

## THIRD DIVISION

[ G.R. No. 178467, April 26, 2017 ]

**SPS. CRISTINO & EDNA CARBONELL, PETITIONERS, VS.  
METROPOLITAN BANK AND TRUST COMPANY, RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

The petitioners assail the decision promulgated on December 7, 2006,<sup>[1]</sup> whereby the Court of Appeals (CA) affirmed with modification the decision rendered on May 22, 1998<sup>[2]</sup> by the Regional Trial Court, Branch 157, in Pasig City (RTC) dismissing the petitioners' complaint in Civil Case No. 65725 for its lack of merit, and awarded attorney's fees under the respondent's counterclaim.

#### Antecedents

The petitioners initiated against the respondent Civil Case No. 65725, an action for damages, alleging that they had experienced emotional shock, mental anguish, public ridicule, humiliation, insults and embarrassment during their trip to Thailand because of the respondent's release to them of five US\$100 bills that later on turned out to be counterfeit. They claimed that they had travelled to Bangkok, Thailand after withdrawing US\$1,000.00 in US\$100 notes from their dollar account at the respondent's Pateros branch; that while in Bangkok, they had exchanged five US\$100 bills into Baht, but only four of the US\$100 bills had been accepted by the foreign exchange dealer because the fifth one was "no good;" that unconvinced by the reason for the rejection, they had asked a companion to exchange the same bill at Norkthon Bank in Bangkok; that the bank teller thereat had then informed them and their companion that the dollar bill was fake; that the teller had then confiscated the US\$100 bill and had threatened to report them to the police if they insisted in getting the fake dollar bill back; and that they had to settle for a Foreign Exchange Note receipt.<sup>[3]</sup>

The petitioners claimed that later on, they had bought jewelry from a shop owner by using four of the remaining US\$100 bills as payment; that on the next day, however, they had been confronted by the shop owner at the hotel lobby because their four US\$100 bills had turned out to be counterfeit; that the shop owner had shouted at them: "You Filipinos, you are all cheaters!;" and that the incident had occurred within the hearing distance of fellow travelers and several foreigners.

The petitioners continued that upon their return to the Philippines, they had confronted the manager of the respondent's Pateros branch on the fake dollar bills, but the latter had insisted that the dollar bills she had released to them were genuine inasmuch as the bills had come from the head office; that in order to put the issue to rest, the counsel of the petitioners had submitted the subject US\$100

bills to the Bangko Sentral ng Pilipinas (BSP) for examination; that the BSP had certified that the four US\$100 bills were near perfect genuine notes;<sup>[4]</sup> and that their counsel had explained by letter their unfortunate experience caused by the respondent's release of the fake US dollar bills to them, and had demanded moral damages of P10 Million and exemplary damages.<sup>[5]</sup>

The petitioners then sent a written notice to the respondent, attaching the BSP certification and informing the latter that they were giving it five days within which to comply with their demand, or face court action.<sup>[6]</sup> In response, the respondent's counsel wrote to the petitioners on March 1996 expressing sympathy with them on their experience but stressing that the respondent could not absolutely guarantee the genuineness of each and every foreign currency note that passed through its system; that it had also been a victim like them; and that it had exercised the diligence required in dealing with foreign currency notes and in the selection and supervision of its employees.<sup>[7]</sup>

Prior to the filing of the suit in the RTC, the petitioners had two meetings with the respondent's representatives. In the course of the two meetings, the latter's representatives reiterated their sympathy and regret over the troublesome experience that the petitioners had encountered, and offered to reinstate US\$500 in their dollar account, and, in addition, to underwrite a round-trip all-expense-paid trip to Hong Kong, but they were adamant and staged a walk-out.<sup>[8]</sup>

In its judgment rendered on May 22, 1998,<sup>[9]</sup> the RTC ruled in favor of the respondent, disposing as follows:

**WHEREFORE,** in the light of all the foregoing, judgment is hereby rendered:

1. Dismissing plaintiffs complaint for lack of merit;
2. On the counterclaim, awarding Metrobank the amount of P20,000.00 as attorney's fees.

**SO ORDERED.**<sup>[10]</sup>

The petitioners appealed, but the CA ultimately promulgated its assailed decision on December 7, 2006 affirming the judgment of the RTC with the modification of deleting the award of attorney's fees,<sup>[11]</sup> to wit:

As to the award of attorneys fees, we agree with appellants that there is simply no factual and legal basis thereto. Unquestionably, appellants filed the present case for the humiliation and embarrassment they suffered in Bangkok. They instituted the complaint in their honest belief that they were entitled to damages as a result of appellee's issuance of counterfeit dollar notes. Such being the case, they should not be made answerable

to attorney's fees. It is not good public policy to put a premium on the right to litigate where such right is exercised in good faith, albeit erroneously.

**WHEREFORE**, the appealed decision is **AFFIRMED** with modification that the award of attorney's fees is deleted.

**SO ORDERED.**

### **Issues**

Hence, this appeal, with the petitioners contending that the CA gravely erred in affirming the judgment of the RTC. They insist that inasmuch as the business of banking was imbued with public interest, the respondent's failure to exercise the degree of diligence required in handling the affairs of its clients showed that it was liable not just for simple negligence but for misrepresentation and bad faith amounting to fraud; that the CA erred in giving weight and relying on the news clippings allegedly showing that the "supernotes" had deceived even the U.S. Secret Service and Central Intelligence Agency, for such news were not based on facts.<sup>[12]</sup>

### **Ruling of the Court**

The appeal is partly meritorious.

The General Banking Act of 2000 demands of banks the highest standards of integrity and performance. As such, the banks are under obligation to treat the accounts of their depositors with meticulous care.<sup>[13]</sup> However, the banks' compliance with this degree of diligence is to be determined in accordance with the particular circumstances of each case.

The petitioners argue that the respondent was liable for failing to observe the diligence required from it by not doing an act from which the material damage had resulted by reason of inexcusable lack of precaution in the performance of its duties.<sup>[14]</sup> Hence, the respondent was guilty of gross negligence, misrepresentation and bad faith amounting to fraud.

The petitioners' argument is unfounded.

Gross negligence connotes want of care in the performance of one's duties; it is a negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is duty to act, not inadvertently but wilfully and intentionally, with a conscious indifference to consequences insofar as other persons may be affected. It evinces a thoughtless disregard of consequences without exerting any effort to avoid them.<sup>[15]</sup>

In order for gross negligence to exist as to warrant holding the respondent liable therefor, the petitioners must establish that the latter did not exert any effort at all

to avoid unpleasant consequences, or that it wilfully and intentionally disregarded the proper protocols or procedure in the handling of US dollar notes and in selecting and supervising its employees.

The CA and the RTC both found that the respondent had exercised the diligence required by law in observing the standard operating procedure, in taking the necessary precautions for handling the US dollar bills in question, and in selecting and supervising its employees.<sup>[16]</sup> Such factual findings by the trial court are entitled to great weight and respect especially after being affirmed by the appellate court, and could be overturned only upon a showing of a very good reason to warrant deviating from them.

In this connection, it is significant that the BSP certified that the falsity of the US dollar notes in question, which were "near perfect genuine notes," could be detected only with extreme difficulty even with the exercise of due diligence. Ms. Nanette Malabrigo, BSP's Senior Currency Analyst, testified that the subject dollar notes were "highly deceptive" inasmuch as the paper used for them were similar to that used in the printing of the genuine notes. She observed that the security fibers and the printing were perfect except for some microscopic defects, and that all lines were clear, sharp and well defined.<sup>[17]</sup>

Nonetheless, the petitioners contend that the respondent should be liable for moral and exemplary damages<sup>[18]</sup> on account of their suffering the unfortunate experience abroad brought about by their use of the take US dollar bills withdrawn from the latter.

The contention cannot be upheld.

The relationship existing between the petitioners and the respondent that resulted from a contract of loan was that of a creditor-debtor.<sup>[19]</sup> Even if the law imposed a high standard on the latter as a bank by virtue of the fiduciary nature of its banking business, bad faith or gross negligence amounting to bad faith was absent. Hence, there simply was no legal basis for holding the respondent liable for moral and exemplary damages. In breach of contract, moral damages may be awarded only where the defendant acted fraudulently or in bad faith. That was not true herein because the respondent was not shown to have acted fraudulently or in bad faith. This is pursuant to Article 2220 of the *Civil Code*, to wit:

Article 2220. Willful injury to property may be a legal ground for awarding moral damages if the court should find that, under the circumstances, such damages are justly due. **The same rule applies to breaches of contract where defendant acted fraudulently or in bad faith.**

With the respondent having established that the characteristics of the subject dollar notes had made it difficult even for the BSP itself as the country's own currency note expert to identify the counterfeiting with ease despite adhering to all the properly laid out standard operating procedure and precautions in the handling of US dollar bills, holding it liable for damages in favor of the petitioners would be highly