

## SECOND DIVISION

[ G.R. No. 126153, January 14, 2004 ]

**PHILIPPINE NATIONAL BANK PETITIONER, VS. HONORABLE COURT OF APPEALS, AND ATTY. MORDENO CUA, RESPONDENTS.**

### D E C I S I O N

**CALLEJO, SR., J.:**

This is a petition for review on certiorari under Rule 45 of the Rules of Court, as amended, filed by petitioner Philippine National Bank (PNB), of the Decision<sup>[1]</sup> dated July 22, 1996 of the Court of Appeals which reversed and set aside the Decision<sup>[2]</sup> of the Regional Trial Court, Cagayan de Oro City, Branch 24 in Civil Case No. 90-423, an action for a sum of money filed against the private respondent Atty. Mordeno Cua.

On September 6, 1990, the petitioner filed a complaint against the private respondent with the Regional Trial Court, Cagayan de Oro City, Branch 24, wherein it alleged, *inter alia*, that:

. . .

2. Sometime on December 18, 1985, the PNB thru its Cable Division received a tested message from Manufacturer's Hanover Trust Co., New York (Mantrust) to remit proceeds in the amount \$14,056.25 to Philippine National Bank, Cagayan de Oro Branch under Account No. 16087. This message was implemented on December 20, 1985 in the Peso Conversion rate of P262,793.04.
3. On December 26, 1985, after a thorough but futile search for Cagayan de Oro Branch for Account No. 16087, PNB Manila was notified that the account was not carried or maintained by Cagayan de Oro. With this Notice, it was later discovered that said Account No. 16087 was carried with PCI Bank Cagayan de Oro in the name of **CENTER FOR ECONOMIC AND SOCIAL STUDIES** with the Defendant Mordeno Cua as the sole signatory.
4. With the discovery mentioned in the preceding paragraph, the PNB Cagayan de Oro Branch transferred and delivered the amount of \$14,056.25 to Account No. 16087 with the PCI Bank, Cagayan de Oro Branch and funds were withdrawn by the defendant Mordeno Cua.
5. About the same time when the PNB Cagayan de Oro Branch transferred and delivered the amount of \$14,056.25 to the PCI Bank Cagayan de Oro Branch, Mantrust rectified their tested

message and recalled the fund stating that the money 'was not intended' for PNB. This recall Order was complied by PNB on January 21, 1986 thru telex message sent to Mantrust, New York.

6. Upon request for PCI Bank Cagayan de Oro to return the amount thus transferred and delivered, the PNB was informed that the whole amount was already withdrawn by Mordeno Cua, the sole signatory for the Center for Economic and Social Studies.
7. Thereafter, requests both verbal and written were made upon the defendant Mordeno Cua to reconstitute the amount of \$14,056.25 but all efforts failed as Mordeno Cua refused and continue to refuse to reconstitute or make necessary arrangement for the restitution.<sup>[3]</sup>

The petitioner, as plaintiff, prayed that after due proceedings, judgment be rendered in its favor, thus:

WHEREFORE, premises considered, it is respectfully prayed that after due hearing, the defendant be adjudged liable with PNB for:

1. The amount of P262,793.04 with interest until full payment;
2. Moral damages and legal fees in the amount as may be proven during the trial;
3. Such other remedies as may be available under the premises.<sup>[4]</sup>

In his Answer to the complaint, the private respondent, as defendant, admitted to being the sole signatory to the account of the Center for Economic and Social Studies (CESS) with Philippine Commercial Industrial Bank (PCIB), Cagayan de Oro Branch. He, however, alleged that the petitioner had no causes of action against him, and that he had no knowledge sufficient to form a belief as to the truth of the allegations alleged in paragraphs 2, 3, 5, 7, 8, and 9 of the complaint, the truth being that with reference to paragraph 4 thereof, he never withdrew money from PCIB from the fund transfer of the petitioner nor was he notified of the said fund transfer to the account of CESS with the PCIB. The private respondent interposed counterclaims for damages against the petitioner.<sup>[5]</sup>

The petitioner adduced evidence that on December 18, 1985, the Head Office of the Philippine National Bank (PNB) in Manila received a secret coded message thru its Cable Division from Manufacturer's Hanover Trust Co., New York (Mantrust) directing the petitioner bank to remit the proceeds in the amount of US\$14,056.25 to PNB Cagayan de Oro Branch under Account No. 16085 of CESS.<sup>[6]</sup> The petitioner implemented the message on December 20, 1985 at the prevailing peso conversion rate in the amount of P262,793.04.

However, after thorough verification, it turned out that Account No. 16087 was not maintained with the PNB, Cagayan de Oro Branch. The latter forthwith informed the petitioner of the said fact.<sup>[7]</sup> Upon further verification, it was found that the said account was maintained by the PCIB, Cagayan de Oro Branch under the name of CESS, with private respondent Mordeno Cua as sole signatory. At about the same time, Mantrust rectified its secret coded message and recalled the fund, stating that

"the money was not intended for PNB." This recall message was complied with by the petitioner on January 21, 1986 thru a telex message sent to Mantrust, New York.<sup>[8]</sup> Written demands were then sent to respondent Cua to return or restitute the amount, but the latter failed to do so.<sup>[9]</sup> After the petitioner rested its case, the private respondent opted not to adduce evidence in his behalf. After due hearing, the RTC rendered judgment in favor of the petitioner, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of plaintiff and against the defendant ordering the latter to pay the former the following sums:

- (a) P262,793.04 pesos equivalent of \$14,056.25; and
- (b) P662.00 for docketing fees.<sup>[10]</sup>

The trial court ruled that the petitioner adduced the requisite quantum of evidence to prove its claim against the private respondent.

On appeal, the Court of Appeals reversed the decision of the trial court, holding that the petitioner failed to prove that the private respondent withdrew the money remitted to the account of CESS with the PCIB, Cagayan de Oro Branch by the PNB, Cagayan de Oro City Branch.<sup>[11]</sup>

The petitioner avers in this case that the Court of Appeals erred in reversing the decision of the trial court, and insists that:

THE CA CONCLUSION THAT THE TESTIMONIES AND EVIDENCE ON RECORD ARE INSUFFICIENT TO PROVE THAT THE AMOUNT OF REMITTANCE EQUIVALENT TO US\$14,056.25 (P260,793.04) WAS INDEED RECEIVED BY THE APPELLANT IS ERRONEOUS CONSIDERING THAT THE PRIVATE RESPONDENT'S FAILURE TO SPECIFICALLY DENY THE ALLEGATION OF PETITIONER UNDER PARAGRAPH 6 OF THE COMPLAINT CONSTITUTES A JUDICIAL ADMISSION BY PRIVATE RESPONDENT THAT HE WITHDREW THE WHOLE AMOUNT OF REMITTANCE TRANSFERRED BY PETITIONER TO PCIB FOR CREDIT TO CESS ACCOUNT.

EVEN ASSUMING ARGUENDO THAT PARAGRAPH 6 OF THE COMPLAINT CANNOT BE CONSIDERED JUDICIALLY ADMITTED BY PRIVATE RESPONDENT, THE CA CONCLUSION THAT THE TESTIMONIES AND EVIDENCE ON RECORD ARE INSUFFICIENT TO PROVE THAT THE AMOUNT OF REMITTANCE WAS IN FACT CREDITED INTO THE ACCOUNT OF CESS WITH PCIB IS ERRONEOUS CONSIDERING THAT THE TESTIMONIES AND EVIDENCES ON RECORD PARTICULARLY THE LETTER OF PETITIONER DATED AUGUST 10, 1988 ADDRESSED TO PRIVATE RESPONDENT, WHICH LETTER WAS ADMITTED BY THE LOWER COURT AS EXHIBIT "D," CLEARLY ESTABLISHED THAT PCIB MANILA CREDITED TO FCDU ACCOUNT NO. 16087 OF CESS WITH THEIR CAGAYAN DE ORO BRANCH THE AMOUNT OF US\$14,114.33 (US\$14,056.25).<sup>[12]</sup>

Since the issues raised by the petitioner are interrelated, we shall delve into and resolve them simultaneously.

The petitioner avers that the ruling of the CA, that it failed to adduce sufficient evidence to prove the material allegations in its complaint, is erroneous. According to the petitioner, the private respondent failed to specifically deny the material allegations in paragraph 6 of the complaint, and that the private respondent's denial in paragraph E of his Answer to the Complaint was an "ineffective denial." Thus, the private respondent is deemed to have admitted that he withdrew the amount for the account of CESS with the PCIB. The reason for this, the petitioner contends, is that:

... [T]he information on whether Mordeno Cua actually withdrew the whole amount of remittance from CESS account with PCIBank Cagayan de Oro is within the knowledge or control of Mordeno Cua being the sole signatory to the said CESS Account.<sup>[13]</sup>

The private respondent, for his part, avers that he specifically denied having withdrawn or received remittances by the petitioner to the account of CESS with the PCIB, Cagayan de Oro Branch. The petitioner was burdened to prove that (a) it remitted the amount of US\$14,056.25 to the PCIB, Cagayan de Oro Branch for the account of CESS; and that (b) the private respondent withdrew the said amount. He asserts that while the petitioner proved that the said amount was remitted to the account of CESS with the PCIB, it failed to prove that he withdrew the said amount from the bank.

The petitioner's contention has no merit.

Rule 8, Section 10 of the Rules of Court, as amended,<sup>[14]</sup> require a defendant to specify each material allegations of fact, the truth of which he does not admit, and whenever practicable, to set forth the substance of the matters upon which he relies to support his denial. Where a defendant desires to deny part of an averment for a qualification thereof, he is mandated to specify so much of the averment as true and material and shall deny the remainder. If a defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment in the complaint, he is bound to so state and this shall have the effect of a denial. In such a case, it is indispensable that the matter regarding where lack of knowledge is alleged be clearly set forth so that the adverse party is informed of what is denied. The purpose of requiring the defendant to make a specific denial is to make him disclose the matters alleged in the complaint which he succinctly intends to disprove at the trial, together with the matter which he relied upon to support the denial.<sup>[15]</sup> The parties are compelled to lay their cards on the table.

A denial is not specific simply because it is so qualified by the defendant. A general denial does not become specific by the use of the word "specifically." When the matters of whether the defendant alleges having no knowledge or information sufficient to form a belief, are plainly and necessarily within the defendant's knowledge, his alleged ignorance or lack of information will not be considered as a specific denial.<sup>[16]</sup> Section 11, Rule 8 of the said Rule,<sup>[17]</sup> provides that material averments in the complaint other than those as to the amount of unliquidated damages shall be deemed admitted when not specifically denied.

In his Answer to the complaint, the respondent alleged inter alia that:

A. Paragraph 1 of the complaint is ADMITTED.