

SECOND DIVISION

[G.R. No. 125536, March 16, 2000]

**PRUDENTIAL BANK, PETITIONER, VS. COURT OF APPEALS AND
LETICIA TUPASI-VALENZUELA JOINED BY HUSBAND FRANCISCO
VALENZUELA, RESPONDENTS.**

DECISION

QUISUMBING, J.:

This appeal by *certiorari* under Rule 45 of the Rules of Court seeks to annul and set aside the Decision dated January 31, 1996, and the Resolution dated July 2, 1997, of the Court of Appeals in CA G.R. CV No. 35532, which reversed the judgment of the Regional Trial Court of Valenzuela, Metro Manila, Branch 171, in Civil Case No. 2913-V-88, dismissing the private respondent's complaint for damages.^[1]

In setting aside the trial court's decision, the Court of Appeals disposed as follows:

"WHEREFORE, the appealed decision is hereby REVERSED and SET ASIDE and, another rendered ordering the appellee bank to pay appellant the sum of P100,000.00 by way of moral damages; P50,000.00 by way of exemplary damages, P50,000.00 for and as attorney's fees; and to pay the costs.

SO ORDERED."^[2]

The facts of the case on record are as follows:

Private respondent Leticia Tupasi-Valenzuela opened Savings Account No. 5744 and Current Account No. 01016-3 in the Valenzuela Branch of petitioner Prudential Bank, with automatic transfer of funds from the savings account to the current account.

On June 1, 1988, herein private respondent deposited in her savings account Check No. 666B (104561 of even date) the amount of P35,271.60, drawn against the Philippine Commercial International Bank (PCIB). Taking into account that deposit and a series of withdrawals, private respondent as of June 21, 1988 had a balance of P35,993.48 in her savings account and P776.93 in her current account, or total deposits of P36,770.41, with petitioner.

Thereafter, private respondent issued Prudential Bank Check No. 983395 in the amount of P11,500.00 post-dated June 20, 1988, in favor of one Belen Legaspi. It was issued to Legaspi as payment for jewelry which private respondent had purchased. Legaspi, who was in jewelry trade, endorsed the check to one Philip Lhuillier, a businessman also in the jewelry business. When Lhuillier deposited the check in his account with the PCIB, Pasay Branch, it was dishonored for being drawn against insufficient funds. Lhuillier's secretary informed the secretary of Legaspi of

the dishonor. The latter told the former to redeposit the check. Legaspi's secretary tried to contact private respondent but to no avail.

Upon her return from the province, private respondent was surprised to learn of the dishonor of the check. She went to the Valenzuela Branch of Prudential Bank on July 4, 1988, to inquire why her check was dishonored. She approached one Albert Angeles Reyes, the officer in charge of current account, and requested him for the ledger of her current account. Private respondent discovered a debit of P300.00 penalty for the dishonor of her Prudential Check No. 983395. She asked why her check was dishonored when there were sufficient funds in her account as reflected in her passbook. Reyes told her that there was no need to review the passbook because the bank ledger was the best proof that she did not have sufficient funds. Then, he abruptly faced his typewriter and started typing.

Later, it was found out that the check in the amount of P35,271.60 deposited by private respondent on June 1, 1988, was credited in her savings account only on June 24, 1988, or after a period of 23 days. Thus the P11,500.00 check was redeposited by Lhuillier on June 24, 1988, and properly cleared on June 27, 1988.

Because of this incident, the bank tried to mollify private respondent by explaining to Legaspi and Lhuillier that the bank was at fault. Since this was not the first incident private respondent had experienced with the bank, private respondent was unmoved by the bank's apologies and she commenced the present suit for damages before the RTC of Valenzuela.

After trial, the court rendered a decision on August 30, 1991, dismissing the complaint of private respondent, as well as the counterclaim filed by the defendant, now petitioner.

Undeterred, private respondent appealed to the Court of Appeals. On January 31, 1996, respondent appellate court rendered a decision in her favor, setting aside the trial court's decision and ordering herein petitioner to pay private respondent the sum of P100,000.00 by way of moral damages; P50,000.00 exemplary damages; P50,000.00 for and as attorney's fees; and to pay the costs.^[3]

Petitioner filed a timely motion for reconsideration but it was denied. Hence, this petition, raising the following issues:

I. WHETHER OR NOT THE RESPONDENT COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION IN DEVIATING FROM ESTABLISHED JURISPRUDENCE IN REVERSING THE DISMISSAL JUDGMENT OF THE TRIAL COURT AND INSTEAD AWARDED MORAL DAMAGES, EXEMPLARY DAMAGES AND ATTORNEY'S FEES.

II. WHETHER OR NOT THE RESPONDENT COURT OF APPEALS ACTED IN GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION WHERE, EVEN IN THE ABSENCE OF EVIDENCE AS FOUND BY THE TRIAL COURT, AWARDED MORAL DAMAGES IN THE AMOUNT OF P100,000.00.

III. WHETHER OR NOT THE RESPONDENT COURT OF APPEALS ACTED IN GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OF JURISDICTION, WHERE, EVEN IN THE ABSENCE OF EVIDENCE AS FOUND BY THE TRIAL COURT, AWARDED P50,000.00 BY WAY OF EXEMPLARY DAMAGES.

IV. WHETHER OR NOT THE RESPONDENT COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION WHERE EVEN IN THE ABSENCE OF EVIDENCE, AWARDED ATTORNEY'S FEES.

Simply stated, the issue is whether the respondent court erred and gravely abused its discretion in awarding moral and exemplary damages and attorney's fees to be paid by petitioner to private respondent.

Petitioner claims that generally the factual findings of the lower courts are final and binding upon this Court. However, there are exceptions to this rule. One is where the trial court and the Court of Appeals had arrived at diverse factual findings.^[4] Petitioner faults the respondent court from deviating from the basic rule that finding of facts by the trial court is entitled to great weight, because the trial court had the opportunity to observe the deportment of witness and the evaluation of evidence presented during the trial. Petitioner contends that the appellate court gravely abused its discretion when it awarded damages to the plaintiff, even in the face of lack of evidence to prove such damages, as found by the trial court.

Firstly, petitioner questions the award of moral damages. It claims that private respondent did not suffer any damage upon the dishonor of the check. Petitioner avers it acted in good faith. It was an honest mistake on its part, according to petitioner, when misposting of private respondent's deposit on June 1, 1988, happened. Further, petitioner contends that private respondent may not "claim" damages because the petitioner's manager and other employee had profusely apologized to private respondent for the error. They offered to make restitution and apology to the payee of the check, Legaspi, as well as the alleged endorsee, Lhuillier. Regrettably, it was private respondent who declined the offer and allegedly said, that there was nothing more to it, and that the matter had been put to rest.^[5]

Admittedly, as found by both the respondent appellate court and the trial court, petitioner bank had committed a mistake. It misposted private respondent's check deposit to another account and delayed the posting of the same to the proper account of the private respondent. The mistake resulted to the dishonor of the private respondent's check. The trial court found "that the misposting of plaintiff's check deposit to another account and the delayed posting of the same to the account of the plaintiff is a clear proof of lack of supervision on the part of the defendant bank."^[6] Similarly, the appellate court also found that "while it may be true that the bank's negligence in dishonoring the properly funded check of appellant might not have been attended with malice and bad faith, as appellee [bank] submits, nevertheless, it is the result of lack of due care and caution expected of an employee of a firm engaged in so sensitive and accurately demanding task as banking."^[7]

In *Simex International (Manila), Inc, vs. Court of Appeals*, 183 SCRA 360, 367 (1990), and *Bank of Philippine Islands vs. IAC, et al.*, 206 SCRA 408, 412-413