588 Phil. 196

THIRD DIVISION

[G.R. No. 170325, September 26, 2008]

PHILIPPINE NATIONAL BANK, PETITIONER, VS. ERLANDO T. RODRIGUEZ AND NORMA RODRIGUEZ, RESPONDENTS.

D E C I S I O N

REYES, R.T., J.:

WHEN the payee of the check is not intended to be the true recipient of its proceeds, is it payable to order or bearer? What is the fictitious-payee rule and who is liable under it? Is there any exception?

These questions seek answers in this petition for review on *certiorari* of the Amended Decision[1] of the Court of Appeals (CA) which affirmed with modification that of the Regional Trial Court (RTC).[2]

The Facts

The facts as borne by the records are as follows:

Respondents-Spouses Erlando and Norma Rodriguez were clients of petitioner Philippine National Bank (PNB), Amelia Avenue Branch, Cebu City. They maintained savings and demand/checking accounts, namely, PNBig Demand Deposits (Checking/Current Account No. 810624-6 under the account name Erlando and/or Norma Rodriguez), and PNBig Demand Deposit (Checking/Current Account No. 810480-4 under the account name Erlando T. Rodriguez).

The spouses were engaged in the informal lending business. In line with their business, they had a discounting[3] arrangement with the Philnabank Employees Savings and Loan Association (PEMSLA), an association of PNB employees. Naturally, PEMSLA was likewise a client of PNB Amelia Avenue Branch. The association maintained current and savings accounts with petitioner bank.

PEMSLA regularly granted loans to its members. Spouses Rodriguez would rediscount the postdated checks issued to members whenever the association was short of funds. As was customary, the spouses would replace the postdated checks with their own checks issued in the name of the members.

It was PEMSLA's policy not to approve applications for loans of members with outstanding debts. To subvert this policy, some PEMSLA officers devised a scheme to obtain additional loans despite their outstanding loan accounts. They took out loans in the names of unknowing members, without the knowledge or consent of the latter. The PEMSLA checks issued for these loans were then given to the spouses for rediscounting. The officers carried this out by forging the indorsement of the named payees in the checks.

In return, the spouses issued their personal checks (Rodriguez checks) in the name of the members and delivered the checks to an officer of PEMSLA. The PEMSLA checks, on the other hand, were deposited by the spouses to their account.

Meanwhile, the Rodriguez checks were deposited directly by PEMSLA to its savings account **without any indorsement** from the named payees. This was an irregular procedure made possible through the facilitation of Edmundo Palermo, Jr., treasurer of PEMSLA and bank teller in the PNB Branch. It appears that this became the usual practice for the parties.

For the period November 1998 to February 1999, the spouses issued sixty nine (69) checks, in the total amount of P2,345,804.00. These were payable to forty seven (47) individual payees who were all members of PEMSLA.[4]

Petitioner PNB eventually found out about these fraudulent acts. To put a stop to this scheme, PNB closed the current account of PEMSLA. As a result, the PEMSLA checks deposited by the spouses were returned or dishonored for the reason "Account Closed." The corresponding Rodriguez checks, however, were deposited as usual to the PEMSLA savings account. The amounts were duly debited from the Rodriguez account. Thus, because the PEMSLA checks given as payment were returned, spouses Rodriguez incurred losses from the rediscounting transactions.

RTC Disposition

Alarmed over the unexpected turn of events, the spouses Rodriguez filed a civil complaint for damages against PEMSLA, the Multi-Purpose Cooperative of Philnabankers (MCP), and petitioner PNB. They sought to recover the value of their checks that were deposited to the PEMSLA savings account amounting to P2,345,804.00. The spouses contended that because **PNB credited the checks to the PEMSLA account even without indorsements**, PNB violated its contractual obligation to them as depositors. PNB paid the wrong payees, hence, it should bear the loss.

PNB moved to dismiss the complaint on the ground of lack of cause of action. PNB argued that the claim for damages should come from the payees of the checks, and not from spouses Rodriguez. Since there was no demand from the said payees, the obligation should be considered as discharged.

In an Order dated January 12, 2000, the RTC denied PNB's motion to dismiss.

In its Answer,[5] PNB claimed it is not liable for the checks which it paid to the PEMSLA account without any indorsement from the payees. The bank contended that spouses Rodriguez, the makers, actually **did not intend for the named payees to receive the proceeds of the checks**. Consequently, the payees were considered as "**fictitious payees**" as defined under the Negotiable Instruments Law (NIL). Being checks made to fictitious payees which are bearer instruments, the checks were negotiable by mere delivery. PNB's Answer included its cross-claim against its co-defendants PEMSLA and the MCP, praying that in the event that judgment is rendered against the bank, the cross-defendants should be ordered to reimburse PNB the amount it shall pay.

After trial, the RTC rendered judgment in favor of spouses Rodriguez (plaintiffs). It ruled that PNB (defendant) is liable to return the value of the checks. All counterclaims and cross-claims were dismissed. The dispositive portion of the RTC decision reads:

> WHEREFORE, in view of the foregoing, the Court hereby renders judgment, as follows:
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> 1. Defendant is hereby ordered to pay the plaintiffs the total amount of P2,345,804.00 or reinstate or restore the amount of P775,337.00 in the PNBig Demand Deposit Checking/Current Account No. 810480-4 of Erlando T. Rodriguez, and the amount of P1,570,467.00 in the PNBig Demand Deposit, Checking/Current Account No. 810624-6 of Erlando T. Rodriguez and/or Norma Rodriguez, plus legal rate of interest thereon to be computed from the filing of this complaint until fully paid;
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> 2. The defendant PNB is hereby ordered to pay the plaintiffs the following reasonable amount of damages suffered by them taking into consideration the standing of the plaintiffs being sugarcane planters, realtors, residential subdivision owners, and other businesses:
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>   (a) Consequential damages, unearned income in the amount of P4,000,000.00, as a result of their having incurred great dificulty (*sic*) especially in the residential subdivision business, which was not pushed through and the contractor even threatened to file a case against the plaintiffs;
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>   (b) Moral damages in the amount of P1,000,000.00;
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>   (c) Exemplary damages in the amount of P500,000.00;
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>   (d) Attorney's fees in the amount of P150,000.00 considering that this case does not involve very complicated issues; and for the
>
>   (e) Costs of suit.
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> 3. Other claims and counterclaims are hereby dismissed.[6]

CA Disposition

PNB appealed the decision of the trial court to the CA on the principal ground that the disputed checks should be considered as payable to bearer and not to order.

In a Decision[7] dated July 22, 2004, the CA reversed and set aside the RTC disposition. The CA concluded that the checks were obviously meant by the spouses to be really paid to PEMSLA. The court *a quo* declared:

> We are not swayed by the contention of the plaintiffs-appellees (Spouses Rodriguez) that their cause of action arose from the alleged breach of contract by the defendant-appellant (PNB) when it paid the value of the checks to PEMSLA despite the checks being payable to order. *Rather, we are more convinced by the strong and credible evidence for the defendant-appellant with regard to the plaintiffs-appellees' and PEMSLA's business arrangement - that the value of the rediscounted checks of the plaintiffs-appellees would be deposited in PEMSLA's account for payment of the loans it has approved in exchange for PEMSLA's checks with the full value of the said loans.* This is the only obvious explanation as to why all the disputed sixty-nine (69) checks were in the possession of PEMSLA's errand boy for presentment to the defendant-appellant that led to this present controversy. It also appears that the teller who accepted the said checks was PEMSLA's officer, and that such was a regular practice by the parties until the defendant-appellant discovered the scam. *The logical conclusion, therefore, is that the checks were never meant to be paid to order, but instead, to PEMSLA.* We thus find no breach of contract on the part of the defendant-appellant.
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> According to plaintiff-appellee Erlando Rodriguez' testimony, PEMSLA allegedly issued post-dated checks to its qualified members who had applied for loans. However, because of PEMSLA's insufficiency of funds, PEMSLA approached the plaintiffs-appellees for the latter to issue rediscounted checks in favor of said applicant members. Based on the investigation of the defendant-appellant, meanwhile, this arrangement allowed the plaintiffs-appellees to make a profit by issuing rediscounted checks, while the officers of PEMSLA and other members would be able to claim their loans, despite the fact that they were disqualified for one reason or another. They were able to achieve this conspiracy by using other members who had loaned lesser amounts of money or had not applied at all. x x x.[8] (Emphasis added)

The CA found that the checks were bearer instruments, thus they do not require indorsement for negotiation; and that spouses Rodriguez and PEMSLA conspired with each other to accomplish this money-making scheme. The payees in the checks were "fictitious payees" because they were not the intended payees at all.

The spouses Rodriguez moved for reconsideration. They argued, *inter alia*, that the checks on their faces were unquestionably payable to order; and that PNB committed a breach of contract when it paid the value of the checks to PEMSLA without indorsement from the payees. They also argued that their cause of action is not only against PEMSLA but also against PNB to recover the value of the checks.

On October 11, 2005, the CA **reversed** itself via an Amended Decision, the last paragraph and *fallo* of which read:

> In sum, we rule that the defendant-appellant PNB is liable to the plaintiffs-appellees Sps. Rodriguez for the following:
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> 1. Actual damages in the amount of P2,345,804 with interest at 6% per annum from 14 May 1999 until fully paid;

2. Moral damages in the amount of P200,000;

3. Attorney's fees in the amount of P100,000; and

4. Costs of suit.

> WHEREFORE, in view of the foregoing premises, judgment is hereby rendered by Us AFFIRMING WITH MODIFICATION the assailed decision rendered in Civil Case No. 99-10892, as set forth in the immediately next preceding paragraph hereof, and SETTING ASIDE Our original decision promulgated in this case on 22 July 2004.
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> SO ORDERED.[9]

The CA ruled that the checks were payable to order. According to the appellate court, PNB failed to present sufficient proof to defeat the claim of the spouses Rodriguez that they really intended the checks to be received by the specified payees. Thus, PNB is liable for the value of the checks which it paid to PEMSLA without indorsements from the named payees. The award for damages was deemed appropriate in view of the failure of PNB to **treat the Rodriguez account with the highest degree of care considering the fiduciary nature of their relationship**, which constrained respondents to seek legal action.

Hence, the present recourse under Rule 45.

Issues

The issues may be compressed to whether the subject checks are payable to order or to bearer and who bears the loss?

PNB argues anew that when the spouses Rodriguez issued the disputed checks, they did not intend for the named payees to receive the proceeds. Thus, they are bearer instruments that could be validly **negotiated by mere delivery**. Further, testimonial and documentary evidence presented during trial amply proved that spouses Rodriguez and the officers of PEMSLA conspired with each other to defraud the bank.

Our Ruling

Prefatorily, amendment of decisions is more acceptable than an erroneous judgment attaining finality to the prejudice of innocent parties. A court discovering an erroneous judgment before it becomes final may, *motu proprio* or upon motion of the parties, correct its judgment with the singular objective of achieving justice for the litigants.[10]

However, a word of caution to lower courts, the CA in Cebu in this particular case, is in order. The Court does not sanction careless disposition of cases by courts of justice. The highest degree of diligence must go into the study of every controversy submitted for decision by litigants. Every issue and factual detail must be closely scrutinized and analyzed, and all the applicable laws judiciously studied, before the promulgation of every judgment by the court. Only in this manner will errors in judgments be avoided.