

CITYSTATE SAVINGS BANK, PETITIONER, VS. TERESITA TOBIAS AND SHELLIDIE VALDEZ, RESPONDENTS.

G.R. No. 227990. March 07, 2018

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REYES, JR., J:

This is a petition for review on certiorari[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision[2] dated May 31, 2016 and Resolution[3] dated October 10, 2016 issued by the Court of Appeals (CA) in CA-G.R. CV No. 102545.

The Antecedent Facts

Rolando Robles (hereinafter referred to as Robles), a certified public accountant, has been employed with Citystate Savings Bank (hereinafter referred to as the petitioner) since July 1998 then as Accountant-trainee for its Chino Roces Branch. On September 6, 2000, Robles was promoted as acting manager for petitioner's Baliuag, Bulacan branch, and eventually as manager.[4]

Sometime in 2002, respondent Teresita Tobias (hereinafter referred to as Tobias), a meat vendor at the Baliuag Public Market, was introduced by her youngest son to Robles, branch manager of petitioner's Baliuag, Bulacan branch.[5]

Robles persuaded Tobias to open an account with the petitioner, and thereafter to place her money in some high interest rate mechanism, to which the latter yielded.[6]

Thereafter, Robles would frequent Tobias' stall at the public market to deliver the interest earned by her deposit accounts in the amount of Php 2,000.00. In turn, Tobias would hand over her passbook to Robles for updating. The passbook would be returned the following day with typewritten entries but without the corresponding counter signatures.[7]

Tobias was later offered by Robles to sign-up in petitioner's back-to-back scheme which is supposedly offered only to petitioner's most valued clients. Under the scheme, the depositors authorize the bank to use their bank deposits and invest the same in different business ventures that yield high interest. Robles allegedly promised that the interest previously earned by Tobias would be doubled and assured her that he will do all the paper work. Lured by the attractive offer, Tobias signed the pertinent documents without reading its contents and invested a total of Php 1,800,000.00 to petitioner through Robles. Later, Tobias became sickly, thus she included her daughter and herein respondent Shellidie Valdez (hereinafter referred to as Valdez), as co-depositor in her accounts with the petitioner.[8]

In 2005, Robles failed to remit to respondents the interest as scheduled. Respondents tried to reach Robles but he can no longer be found; their calls were also left unanswered. In a meeting with Robles' siblings, it was disclosed to the respondents that Robles withdrew the money and appropriated it for personal use. Robles later talked to the respondents, promised that he would return the money by installments and pleaded that they do not report the incident to the petitioner. Robles however reneged on his promise. Petitioner also refused to make arrangements

for the return of respondents' money despite several demands.[9]

On January 8, 2007, respondents filed a Complaint for sum of money and damages. against Robles and the petitioner.[10] In their Complaint, respondents alleged that Robles committed fraud in the performance of his duties as branch manager when he lured Tobias in signing several pieces of blank documents, under the assurance as bank manager of petitioner, everything was in order.[11]

After due proceedings, the Regional Trial Court (RTC), on February 12, 2014, rendered its Decision,[12] viz.:

WHEREFORE, in light of the foregoing, judgment is hereby rendered ordering defendant Robles to pay plaintiff the following:

- the amount of Php1,800,000.00 as actual damages plus legal rate of interest from the filing of the complaint until fully paid;
- the amount of Php100,000.00 as moral damages; and
- the amount of Php50,000.00 as exemplary damages.

The plaintiffs claim for attorney's fees and litigation expenses are DENIED for lack of merit.

Further, defendant bank is absolved of any liability. Likewise, all counterclaims and cross-claims are DENIED for lack of merit.

SO ORDERED.[13]

Ruling of the CA

The matter was elevated to the CA. The CA in its Decision[14] dated May 31, 2016, found the appeal meritorious and accordingly, reversed and set aside the RTC's decision, in this wise:

WHEREFORE, the Appeal is hereby GRANTED. The Decision Dated 12 February 2014 of the [RTC], Third Judicial Region, Malolos City, Bulacan, Branch 83, in Civil Case No. 11-M-07, is MODIFIED in that [petitioner] and [Robles] are JOINTLY and SOLIDARILY to pay [respondents] the amounts set forth in the assailed Decisions as well as attorney's fees in the amount of ONE HUNDRED THOUSAND PESOS (P 100,000.00).

SO ORDERED.[15]

Petitioner sought a reconsideration of the decision, but it was denied by the CA in its Resolution[16] dated October 10, 2016.

In the instant petition, respondents put forward the following arguments to support their position:

V
ARGUMENTS

IN RENDERING THE ASSAILED DECISION AND RESOLUTION, THE CA DECIDED QUESTIONS OF SUBSTANCE WHICH ARE NOT IN ACCORD WITH APPLICABLE LAWS AND JURISPRUDENCE.

[A]

THE CA SERIOUSLY ERRED IN RULING THAT THE DOCTRINE OF APPARENT AUTHORITY IS APPLICABLE IN THIS CASE.

[B]

THE CA SERIOUSLY ERRED IN RULING THAT RESPONDENT TOBIAS IS NOT GUILTY OF CONTRIBUTORY NEGLIGENCE.

[C]

THE CA SERIOUSLY ERRED IN RULING THAT CITYSTATE IS JOINTLY AND SOLIDARILY LIABLE WITH ROBLES TO PAY FOR THE DAMAGE SUPPOSEDLY SUFFERED BY RESPONDENTS.

[D]

THE CA SERIOUSLY ERRED IN RULING THAT CITYSTATE IS JOINTLY AND SOLIDARILY LIABLE FOR ATTORNEY'S FEES.[17]

In this petition for review on certiorari, petitioner alleged that it should not be held liable considering that it has exercised a high degree of diligence in the selection and supervision of its employees, including Robles, and that it took proper measures in hiring the latter. Further, it posits that it has complied with standard bank operating procedures in the conduct of its operations.

Petitioner also argues that Robles acted in his personal capacity in dealing with Tobias, who agreed with full knowledge and consent to the back-to-back loans and that it was not privy to the transactions between them. Therefore, petitioner submits that the CA erred in applying the doctrine of apparent authority.

Ruling of the Court

The petition is denied.

The business of banking is one imbued with public interest. As such, banking institutions are obliged to exercise the highest degree of diligence as well as high standards of integrity and performance in all its transactions.[18]

The law expressly imposes upon the banks a fiduciary duty towards its clients[19] and to treat in this regard the accounts of its depositors with meticulous care.[20]

The contract between the bank and its depositor is governed by the provisions of the Civil Code on simple loan or mutuum, with the bank as the debtor and the depositor as the creditor.[21]

In light of these, banking institutions may be held liable for damages for failure to exercise the diligence required of it resulting to contractual breach or where the act or omission complained of constitutes an actionable tort.[22]

The nature of a bank's liability is illustrated in the consolidated cases of Philippine Commercial International Bank v. CA, et al., Ford Philippines, Inc. v. CA, et al. and Ford Philippines, Inc. v. Citibank, N.A., et al.[23] The original actions a quo were instituted by Ford Philippines, Inc. (Ford) to recover the value of several checks it issued payable to the Commissioner of Internal Revenue (CIR) which were allegedly embezzled by an organized syndicate.

The first two of the three consolidated cases mentioned above involve twin petitions for review assailing the decision and resolution of the CA ordering the collecting bank, Philippine Commercial International Bank (PCIB) to pay the amount of a crossed Citibank N.A. (Citibank) check (No. SN-04867) drawn by Ford in favor of CIR as payment for its taxes.

The said check was deposited with PCIB and subsequently cleared by the Central Bank. Upon presentment with Citibank, the proceeds of the check were released to PCIB as the collecting/depository bank.

However, it was later discovered that the check was not paid to the CIR. Ford was-then forced to make another payment to the CIR.

Investigation revealed that the check was recalled by the General Ledger Accountant of Ford on the pretext that there has been an error in the computation of tax, he then directed PCIB to issue two manager's checks in replacement thereof.

Both Citibank and PCIB deny liability, the former arguing that payment was in due course as it merely relied on the latter's guarantee as to "all prior indorsements and/or lack of indorsements." Thus, Citibank submits that the proximate cause of the injury is the gross negligence of PCIB in indorsing the check in question. The CA agreed and adjudged PCIB solely liable for the amount of the check.

On the other hand, the last of the three consolidated cases, assails the decision and resolution of the CA which held Citibank, the drawee bank, solely liable for the amount of crossed check nos. SN-10597 and 16508 as actual damages, the proceeds of which have been misappropriated by a syndicate involving the employees of the drawer Ford, and the collecting bank PCIB.

This Court in resolving the issue of liability in PCIB v. CA, considered the degree of negligence of the parties.

While recognizing that the doctrine of imputed negligence makes a principal liable for the wrongful acts of its agents, this Court noted that the liability of the principal would nonetheless depend on whether the act of its agent is the proximate cause of the injury to the third person.

In the case of Ford, this Court ruled that its negligence, if any, cannot be considered as the proximate cause, emphasizing in this regard the absence of confirmation on the part of Ford to the request of its General Ledger Accountant for replacement of the checks issued as payment to the CIR. In absolving Ford from liability, this Court clarified that the mere fact that the forgery was committed by the drawer/principal's employee or agent, who by virtue of his position had unusual facilities for perpetrating the fraud and imposing the forged paper upon the bank, does not automatically shift the loss to such drawer-principal, in the absence of some circumstance raising estoppel against the latter.

In contrast, this Court found PCIB liable for failing to exercise the necessary care and prudence required under the circumstances. This Court noted that the action of Ford's General Ledger Accountant in asking for the replacement of the crossed Citibank check No. SN-04867, was not in the ordinary course of business and thus should have prompted PCIB to validate the same. Likewise, considering that the questioned crossed check was deposited with PCIB in its capacity as collecting agent for the Bureau of Internal Revenue, it has the responsibility to ensure that the check is deposited in the payee's account only; and is bound to consult BIR, as its principal, of unwarranted instructions given by the pay or or its agent, especially so as neither of the latter is its client. Having established PCIB's negligence, this Court then held the latter solely liable for the proceeds of Citibank check (No. SN-04867).

Insofar as Citibank check Nos. SN-10597 and 16508, this Court affirmed the findings of the CA and the trial court that PCIB cannot be faulted for the embezzlement as it did not actually receive nor held the subject checks. Adopting the conclusion of the trial court, this Court advanced that the act of misappropriation was in fact "the clandestine or hidden actuations performed by the members of the syndicate in their own personal, covert and private capacity and done without the knowledge of the defendant PCIB." [24]

While this Court admitted that there was no evidence confirming the conscious participation of PCIB in the embezzlement, it nonetheless found the latter liable pursuant to the doctrine of imputed negligence, as it was established that its employees performed the acts causing the loss in their official capacity or authority albeit for their personal and private gain or benefit.

Yet, finding that the drawee, Citibank was remiss of its contractual duty to pay the proceeds of the crossed checks

only to its designated payee, this Court ruled that Citibank should also bear liability for the loss incurred by Ford. It ratiocinated:

Citibank should have scrutinized Citibank Check Numbers SN 10597 and 16508 before paying the amount of the proceeds thereof to the collecting bank of the BIR. One thing is clear from the record: the clearing stamps at the back of Citibank Check Nos. SN 10597 and 16508 do not bear any initials. Citibank failed to notice and verify the absence of the clearing stamps. Had this been duly examined, the switching of the worthless checks to Citibank Check Nos. 10597 and 16508 would have been discovered in time. For this reason, Citibank had indeed failed to perform what was incumbent upon it, which is to ensure that the amount of the checks should be paid only to its designated payee. The fact that the drawee bank did not discover the irregularity seasonably, in our view, constitutes negligence in carrying out the bank's duty to its depositors. The point is that as a business affected with public interest and because of the nature of its functions, the bank is under obligation to treat the accounts of its depositors with meticulous care, always having in mind the fiduciary nature of their relationship.[25]

Then, applying the doctrine of comparative negligence, this Court adjudged PCIB and Citibank equally liable for the proceeds of Citibank Check Nos. SN 10597 and 16508.

It is without question that when the action against the bank is premised on breach of contractual obligations, a bank's liability as debtor is not merely vicarious but primary, in that the defense of exercise of due diligence in the selection and supervision of its employees is not available.[26] Liability of banks is also primary and sole when the loss or damage to its depositors is directly attributable to its acts, finding that the proximate cause of the loss was due to the bank's negligence or breach.[27]

The bank, in its capacity as principal, may also be adjudged liable under the doctrine of apparent authority. The principal's liability in this case however, is solidary with that of his employee.[28]

The doctrine of apparent authority or what is sometimes referred to as the "holding out" theory, or the doctrine of ostensible agency, imposes liability, not "as the result of the reality of a contractual relationship, but rather because of the actions of a principal or an employer in somehow misleading the public into believing that the relationship or the authority exists." [29] It is defined as:

[T]he power to affect the legal relations of another person by transactions with third persons arising from the other's manifestations to such third person such that the liability of the principal for the acts and contracts of his agent extends to those which are within the apparent scope of the authority conferred on him, although no actual authority to do such acts or to make such contracts has been conferred.[30] (Citations omitted)

Succinctly stating the foregoing principles, the liability of a bank to third persons for acts done by its agents or employees is limited to the consequences of the latter's acts which it has ratified, or those that resulted in performance of acts within the scope of actual or apparent authority it has vested.

In *PCIB v. CA*, [31] however, it is evident and striking that for purposes of holding the principal/banks liable, no distinction has been made whether the act resulting to injury to third persons was performed by the agent/employee was pursuant to, or outside the scope of an apparent or actual official authority. It must be noted nonetheless that this is because of the peculiar circumstance attendant in that case, that is, the direct perpetrators of the offense therein are fugitives from justice. Thus, this Court is left to determine who of the parties must bear the burden for the loss incurred by Ford.

In the case at bar, petitioner does not deny the validity of respondents' accounts, in fact it suggests that transactions with it have all been accounted for as it is based on official documents containing authentic signatures of Tobias. The point is well-taken. In fine, respondents' claim for damages is not predicated on breach

of their contractual relationship with petitioner, but rather on Robles' act of misappropriation.

At any rate, it cannot be said that the petitioner is guilty of breach of contract so as to warrant the imposition of liability solely upon it.[32]

Records show that respondents entered into two types of transactions with the petitioner, the first involving savings accounts, and the other loan agreements. Both of these transactions were entered into outside the petitioner bank's premises, through Robles.

In the first, the respondents, as the depositors, acts as the creditor, and the petitioner, as the debtor.[33] In these agreements, the petitioner, by receiving the deposit impliedly agrees to pay upon demand and only upon the depositor's order.[34] Failure by the bank to comply with these obligations would be considered as breach of contract.

The second transaction which involves three loan agreements, are the subject of contention. These loans were obtained by respondents, secured by their deposits with the petitioner, and executed with corresponding authorization letters allowing the latter to debit from their account in case of default. Respondents do not contest the genuineness of their signature in the relevant documents; rather they submit that they were merely lured by Robles into signing the same without knowing their import. The loans were approved and released by the petitioner, but instead of reinvesting the same, the proceeds were misappropriated by Robles, as a result, respondents' accounts were debited and applied as payment for the loan.

Under the premises, the petitioner had the authority to debit from the respondents' accounts having been appointed as their attorney-in-fact in a duly signed authentic document.[35] Furthermore, there is nothing irregular or striking that transpired which should have impelled petitioner into further inquiry as to the authenticity of the attendant transactions. Suffice it is to state that the questioned withdrawal was not the first time in which Robles has acted as the authorized representative of the petitioner or as intermediary between the petitioner and the respondents, who is also not merely an employee but petitioner's branch manager.

Moreover, that the respondents have been lured by Robles into signing the said documents without knowing the implications thereof does not prove complicity or knowledge on the part of the petitioner of Robles' inappropriate acts.

Nonetheless, while it is clear that the proximate cause of respondents' loss is the misappropriation of Robles, petitioner is still liable under Article 1911 of the Civil Code, to wit:

Art. 1911. Even when the agent has exceeded his authority, the principal is solidarity liable with the agent if the former allowed the latter to act as though he had full powers.

The case of *Prudential Bank v. CA*[36] lends support to this conclusion. There, this Court first laid down the doctrine of apparent authority, with specific reference to banks, viz.:

Conformably, we have declared in countless decisions that the principal is liable for obligations contracted by the agent. The agent's apparent representation yields to the principal's true representation and the contract is considered as entered into between the principal and the third person,

A bank is liable for wrongful acts of its officers done in the interests of the bank or in the course of dealings of the officers in their representative capacity but not for acts outside the scope of their authority. A bank holding out its officers and agent as worthy of confidence will not be permitted to profit by the frauds they may thus be enabled to perpetuate in the apparent scope of their employment; nor will it be permitted to shirk its responsibility for such frauds, even though no benefit may accrue to the bank therefrom. Accordingly, a banking corporation is liable to innocent third persons where the representation is made in the course of its

business by an agent acting within the general scope of his authority even though, in the particular case, the agent is secretly abusing his authority and attempting to perpetrate a fraud upon his principal or some other person, for his own ultimate benefit.

Application of these principles is especially necessary because banks have a fiduciary relationship with the public and their stability depends on the confidence of the people in their honesty and efficiency. Such faith will be eroded where banks do not exercise strict care in the selection and supervision of its employees, resulting in prejudice to their depositors.[37] (Citations omitted, and emphasis and underscoring Ours)

Petitioner, in support of its position, cites *Banate v. Philippine Countryside Rural Bank (Liloan, Cebu), Inc.*,[38] this Court finds however that the case presents a different factual milieu and is not applicable in the case at bar.

In *Banate*, this Court ruled that the doctrine of apparent authority does not apply and absolved the bank from liability resulting from the alteration by its branch manager of the terms of a mortgage contract which secures a loan obtained from the bank. In so ruling, this Court found "[n]o proof of the course of business, usages and practices of the bank about, or knowledge that the board had or is presumed to have of its responsible officers' acts regarding the branch manager's apparent authority"[39] to cause such alteration. Further, "[n]either was there any allegation, much less proof"[40] that the bank ratified its manager's acts or is estopped to make a contrary claim.

In contrast, in this controversy, the evidence on record sufficiently established that Robles as branch manager was 'clothed' or 'held out' as having the power to enter into the subject agreements with the respondents.

The existence of apparent or implied authority is measured by previous acts that have been ratified or approved or where the accruing benefits have been accepted by the principal. It may also be established by proof of the course of business, usages and practices of the bank; or knowledge that the bank or its officials have, or is presumed to have of its responsible officers' acts regarding bank branch affairs.[41]

As aptly pointed by the CA, petitioner's evidence bolsters the case against it, as they support the finding that Robles as branch manager, has been vested with the apparent or implied authority to act for the petitioner in offering and facilitating banking transactions.

The testimonies of the witnesses presented by petitioner establish that there was nothing irregular in the manner in which Robles transacted with the respondents.[42] In fact, petitioner's witnesses admitted that while the bank's general policy requires that transactions be completed inside the bank premises, exceptions are made in favor of valued clients, such as the respondents. In which case, banking transactions are allowed to be done in the residence or place of business of the depositor, since the same are verified subsequently by the bank cashier.[43]

Moreover, petitioner admitted that for valued clients, the branch manager has the authority to transact outside of the bank premises.[44] In fact, Robles previously transacted business on behalf of the petitioner as when it sought and facilitated the opening of respondents' accounts. Petitioner acknowledged Robles' authority and it honored the accounts so opened outside the bank premises.

To recall, prior to the alleged back-to-back scheme entered into by the respondents, Robles has consistently held himself out as representative of the petitioner in seeking and signing respondents as depositors to various accounts.[45] It bears to stress that in the course of the said investment, the practice has been for Tobias to surrender the passbook to Robles' for updating.[46] All of which accounts have been in order until after the respondents was lured into entering the back-to-back scheme.

In this light, respondents cannot be blamed for believing that Robles has the authority to transact for and on behalf of the petitioner[47] and for relying upon the representations made by him. After all, Robles as branch manager is

recognized "within his field and as to third persons as the general agent and is in general charge of the corporation, with apparent authority commensurate with the ordinary business entrusted him and the usual course and conduct thereof." [48]

Consequently, petitioner is estopped from denying Robles' authority. [49] As the employer of Robles, petitioner is solidarity liable to the respondents for damages caused by the acts of the former, pursuant to Article 1911 of the Civil Code. [50]

The ruling in *PCIB v. CA* [51] insofar as it imposes liability directly and solely upon the employer does not apply considering that Robles, while not a petitioner in this case, has been validly been served with summons by publication [52] and joined as party in the case before the trial court [53] and the CA. [54] Jurisdiction having been acquired over his person, this Court consequently has the authority to rule upon his liability. [55]

On a final note, it must be pointed out that the irregularity has only been discovered by the petitioner on March 30, 2006 when Valdez went to petitioner's Mabini branch to have her account with Tobias updated. [56] It bears to stress that petitioner had the opportunity to discover such irregularity at the time the loan application was submitted for its approval or at the latest, when the respondents defaulted with the payment of their obligation. With the extreme repercussions of the transactions entered into by the respondents, instead of just relying on the supposed authority of Robles and examining the documents submitted, petitioner should have at least communicated with the respondents in order to verify with them the genuineness of their signatures therein and whether they understood the implications of affixing the same. Nothing short is expected of petitioner considering that the nature of the banking business is imbued with public interest, and as such the highest degree of diligence is demanded. [57]

WHEREFORE, in view of the foregoing disquisitions, the petition for review on certiorari is hereby DENIED. The Decision dated May 31, 2016 and Resolution dated October 10, 2016 issued by the Court of Appeals in CA-G.R. CV No. 102545 are AFFIRMED.

SO ORDERED.

Carpio, [*] Acting C. J., (Chairperson), concur.

Peralta, J., I join the opinion of J. Caguioa.

Perlas-Bernabe, J., I join the Separate Opinion & J. Caguioa.

Caguioa, J., See Separate Opinion.

[*] Designated as Acting Chief Justice per Special Order No. 2539 dated February 28, 2018.

[1] Rollo, pp. 9-44.

[2] Penned by Associate Justice Japar B. Dimaampao, with Associate Justices Franchito N. Diamante, and Carmelita Salandanan-Manahan, concurring; *id.* at 47-59.

[3] *Id.* at 60-61.

[4] *Id.* at 11-12.

[5] *Id.* at 48.

[6] *Id.*

[7] *Id.*

[8] Id.

[9] Id. at 49.

[10] Id. at 193-206.

[11] Id. at 200.

[12] Rendered by Judge Guillermo P. Agloro; id. at 62-78.

[13] Id. at 77-78.

[14] Id. at 47-59.

[15] Id. at 59.

[16] Id. at 60-61.

[17] Id. at 19.

[18] Comsavings Bank v. Spouses Capistrano, 116 Phil. 547, 550 (2013).

[19] Republic Act No. 8791, or the General Banking Law, Section 2.

[20] Simex International (Manila), Inc. v. Court of Appeals, 262 Phil. 387, 396 (1990).

[21] CIVIL CODE OF THE PHILIPPINES, Article 1980 states:

Art. 1980. Fixed, savings, and current deposits of money in banks and similar institutions shall be governed by the provisions concerning simple loan.

[22] Far East Bank and Trust Company v. CA, 31 1 Phil. 783, 793 (1995).

[23] 403 Phil. 361 (2001).

[24] Id. at 385.

[25] Id. at 387-388.

[26] Far East Bank and Trust Co. (now Bank of the Philippine Islands) v. Tentmakers Group, Inc., et al., 690 Phil. 134, 144 (2012).

[27] PCIB v. CA, supra note 23.

[28] CIVIL CODE OF THE PHILIPPINES, Article 1910.

[29] Sargasso Construction & Development Corp./Pick & Shovel, Inc./Atlantic Erectors, Inc., (Joint Venture) v. PPA, 637 Phil. 259, 281-282 (2010).

[30] Id. at 281.

[31] Supra note 23.

[32] Far East Bank and Trust Co. (now Bank of the Philippine Islands) v. Tentmakers Group, Inc., et al., supra note 26.

[33] CIVIL CODE OF THE PHILIPPINES, Article 1980.

[34] The Metropolitan Bank and Trust Co. v. Rosales, et al., 724 Phil. 66, 68 (2014).

- [35] Rollo, p. 114.
- [36] 295 Phil. 399 (1993).
- [37] Id. at 408-409.
- [38] 639 Phil. 35 (2010).
- [39] Id. at 47.
- [40] Id.
- [41] Id. at 45-46.
- [42] Rollo, p. 54.
- [43] Id. at 55-56.
- [44] Id.
- [45] Id. at 66.
- [46] Id. at 48-49; 138.
- [47] Rural Bank of Milaor (Camarines Sur) v. Ocfemia, et al., 381 Phil. 911 (2000).
- [48] Banate v. Philippine Countryside Rural Bank (Liloan, Cebu), Inc., supra note 38, at 48.
- [49] Advance Paper Corp., et al. v. Anna Traders Corp., et al., 723 Phil. 401 (2013).
- [50] Art.1191. Even when the agent exceeded his authority, the principal is solidarity liable with the agent if the former allowed the latter to act as though he had full powers.
- [51] Supra note 23.
- [52] Rollo, p. 62.
- [53] Id.
- [54] Id. at 47.
- [55] Manotoc v. Court of Appeals, 530 Phil. 454 (2006).
- [56] Rollo, pp. 12; 68-69.
- [57] Allied Banking Corp. v. BPI, 705 Phil. 174 (2013).

SEPARATE OPINION

CAGUIOA, J.:

I concur in the result.

I agree with the ponencia insofar as it finds Petitioner Citystate Savings Bank (CSB) liable for payment of actual, moral, and exemplary damages in favor of respondents Teresita Tobias (Tobias) and Shellidie Valdez (Valdez).

However, I do not agree that CSB's liability proceeds from the principle of agency under Article 1911 of the Civil Code; rather, I submit that such liability proceeds from CSB's breach of its contracts of loan with respondent

Tobias.

At the outset, it bears to emphasize that the Petition only places CSB's liability in issue. This discussion is thus limited to the determination of CSB's liability, since Robles' liability is not in issue.

The facts are simple.

Tobias is a meat vendor at the Baliuag Public Market. The records show that sometime in 2002, Tobias' son introduced her to Robles, the manager of CSB's Baliuag, Bulacan branch. Robles convinced Tobias to open four (4) interest yielding-deposit accounts. It appears that all the transactions relating to these accounts were exclusively facilitated and processed by Robles outside of CSB's premises.

Thereafter, Robles enticed Tobias to enroll her deposits under CSB's back-to-back scheme,[1] where they would be placed in various investments for higher yield. Relying solely on Robles' representations, Tobias signed voluminous bank documents without perusing their contents.[2]

Unbeknownst to Tobias, Robles tricked her into signing loan application documents,[3] withdrawal slips[4] and authorization letters granting CSB authority to debit loan amortizations from Tobias' existing accounts, should they be left unpaid.[5]

With the use of these documents, Robles obtained three (3) loans in Tobias' name, amounting to One Million Two Hundred Thousand Pesos (Php 1,200,000.00). These loans were secured by Tobias' existing deposits with CSB.[6] Notably, the loans were approved by CSB despite the fact that neither Tobias nor Valdez (whom Tobias later named co-depositor after falling ill) had been called upon to verify their respective identities and their intention to obtain the loans, either by personal appearance or through a simple telephone call.[7]

Subsequently, Robles withdrew the loan proceeds through withdrawal slips that Tobias had signed. Instead of reinvesting Tobias' deposits, Robles misappropriated the proceeds of the fraudulent loans and later disappeared. Since Tobias was unaware of the procurement of the fraudulent loans, she failed to pay for the corresponding amortizations. Consequently, CSB debited the payments due from her existing deposits.[8]

Tobias and Valdez sought relief from the Regional Trial Court (RTC) by filing a complaint for sum of money and damages against Robles and CSB. In its Decision dated February 12, 2014 the RTC held Robles solely liable for actual, moral and exemplary damages. The Court of Appeals (CA) later modified the RTC's disposition in its Decision dated July 12, 2011 by holding CSB jointly and solidarity liable with Robles.

Applying the principle of agency, the ponencia finds that CSB should be held jointly and solidarity liable with Robles for the damages resulting from the latter's misrepresentations anent CSB's so-called "back to back" scheme.

As stated at the outset, I find that CSB's liability in this case is direct, and proceeds not from the principle of agency under Article 1911, but from the breach of its contracts of loan with Tobias.

To recall, Robles facilitated two (2) sets of transactions between CSB and Tobias — first, the transactions involving Tobias' interest-yielding deposit accounts (deposit transactions) and second, the transactions involving the disputed loans which Robles procured on Tobias' behalf (loan transactions).

CSB argues that it cannot be held liable for breach of contract in connection with the loan transactions forged by Robles, the latter having facilitated the same on his own account. To bolster its defense, CSB places emphasis on the fact that the documents Robles used to procure the disputed loans and perpetrate his fraudulent scheme were all in order, and bore Tobias' genuine signature. I believe that these allegations confirm, rather than negate, CSB's liability for breach of contract.

It bears stressing that CSB granted Tobias' loan application and released the corresponding proceeds on the basis of documents bearing Tobias' genuine signatures. Consequently, three separate contracts of loan had in fact been created between CSB and Tobias, at least insofar as CSB is concerned. Verily, the Court's ruling in *Prudential Bank v. Court of Appeals*[9] (*Prudential*) is on all fours.

In *Prudential*, respondent therein invested Php200,000.00 in Central Bank bills with petitioner bank. The investment was recorded through a Confirmation of Sale (COS) and a Debit Memo (DM) showing that Php200,000.00 had been debited against respondent's account and applied to the investment. A certain Susan Quimbo (Quimbo), an employee of petitioner bank, facilitated the transaction.

However, respondent later discovered that the amount she invested had been withdrawn, and that no record of said investment existed in petitioner's bank's records. Petitioner bank refused to return respondent's investment, prompting the latter to file a complaint for breach of contract against the former. The RTC and CA ruled in favor of respondent, and held petitioner bank liable for actual, moral and exemplary damages, as well as attorney's fees. Petitioner bank subsequently brought the case to the Court via Rule 45, faulting the RTC and CA for finding it liable on the basis of quasi-delict, when it was sued for breach of contract.

Resolving the issue, the Court held:

The judgment of the Court of Appeals is now faulted in this petition, mainly on the ground that the bank should not have been found liable for a quasi-delict when it was sued for breach of contract.

The petition shall fail. The petitioner is quibbling. It appears to be merely temporizing to delay enforcement of the liability clearly established against it.

x x x The private respondent claims she has not yet collected her investment of P200,000.00 and has submitted in proof of their contention the [COS] and the [DM] issued to her by Quimbo on the official forms of the bank. The petitioner denies her claim and points to the Withdrawal Slip, which it says Cruz has not denied having signed. It also contends that the [COS] and the [DM] are fake and should not have been given credence by the lower courts.

x x x [W]e find substantial basis for the conclusion that the private respondents signed the Withdrawal Slip only as part of the bank's new procedure of re-investment. She did not actually receive the amount indicated therein, which she was made to understand was being re-invested in her name. The bank itself so assured her in the [COS] and the [DM] later issued to her by Quimbo.

x x x x

The bank has also not succeeded in impugning the authenticity of the [COS] and the [DM] which were made on its official forms. These are admittedly not available to the general public or even its depositors and are handled only by its personnel. Even assuming that they were not signed by its authorized officials, as it claims, there was no obligation on the part of Cruz to verify their authority because she had the right to presume it. The documents had been issued in the office of the bank itself and by its own employees with whom she had previously dealt. Such dealings had not been questioned before, much less invalidated. There was absolutely no reason why she should not have accepted their authority to act on behalf of their employer.

x x x x

There is no question that the petitioner was made liable for its failure or refusal to deliver to Cruz the amount she had deposited with it and which she had a right to withdraw upon its maturity. That investment was acknowledged by its own employees, who had the apparent authority to do so and so could legally bind it by its acts vis-a-vis Cruz. Whatever might have happened to the investment — whether it was lost or stolen by whoever — was not the concern of the depositor. It was the concern of the bank.

As far as Cruz was concerned, she had the right to withdraw her P200,000.00 placement when it matured pursuant to the terms of her investment as acknowledged and reflected in the [COS]. The failure of the bank to deliver the amount to her pursuant to the [COS] constituted its breach of their contract, for which it should be held liable.

The liability of the principal for the acts of the agent is not even debatable. Law and jurisprudence are clearly and absolutely against the petitioner.

Such liability dates back to the Roman Law maxim, *Qui per alium facit per seipsum facere videtur*. "He who does a thing by an agent is considered as doing it himself." This rule is affirmed by the Civil Code thus: "Art. 1910. The principal must comply with all the obligations which the agent may have contracted within the scope of his authority.

Art. 1911. Even when the agent has exceeded his authority, the principal is solidarity liable with the agent if the former allowed the latter to act as though he had full powers."

Conformably, we have declared in countless decisions that the principal is liable for obligations contracted by the agent. The agent's apparent representation yields to the principal's true representation and the contract is considered as entered into between the principal and the third person.[10] (Emphasis and underscoring supplied)

The Court's ruling in *Prudential* is unequivocal. Rather than serving as basis for the bank's liability, Article 1911 only serves to affirm the existence of a contract between the bank and its client. To be sure, the authority exercised by officers and/or employees is granted pursuant to, and in fulfillment of, such contract. Hence, when the wrongful actions of the bank's officers' and/or employees' result in the violation of the terms and conditions of the bank's contract with its client, the basis of the bank's liability to its client remains based, as it should, on contractual breach.

On this score, I find that CSB's liability to Tobias in this case precisely lies in its failure to deliver the loan proceeds to the latter, in violation of the terms of the contracts of loan forged between the parties.

By the contract of loan or *mutuum*, one party delivers money to another upon the condition that the same be paid in return, with or without interest.[11] Hence, a contract of loan contemplates two separate obligations — the debtor's obligation to deliver money to the borrower, and the borrower's corresponding obligation to return the money in accordance with the terms and conditions agreed upon.

In this case, CSB does not deny, and in fact admits, that it delivered the proceeds of Tobias' loans not to Tobias herself, but to Robles, who, in turn, used withdrawal slips purportedly authorizing him to receive the same on Tobias' behalf. What this shows is that CSB readily allowed its own employee, Robles, to withdraw the proceeds of the disputed loans without conducting any further verification to confirm the veracity of Robles' supposed authority, despite the questionable circumstances attending said withdrawal. Such banking practice on the part of CSB is grossly negligent and unsound.

It is elementary that those who, in the performance of their obligations, are guilty of negligence, and those who in any manner contravene the tenor thereof, are liable for damages.[12]

The fiduciary relationship between CSB and Tobias imposes upon the former the obligation to observe the "highest standards of integrity and performance." [13] By releasing the loan proceeds to Robles instead of Tobias, CSB did not just fail to observe the highest standard of diligence imposed upon it as a banking institution, it also failed to comply with its obligation to deliver the proceeds of the disputed loans to Tobias, the actual borrower. In so doing, CSB violated the terms of its contracts of loan with Tobias, and should thus be held liable in this regard.

Under Section 56 of the General Banking Act,[14] any act or omission on the part of the bank which results in

material loss or damage to its depositors constitutes the conduct of business in an unsafe or unsound manner. CSB undoubtedly allowed such unsound banking practice by allowing its branch manager to withdraw at will from the account of its depositor to the latter's detriment. CSB not only violated its fiduciary obligation to Tobias in respect of both the loan and deposit transactions, but was also, and more so, grossly negligent in failing to curb the same.

Based on these premises, I vote to DENY the instant Petition for Review and AFFIRM the Decision of the Court of Appeals dated May 31, 2016 insofar as it finds Citystate Savings Bank liable to pay respondents Teresita Tobias and Shellidie Valdez actual, mopal, and exemplary damages.

[1] Rollo, pp. 140-145.

[2] Id.

[3] Id.

[4] Id.

[5] Id. 68

[6] Id. at 67-69.

[7] Id. at 54.

[8] Id. at 48.

[9] 295 Phil. 399 (1993). [First Division, Per J. Cruz]

[10] Id. at 405-408.

[11] Article 1933 of the Civil Code provides, in part:

By the contract of loan, one of the parties delivers to another, either something not consumable so that the latter may use the same for a certain time and return it, in which case the contract is called a commodatum; or money or other consumable thing, upon the condition that the same amount of the same kind and quality shall be paid, in which case the contract is simply called a loan or mutuum.

x x x x

Simple loan may be gratuitous or with a stipulation to pay interest.

x x x x

[12] CIVIL CODE, Art. 1170.

[13] See generally *Philippine National Bank v. Pike*, 507 Phil. 322 (2005). [Second Division, Per J. Chico-Nazario]

[14] Republic Act No. 8791, An Act Providing for the Regulation of the Organization and Operations of Banks, Quasi-Banks, Trust Entities and for Other Purposes [THE GENERAL BANKING LAW OF 2000], May 23, 2000 in relation to Section XI49, Appendix 48 of the *Bangko Sentral ng Pilipinas Manual of Regulation for Banks*, October 31, 2015.

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