

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. DICK ONG Y CHAN, LINO MORFE Y GUTIERREZ, RICARDO VILLARAN AND LUCILA TALABIS, ACCUSED, DICK ONG Y CHAN, ACCUSED-APPELLANT.

G.R. No. 93849. December 20, 1991

Ponente: MEDIALDEA, J.

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MEDIALDEA, J.:

The accused, Dick Ong y Chan, Lino Morfe y Gutierrez, Ricardo Villaran and Lucila Talabis, were charged with the crime of estafa in Criminal Case No. 44080 before the Regional Trial Court of Manila, Branch 35. The information filed in said case reads, as follows (pp. 8-9, Rollo):

"That in (sic) or about and during the period comprised between December 6, 1978 and January 31, 1979, both dates inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating together and helping one another, did then and there wilfully, unlawfully and feloniously defraud the Home Savings Bank in the following manner, to wit: the said accused Dick Ong y Chan, by means of false manifestations and fraudulent representations which he made to the management of the Home Savings Bank, Aurea Annex Branch, located at 640 Rizal Avenue, Sta. Cruz, in said City, to the effect that the following checks, to wit:

NAME OF CHECK

NUMBER

PAYABLE TO

DATE

AMOUNT

Metropolitan Bank & Trust Co.

82508

Cash

1-30-79

P49,500.00

Equitable Bank

27624961

do.

do.

14,569.00

Phil. Bank of Comm.

T1907249

do.

do.

59,600.00

-do-

T1907249

do.

do.

67,400.00

China Banking Corp.

QC086174 A

do.

1-31-79

69,850.00

Pacific Banking Corp.

PCB 238056 S

do.

1-31-79

60,890.00

Producers Bank of the Phil.

C 987955

do.

do.

49,090.00

Equitable Banking Phil.

27624963

do.

do.

14,965.00

Bank of Comm.

1915852

do.

do.

63,900.00

-do-

1915855

do.

do.

59,800.00

-do-

1915856

do.

do.

65,880.00

or all in the total amount of P575,504.00, are good and covered with sufficient funds in the banks, and by means of other similar deceits, with the conspiracy of his co-accused Lino Morfe y Gutierrez, Ricardo Villaran and Lucila Talabis, in their capacities as officer-in-charge, branch accountant and bank branch cashier, respectively, of said bank (Home Savings Bank), induced and succeeded in inducing the management of the said bank to accept said checks as deposits, all the said accused well knowing that his (Dick Ong y Chan's) representations and manifestations are false and untrue and were made solely for the purpose of defrauding the said bank, and, in accordance with their conspiracy, his co-accused Lino Morfe y Gutierrez, Ricardo Villaran and Lucila Talabis, facilitated the opening of a savings account in the name of accused Dick Ong y Chan and, thereafter, approved said deposits; that on the strength of such deposits made and the opening of an account, the said accused were able to withdraw the total amount of P575,504.00, which once in their possession, with intent to defraud, they thereafter wilfully, unlawfully and feloniously misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of said Home Savings Bank in the said amount of P575,504.00, Philippine Currency.

"Contrary to law."

On October 15, 1979, the prosecution moved for the dismissal of the case, insofar as accused Lino Morfe y Gutierrez is concerned, on the ground that after a reinvestigation, it was found that the evidence against him is not sufficient to sustain the allegations contained in the information (p. 54, Records). On October 31, 1979, the trial court granted the motion (p. 60, Records).

Upon being arraigned, the remaining three (3) accused entered the plea of not guilty to the crime charged. After trial on the merits, the trial court rendered its decision on January 11, 1990, the dispositive portion of which reads, as follows (p. 26, Rollo):

"WHEREFORE, judgment is rendered: (1) pronouncing accused DICK ONG y CHAN guilty beyond reasonable doubt, as principal, of ESTAFA defined under No. 2 (d) of Article 315 of the Revised Penal Code,

as amended by Republic Act 4885, and penalized under the 1st paragraph of the same Code as amended by Presidential Decree no. 818, and sentencing said accused to RECLUSION PERPETUA; (2) ACQUITTING accused Lucila Talabis and Ricardo Villaran, their guilt of (sic) the felony charged against them not having been established beyond reasonable doubt; (3) ordering accused Dick Ong to pay the Home Savings Bank and Trust Company the sum of P559,381.34 as partial reparation of the damage caused to said Bank; (4) ordering forfeited in favor of the Home Savings Bank and Trust Company the sum of P16,122.66 the positive balance remaining outstanding in Savings Account No. 6-1981 of accused Dick Ong with, and in the possession of, said Bank to complete the reparation of the damage caused by Dick Ong to the Bank; (5) ordering accused Dick Ong to pay one-third (1/3) of the costs; and (6) ordering two-thirds (2/3) of the costs charged de oficio.

"SO ORDERED."

On February 15, 1990, the accused-appellant filed a motion for reconsideration. On March 22, 1990, he filed a supplemental memorandum in support of the motion for reconsideration. On April 3, 1990, said motion was denied for lack of merit (pp. 575-576, Records). Hence, the present appeal by Dick Ong y Chan.

The facts of this case were summarized by the trial court, as follows (pp. 18-20, Rollo):

"Accused Dick Ong was one of the depositors of the Home Savings Bank and Trust Company in its Aurea Annex Branch at Rizal Avenue, Sta. Cruz, Manila, hereafter, to be referred to as the Bank. He opened his savings account on December 6, 1978, under the Bank's Savings Account No. 6-1981, with an initial deposit of P22.14 in cash and P10,000.00 in (a) check.

"On the same date, December 6, 1978, without his check undergoing the usual and reglamentary (sic) clearance, which normally takes about five working days, Dick Ong was allowed to withdraw from his savings account with the Bank the sum of P5,000.00. The corresponding withdrawal slip was signed and approved by Lino Morfe, then the Branch Manager, and accused Lucila Talabis, the Branch Cashier.

"That initial transaction was followed by other similar transactions where Dick Ong, upon depositing checks in his savings account with the Bank, was allowed to withdraw against those uncleared checks and uncollected deposits. The withdrawals were authorized and approved by accused Ricardo Villaran and Lucila Talabis, sometimes jointly, sometimes by either (sic) of them alone, and at other times by one of them together with another official of the Bank. But all of those uncleared checks deposited by Dick Ong prior to January 30, 1979 and against which he was allowed to withdraw were subsequently honored and paid by the drawee banks. (TSN, Mar. 9, 1981, pp. 101-104; TSN, Mar. 18, 1981, pp. 144-146.)

"On January 30, 1979, Dick Ong issued and deposited in his savings account with the Bank the following checks:

Drawee Bank

Check No.

Payee

Amount

1. Metropolitan Bank & Trust Co.

82508

Cash

P49,500.00

2. Equitable Bank

27624961

Cash

14,569.00

3. Phil. Bank of Comm.

T-1907265

Cash

59,600.00

4. Phil. Bank of Comm.

T-1907249

Cash

67,400.00

TOTAL

P191,069.00

"Afterwards but before these checks could be cleared and the Bank could collect their amounts from the drawee banks, Lucila Talabis allowed and approved the withdrawal of Dick Ong against the amounts of said checks. (TSN, Mar. 18, 1981, pp. 47-48.)

"On the following day, January 31, 1979, Dick Ong also issued and deposited in his savings account with the Bank the following checks:

Drawee Bank

Check No.

Payee

Amount

1. China Banking Corporation

QC086174A

Cash

P69,850.00

2. Pacific Banking Corporation

PCB238056 S

Cash

60,890.00

3. Producers Bank of the Phil.

C987955

Cash

49,090.00

4. Equitable Banking

27624963

Cash

14,965.00

5. Phil. Bank of Communications

1915852

Cash

63,900.00

6. Phil. Bank of Communications

1915855

Cash

59,860.00

7. Phil. Bank of Communications

1915856

Cash

65,880.00

TOTAL

P384,435.00

"Subsequently, but before said seven checks were cleared and the Bank had collected their amounts, Lucila Talabis and then officer in charge of the Bank Grace Silao allowed and approved the withdrawals of Dick Ong against the amounts of these seven checks. (TSN, Ibid., pp. 47-48.)

"However, when the Bank presented those eleven checks issued and deposited by Dick Ong on January 30, 1979 and January 31, 1979 and against which he made withdrawals against (sic) their amounts, to their respective drawee banks for payment, they were all dishonored for lack or insufficiency of funds. (TSN, Jan. 7, 1981, pp. 90-101; TSN, May 8, 1981, pp. 74-75.)"

The accused-appellant neither took the witness stand to testify in his behalf, nor presented any witness to testify in his favor. Instead, he offered the following documents (p. 20, Rollo):

"1. Exhibit 1 - Ong. - The letter dated June 27, 1980 of the Central Bank Governor to all banks authorized to accept demand deposits, enjoining strict compliance with Monetary Board Resolution No. 2202 dated December 21, 1979, prohibiting, as a matter of policy, drawing against uncollected deposits effective July 1, 1980.

"2. Exhibit 2 - Ong. - The Memorandum of the Central Bank Governor dated July 9, 1980, to all banks for their guidance, that Monetary Board Resolution No. 2202 dated December 21, 1979, prohibiting, as a matter of policy, drawing against uncollected deposits effective July 1, 1980, covers drawing against demand deposits as well as withdrawals from savings deposits.

"3. Exhibits 3 - Ong. - and 3-a. - Clippings from the Bulletin Today issue on July 25, 1980 regarding on (sic) ban on DAUD (drawn against uncollected deposits) effective July 1, 1980, and the one-day loan which replaced the DAUD arrangement.

"4. Exhibit 4 - Ong. - The sworn statement of Lino Morfe before the METROCOM taken on February 11, 1979.

"5. Exhibit 5 - Ong. - The letter dated July 6, 1979, of Lino Morfe to the Assistant Fiscal of Manila, transmitting his (Morfe's) affidavit.

"6. Exhibits 5-a Ong to 5-a-3-Ong. - Affidavit of Lino Morfe sworn on June 28, 1979.

"7. Exhibit 5-b-Ong. - The Bank's Memorandum dated January 31, 1979, to all Branch Manager/Extension Office O.I.C. (sic) requiring them to furnish the Head Office of the Bank every Monday and Thursday with a list of all 'drawn against' and encashment' accommodations (sic) of P1,000.00 and above granted by the Branch during the week.

"8. Exhibit 6-Ong. - The sworn statement of accused Dick Ong.

On the other hand, accused Lucila Talabis admitted that she approved the withdrawals of the accused-appellant against his uncleared checks. However, she explained that her approval thereof was in accordance with the instruction of then bank manager Lino Morfe; that this accommodation given or extended to the accused-appellant had been going on even before she started giving the same accommodation; that this was a common practice in the bank; that she approved those withdrawals together with one other bank official, namely, either the bank manager, the bank accountant, the other bank cashier, or the bank assistant cashier; and that they reported those withdrawals against, and the dishonor of, the subject checks, always sending copies of their reports to the head office.

Accused Ricardo Villaran testified on his behalf that the accused-appellant was able to withdraw against his uncleared checks because of the accommodations extended to him by bank officials Lino Morfe, co-accused Lucila Talabis, Grace Silao, Precy Salamat, and Cora Gascon; that this practice of drawing against uncollected deposits was a common practice in all branches of the Bank; that on December 14, 1978, the accused-appellant withdrew the sum of P75,000.00 against his uncleared checks; that on December 21, 1978, the accused-appellant deposited several checks in the total amount of P197,000.00 and withdrew on the same date the sum of P120,000.00; that on January 23, 1979, the accused-appellant again deposited several checks in the aggregate sum of P260,000.00 and withdrew, also on the same date, the amount of P28,000.00; and that he (Villaran) approved these three withdrawals of the accused-appellant against his uncollected deposits.

In this appeal, the accused-appellant assigns the following errors committed by the trial court:

1) it concluded that the withdrawals against the amounts of the subject checks before clearance and collection of the corresponding amounts thereof by the depository bank from the drawee banks is deceit or fraud constituting

estafa under Article 315, paragraph 2(d) of the Revised Penal Code, in the total absence of evidence showing criminal intent to defraud the depository bank; and not a case which is civil in nature governed solely by the Negotiable Instruments Law;

2) it stated that he issued and deposited the subject checks when he is not the issuer, maker, nor drawer thereof but merely an indorser; hence, his liability, if any, is that of a general indorser under the Negotiable Instruments Law;

3) it convicted him on mere presumption, without any evidence that he had prior knowledge of the lack or insufficiency of funds in the drawee banks to cover the amounts of the subject checks; and

4) it failed to consider that a general indorser under the Negotiable Instruments Law warrants payment of the value of the checks indorsed by him; no damage could have been suffered by the depository bank because he had offered payment thereof.

To support the aforementioned assignment of errors, the accused-appellant alleges that based on the testimonies of co-accused Lucila Talabis and Ricardo Villaran, he did not employ any deceit or fraud on the Bank because the practice of deposit and withdrawal against uncleared checks and uncollected deposits was tolerated by it. As soon as he learned of the dishonor of the subject checks, he offered to pay the amounts thereof (see pp. 48-49, tsn of Felix Hocson, May 8, 1981) and put up as security his property. The subject checks were not in payment of an obligation but were deposited in his savings account. He was merely a general indorser of the subject checks and this being the case, his obligations as such, if any, should be governed by Section 66 of the Negotiable Instruments Law^{*}. The subject checks were issued or drawn by his customers and paid to him. He could not have had any knowledge as to the sufficiency of their funds in the drawee banks.

The Office of the Solicitor General disputes the allegations of the accused-appellant. According to it, by reason of the accused-appellant's antecedent acts of issuing and depositing checks, and withdrawing the amounts thereof before clearing by the drawee banks, which checks were later honored and paid by the drawee banks, he was able to gain the trust and confidence of the Bank, such that the practice, albeit contrary to sound banking policy, was tolerated by the Bank. After thus having gained the trust and confidence of the Bank, the accused-appellant issued and deposited the subject checks, the amounts of which he later withdrew, fully aware that he had no sufficient funds to cover the amounts of said checks in the drawee banks. Contrary to the accused-appellant's allegation, the trial court found that he issued and deposited the subject checks in his savings account. As drawer of the subject checks, the accused-appellant had the obligation to maintain funds in his current account in the drawee banks sufficient to cover the amounts thereof or, in case of dishonor, to deposit within three (3) days from receipt of notice of dishonor, the amounts necessary to cover the checks. The testimony of Felix Hocson, Senior Vice President and Treasurer of the Bank, apart from being hearsay, does not prove that the accused-appellant made an offer to pay the amounts covered by the subject checks. Even assuming *arguendo* that the accused-appellant made an offer to pay the amounts covered by the subject checks, said offer is not sufficient to rebut the *prima facie* evidence of deceit. There is no showing that the accused-appellant deposited the amounts necessary to cover the subject checks within three (3) days from receipt of notice from the Bank and/or the payee or holder that said checks have been dishonored. The damage suffered by the Bank consists in its inability to make use of the P575,504.00 it had delivered to the accused-appellant.

We are convinced that the accused-appellant is innocent of the crime charged against him.

Article 315, paragraph 2(d) of the Revised Penal Code, as amended by Republic Act No. 4885, provides:

"Art. 315. Swindling (estafa). -- Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

x x x, provided that in the four cases mentioned, the fraud be committed by any of the following means:

x x x.

'2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

x x x.

(d) By post-dating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack or insufficiency of funds shall be prima facie evidence of deceit constituting false pretense or fraudulent act."

The following are the elements of this kind of estafa: (1) postdating or issuance of a check in payment of an obligation contracted at the time the check was issued; (2) lack or insufficiency of funds to cover the check; and (3) damage to the payee thereof (*People v. Tugbang, et al.*, G.R. No. 76212, April, 26, 1991; *Sales v. Court of Appeals, et al.*, G.R. No. L-47817, August 29, 1988, 164 SCRA 717; *People v. Sabio, Sr., etc., et al.*, G.R. No. L-45490, November 20, 1978, 86 SCRA 568). Based thereon, the trial court concluded that the guilt of the accused-appellant has "been duly established by the required quantum of evidence adduced by the People against (him)" (p. 22, Rollo). We shall confine Our discussion only on the first element because there is no argument that the second and third elements are present in this case. For an orderly discussion of this element, We will divide it into two (2) parts: first, "postdating or issuance of a check," and second, "in payment of an obligation contracted at the time the check was issued."

Inasmuch as the first part of the first element of Article 315, paragraph 2(d) of the Revised Penal Code is concerned with the act of "postdating or issuance of a check," the accused-appellant raises the defense that he was neither the issuer nor drawer of the subject checks, but only an indorser thereof. Thus, his liability, if any, should be governed by the provision of the Negotiable Instruments Law, particularly Section 66 thereof, *supra*. Also, he could not have had any knowledge as to the sufficiency of the drawers' funds in their respective banks. The Office of the Solicitor General contends that the trial court found as a fact that the accused-appellant issued the subject checks.

The contention of the Office of the Solicitor General is accurate only in part. In the trial court's disquisition on the liability of the accused-appellant, it, said (p. 22, Rollo):

"There is no question that on January 30, 1979, accused Dick Ong issued or used and indorsed, and deposited in his Savings Account No. 6-1981 with the Bank the four checks x x x.

"There is likewise no dispute that on the following date, January 31, 1979, Dick Ong issued or used and indorsed, and deposited in his savings account with the Bank seven checks x x x." (underscoring supplied)

On this subject matter, Fernando Esguerra, Internal Auditor of the Bank and a witness for the prosecution, testified that (pp. 101-103, tsn, January 7, 1981):

"Court -

Q: You mentioned these checks, Mr. Witness. Did you or anybody for that matter ever verify the actual depositors of these checks whether it is Mr. Dick Ong himself?

A: Yes, Your Honor. Our Vice-President for Bank Operations verified said checks and found out that one of or rather, two of those checks are in the account of Mr. Dick Ong but the other checks are not in his account.

Court -

Q: In other words, there are checks where the depositor himself was also Mr. Dick Ong?

A: Could I go over the checks, Your Honor.

Q: Is it indicated there?

A: Yes, Your Honor, it is.

Q: All right, go over the checks.

A: There is one check, Your Honor. It is a China Banking Corporation Check in the amount of P69,850.00 (Witness referring to Exhibit 'Z').

Q: Now, why do you say that the current checking account or current account was opened by Mr. Dick Ong himself?

A: Because he is the drawer of the check, Your Honor." (underscoring supplied)

Thus, the fact established by the prosecution and adopted by the trial court is that the subject checks were either issued or indorsed by the accused-appellant.

In the case of *People v. Isleta, et al.*, 61 Phil. 332, which was recently reiterated in the case of *Zagado v. Court Of Appeals*, G.R. No. 76612, September 29, 1989, 178 SCRA 146, We declared the accused-appellant, who only negotiated the check drawn by another, guilty of estafa. This case of *People v. Isleta, et al.* was relied upon by the trial court in its order dated April 3, 1990, which denied the accused-appellant's motion for reconsideration based on the same defense. The trial court erred in doing so. It must have overlooked the ratio decidendi of the aforementioned case. We held the accused-appellant therein guilty of estafa because he "had guilty knowledge of the fact that (the drawer) had no funds in the bank when he negotiated the (subject) check" (at p. 334). In the present case, the prosecution failed to prove that the accused-appellant had such knowledge with respect to the subject checks that he indorsed. In applying Our decisions, it is not enough that courts take into account only the facts and the dispositive portions thereof. It is imperative that the rationale of these decisions be read and comprehended thoroughly.

It goes without saying that with respect to the subject checks wherein the accused-appellant was the issuer/drawer, the first part of the first element of Article 315, paragraph 2(d) of the Revised Penal Code is applicable. However, this statement will lose its significance in Our next discussion.

Regarding the second part of the first element of Article 315, paragraph 2(d) of the Revised Penal Code, the accused-appellant alleges that when he deposited the subject checks in his savings account, it was clearly not in payment of an obligation to the Bank. The Office of the Solicitor General misses this point of the accused-appellant.

This single argument of the accuse-appellant spells tilting the scale to his advantage. In several cases, We were categorical that bank deposits are in the nature of irregular deposits. They are really loans because they earn interest. All kinds of bank deposits, whether fixed, savings, or current are to be treated as loans and are to be covered by the law on loans. Current and savings deposits are loans to a bank because it can use the same (*Serrano v. Central Bank of the Philippines, et al.*, G.R. No. L-30511, February 14, 1980, 96 SCRA 96; *Gullas v. Philippine National Bank*, 62 Phil. 519; *Central Bank of the Philippines v. Morfe, etc., et al.*, G.R. No. L-38427, March 12, 1975, 63 SCRA 114; *Guingona, Jr., et al. v. The City Fiscal of Manila, et al.*, G.R. No. 60033, April 4, 1984, 128 SCRA 577).

The elements of estafa in general are: (1) that the accused defrauded another (a) by abuse of confidence, or (b) by means of deceit; and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. Aside from the elements that We have discussed earlier, in the crime of estafa by postdating or issuing a bad check, deceit and damage are essential elements of the offense and have to be established, with satisfactory proof to warrant conviction (U.S. v. Rivera, 23 Phil. 383; People, et al. v. Grospe, etc., et al., G.R. No. 74053-54, January 20, 1988, 157 SCRA 154; Buaya v. Polo, etc., et al., G.R. No. 75079, January 26, 1989, 169 SCRA 471).

In this connection, the Office of the Solicitor General advances the view that by reason of the accused-appellant's antecedent acts of issuing and depositing checks, and withdrawing the amounts thereof before clearing by the drawee banks, which checks were later honored and paid by the drawee banks, he was able to gain the trust and confidence of the Bank, such that the practice, albeit contrary to sound banking policy, was tolerated by the Bank. After thus having gained the trust and confidence of the Bank, he issued and deposited the subject checks, the amounts of which he later withdrew, fully aware that he had no sufficient funds to cover the amounts of said checks in the drawee banks.

This view is not supported by the facts of this case. Rather, the evidence for the prosecution proved that the Bank on its own accorded him a drawn against uncollected deposit (DAUD) privilege without need of any pretensions on his part (pp. 7-8, supra). Moreover, this privilege was not only for the subject checks, but for other past transactions. Fernando Esguerra and Felix Hocson even testified that in some instances prior to July 1, 1980, especially where the depositor is an important client, the Bank relaxed its rule and internal policy against uncleared checks and uncollected deposits, and allowed such depositor to withdraw against his uncleared checks and uncollected deposits. Admittedly, the accused-appellant was one of the important depositors of the Bank (pp. 24-25, Rollo). Granting, in gratia argumenti, that he had in fact acted fraudulently, he could not have done so without the active cooperation of the Bank's employees. Therefore, since Lucila Talabis and Ricardo Villaran were declared innocent of the crimes charged against them, the same should be said for the accused-appellant (see People v. Jalandoni, G.R. No. 57555, May 30, 1983, 122 SCRA 588). True it is that the Bank suffered damage in the amount of P575,504.00 but the accused-appellant's liability thereon is only civil.

One additional statement made by the trial court in its decision requires correction. It said that "[t]he circumstances that the drawer of a check had insufficient or no funds in the drawee bank to cover the amount of his check at the time of its issuance and he did not inform the payee or holder of such fact, are sufficient to make him liable for estafa" (p. 23, Rollo). This statement is no longer controlling. We have clarified in the case of People v. Sabio, Sr., etc., et al., supra, that Republic Act No. 4885 has eliminated the requirement under the old provision for the drawer to inform the payee that he had no funds the bank or the funds deposited by him were not sufficient to cover the amount of the check.

We, therefore, find that the guilt of the accused-appellant for the crime of estafa under Article 315, paragraph 2(d) of the Revised Penal Code has not been proven beyond reasonable doubt. However, We find him civilly liable to the Bank in the amount of P575,504.00, less the balance remaining in his savings account with it (p. 26, Rollo), with legal interest from the date of the filing of this case until full payment.

ACCORDINGLY, the decision and order appealed from are hereby SET ASIDE. The accused-appellant is ACQUITTED of the crime charged against him but ordered to pay the aforementioned amount. No costs.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, Feliciano, and Griño-Aquino, JJ., concur.

* SECTION 66. Liability of general indorser. -- Every indorser who indorses without qualification, warrants to all subsequent holders in due course:

(a) The matters and things mentioned in subdivisions (a), (b), and (c) of the next preceding section; and

(b) That the instrument is, at the time of his indorsement, valid and subsisting;

And, in addition, he engages that, on due presentment, it shall be accepted or paid, or both, as the case may be, according to its tenor, and that if it be dishonored and the necessary proceedings on dishonor be duly taken, he will pay the amount thereof to the holder, or to any subsequent indorser who may be compelled to pay it.

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