

## SECOND DIVISION

[ G.R. No. 112214, June 18, 1998 ]

**SECURITY BANK & TRUST COMPANY, PETITIONER, VS. COURT  
OF APPEALS, CRISPULO "IKE" ARBOLEDA, AND AMADOR  
LIBONGCO, RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

This is an appeal from the decision of the Court of Appeals<sup>[1]</sup> in CA-G.R. No. 33716, affirming the ruling of the Regional Trial Court, Branch 58, of Makati, Metro Manila.

The facts are as follows:

Petitioner filed an action against private respondents for the recovery of a sum of money with damages and preliminary attachment. It alleged that sometime in 1983, A.T. Diaz Realty, through Anita Diaz, bought from Ricardo Lorenzo his undivided share in a parcel of land which he owned in common with Servando Solomon. In connection with this transaction, Diaz issued a check for P60,000.00 in the name of Ricardo Lorenzo's agent, private respondent Crispulo Arboleda. The check, dated November 7, 1983, was to be drawn against the current account of A.T. Diaz Realty in the Marikina branch of the Security Bank and Trust Co. (SBTC). According to Diaz, the money was part of the purchase price of the land. It was to be used to pay the capital gains tax on the transaction and to reimburse Solomon for payments he had made for delinquent real estate taxes on the land. In return, Solomon would deliver to Diaz the title to the land.

On November 8, 1983, Solomon informed Diaz that, as he had not yet been reimbursed by private respondent, he could not deliver to Diaz the title to the land. Diaz decided to reimburse Solomon and to pay the capital gains tax herself. Consequently, she issued two more checks, one for P20,000.00, in the name of Solomon for the reimbursement, and another one for P40,000.00, payable to bearer, for the payment of the tax. Thereafter, on the same date, she ordered petitioner to stop payment on the check. Diaz allegedly advised private respondent of the order and requested the return of the check to her.

Instead of returning the check to Diaz, however, private respondent encashed it on November 24, 1983. For their part, employees of petitioner bank failed to notice that the check was the subject of a stop payment order and allowed private respondent to encash it. (It appears that the drawer, A.T. Diaz Realty, had two accounts with petitioner, a savings account and a current account. It had an agreement with petitioner for automatic transfer which made it possible for the drawer to draw a check against its current account and have it supported by funds from the savings account, if funds from the current account were insufficient to cover the amount of the check. The stop payment order issued by A.T. Diaz Realty was posted in the current account ledger. However, when the check was presented

for encashment, bank personnel consulted not the current account ledger in which the stop payment order was posted but the savings account ledger, to see if the funds therein deposited were sufficient to cover the amount of the check. Since no stop payment order was posted in that ledger, the check was encashed.)

The error was discovered only the next day, November 25, 1983. Petitioner reccredited the amount (P60,000.00) of the check to A.T. Diaz Realty's account.

Bank officials went to see respondent Arboleda to ask for the return of the amount of P60,000.00. But they were told the money had been turned over to Amador Libongco. When asked by bank officials, Libongco did not deny receipt of the money, but said he would return it provided Diaz showed him the receipt for payment of the capital gains tax.

As Diaz failed to show receipts, Arboleda and Libongco refused to return the money. Petitioner, therefore, filed the instant suit.

In their answer, Arboleda and Libongco denied any obligation to return the money, alleging that it was due them, the P45,000.00 as payment for the balance of the purchase price, and the P15,000.00 as payment for Arboleda's commission as agent. Arboleda also denied having been notified of the stop payment order, while Libongco denied having received the money.<sup>[2]</sup> Libongco died on January 19, 1989<sup>[3]</sup> and, accordingly, the case against him was dismissed.<sup>[4]</sup>

On May 21, 1990, the trial court rendered its decision, dismissing petitioner's complaint. It ruled that private respondent and Libongco had no obligation to return the P60,000.00 to Diaz. First, because private respondent was entitled to P15,000.00 as his commission. Second, because Diaz could not demand reimbursement for the amount she paid for capital gains tax without receipts to show for the payment. The trial court found that no tax had actually been paid as the sale of the land was antedated May 21, 1976 to avoid payment of the capital gains tax. Consequently, it was held, petitioner should not have reccredited A.T. Diaz Realty with the P60,000.00.

The reason given for the stop payment order was "transaction incomplete." However, according to the trial court, since the sale of the land had been completed on November 22, 1983, when the sale to A.T. Diaz Realty was annotated on the title while the check was encashed on November 24, 1983, the transaction had already been completed at the time the check was encashed. The reason given for the stop payment order, i.e., that "transaction incomplete" was, thus, a gross misrepresentation.<sup>[5]</sup>

The trial court ruled that petitioner incurred no liability even if it encashed the check despite a stop payment order, because of a note in the stop payment order form:

[T]he depositor agrees . . . not to hold the bank liable on account of payment contrary to the request . . . if the same occurs through inadvertence, accident or oversight. . . .<sup>[6]</sup>

Petitioner appealed to the Court of Appeals which, as earlier stated, affirmed the decision of the trial court. Hence, this petition. Petitioner contends:

1. The Court of Appeals erred in upholding the decision of the lower court dismissing the complaint and in not ordering respondent Arboleda to return the