



Republic of the Philippines  
 Supreme Court  
 Manila

THIRD DIVISION

ALLIED BANKING  
 CORPORATION\* AND  
 GUILLERMO DIMOG,  
 Petitioners,

G.R. No. 200635

Present:

- versus -

LEONEN, J.,  
 Chairperson,  
 HERNANDO,  
 INTING,  
 DELOS SANTOS, and  
 LOPEZ, J. Y., JJ.

SPOUSES MARIO ANTONIO  
 MACAM\*\* & ROSE TRINIDAD  
 MACAM, SPOUSES WILLAR  
 FELIX AND MARIBEL CAÑA  
 AND SPOUSES MELCHOR  
 AND HELEN GARCIA,  
 Respondents.

Promulgated:

February 1, 2021

*MistDCBatt*

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DECISION

**HERNANDO, J.:**

This Petition for Review on *Certiorari* assails the November 10, 2011 Decision<sup>1</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 91098 which affirmed *in toto* the November 12, 2007 Decision<sup>2</sup> of the Regional Trial Court (RTC) of Makati City, Branch 59 in Civil Case No. 03-850 finding petitioners Allied Banking Corporation (Allied Bank) and Guillermo Dimog (Dimog) solidarily liable for damages to the Spouses Mario Antonio and Rose Trinidad Macam (Spouses Mario Macam).

\* Merged with Philippine National Bank on February 9, 2013 with the latter as the surviving entity.  
 \*\* Filed a Notice of Death and accordingly substituted by his wife, Rose Trinidad Macam.  
<sup>1</sup> *Rollo*, pp. 13-30; penned by Associate Justice Franchito N. Diamante and concurred in by Associate Justices Mariflor P. Punzalan-Castillo and Marlene Gonzales-Sison.  
<sup>2</sup> *CA rollo*, pp. 30-38; penned by Judge Winlove M. Dumayas.

The facts are not in dispute.<sup>3</sup>

Mario Macam (Mario), on the recommendation of his brother Manuel and facilitation of Elena Valerio (Valerio), invested ₱1,572,000.00 in the cellular card business of respondent Helen Garcia (Helen). Valerio was a Unit Manager in Helen's business, soliciting investments and promising weekly interest payments of 2.29%.

On November 4, 2002, Mario deposited ₱1,572,000.00 in Valerio's Savings Account<sup>4</sup> with Allied Bank-Pasay Road Branch (AB-Pasay). In turn, Valerio issued Bank of the Philippines Island Check No. 3090-045359 to Mario covering the principal amount of his investment.

On February 6, 2003, a series of transactions occurred at the Allied Bank-Alabang Las Piñas Branch (AB-ALP), headed by respondent Maribel Caña (Caña). At 8:45 a.m., Caña informed bank teller Melissa Berras (Berras) to anticipate a deposit by Helen in the amount of ₱46 Million. Caña likewise instructed the Branch Operating Officer, Milani Mamalayan (Mamalayan), to arrange for two armored vans to pick up the ₱46 Million deposit.<sup>5</sup>

At 9:45 a.m., Mamalayan informed Caña of the arrival of the armored vans. Thereupon, Caña gave Berras five filled out and approved fund transfer receipts<sup>6</sup> in the total amount of ₱46 Million with the following details:

NAME	ACCOUNT NO.	AMOUNT
a. Digna Gonzales	3680-01407-1	₱6 Million
b. Elena Valerio	3090-045359-1	₱10 Million
c. Rosite Capili (Capili)	1840-04249-3	₱10 Million
d. Yolanda Lim	1823-00281-5	₱10 Million
e. Gilda Tiglao (Tiglao)	3090-04535-9	₱10 Million <sup>7</sup>

The fund transfer receipts bore only Caña's signature and ostensibly indicated Helen's deposit account as the source of the ₱46 Million fund transfer.<sup>8</sup>

Since Helen had yet to make the promised deposit and her account balance did not amount to ₱46 Million, Berras protested to Caña that she cannot credit the corresponding amounts to the five accounts as indicated in the fund transfer receipts. Nonetheless, Caña effected a local override and approved the fund transfer.<sup>9</sup> Consequently, the amounts were credited to the five deposit accounts, including Valerio's, in the amount of ₱10 Million.

<sup>3</sup> *Rollo*, pp. 15-19; cited in the CA's Decision which quoted Allied Bank's narration of facts in its Appellant's Brief.

<sup>4</sup> *Id.* at 15; No. 3090-045359.

<sup>5</sup> *Id.* at 16.

<sup>6</sup> The CA and RTC refer to the receipts as tickets in their respective Decisions.

<sup>7</sup> *Rollo* p. 16.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.* at 17; The approval was made between 9:45 a.m. and 10:03 a.m.

Meanwhile, at 11:57:23 a.m., Valerio withdrew ₱1,722,500.00 from her deposit account at AB-Pasay. At 11:58:35 a.m., *via* electronic fund transfer. Valerio deposited ₱1,590,000.00 to the account of Mario's brother Manuel and the latter's wife and Sheila Macam. To prove the fund transfer to the Spouses Manuel Macam's account, Valerio presented the deposit slip with her handwritten notation<sup>10</sup> addressed to Mario.

On that same date, through Sheila's deposit of ₱1,590,000.00 by way of a credit memo, the Spouses Mario Macam opened Savings Account No. 1850-06565-2 at Allied Bank-Pasong Tamo (AB-PT) Branch. In subsequent and separate instances, the Spouses Mario Macam were able to make withdrawals in the total amount of ₱490,000.00,<sup>11</sup> leaving a balance of ₱1.1 Million in their savings account with AB-PT.

Yet still on February 6, 2003, Caña instructed Berras to reverse the ₱10 Million fund transfer to Yolanda Lim. Berras again inquired about the ₱46 Million deposit but was told by Caña to wait.

Later that day, Caña again instructed Berras to debit specific amounts from different accounts, to wit:

- (a) Elena Valerio – ₱8.3 Million;
- (b) Gilda Tiglao – ₱1.7 Million; and
- (c) Rosite Capili – ₱5.7 Million.<sup>12</sup>

Once again, Berras inquired about Helen's promised deposit but Caña told her to just wait.<sup>13</sup>

Meanwhile, Mamalayan sent Short Messaging Service (SMS)<sup>14</sup> messages to Caña regarding Helen's deposit and the arrival of the requested armored vans. Caña's answer to Mamalayan was no different; the latter was likewise told to wait.<sup>15</sup>

Mamalayan learned of the debiting of the three accounts<sup>16</sup> after the Branch Head of Allied Bank-Imus (AB-I) inquired about the huge debit on their client's account. Mamalayan told the AB-I Branch Head to contact Caña as she was unaware of the said debit transactions.

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<sup>10</sup> Id.; "*Bong, ito yong withdrawal slip ko na ginamit kong pinandeposit ko sa inyo under Sheila Macam so pakihingi nalang*".

<sup>11</sup> Id.; ₱125,000.00 on February 6, 2003; ₱40,000.00 on February 10, 2003; and ₱325,000.00 on February 12, 2003.

<sup>12</sup> Id. at 18.

<sup>13</sup> Id.

<sup>14</sup> More popularly known as mobile phone text messages.

<sup>15</sup> *Rollo*, p. 18.

<sup>16</sup> Valerio's, Tiglao's and Capili's.

At 3:30 p.m., Mamalayan received an SMS from Caña that the ₱46 Million deposit had been cancelled.<sup>17</sup> As soon as Berras overheard Mamalayan telling the Pick-Up Tellers and the Cash Center about the cancellation, Berras approached Mamalayan and told her about the fund transfer transactions totaling ₱46 Million which she had expedited. Berras disclosed to Mamalayan: (1) Caña's specific instructions; (2) Caña's override and approval of the fund transfer transactions from Helen's account to five different accounts despite the lack of fund deposit of ₱46 Million, and (3) the subsequent credits, debits and reversals made on the accounts of Valerio, Capili and Tiglao.<sup>18</sup>

At 5:50 p.m., Caña instructed Mamalayan to book the amount of ₱20.3 Million under "Accounts Receivable" corresponding to the unrecovered amount from the ₱46 Million which had been earlier transferred to various deposit accounts.<sup>19</sup>

Due to the significant discrepancy, Allied Bank investigated the branch, AB-ALP, and its transactions on February 6, 2003. Allied Bank was able to recover more than half of the amount, leaving a balance of ₱9,800,000.00.<sup>20</sup>

On February 19, 2003, Angela Barcelona, Region Head, Retail Banking Group for Allied Bank's South Metro Manila Branches, ordered the debit of the remaining ₱1.1 Million from the account of the Spouses Mario Macam which resulted in the closure thereof.<sup>21</sup>

On March 3, 2003, the Spouses Mario Macam learned of the closure after they were unable to withdraw from their account. Hence, the Spouses Mario Macam filed the complaint for Damages against the bank and the AB-PT Branch Head, Dimog.<sup>22</sup>

Not unexpectedly, Allied Bank denied any liability for the closure of the Spouses Mario Macam's account and claimed ownership of the ₱1.1 Million deposit. Allied Bank traced its title to the dubious transfers amounting to ₱46 Million on February 6, 2003 beginning from the crediting of Helen's account and the ensuing fund transfers to various deposit accounts maintained by particular individuals with different branches of Allied Bank.<sup>23</sup>

Given its allegations in its Answer,<sup>24</sup> Allied Bank subsequently filed a Third Party Complaint<sup>25</sup> against respondents, the Spouses Willar Felix and Maribel Caña and the Spouses Melchor and Helen Garcia ( Spouses Garcia).

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<sup>17</sup> The SMS reads: "Cancel na ang deposit."

<sup>18</sup> *Rollo*, p. 18.

<sup>19</sup> *Id.* at 18-19.

<sup>20</sup> *Id.* at 19.

<sup>21</sup> *Id.*

<sup>22</sup> *Records*, Vol. 1, pp. 1-6.

<sup>23</sup> *Id.* at 4.

<sup>24</sup> *Id.* at 25-37.

<sup>25</sup> *Id.* at 71-77.

Third party defendants, the Spouses Caña and the Spouses Garcia, renounced liability for the initial ₱46 Million fund transfer transactions effected by Caña and all succeeding fund transfer transactions linked thereto on the ubiquitous date of February 6, 2003.<sup>26</sup>

Caña maintained that she did not and has never conspired with Helen to defraud the bank. Pursuant to the requirements of Republic Act No. 9160 (RA 9160) or the Anti-Money Laundering Act of 2001,<sup>27</sup> Caña conducted an investigation into the source of Helen's funds and confirmed that Helen was indeed engaged in the cell card business.<sup>28</sup>

According to Caña, Helen was a valued client of Allied Bank, maintaining another deposit account with the bank's Molino-Cavite Branch. Helen's transactions with Allied Bank nearly consisted of huge cash inter branch deposits and/or withdrawals as well as regular fund transfers to different Allied Bank branches where Helen's business colleagues (including Valerio) maintained their respective deposit accounts.<sup>29</sup>

In prior instances of fund transfers, Helen's account initially lacked sufficient funds which Helen immediately funded within 20 minutes of the notice of insufficiency. Thus, as previously practiced, and as a valued client of Allied Bank, on the date and transaction in question, Caña promptly approved the request of Helen for an overdraft of ₱46 Million and the succeeding transfer of funds to Helen's regular target deposit accounts.<sup>30</sup>

The Spouses Garcia, on the other hand, denied any hand and participation in the ₱46 Million fund transfer transaction: Helen did not instruct Caña to credit the said amount to her account nor did she instruct Caña to approve the subsequent fund transfer to the different deposit accounts of certain individuals.<sup>31</sup>

The Pre-Trial Order contained the following stipulation of facts:

1. That demands were made upon [Allied Bank] for the return of the said amount attached to the complaint.
2. The bank also admitted the opening of the accounts on February 6, 2003 with an opening balance of ₱1,590,000.00.
3. The bank also admitted that this opening balance of ₱1,590,00.00 was a transfer from the account of Sheila Marie Macam with Allied-Bank Pasong Tamo Branch to the opening the account of plaintiffs Mario Antonio Macam and Rose T. Macam.

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<sup>26</sup> Id. at 94-99; 100-109.

<sup>27</sup> Approved: September 29, 2001.

<sup>28</sup> Records, Vol. 1, pp. 100-109.

<sup>29</sup> *Rollo* p. 154; See Answer to Third Party Complaint with Counterclaim and Cross-Claim.

<sup>30</sup> See note 7.

<sup>31</sup> Records, Vol. 1, pp. 94-95.

4. The bank also admitted that the amount of ₱10 Million was remitted from Allied Bank-Alabang Las Pinas Branch to the account of Elena Valerio with Allied Bank-Pasay Road.

5. The bank also admitted that on the same date of February 6, 2003 Elena Valerio withdrew the sum of ₱1,722,500.00 from her account with Allied Bank-Pasay Road Branch and remitted the sum of ₱1,590,000.00 to the account Sheila and Manuel Macam with Allied Bank-Pasong Tamo Branch.

6. The bank also admitted several withdrawals made by the plaintiff as stated in the complaint particularly on February 6, 2003 in the amount of ₱125,000.00, on February 10, 2003 in the amount of ₱40,000.00 and on February 12, 2003 in the amount of ₱325,000.00.

7. The bank also admitted that on February 19, 2003 it withdrew or debited the entire remaining balance of ₱1,100,000.00 from the subject account, thereby resulting in the closure of the account without any notice [to] the plaintiff.<sup>32</sup>

### **Ruling of the Regional Trial Court:**

After trial, the RTC issued its Decision, thus:

WHEREFORE, in view of the foregoing, judgment is hereby rendered as follows:

1. On the main complaint, ordering [petitioners] Allied Bank and Guillermo P. Dimog jointly and severally, to pay respondents Mario Antonio Y. Macam and Rose Trinidad T. Macam, the amount of ₱1.1 Million with interest thereon at 12% interest per *annum*, computed from the date [the accounts of respondents, the Spouses Mario Macam] had been closed on February 19, 2003 until the full amount is actually paid;

2. On the third-party complaint, ordering the third-party defendants [Spouses] Willard Felix and Maribel Caña and Spouses Melchor and Helen Garcia, jointly and severally to pay defendants and third-party plaintiffs Allied Bank and Guillermo Dimog, the amount of ₱1.1 Million plus interest thereon, which this Court orders said defendants and third-party plaintiffs to pay [respondents, the Spouses Mario Macam] in the principal complaint by way of reimbursement and/or subrogation.<sup>33</sup>

### **Ruling of the Court of Appeals:**

Allied Bank and the Spouses Garcia appealed to the CA insisting on their exculpation from liability. However, the appellate court affirmed *in toto* the ruling of the trial court.

As the trial court had done, the appellate court likewise found that Allied Bank is liable to the Spouses Mario Macam for breach of contract, *or culpa*

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<sup>32</sup> *Rollo*, pp. 174-175.

<sup>33</sup> *Id.* at 14-15.

*contractual*. It held that Allied Bank reneged on its contractual obligation to the Spouses Mario Macam to pay their money in deposit on demand. Citing Section 2<sup>34</sup> of RA 8791<sup>35</sup> (The General Banking Law of 2000 or GBL) and jurisprudence,<sup>36</sup> the appellate court held that given the fiduciary nature of the relationship between a bank and its depositors, a bank is under obligation to treat the accounts of its depositors with meticulous care. In the performance of that obligation, the appellate court found Allied Bank to have failed and thus liable to the Spouses Mario Macam for damages.

Hence, this appeal by *certiorari* of Allied Bank positing grave error in the ruling of the appellate court:

### Issues:

#### I.

THE HONORABLE [CA] ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT THAT ALLIED BANK IS LIABLE FOR THE *ULTRA VIRES* ACTS OF ITS EMPLOYEE, RESPONDENT MARIBEL CAÑA IN ALLOWING THE TRANSFER OF ₱46,000,000.00 FROM THE ACCOUNT OF RESPONDENT HELEN GARCIA DESPITE THE ABSENCE OF AN EQUIVALENT DEPOSIT.

#### II.

THE HONORABLE [CA] ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT THAT THE INFIRMITIES WHICH ATTENDED THE TRANSACTIONS STOPPED WITH ELENA VALERIO, SUCH THAT THE TRANSFER FROM VALERIO'S ACCOUNT TO SHEILA MACAM AND FINALLY TO RESPONDENTS SPS. MACAM WERE ALL VALID.

#### III.

THE HONORABLE [CA] ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT THAT RESPONDENTS SPS. MACAM ACQUIRED VALID TITLE TO THE AMOUNT OF ₱1,590,000.00 DEPOSITED ON FEBRUARY 6, 2003 IN THEIR ACCOUNT AT ALLIED BANK-PASONG TAMO BRANCH.

#### IV.

THE HONORABLE [CA] ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT IN ORDERING ALLIED BANK TO PAY THE RESPONDENTS SPS. MACAM ₱1,100,000.00 WITH INTEREST THEREON AT 12% PER *ANNUM* FROM 19 FEBRUARY 2003 UNTIL FULLY PAID.

<sup>34</sup> SEC. 2. *Declaration of Policy* – The State recognizes the vital role of banks in providing an environment conducive to the sustained development of the national economy and the fiduciary nature of banking that requires high standards of integrity and performance. In furtherance thereof, the State shall promote and maintain a stable and efficient banking and financial system that is globally competitive, dynamic and responsive to the demands of a developing economy.

<sup>35</sup> Approved: May 23, 2000.

<sup>36</sup> See *Simex International (Manila) v. Court of Appeals*, 262 Phil. 387 (1990).

## V.

THE HONORABLE [CA] ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT IN NOT ORDERING RESPONDENTS SPS. MACAM TO RETURN TO ALLIED BANK THE AMOUNT OF ₱490,000.00 REPRESENTING WITHDRAWALS MADE FROM THE SUBJECT ACCOUNT.

## VI.

THE HONORABLE [CA] ERRED IN AFFIRMING THE RULING OF THE TRIAL COURT IN NOT AWARDING PETITIONERS' COUNTERCLAIMS FOR DAMAGES.<sup>37</sup>

**Our Ruling**

We make short shrift of Allied Bank's raised errors and condense these into the sole issue of whether Allied Bank is liable for unilaterally debiting and closing the deposit account of the Spouses Mario Macam.

Allied Bank remains adamant and persists in its arguments that it holds valid title not only to the ₱1.1 Million that it debited from the account of the Spouses Mario Macam but to the entire ₱1,590,000.00 used to open the subject deposit account of the Spouses Mario Macam with AB-PT Branch as well.

In framing its arguments, Allied Bank defines its banking relationship with the Spouses Mario Macam in the negative as "not that which is ordinarily between a bank and its depositor." The bank asseverates that it owns the funds which inadvertently found its way into the Spouses Mario Macam's account.

The arguments of Allied Bank are untenable.

RA 8791 enshrines the fiduciary nature of banking that requires high standards of integrity and performance.<sup>38</sup> The statute now reflects jurisprudential holdings that the banking industry is impressed with public interest requiring banks to assume a degree of diligence higher than that of a good father of a family.<sup>39</sup> Thus, all banks are charged with extraordinary diligence in the handling and care of its deposits as well as the highest degree of diligence in the selection and supervision of its employees.<sup>40</sup>

The foregoing obligation of banks is absolute and deemed written into every deposit agreement with its depositors.<sup>41</sup>

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<sup>37</sup> Rollo pp. 45-46.

<sup>38</sup> REPUBLIC ACT No. 8791, Section 2.

<sup>39</sup> See *Simex International (Manila) v. Court of Appelas*, supra note 21; *The Consolidated Bank and Trust Company v. Court of Appeals*, 457 Phil. 688, 705-707 (2003).

<sup>40</sup> Id.

<sup>41</sup> *The Consolidated Bank & Trust Company v. Court of Appeals*, supra, at 706.



We affirm the lower courts' uniform factual finding that there is a deposit agreement between Allied Bank and the Spouses Mario Macam. The savings deposit agreement between the bank and the depositor is the contract that determines the rights and obligations of the parties as in a simple loan.<sup>42</sup> In contemplation of the fiduciary nature of a bank-depositor relationship, the law imposes on the bank a **higher standard** of integrity and performance in complying with its obligations under the contract of simple loan, beyond those required of non-bank debtors under a similar contract of simple loan.<sup>43</sup>

In this case, all the fund transfer transactions which culminated in the transfer of ₱1,590,000.00 to the account of the Spouses Mario Macam were effected through Allied Bank's network of branches nationwide. Section 20 of the GBL allows universal or commercial banks, upon prior approval of the *Bangko Sentral ng Pilipinas*, to open branches or offices within or outside the Philippines. It further provides that "a bank authorized to establish branches or other offices shall be responsible for all business conducted in such branches and offices to the same extent and in the same manner as though such business had all been conducted in the head office. A bank and its branches and offices shall be treated as one unit."

Allied Bank cannot obliquely repudiate the resulting banking relationship with the Spouses Mario Macam and the fiduciary nature thereof when it accepted the spouses' initial deposit of ₱1,590,000.00, the very same funds it now claims as its own. It cannot belatedly claim ignorance of its performance of a core banking function, *i.e.*, accepting or creating demand deposits.<sup>44</sup>

"A certificate of deposit is defined as a written acknowledgment by a bank or banker of the receipt of a sum of money on deposit which the bank or banker promises to pay to the depositor, to the order of the depositor, or to some other person or his order, whereby the relation of debtor and creditor between the bank and the depositor is created."<sup>45</sup> It is presumed that the money deposited in a bank account belongs to the person in whose name the deposit account is opened.<sup>46</sup>

With its acceptance of the Spouses Mario Macam's deposit and their opening of an account with the bank's Pasong Tamo Branch on February 6, 2003, Allied Bank explicitly recognized the spouses' ownership and title over the ₱1,590,000.00. Notably, the bank repeatedly acknowledged the creditor-debtor relationship and its obligation to pay the Spouses Mario Macam on demand when the latter withdrew money from the said account on three separate occasions. Undoubtedly, Allied Bank is liable to the Spouses Mario Macam for the ₱1.1 Million in their deposit account.

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<sup>42</sup> CIVIL CODE, Article 1980.

<sup>43</sup> *The Consolidated Bank & Trust Company v. Court of Appeals*, supra, at 707.

<sup>44</sup> REPUBLIC ACT No. 8791, Section 29.

<sup>45</sup> *Far East Bank & Trust Co. v. Querimit*, 424 Phil. 721, 730 (2002).

<sup>46</sup> *Fulton Iron Works Co. v. China Banking Corporation*, 55 Phil. 208, 212 (1930).

Notwithstanding the foregoing, Allied Bank still insists that the ₱1,590,000.00 can be traced to the ₱10 Million wrongfully credited to Valerio's account which, in turn, is traced to the ₱46 Million illegally credited to Helen's account. Thus, according to Allied Bank, it retained title over the money, including that traceable and transferred to the Spouses Mario Macam.

We disagree.

The deposit in the Spouses Mario Macam's account consisting of money is generic and fungible.<sup>47</sup> The quality of being fungible depends upon their possibility, because of their nature or the will of the parties, of being substituted by others of the same kind, not having a distinct individuality.<sup>48</sup>

Allied Bank claims ownership of the equivalent amount of money, *i.e.* the value thereof which it ultimately traces to the spurious credit of ₱46 Million to Helen's account, and part thereof subsequently traced to the Spouses Mario Macam's account. Indeed, it cannot claim the money itself which transferred accounts based on the false fund transfer transactions effected by Caña on February 6, 2003.

It bears emphasizing that “[m]oney bears no earmarks of peculiar ownership. Its primary purpose is to pass from hand to hand as a medium of exchange, without other evidence of its title.”<sup>49</sup> Money, which had passed through different transactions of a bank in the general course of business, even if of traceable origin, is no exception. Clearly therefore, Allied Bank's unilateral closure of the Spouses Mario Macam's deposit account violated their savings deposit agreement.

To completely evade liability, Allied Bank ascribes all blame to the acts of its employee, Caña, beginning with the credit of ₱46 Million to Helen's account without an actual deposit of funds. The bank further muddles the issues, assumes all the injury and damage, but none of the responsibility for its own negligence and that of its employee. It turns a blind eye on its contractual obligation to, and the damage suffered by, its depositor.

Allied Bank belabors under a cloud of confusion. Its liability under the deposit agreement with the Spouses Mario Macam is primary and not vicarious.

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<sup>47</sup> See Article 418 of the Civil Code, taken from Article 337 of the Old Civil Code which used the words “fungible or non-fungible” and *Bank of Philippine Islands v. Franco*, 563 Phil. 495 (2007).

<sup>48</sup> A.M. Tolentino, *Civil Code of the Philippines Commentaries and Jurisprudence*, Vol. II, 1983 Ed., p. 26, 1983.

<sup>49</sup> *United States v. Sotelo*, 28 Phil. 147, 158 (1914).

Articles 1172,<sup>50</sup> 2176<sup>51</sup> and 2180<sup>52</sup> of the Civil Code lay down the following principles:

- (1) the responsibility of the obligor arising from negligence in the performance of the obligation is demandable;
- (2) the fault or negligence of the obligor causing damage to another obliges him to pay for the damage done; and
- (3) the obligation to pay for the damage is demandable not only for one's own acts or omission, but also for those of persons for whom one is responsible.

Paragraph 5 of Article 2180 provides that “employers shall be liable for the damages caused by their employees xxx acting within the scope of their assigned tasks x x x.”

As admitted by the bank, the initial fund transfer transaction approved by Caña snowballed into a series of unauthorized debit and credit transactions leading to the closure of the Spouses Mario Macam's subject deposit account. All the tortuous acts of Caña occurred and transpired within Allied Bank's network of branches and offices and during banking hours. Allied Bank's other employees, Berras and even Mamalayan, likewise participated in the fraudulent acts of their Branch Head, Caña.

From Allied Bank's narration of facts, a regular fund transfer transaction has a corresponding debit memo and the fund transfer receipts must bear the signatures of the Branch Head, Caña, the Branch Operating Officer, Mamalayan, and the teller who effected the transactions, Berras.

However, Allied Bank is quick to admit that Caña overrode the verification requirements and approved the ₱46 Million fund transfer transactions. Although the bank was ultimately prejudiced by Caña's acts, it is primarily liable to the Spouses Mario Macam for breaching the savings deposit agreement between them.

<sup>50</sup> Art. 1172. Responsibility arising from negligence in the performance of every kind of obligation is also demandable, but such liability may be regulated by the courts, according to the circumstances.

<sup>51</sup> Art. 2176. Whoever by act or omission causes damage to another, there being fault or negligence, is obliged to pay for the damage done. Such fault or negligence, if there is no pre-existing contractual relation between the parties, is called a quasi-delict and is governed by the provisions of this Chapter.

<sup>52</sup> Art. 2180. The obligation imposed by article 2176 is demandable not only for one's own acts or omissions, but also for those of persons for whom one is responsible.

The father and, in case of his death or incapacity, the mother, are responsible for the damages caused by the minor children who live in their company.

x x x x

Employers shall be liable for the damages caused by their employees and household helpers acting within the scope of their assigned tasks, even though the former are not engaged in any business or industry.

x x x x

The responsibility treated of in this article shall cease when the persons herein mentioned prove that they observed all the diligence of a good father of a family to prevent damage.

We quote with favor the uniform rulings of the appellate and the trial courts in that regard:

xxx It is likewise noteworthy to mention that numerous lapses which contributed to the perpetration of Maribel Caña's scheming plans were committed by other personnel of Allied Bank. First and foremost, Melissa Berras, one of Allied Bank's teller, who was already aware of the tortuous and fraudulent act of Maribel Caña in crediting the sum of ₱46 Million in favor of xxx Helen Garcia's account notwithstanding the fact that no debit had been made thereto, failed to take any steps in forestalling or reporting to the management the said fraudulent act. Also, Milani Mamalayan, the Branch Operating Officer of Allied Bank, Alabang, Las Pinas Branch was negligent for not verifying with Maribel Caña regarding the last minute cancellation of the purported deposit of Helen Garcia even after the former had already received a call from the Imus, Cavite Branch inquiring as to why the account of its client, Rosite Capili, had been debited. Thus, [Allied] Bank must answer for the damages incurred by [the Spouses Mario Macam] for the tortuous and negligent acts of its employees. [Allied] Bank breached its contractual obligation with [the Spouses Mario Macam] and such degree of culpability contributed to the damage caused to the latter.<sup>53</sup>

As correctly pointed out by the [Spouses Mario Macam], the infirmities attended the funds transfer from Helen Garcia down the line, the defect stopped with Elena Valerio, such that the subsequent transfer from Valerio to Sheila Macam and finally to [the Spouses Mario Macam], was not affected thereby. [The Spouses Mario Macam] had nothing to do with the ₱10 Million transferred from Helen Garcia to Elena Valerio on February 6, 2003 and that the matter was solely between and among Garcia, Caña and Valerio. Had the amount transferred to Valerio remained in her account, the reversal would have been correct because of the general rule that a bank can compensate or set off the deposit in its hands for the payment of any indebtedness to it on the part of the depositor. However, it was already a different matter the moment Valerio transferred said funds to the accounts of Sheila and Manuel Macam because said transfer already had the proper approval of the Branch Head. The same goes for the transfer from Sheila and Manuel Macam to their account. In the latter instances, the depositor is entitled to the protection and meticulous care of the bank.<sup>54</sup>

As previously pointed out, Allied Bank already recognized the ownership of the Spouses Mario Macam over the ₱1,590,000.00 when it accepted the amount as their initial deposit in their newly opened demand deposit. The bank cannot simply disavow the deposit agreement after unraveling the tortuous acts of its employee.

Allied Bank is expected to act with extraordinary diligence required of banks. We cannot overemphasize that the highest degree of diligence required of banks likewise contemplates such diligence in the selection and supervision of its employees. The very nature of their work which involves handling millions of pesos in daily transactions requires a degree of responsibility, care and trustworthiness that is far greater than those expected from ordinary clerks

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<sup>53</sup> *Rollo* pp. 24-25.

<sup>54</sup> *Id.* at 27.

and employees.<sup>55</sup> The bank must not only exercise “high standards of integrity and performance,” it must also insure that its employees do likewise because this is the only way to insure that the bank will comply with its fiduciary duty.<sup>56</sup>

We thus agree with the trial court’s holding that Allied Bank clothed Caña with sufficient authority to effect the ostensible crediting of Helen’s account and approve the subsequent fund transfers to five different accounts in the total amount of ₱46 Million. The trial court found that in previous instances, Caña had extended Helen the same credit arrangement *via* a temporary overdraft line.

This is consistent with Caña’s testimony that, on other occasions when Helen’s account lacked sufficient funds for transfer, the latter would be allowed a temporary overdraft which was immediately settled upon notice of the insufficient funds.

In this case, AB-ALP Branch, headed by Caña, held the top spot in terms of low cost deposit within the Metro Manila South area for the year 2002, which Caña partly attributed to the business transactions Helen conducted with their branch. In year 2002 alone, Helen’s deposit balance ranged from ₱20 to ₱80 Million, with the highest deposits made in October but declined significantly in December. Evidently, Caña was intent to retain the deposit account of Helen for Allied Bank.

The RTC correctly observed, thus:

It may be worthy to mention the fact that banks accord overdraft line to their favored clients. These fund transfers to and credits to accounts as against overdraft account to debit from, constitutes valid transactions.

It is admitted that third-party defendant Caña is the Bank Manager of Allied Bank who authorized the debiting of the ₱46,000,000.00 funds from the current account of third-party defendant Helen Garcia. The act of Caña albeit unauthorized by the bank still binds the bank. One thing clear from the record is that the unauthorized acts of Caña may have been a practice in the past, where favored clients are accorded Temporary Over Draft Line. This is manifested in the treatment of the unrecovered amount after the reversals made, where Third-Party Defendants Sps. Melchor and Helen Garcia were made to execute a Real Estate Mortgage to secure payment for the unrecovered amount of ₱9.8 Million. It is a policy practiced by banking institutions wherein the bank’s loan committee approves in the form of loan the amount constituting the overdraft balance for the purpose of regularizing the temporary overdraft (TOD) granted the depositors against Chattel or Real Estate Mortgages.

It appears that in the previous instances, there were [occasions] of promised belated deposits of Helen Garcia that have always materialized hence, the practice went on.

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<sup>55</sup> *The Consolidated Bank & Trust Corporation v. Court of Appeals*, supra, note 24 at 704-707.

<sup>56</sup> *Id.* at 706 & 709.

It is true that it was Caña who facilitated the transactions by making an override and through the use of fund transfer tickets which she accomplished and which did not bear the required validation of the teller and the Branch Operations Officer. It is inconceivable that the bank would not have known the unauthorized transaction it appearing to involve too huge an amount to have [gone] unnoticed. For this reason, [Allied Bank] had indeed failed to perform what was incumbent upon it, which is to ensure regularity in the banking transactions. x x x<sup>57</sup>

The authority of a corporate officer or agent in dealing with third persons may be actual or apparent.<sup>58</sup> The apparent authority to act for and to bind a corporation may be presumed from acts of recognition in other instances, wherein the power was exercised without any objection from its board or shareholders.<sup>59</sup> Caña's act of approving the ₱46 Million fund transfer and the subsequent transfers to different accounts in various branches of Allied Bank leading to the ₱1,590,000.00 transfer to the account of the Spouses Mario Macam all appear to have been clothed with authority. Indeed, the subsequent transfers (of funds) were approved by several Branch Heads.

The doctrine of "apparent authority", with special reference to banks, has long been recognized in this jurisdiction. Apparent authority is derived not merely from practice. Its existence may be ascertained through 1) the general manner in which the corporation holds out an officer or agent as having the power to act, or in other words, the apparent authority to act in general, with which it clothes him; or 2) *the acquiescence in his acts of a particular nature, with actual or constructive knowledge thereof, within or beyond the scope of his ordinary powers.*<sup>60</sup>

Prescinding from all the foregoing, the lower courts were correct in sustaining Allied Bank's liability to the Spouses Mario Macam for *culpa contractual*.

The liability for damages of those who are negligent in the performance of their obligation is laid down in Article 1170<sup>61</sup> of the Civil Code.

As ruled by the lower courts, the date of default in this case is February 19, 2003 when Allied Bank simultaneously debited the ₱1.1 Million funds from, and closed, the account of the Spouses Mario Macam. Article 2209 of the Civil Code solidifies the consequence of payment of interest as an indemnity for damages when the obligor incurs in delay:

**Art. 2209. If the obligation consists in the payment of a sum of money, and the debtor incurs in delay, the indemnity for damages, there being no stipulation to the contrary, shall be the payment of the interest agreed upon, and in the absence of stipulation, the legal interest, which is six percent per annum.**

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<sup>57</sup> CA rollo pp. 36-37.

<sup>58</sup> *Associated Bank v. Spouses Pronstroller*, 580 Phil. 104, 118 (2008).

<sup>59</sup> Id.

<sup>60</sup> Id. at 118-119.

<sup>61</sup> Art. 1170. Those who in the performance of their obligations are guilty of fraud, negligence, or delay, and those who in any manner contravene the tenor thereof, are liable for damages.

In this case, at the time the interest accrued on the deposit of the Spouses Mario Macam on February 19, 2003, the date of default when the account was closed, the then prevailing rate of legal interest was twelve percent (12%) per *annum* under Central Bank (CB) Circular No. 416 in cases involving the loan or forbearance of money.

However, the twelve percent (12%) per *annum* rate of legal interest is only applicable until June 30, 2013, before the advent and effectivity of *Bangko Sentral ng Pilipinas* (BSP) Circular No. 799, Series of 2013 reducing the rate of legal interest to six percent (6%) per *annum*. Pursuant to our ruling in *Nacar v. Gallery Frames*,<sup>62</sup> BSP Circular No. 799 is prospectively applied from July 1, 2013.

Thus we modify the lower courts' ruling on the applicable rate of legal interest, to wit: (1) twelve percent (12%) per *annum* from February 19, 2003 to June 30, 2013; and (2) six percent (6%) per *annum* from July 1, 2013 to date when this Decision becomes final and executory.

We likewise impose interest on **interest due** based on Article 2212 of the Civil Code which provides that "interest due shall earn legal interest from the time it is judicially demanded, although the obligation may be silent upon this point."<sup>63</sup> Consequently, interest on interest due is imposed at the rate of (1) twelve percent (12%) per *annum* from July 17, 2003 to June 30, 2013; and (2) six percent (6%) per *annum* from July 1, 2013 until this Decision becomes final and executory.

The total amount owing the Spouses Mario Macam set forth in this Decision shall further earn legal interest at the rate of six percent (6%) per *annum* computed from its finality until full payment thereof, the interim period being deemed to be a forbearance of credit.

In addition, we award attorney's fees of ₱50,000.00 since the Spouses Mario Macam were compelled to litigate and incur expenses to protect their interests.<sup>64</sup>

Lastly, we exclude Dimog from liability to pay damages to the Spouses Mario Macam, albeit his defense and subsequent appeals had been joined with that of his co-defendant, Allied Bank. It must be stressed, Dimog never raised as an issue his liability, separate from that of Allied Bank, to the Spouses Macam.

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<sup>62</sup> 716 Phil. 267 (2013).

<sup>63</sup> See *Rivera v. Spouses Chua*, 750 Phil. 663 (2015).

<sup>64</sup> Art. 2208 of the CIVIL CODE: In the absence of stipulation, attorney's fees, and expenses of litigation, other than judicial costs, cannot be recovered, except:

x x x x

(2) when the defendant's act or omission has compelled the plaintiff to litigate with third persons or to incur expenses to protect his interest

Well-settled is the rule that when a case is on appeal, the Court has the authority to review matters not specifically raised or assigned as error if their consideration is necessary in reaching a just conclusion of the case.<sup>65</sup>

In this regard, apart from Dimog's position as AB-PT Branch Head, there is no evidence pointing to an even miniscule participation in the debit of ₱1.1 Million from the Spouses Mario Macam's account. The factual findings of the lower courts show that it was Barcelona, Retail Banking Group for Allied Bank's South Metro Manila Branches, who ordered the debit of the remaining ₱1.1 Million which led to the closure of the Spouses Mario Macam's account. On the whole, Dimog's participation in the breach of contract by Allied Bank was never established and proven.

**WHEREFORE**, the Petition for Review on *Certiorari* is **DENIED**. The November 10, 2011 Decision of the Court of Appeals in CA-G.R. CV No. 91098 is **AFFIRMED** with **MODIFICATION** in that petitioner **Allied Banking Corporation** is solely liable to pay respondent Rose Trinidad Macam the following:


- (1) the principal amount of ₱1.1 Million;
- (2) legal interest of twelve percent (12%) per *annum* on the principal amount of ₱1.1 Million reckoned from February 19, 2003 until June 30, 2013;
- (3) legal interest of six percent (6%) per *annum* on the principal amount of ₱1.1 Million from July 1, 2013 to date when this Decision becomes final and executory;
- (4) legal interest of twelve percent (12%) per *annum* on the total of paragraphs 2 & 3 from July 17, 2003, date of judicial demand, to June 30, 2013, as interest on interest due;
- (5) legal interest of six percent (6%) per *annum* on the total of paragraphs 2 & 3 from July 1, 2013 to date when this Decision becomes final and executory, as interest on interest due;
- (6) six percent (6%) per *annum* interest on the total of the monetary awards from the finality of this Decision until full payment thereof; and
- (7) Attorney's fees in the amount of ₱50,000.00.

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<sup>65</sup> *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. CIR*, 757 Phil. 54, 69 (2015), citing *Silicon Philippines, Inc. (formerly Intel Philippines Manufacturing, Inc.) v. CIR*, 727 Phil. 487, 499 (2014).



**SO ORDERED.**


  
**RAMON PAUL L. HERNANDO**  
Associate Justice

**WE CONCUR:**

  
**MARVIC M. V. F. LEONEN**  
Associate Justice  
Chairperson


  
**HENRI JEAN PAUL B. INTING**  
Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
Associate Justice

  
**JHOSEP Y. LOPEZ**  
Associate Justice

**A T T E S T A T I O N**


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M. V. F. LEONEN**  
Associate Justice

**C E R T I F I C A T I O N**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**DIOSDADO M. PERALTA**  
Chief Justice