

SECOND DIVISION

[G.R. No. 141835, February 04, 2009]

**CENTRAL BANK OF THE PHILIPPINES, PETITIONER, VS.
CITYTRUST BANKING CORPORATION, RESPONDENT.**

D E C I S I O N

CARPIO MORALES, J.:

Pursuant to Republic Act No. 625, the old Central Bank Law, respondent Citytrust Banking Corporation (Citytrust), formerly Feati Bank, maintained a demand deposit account with petitioner Central Bank of the Philippines, now Bangko Sentral ng Pilipinas.

As required, Citytrust furnished petitioner with the names and corresponding signatures of five of its officers authorized to sign checks and serve as drawers and indorsers for its account. And it provided petitioner with the list and corresponding signatures of its roving tellers authorized to withdraw, sign receipts and perform other transactions on its behalf. Petitioner later issued security identification cards to the roving tellers one of whom was "Rounceval Flores" (Flores).

On July 15, 1977, Flores presented for payment to petitioner's Senior Teller Iluminada dela Cruz (Iluminada) two Citytrust checks of even date, payable to Citytrust, one in the amount of P850,000 and the other in the amount of P900,000, both of which were signed and indorsed by Citytrust's authorized signatory-drawers.

After the checks were certified by petitioner's Accounting Department, Iluminada verified them, prepared the cash transfer slip on which she affixed her signature, stamped the checks with the notation "Received Payment" and asked Flores to, as he did, sign on the space above such notation. Instead of signing his name, however, Flores signed as "Rosauro C. Cayabyab" - a fact Iluminada failed to notice.

Iluminada thereupon sent the cash transfer slip and checks to petitioner's Cash Department where an officer verified and compared the drawers' signatures on the checks against their specimen signatures provided by Citytrust, and finding the same in order, approved the cash transfer slip and paid the corresponding amounts to Flores. Petitioner then debited the amount of the checks totaling P1,750,000 from Citytrust's demand deposit account.

More than a year and nine months later, Citytrust, by letter dated April 23, 1979, alleging that the checks were already cancelled because they were stolen, demanded petitioner to restore the amounts covered thereby to its demand deposit account. Petitioner did not heed the demand, however.

Citytrust later filed a complaint for estafa, with reservation on the filing of a separate civil action, against Flores. Flores was convicted.

Citytrust thereafter filed before the Regional Trial Court (RTC) of Manila a complaint for recovery of sum of money with damages against petitioner which it alleged erred in encashing the checks and in charging the proceeds thereof to its account, despite the lack of authority of "Rosauro C. Cayabyab."

By Decision^[1] of November 13, 1991, Branch 32 of the RTC of Manila found both Citytrust and petitioner negligent and accordingly held them equally liable for the loss. Both parties appealed to the Court of Appeals which, by Decision^[2] dated July 16, 1999, affirmed the trial court's decision, it holding that both parties contributed equally to the fraudulent encashment of the checks, hence, they should equally share the loss in consonance with Article 2179^[3] *vis a vis* Article 1172^[4] of the Civil Code.

In arriving at its Decision, the appellate court noted that while "Citytrust failed to take adequate precautionary measures to prevent the fraudulent encashment of its checks," petitioner was not entirely blame-free in light of its failure to verify the signature of Citytrust's agent authorized to receive payment.

Brushing aside petitioner's contention that it cannot be sued, the appellate court held that petitioner's Charter specifically clothes it with the power to sue and be sued.

Also brushing aside petitioner's assertion that Citytrust's reservation of the filing of a separate civil action against Flores precluded Citytrust from filing the civil action against it, the appellate court held that the "action for the recovery of sum of money is separate and distinct and is grounded on a separate cause of action from that of the criminal case for estafa."

Hence, the present appeal, petitioner maintaining that Flores having been an authorized roving teller, Citytrust is bound by his acts. Also maintaining that it was not negligent in releasing the proceeds of the checks to Flores, the failure of its teller to properly verify his signature notwithstanding, petitioner contends that verification could be dispensed with, Flores having been known to be an authorized roving teller of Citytrust who had had numerous transactions with it (petitioner) on its (Citytrust's) behalf for five years prior to the questioned transaction.

Attributing negligence solely to Citytrust, petitioner harps on Citytrust's allowing Flores to steal the checks and failing to timely cancel them; allowing Flores to wear the issued identification card issued by it (petitioner); failing to report Flores' absence from work on the day of the incident; and failing to explain the circumstances surrounding the supposed theft and cancellation of the checks.

Drawing attention to Citytrust's considerable delay in demanding the restoration of the proceeds of the checks, petitioners argue that, assuming *arguendo* that its teller was negligent, Citytrust's negligence, which preceded that committed by the teller, was the proximate cause of the loss or fraud.

The petition is bereft of merit.

Petitioner's teller Iluminada did not verify Flores' signature on the flimsy excuse that