

THIRD DIVISION

[G.R. No. 208672, December 07, 2016]

PHILIPPINE NATIONAL BANK, PETITIONER, V. PABLO V. RAYMUNDO, RESPONDENT.

DECISION

PERALTA, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court, seeking to reverse and set aside the Decision^[1] dated May 31, 2013 and the Resolution dated August 14, 2013 of the Court of Appeals (CA) in CA-G.R. CV No. 96760. The CA denied the appeal of Philippine National Bank (PNB)^[2] from the civil aspect of the Decision dated December 4, 2009^[3] of the Regional Trial Court (RTC) of San Pedro Laguna, Branch 93, which acquitted Pablo V. Raymundo of the charge of violation of Section 3(e) of Republic Act (RA) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, in Criminal Case No. 0414-SPL.

The CA summarized the facts as follows.^[4]

On July 30, 1993, accused-appellee Pablo V. Raymundo (*Raymundo*), then Department Manager of PNB San Pedro Branch, approved for deposit a foreign draft check dated June 23, 1993, in the amount of \$172,549.00 issued by Solomon Guggenheim Foundation, drawn against Morgan Guaranty Company of New York, payable to Merry May Juan (*Ms. Juan*) in the opening of the latter's checking account with PNB San Pedro Branch. Consequent to the approval for deposit of the foreign draft check, Checking Account No. 447-810168-1 and a check booklet were issued to Ms. Juan. On even date, Ms. Juan drew six (6) PNB Checks, five (5) of which were made payable to C&T Global Futures and one (1) payable to "CASH", all in the aggregate amount of FOUR MILLION PESOS (P4,000,000.00). The six (6) checks were negotiated by Ms. Juan and were approved for payment on the same day by Raymundo, without waiting for the foreign draft check, intended to fund the issued check, to be cleared by the PNB Foreign Currency Clearing Unit.

On August 2, 1993, the PNB Foreign Checks Unit and Clearing Services received the foreign draft check for negotiation with Morgan Trust Company of New York, through PNB's correspondent bank in New York, the Banker's Trust Co. of New York (*BTCNY for brevity*).

On August 6, 1993 and within the clearing period of twenty-one (21) days for foreign draft checks, the PNB received a telex message from BTCNY that the foreign draft check was dishonored for being fraudulent. Subsequent to the said telex message, a letter dated August 20, 1993 was sent by BTCNY to the PNB Corporate Auditor stating the same reason for such dishonor.

On September 9, 1993, Mr. Emerito Sapinoso, Department Manager II of the PNB Foreign Currency Clearing Unit, sent a memorandum to Raymundo, as then Manager

of PNB San Pedro, and informed the latter of the return and dishonor of the foreign currency draft and the corresponding debit of the PNB's account to collect the proceeds of the erroneously paid foreign draft check.

For irregularly approving the payment of the six (6) checks issued by Ms. Juan, without waiting for the foreign draft check to be cleared, Raymundo, as then Department Manager of PNB San Pedro Branch, was administratively charged by PNB for Conduct Prejudicial to the Interest of the Service and/or Gross Violation of Bank's Rules and Regulations.

Accused Pablo V. Raymundo denied the allegations that he committed acts which defrauded the PNB of the sum of P4,000,000.00. Outlining the procedure from the time the check was presented to the PNB San Pedro Laguna Branch where he worked as Branch Manager up to the time it is paid or dishonored, he noted that the check will pass through the bookkeeper, Ms. Leonida Moredo, who would determine if the check is funded or not. If the check is not funded, the bookkeeper will accomplish a check return slip and will stamp the back and front of the check that it has no funds and thereafter give it to the accountant, Rodrigo Camello, to verify if indeed the check is not funded. After the receipt of the check, the accountant will check the ledger and the circumstances of the return and thereafter forward the same to the branch manager, or in his absence, the cashier. Upon receipt of the check deposit slip, the branch manager, if there is no return slip, would automatically sign the check because the absence of a return slip is his guide that the check is good. He noted that it is the duty of the bookkeeper to go over the records of the account of each particular client. When he came to know that withdrawals had been made on a deposited check which had no funds, he immediately instructed bookkeeper Leonila Moredo and accountant Rodrigo Camello to hold further withdrawals on the account. He likewise filed criminal charges against Merry May Juan. The case was decided in his favor and the accused therein was made to pay him and the bank the amount of the check. There was no actual payment made however.

In an Information dated September 27, 1996, the Office of the Ombudsman charged Raymundo with violation of Section 3(e) of RA No. 3019, to wit:

That on or about August 3, 1993, or subsequent thereto, in San Pedro, Laguna, Philippines and within the jurisdiction of this Honorable Court, accused Pablo V. Raymundo, then the Assistant Department Manager of PNB, San Pedro Branch, Laguna, and a public officer, while in the performance and taking advantage of his official function as manager, with evident bad faith, manifest partiality, and gross inexcusable negligence, did then and there willfully and unlawfully approve/allow the encashment of a total of six (6) checks drawn against an uncleared foreign checks in complete disregard of existing banking regulations, that was subsequently returned by the drawee bank as a fraudulent foreign check, thus causing undue injury to complainant PNB in the total sum of P4,000,000.00.

CONTRARY TO LAW.

Upon arraignment, Raymundo entered a plea of not guilty to the charge. He waived his right to a pre-trial, and trial on the merits ensued.

After trial, the RTC rendered the Decision dated December 4, 2009, the dispositive portion of which reads:

In light of the foregoing, it is very clear that the prosecution failed to establish the guilt of accused Pablo V. Raymundo beyond reasonable doubt for the crime charged.

Consequently, accused Pablo V. Raymundo is hereby acquitted of the charge of Violation of Sec. 3(e), R.A. 3019.

No costs.

SO ORDERED.

The RTC held that it would be too harsh and inequitable to impose criminal liability upon Raymundo, who approved the withdrawal because of his belief that the checks were funded, due to the absence of the stamp mark "Returned Check" on the checks, and check return slips. Considering that Raymundo's duties as Branch Manager entailed a lot of responsibility, the RTC found it almost unreasonable to expect him to directly and personally check the books of accounts of each particular client every time a check is presented to the bank for payment and for his approval. The RTC stressed that it has been established that the responsibility to go over the account records of clients falls on the bookkeeper, and Raymundo's act of relying upon the bookkeeper's verification that the checks were good cannot be deemed gross and inexcusable negligence.

Aggrieved, the PNB appealed from the civil aspect of the RTC Decision which acquitted Raymundo of the charge of violation of Section 3(e) of R.A. No. 3019.

In a Decision dated May 31, 2013, the CA denied the PNB's appeal for lack of merit. In a Resolution dated August 14, 2013, it also denied the PNB's motion for reconsideration for lack of merit. It ruled that Raymundo acted in good faith in relying upon his subordinates, *i.e.*, the bookkeeper and accountant, who were primarily assigned with the task of clearing the checks and ensuring that they are sufficiently funded. It held that he has no duty to go beyond the verification of the documents submitted by the bookkeeper and the accountant, and to personally authenticate the procedures taken. It added that considering that his duties as Branch Manager entails a lot of responsibility, it is unreasonable to require him to accomplish and direct a personal examination of the records of the account of each particular client before affixing his signature on the documents as approving authority.

Dissatisfied, the PNB filed this petition for review on *certiorari*, arguing that the CA committed serious errors, namely: (1) when it ruled that the trial court aptly concluded that there was lack of malice or bad faith, nor negligence on the part of Raymundo in approving the payment of the checks; (2) when it failed to consider Raymundo's negligence and entirely disregarded the testimonial and documentary evidence of the PNB before the trial court; and (3) when it ruled that Raymundo is not civilly liable for the offense charged.^[5]

The petition is meritorious.

The Court explains the two kinds of acquittal recognized by law, as well their effects on the civil liability of the accused, thus:

Our law recognizes two kinds of acquittal, with different effects on the civil liability of the accused. First is an acquittal on the ground that the accused is not the author of the act or omission complained of. This instance closes the door to civil liability, for a person who has been found to be not the perpetrator of any act or omission cannot and can never be held liable for such act or omission. There being no delict, civil liability *ex delicto* is out of the question, and the civil action, if any, which may be instituted must be based on grounds other than the delict complained of. This is the situation contemplated in Rule 111 of the Rules of Court. The second instance is an acquittal based on reasonable doubt on the guilt of the accused. In this case, even if the guilt of the accused has not been satisfactorily established, he is not exempt from civil liability which may be proved by preponderance of evidence only.

The *Rules of Court* requires that in case of an acquittal, the judgment shall state "whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt. In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist."^[6]

In light of the foregoing, Raymundo can still be held civilly liable for the charge of violation of Section 3(e) of R.A. No. 3019 because he was only acquitted for failure of the prosecution to establish his guilt beyond reasonable doubt, and the RTC and the CA erroneously determined that no civil liability might arise from his act of relying on the bookkeeper's verification that the six (6) checks amounting to P4,000,000.00 were all good, but later turned out to be drawn against uncollected deposit, *i.e.*, the account has, on its face, sufficient funds but not yet available to the drawer because the deposit, usually a check, had not yet been cleared.^[7]

Factual findings of the appellate court generally are conclusive, and carry even more weight when said court affirms the findings of the trial court, absent any showing that the findings are totally devoid of support in the records, or that they are so glaringly erroneous as to constitute grave abuse of discretion.^[8] In this case, however, both the RTC and the CA totally ignored the testimonial and documentary evidence of the PNB, showing Raymundo's gross negligence in approving the payment of six (6) checks negotiated by Ms. Juan on August 3, 1993 and August 5, 1993, without waiting for the foreign draft check intended to fund the peso checking account she opened on July 30, 1993, to be cleared by the PNB Foreign Currency Clearing Unit.

Despite their having been identified^[9] and formally offered^[10] by PNB, and admitted in evidence^[11] by the trial court, the RTC and the CA failed to give due credence to Raymundo's affidavits, complaints and testimonies before the other trial courts in San Pedro, Laguna, where he had filed separate criminal and civil cases against Ms. Juan and her cohorts in order to recover the value of the six (6) checks which were encashed despite having been drawn against uncollected deposit. Contrary to Raymundo's claim, such extra-judicial admissions do not violate his right against self incrimination, which simply proscribes the legal process of extracting from the lips of the accused an admission of guilt. Suffice it to state that Raymundo's Complaints^[12] and Affidavits^[13] in the civil and criminal cases he filed against Ms. Juan contain his voluntary statements, which were subscribed and sworn to either before the Assistant Provincial Prosecutor and the Judge or the

Notary Public, whereas his testimonies^[14] were given during hearings in the said cases. Clearly, Raymundo is not being compelled to testify against himself. In the same vein, PNB cannot be faulted for merely using the documentary and testimonial evidence he willingly proffered in the cases he had filed to recover the losses incurred by the bank due to his unauthorized approval for payment of the six (6) checks drawn against the uncollected deposit.

The circumstances showing Raymundo's gross negligence can be gathered in the Complaint for sum of money he had filed against Ms. Juan and her cohorts, to wit:

3. That on July 30, 1993, a group of persons composed of the above-named defendants [including Ms. Juan] who, for some time, have been known to the plaintiff [Raymundo] as ranking and top executives of the herein defendant corporation [payee C&T Global Futures, Inc.] engaged in the foreign currency trading business, came to the Office of herein plaintiff. They intimated their plan of opening a current account with the said San Pedro Branch of the Philippine National Bank. They let it appear that this was in line with C&T Global Futures, Inc.'s on-going contest which the said group wanted to win the first prize which was purportedly a round-trip ticket to Hong Kong. For this purpose, they wanted the checking account to be opened immediately in the name of defendant Mary May M. Juan with the amount of \$172,549.00 (P4,778,744.55) embodied in a Morgan Guaranty and Trust Company of New York Check No. 069748 as initial deposit. They further assured the herein plaintiff that some more dollars are coming in the near future if this transaction would prosper;

4. That at first, plaintiff herein [Raymundo] was a bit hesitant to immediately accommodate the seemingly hasty manner of opening a current account not only on the fact that the amount involved was quite big but also on account that he was dealing with a foreign check. But when the group, particularly defendant "Cleo" Tan, showed to him the record of a just-concluded overseas call confirming that the said Morgan Guaranty Company check was good, plaintiff allowed the issuance of six (6) checks bearing different dates in the total amount of P4,000,000.00 all payable to herein defendant corporation upon the undertaking of the group that the same would not be "traded" or negotiated until the said Morgan Guaranty Trust Co. check has been finally cleared;

5. That in utter violation of the trust and confidence reposed in them by the herein plaintiff, defendants went on negotiating all those six (6) checks until it was discovered that the said Morgan Guaranty Trust Company Check No. 069748 was "FRAUDULENT" and from all indications, herein defendants are parts of the criminal syndicate; ^[15]

Raymundo's gross negligence is likewise underscored in the Affidavit dated October 25, 1993 he had executed to support his complaint for *estafa* against Ms. Juan and her cohorts, thus:

2. That on July 30, 1993, while I was at the office of PNB San Pedro, Laguna, Cleopatra Tan alias "Cleo", Josefina Resari, and Merry May M.