

BANK OF THE PHILIPPINES ISLANDS, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND ROSARIO VILLAR, RESPONDENTS.

G.R. No. 60637. September 30, 1982

Ponente: VASQUEZ, J.

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VASQUEZ, J.:

Our examination of the petition for review on certiorari, the comment of the respondents thereon, and the reply to said comment revealed that the issue involved herein is mainly factual in nature, and for said reason, the petition, under normal or routinary procedures, does not merit being given due course.

We agree that under the undisputed facts on record, the petitioner should be faulted with the unauthorized withdrawal by means of forged checks of P17 ,000.00 out of a total deposit of P17,403.25 in the account of private respondent Rosario Villar, thereby resulting in the dishonor for insufficiency of funds of private respondent's check for P830.00 to pay her dressmaker. We also agree with the finding that the dishonor of said check caused some embarrassment and mental anxiety on the part of the private respondent.

However, we find the award of damages made by the trial court and the Court of Appeals to be excessive and hardly commensurate with the nature and attendant circumstances of the tortious act imputed to the petitioner. There was a complete restitution by the petitioner of the amount of P17 ,000.00 which was withdrawn by an unauthorized person thru the use of forged checks. The forgery of the checks had been shown to have been done so skillfully that it could not have been detected readily by the petitioner's signature verifiers. The negligence of the petitioner and of its employees does not tantamount to a degree of being wanton and reckless.

In short, we are of the view that the decision appealed from should be modified insofar as the award of damages is concerned. The modification is to reduce the amounts granted by way of moral damages and attorney's fees and to eliminate the award of exemplary damages.

WHEREFORE, the decision appealed from is hereby modified by reducing the award of moral damages and attorney's fees to P10,000.00 and P5,000.00, respectively, and eliminating the grant of exemplary damages. No costs.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Plana, Relova, and Gutierrez, Jr., JJ., concur.

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