

FIRST DIVISION

[G.R. No. 107508, April 25, 1996]

PHILIPPINE NATIONAL BANK, PETITIONER, VS. COURT OF APPEALS, CAPITOL CITY DEVELOPMENT BANK, PHILIPPINE BANK OF COMMUNICATIONS, AND F. ABANTE MARKETING, RESPONDENTS.

D E C I S I O N

KAPUNAN, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the decision dated April 29, 1992 of respondent Court of Appeals in CA-G.R. CV No. 24776 and its resolution dated September 16, 1992, denying petitioner Philippine National Bank's motion for reconsideration of said decision.

The facts of the case are as follows:

A check with serial number 7-3666-223-3, dated August 7, 1981 in the amount of P97,650.00 was issued by the Ministry of Education and Culture (now Department of Education, Culture and Sports [DECS]) payable to F. Abante Marketing. This check was drawn against Philippine National Bank (herein petitioner).

On August 11, 1981, F. Abante Marketing, a client of Capitol City Development Bank (Capitol), deposited the questioned check in its savings account with said bank. In turn, Capitol deposited the same in its account with the Philippine Bank of Communications (PBCom) which, in turn, sent the check to petitioner for clearing.

Petitioner cleared the check as good and, thereafter, PBCom credited Capitol's account for the amount stated in the check. However, on October 19, 1981, petitioner returned the check to PBCom and debited PBCom's account for the amount covered by the check, the reason being that there was a "material alteration" of the check number.

PBCom, as collecting agent of Capitol, then proceeded to debit the latter's account for the same amount, and subsequently, sent the check back to petitioner. Petitioner, however, returned the check to PBCom.

On the other hand, Capitol could not, in turn, debit F. Abante Marketing's account since the latter had already withdrawn the amount of the check as of October 15, 1981. Capitol sought clarification from PBCom and demanded the re-crediting of the amount. PBCom followed suit by requesting an explanation and re-crediting from petitioner.

Since the demands of Capitol were not heeded, it filed a civil suit with the Regional Trial Court of Manila against PBCom which, in turn, filed a third-party complaint

against petitioner for reimbursement/indemnity with respect to the claims of Capitol. Petitioner, on its part, filed a fourth-party complaint against F. Abante Marketing.

On October 3, 1989; the Regional Trial Court rendered its decision the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered as follows:

1.) On plaintiff's complaint, defendant Philippine Bank of Communications is ordered to re-credit or reimburse plaintiff Capitol City Development Bank the amount of P97,650.00, plus interest of 12 percent thereto from October 19, 1981 until the amount is fully paid;

2.) On Philippine Bank of Communications third-party complaint, third-party defendant PNB is ordered to reimburse and indemnify Philippine Bank of Communications for whatever amount PBCom pays to plaintiff;

3.) On Philippine National Bank's fourth-party complaint, F. Abante Marketing is ordered to reimburse and indemnify PNB for whatever amount PNB pays to PBCom;

4.) On attorney's fees, Philippine Bank of Communications is ordered to pay Capitol City Development Bank attorney's fees in the amount of Ten Thousand (P 10,000.00) Pesos; but PBCom is entitled to reimbursement/indemnity from PNB; and Philippine National Bank to be, in turn, reimbursed or indemnified by F. Abante Marketing for the same amount;

5.) The Counterclaims of PBCom and PNB are hereby dismissed;

6.) No pronouncement as to costs.

SO ORDERED.^[1]

An appeal was interposed before the respondent Court of Appeals which rendered its decision on April 29, 1992, the decretal portion of which reads:

WHEREFORE, the judgment appealed from is modified by exempting PBCom from liability to plaintiff-appellee for attorney's fees and ordering PNB to honor the check for P97,650.00, with interest as declared by the trial court, and pay plaintiff-appellee attorney's fees of P10,000.00. After the check shall have been honored by PNB, PBCom shall re-credit plaintiff-appellee's account with it with the amount. No pronouncement as to costs.

SO ORDERED.^[2]

A motion for reconsideration of the decision was denied by the respondent Court in

its resolution dated September 16, 1992 for lack of merit.^[3]

Hence, petitioner filed the instant petition which raises the following issues:

I

WHETHER OR NOT AN ALTERATION OF THE SERIAL NUMBER OF A CHECK IS A MATERIAL ALTERATION UNDER THE NEGOTIABLE INSTRUMENTS LAW.

II

WHETHER OR NOT A CERTIFICATION HEREIN ISSUED BY THE MINISTRY OF EDUCATION CAN BE GIVEN WEIGHT IN EVIDENCE.

III

WHETHER OR NOT A DRAWEE BANK WHO FAILED TO RETURN A CHECK WITHIN THE TWENTY FOUR (24) HOUR CLEARING PERIOD MAY RECOVER THE VALUE OF THE CHECK FROM THE COLLECTING BANK.

IV

WHETHER OR NOT IN THE ABSENCE OF MALICE OR ILL WILL PETITIONER PNB MAY BE HELD LIABLE FOR ATTORNEY'S FEES.^[4]

We find no merit in the petition.

We shall first deal with the effect of the alteration of the serial number on the negotiability of the check in question.

Petitioner anchors its position on Section 125 of the Negotiable Instrument Law (ACT No. 2031)^[5] which provides:

Section 125. What constitutes a material alteration. - Any alteration which changes:

- (a)The date;
- (b)The sum payable, either for principal or interest;
- (c)The time or place of payment;
- (d)The number or the relations of the parties;

(e) The medium or currency in which payment is to be made;

(f) Or which adds a place of payment where no place of payment is specified, or any other change or addition which alters the effect of the instrument in any respect, is a material alteration.

Petitioner alleges that there is no hard and fast rule in the interpretation of the aforequoted provision of the Negotiable Instruments Law. It maintains that under Section 125(f), any change that alters the effect of the instrument is a material alteration.^[6]

We do not agree.

An alteration is said to be material if it alters the effect of the instrument.^[7] It means an unauthorized change in an instrument that purports to modify in any respect the obligation of a party or an unauthorized addition of words or numbers or other change to an incomplete instrument relating to the obligation of a party.^[8] In other words, a material alteration is one which changes the items which are required to be stated under Section 1 of the Negotiable Instrument Law.

Section 1 of the Negotiable Instruments Law provides:

Section 1. - Form of negotiable instruments. An instrument to be negotiable must conform to the following requirements:

- (a) It must be in writing and signed by the maker or drawer;
- (b) Must contain an unconditional promise or order to pay a sum certain in money;
- (c) Must be payable on demand, or at a fixed or determinable future time;
- (d) Must be payable to order or to bearer; and
- (e) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

In his book entitled "Pandect of Commercial Law and Jurisprudence," Justice Jose C. Vitug opines that "an innocent alteration (generally, changes on items other than those required to be stated under Sec. 1, N.I.L.) and spoliation (alterations done by a stranger) will not avoid the instrument, but the holder may enforce it only according to its original tenor."^[9]

Reproduced hereunder are some examples of material and immaterial alterations:

A. Material Alterations:

- (1) Substituting the words "or bearer" for "order."
 - (2) Writing "protest waived" above blank indorsements.
 - (3) A change in the date from which interest is to run.
 - (4) A check was originally drawn as follows: "Iron County Bank, Crystal Falls, Mich. Aug. 5, 1901. Pay to G.L. or order \$9 fifty cents CTR." The insertion of the figure 5 before the figure 9, the instrument being otherwise unchanged.
 - (5) Adding the words "with interest" with or without a fixed rate.
 - (6) An alteration in the maturity of a note, whether the time for payment is thereby curtailed or extended.
 - (7) An instrument was payable "First Nat'l Bank," the plaintiff added the word "Marion."
 - (8) Plaintiff, without consent of the defendant, struck out the name of the defendant as payee and inserted the name of the maker of the original note.
 - (9) Striking out the name of the payee and substituting that of the person who actually discounted the note.
 - (10) Substituting the address of the maker for the name of a co-maker.
- [10]

B. Immaterial Alterations:

- (1) Changing "I promise to pay" to "We promise to pay," where there are two makers.
- (2) Adding the word "annual" after the interest clause.
- (3) Adding the date of maturity as a marginal notation.
- (4) Filling in the date of the actual delivery where the makers of a note gave it with the date in blank, "July . . ."
- (5) An alteration of the marginal figures of a note where the sum stated in words in the body remained unchanged.
- (6) The insertion of the legal rate of interest where the note had a provision for "interest at . . . per cent."
- (7) A printed form of promissory note had on the margin the printed words, "Extended to . . ." The holder on or after maturity wrote in the blank space the words "May 1, 1913," as a reference memorandum of a