

SECOND DIVISION

[G.R. NO. 148196, September 30, 2005]

**BPI FAMILY BANK, PETITIONER, VS. EDGARDO BUENAVENTURA,
MYRNA LIZARDO AND YOLANDA TICA, RESPONDENTS.**

[G.R. NO. 148259]

**EDGARDO BUENAVENTURA, MYRNA LIZARDO AND YOLANDA
TICA, PETITIONERS, VS. BPI FAMILY BANK, RESPONDENT.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before us are two consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision^[1] of the Court of Appeals (CA) dated November 27, 2000 in CA-G.R. CV No. 53962, which affirmed with modification the Decision dated August 11, 1995 of the Regional Trial Court, Branch 25, Manila (Manila RTC); and the CA Resolution dated May 3, 2001, which denied the parties' separate motions for reconsideration.

The factual background of the case is as follows:

On May 23, 1990, Edgardo Buenaventura, Myrna Lizardo and Yolanda Tica (Buenaventura, *et al.*), all officers of the International Baptist Church and International Baptist Academy in Malabon, Metro Manila, filed a complaint for "Reinstatement of Current Account/Release of Money plus Damages" against BPI Family Bank (BPI-FB) before the Manila RTC, docketed as Civil Case No. 90-53154.

^[2]

They alleged that: on August 30, 1989, they accepted from Amado Franco BPI-FB Check No. 129004 dated August 29, 1989 in the amount of P500,000.00, jointly issued by Eladio Teves and Joseph Teves;^[3] they opened Current Account No. 807-065314-0 with the BPI-FB Branch at Bonifacio Market, Edsa, Caloocan City and deposited the check as initial deposit; the check was subsequently cleared and the amount was credited to their Current Account; on September 3, 1989, they drew a check in the amount of P10,171.50 and pursuant to normal banking procedure the check was honored and debited from their Current Account, leaving a balance of P490,328.50; on September 4, 1989, they drew another check in the amount of P46,189.60; instead of debiting the said amount against their Current Account, it was debited, without their knowledge and consent, against their Savings Account No. 08-95332-5 with the same branch; on September 9, 1989, they drew a check for P91,270.00 which, upon presentment for payment, was dishonored for the reason "account closed," in spite of the balance in the Current Account of P490,328.50; they thereafter learned from BPI-FB that their Current Account had been frozen upon instruction of Severino P. Coronacion, Vice-President of BPI-FB on

the ground that the source of fund was illegal or unauthorized; they demanded the reinstatement of the account, but BPI-FB refused.

On June 20, 1990, BPI-FB filed a motion to dismiss on the ground of *litis pendentia*, alleging that there is a pending case for recovery of sum of money arising from the BPI-FB Check No. 129004 dated August 29, 1989 before the Regional Trial Court (RTC), Branch 146, Makati^[4] and Buenaventura is one of the defendants therein.^[5] Buenaventura, *et al.* opposed the motion to dismiss on the ground that there is no identity of parties, rights asserted and reliefs prayed between the two cases.^[6]

On October 10, 1990, the Manila RTC denied the motion to dismiss, ruling that there can be no *res judicata* between the two cases since the parties are different and the causes of action are not the same.^[7]

On December 10, 1990, BPI-FB filed its answer alleging that: the check received by Buenaventura, *et al.* from Amado Franco was drawn by Eladio Teves and Joseph Teves against the Current Account of the Tevesteco Arrastre Stevedoring Co., Inc. (Tevesteco); the funds in the said Tevesteco account allegedly consisted mainly of funds in the amount of P80,000,000.00 transferred to it from another account belonging to the First Metro Investment Corporation (FMIC); such transfer of funds was effected on the basis of an Authority to Debit bearing the signatures of certain officers of FMIC; upon its investigation, BPI-FB found that the signatures in the Authority to Debit were forged; before this, however, Tevesteco had already issued several checks against its Current Account, one of which is the BPI-FB Check No. 129004 received by Buenaventura, *et al.* from Amado Franco, after a series of indorsements; it has the right to consider the Current Account of Buenaventura, *et al.*, which is funded from BPI-FB Check No. 129004, as closed and to refuse any further withdrawal from the same; assuming that the forgery claim of FMIC is untrue and incorrect, it is the right of the BPI-FB, as a matter of protecting its interests, to freeze their account or to hold it in suspense and not to allow any withdrawals therefrom in the meantime that the issue of forgery remains unsettled; FMIC has instituted another civil action, presently pending appeal, against BPI-FB and several other defendants for the recovery of the P80,000,000.00 transferred from the former's account to Tevesteco's account.^[8]

Following trial on the merits, on August 11, 1995, the Manila RTC rendered its decision, finding that: BPI-FB had no right to unilaterally freeze the deposits of Buenaventura, *et al.* since the latter had no participation in any fraud that may have attended the prior fund transfers from FMIC to Tevesteco; as holders in good faith and for value of the BPI-FB Check No. 129004, their rights to the sum embodied in the said check should have been respected; BPI-FB's unilateral action of freezing the Current Account amounted to an unlawful confiscation of their property without due process. The dispositive portion of the RTC decision reads as follows:

WHEREFORE, in view of the foregoing judgment is rendered in favor of the plaintiff and against the defendant bank and the latter is ordered as follows:

1. To pay the plaintiff the sum of P490,328.50 representing the balance of the plaintiff's deposit under Account No. 807-065-313-0 which was unlawfully frozen by the bank and finally debited against

said account with legal rate of interest from date of closure;

2. To pay the sum of P200,000.00 as moral damages;
3. To pay the amount of P200,000.00 as exemplary damages to serve as an example and lesson to serve as a deterrent for similar action which the bank may take against its depositors in the future;
4. To pay the sum of P50,000.00 as attorney's fees.

SO ORDERED.^[9]

Dissatisfied, BPI-FB appealed to the CA. It alleged that: the case should have been dismissed for lack of cause of action because it is the International Baptist Academy which is the owner of the funds deposited with BPI-FB and therefore the real party-in-interest, although the account is in the name of Buenaventura, *et al.*; the RTC should not have ordered the payment of the balance of the Current Account of Buenaventura, *et al.* because the latter were interested only in the reinstatement of their Current Account; the provisions of the Negotiable Instruments Law should not have been applied by the RTC to support its position that Buenaventura, *et al.* are the owners of the funds in their Current Account; BPI-FB is entitled to freeze the account of Buenaventura, *et al.* and to disallow any withdrawals therefrom as a measure to protect its interest; BPI-FB, not Buenaventura, *et al.*, is entitled to damages.

On November 27, 2000, the CA affirmed the decision of the Manila RTC, holding that BPI-FB did not act in accordance with law.^[10] It ruled that the relationship between the bank and the depositor is that of debtor and creditor and, as such, BPI-FB could not lawfully refuse to make payments on the checks drawn and issued by Buenaventura, *et al.*, provided only that there are funds available in the latter's deposit. It further declared that BPI-FB is not justified in freezing the amounts deposited by Buenaventura, *et al.* for suspicion of being "illegal" or "unauthorized" as a result of the claimed fraud perpetuated against FMIC because: (a) it has not been sufficiently shown that the funds in the account of Buenaventura, *et al.* were derived exclusively from the alleged P80,000,000.00 unlawfully transferred from the funds of FMIC or that the deposit under the name of Tevesteco consisted exclusively of the said P80,000,000.00 debited from FMIC's account; and (b) there is no clear proof of any involvement of Buenaventura, *et al.*, the International Baptist Church or International Baptist Academy in the alleged irregularities attending the fund transfer from FMIC to Tevesteco.

The CA also found unmeritorious BPI-FB's claim that Buenaventura, *et al.* have no cause of action since the International Baptist Academy is the real party-in-interest. It held that since it is undisputed that it is the Current Account of Buenaventura, *et al.* which was frozen and closed by BPI-FB, then the former are the parties-in-interest in the reopening of the said account. It found no error in the Manila RTC's order that BPI-FB pay the amount of P490,328.50 plus interest directly to Buenaventura, *et al.* since the reinstatement of the Current Account would mean the same thing as the payment of the balance; Buenaventura, *et al.* would necessarily have the right to withdraw their deposit if and when they see it fit. Furthermore, the CA held that the RTC's disposition falls under the general prayer of Buenaventura, *et al.* for such other reliefs as may be just and equitable under the attendant

circumstances.

With regard to award of damages, the CA sustained the award of moral damages and attorney's fees, holding that BPI-FB's actuations were established to have caused Buenaventura, *et al.* to incur the distrust of their Baptist brethren, besides suffering mental anguish, serious anxiety, wounded feelings, and moral shock but found no basis for the award of exemplary damages of P200,000.00 for lack of showing that BPI-FB was not animated by any wanton, fraudulent, reckless, oppressive or malevolent intent.

Both parties filed separate motions for reconsideration. Buenaventura, *et al.* sought reconsideration of the deletion of the award of exemplary damages.^[11] On the other hand, BPI-FB reiterated its argument that the International Baptist Academy is the real party-in-interest. It also assailed the findings and conclusions of the CA.^[12]

On May 3, 2001, the CA denied both motions for reconsideration.^[13]

Hence, the present two consolidated petitions for review on *certiorari*.

In G.R No. 148196, BPI-FB ascribes six errors upon the CA, to wit:

- I. The Honorable Court of Appeals committed a reversible error in holding that the respondents are the real parties-in-interest in this case contrary to the admissions of respondents themselves that it is the International Baptist Academy who is the owner of the funds in question and hence it is and out to be the real party in interest in this case.
- II. The Honorable Court of Appeals committed a grave abuse of discretion in not dismissing respondent's complaint for lack of cause of action.
- III. The Honorable Court of Appeals committed a reversible error in NOT holding, based on a misapprehension of facts that BPI-FB is entitled to freeze respondents' account and to disallow any withdrawal therefrom as a measure to protect its interest.
- IV. The Honorable Court of Appeals committed a reversible error in holding, based on a misapprehension of facts, that it has not been sufficiently shown that the funds in deposit with BPI-FB under the name of the respondents were derived exclusively from the alleged 80 million pesos unlawfully transferred from the funds of FMIC or that the deposit under the name of Tevesteco consisted exclusively of the said 80 million pesos debited from FMIC's account.
- V. The Honorable Court of Appeals committed a grave abuse of discretion in NOT upholding the position of BPI-FB on the freezing of respondents' current account when it held that there was no clear proof of any involvement by the respondents with the alleged irregularities attending the fund transfer from FMIC to Tevesteco.

VI. The Honorable Court of Appeals committed a grave abuse of discretion, in holding, in effect, that there is nothing wrong with the Lower Court's order directing BPI-FB to pay to respondents directly the balance of their account plus interest although their prayer in their complaint was only to reinstate their current account.^[14]

Anent the first and second grounds, BPI-FB maintains that the complaint should have been dismissed for lack of cause of action because Buenaventura *et al.* admit that the International Baptist Academy is the owner of the funds in question and therefore the real party-in-interest to prosecute the action.

On the third ground, BPI-FB asserts that it has the right to consider the account of Buenaventura, *et al.* as frozen and to refuse any withdrawals from the same because of the forgery claim of FMIC. Assuming the forgery claim of FMIC is true and correct, the amount transferred from FMIC's account to Tevesteco's account is the money of BPI-FB under the principle that a bank is deemed to have disbursed its own funds. It submits that as an original owner who is restored in possession of stolen property, it has a better right over such property than a mere transferee no matter how innocent the latter may be.

Concerning the fourth ground, BPI-FB submits that ample proof was presented by it that the deposit under the name of Tevesteco consisted exclusively of the P80,000,000.00 debited from FMIC's account and the funds in deposit with BPI-FB under the name of Buenaventura, *et al.* were derived exclusively from the P80,000,000.00 unlawfully transferred from the funds of FMIC.

With regard to the fifth ground, BPI-FB concedes that there is no clear proof of any involvement by Buenaventura, *et al.* in the alleged irregularities attending the fund transfer from FMIC to Tevesteco. It insists, however, that the freezing of the account was triggered by the forgery claim of FMIC and the unauthorized fund transfer to Tevesteco based on the principle that a bank is deemed to have disbursed its own funds, and not its depositors, where the authority for such disbursement is a forgery and null and void. It had the right to set up its ownership of the money as against that of Buenaventura, *et al.* and to refuse to return the same to them.

As to the sixth ground, BPI-FB points out that Buenaventura, *et al.* originally prayed in the alternative for the reinstatement of their Current Account or for payment of the balance remaining in said account but they subsequently chose to delete that portion praying for the payment of the balance of their account. It submits that Buenaventura, *et al.* deliberately did this to sidestep the other pending case filed against the suspected perpetrators of the fraud, including Amado Franco and Buenaventura, before RTC, Branch 146, Makati.

In G.R. No. 148259, Buenaventura, *et al.* anchor their petition on a sole ground, to wit:

The Honorable Court of Appeals has decided the case in a way not in accord with law and applicable jurisprudence in the deletion of the award of exemplary damages granted by the court a quo.^[15]

They submit that BPI-FB acted in a wanton, reckless, oppressive and malevolent manner in freezing, and subsequently closing, their account without prior