

RAUL SESBREÑO, PETITIONER, VS. HON. COURT OF APPEALS, DELTA MOTORS CORPORATION AND PILIPINAS BANK, RESPONDENTS.

G.R. No. 89252. May 24, 1993

Ponente: FELICIANO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-89252/>

FELICIANO, J.:

On 9 February 1981, petitioner Raul Sesbreño made a money market placement in the amount of P300,000.00 with the Philippine Underwriters Finance Corporation ("Philfinance"), Cebu Branch; the placement, with a term of thirty-two (32) days, would mature on 13 March 1981. Philfinance, also on 9 February 1981, issued the following documents to petitioner:

- (a) the Certificate of Confirmation of Sale, "without recourse," No. 20496 of one (1) Delta Motors Corporation Promissory Note ("DMC PN") No. 2731 for a term of 32 days at 17.0 % per annum;
- (b) the Certificate of Securities Delivery Receipt No. 16587 indicating the sale of DMC PN No. 2731 to petitioner, with the notation that the said security was in custodianship of Pilipinas Bank, as per Denominated Custodian Receipt ("DCR") No. 10805 dated 9 February 1981; and
- (c) post-dated checks payable on 13 March 1981 (i.e., the maturity date of petitioner's investment), with petitioner as payee, Philfinance as drawer, and Insular Bank of Asia and America as drawee, in the total amount of P304,533.33.

On 13 March 1981, petitioner sought to encash the post-dated checks issued by Philfinance. However, the checks were dishonored for having been drawn against insufficient funds.

On 26 March 1981, Philfinance delivered to petitioner the DCR No. 10805 issued by private respondent Pilipinas Bank ("Pilipinas"). It read as follows:

"PILIPINAS BANK

Makati Stock Exchange Bldg.,

Ayala Avenue, Makati,

Metro Manila.

February 9, 1981

VALUE DATE

TO Raul Sesbreño

April 6, 1981____

MATURITY DATE

NO. 10805

DENOMINATED CUSTODIAN RECEIPT

'This confirms that as a duly Custodian Bank, and upon instruction of PHILIPPINE UNDERWRITERS FINANCE CORPORATION, we have in our custody the following securities to you [sic] the extent herein indicated.

SERIAL NUMBER

MAT. DATE

FACE VALUE

ISSUED BY

REGISTERED HOLDER PAYEE

AMOUNT

2731

4-6-81

2,300,833.34

DMC

PHIL.

UNDERWRITERS

FINANCE CORP.

307,933.33

We further certify that these securities may be inspected by you or your duly authorized representative at any time during regular banking hours.

Upon your written instructions we shall undertake physical delivery of the above securities fully assigned to you should this Denominated Custodianship Receipt remain outstanding in your favor thirty (30) days after its maturity.'

PILIPINAS BANK

(By Elizabeth De Villa

Illegible Signature)"[1]

On 2 April 1981, petitioner approached Ms. Elizabeth de Villa of private respondent Pilipinas, Makati Branch,

and handed to her a demand letter informing the bank that his placement with Philfinance in the amount reflected in the DCR No. 10805 had remained unpaid and outstanding, and that he in effect was asking for the physical delivery of the underlying promissory note. Petitioner then examined the original of the DMC PN No. 2731 and found: that the security had been issued on 10 April 1980; that it would mature on 6 April 1981; that it had a face value of P2,300,833.33, with Philfinance as "payee" and private respondent Delta Motors Corporation ("Delta") as "maker;" and that on face of the promissory note was stamped "NON-NEGOTIABLE." Pilipinas did not deliver the Note, nor any certificate of participation in respect thereof, to petitioner.

Petitioner later made similar demand letters, dated 3 July 1981 and 3 August 1981,[2] again asking private respondent Pilipinas for physical delivery of the original of DMC PN No. 2731. Pilipinas allegedly referred all of petitioner's demand letters to Philfinance for written instructions, as had been supposedly agreed upon in a "Securities Custodianship Agreement" between Pilipinas and Philfinance. Philfinance never did provide the appropriate instructions; Pilipinas never released DMC PN No. 2731, nor any other instrument in respect thereof, to petitioner.

Petitioner also made a written demand on 14 July 1981[3] upon private respondent Delta for the partial satisfaction of DMC PN No. 2731, explaining that Philfinance, as payee thereof, had assigned to him said Note to the extent of P307,933.33. Delta, however, denied any liability to petitioner on the promissory note, and explained in turn that it had previously agreed with Philfinance to offset its DMC PN No. 2731 (along with DMC PN No. 2730) against Philfinance PN No. 143-A issued in favor of Delta.

In the meantime, Philfinance, on 18 June 1981, was placed under the joint management of the Securities and Exchange Commission ("SEC") and the Central Bank. Pilipinas delivered to the SEC DMC PN No. 2731, which to date apparently remains in the custody of the SEC.[4]

As petitioner had failed to collect his investment and interest thereon, he filed on 28 September 1982 an action for damages with the Regional Trial Court ("RTC") of Cebu City, Branch 21, against private respondents Delta and Pilipinas.[5] The trial court, in a decision dated 5 August 1987, dismissed the complaint and counterclaims for lack of merit and for lack of cause of action, with costs against petitioner.

Petitioner appealed to respondent Court of Appeals in C.A.-G.R. CV No. 15195. In a Decision dated 21 March 1989, the Court of Appeals denied the appeal and held:[6]

"Be that as it may, from the evidence on record, if there is anyone that appears liable for the travails of plaintiff-appellant, it is Philfinance. As correctly observed by the trial court:

'This act of Philfinance in accepting the investment of plaintiff and charging it against DMC P.N. No. 2731 when its entire face value was already obligated or earmarked for set-off or compensation is difficult to comprehend and may have been motivated with bad faith. Philfinance, therefore, is solely and legally obligated to return the investment of plaintiff, together with its earnings, and to answer all the damages plaintiff has suffered incident thereto. Unfortunately for plaintiff, Philfinance was not impleaded as one of the defendants in this case at bar; hence, this Court is without jurisdiction to pronounce judgment against it. (p. 11, Decision).'

WHEREFORE, finding no reversible error in the decision appealed from, the same is hereby affirmed in toto. Cost against plaintiff-appellant."

Petitioner moved for reconsideration of the above Decision, without success.

Hence, this Petition for Review on Certiorari.

After consideration of the allegations contained and issues raised in the pleadings, the Court resolved to give due

course to the petition and required the parties to file their respective memoranda.[7]

Petitioner reiterates the assignment of errors he directed at the trial court decision, and contends that respondent Court of Appeals gravely erred: (i) in concluding that he cannot recover from private respondent Delta his assigned portion of DMC PN No. 2731; (ii) in failing to hold private respondent Pilipinas solidarily liable on the DMC PN No. 2731 in view of the provisions stipulated in DCR No. 10805 issued in favor of petitioner; and (iii) in refusing to pierce the veil of corporate entity between Philfinance, and private respondents Delta and Pilipinas, considering that the three (3) entities belong to the "Silverio Group of Companies" under the leadership of Mr. Ricardo Silverio, Sr.[8]

There are at least two (2) sets of relationships which we need to address: firstly, the relationship of petitioner vis-a-vis Delta; secondly, the relationship of petitioner in respect of Pilipinas. Actually, of course, there is a third relationship that is of critical importance: the relationship of petitioner and Philfinance. However, since Philfinance has not been impleaded in this case, neither the trial court nor the Court of Appeals acquired jurisdiction over the person of Philfinance. It is, consequently, not necessary for present purposes to deal with this third relationship, except to the extent it necessarily impinges upon or intersects the first and second relationships.

I

We consider first the relationship between petitioner and Delta.

The Court of Appeals in effect held that petitioner acquired no rights vis-a-vis Delta in respect of the Delta promissory note (DMC PN No. 2731) which Philfinance sold "without recourse" to petitioner, to the extent of P304,533.33. The Court of Appeals said on this point:

"Nor could plaintiff-appellant have acquired any right over DMC P.N. No. 2731 as the same is 'non-negotiable' as stamped on its face (Exhibit '6'), negotiation being defined as the transfer of an instrument from one person to another so as to constitute the transferee the holder of the instrument (Sec. 30, Negotiable Instruments Law). A person not a holder cannot sue on the instrument in his own name and cannot demand or receive payment (Section 51, id.)."[9]

Petitioner admits that DMC PN No. 2731 was non-negotiable but contends that that Note had been validly transferred, in part, to him by assignment and that as a result of such transfer, Delta as debtor-maker of the Note, was obligated to pay petitioner the portion of that Note assigned to him by the payee Philfinance.

Delta, however, disputes petitioner's contention and argues:

(1) that DMC PN No. 2731 was not intended to be negotiated or otherwise transferred by Philfinance as manifested by the word "non-negotiable" stamp across the face of the Note[10] and because maker Delta and payee Philfinance intended that this Note would be offset against the outstanding obligation of Philfinance represented by Philfinance PN No. 143-A issued to Delta as payee;

(2) that the assignment of DMC PN No. 2731 by Philfinance was without Delta's consent, if not against its instructions; and

(3) assuming (arguendo only) that the partial assignment in favor of petitioner was valid, petitioner took that Note subject to the defenses available to Delta, in particular, the offsetting of DMC PN No. 2731 against Philfinance PN No. 143-A.[11]

We consider Delta's arguments *seriatim*.

Firstly, it is important to bear in mind that the negotiation of a negotiable instrument must be distinguished from the assignment or transfer of an instrument whether that be negotiable or non-negotiable. Only an instrument

qualifying as a negotiable instrument under the relevant statute may be negotiated either by indorsement thereof coupled with delivery, or by delivery alone where the negotiable instrument is in bearer form. A negotiable instrument may, however, instead of being negotiated, also be assigned or transferred. The legal consequences of negotiation as distinguished from assignment of a negotiable instrument are, of course, different. A non-negotiable instrument may, obviously, not be negotiated; but it may be assigned or transferred, absent an express prohibition against assignment or transfer written in the face of the instrument:

"The words 'not negotiable,' stamped on the face of the bill of lading, did not destroy its assignability, but the sole effect was to exempt the bill from the statutory provisions relative thereto, and a bill, though not negotiable, may be transferred by assignment; the assignee taking subject to the equities between the original parties." [12] (Underscoring added)

DMC PN No. 2731, while marked "non-negotiable," was not at the same time stamped "non-transferrable" or "non-assignable." It contained no stipulation which prohibited Philfinance from assigning or transferring, in whole or in part, that Note.

Delta adduced the "Letter of Agreement" which it had entered into with Philfinance and which should be quoted in full:

"April 10, 1980

Philippine Underwriters Finance Corp.

Benavidez St., Makati

Metro Manila

Attention: Mr. Alfredo O. Banaria

SVP-Treasurer--

GENTLEMEN:

This refers to our outstanding placement of P4,601,666.67 as evidenced by your Promissory Note No. 143-A, dated April 10, 1980, to mature on April 6, 1981.

As agreed upon, we enclose our non-negotiable Promissory Note No. 2730 and 2731 for P2,000,000.00 each, dated April 10, 1980, to be offsetted [sic] against your PN No. 143-A upon co-terminal maturity.

Please deliver the proceeds of our PNs to our representative, Mr. Eric Castillo.

Very Truly Yours,

(Sgd.)

Florencio B. Biagan

Senior Vice President" [13]

We find nothing in his "Letter of Agreement" which can be reasonably construed as a prohibition upon Philfinance assigning or transferring all or part of DMC PN No. 2731, before the maturity thereof. It is scarcely necessary to add that, even had this "Letter of Agreement" set forth an explicit prohibition of transfer upon Philfinance, such a prohibition cannot be invoked against an assignee or transferee of the Note who parted with valuable consideration in good faith and without notice of such prohibition. It is not disputed that petitioner was such an assignee or transferee. Our conclusion on this point is reinforced by the fact that what Philfinance and

Delta were doing by their exchange of promissory notes was this: Delta invested, by making a money market placement with Philfinance, approximately P4,600,000.00 on 10 April 1980; but promptly, on the same day, borrowed back the bulk of that placement, i.e., P4,000,000.00, by issuing its two (2) promissory notes: DMC PN No. 2730 and DMC PN No. 2731, both also dated 10 April 1980. Thus, Philfinance was left with not P4,600,000.00 but only P600,000.00 in cash and the two (2) Delta promissory notes.

Apropos Delta's complaint that the partial assignment by Philfinance of DMC PN No. 2731 had been effected without the consent of Delta, we note that such consent was not necessary for the validity and enforceability of the assignment in favor of petitioner.[14] Delta's argument that Philfinance's sale or assignment of part of its rights to DMC PN No. 2731 constituted conventional subrogation, which required its (Delta's) consent, is quite mistaken. Conventional subrogation, which in the first place is never lightly inferred,[15] must be clearly established by the unequivocal terms of the substituting obligation or by the evident incompatibility of the new and old obligations on every point.[16] Nothing of the sort is present in the instant case.

It is in fact difficult to be impressed with Delta's complaint, since it released its DMC PN No. 2731 to Philfinance, an entity engaged in the business of buying and selling debt instruments and other securities, and more generally, in money market transactions. In *Perez v. Court of Appeals*,[17] the Court, speaking through Mm. Justice Herrera, made the following important statement:

"There is another aspect to this case. What is involved here is a money market transaction. As defined by Lawrence Smith 'the money market is a market dealing in standardized short-term credit instruments (involving large amounts) where lenders and borrowers do not deal directly with each other but through a middle man or dealer in the open market.' It involves 'commercial papers' which are instruments 'evidencing indebtedness of any person or entity . . . which are issued, endorsed, sold or transferred or in any manner conveyed to another person or entity, with or without recourse'. The fundamental function of the money market device in its operation is to match and bring together in a most impersonal manner both the 'fund users' and the 'fund suppliers.' The money market is an 'impersonal market', free from personal considerations.' The market mechanism is intended to provide quick mobility of money and securities.'

The impersonal character of the money market device overlooks the individuals or entities concerned. The issuer of a commercial paper in the money market necessarily knows in advance that it would be expeditiously transacted and transferred to any investor/lender without need of notice to said issuer. In practice, no notification is given to the borrower or issuer of commercial paper of the sale or transfer to the investor.

x x x x x x x x

There is need to individuate a money market transaction, a relatively novel institution in the Philippine commercial scene. It has been intended to facilitate the flow and acquisition of capital on an impersonal basis. And as specifically required by Presidential Decree No. 678, the investing public must be given adequate and effective protection in availing of the credit of a borrower in the commercial paper market." [18] (Citations omitted; underscoring supplied)

We turn to Delta's arguments concerning alleged compensation or offsetting between DMC PN No. 2731 and Philfinance PN No. 143-A. It is important to note that at the time Philfinance sold part of its rights under DMC PN No. 2731 to petitioner on 9 February 1981, no compensation had as yet taken place and indeed none could have taken place. The essential requirements of compensation are listed in the Civil Code as follows:

"Art. 1279. In order that compensation may be proper, it is necessary:

(1) That each one of the obligors be bound principally, and that he be at the same time a principal creditor of the other;

- (2) That both debts consist in a sum of money, or if the things due are consumable, they be of the same kind, and also of the same quality if the latter has been stated;
- (3) That the two debts are due;
- (4) That they be liquidated and demandable;
- (5) That over neither of them there be any retention or controversy, commenced by third persons and communicated in due time to the debtor." (Underscoring supplied)

On 9 February 1981, neither DMC PN No. 2731 nor Philfinance PN No. 143-A was due. This was explicitly recognized by Delta in its 10 April 1980 "Letter of Agreement" with Philfinance, where Delta acknowledged that the relevant promissory notes were "to be offsetted (sic) against [Philfinance] PN No. 143-A upon co-terminal maturity."

As noted, the assignment to petitioner was made on 9 February 1981 or from forty-nine (49) days before the "co-terminal maturity" date, that is to say, before any compensation had taken place. Further, the assignment to petitioner would have prevented compensation from taking place between Philfinance and Delta, to the extent of P304,533.33, because upon execution of the assignment in favor of petitioner, Philfinance and Delta would have ceased to be creditors and debtors of each other in their own right to the extent of the amount assigned by Philfinance to petitioner. Thus, we conclude that the assignment effected by Philfinance in favor of petitioner was a valid one and that petitioner accordingly became owner of DMC PN No. 2731 to the extent of the portion thereof assigned to him.

The record shows, however, that petitioner notified Delta of the fact of the assignment to him only on 14 July 1981,[19] that is, after the maturity not only of the money market placement made by petitioner but also of both DMC PN No. 2731 and Philfinance PN No. 143-A. In other words, petitioner notified Delta of his rights as assignee after compensation had taken place by operation of law because the offsetting instruments had both reached maturity. It is a firmly settled doctrine that the rights of an assignee are not any greater than the rights of the assignor, since the assignee is merely substituted in the place of the assignor[20] and that the assignee acquires his rights subject to the equities -- i.e., the defenses -- which the debtor could have set up against the original assignor before notice of the assignment was given to the debtor. Article 1285 of the Civil Code provides that:

"ART. 1285. The debtor who has consented to the assignment of rights made by a creditor in favor of a third person, cannot set up against the assignee the compensation which would pertain to him against the assignor, unless the assignor was notified by the debtor at the time he gave his consent, that he reserved his right to the compensation.

If the creditor communicated the cession to him but the debtor did not consent thereto, the latter may set up the compensation of debts previous to the cession, but not of subsequent ones.

If the assignment is made without the knowledge of the debtor, he may set up the compensation of all credits prior to the same and also later ones until he had knowledge of the assignment." (Underscoring supplied)

Article 1626 of the same Code states that: "the debtor who, before having knowledge of the assignment, pays his creditor shall be released from the obligation." In *Sison v. Yap-Tico*,[21] the Court explained that:

"[n]o man is bound to remain a debtor: he may pay to him with whom he contracted to pay; and if he pay before notice that his debt has been assigned, the law holds him exonerated, for the reason that it is the duty of the person who has acquired a title by transfer to demand payment of the debt, to give his debtor notice." [22]

At the time that Delta was first put to notice of the assignment in petitioner's favor on 14 July 1981, DMC PN No.

2731 had already been discharged by compensation. Since the assignor Philfinance could not have then compelled payment anew by Delta of DMC PN No. 2731, petitioner, as assignee of Philfinance, is similarly disabled from collecting from Delta the portion of the Note assigned to him.

It bears some emphasis that petitioner could have notified Delta of the assignment in his favor as soon as that assignment or sale was effected on 9 February 1981. He could have also notified Delta as soon as his money market placement matured on 13 March 1981 without payment thereof being made by Philfinance; at that time, compensation had yet to set in and discharge DMC PN No. 2731. Again, petitioner could have notified Delta on 26 March 1981 when petitioner received from Philfinance the Denominated Custodianship Receipt ("DCR") No. 10805 issued by private respondent Pilipinas in favor of petitioner. Petitioner could, in fine, have notified Delta at any time before the maturity date of DMC PN No. 2731. Because petitioner failed to do so, and because the record is bare of any indication that Philfinance had itself notified Delta of the assignment to petitioner, the Court is compelled to uphold the defense of compensation raised by private respondent Delta. Of course, Philfinance remains liable to petitioner under the terms of the assignment made by Philfinance to petitioner.

II

We turn now to the relationship between petitioner and private respondent Pilipinas. Petitioner contends that Pilipinas became solidarily liable with Philfinance and Delta when Pilipinas issued DCR No. 10805 with the following words:

"Upon your written instructions, we (Pilipinas) shall undertake physical delivery of the above securities fully assigned to you ---." [23]

The Court is not persuaded. We find nothing in the DCR that establishes an obligation on the part of Pilipinas to pay petitioner the amount of P307,933.33 nor any assumption of liability in solidum with Philfinance and Delta under DMC PN No. 2731. We read the DCR as a confirmation on the part of Pilipinas that:

- (1) it has in its custody, as duly constituted custodian bank, DMC PN No. 2731 of a certain face value, to mature on 6 April 1981 and payable to the order of Philfinance;
- (2) Pilipinas was, from and after said date of the assignment by Philfinance to petitioner (9 February 1981), holding that Note on behalf and for the benefit of petitioner, at least to the extent it had been assigned to petitioner by payee Philfinance; [24]
- (3) petitioner may inspect the Note either "personally or by authorized representative", at any time during regular bank hours; and
- (4) upon written instructions of petitioner, Pilipinas would physically deliver the DMC PN No. 2731 (or a participation therein to the extent of P307,933.33) "should this Denominated Custodianship Receipt remain outstanding in [petitioner's] favor thirty (30) days after its maturity."

Thus, we find nothing written in printers ink on the DCR which could reasonably be read as converting Pilipinas into an obligor under the terms of DMC PN No. 2731 assigned to petitioner, either upon maturity thereof or at any other time. We note that both in his complaint and in his testimony before the trial court, petitioner referred merely to the obligation of private respondent Pilipinas to effect physical delivery to him of DMC PN No. 2731. [25] Accordingly, petitioner's theory that Pilipinas had assumed a solidary obligation to pay the amount represented by the portion of the Note assigned to him by Philfinance, appears to be a new theory constructed only after the trial court had ruled against him. The solidary liability that petitioner seeks to impute to Pilipinas cannot, however, be lightly inferred. Under Article 1207 of the Civil Code, "there is a solidary liability only when the obligation expressly so states, or when the law or the nature of the obligation requires solidarity." The record

here exhibits no express assumption of solidary liability vis-a-vis petitioner, on the part of Pilipinas. Petitioner has not pointed us to any law which imposed such liability upon Pilipinas nor has petitioner argued that the very nature of the custodianship assumed by private respondent Pilipinas necessarily implies solidary liability under the securities, custody of which was taken by Pilipinas. Accordingly, we are unable to hold Pilipinas solidarily liable with Philfinance and private respondent Delta under DMC PN No. 2731.

We do not, however, mean to suggest that Pilipinas has no responsibility and liability in respect of petitioner under the terms of the DCR. To the contrary, we find, after prolonged analysis and deliberation, that private respondent Pilipinas had breached its undertaking under the DCR to petitioner Sesbreno.

We believe and so hold that a contract of deposit was constituted by the act of Philfinance in designating Pilipinas as custodian or depositary bank. The depositor was initially Philfinance; the obligation of the depositary was owed, however, to petitioner Sesbreno as beneficiary of the custodianship or depositary agreement. We do not consider that this is a simple case of a stipulation pour autrui. The custodianship or depositary agreement was established as an integral part of the money market transaction entered into by petitioner with Philfinance. Petitioner bought a portion of DMC PN No. 2731; Philfinance as assignor-vendor deposited that Note with Pilipinas in order that the thing sold would be placed outside the control of the vendor. Indeed, the constituting of the depositary or custodianship agreement was equivalent to constructive delivery of the Note (to the extent it had been sold or assigned to petitioner) to petitioner. It will be seen that custodianship agreements are designed to facilitate transactions in the money market by providing a basis for confidence on the part of the investors or placers that the instruments bought by them are effectively taken out of the pocket, as it were, of the vendors and placed safely beyond their reach, that those instruments will be there available to the placers of funds should they have need of them. The depositary in a contract of deposit is obliged to return the security or the thing deposited upon demand of the depositor (or, in the present case, of the beneficiary) of the contract, even though a term for such return may have been established in the said contract.[26] Accordingly, any stipulation in the contract of deposit or custodianship that runs counter to the fundamental purpose of that agreement or which was not brought to the notice of and accepted by the placer-beneficiary, cannot be enforced as against such beneficiary-placer.

We believe that the position taken above is supported by considerations of public policy. If there is any party that needs the equalizing protection of the law in money market transactions, it is the members of the general public who place their savings in such market for the purpose of generating interest revenues.[27] The custodian bank, if it is not related either in terms of equity ownership or management control to the borrower of the funds, or the commercial paper dealer, is normally a preferred or traditional banker of such borrower or dealer (here, Philfinance). The custodian bank would have every incentive to protect the interest of its client the borrower or dealer as against the placer of funds. The providers of such funds must be safeguarded from the impact of stipulations privately made between the borrowers or dealers and the custodian banks, and disclosed to fund-providers only after trouble has erupted.

In the case at bar, the custodian-depositary bank Pilipinas refused to deliver the security deposited with it when petitioner first demanded physical delivery thereof on 2 April 1981. We must again note, in this connection, that on 2 April 1981, DMC PN No. 2731 had not yet matured and therefore, compensation or offsetting against Philfinance PN No. 143-A had not yet taken place. Instead of complying with the demand of petitioner, Pilipinas purported to require and await the instructions of Philfinance, in obvious contravention of its undertaking under the DCR to effect physical delivery of the Note upon receipt of "written instructions" from petitioner Sesbreno. The ostensible term written into the DCR (i.e., "should this [DCR] remain outstanding in your favor thirty [30] days after its maturity") was not a defense against petitioner's demand for physical surrender of the Note on at least three grounds: firstly, such term was never brought to the attention of petitioner Sesbreno at the time the

money market placement with Philfinance was made; secondly, such term runs counter to the very purpose of the custodianship or depositary agreement as an integral part of a money market transaction; and thirdly, it is inconsistent with the provisions of Article 1988 of the Civil Code noted above. Indeed, in principle, petitioner became entitled to demand physical delivery of the Note held by Pilipinas as soon as petitioner's money market placement matured on 13 March 1981 without payment from Philfinance.

We conclude, therefore, that private respondent Pilipinas must respond to petitioner for damages sustained by him arising out of its breach of duty. By failing to deliver the Note to the petitioner as depositor-beneficiary of the thing deposited, Pilipinas effectively and unlawfully deprived petitioner of the Note deposited with it. Whether or not Pilipinas itself benefitted from such conversion or unlawful deprivation inflicted upon petitioner, is of no moment for present purposes. Prima facie, the damages suffered by petitioner consisted of P304,533.33, the portion of the DMC PN No. 2731 assigned to petitioner but lost by him by reason of discharge of the Note by compensation, plus legal interest of six percent (6%) per annum counting from 14 March 1981.

The conclusion we have here reached is, of course, without prejudice to such right of reimbursement as Pilipinas may have vis-a-vis Philfinance.

III

The third principal contention of petitioner -- that Philfinance and private respondents Delta and Pilipinas should be treated as one corporate entity --- need not detain us for long.

In the first place, as already noted, jurisdiction over the person of Philfinance was never acquired either by the trial court nor by the respondent Court of appeals. Petitioner similarly did not seek to implead Philfinance in the Petition before us.

Secondly, it is not disputed that Philfinance and private respondents Delta and Pilipinas have been organized as separate corporate entities. Petitioner asks us to pierce their separate corporate entities, but has been able only to cite the presence of a common Director -- Mr. Ricardo Silverio, Sr., sitting on the Boards of Directors of all three (3) companies. Petitioner has neither alleged nor proved that one or another of the three (3) concededly related companies used the other two (2) as mere alter egos or that the corporate affairs of the other two (2) were administered and managed for the benefit of one. There is simply not enough evidence of record to justify disregarding the separate corporate personalities of Delta and Pilipinas and to hold them liable for any assumed or undetermined liability of Philfinance to petitioner.[28]

WHEREFORE, for all the foregoing, the Decision and Resolution of the Court of Appeals in C.A.-G.R. CV No. 15195 dated 21 March 1989 and 17 July 1989, respectively, are hereby MODIFIED and SET ASIDE, to the extent that such Decision and Resolution had dismissed petitioner's complaint against Pilipinas Bank. Private respondent Pilipinas Bank is hereby ORDERED to indemnify petitioner for damages in the amount of P304,533.33, plus legal interest thereon at the rate of six percent (6%) per annum counted from 2 April 1981. As so modified, the Decision and Resolution of the Court of Appeals are hereby AFFIRMED. No pronouncement as to costs.

SO ORDERED.

Bidin, Davide, Jr., Romero, and Melo, JJ., concur.

[1] Exhibit "C", Folder of Exhibits, p. 3; TSN, 14 June 1983, p. 41.

[2] Records, p. 441; Plaintiff's Memorandum, p. 3.

[3] Id., p. 451; Plaintiff's Memorandum, p. 13.

[4] TSN, 14 June 1983, p. 35.

[5] Petitioner explained that he did not implead Philfinance as party defendant because the latter was under rehabilitation by the Securities and Exchange Commission (TSN of the Pre-trial Conference, pp. 6 and 30; dated 04 March 1983).

[6] Court of Appeals' Decision, p. 8; Rollo, p. 90.

[7] Private respondent Delta adopted as its own the Memorandum filed by private respondent Pilipinas (Rollo, pp. 269-73).

[8] Rollo, p. 6.; Petition, p. 5.

[9] Id., p. 88.

[10] TSN, 17 August 1983, p. 36.

[11] Records, pp. 36-37.

[12] National Bank of Bristol v. Baltimore & O.R. Co., 59 A. 134, 138. See also, in this connection, Consolidated Plywood v. IFC Leasing, 149 SCRA 449 (1987).

[13] Exhibit "3," Records, p. 240.

[14] National Investment and Development Corporation v. De los Angeles, 40 SCRA 487 (1971); Bastida v. Dy Buncio & Co., 93 Phil 195 (1953). See also Articles 1285 and 1626, Civil Code.

[15] Article 1300, Civil Code.

[16] Article 1292, id.

[17] 127 SCRA 636 (1984).

[18] 127 SCRA at 645-646.

[19] Records, p. 451; Plaintiff's Memorandum, p. 13.

[20] Gonzales v. Land Bank of the Philippines, 183 SCRA 520 (1990); Philippine National Bank v. General Acceptance and Finance Corp., 161 SCRA 449 (1988); National Investment and Development Corporation v. De los Angeles, 40 SCRA 489 (1971); Montinola v. Philippine National Bank, 88 Phil. 178 (1951); National Exchange Company, Ltd. v. Ramos, 51 Phil. 310 (1927); Sison v. Yap-Tico, 37 Phil. 584 (1918).

[21] 37 Phil. 584 (1918)

[22] 37 Phil. at 589. See also Rodriguez v. Court of Appeals, 207 SCRA 553, 559 (1992). See, generally, Philippine National Bank v. General Acceptance and Finance Corp., 161 SCRA 449, 457 (1988).

[23] Petitioner's Memorandum, p. 12; Rollo, p. 221.

[24] The DCR specified the amount of P307,933.33 as the extent to which DMC PN No. 2731 pertained to petitioner Raul Sesbreno. This amount probably refers to the placement of P300,000.00 by petitioner plus interest from 9 February 1981 until the maturity date of DMC PN No. 2731, i.e., 6 April 1981.

[25] Complaint, pp. 2-3; Rollo, pp. 23-24; TSN of 11 April 1983, p. 51; TSN, 9 October 1986, pp. 15-16. See also Minutes of the Pre-trial Conference, dated 04 March 1983, p. 9.

[26] Article 1988, Civil Code.

[27] See, in this connection, the second and third "whereas" clauses of P.D. No. 678, dated 2 April 1975.

[28] *Pabalan v. National Labor Relations Commission*, 184 SCRA 495 (1990); *Del Rosario v. National Labor Relations Commission*, 187 SCRA 777 (1990); *Remo, Jr. v. Intermediate Appellate Court*, 172 SCRA 405 (1989).

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.