

## FIRST DIVISION

[ G.R. No. 141060, September 29, 2000 ]

**PILIPINAS BANK, PETITIONER, VS. COURT OF APPEALS, HON. ELOY R. BELLO, IN HIS CAPACITY AS PRESIDING JUDGE, RTC-MANILA, BRANCH 15, AND MERIDIAN ASSURANCE CORPORATION, RESPONDENTS.**

### D E C I S I O N

**BUENA, J.:**

Before this Court is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, assailing the Decision of the Court of Appeals, Sixth Division, dated July 30, 1999 in CA-G.R. S.P. No. 29749<sup>[1]</sup> which dismissed petitioner Pilipinas Bank's petition for certiorari,<sup>[2]</sup> and the Resolution, dated September 17, 1999<sup>[3]</sup> denying petitioner's Urgent Motion for Extension of Time to file Motion for Reconsideration, Manifestation and Motion to Admit Motion for Reconsideration.

The facts of the case are as follows:

On January 8, 1995, petitioner obtained from private respondent Meridian Assurance Corporation a Money Securities and Payroll Comprehensive Policy which was effective from January 13, 1985 to January 13, 1986. On November 25, 1985, at about 9:15 a.m., while the policy was in full force and effect, petitioner's armored vehicle bearing Plate No. NBT 379 which was on its way to deliver the payroll withdrawal of its client Luzon Development Bank ACLEM Paper Mills, was robbed by two armed men wearing police uniforms along Magsaysay Road, San Antonio, San Pedro, Laguna. Petitioner's driver, authorized teller and two private armed guards were on board the armored vehicle when the same was robbed. The loss suffered by petitioner as a result of the heist amounted to P545,301.40.

Petitioner filed a formal notice of claim under its insurance policy with private respondent on December 3, 1985, invoking Section II of the Policy which states:

#### Section II-MONEY AND SECURITIES OUTSIDE PREMISES

The Company will subject to the Limits of this Section as hereinafter provided indemnify the insured against loss by any cause whatsoever occurring (sic) outside the premises of Money and Securities in the personal charge of a Messenger in transit on a Money Route x x x.<sup>[4]</sup>

and the warranty/rider attached to the Policy which provides that-

WARRANTED that in respect of PILIPINAS BANK Head Office and all its branches, pick-up and/or deposits and withdrawals without the use of

armored car, company car, or official's car shall be covered by this policy.

x x x<sup>[5]</sup>

Private respondent denied petitioner's claim and averred that the insurance does not cover the deliveries of the withdrawals to petitioner's clients.

Petitioner thereafter filed a complaint against private respondent with the Regional Trial Court of Manila. Private respondent filed a motion to dismiss which was later granted by the RTC. Petitioner then moved to reconsider the trial court's order, but the same was denied.

Aggrieved, petitioner filed a petition for certiorari with the Court of Appeals assailing the RTC's order dismissing the complaint.<sup>[6]</sup> The appellate court granted the petition and remanded the case to the RTC for further proceedings. Private respondent filed with this Court a petition for review of the appellate court's decision, but the same was dismissed in a Resolution dated July 5, 1989.

After the case was remanded to the RTC and the latter set the case for pre-trial, petitioner filed its Pre-Trial Brief, stating among others, that it would present as one of its witnesses Mr. Cesar R. Tubianosa to testify on the existence and due execution of the insurance policy, particularly on the negotiations that were held prior to the execution thereof, including negotiations that led to the attachment warranties, to prove that the loss subject of petitioners claim is covered by the Policy. Petitioner identified the issues of the case as follows:

1. Whether or not the loss due to the hold-up/robbery is covered by the Insurance Policy;
2. In the affirmative, whether or not, defendant is liable to plaintiff for said loss, inclusive of other damages prayed for in the Complaint.

On September 18, 1991, when petitioner was about to present Mr. Tubianosa to testify, private respondent objected and argued that said witness testimony regarding the negotiations on the terms and conditions of the policy would be violative of the best evidence rule. However, private respondents objection was overruled and Tubianosa was allowed to take the stand. Private respondent again objected to the questions regarding the negotiations on the terms and conditions on the policy, and the trial court sustained the objection in part and overruled it in part by allowing petitioner to adduce evidence pertaining to the negotiations other than what appears in the insurance policy. Tubianosas testimony was completed on said date.

On June 18, 1992, petitioner filed a Motion to Recall Witness, praying that it be allowed to recall Tubianosa to testify on the negotiations pertaining to the terms and conditions of the policy before its issuance to determine the intention of the parties regarding the said terms and conditions. Private respondent objected thereto, on the ground that the same would violate the parol evidence rule.

The RTC issued an Order dated July 24, 1999, denying petitioners motion to recall Tubianosa to the witness stand, ruling that the same would violate the parol evidence rule. Petitioners motion for reconsideration was also denied by the lower court.