

SECOND DIVISION

[G.R. No. 118492, August 15, 2001]

**GREGORIO H. REYES AND CONSUELO PUYAT-REYES,
PETITIONERS, VS. THE HON. COURT OF APPEALS AND FAR EAST
BANK AND TRUST COMPANY, RESPONDENTS.**

DECISION

DE LEON, JR., J.:

Before us is a petition for review of the Decision^[1] dated July 22, 1994 and Resolution^[2] dated December 29, 1994 of the Court of Appeals^[3] affirming with modification the Decision^[4] dated November 12, 1992 of the Regional Trial Court of Makati, Metro Manila, Branch 64, which dismissed the complaint for damages of petitioners spouses Gregorio H. Reyes and Consuelo Puyat-Reyes against respondent Far East Bank and Trust Company.

The undisputed facts of the case are as follows:

In view of the 20th Asian Racing Conference then scheduled to be held in September, 1988 in Sydney, Australia, the Philippine Racing Club, Inc. (PRCI, for brevity) sent four (4) delegates to the said conference. Petitioner Gregorio H. Reyes, as vice-president for finance, racing manager, treasurer, and director of PRCI, sent Godofredo Reyes, the club's chief cashier, to the respondent bank to apply for a foreign exchange demand draft in Australian dollars.

Godofredo went to respondent bank's Buendia Branch in Makati City to apply for a demand draft in the amount One Thousand Six Hundred Ten Australian Dollars (AU\$1,610.00) payable to the order of the 20th Asian Racing Conference Secretariat of Sydney, Australia. He was attended to by respondent bank's assistant cashier, Mr. Yasis, who at first denied the application for the reason that respondent bank did not have an Australian dollar account in any bank in Sydney. Godofredo asked if there could be a way for respondent bank to accommodate PRCI's urgent need to remit Australian dollars to Sydney. Yasis of respondent bank then informed Godofredo of a roundabout way of effecting the requested remittance to Sydney thus: the respondent bank would draw a demand draft against Westpac Bank in Sydney, Australia (Westpac-Sydney for brevity) and have the latter reimburse itself from the U.S. dollar account of the respondent in Westpac Bank in New York, U.S.A (Westpac-New York for brevity). This arrangement has been customarily resorted to since the 1960's and the procedure has proven to be problem-free. PRCI and the petitioner Gregorio H. Reyes, acting through Godofredo, agreed to this arrangement or approach in order to effect the urgent transfer of Australian dollars payable to the Secretariat of the 20th Asian Racing Conference.

On July 28, 1988, the respondent bank approved the said application of PRCI and issued Foreign Exchange Demand Draft (FXDD) No. 209968 in the sum applied for,

that is, One Thousand Six Hundred Ten Australian Dollars (AU\$1,610.00), payable to the order of the 20th Asian Racing Conference Secretariat of Sydney, Australia, and addressed to Westpac-Sydney as the drawee bank.

On August 10, 1988, upon due presentment of the foreign exchange demand draft, denominated as FXDD No. 209968, the same was dishonored, with the notice of dishonor stating the following: "xxx No account held with Westpac." Meanwhile, on August 16, 1988, Westpac-New York sent a cable to respondent bank informing the latter that its dollar account in the sum of One Thousand Six Hundred Ten Australian Dollars (AU\$1,610.00) was debited. On August 19, 1988, in response to PRCI's complaint about the dishonor of the said foreign exchange demand draft, respondent bank informed Westpac-Sydney of the issuance of the said demand draft FXDD No. 209968, drawn against the Westpac-Sydney and informing the latter to be reimbursed from the respondent bank's dollar account in Westpac-New York. The respondent bank on the same day likewise informed Westpac-New York requesting the latter to honor the reimbursement claim of Westpac-Sydney. On September 14, 1988, upon its second presentment for payment, FXDD No. 209968 was again dishonored by Westpac-Sydney for the same reason, that is, that the respondent bank has no deposit dollar account with the drawee Westpac-Sydney.

On September 17, 1988 and September 18, 1988, respectively, petitioners spouses Gregorio H. Reyes and Consuelo Puyat-Reyes left for Australia to attend the said racing conference. When petitioner Gregorio H. Reyes arrived in Sydney in the morning of September 18, 1988, he went directly to the lobby of Hotel Regent Sydney to register as a conference delegate. At the registration desk, in the presence of other delegates from various member countries, he was told by a lady member of the conference secretariat that he could not register because the foreign exchange demand draft for his registration fee had been dishonored for the second time. A discussion ensued in the presence and within the hearing of many delegates who were also registering. Feeling terribly embarrassed and humiliated, petitioner Gregorio H. Reyes asked the lady member of the conference secretariat that he be shown the subject foreign exchange demand draft that had been dishonored as well as the covering letter after which he promised that he would pay the registration fees in cash. In the meantime he demanded that he be given his name plate and conference kit. The lady member of the conference secretariat relented and gave him his name plate and conference kit. It was only two (2) days later, or on September 20, 1988, that he was given the dishonored demand draft and a covering letter. It was then that he actually paid in cash the registration fees as he had earlier promised.

Meanwhile, on September 19, 1988, petitioner Consuelo Puyat-Reyes arrived in Sydney. She too was embarrassed and humiliated at the registration desk of the conference secretariat when she was told in the presence and within the hearing of other delegates that she could not be registered due to the dishonor of the subject foreign exchange demand draft. She felt herself trembling and unable to look at the people around her. Fortunately, she saw her husband coming toward her. He saved the situation for her by telling the secretariat member that he had already arranged for the payment of the registration fees in cash once he was shown the dishonored demand draft. Only then was petitioner Puyat-Reyes given her name plate and conference kit.

At the time the incident took place, petitioner Consuelo Puyat-Reyes was a member

of the House of Representatives representing the lone Congressional District of Makati, Metro Manila. She has been an officer of the Manila Banking Corporation and was cited by Archbishop Jaime Cardinal Sin as the top lady banker of the year in connection with her conferment of the Pro-Ecclesia et Pontifice Award. She has also been awarded a plaque of appreciation from the Philippine Tuberculosis Society for her extraordinary service as the Society's campaign chairman for the ninth (9th) consecutive year.

On November 23, 1988, the petitioners filed in the Regional Trial Court of Makati, Metro Manila, a complaint for damages, docketed as Civil Case No. 88-2468, against the respondent bank due to the dishonor of the said foreign exchange demand draft issued by the respondent bank. The petitioners claim that as a result of the dishonor of the said demand draft, they were exposed to unnecessary shock, social humiliation, and deep mental anguish in a foreign country, and in the presence of an international audience.

On November 12, 1992, the trial court rendered judgment in favor of the defendant (respondent bank) and against the plaintiffs (herein petitioners), the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered in favor of the defendant, dismissing plaintiffs' complaint, and ordering plaintiffs to pay to defendant, on its counterclaim, the amount of P50,000.00, as reasonable attorney's fees. Costs against the plaintiff.

SO ORDERED.^[5]

The petitioners appealed the decision of the trial court to the Court of Appeals. On July 22, 1994, the appellate court affirmed the decision of the trial court but in effect deleted the award of attorney's fees to the defendant (herein respondent bank) and the pronouncement as to the costs. The decretal portion of the decision of the appellate court states:

WHEREFORE, the judgment appealed from, insofar as it dismisses plaintiffs' complaint, is hereby AFFIRMED, but is hereby REVERSED and SET ASIDE in all other respect. No special pronouncement as to costs.

SO ORDERED.^[6]

According to the appellate court, there is no basis to hold the respondent bank liable for damages for the reason that it exerted every effort for the subject foreign exchange demand draft to be honored. The appellate court found and declared that:

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Thus, the Bank had every reason to believe that the transaction finally went through smoothly, considering that its New York account had been debited and that there was no miscommunication between it and

Westpac-New York. SWIFT is a world wide association used by almost all banks and is known to be the most reliable mode of communication in the international banking business. Besides, the above procedure, with the Bank as drawer and Westpac-Sydney as drawee, and with Westpac-New York as the reimbursement Bank had been in place since 1960s and there was no reason for the Bank to suspect that this particular demand draft would not be honored by Westpac-Sydney.

From the evidence, it appears that the root cause of the miscommunications of the Bank's SWIFT message is the erroneous decoding on the part of Westpac-Sydney of the Bank's SWIFT message as an MT799 format. However, a closer look at the Bank's Exhs. "6" and "7" would show that despite what appears to be an asterisk written over the figure before "99", the figure can still be distinctly seen as a number "1" and not number "7", to the effect that Westpac-Sydney was responsible for the dishonor and not the Bank.

Moreover, it is not said asterisk that caused the misleading on the part of the Westpac-Sydney of the numbers "1" to "7", since Exhs. "6" and "7" are just documentary copies of the cable message sent to Westpac-Sydney. Hence, if there was mistake committed by Westpac-Sydney in decoding the cable message which caused the Bank's message to be sent to the wrong department, the mistake was Westpac's, not the Bank's. The Bank had done what an ordinary prudent person is required to do in the particular situation, although appellants expect the Bank to have done more. The Bank having done everything necessary or usual in the ordinary course of banking transaction, it cannot be held liable for any embarrassment and corresponding damage that appellants may have incurred.^[7]

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Hence, this petition, anchored on the following assignment of errors:

I

THE HONORABLE COURT OF APPEALS ERRED IN FINDING PRIVATE RESPONDENT NOT NEGLIGENT BY ERRONEOUSLY APPLYING THE STANDARD OF DILIGENCE OF AN "ORDINARY PRUDENT PERSON" WHEN IN TRUTH A HIGHER DEGREE OF DILIGENCE IS IMPOSED BY LAW UPON THE BANKS.

II

THE HONORABLE COURT OF APPEALS ERRED IN ABSOLVING PRIVATE RESPONDENT FROM LIABILITY BY OVERLOOKING THE FACT THAT THE DISHONOR OF THE DEMAND DRAFT WAS A BREACH OF PRIVATE RESPONDENT'S WARRANTY AS THE DRAWER THEREOF.

III