

## **METROPOLITAN BANK AND TRUST COMPANY,, PETITIONER, VS. THE FIRST NATIONAL CITY BANK AND THE COURT OF APPEALS, RESPONDENTS.**

*G.R. No. 55079, November 19, 1982*

Ponente: MELENCIO-HERRERA, J.

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### **MELENCIO-HERRERA, J.:**

This is a Petition for Review on Certiorari of the Decision of the Court of Appeals in CA-G.R. No. 57129-R entitled, First National City Bank vs. Metropolitan Bank and Trust Company, which affirmed in toto the Decision of the Court of First Instance of Manila, Branch VIU, in Civil Case No. 61488, ordering petitioner herein, Metropolitan Bank, to reimburse respondent First National City Bank the amount of P50,000.00, with legal rate of interest from June 25, 1965, and to pay attorney's fees of P5,000.00 and costs.

The controversy arose from the following facts:

On August 25, 1964, Check No. 7166 dated July 8, 1964 for P50,000.00, payable to CASH, drawn by Joaquin Cunanan & Company on First National City Bank (FNCB for brevity) was deposited with Metropolitan Bank and Trust Company (Metro Bank for short) by a certain Salvador Sales. Earlier that day, Sales had opened a current account with Metro Bank depositing P500.00 in cash.[1] Metro Bank immediately sent the cash check to the Clearing House of the Central Bank with the following words stamped at the back of the check:

"Metropolitan Bank and Trust Company  
Cleared (illegible) office  
All prior endorsements and/or  
Lack of endorsements Guaranteed.[2]

The check was cleared the same day. Private respondent paid petitioner through clearing the amount of P50,000.00, and Sales was credited with the said amount in his deposit with Metro Bank.

On August 26, 1964, Sales made his first withdrawal of P480.00 from his current account. On August 28, 1964, he withdrew P32,100.00. Then on August 31, 1964, he withdrew the balance of P17,920.00 and closed his account with Metro Bank.

On September 3, 1964, or nine (9) days later, FNCB returned cancelled Check No. 7166 to drawer Joaquin Cunanan & Company, together with the monthly statement of the company's account with FNCB. That same day, the company notified FNCB that the check had been altered. The actual amount of P50.00 was raised to P50,000.00, and over the name of the payee, Manila Polo Club, was superimposed the word CASH.

FNCB notified Metro Bank of the alteration by telephone, confirming it the same day with a letter, which was received by Metro Bank on the following day, September 4, 1964.

On September 10, 1964, FNCB wrote Metro Bank asking for reimbursement of the amount of P50,000.00. The

latter did not oblige, so that FNCB reiterated its request on September 29, 1964. Metro Bank was adamant in its refusal.

On June 29, 1965, FNCB filed in the Court of First Instance of Manila, Branch VIII, Civil Case No. 61488 against Metro Bank for recovery of the amount of P50,000.00.

On January 27, 1975, the Trial Court rendered its Decision ordering Metro Bank to reimburse FNCB the amount of P50,000.00 with legal rate of interest from June 25, 1965 until fully paid, to pay attorney's fees of P5,000.00, and costs.

Petitioner appealed said Decision to the Court of Appeals (CA-G.R. No. 57J29-R). On August 29, 1980, respondent Appellate Court 3 affirmed in toto the judgment of the Trial Court.

Petitioner came to this instance on appeal by Certiorari, alleging:

“I

The Respondent Court of Appeals erred in completely ignoring and disregarding the 24-hour clearing house rule provided for under Central Bank Circular No. 9, as amended, although:

1. The 24-hour regulation of the Central Bank in clearing house operations is valid and banks are subject to and are bound by the same; and
2. The 24-hour clearing house rule applies to the present case of the petitioner and the private respondent.

II

The Respondent Court of Appeals erred in relying heavily on its decision in *Gallaites, et al vs. RCA, etc.*, promulgated on October 23, 1950 for the same is not controlling and is not applicable to the present case.

III

The Respondent Court of Appeals erred in disregarding and in not applying the doctrines in the cases of *Republic of the Philippines vs. Equitable Banking Corporation* (JO SCR A 8) and *Hongkong & Shanghai Banking Corporation vs. People's Bank and Trust Company* (35 SCRA 140) for the same are controlling and apply four square to the present case.

IV

The Respondent Court of Appeals erred in not finding the private respondent guilty of operative negligence which is the proximate cause of the loss."

The material facts of the case are not disputed. The issue for resolution is, which bank is liable for the payment of the altered check, the drawee bank (FNCB) or the collecting bank (Metro Bank)?

The transaction occurred during the effectivity of Central Bank Circular No. 9 (February 17, 1949) as amended by Circular No. 138 (January 30, 1962), and Circular No. 169 (March 30, 1964), Section 4 of said Circular, as amended, states:

"Section 4. Clearing Procedures.  
(c) Procedures for Returned Items

Items which should be returned for any reason whatsoever shall be delivered to and received through the clearing Office in the special red envelopes and shall be considered and accounted as debits to the banks to which the items are returned. Nothing in this section shall prevent the returned items from being settled by reimbursement to the bank, institution or entity returning the items. All items cleared on a particular clearing

shall be returned not later than 3:30 P.M. on the following business day.

... .."

The facts of this case fall within said Circular. Under the procedure prescribed, the drawee bank receiving the check for clearing from the Central Bank Clearing House must return the check to the collecting bank within the 24-hour period if the check is defective for any reason.

Metro Bank invokes this 24-hour regulation of the Central Bank as its defense. FNCB on the other hand, relies on the guarantee of all previous indorsements made by Metro Bank which guarantee had allegedly misled FNCB into believing that the check in question was regular and the payee's indorsements genuine; as well as on "the general rule of law founded on equity and justice that a drawee or payor bank which in good faith pays the amount of materially altered check to the holder thereof is entitled to recover its payment from the said holder, even if he be an innocent holder." [4]

The validity of the 24-hour clearing house regulation has been upheld by this Court in *Republic vs. Equitable Banking Corporation*, 10 SCRA 8 (1964). As held therein, since both parties are part of our banking system, and both are subject to the regulations of the Central Bank, they are bound by the 24-hour clearing house rule of the Central Bank.

In this case, the check was not returned to Metro Bank, in accordance with the 24-hour clearing house period, but was cleared by FNCB. Failure of FNCB, therefore, to call the attention of Metro Bank to the alteration of the check in question until after the lapse of nine days, negates whatever right it might have had against Metro Bank in the light of the said Central Bank Circular.

Its remedy lies not against Metro Bank, but against the party responsible for the changing the name of the payee<sup>5</sup> and the amount on the face of the check.

FNCB contends that the stamp reading,

"Metropolitan Bank and Trust Company  
Cleared (illegible) office.  
All prior endorsements and/or  
Lack of endorsements Guaranteed." [6]

made by Metro Bank is an unqualified representation that the endorsement on the check was that of the true payee, and that the amount thereon was the correct amount. In that connection, this Court in the *Hongkong & Shanghai Bank* case, *supra*, ruled:

". . . But Plaintiff Bank insists that Defendant Bank is liable on its indorsement during clearing house operations. The indorsement, itself, is very clear when it begins with words 'For clearance, clearing office .... In other words, such an indorsement must be read together with the 24-hour regulation on clearing House Operations of the Central Bank. Once that 24-hour period is over, the liability on such an indorsement has ceased. This being so, Plaintiff Bank has no! made out a case for relief." [7]

Consistent with this ruling, Metro Bank cannot be held liable for the payment of the altered check.

Moreover, FNCB did not deny the allegation of Metro Bank that before it allowed the withdrawal of the balance of P17,920.00 by Salvador Sales, Metro Bank withheld payment and first verified, through its Assistant Cashier Federico Uy, the regularity and genuineness of the check deposit from Marcelo Mirasol, Department Officer of FNCB, because its (Metro Bank) attention was called by the fast movement of the account. Only upon being assured that the same is 'not unusual' did Metro Bank allow the withdrawal of the balance.

Reliance by respondent Court of Appeals, on its own ruling in *Gallaites vs. RCA*, CA-G.R. No. 3805, October 23, 1950, by stating:

"... The laxity of appellant in its dealing with customers, particularly in cases where the identity of the person is new to them (as in the case at bar) and in the obvious carelessness of the appellant in handling checks which can easily be forged or altered boil down to one conclusion—negligence in the first order. This negligence enabled a swindler to succeed in fraudulently encashing the check in question thereby defrauding drawee bank (appellee) in the amount thereof."

is misplaced not only because the factual milieu is not four square with this case but more so because it cannot prevail over the doctrine laid down by this Court in the *Hongkong & Shanghai Bank* case which is more in point and, hence, controlling.

WHEREFORE, the challenged Decision of respondent Court of Appeals of August 29, 1980 is hereby set aside, and Civil Case No. 61488 is hereby dismissed.

Costs against private respondent The First National City Bank. SO ORDERED.

Plana, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Teehankee (Chairman), J., took no part, having been counsel for petitioner bank (then defendant) in the Court of First Instance of Manila, Branch VIII.

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[1] p. 58, Record on Appeal.

[2] pp. 8, 25 & 60, *ibid*.

[3] Per Villaluz, J., Escolin and Villasor, JJ., concurring.

[4] Art. 2154, Civil Code.

[5] *Hongkong & Shanghai Banking Corporation vs. People's Bank & Trust Co.*, 35 SCRA 140(1970).

[6] pp. 8, 25 & 60, Record on Appeal.

[7] p. 34, Petitioner's Brief.

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