

[SYLLABUS]

[G.R. No. 116792, March 29, 1996]

**BANK OF THE PHILIPPINE ISLANDS AND GRACE ROMERO,
PETITIONERS, VS. COURT OF APPEALS AND EDVIN F. REYES,
RESPONDENTS.**

D E C I S I O N

PUNO, J.:

Petitioners seek a review of the Decision^[1] of respondent Court of Appeals in CA-G.R. CV No. 41543 reversing the Decision^[2] of the Regional Trial Court of Quezon City, Branch 79, and ordering petitioners to credit private respondent's Savings

Account No. 3185-0172-56 with P10,556.00 plus interest.

The facts reveal that on September 25, 1985, private respondent Edwin F. Reyes opened Savings Account No. 3 185-0172-56 at petitioner Bank of the Philippine Islands (BPI) Cubao, Shopping Center Branch. It is a **joint "AND/OR" account with his wife, Sonia S. Reyes.**

Private respondent also held a **joint "AND/OR" Savings Account No. 3185-0128-82 with his grandmother, Emeteria M. Fernandez,** opened³ on February 11, 1986 at the same BPI branch. He regularly deposited in this account the U.S. Treasury Warrants payable to the order of Emeteria M. Fernandez as her monthly pension.

Emeteria M. Fernandez died on **December 28, 1989** without the knowledge of the U.S. Treasury Department. She was still sent U.S. Treasury Warrant No. 21667302 dated **January 1, 1990** in the amount of U.S. \$377.00^[3] or P10,556.00. On **January 4, 1990,** private respondent deposited the said U.S. treasury check of Fernandez in Savings Account No. 3 185-0128-82. The U.S. Veterans Administration Office in Manila conditionally cleared the check.^[4] The check was then sent to the United States for further clearing.^[5]

Two months after or on **March 8, 1990,** private respondent closed Savings Account No. 3 185-0128-82 and transferred its funds amounting to P13,112.91 to Savings Account No. 3 185-0172-56, the joint account with his wife.

On January 16, 1991, U.S. Treasury Warrant No. 21667302 was dishonored as it was discovered that Fernandez died **three (3) days prior** to its issuance. The U.S. Department of Treasury requested petitioner bank for a refund.^[6] For the first time petitioner bank came to know of the death of Fernandez.

On February 19, 1991, private respondent received a PT & T urgent telegram from

petitioner bank requesting him to contact Manager Grace S. Romero or Assistant Manager Carmen Bernardo. When he called up the bank, he was informed that the treasury check was the subject of a claim by Citibank NA, correspondent of petitioner bank. He assured petitioners that he would drop by the bank to look into the matter. He also **verbally authorized** them to debit from his other joint account the amount stated in the dishonored U.S. Treasury Warrant.^[7] On the same day, petitioner bank debited the amount of P10,556.00 from private respondent's Savings Account No. 3185-0172-56.

On February 21, 1991, private respondent with his lawyer Humphrey Tumaneng visited the petitioner bank and the refund documents were shown to them. Surprisingly, private respondent demanded from petitioner bank restitution of the debited amount. He claimed that because of the debit, he failed to withdraw his money when he needed them. He then filed a suit for Damages^[8] against petitioners before the Regional Trial Court of Quezon City, Branch 79.

Petitioners contested the complaint and counter-claimed for moral and exemplary damages. By way of Special and Affirmative Defense, they averred that private respondent gave them his **express verbal authorization** to debit the questioned amount. They claimed that private respondent later refused to execute a written authority.^[9]

In a Decision dated January 20, 1993, the trial court dismissed the complaint of private respondent for lack of cause of action.^[10]

Private respondent appealed to the respondent Court of Appeals. On August 16, 1994, the Sixteenth Division of respondent court in AC-G.R. CV No. 41543 reversed the impugned decision, *viz*:

"WHEREFORE, the judgment appealed from is set aside, and another one entered ordering defendant (petitioner) to credit plaintiff's (private respondent's) S.A. No. 3 185-0172-56 with P10,556.00 plus interest at the applicable rates for express teller savings accounts from February 19,1991, until compliance herewith. The claim and counterclaim for damages are dismissed for lack of merit.

SO ORDERED."^[11]

Petitioners now contend that respondent Court of Appeals erred:

"I

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT RESPONDENT REYES GAVE EXPRESS AUTHORITY TO PETITIONER BANK TO DEBIT HIS JOINT ACCOUNT WITH HIS WIFE FOR THE VALUE OF THE RETURNED U.S. TREASURY WARRANT.

II

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT HOLDING THAT PETITIONER BANK HAS LEGAL RIGHT TO APPLY THE DEPOSIT OF

RESPONDENT REYES TO HIS OUTSTANDING OBLIGATION TO PETITIONER BANK BROUGHT ABOUT BY THE RETURN OF THE U.S. TREASURY WARRANT HE EARLIER DEPOSITED UNDER THE PRINCIPLE OF "LEGAL COMPENSATION."

III

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT APPLYING CORRECTLY THE PRINCIPLES ENUNCIATED BY THE SUPREME COURT IN THE CASE OF **GULLAS V. PNB**, 62 PHIL. 519.

IV

RESPONDENT COURT OF APPEALS GRAVELY ERRED IN NOT APPRECIATING THE FACT THAT THE MONEY DEBITED BY PETITIONER BANK WAS THE SAME MONEY TRANSFERRED BY RESPONDENT REYES FROM HIS JOINT "AND/OR" ACCOUNT WITH HIS GRANDMOTHER TO HIS JOINT "AND/OR" ACCOUNT WITH HIS WIFE."^[12]

We find merit in the petition.

The first issue for resolution is whether private respondent **verbally authorized** petitioner bank to debit his joint account with his wife for the amount of the returned U.S. Treasury Warrant. We find that petitioners were **able to prove this verbal authority by preponderance of evidence**. The testimonies of Bernardo and Romero deserve credence. Bernardo testified:

xxx xxx xxx

"Q: After that, what happened?

x x x Dr. Reyes called me up and I informed him about the return of the U.S. Treasury Warrant and we are requested to reimburse for the amount

Q: What was his response if any?

A: Don't you worry about it, there is no personal problem.

xxx xxx xxx

Q: And so what was his response?

A: He said that 'don't you worry about it.'

xxx xxx xxx

Q: You said that you asked him the advice and he did not answer, what advice are you referring to?

A: In our conversation, he promised me that he will give me written confirmation or authorization."^[13]

The conversation was promptly relayed to Romero who testified:

xxx xxx xxx