

## FIRST DIVISION

[ G.R. No. 141001, May 21, 2009 ]

**BANK OF AMERICA, NT & SA, PETITIONER, VS. ASSOCIATED CITIZENS BANK, BA-FINANCE CORPORATION, MILLER OFFSET PRESS, INC., UY KIAT CHUNG, CHING UY SENG, UY CHUNG GUAN SENG, AND COURT OF APPEALS, RESPONDENTS.**

**[G.R. NO. 141018]**

**ASSOCIATED CITIZENS BANK (NOW UNITED OVERSEAS BANK PHILS.), PETITIONER, VS. BA-FINANCE CORPORATION, MILLER OFFSET PRESS, INC., UY KIAT CHUNG, CHING UY SENG, UY CHUNG GUAN SENG, AND BANK OF AMERICA, NT & SA, RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

Before the Court are consolidated cases docketed as G.R. No. 141001 and G.R. No. 141018. These two cases are petitions for review on certiorari<sup>[1]</sup> of the Decision<sup>[2]</sup> dated 26 February 1999 and the Resolution dated 6 December 1999 of the Court of Appeals in CA-G.R. CV No. 48821. The Court of Appeals affirmed with modifications the Decision of the Regional Trial Court of Makati, Branch 64 (RTC).

#### The Antecedent Facts

On 6 October 1978, BA-Finance Corporation (BA-Finance) entered into a transaction with Miller Offset Press, Inc. (Miller), through the latter's authorized representatives, *i.e.*, Uy Kiat Chung, Ching Uy Seng, and Uy Chung Guan Seng. BA-Finance granted Miller a credit line facility through which the latter could assign or discount its trade receivables with the former. On 20 October 1978, Uy Kiat Chung, Ching Uy Seng, and Uy Chung Guan Seng executed a Continuing Suretyship Agreement with BA-Finance whereby they jointly and severally guaranteed the full and prompt payment of any and all indebtedness which Miller may incur with BA-Finance.

Miller discounted and assigned several trade receivables to BA-Finance by executing Deeds of Assignment in favor of the latter. In consideration of the assignment, BA-Finance issued four checks payable to the "Order of Miller Offset Press, Inc." with the notation "For Payee's Account Only." These checks were drawn against Bank of America and had the following details:<sup>[3]</sup>

Check No.	Date	Amount
128274	13 February 1981	P222,363.33

129067	26 February 1981	252,551.16
132133	20 April 1981	206,450.57
133057	7 May 1981	59,862.72
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Total		P741,227.78

The four checks were deposited by Ching Uy Seng (a.k.a. Robert Ching), then the corporate secretary of Miller, in Account No. 989 in Associated Citizens Bank (Associated Bank). Account No. 989 is a joint bank account under the names of Ching Uy Seng and Uy Chung Guan Seng. Associated Bank stamped the checks with the notation "all prior endorsements and/or lack of endorsements guaranteed," and sent them through clearing. Later, the drawee bank, Bank of America, honored the checks and paid the proceeds to Associated Bank as the collecting bank.

Miller failed to deliver to BA-Finance the proceeds of the assigned trade receivables. Consequently, BA-Finance filed a Complaint against Miller for collection of the amount of P731,329.63 which BA-Finance allegedly paid in consideration of the assignment, plus interest at the rate of 16% per annum and penalty charges.<sup>[4]</sup> Likewise impleaded as party defendants in the collection case were Uy Kiat Chung, Ching Uy Seng, and Uy Chung Guan Seng.

Miller, Uy Kiat Chung, and Uy Chung Guan Seng filed a Joint Answer (to the BA-Finance's Complaint) with Cross-Claim against Ching Uy Seng, wherein they denied that (1) they received the amount covered by the four Bank of America checks, and (2) they authorized their co-defendant Ching Uy Seng to transact business with BA-Finance on behalf of Miller. Uy Kiat Chung and Uy Chung Guan Seng also denied having signed the Continuing Suretyship Agreement with BA-Finance. In view thereof, BA-Finance filed an Amended Complaint impleading Bank of America as additional defendant for allegedly allowing encashment and collection of the checks by person or persons other than the payee named thereon. Ching Uy Seng, on the other hand, did not file his Answer to the complaint.

Bank of America filed a Third Party Complaint against Associated Bank. In its Answer to the Third Party Complaint, Associated Bank admitted having received the four checks for deposit in the joint account of Ching Uy Seng (a.k.a. Robert Ching) and Uy Chung Guan Seng, but alleged that Robert Ching, being one of the corporate officers of Miller, was duly authorized to act for and on behalf of Miller.

On 28 September 1994, the RTC rendered a Decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered against defendant Bank of America to pay plaintiff BA Finance Corporation the sum of P741,277.78, the value of the four (4) checks subject matter of this case, with legal interest thereon from the time of the filing of this complaint until payment is made and attorney's fees corresponding to 15% of the amount due and to pay the costs of the suit.

Judgment is likewise rendered ordering the third-party defendant Associated Citizens Bank to reimburse Bank of America, the defendant third-party plaintiff, of the aforestated amount.

SO ORDERED.<sup>[5]</sup>

### **The Court of Appeals' Ruling**

On appeal, the Court of Appeals rendered judgment,<sup>[6]</sup> affirming with modifications the decision of the RTC, thus:

WHEREFORE, judgment is hereby rendered, as follows:

- (1) Defendant and third-party plaintiff-appellant, Bank of America, NT & SA, is ordered to pay plaintiff-appellee BA-Finance Corporation the sum of P741,277.78, with legal interest thereon from the time of the filing of the complaint until the whole amount is fully paid;
- (2) Third-party defendant-appellant Associated Citizens Bank is likewise ordered to reimburse Bank of America the aforestated amount;
- (3) Defendants Ching Uy Seng and/or Uy Chung Guan Seng are also ordered to pay Associated Citizens Bank the aforestated amount; and
- (4) The award of attorney's fees is ordered deleted.

SO ORDERED.<sup>[7]</sup>

Associated Bank and Bank of America filed their respective Motions for Reconsideration, but these were denied by the Court of Appeals in its Resolution of 6 December 1999.<sup>[8]</sup>

Hence, these petitions.

### **The Issue**

The issues raised in these consolidated cases may be summarized as follows:

Whether the Court of Appeals erred in rendering judgment finding (1) Bank of America liable to pay BA-Finance the amount of the four checks; (2) Associated Bank liable to reimburse Bank of America the amount of the four checks; and (3) Ching Uy Seng and/or Uy Chung Guan Seng liable to pay Associated Bank the amount of the four checks.

### **The Court's Ruling**

We find the petitions unmeritorious.

***The Court of Appeals did not err in finding Bank of America liable to pay BA-Finance the amount of the four checks.***

Bank of America denies liability for paying the amount of the four checks issued by BA-Finance to Miller, alleging that it (Bank of America) relied on the stamps made by Associated Bank stating that "all prior endorsement and/or lack of endorsement guaranteed," through which Associated Bank assumed the liability of a general

endorser under Section 66 of the Negotiable Instruments Law. Moreover, Bank of America contends that the proximate cause of BA-Finance's injury, if any, is the gross negligence of Associated Bank which allowed Ching Uy Seng (Robert Ching) to deposit the four checks issued to Miller in the personal joint bank account of Ching Uy Seng and Uy Chung Guan Seng.

We are not convinced.

The bank on which a check is drawn, known as the drawee bank, is under strict liability, based on the contract between the bank and its customer (drawer), to pay the check only to the payee or the payee's order. The drawer's instructions are reflected on the face and by the terms of the check. When the drawee bank pays a person other than the payee named on the check, it does not comply with the terms of the check and violates its duty to charge the drawer's account only for properly payable items.<sup>[9]</sup> Thus, we ruled in *Philippine National Bank v. Rodriguez*<sup>[10]</sup> that a drawee should charge to the drawer's accounts only the payables authorized by the latter; otherwise, the drawee will be violating the instructions of the drawer and **shall be liable for the amount charged to the drawer's account.**

Among the different types of checks issued by a drawer is the crossed check. The Negotiable Instruments Law is silent with respect to crossed checks, although the Code of Commerce<sup>[11]</sup> makes reference to such instruments.<sup>[12]</sup> This Court has taken judicial cognizance of the practice that a check with two parallel lines in the upper left hand corner means that it could only be deposited and could not be converted into cash.<sup>[13]</sup> Thus, the effect of crossing a check relates to the mode of payment, meaning that the drawer had intended the check for deposit only by the rightful person, *i.e.*, the payee named therein.<sup>[14]</sup> The crossing may be "special" wherein between the two parallel lines is written the name of a bank or a business institution, in which case the drawee should pay only with the intervention of that bank or company, or "general" wherein between two parallel diagonal lines are written the words "and Co." or none at all, in which case the drawee should not encash the same but merely accept the same for deposit.<sup>[15]</sup> In *Bataan Cigar v. Court of Appeals*,<sup>[16]</sup> we enumerated the effects of crossing a check as follows: (a) the check may not be encashed but only deposited in the bank; (b) the check may be negotiated only once - to one who has an account with a bank; and (c) the act of crossing the check serves as a warning to the holder that the check has been issued for a definite purpose so that he must inquire if he has received the check pursuant to that purpose; otherwise, he is not a holder in due course.<sup>[17]</sup>

In this case, the four checks were drawn by BA-Finance and made payable to the "Order of Miller Offset Press, Inc." The checks were also crossed and issued "For Payee's Account Only." Clearly, the drawer intended the check for deposit only by Miller Offset Press, Inc. in the latter's bank account. Thus, when a person other than Miller, *i.e.*, Ching Uy Seng, a.k.a. Robert Ching, presented and deposited the checks in his own personal account (Ching Uy Seng's joint account with Uy Chung Guan Seng), and the drawee bank, Bank of America, paid the value of the checks and charged BA-Finance's account therefor, the drawee Bank of America is deemed to have violated the instructions of the drawer, and therefore, is liable for the amount charged to the drawer's account.