

**METROPOLITAN WATERWORKS AND SEWERAGE SYSTEM,
PETITIONER, VS. COURT OF APPEALS (NOW INTERMEDIATE
APPELLATE COURT) AND THE PHILIPPINE NATIONAL BANK,
RESPONDENTS.**

G.R. No. 62943. July 14, 1986

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-62943/>

GUTIERREZ, JR., J.:

This petition for review asks us to set aside the October 29, 1982 decision of the respondent Court of Appeals, now Intermediate Appellate Court which reversed the decision of the Court of First Instance of Manila, Branch XL, and dismissed the plaintiff's complaint, the third party complaint, as well as the defendant's counterclaim.

The background facts which led to the filing of the instant petition are summarized in the decision of the respondent Court of Appeals:

"Metropolitan Waterworks and Sewerage System (hereinafter referred to as MWSS) is a government owned and controlled corporation created under Republic Act No. 6234 as the successor--in-interest of the defunct NWSA. The Philippine National Bank (PNB for short), on the other hand, is the depository bank of MWSS and is predecessor-in-interest NWSA. Among the several accounts of NWSA with PNB is NWSA Account No. 6, otherwise known as Account No. 381-777 and which is presently allocated No. 010-500281. The authorized signature for said Account No. 6 were those of MWSS treasurer Jose Sanchez, its auditor Pedro Aguilar, and its acting General Manager Victor L. Recio. Their respective specimen signatures were submitted by the MWSS to and on file with the PNB. By special arrangement with the PNB, the MWSS used personalized checks in drawing from this account. These checks were printed for MWSS by its printer, F. Mesina Enterprises, located at 1775 Rizal Extension, Caloocan City.

"During the months of March, April and May 1969, twenty-three (23) checks were prepared, processed, issued and released by NWSA, all of which were paid and cleared by PNB and debited by PNB against NWSA Account No. 6, to wit:

Check No.

Date

Payee

Amount

Date Paid By PNB

1. 59546

8-21-69

Deogracias Estrella

P 3,187.79

4-2-69

2. 59548

3-31-69

Natividad Rosario

2,848.86

4-23-69

3. 59547

3-31-69

Pangilinan Enterprises

195.00

Unreleased

4. 59549

3-31-69

Natividad Rosario

3,239.88

4-23-69

5. 59552

4 -1-69

Villarama & Sons

987.59

5 -6-69

6. 59554

4 -1-69

Gascom Engineering

6,057.60

4-16-69

7. 59558

4 -2-69

The Evening News

112.00

Unreleased

8. 59544

3-27-69

Progressive Const.

18,391.20

4-18-69

9. 59564

4 -2-69

Ind. Insp. Int. Inc.

594.06

4-18-69

10. 59568

4 -7-69

Roberto Marsan

800.00

4-22-69

11. 59570

4 -7-69

Paz Andres

200.00

4-22-69

12. 59574

4 -8-69

Florentino Santos

100,000.00

4-11-69

13. 59578

4 -8-69

Mla. Daily Bulletin

P 95.00

Unreleased

14. 59580

4 -8-69

Phil. Herald

100.00

5 -9-69

15. 59582

4 -8-69

Galauran & Pilar

7,729.09

5 -6-69

16. 59581

4 -8-69

Manila Chronicle

110.00

5-12-69

17. 59588

4 -8-69

Treago Tunnel

21,583.00

4-11-69

18. 59587

4-8-69

Delfin Santiago

120,000.00

4-11-69

19. 59589

4-10-69

Deogracias Estrella

1,257.49

4-16-69

20. 59594

4-14-69

Philam Accident Inc.

33.03

4-29-69

21. 59577

4- 8-69

Esla

9,429.78

4-29-69

22. 59601

4-16-69

Justino Torres

20,000.00

4-18-69

23. 59595

4-14-69

Neris Phil. Inc.

4,274.00

5-20-69

P320,636.26"

"During the same months of March, April and May 1969, twenty-three (23) checks bearing the same numbers as the aforementioned NWSA checks were likewise paid and cleared by PNB and debited against NWSA Account No. 6, to wit:

“Check No.

Date Issued

Payee

Amount

Date Paid By PNB

1. 59546

3 -6-69

Raul Dizon

P 84,401.00

3-16-69

2. 59548

3-11-69

Raul Dizon

104,790.00

4 -1-69

3. 59547

3-14-69

Arturo Sison

56,903.00

4-11-69

4. 59549

3-20-69

Arturo Sison

48,903.00

4-15 69

5. 59552

3-24-69

Arturo Sison

63,845.00

4-16-69

6. 59544

3-26-69

Arturo Sison

98,450.00

4-17-69

7. 59558

3-28-69

Arturo Sison

114,840.00

4-21-69

8. 59544

3-16-69

Antonio Mendoza

38,490.00

4-22-69

9. 59564

3-31-69

Arturo Sison

180,900.00

4-23-69

10. 59568

4 -2-69

Arturo Sison

134,940.00

4-25-69

11. 59570

4 -1-69

Arturo Sison

64,550.00

4-28-69

12. 59574

4 -2-69

Arturo Sison

148,610.00

4-29-69

13. 59578

4-10-69

Antonio Mendoza

93,950.00

4-29-69

14. 59580

4- 8-69

Arturo Sison

160,000.00

5-2-69

15. 59582

4-10-69

Arturo Sison

155,400.00

5 -5-69

16. 59581

4 -8-69

Antonio Mendoza

P176,580.00

5 -6-69

17. 59588

4-16-69

Arturo Sison

176,000.00

5- 8-69

18. 59587

4-16-69

Arturo Sison

300,000.00

5-12-69

19. 59589

4-18-69

Arturo Sison

122,000.00

5-14-69

20. 59594

4-18-69

Arturo Sison

280,000.00

5-15-69

21. 59577

4-14-69

Antonio Mendoza

260,000.00

5-16-69

22. 59601

4-18-69

Arturo Sison

400,000.00

5-19-69

23. 59595

4-28-69

Arturo Sison

190,800.00

5-21-69

P3,457,903.00

"The foregoing checks were deposited by the payees Raul Dizon, Arturo Sison and Antonio Mendoza in their respective current accounts with the Philippine Commercial and Industrial Bank (PCIB) and Philippine Bank of Commerce (PBC) in the months of March, April and May 1969. Thru the Central Bank Clearing, these checks were presented for payment by PBC and PCIB to the defendant PNB, and paid, also in the months of March, April and May 1969. At the time of their presentation to PNB these checks bear the standard indorsement which reads 'all prior indorsement and/or lack of endorsement guaranteed.'

"Subsequent investigation however, conducted by the NBI showed that Raul Dizon, Arturo Sison and Antonio Mendoza were all fictitious persons. The respective balances in their current account with the PBC and/or PCIB stood as follows: Raul Dizon P3,455.00 as of April 30, 1969; Antonio Mendoza P18,182.00 as of May 23, 1969; and Arturo Sison P1,398.92 as of June 30, 1969.

"On June 11, 1969, NWSA addressed a letter to PNB requesting the immediate restoration to its Account No. 6, of the total sum of P3,457,903.00 corresponding to the total amount of these twenty-three (23) checks claimed by NWSA to be forged and/or spurious checks.

"In view of the refusal of PNB to credit back to Account No. 6 the said total sum of P3,457,903.00 MWSS filed the instant complaint on November 10, 1972 before the Court of First Instance of Manila and docketed thereat as Civil Case No. 88950.

"In its answer, PNB contended among others, that the checks in question were regular on its face in all respects, including the genuineness the signatures of authorized NWSA signing officers and there was nothing on its face that could have aroused any suspicion as to its genuineness and due execution and; that NWSA was guilty of negligence which was the proximate cause of the loss.

"PNB also filed a third party complaint against the negotiating banks PBC and PCIB on the ground they failed to ascertain the identity of the payees and their title to the checks which were deposited in the respective new accounts of the payees with them."

xxx xxx xxx

On February 6, 1976, the Court of First Instance of Manila rendered judgment in favor of the MWSS. The dispositive portion of the decision reads:

"WHEREFORE, on the COMPLAINT by a clear preponderance of evidence and in accordance with Section 23 of the Negotiable Instruments Law, the Court hereby renders judgment in favor of the plaintiff Metropolitan Waterworks and Sewerage System (MWSS) by ordering the defendant Philippine National Bank (PNB) to restore the total sum of THREE MILLION FOUR HUNDRED FIFTY SEVEN THOUSAND NINE HUNDRED THREE PESOS (P3,457,903.00) to plaintiff's Account No. 6, otherwise known as Account No. 010-50030-3, with legal interest thereon computed from the date of the filing of the complaint and until as restored in the said Account No. 6.

"On the THIRD PARTY COMPLAINT, the Court, for lack of evidence, hereby renders judgment in favor of the third party defendants Philippine Bank of Commerce (PBC) and Philippine Commercial and Industrial Bank (PCIB) by dismissing the Third Party Complaint.

"The counterclaims of the third party defendants are likewise dismissed for lack of evidence.

"No pronouncement as to costs."

As earlier stated, the respondent court reversed the decision of the Court of First Instance of Manila and rendered judgment in favor of the respondent Philippine National Bank.

A motion for reconsideration filed by the petitioner MWSS was denied by the respondent court in a resolution dated January 3, 1983.

The petitioner now raises the following assignments of errors for the grant of this petition:

I.

IN NOT HOLDING THAT AS THE SIGNATURES ON THE CHECKS WERE FORGED, THE DRAWEE BANK WAS LIABLE FOR THE LOSS UNDER SECTION 23 OF THE NEGOTIABLE INSTRUMENTS LAW.

II.

IN FAILING TO CONSIDER THE PROXIMATE NEGLIGENCE OF PNB IN ACCEPTING THE SPURIOUS CHECKS DESPITE THE OBVIOUS IRREGULARITY OF TWO SETS OF CHECKS BEARING IDENTICAL NUMBER BEING ENCASHED WITHIN DAYS OF EACH OTHER.

III.

IN NOT HOLDING THAT THE SIGNATURES OF THE DRAWEE MWSS BEING CLEARLY FORGED, AND THE CHECKS SPURIOUS, SAME ARE INOPERATIVE AS AGAINST THE ALLEGED DRAWEE.

The appellate court applied Section 24 of the Negotiable Instruments Law which provides:

"Every negotiable instrument is deemed prima facie to have been issued for valuable consideration and every person whose signature appears thereon to have become a party thereto for value."

The petitioner submits that the above provision does not apply to the facts of the instant case because the questioned checks were not those of the MWSS and neither were they drawn by its authorized signatories. The petitioner states that granting that Section 24 of the Negotiable Instruments Law is applicable, the same creates only a prima facie presumption which was overcome by the following documents, to wit: (1) the NBI Report of November 2, 1970; (2) the NBI Report of November 21, 1974; (3) the NBI Chemistry Report No. C-74-891; (4) the Memorandum of Mr. Juan Diño, 3rd Assistant Auditor of the respondent drawee bank addressed to the Chief Auditor of the petitioner; (5) the admission of the respondent bank's counsel in open court that the National Bureau of Investigation found the signature on the twenty-three (23) checks in question to be forgeries; and (6) the admission of the respondent bank's witness, Mr. Faustino Mesina, Jr. that the checks in question were not printed by his printing press. The petitioner contends that since the signatures on the checks were forgeries, the respondent drawee bank must bear the loss under the rulings of this Court:

"A bank is bound to know the signatures of its customers; and if it pays a forged check it must be considered as making the payment out of its own funds, and cannot ordinarily charge the amount so paid to the account of the depositor whose name was forged."

xxx xxx xxx

"The signatures to the checks being forged, under Section 23 of the Negotiable Instruments Law they are not a charge against plaintiff nor are the checks of any value to the defendant.

"It must therefore be held that the proximate cause of loss was due to the negligence of the Bank of the Philippine Islands in honoring and cashing the two forged checks." (San Carlos Milling Co. v. Bank of the P.I., 59 Phil. 59)

"It is admitted that the Philippine National Bank cashed the check upon a forged signature, and placed the money to the credit of Maasim, who was the forger. That the Philippine National Bank then endorsed the check and forwarded it to the Shanghai Bank by whom it was paid. The Philippine National Bank had no license or authority to pay the money to Maasim or any-one else upon a forged signature. It was its legal duty to know that Melicor's endorsement was genuine before cashing the check. Its remedy is against Maasim to whom it paid the money." (Great Eastern Life Ins. Co. v. Hongkong & Shanghai Bank, 43 Phil. 678).

We have carefully reviewed the documents cited by the petitioner. There is no express and categorical finding in these documents that the twenty-three (23) questioned checks were indeed signed by persons other than the authorized MWSS signatories. On the contrary, the findings of the National Bureau of Investigation in its Report dated November 2, 1970 show that the MWSS fraud was an "inside job" and that the petitioner's delay in the reconciliation of bank statements and the laxity and loose records control in the printing of its personalized checks facilitated the fraud. Likewise, the questioned Documents Report No. 159-1074 dated November 21, 1974 of the National Bureau of Investigation does not declare or prove that the signatures appearing on the questioned checks are forgeries. The report merely mentions the alleged differences in the typeface, checkwriting, and printing characteristics appearing in the standard or submitted models and the questioned typewritings. The NBI

Chemistry Report No. C-74-891 merely describes the inks and pens used in writing the alleged forged signatures.

It is clear that these three (3) NBI Reports relied upon by the petitioner are inadequate to sustain its allegations of forgery. These reports did not touch on the inherent qualities of the signatures which are indispensable in the determination of the existence of forgery. There must be conclusive findings that there is a variance in the inherent characteristics of the signatures and that they were written by two or more different persons.

Forgery cannot be presumed (*Siasat, et al. v. Intermediate Appellate Court, et al*, 139 SCRA 238). It must be established by clear, positive, and convincing evidence. This was not done in the present case.

The cases of *San Carlos Milling Co. Ltd. v. Bank of the Philippine Islands, et al.* (59 Phil. 59) and *Great Eastern Life Ins., Co. v. Hongkong and Shanghai Bank* (43 Phil. 678) relied upon by the petitioner are inapplicable in this case because the forgeries in those cases were either clearly established or admitted while in the instant case, the allegations of forgery were not clearly established during trial.

Considering the absence of sufficient security in the printing of the checks coupled with the very close similarities between the genuine signatures and the alleged forgeries, the twenty-three (23) checks in question could have been presented to the petitioner's signatories without their knowing that they were bogus checks. Indeed, the cashier of the petitioner whose signatures were allegedly forged was unable to tell the difference between the allegedly forged signature and his own genuine signature. On the other hand, the MWSS officials admitted that these checks could easily be passed on as genuine.

The memorandum of Mr. A. T. Tolentino, Assistant Chief Accountant of the drawee Philippine National Bank to Mr. E. Villatuya, Executive Vice-President of the petitioner dated June 9, 1969 cites an instance where even the concerned NWSA officials could not tell the difference between the genuine checks and the alleged forged checks:

"At about 12:00 o'clock on June 6, 1969, VP Maramag requested me to see him in his office at the Cashier's Dept. where Messrs. Jose M. Sanchez, treasurer of NAWASA and Romeo Oliva of the same office were present. Upon my arrival I observed the NAWASA officials questioning the issue of the NAWASA checks appearing in their own list, xerox copy attached.

"For verification purposes, therefore, the checks were taken from our file. To everybody there present namely VP Maramag, the two abovementioned NAWASA officials, AVP Buhain, Asst. Cashier Castelo, Asst. Cashier Tejada and Messrs. A. Lopez and L. Lechuga, both C/A bookkeepers, no one was able to point out any difference on the signatures of the NAWASA officials appearing on the checks compared to their official signatures on file. In fact 3 checks, one of those under question, were presented to the NAWASA treasurer for verification but he could not point out which was his genuine signature. After intent comparison, he pointed on the questioned check as bearing his correct signature."

xxx xxx xxx

Moreover, the petitioner is barred from setting up the defense of forgery under Section 23 of the Negotiable Instruments Law which provides that:

"SEC. 23. - FORGED SIGNATURE; EFFECT OF. - When the signature is forged or made without authority of the person whose signature it purports to be, it is wholly inoperative, and no right to retain the instrument, or to give a discharge therefor, or to enforce payment thereof against any party thereto can be acquired through or under such signature unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority."

because it was guilty of negligence not only before the questioned checks were negotiated but even after the same had already been negotiated. (See Republic v. Equitable Banking Corporation, 10 SCRA 8)

The records show that at the time the twenty-three (23) checks were prepared, negotiated, and encashed, the petitioner was using its own personalized checks, instead of the official PNB commercial blank checks. In the exercise of this special privilege, however, the petitioner failed to provide the needed security measures. That there was gross negligence in the printing of its personalized checks is shown by the following uncontroverted facts, to wit:

- (1) The petitioner failed to give its printer, Mesina Enterprises, specific instructions relative to the safekeeping and disposition of excess forms, check vouchers, and safety papers;
- (2) The petitioner failed to retrieve from its printer all spoiled check forms;
- (3) The petitioner failed to provide any control regarding the paper used in the printing of said checks;
- (4) The petitioner failed to furnish the respondent drawee bank with samples of typewriting, check writing, and print used by its printer in the printing of its checks and of the inks and pens used in signing the same; and
- (5) The petitioner failed to send a representative to the printing office during the printing of said checks.

This gross negligence of the petitioner is very evident from the sworn statement dated June 19, 1969 of Faustino Mesina, Jr., the owner of the printing press which printed the petitioner's personalized checks:

xxx xxx xxx

"7.

Q:

Do you have any business transaction with the National Waterworks and Sewerage Authority (NAWASA)?

A:

Yes, sir. I have a contract with the NAWASA in printing NAWASA Forms such as NAWASA Check vouchers and Office Forms.

xxx xxx xxx

"15.

Q:

Were you given any instruction by the NAWASA in connection with the printing of these check vouchers?

A:

There is none, sir. No instruction whatsoever was given to me.

"16.

Q:

Were you not advised as to what kind of paper would be used in the check vouchers?

A:

Only as per sample, sir.

xxx xxx xxx

"20.

Q:

Where did you buy this Hammermill Safety check paper?

A:

From Tan Chiong, a paper dealer with store located at Juan Luna, Binondo, Manila. (In front of the Metropolitan Bank).

xxx xxx xxx

"24.

Q:

Were all these check vouchers printed by you submitted to NAWASA?

A:

Not all, sir. Because we have to make reservations or allowances for spoilage.

"25.

Q:

Out of these vouchers printed by you, how many were spoiled and how many were the excess printed check vouchers?

A:

Approximately four hundred (400) sheets, sir. I cannot determine the proportion of the excess and spoiled because the final act of perforating these check vouchers has not yet been done and spoilage can only be determined after this final act of printing.

"26.

Q:

What did you do with these excess check vouchers?

A:

I keep it under lock and key in my filing cabinet.

xxx xxx xxx

"28.

Q:

Were you not instructed by the NAWASA authorities to burn these excess check vouchers?

A:

No, sir. I was not instructed.

"29.

Q:

What do you intend to do with these excess printed check vouchers?

A:

I intend to use them for future orders from the NAWASA.

xxx xxx xxx

"32.

Q:

In the process of printing the check vouchers ordered by the NAWASA, how many sheets were actually spoiled?

A:

I cannot approximate, sir. But there are spoilages in the process of printing and perforating.

"33.

Q:

What did you do with these spoilages?

A:

Spoiled printed materials are usually thrown out, in the garbage can.

"34.

Q:

Was there any representative of the NAWASA to supervise the printing or watch the printing of these check vouchers?

A:

None, sir.

xxx xxx xxx

"39.

Q:

During the period of printing after the days work, what measures do you undertake to safeguard the mold and other paraphernalia used in the printing of these particular orders of NAWASA?

A:

Inasmuch as I have an employee who sleeps in the printing shop and at the same time do the guarding, we just leave the mold attached to the machine and the other finished or unfinished work check vouchers are left in the rack so that the work could be continued the following day."

The National Bureau of Investigation Report dated November 2, 1970 is even more explicit. Thus -

xxx xxx xxx

"60. We observed also that there is some laxity and loose control in the printing of NAWASA checks. We gathered from MESINA ENTERPRISES, the printing firm that undertook the printing of the check vouchers of NAWASA that NAWASA had no representative at the printing press during the process of the printing and no particular security measure instructions adopted to safeguard the interest of the government in connection with printing of this accountable form."

Another factor which facilitated the fraudulent encashment of the twenty-three (23) checks in question was the failure of the petitioner to reconcile the bank statements with its own records.

It is accepted banking procedure for the deposi-tory bank to furnish its depositors bank statements and debt and credit memos through the mail. The records show that the petitioner requested the respondent drawee bank to discontinue the practice of mailing the bank statements, but instead to deliver the same to a certain Mr. Emiliano Zaporteza. For reasons known only to Mr. Zaporteza however, he was unreasonably delayed in taking prompt deliveries of the said bank statements and credit and debit memos. As a consequence, Mr. Zaporteza failed to reconcile the bank statements with the petitioner's records. If Mr. Zaporteza had not been remiss in his duty of taking the bank statements and reconciling them with the petitioner's records, the fraudulent encashments of the first checks should have been discovered, and further frauds prevented. This negligence was, therefore, the proximate cause of the failure to discover the fraud. Thus,

"When a person opens a checking account with a bank, he is given blank checks which he may fill out and use whenever he wishes. Each time he issues a check, he should also fill out the check stub to which the check is usually attached. This stub, if properly kept, will contain the number of the check, the date of its issue, the name of the payee and the amount thereof. The drawer would therefore have a complete record of the checks he issues. It is the custom of banks to send to its depositors a monthly statement of the status of their accounts, together with all the cancelled checks which have been cashed by their respective holders. If the depositor has filled out his check stubs properly, a comparison between them and the cancelled checks will reveal any forged check not taken from his checkbook. It is the duty of a depositor to carefully examine the bank's statement, his cancelled checks, his check stubs and other pertinent records within a reasonable time, and to report any errors with-out unreasonable delay. If his negligence should cause the bank to honor a forged check or prevent it from recovering the amount it may have already paid on such check, he cannot later complain should the bank refuse to recredit his account with the amount of such check. (First Nat. Bank of Richmond v. Richmond Electric Co., 106 Va. 347, 56 SE 152, 7 LRA, NS 744 [1907]. See also Leather Manufacturers' Bank v. Morgan, 117 US 96, 6 S. Ct. 657 [1886]; Deer Island Fish and Oyster Co. v. First Nat. Bank of Biloxi, 166 Miss. 162, 146 So. 116 [1933]). (Campos and Campos, Notes and Selected Cases on Negotiable Instruments Law, 1971, pp. 267-268).

This failure of the petitioner to reconcile the bank statements with its cancelled checks was noted by the National

Bureau of Investigation in its report dated November 2, 1970:

"58. One factor which facilitate this fraud was the delay in the reconciliation of bank (PNB) statements with the NAWASA bank accounts. x x x. Had the NAWASA representative come to the PNB early for the statements and had the bank been advised promptly of the reported bogus check, the negotiation of practically all of the remaining checks on May, 1969, total-ling P2,224,736.00 could have been prevented."

The records likewise show that the petitioner failed to provide appropriate security measures over its own records thereby laying confidential records open to un-authorized persons. The petitioner's own Fact Finding Committee, in its report submitted to their General Manager underscored this laxity of records control. It observed that the "office of Mr. Ongtengco (Cashier No. VI of the Treasury Department at the NAWASA) is quite open to any person known to him or his staff members and that the check writer is merely on top of his table."

When confronted with this report at the Anti-Fraud Action Section of the National Bureau of Investigation, Mr. Ongtengco could only state that:

"A -

Generally my order is not to allow anybody to enter my office. Only authorized persons are allowed to enter my office. There are some cases, however, where some persons enter my office because they are following up their checks. Maybe, these persons may have been authorized by Mr. Pantig. Most of the people entering my office are changing checks as allowed by the Resolution of the Board of Directors of the NAWASA and the Treasurer. The check writer was never placed on my table. There is a place for the check-writer which is also under lock and key.

"Q -

Is Mr. Pantig authorized to allow unauthorized persons to enter your office?

"A -

No, sir.

"Q -

Why are you tolerating Mr. Pantig admitting unauthorized persons in your office?

"A -

I do not want to embarrass Mr. Pantig. Most of the people following up checks are employees of the NAWASA.

"Q -

Was the authority given by the Board of Directors and the approval by the Treasurer for employees, and other persons to encash their checks carry with it their authority to enter your office?

"A -

No, sir.

xxx xxx xxx

"Q -

From the answers that you have given to us we observed that actually there is laxity and poor control on your part with regards to the preparations of check payments inasmuch as you allow unauthorized persons to follow-up their vouchers inside your office which may leakout confidential informations or your books of account. After being apprised of all the shortcomings in your office, as head of the Cashiers' Office of the Treasury Department what remedial measures do you intend to undertake?

"A -

Time and again the Treasurer has been calling our attention not to allow interested persons to hand carry their voucher checks and we are trying our best and if I can do it to follow the instructions to the letter, I will do it but unfortunately the persons who are allowed to enter my office are my co-employees and persons who have connections with our higher ups and I can not possibly antagonize them. Rest assured that even though that every-body will get hurt, I will do my best not to allow unauthorized persons to enter my office.

xxx xxx xxx

"Q -

Is it not possible inasmuch as your office is in charge of the posting of check payments in your books that leakage of payments to the banks came from your office?

"A -

I am not aware of it but it only takes us a couple of minutes to process the checks. And there are cases wherein every information about the checks may be obtained from the Accounting Department, Auditing Department, or the Office of the General Manager."

Relying on the foregoing statement of Mr. Ongtengco, the National Bureau of Investigation concluded in its Report dated November 2, 1970 that the fraudulent encashment of the twenty-three (23) checks in question was an "inside job". Thus -

"We have all the reasons to believe that this fraudulent act was an inside job or one pulled with inside connivance at NAWASA. As pointed earlier in this report, the serial numbers of these checks in question conform with the numbers in current use by NAWASA, aside from the fact that these fraudulent checks were found to be of the same kind and design as that of NAWASA's own checks. While knowledge as to such facts may be obtained through the possession of a NAWASA check of current issue, an outsider without information from the inside can not possibly pinpoint which of NAWASA's various accounts has sufficient balance to cover all these fraudulent checks. None of these checks, it should be noted, was dishonored for insufficiency of funds.."

Even if the twenty-three (23) checks in question are considered forgeries, considering the petitioner's gross negligence, it is barred from setting up the defense of forgery under Section 23 of the Negotiable Instruments Law.

Nonetheless, the petitioner claims that it was the negligence of the respondent Philippine National Bank that was the proximate cause of the loss. The petitioner relies on our ruling in *Philippine National Bank v. Court of Appeals* (25 SCRA 693) that:

"Thus, by not returning the check to the PCIB, by thereby indicating that the PNB had found nothing wrong with the check and would honor the same, and by actually paying its amount to the PCIB, the PNB induced the

latter, not only to believe that the check was genuine and good in every respect, but, also, to pay its amount to Augusto Lim. In other words, the PNB was the primary or proximate cause of the loss, and, hence, may not recover from the PCIB."

The argument has no merit. The records show that the respondent drawee bank, had taken the necessary measures in the detection of forged checks and the prevention of their fraudulent encashment. In fact, long before the encashment of the twenty-three (23) checks in question, the respondent Bank had issued constant reminders to all Current Account Bookkeepers informing them of the activities of forgery syndicates. The Memorandum of the Assistant Vice-President and Chief Accountant of the Philippine National Bank dated February 17, 1966 reads in part:

"SUBJECT: ACTIVITIES OF FORGERY SYNDICATE

"From reliable information we have gathered that personalized checks of current account depositors are now the target of the forgery syndicate. To protect the interest of the bank, you are hereby enjoined to be more careful in examining said checks especially those coming from the clearing, mails and window transactions. As a reminder please be guided with the following:

- "1. Signatures of drawers should be properly scrutinized and compared with those we have on file.
- "2. The serial numbers of the checks should be compared with the serial numbers registered with the Cashier's Dept.
- "3. The texture of the paper used and the printing of the checks should be compared with the sample we have on file with the Cashier's Dept.
- "4. Checks bearing several indorsements should be given a special attention.
- "5. Alteration in amount both in figures and words should be carefully examined even if signed by the drawer.
- "6. Checks issued in substantial amounts particularly by depositors who do not usually issue checks in big amounts should be brought to the attention of the drawer by telephone or any fastest means of communication for purposes of confirmation.

and your attention is also invited to keep abreast of previous circulars and memo instructions issued to bookkeepers."

We cannot fault the respondent drawee Bank for not having detected the fraudulent encashment of the checks because the printing of the petitioner's personalized checks was not done under the supervision and control of the Bank. There is no evidence on record indicating that because of this private printing, the petitioner furnished the respondent Bank with samples of checks, pens, and inks or took other precautionary measures with the PNB to safeguard its interests.

Under the circumstances, therefore, the petitioner was in a better position to detect and prevent the fraudulent encashment of its checks.

WHEREFORE, the petition for review on certiorari is hereby DISMISSED for lack of merit. The decision of the respondent Court of Appeals dated October 29, 1982 is AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Feria, (Chairman), Fernan, Alampay, and Cruz, JJ., concur.
Paras, J., no part.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.