Yes, sir, the check was deposited into the personal account of Mr. Lamberto Bitanga only, with Asian Savings Bank without the knowledge and endorsement of the joint payee of the said check, which is the plaintiff here, BA Finance.

x x x x

We immediately send a formal letter communication to Asian Bank in order to discuss the possibility of reimbursement of banking on the premise that our check was irregular accepted for deposit into the personal account of Lamberto Bitanga without our endorsement.

[26] TSN, October 18, 1995, pp. 5-7.

[27] Kelly v. Central Bank and Trust Co. (Colo App), 794 P2d 1037, 12 UCCRS2d 1089; Humberto Decorators, Inc. v. Plaza Nat'l Bank, 180 NJ Super 170, 434 A2d 618, 32 UCCRS 494; Vide: 11 Am Jur 2d, Bills and Notes, §224, at p. 557.

[28] Beyer v. First Nat'l Bank, 188 Mont 208, 612 P2d 1285, 29 UCCRS 563; Vide: 11 Am Jur 2d, Bills and Notes, §224, at p. 557.

[29] Gempesaw v. Court of Appeals, G.R. No. 92244, Feb. 9, 1993, 218 SCRA 682, 695.

[30] Philippine Commercial International Bank v. Court of Appeals, G.R. No. 121413, January 29, 2001, 350 SCRA 446.

[31] Associated Bank v. Court of Appeals, 322 Phil. 677, 697 (1996).

[32] Section 17 of the Philippine Clearing House Corporation Rules states that: "BANK GUARANTEE. All checks cleared through the PCHC shall bear the guarantee affixed thereto by the Presenting Bank/Branch which shall read as follows: 'Cleared thru the Philippine Clearing House Corporation. All prior endorsements and/or lack of endorsement guaranteed.'"

[33] Banco de Oro v. Equitable Banking Corp., 241 Phil. 187, 196-197 (1988).

[34] Sections 65 and 66 of the Negotiable Instruments Law state that:

Sec. 65. -Every person negotiating an instrument by delivery or by a qualified indorsement warrants:

- (a) That the instrument is genuine and in all respects what it purports to be;
- (b) That he has good title to it;
- (c) That all prior parties had capacity to contract;
- (d) That he has no knowledge of any fact which would impair the validity of the instrument or render it valueless.

But when the negotiation is by delivery only, the warranty extends in favor of no holder other than the immediate

transferee.

The provisions of subdivision (c) of this section do not apply to a person negotiating public or corporation securities other than bills and notes.

Sec. 66. Liability of general indorser. -Every indorser who indorses without qualification, warrants to all subsequent holders in due course:

- (a) The matters and things mentioned in subdivisions (a), (b), and (c) of the next preceding section; and
- (b) That the instrument is, at the time of his indorsement, valid and subsisting;

And in addition, he engages that, on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

[35] Vide Peoples Nat. Bank v. American Fidelity Fire Ins. Co., 39 Md. App. 614, 386 A.2d 1254, 24 U.C.C. Rep. Serv. 362 (1978); Middle States Leasing Corp. v. Manufacturers Hanover Trust Co., 62 A.D.2d 273, 404 N.Y.S.2d 846, 23 U.C.C. Rep. Serv. 1215 (1st Dep't 1978); Vide 11 Am Jur 2d, Bills and Notes, §225, at p. 557.

[36] Sec. 68. Order in which indorsers are liable. -- As respect one another, indorsers are liable prima facie in the order in which they indorse; but evidence is admissible to show that, as between or among themselves, they have agreed otherwise. Joint payees or joint indorsees who indorse are deemed to indorse jointly and severally.

[37] Section 66 of the NIL, supra note 35.

[38] Rollo, pp. 46-47.

[39] Id. at 47.

[40] Article 2176 of the Civil Code states: "Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties is called a quasi-delict and is governed by the provisions of this Chapter."

[41] Acebedo Optical v. National Labor Relations Commission, G.R. No. 150171, July 17, 2007, 527 SCRA 655, 675.

[42] Ibid.

[43] BPI Family Bank v. Buenaventura, G.R. No. 148196, September 30, 2005, 471 SCRA 431, 445.

[44] Vide records, p. 82; rollo, p. 50.

[45] Id. at 100-101.

[46] Testimony of Michael Yap, Malayan Insurance's first vice president.

[47] Vide Bataan Cigar and Cigarette Factory v. Court of Appeals, G.R. No. 93048, March 3, 1994, 230 SCRA 643, 648-649, where the Court held that crossing of checks should put the holder on inquiry and upon him or her devolves the duty to ascertain the indorser's title to the check or the nature of his possession. Failing in this respect, the holder is declared guilty of gross negligence amounting to legal absence of good faith, contrary to Section 52 (c) of the Negotiable Instruments Law. (Underscoring supplied)

[48] Jai Alai Corp. of the Phils. v. BPI, G.R. No. L-29432, August 6, 1975, 66 SCRA 29, 34.

[49] G.R. No. 97412, July 12, 1994, 234 SCRA 78.

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