

FIRST DIVISION

[G.R. NO. 148789, January 16, 2003]

**BPI FAMILY SAVINGS BANK, INC. AND HEDZELITO NOEL
BAYABORDA, PETITIONERS, VS. ROMEO MANIKAN,
RESPONDENT.**

D E C I S I O N

VITUG, J.:

Petitioners seek a review of the decision of the Court of Appeals in C.A. G.R. SP. No. 48011 which has affirmed the judgment of the Regional Trial Court, Branch 26, of Iloilo City, dismissing the complaint of petitioners for *mandamus* and ordering them to pay respondent the sum of P30,000.00 by way of attorney's fees.

It would appear that respondent, being the City Treasurer of Iloilo City, assessed petitioner bank business taxes for the years 1992 and 1993. On 26 January 1994, the bank issued two manager's checks payable to the City Treasurer of Iloilo City, the first, Manager's Check No. 010649 for P462,270.60, was to cover the business tax for the year 1992, and the second, Manager's Check No. 010650 in the amount of P482,988.45, was to settle the business tax for the year 1993. Hedzelito Bayaborda, then manager of the bank's Iloilo Branch, instructed an employee, Edmund Sabio, to deliver the two manager's checks to the Secretary to the City Mayor, a certain Toto Espinosa, who, in turn, handed them over to his secretary, Leila Salcedo, for transmittal to the City Treasurer. The value of the checks were eventually credited to the account of the City Treasurer of Iloilo City. The checks, however, were not applied to satisfy the tax liabilities of petitioner but of other taxpayers.

The misapplication of the proceeds of the checks came to the knowledge of respondent City Treasurer who, thereupon, created a committee to look into the matter. The investigation revealed that it was upon the representation of Leila Salcedo that the manager's checks were used to pay tax liabilities of other taxpayers and not those of petitioner bank. Meanwhile, the bank, through counsel, made a demand on respondent to issue official receipts to show that it had paid its business taxes for the years 1992 and 1993 covered by the diverted manager's checks. When he refused to issue the receipts requested, respondent was sued by petitioners for *mandamus* and damages.

The Regional Trial Court dismissed the complaint for *mandamus* and ruled that petitioners had no clear legal right to demand the issuance of official receipts nor could respondent, given the circumstances, be compelled to issue another set of receipts in the name of the bank. The trial court further ordered petitioners to pay respondent the sum of P30,000.00 by way of attorney's fees.

The Court of Appeals, on appeal by petitioners, sustained the trial court *in toto*.