**NEGOTIABLE INSTRUMENTS LAW**

Sec. 1-13, 126 and 184

**Caltex (Philippines), Inc. v. CA, 1992**

Facts:

- Private respondent, issued 280 certificates of time deposit (CTDs) in favor of one Angel dela Cruz who deposited with herein private respondent the aggregate amount of P1,120,000.00.
- A sample of text of the CTDs is as follows: *"This is to Certify that BEARER has deposited in this Bank the sum of PESOS: FOUR SECURITY BANK THOUSAND ONLY. SUCAT OFFICE P4,000 & 00 CTS Pesos, Philippine Currency, repayable to said depositor 731 days after date, upon presentation and surrender of this certificate, with interest at the rate of 16% per cent per annum."*
- Dela Cruz delivered the said CTDs to herein petitioner in connection with his purchase of fuel products from the latter.
- Thereafter Dela Cruz informed the Branch Manager of private respondent, that he lost all the certificates of time deposit in dispute and on the basis of an affidavit of loss, 280 replacement CTDs were issued in favor of said depositor.
- Dela Cruz then negotiated and obtained a loan from respondent bank in the amount of P875,000.00 and he executed a notarized Deed of Assignment of Time Deposit which stated, that he surrenders to private respondent full control of the time deposits and further authorizes said bank to pre-terminate, set-off and 'apply the said time deposits to the payment of whatever amount or amounts may be due' on the loan upon its maturity
- Private respondent then received a letter from petitioner formally informing it of its decision to preterminate the CTDs in its possession alleging that they were delivered by Dela Cruz as security for purchases made with Petitioner.
- Private respondent rejected the petitioners demand and claim for payment of the value of the CTDs.
- When the loan of Dela Cruz matured and fell due, the private respondent set-off and applied the time deposits in question to the payment of the matured loan.
- Petitioner filed the instant complaint.
- After trial, the RTC rendered its decision dismissing the complaint.
- On appeal, respondent court affirmed the lower court's dismissal of the complaint stating that the CTDs are payable, not to whoever purports to be the `bearer' but only to the specified person indicated therein, the depositor. In effect, the appellee bank acknowledges its depositor Angel dela Cruz as the person who made the deposit and further engages itself to pay said depositor the amount indicated thereon at the stipulated date."
- Hence this petition.

Issue:

Whether the CTDs in question are negotiable instruments.

Ruling:

Yes. The CTDs in question undoubtedly meet the requirements of the law for negotiability including Section 1(d) of the NIL. The accepted rule is that the negotiability or non-negotiability of an instrument is determined from the writing, that is, from the face of the instrument itself. Contrary to what respondent court held, the CTDs are negotiable instruments. The documents provide that the amounts deposited shall be repayable to the

depositor. And who, according to the document, is the depositor? It is the "bearer." The documents do not say that the depositor is Angel de la Cruz and that the amounts deposited are repayable specifically to him. Rather, the amounts are to be repayable to the bearer of the documents or, for that matter, whosoever may be the bearer at the time of presentment.

The situation would require any party dealing with the CTDs to go behind the plain import of what is written thereon to unravel the agreement of the parties thereto through facts aliunde. This need for resort to extrinsic evidence is what is sought to be avoided by the Negotiable Instruments Law and calls for the application of the elementary rule that the interpretation of obscure words or stipulations in a contract shall not favor the party who caused the obscurity.

However, petitioner cannot rightfully recover on the CTDs for lack of negotiation as the CTDs were in reality delivered to it as a security for De la Cruz' purchases of its fuel products. Under the Negotiable Instruments Law, an instrument is negotiated when it is transferred from one person to another in such a manner as to constitute the transferee the holder thereof, a holder may be the payee or indorsee of a bill or note, who is in possession of it, or the bearer thereof. In the present case, however, there was no negotiation in the sense of a transfer of the legal title to the CTDs in favor of petitioner in which situation, for obvious reasons, mere delivery of the bearer CTDs would have sufficed. Here, the delivery thereof only as security for the purchases of Angel de la Cruz could at the most constitute petitioner only as a holder for value by reason of his lien. Accordingly, a negotiation for such purpose cannot be effected by mere delivery of the instrument since, necessarily, the terms thereof and the subsequent disposition of such security, in the event of non-payment of the principal obligation, must be contractually provided for.

Aside from the fact that the CTDs were only delivered but not indorsed, petitioner failed to produce any document evidencing any contract of pledge or guarantee agreement between it and Angel de la Cruz. Consequently, the mere delivery of the CTDs did not legally vest in petitioner any right effective against and binding upon respondent bank. On the other hand, the assignment of the CTDs made by Angel de la Cruz in favor of respondent bank was embodied in a public instrument. Necessarily, therefore, as between petitioner and respondent bank, the latter has definitely the better right over the CTDs in question.

**Metrobank v. CA, 1991**

Facts:

- Eduardo Gomez opened an account with Golden Savings and deposited over a period of two months 38 treasury warrants.
- They were all drawn by the Philippine Fish Marketing Authority and purportedly signed by its General Manager and counter-signed by its Auditor.
- Six of these were directly payable to Gomez while the others appeared to have been indorsed by their respective payees, followed by Gomez as second indorser.
- All these warrants were subsequently indorsed by Gloria Castillo as Cashier of Golden Savings and deposited to its Savings Account in Metrobank.
- They were then sent to the Bureau of Treasury for special clearing.
- More than two weeks after the deposits, Gloria Castillo went to Metrobank several times to ask whether the warrants had been cleared.

- Later, however, "exasperated" over Gloria's repeated inquiries and also as an accommodation for a "valued client," the petitioner says it finally decided to allow Golden Savings to withdraw from the proceeds of the warrants.
- Three withdrawal were made by Golden Savings with a total amount of P968,000.00.
- In turn, Golden Savings subsequently allowed Gomez to make withdrawals from his own account, eventually collecting the total amount of P1,167,500.00 from the proceeds of the apparently cleared warrants.
- After the withdrawal of Gomez, Metrobank informed Golden Savings that 32 of the warrants had been dishonored by the Bureau of Treasury because of the forgery of the signatures of the drawers and demanded the refund of the amount it had previously withdrawn.
- The demand was rejected.
- Metrobank then sued Golden Savings in the RTC.
- Judgment was rendered in favor of Golden Savings.
- On appeal to the respondent court, affirmed the decision of the RTC.
- Hence this petition.
- Metrobank contends that by indorsing the warrants in general, Golden Savings assumed that they were "genuine and in all respects what they purport to be"

Issue:

Whether or not Golden Savings bank should be held liable for its warranty as a general indorser.

Ruling:

No. Section 66 of the Negotiable Instruments Law is not applicable to the non-negotiable treasury warrants. The indication of Fund 501 as the source of the payment to be made on the treasury warrants makes the order or promise to pay "not unconditional" and the warrants themselves non-negotiable. The indorsement was made by Gloria Castillo not for the purpose of guaranteeing the genuineness of the warrants but merely to deposit them with Metrobank for clearing. It was in fact Metrobank that made the guarantee when it stamped on the back of the warrants: "All prior indorsement and/or lack of endorsements guaranteed, Metropolitan Bank & Trust Co., Calapan Branch." Golden Savings never represented that the warrants were negotiable but signed them only for the purpose of depositing them for clearance.

The negligence of Metrobank of giving the clearance and assuring Golden Savings it was already safe to allow Gomez to withdraw the proceeds of the treasury warrants, is the proximate cause of the loss. Without such assurance, Golden Savings would not have allowed the withdrawals. Metrobank should therefore bear the loss.

**Consolidated Plywood Industries, Inc. v. IFC Leasing and Acceptance Corp., 1987**

Facts:

- Industrial Products Marketing (seller-assignor) offered to sell to Petitioner 2 "Used" Allis Crawler Tractors, the former assuring the latter that tractors which were being offered were fit for the job, and gave the corresponding warranty of ninety (90) days performance of the machines and availability of parts.

- With said assurance and warranty, and relying on the seller-assignor's skill and judgment, petitioner agreed to purchase on installment said Tractors.
- The seller-assignor issued the sales invoice for the 2 units of a deed of sale with chattel mortgage with promissory note was executed.
- The note reads: *"FOR VALUE RECEIVED, I/we jointly and severally promise to pay to the INDUSTRIAL PRODUCTS MARKETING, the sum of ONE MILLION NINETY THREE THOUSAND SEVEN HUNDRED EIGHTY NINE PESOS & 71/100 only (P1,093,789.71), Philippine Currency, the said principal sum, to be payable in 24 monthly installments starting July 15, 1978 and every 15th of the month thereafter until fully paid. . . . ."*
- Thereafter the seller-assignor, by means of a deed of assignment assigned its rights and interest in the chattel mortgage in favor of the respondent.
- Barely 14 days had elapsed after their delivery when one of the tractors broke down and after another 9 days, the other tractor likewise broke down.
- Attempts to repair the tractors failed and it was found out that the units were no longer serviceable.
- Petitioner advised the seller-assignor that the payments of the installments as listed in the promissory note would likewise be delayed until the seller-assignor completely fulfills its obligation under its warranty.
- Petitioner asked the seller-assignor to pull out the units and have them reconditioned, and thereafter to offer them for sale.
- The proceeds were to be given to the respondent and the excess, if any, to be divided between the seller-assignor and petitioner-corporation which offered to bear 1/2 of the reconditioning cost.
- No response was made by seller-assignor and petitioner instead learned that respondent filed a complaint against the petitioners for the recovery of the sum in the promissory note.
- The trial court rendered judgment against the petitioner and denied the MR filed by the petitioner.
- Upon appeal, the IAC affirmed the decision of the lower court holding that the warranty contended by petitioner lies only between seller-assignor and the petitioner and not against the private respondent who is the assignee of the promissory note and a holder of the same in due course.

Issue:

Whether the promissory note in question is a negotiable instrument so as to bar completely all the available defenses of the petitioner against the respondent-assignee.

Ruling:

No. Considering that paragraph (d), Section 1 of the Negotiable Instruments Law requires that a promissory note "must be payable to order or bearer," it cannot be denied that the promissory note in question is not a negotiable instrument.

Without the words 'or order' or 'to the order of,' the instrument is payable only to the person designated therein and is therefore non-negotiable. Any subsequent purchaser thereof will not enjoy the advantages of being a holder of a negotiable instrument, but will merely 'step into the shoes' of the person designated in the instrument and will thus be open to all defenses available against the latter."

Therefore, considering that the subject promissory note is not a negotiable instrument, it follows that the respondent can never be a holder in due course but remains a mere

assignee of the note in question. Thus, the petitioner may raise against the respondent all defenses available to it as against the seller-assignor, Industrial Products Marketing.

Even conceding for purposes of discussion that the promissory note in question is a negotiable instrument, the respondent cannot be a holder in due course because the respondent had actual knowledge of the fact that the seller-assignor's right to collect the purchase price was not unconditional, and that it was subject to the condition that the tractors sold were not defective. The respondent knew that when the tractors turned out to be defective, it would be subject to the defense of failure of consideration and cannot recover the purchase price from the petitioners. The respondent took the promissory note with actual knowledge of the foregoing facts so that its action in taking the instrument amounted to bad faith, and therefore it is not a holder in due course as provided under Sections 52 and 56 of the Negotiable Instruments Law. As such, the respondent is subject to all defenses which the petitioners may raise against the seller-assignor.

**Equitable Banking Corporation v. IAC, 1988**

Facts:

- Casals went to private respondent Edward J. Nell Company to buy garrett skidders.
- Private respondent agreed to have the skidders paid by way of a domestic letter of credit with petitioner bank which defendant Casals promised to open in private respondent's favor, in lieu of cash payment.
- Although the marginal deposit required by the petitioner for the opening of the letter of credit was supposed to be produced by defendant Casville Enterprises, plaintiff agreed to advance the necessary amount in order to facilitate the transaction.
- Casville Enterprises Inc.' provided 3 postdated checks intended as replacement of the check that Edward Nell Co. would advance to petitioner.
- Edward Nell Co. eventually issued a check payable to the 'order of EQUITABLE BANKING CORPORATION A/C CASVILLE ENTERPRISES, INC.' and drawn against the First National City Bank.
- Edward Nell Co. entrusted the delivery of the check and the letter to Casals because it believed that no one, including Casals, could encash the same as it was made payable to the defendant bank alone.
- "Upon receiving the check, Casals immediately deposited it with the petitioner and the bank teller accepted the same for deposit in defendant Casville's checking account.
- After depositing said check, defendant Casville, acting through defendant Casals, then withdrew all the amount deposited.
- 'Meanwhile, Edward Nell Co. discovered that the three checks issued by Casville as collateral were all dishonored for having been drawn against a closed account.
- It also discovered that the entire amount of the check it issued was withdrawn by Casville and that no letters of credit were actually opened.
- Edward Nell Co. filed the instant action.
- Casals and Casville hardly disputed their liability to Edward Nell Co. and therefore what was left for the Court to determine, is only the liability of petitioner to Edward Nell Co.
- RTC ordered petitioner bank to pay Edward Nell Co. the value of the check it deposited plus damages.
- This was affirmed by the IAC upon appeal.

Issue:

Whether petitioner is liable to private respondent Edward J. Nell Co. for the value of the check issued by NELL, which was made payable "to the order of EQUITABLE BANKING CORPORATION A/C OF CASVILLE ENTERPRISES INC."

Ruling:

No. The payee ceased to be indicated with reasonable certainty in contravention of Section 8 of the Negotiable Instruments Law. As worded, it could be accepted as deposit to the account of the party named after the symbols "A/C," or payable to the Bank as trustee, or as an agent, for Casville Enterprises, Inc., with the latter being the ultimate beneficiary. That ambiguity is to be taken contra proferentem that is, construed against NELL who caused the ambiguity and could have also avoided it by the exercise of a little more care.

NELL's own acts and omissions in connection with the drawing, issuance and delivery of the check, and its implicit trust in Casals, were the proximate cause of its own defraudation. Originally, the check was payable to the order solely of "Equitable Banking Corporation." NELL changed the payee in the subject check, however, to "Equitable Banking Corporation, A/C of Casville Enterprises Inc.," upon Casals request.

It was NELL's own acts, which put it into the power of Casals and Casville Enterprises to perpetuate the fraud against it and, consequently, it must bear the loss.

**Sec. 14-23**

**Development Bank of Rizal v. Sima Wei, 1993**

Facts:

- Sima Wei executed and delivered to the Petitioner a promissory note for a loan extended to it.
- Sima Wei issued two crossed checks payable to petitioner Bank drawn against China Banking Corporation.
- The said checks were allegedly issued in full settlement of the drawer's account evidenced by the promissory note.
- These two checks were not delivered to the petitioner-payee or to any of its authorized representatives.
- These checks came into the possession of respondent Lee Kian Huat, who deposited the checks without the petitioner-payee's indorsement (forged or otherwise) to the account of respondent Plastic Corporation, with the Producers Bank.
- Branch Manager of Producers Bank, instructed the cashier of Producers Bank to accept the checks for deposit and to credit them to the account of said Plastic Corporation, inspite of the fact that the checks were crossed and payable to petitioner Bank and bore no indorsement of the latter.
- Hence, petitioner filed a complaint against Sima Wei, Lee Kian Huat, Plastic Corporation, the branch Manager of Producers Bank and Producers Bank.

Issue:

Whether petitioner acquired any right or interest in the checks and can therefore assert cause of action on the same.

Ruling:

Only as against Sima Wei. The payee of a negotiable instrument acquires no interest with respect thereto until its delivery to him. Delivery of an instrument means transfer of possession, actual or constructive, from one person to another. Without the initial delivery of the instrument from the drawer to the payee, there can be no liability on the instrument. Moreover, such delivery must be intended to give effect to the instrument.

The normal parties to a check are the drawer, the payee and the drawee bank. All the drawer has to do when he wishes to issue a check is to properly fill up the blanks and sign it. However, the mere fact that he has done these does not give rise to any liability on his part, until and unless the check is delivered to the payee or his representative.

Notwithstanding the above, it does not necessarily follow that the drawer Sima Wei is freed from liability to petitioner Bank under the loan evidenced by the promissory note agreed to by her. Her allegation that she has paid the balance of her loan with the two checks payable to petitioner Bank has no merit for, as We have earlier explained, these checks were never delivered to petitioner Bank. And even granting, without admitting, that there was delivery to petitioner Bank, the delivery of checks in payment of an obligation does not constitute payment unless they are cashed or their value is impaired through the fault of the creditor. None of these exceptions were alleged by respondent Sima Wei.

However, insofar as the other respondents are concerned, petitioner Bank has no privity with them. Since petitioner Bank never received the checks on which it based its action against said respondents, it never owned them (the checks) nor did it acquire any interest therein. Thus, anything which the respondents may have done with respect to said checks could not have prejudiced petitioner Bank. It had no right or interest in the checks which could have been violated by said respondents. Petitioner Bank has therefore no cause of action against said respondents, in the alternative or otherwise. If at all, it is Sima Wei, the drawer, who would have a cause of action against her co-respondents, if the allegations in the complaint are found to be true.

**Gempesaw v. CA, 1993**

Facts:

- Petitioner issued a total of 82 checks in favor of several suppliers.
- The checks were prepared and filled up as to all material particulars by her trusted bookkeeper,
- The completed checks were submitted to the petitioner for her signature, together with the corresponding invoice receipts which indicate the correct obligations due and payable to her suppliers.
- Petitioner signed each and every check without bothering to verify the accuracy of the checks against the corresponding invoices because she reposed full and implicit trust and confidence on her bookkeeper.
- The issuance and delivery of the checks to the payees named therein were left to the bookkeeper.
- But the payees did not receive nor even see the subject checks.
- All the 82 checks with forged signatures of the payees, making it appear that they were all indorsed by the payees namen therein, were brought instead directly to the Chief

Accountant of respondent drawee Bank, who, without authority therefor, accepted them all for deposit in the accounts of Alfredo Y. Romero and Benito Lam.

- Although the respondent drawee Bank notified petitioner of all checks presented to and paid by the bank, petitioner did not verify the correctness of the returned checks, much less check if the payees actually received the checks in payment for the supplies she received.
- It was only after the lapse of more than two (2) years that petitioner found out about the fraudulent manipulations of her bookkeeper.
- Petitioner made a written demand on respondent drawee Bank to credit her account with the money value of the 82 checks for having been wrongfully charged against her account.
- Respondent drawee Bank refused to grant petitioner's demand and thus petitioner filed the complaint against drawee Bank.

Issue:

Whether petitioner could recover from the respondent drawee bank on the money value of all the 82 checks.

Ruling:

Respondent drawee Bank is adjudged liable to share the loss with the petitioner on a fifty-fifty ratio.

As a rule, a drawee bank who has paid a check on which an indorsement has been forged cannot charge the drawer's account for the amount of said check. An exception to this rule is where the drawer is guilty of such negligence which causes the bank to honor such a check or checks. A different situation arises where the indorsement was forged by an employee or agent of the drawer, or done with the active participation of the latter. The negligence of a depositor which will prevent recovery of an unauthorized payment is based on failure of the depositor to act as a prudent businessman would under the circumstances.

In the case at bar, the petitioner relied implicitly upon the honesty and loyalty of her bookkeeper, and did not even verify the accuracy of the amounts of the checks she signed against the invoices attached thereto. Furthermore, although she regularly received her bank statements, she apparently did not carefully examine the same nor the check stubs and the returned checks, and did not compare them with the sales invoices. Otherwise, she could have easily discovered the discrepancies between the checks and the documents serving as bases for the checks. her loss. And since it was her negligence which caused the respondent drawee Bank to honor the forged checks or prevented it from recovering the amount it had already paid on the checks, petitioner cannot now complain should the bank refuse to recredit her account with the amount of such checks. Under Section 23 of the NIL, she is now precluded from using the forgery to prevent the bank's debiting of her account.

However, the fact that the respondent drawee Bank did not discover the irregularity with respect to the acceptance of checks with second indorsement for deposit even without the approval of the branch manager despite periodic inspection conducted by a team of auditors from the main office constitutes negligence on the part of the bank in carrying out its obligations to its depositors. When it violated its internal rules that second endorsements are not to be accepted without the approval of its branch managers and it did accept the same upon the mere approval of Boon, a chief accountant, it contravened the tenor of its obligation at the very least, if it were not actually guilty of fraud or negligence.

**Republic Planters Bank v. CA and Canlas, 1992**

Facts:

- Defendant Yamaguchi and private respondent Canlas, officers of Pinch Manufacturing Corporation, were authorized to apply for credit facilities with the petitioner Republic Planters Bank.
- Petitioner bank issued nine promissory notes, which were uniformly worded in the following manner: "_____, after date, for value received, I/we, jointly and severally promise to pay to the ORDER of the REPUBLIC PLANTERS BANK, at its office in Manila, Philippines, the sum of _____ PESOS ( ), Philippine Currency . . . ."
- On the right bottom margin of the promissory notes appeared the signatures of Yamaguchi and Canlas above their printed names with the phrase "and (in) his personal capacity" typewritten below.
- In the promissory notes, the name Pinch Manufacturing Corporation was apparently rubber stamped above the signatures of defendant and private respondent.
- Petitioner bank filed a complaint for the recovery of sums of money covered among others, by the nine promissory notes.

Issue:

Whether private respondent Canlas is solidarily liable with the other defendants, namely Pinch Manufacturing Corporation and Yamaguchi, on the nine promissory notes.

Ruling:

Yes, Canlas is solidarily liable on each of the promissory notes bearing his signature.

Under the NIL, persons who write their names on the face of promissory notes are makers and are liable as such. By signing the notes, the maker promises to pay to the order of the payee or any holder according to the tenor thereof. Where an instrument containing the words "I promise to pay" is signed by two or more persons, they are deemed to be jointly and severally liable thereon. An instrument which begins with "I", "We", or "Either of us" promise to pay, when signed by two or more persons, makes them solidarily liable. The fact that the singular pronoun is used indicates that the promise is individual as to each other; meaning that each of the co-signers is deemed to have made an independent singular promise to pay the notes in full.

Finally, where the agent signs his name but nowhere in the instrument has he disclosed the fact that he is acting in a representative capacity or the name of the third party for whom he might have acted as agent, the agent is personally liable to the holder of the instrument and cannot be permitted to prove that he was merely acting as agent of another and parol or extrinsic evidence is not admissible to avoid the agent's personal liability.

**PNB v. Picornell, 1922**

Facts:

- A bill of exchange was drawn by Picornell in favor of PNB, plaintiff, against the firm of Hyndman, Tavera & Ventura, now dissolved, its only successor being the defendant Joaquin Pardo de Tavera.

- Said BOE was for the amount obtained by Picornell for the purchase of bales of tobacco in Cebu by the instructions of his principal, Hyndman, Tavera & Ventura.
- This instrument, together with the invoice and bill of lading of the tobacco, were delivered to the National Bank with the understanding that the bank should not deliver them to Hyndman, Tavera & Ventura except upon payment of the bill.
- The central office of PNB in Manila received the bill and the aforesaid documents annexed thereto; and presented the bill to Hyndman, Tavera & Ventura, who accepted it.
- Upon inspection by Hyndman, Tavera & Ventura of the tobacco, it wrote to Picornell, notifying him that of the tobacco received, there was a certain portion which was of no use and was damaged.
- Thereafter, Hyndman, Tavera & Ventura informed the plaintiff that it refused to pay the BOE because of the noncompliance of the drawer Picornell.
- Hence the bank brought this instant action.

Issue:

Whether bank could recover on the drawee Hyndman, Tavera & Ventura under the subject BOE.

Ruling:

Yes. Partial want of consideration, if it was, does not exist with respect to the bank which paid to Picornell the full value of said bill of exchange. The bank was a holder in due course, and was such for value full and complete. The Hyndman, Tavera & Ventura company cannot escape liability in view of section 28 of the Negotiable Instruments Law.

As to Picornell, he warranted, as drawer of the bill, that it would be accepted upon proper presentment and paid in due course, and as it was not paid, he became liable to the payment of its value to the holder thereof, which is the plaintiff bank.

The fact that the tobacco was or was not of inferior quality does not affect the responsibility of Picornell, because while it may have an effect upon the contract between him and the firm of Hyndman, Tavera, Ventura, yet it cannot have upon the responsibility of both to the bank, upon the bill drawn and accepted as above stated.

The drawee, the Hyndman, Tavera & Ventura company, or its successors, J. Pardo de Tavera, accepted the bill and is primarily liable for the value of the negotiable instrument, while the drawer Picornell, is secondarily liable. However, no question has been raised about this aspect of the responsibility of the defendants.

The appellants are liable to PNB for the value of the bill of exchange.

**The Philippine Bank of Commerce v. Aruego, 1981**

Facts:

- Plaintiff bank instituted an action against defendant Aruego for recovery of money it had paid on various drafts drawn against it and signed by defendant as follows: "JOSE ARUEGO (Acceptor) (SGD) JOSE ARUEGO".

- He filed his answer interposing as defenses that he signed the drafts in a representative capacity, that he signed only as accommodation party, and that the drafts were really no bills of exchange.
- Declared in default for having filed his answer one day late, defendant moved to set the order aside alleging that it could not have been possible for him to file his answer, and that he had good and substantial defenses.
- The court denied the motion and rendered judgment by default.
- Defendant appealed from both the orders denying his motions to set aside the default order and the judgment by default, which appeals were consolidated and certified to the Supreme Court by the Court of Appeals.

Issue:

Whether the defendant has a good and substantial defense.

Ruling:

No, the defendant's appeal cannot prosper based on the defenses raised.

Representative capacity

Section 20 of the NIL provides that "Where the instrument contains or a person adds to his signature words indicating that he signs for or on behalf of a principal or in a representative capacity, he is not liable on the instrument if he was duly authorized; but the mere addition of words describing him as an agent or as filling a representative character, without disclosing his principal, does not exempt him from personal liability."

An inspection of the drafts accepted by the defendant shows that nowhere has he disclosed that he was signing as representative of the Philippine Education Foundation Company. He merely signed as follows: "JOSE ARUEGO (Acceptor) (SGD) JOSE ARUEGO." For failure to disclose his principal, Aruego is personally liable for the drafts he accepted.

Accommodation Party

An accommodation party is one who has signed the instrument as maker, drawer, acceptor, indorser, without receiving value therefor and for the purpose of lending his name to some other person. Such person is liable on the instrument to a holder for value, notwithstanding such holder, at the time of the taking of the instrument knew him to be only an accommodation party.

In the instant case, the defendant signed as a drawee/acceptor. Under the NIL, a drawee is primarily liable. Thus, if the defendant who is a lawyer, really intended to be secondarily liable only, he should not have signed as an acceptor/drawee. In doing so, he became primarily and personally liable for the drafts.

Not Bills of Exchange

The defendant also contends that the drafts signed by him were not really bills of exchange but mere pieces of evidence of indebtedness because payments were made before acceptance. This is also without merit.

Under the NIL, a bill of exchange is an unconditional order in writing addressed by one person to another, signed by the person giving it, requiring the person to whom it is

addressed to pay on demand or at a fixed or determinable future time a sum certain in money to order or to bearer. As long as a commercial paper conforms with the definition of a bill of exchange, that paper is considered a bill of exchange. The nature of acceptance is important only in the determination of the kind of liabilities of the parties involved, but not in the determination of whether a commercial paper is a bill of exchange or not.

Order denying petition for relief was affirmed.

**Jai-Alai Corporation v. BPI, 1975**

Facts:

- Petitioner deposited in its current account with respondent bank several checks, all acquired from Antonio J. Ramirez, a regular bettor at the jai-alai games and a sale agent of the Inter-Island Gas Service, Inc., the payee of the checks.
- The deposits were all temporarily credited to petitioner's account.
- Subsequently, Ramirez resigned and after the checks had been submitted to inter-bank clearing, the Inter-Island Gas discovered that all the indorsement made on the cheeks were forgeries.
- It informed petitioner, the respondent, the drawers and the drawee banks of the said checks and forgeries and filed a criminal complaint against its former employee.
- In view of these circumstances, the respondent Bank debited the petitioner's current account and forwarded to the latter the checks containing the forged indorsements, which petitioner refused to accept.
- Later, petitioner drew against its current account a check.
- This check was dishonored by respondent as its records showed that petitioner's balance after netting out the value of the checks with the forged indorsement, was insufficient to cover the value of the check drawn.
- A complaint was filed by petitioner in the CFI but the same was dismissed, as well as by the Court of Appeals, on appeal.
- Hence, this petition for review.

Issue:

Whether the respondent had the right to debit the petitioner's current account and therefore cannot be held liable for damages.

Ruling:

Yes, respondent acted within legal bounds when it debited the petitioner's account.

Since under Section 23 of the NIL, a forged signature in a negotiable instrument is wholly inoperative and no right to discharge it or enforce its payment can be acquired through or under the forged signature except against a party who cannot invoke the forgery, it stands to reason, that the respondent, as a collecting bank which indorsed the checks to the drawee-banks for clearing, should be liable to the latter for reimbursement, for, as found by the court a quo and by the appellate court, the indorsements on the checks had been forged prior to their delivery to the petitioner. In legal contemplation, therefore, the payments made by the drawee-banks to the respondent on account of the said checks were ineffective; and, such being the case, the relationship of creditor and debtor between the petitioner and the respondent had not been validly effected, the checks not having been properly and legitimately converted into cash.

It is the obligation of the collecting bank to reimburse the drawee-bank the value of the checks subsequently found to contain the forged indorsement of the payee. The reason is that the bank with which the check was deposited has no right to pay the sum stated therein to the forger "or anyone else upon a forged signature." "It was its duty to know," that [the payee's] endorsement was genuine before cashing the check." The petitioner must in turn shoulder the loss of the amounts which the respondent; as its collecting agent, had to reimburse to the drawee-banks.

At all events, under Section 67 of the NIL, "Where a person places his indorsement on an instrument negotiable by delivery he incurs all the liability of an indorser," and under Section 66 of the same statute a general indorser warrants that the instrument "is genuine and in all respects what it purports to be." Considering that the petitioner indorsed the said checks when it deposited them with the respondent, the petitioner as an indorser guaranteed the genuineness of all prior indorsements thereon. The respondent which relied upon the petitioner's warranty should not be held liable for the resulting loss. Under Section 65 of the NIL, "Every person negotiating an instrument by delivery . . . warrants (a) That the instrument is genuine and in all respects what it purports to be." Under that same section this warranty "extends in favor of no holder other than the immediate transferee," which, in the case at bar, would be the respondent.

CA judgment affirmed.

**Republic Bank v. Ebrada, 1975**

Facts:

- A check was issued to one Martin Lorenzo who turned out to have been dead almost eleven years before it was issued.
- At the back of the check, Martin Lorenzo apparently indorsed the check to Ramon Lorenzo, from Ramon Lorenzo to Delia Dominguez and then from Dominguez to Ebrada.
- It was encashed by Ebrada at the Republic Bank's main office at the Escolta.
- Informing the Bank that the payee's (Lorenzo) indorsement on the reverse side of the check was a forgery, the Bureau of Treasury requested the Bank to refund the amount.
- The Bank sued Ebrada before the city court when she refused to return the money.
- The court ruled for the Bank, so the case was elevated to the CFI which likewise rendered an adverse decision against Ebrada.
- An appeal was filed.

Issue:

Whether the lower court erred in ordering Ebrada to pay the face value of the subject check after finding that the drawer issued the subject check to a person already deceased for 11-1/2 years and that Ebrada did not benefit from encashing said check.

Ruling:

As last indorser, Ebrada was supposed to have warranted that she has good title to said check. It turned out, however, that the signature of the original payee of the check, Martin Lorenzo was a forgery because he was already dead almost 11 years before the check in question was issued by the Bureau of Treasury.

However, the existence of one forged signature therein will NOT render void all the other negotiations of the check with respect to the other parties whose signature are genuine. it is only the negotiation predicated on the forged indorsement that should be declared inoperative. This means that the negotiation of the check in question from Martin Lorenzo, the original payee, to Ramon R. Lorenzo, the second indorser, should be declared of no effect, but the negotiation of the aforesaid check from Ramon R. Lorenzo to Adelaida Dominguez, the third indorser, and from Adelaida Dominguez to the defendant-appellant who did not know of the forgery, should be considered valid and enforceable, barring any claim of forgery.

The drawee of a check can recover from the holder the money paid to him on a forged instrument. It is not supposed to be its duty to ascertain whether the signatures of the payee or indorsers are genuine or not. This is because the indorser is supposed to warrant to the drawee that the signatures of the payee and previous indorsers are genuine, warranty not extending only to holders in due course. Ebrada, upon receiving the check in question from Dominguez, was duty-bound to ascertain whether the check in question was genuine before presenting it to plaintiff Bank for payment.

Although Ebrada to whom the plaintiff Bank paid the check was not proven to be the author of the supposed forgery, yet as last indorser of the check, she has warranted that she has good title to it even if in fact she did not have it because the payee of the check was already dead 11 years before the check was issued.

**Great Eastern Life Insurance Co. v. HSBC, 1922**

Facts:

- Plaintiff drew its check on HSBC with whom it had an account, payable to the order of Melicor.
- Maasim fraudulently obtained possession of the check, forged Melicor's signature, as an endorser, and then personally endorsed and presented it to PNB where the amount of the check was placed to his credit.
- After having paid the check, PNB endorsed the check to HSBC, which paid it, and charged the amount of the check to the account of the plaintiff.
- HSBC rendered a bank statement to the plaintiff showing that the amount of the check was charged to its account, and no objection was then made to the statement.
- About four months after the check was charged to the account of the plaintiff, it discovered that Melicor, to whom the check was made payable, had never received it, and that his signature, as an endorser, was forged by Maasim.
- Plaintiff promptly made a demand upon HSBC that it should be given credit for the amount of the forged check.
- The bank refused to do, and thus the plaintiff commenced this action to recover the amount paid on the forged check.

Issue:

Whether HSBC is responsible for the refund to the drawer of the amount of the check drawn and payable to order, when its value was collected by a third person by means of forgery of the signature of the payee.

Ruling:

Yes. Plaintiff authorized and directed HSBC to pay Melicor, or his order and not to any other person. Neither is the plaintiff estopped or bound by the bank statement, which was made to it by the HSBC. This is not a case where the plaintiff's own signature was forged to one of its checks. In such a case, the plaintiff would have known of the forgery, and it would have been its duty to have promptly notified the bank of any forged signature, and any failure on its part would have released the bank from any liability. Plaintiff had a right to assume that Melicor had personally endorsed the check, and that, otherwise, the bank would not have paid it.

HSBC is liable to plaintiff and PNB is in turn liable to HSBC as it had no license or authority to pay the money to Maasim or anyone else upon a forged signature. It was its legal duty to know that Melicor's endorsement was genuine before cashing the check. PNB's remedy is against Maasim to whom it paid the money.

**MWSS v. CA, 1986**

Facts:

- MWSS issued 23 'personalized' checks against its account with PNB in favor of different payees.
- During the same month, a second batch of 23 checks were issued bearing the same numbers as those of the 1st batch.
- Both batches were paid and cleared by PNB and debited against the account of MWSS.
- The second batch's payees deposited the said checks to their respective accounts with PCIB and PBC.
- At the time of their presentation to PNB these checks bear the standard indorsement which reads 'all prior indorsement and/or lack of endorsement guaranteed.'
- Investigation however, conducted by the NBI showed that all the payees for the 2nd batch were all fictitious persons.
- Upon learning this, MWSS wrote PNB to restore the corresponding total amount of the 2nd batch payments on the 23 checks claimed by MWSS to be forged and/or spurious checks.
- Upon refusal of PNB to credit back, MWSS filed the instant complaint.

Issue:

Whether the drawee bank PNB is liable to MWSS.

Ruling:

No. First of all, there is no express and categorical finding that the 23 questioned checks were indeed signed by persons other than the authorized MWSS signatories. Forgery cannot be presumed. It must be established by clear, positive, and convincing evidence. This was not done in the present case.

Further, the petitioner was using its own personalized checks, instead of the official PNB Commercial blank checks. Considering the absence of sufficient security in the printing of the checks coupled with the very close similarities between the genuine signatures and the alleged forgeries, the 23 checks in question could have been presented to the petitioner's

signatories without their knowing that they were bogus checks. Petitioner failed to provide the needed security measures. Another factor which facilitated the fraudulent encashment of the 23 checks in question was the failure of the petitioner to reconcile the bank statements with its own records.

Thus, even if the 23 checks in question are considered forgeries, considering the petitioner's gross negligence, it is barred from setting up the defense of forgery under Section 23 of the NIL.

Drawee Bank PNB cannot be faulted for not having detected the fraudulent encashment of the checks because the printing of the petitioner's personalized checks was not done under the supervision and control of the Bank. There is no evidence on record indicating that because of this private printing, the petitioner furnished the respondent Bank with samples of checks, pens, and inks or took other precautionary measures with the PNB to safeguard its interests. Under the circumstances, therefore, the petitioner was in a better position to detect and prevent the fraudulent encashment of its checks.

**Ilusorio v. CA and Manila Banking Corporation, 2002**

Facts:

- Petitioner entrusted to his secretary his credit cards and his checkbook with blank checks.
- His secretary, thru falsification, encashed and deposited to her personal account seventeen checks drawn against the account of the petitioner at respondent bank.
- Petitioner then requested the respondent bank to credit back and restore to his account the value of the checks which were wrongfully encashed, but respondent bank refused.
- Hence, petitioner filed the instant case.
- Manila Bank sought the expertise of the NBI in determining the genuineness of the signatures appearing on the checks.
- However, petitioner failed to submit his specimen signatures for purposes of comparison with those on the questioned checks.
- Consequently, the trial court dismissed the case.
- On appeal, the Court of Appeals held that petitioner's own negligence was the proximate cause of his loss.
- Hence, this petition.

Issue:

Whether that Manila Bank is liable for damages for its negligence in failing to detect the discrepant checks.

Ruling:

No. To be entitled to damages, petitioner has the burden of proving negligence on the part of the bank for failure to detect the discrepancy in the signatures on the checks. It is incumbent upon petitioner to establish the fact of forgery, i.e., by submitting his specimen signatures and comparing them with those on the questioned checks. Curiously though, petitioner failed to submit additional specimen signatures as requested by the NBI from which to draw a conclusive finding regarding forgery.

Further, the bank's employees in the present case did not have a hint as to the secretaryu's modus operandi because she was a regular customer of the bank, having been designated by petitioner himself to transact in his behalf.

It was petitioner, not the bank, who was negligent. In the present case, it appears that petitioner accorded his secretary unusual degree of trust and unrestricted access to his credit cards, passbooks, check books, bank statements, including custody and possession of cancelled checks and reconciliation of accounts. Petitioner's failure to examine his bank statements appears as the proximate cause of his own damage.

True, it is a rule that when a signature is forged or made without the authority of the person whose signature it purports to be, the check is wholly inoperative. However, the rule does provide for an exception, namely: "unless the party against whom it is sought to enforce such right is precluded from setting up the forgery or want of authority." In the instant case, it is the exception that applies. Petitioner is precluded from setting up the forgery, assuming there is forgery, due to his own negligence in entrusting to his secretary his credit cards and checkbook including the verification of his statements of account.

**San Carlos Milling Co., Ltd. v. BPI and China Banking Corp., 1933**

Facts:

- The plaintiff gave a general power of attorney to Baldwin relative to the dealings with BPI, one of the banks in Manila in which plaintiff maintained a deposit.
- Wilson, a principal employee of the plaintiff, conspiring with a messenger-clerk in plaintiff's Manila office, requested a telegraphic transfer from its principal office in Hawaii, to the China Banking Corporation of Manila of $100,000, likewise a bank in which plaintiff maintained.
- Upon its receipt, the China Banking Corporation issued a manager's check payable to plaintiff or order following the instructions of a letter affixed with the forged signature of Baldwin.
- A manager's check on the China Banking Corporation payable to plaintiff or order was receipted for by the messenger-clerk of the plaintiff which was indorsed to BPI again under a forged signature of Baldwin as an agent.
- BPI thereupon credited the current account of plaintiff and passed the cashier's check in the ordinary course of business through the clearing house, where it was paid by the China Banking Corporation.
- The next day, Dolores presented a check to BPI for the sum of P200,000, purporting to be signed by Baldwin as agent.
- Shortly thereafter the crime was discovered, and upon the defendant bank refusing to credit plaintiff with the amount withdrawn this suit was brought.

Issue:

Whether BPI and China Banking Corporation should be held liable to plaintiff.

Ruling:

Only BPI. China Banking Corporation, drew its check payable to the order of plaintiff and delivered it to plaintiff's agent who was authorized to receive it. A bank that cashes a check must know to whom it pays. In connection with the cashier's check, this duty was therefore

upon the Bank of the Philippine Islands, and the China Banking Corporation was not bound to inspect and verify all endorsements of the check, even if some of them were also those of depositors in the bank. It had a right to rely upon the endorsement of the Bank of the Philippine Islands when it gave the latter bank credit for its own cashier's check.

Even if it is treated that China Banking Corporation's cashier's check be the same as the check of a depositor and hold the China Banking Corporation indebted to plaintiff, the Court at the same time has to hold that BPI was indebted to the China Banking Corporation in the same amount. As, however, the money was in fact paid to plaintiff corporation, the Court must hold that the China Banking Corporation is indebted neither to plaintiff nor to BPI, and the judgment as it absolved the China Banking Corporation from responsibility is affirmed.

As to BPI, a bank is bound to know the signatures of its customers; and if it pays a forged check, it must be considered as making the payment out of its own funds, and cannot ordinarily charge the amount so paid to the account of the depositor whose name was forged. The bank paid out its money because it relied upon the genuineness of the purported signatures of Baldwin. The proximate cause of loss was due to the negligence of the Bank of the Philippine Islands in honoring and cashing the two forged checks.

**PNB v. The National City Bank of New York and Motor Service Co., 1936**

Facts:

- An unknown person negotiated with defendant Motor Service Company, Inc., checks in payment for automobile tires purchased from said defendant's stores, purporting to have been issued by the 'Pangasinan Transportation Co., Inc. against PNB and in favor of the International Auto Repair Shop.
- "The checks were then indorsed for deposit by the defendant Motor Service Company, Inc. at the National City Bank of New York and credited to the account of Motor Service Co. Inc.
- Said checks were cleared at the clearing house and PNB credited the National City Bank of New York for the amounts thereof.
- PNB then found out that the purported signatures of the Manager and Treasurer of the Pangasinan Transportation Company, Inc., were forged when so informed by the said Company.
- It accordingly demanded from the defendants the reimbursement of the amounts for which it credited the National City Bank of New York at the clearing house and for which the latter credited the Motor Service Co., but the defendants refused, and continue to refuse, to make such reimbursements.
- Hence a case was filed by PNB.

Issue:

Whether PNB has the right to recover from Motor Service Co..

Ruling:

Yes. (whoa! shortcut!) PNB is no more chargeable with the knowledge of the drawer's signature than Motor Service Co. is, as the drawer was as much the customer of the Motor Service Co. as of PNB, the presumption that a drawee bank is bound to know more than any indorser the signature nature of its depositor does not hold.

Motor Service Co. in purchasing the papers in question from unknown persons without making any inquiry as to the identity and authority of the said persons negotiating and indorsing them, acted negligently and contributed to PNB's constructive negligence in failing to detect the forgery.

If PNB is allowed to recover, there will be no change of position as to the injury or prejudice of Motor Service Co. Wherefore, the assignments of error are overruled, and the judgment appealed from must be, as it is hereby, affirmed, with costs against the appellant. So ordered.

Important Rules:

1. That where a check is accepted or certified by the bank on which it is drawn, the bank is estopped to deny the genuineness of the drawer's signature and his capacity to issue the instrument;

2. That if a drawee bank pays a forged check which was previously accepted or certified by the said bank it cannot recover from a holder who did not participate in the forgery and did not have actual notice thereof;

3. That the payment of a check does not include or imply its acceptance in the sense that this word is used in section 62 of the Negotiable Instruments Law;

4. That in the case of the payment of a forged check, even without former acceptance, the drawee can not recover from a holder in due course not chargeable with any act of negligence or disregard of duty;

5. That to entitle the holder of a forged check to retain the money obtained thereon, there must be a showing that the duty to ascertain the genuineness of the signature rested entirely upon the drawee, and that the constructive negligence of such drawee in failing to detect the forgery was not affected by any disregard of duty on the part of the holder, or by failure of any precaution which, from his implied assertion in presenting the check as a sufficient voucher, the drawee had the right to believe he had taken;

6. That in the absence of actual fault on the part of the drawee, his constructive fault in not knowing the signature of the drawer and detecting the forgery will not preclude his recovery from one who took the check under circumstances of suspicion and without proper precaution, or whose conduct has been such as to mislead the drawee or induce him to pay the check without the usual scrutiny or other precautions against mistake or fraud;

7. That one who purchases a check or draft is bound to satisfy himself that the paper is genuine, and that by indorsing it or presenting it for payment or putting it into circulation before presentation he impliedly asserts that he performed his duty;

8. That while the foregoing rule, chosen from a welter of decisions on the issue as the correct one, will not hinder the circulation of two recognized mediums of exchange by which the great bulk of business is carried on, namely, drafts and checks, on the other hand, it will encourage and demand prudent business methods on the part of those receiving such mediums of exchange;

**Travel-On, Inc. v. CA, 1992**

Facts:

- Travel-On filed suit before to collect on six (6) checks issued by private respondent with a total face amount of P115,000.00.
- Petitioner sold and delivered various airline tickets to respondent at a total price of P278,201.57;
- Petitioner alleged in the complaint that to settle said account, private respondent paid various amounts in cash and in kind, and thereafter issued six (6) postdated checks amounting to P115,000.00 which were all dishonored by the drawee banks and that private respondent made another payment of P10,000.00 reducing his indebtedness to P105,000.00.
- Private respondent claimed that he had already fully paid and even overpaid his obligations and that refunds were in fact due to him. He argued that he had issued the postdated checks for purposes of accommodation, as he had in the past accorded similar favors to petitioner.

Issue:

Whether the postdated checks are per se evidence of liability on the part of private respondent and that even assuming that the checks were for accommodation, private respondent is still liable thereunder considering that petitioner is a holder for value.

Ruling:

Yes, the checks clearly established private respondent's indebtedness to petitioner and that private respondent was liable thereunder.

A check which is regular on its face is deemed prima facie to have been issued for a valuable consideration and every person whose signature appears thereon is deemed to have become a party thereto for value. Thus, the mere introduction of the instrument sued on in evidence prima facie entitles the plaintiff to recovery. Further, a negotiable instrument is presumed to have been given or indorsed for a sufficient consideration unless otherwise contradicted and overcome by other competent evidence. Thus, it was up to private respondent to show that he had indeed issued the checks without sufficient consideration.

Further, while the NIL does refer to accommodation transactions, no such transaction was shown in the case at bar. In the case at hand, Travel-On was payee of all six (6) checks; it presented these checks for payment at the drawee bank but the checks bounced. Travel-On obviously was not an accommodated party; it realized no value on the checks which bounced.

Thus, private respondent must be held liable on the six (6) checks here involved. Those checks in themselves constituted evidence of indebtedness of private respondent, evidence not successfully overturned or rebutted by private respondent.

Sadaya v. Sevilla, 1967

Facts:

- Sevilla, Varona and Sadaya executed, jointly and severally, in favor of BPI, or its order, a promissory note payable on demand.
- The entire amount of the proceeds of the promissory note, was received from the bank by Varona alone.
- Sevilla and Sadaya signed the promissory note as co-makers only as a favor to Varona.
- Considering that there was still an outstanding balance and no payment was thereafter made by Sevilla, the bank collected from Sadaya and the latter paid the balance.
- Varona failed to reimburse Sadaya despite repeated demands.
- After Sevilla died, Sadaya filed a creditor's claim for the above payment.
- The administrator resisted the claim upon the averment that the deceased Sevilla "did not receive any amount as consideration for the promissory note," but signed it only "as surety for Varona".

Issue:

Whether Sadaya in paying the bank without judicial demand and without showing that Varona is insolvent, may proceed against Sevilla's estate.

Ruling:

No. A solidary accommodation maker — who made payment — has the right to contribution, from his co-accommodation maker, in the absence of agreement to the contrary between them, and subject to conditions imposed by law. This right springs from an implied promise between the accommodation makers to share equally the burdens that may ensue from their having consented to stamp their signatures on the promissory note. For having lent their signatures to the principal debtor, they clearly placed themselves — in so far as payment made by one may create liability on the other — in the category of mere joint guarantors of the former. They stand on the same footing. In misfortune, their burdens should be equally spread.

Nothing extant in the NIL would define the right of one accommodation maker to seek reimbursement from another. Perforce, we must go to the Civil Code. Because Sevilla and Sadaya, in themselves are but co-guarantors of Varona, their case comes within the ambit of Article 2073 of the Civil Code. It could be inferred from the said provision that a joint and several accommodation maker of a negotiable promissory note may demand from the principal debtor reimbursement for the amount that he paid to the payee; and a joint and several accommodation maker who pays on the said promissory note may directly demand reimbursement from his co-accommodation maker without first directing his action against the principal debtor provided that he made the payment by virtue of a judicial demand or the principal debtor is insolvent.

Considering that Sadaya's payment to the bank "was made voluntarily and without any judicial demand," and that "there is an absolute absence of evidence showing that Varona is insolvent", he cannot proceed against Sevilla's estate.

**Crisologo-Jose v. CA, 1989**

Facts:

- The Vice-president of Mover Enterprises, Inc. issued a check drawn against Traders Royal Bank, payable to petitioner Ernestina Crisologo-Jose, for the accommodation of his client.
- Petitioner-payee, was charged with the knowledge that the check was issued at the instance and for the personal account of the President who merely prevailed upon respondent vice-president to act as co-signatory in accordance with the arrangement of the corporation with its depository bank.
- While it was the corporation's check which was issued to petitioner for the amount involved, petitoiner actually had no transaction directly with said corporation.

Issue:

Whether private respondent, one of the signatories of the check issued under the account of Mover Enterprises, Inc., is an accommodation party under NIL and a debtor of petitioner to the extent of the amount of said check.

Ruling:

Yes. To be considered an accommodation party, a person must (1) be a party to the instrument, signing as maker, drawer, acceptor, or indorser, (2) not receive value therefor, and (3) sign for the purpose of lending his name for the credit of some other person.

It is not a valid defense that the accommodation party did not receive any valuable consideration when he executed the instrument. He is liable to a holder for value as if the contract was not for accommodation, in whatever capacity such accommodation party signed the instrument, whether primarily or secondarily. Thus, it has been held that in lending his name to the accommodated party, the accommodation party is in effect a surety for the latter.

The foregoing notwithstanding, the liability of an accommodation party to a holder for value, although such holder does not include nor apply to corporations which are accommodation parties. This is because the issue or indorsement of negotiable paper by a corporation without consideration and for the accommodation of another is ultra vires. One who has taken the instrument with knowledge of the accommodation nature thereof cannot recover against a corporation where it is only an accommodation party.

By way of exception, an officer or agent of a corporation shall have the power to execute or indorse a negotiable paper in the name of the corporation for the accommodation of a third person only if specifically authorized to do so. Corollarily, corporate officers, such as the president and vice-president, have no power to execute for mere accommodation a negotiable instrument of the corporation for their individual debts or transactions arising from or in relation to matters in which the corporation has no legitimate concern.

Since such accommodation paper cannot thus be enforced against the corporation, especially since it is not involved in any aspect of the corporate business or operations, the signatories thereof (president and vice-president) shall be personally liable therefor, as well as the consequences arising from their acts in connection therewith.

**Sesbreno v. CA, 1993**

Facts:

- Petitioner Sesbreño made a money market placement with Philfinance.
- Philfinance issued post-dated checks with petitioner as payee payable on the maturity of the money market placement and sold a Promissory note issued by Delta Motors to Philfinance which was marked 'non-negotiable', to petitioner.
- When the post-dated check was dishonored, petitioner made a demand on Delta for the satisfaction of the promissory note.
- Delta, however, denied any liability to petitioner on the promissory note, as the said note was not intended to be negotiated or otherwise transferred by Philfinance as manifested by the word "non-negotiable" stamp across the face of the Note.
- Delta further argues that assuming that the partial assignment in favor of petitioner was valid, petitioner took that Note subject to the defenses available to Delta, in particular, the compensation of the obligation of Philfinance with the subject note.

Issue:

Whether there was a valid assignment and therefore petitioner could collect on Delta.

Ruling:

There was a valid assignment. The Promissory Note, while marked "non-negotiable," was not at the same time stamped "non-transferrable" or "non-assignable." It contained no stipulation which prohibited Philfinance from assigning or transferring, in whole or in part, that Note. Neither is the consent of Delta necessary for the validity and enforceability of the assignment in favor of petitioner.

However, petitioner still cannot collect on the said promissory note. The rights of an assignee are not any greater than the rights of the assignor, since the assignee is merely substituted in the place of the assignor and that the assignee acquires his rights subject to the equities — i.e., the defenses — which the debtor could have set up against the original assignor before notice of the assignment was given to the debtor.

Petitioner notified Delta of his rights as assignee only after compensation had taken place by operation of law because the offsetting instruments (the obligation of Philfinance and that of Delta under the promissory note) had both reached maturity. At the time that Delta was first put to notice of the assignment in petitioner's favor the note had already been discharged by compensation.

Since the assignor Philfinance could not have then compelled payment anew by Delta of the promissory note, petitioner, as assignee of Philfinance, is similarly disabled from collecting from Delta the portion of the Note assigned to him. The defense of compensation raised by private respondent Delta should be upheld. Of course, Philfinance remains liable to petitioner under the terms of the assignment made by Philfinance to petitioner.

**BPI v. CA, 2007**

Facts:

- Private respondent Salazar had in her possession 3 checks payable to the order of co-private respondent Templonuevo.
- Despite the lack of endorsement of the designated payee upon such checks, Salazar was able to deposit the checks in her personal savings account with petitioner BPI and encash the same.
- Templonuevo protested the purportedly unauthorized encashment of the checks after the lapse of one year from the date of the last check.
- Petitioner BPI decided to debit the amount of the check from Salazar's account and the same was paid to Templonuevo by means of a cashier's check.
- Salazar filed an action for a sum of money with damages against petitioner BPI.

Issue:

Whether the deductions made by petitioner from private respondent Salazar's account were proper.

Ruling:

Yes, petitioner, as the collecting bank, had the right to debit Salazar's account for the value of the checks it previously credited in her favor.

The mere possession of a negotiable instrument does not in itself conclusively establish either the right of the possessor to receive payment, or of the right of one who has made payment to be discharged from liability. Thus, something more than mere possession by persons who are not payees or indorsers of the instrument is necessary to authorize payment to them in the absence of any other facts from which the authority to receive payment may be inferred.

Negotiable instruments are negotiated by "transfer to one person or another in such a manner as to constitute the transferee the holder thereof. The present case involves checks payable to order. Not being a payee or indorsee of the checks, private respondent Salazar could not be a holder thereof. It is an exception to the general rule for a payee of an order instrument to transfer the instrument without indorsement. Precisely because the situation is abnormal, it is but fair to the maker and to prior holders to require possessors to prove without the aid of an initial presumption in their favor, that they came into possession by virtue of a legitimate transaction with the last holder. Salazar failed to discharge this burden, and the return of the check proceeds to Templonuevo was therefore warranted under the circumstances despite the fact that Templonuevo may not have clearly demonstrated that he never authorized Salazar to deposit the checks or to encash the same.

However, petitioner bank should be held liable for damages to Salazar. The act of the bank in freezing and later debiting the account of Salazar caused her great damage and prejudice particularly when she had already issued checks drawn against the said account and were subsequently dishonored. This whole incident would have been avoided had petitioner adhered to the standard of diligence expected of one engaged in the banking business.

**Chan Wan v. Tan Kim, 1961**

Facts:

- Checks were drawn by Tan Kim against Equitable Baking Corporation payable to "cash or bearer".
- These checks were presented for payment by Chan Wan but there were all dishonored and returned to him unpaid due to insufficient funds and/or causes attributable to the drawer.
- From the back of the checks it would seem to show that they were previously deposited with China Banking Corporation but as drawee had no funds, they were unpaid and returned, some of them stamped "account closed".
- Tan Kim alleges that the checks had been issued to two persons named Pinong and Muy for some shoes they have promised to make.
- The lower court declined to order payment for the reason that Chan Wan failed to prove he was a holder in due course.

Issue:

Whether Chan Wan, not being a holder in due course, has no right to collect on the subject checks.

Ruling:

No. It does not follow as a legal proposition, that simply because Chan Wan was not a holder in due course, Chan Wan could not recover on the checks. The Negotiable Instruments Law does not provide that a holder who is not a holder in due course, may not in any case, recover on the instrument. The only disadvantage of a holder who is not a holder in due course is that the negotiable instrument is subject to defenses as if it were non-negotiable.

However, if it were true that the checks had been issued in payment for shoes that were never made and delivered, Tan Kim would have a good defense as against a holder who is not a holder in due course.

Case was remanded for further proceedings.

**Vicente De Ocampo & Co. v. Gatchalian, 1961**

- Manuel Gonzales is obligated to the plaintiff for the fees and expenses for the hospitalization of his wife amounting to P441.75.
- Gonzales then falsely represented himself to defendant Gatchalian as a duly authorized agent of Plaintiff for the sale of the latter's car.
- Defendant, who was then interested in looking for a car, issued a crossed check payable to bearer in the amount of P600.00 and the same was handed to Gonzales for safekeeping for the sole purpose of presenting it to De Ocampo to show his intention to purchase the said car.
- For failure to Gonzales to appear the day following with the car and its certificate of registration, defendant issued a 'Stop Payment Order'.
- Meanwhile, Gonzales delivered the check to plaintiff for and in consideration of fees and expenses of hospitalization and the release of his wife.

- Due to the stop order payment, the plaintiff was not able to encash the check and thus filed an action for recovery on the check drawn by defendant.

Issue:

Whether the plaintiff could be considered a holder in due course and thus could collect on the said check.

Ruling:

No. It is true that plaintiff was not aware of the circumstances under which the check was delivered to Gonzales. However, the fact that appellants had no obligation or liability to the Ocampo Clinic; that the amount of the check did not correspond exactly with the obligation of Gonzales to De Ocampo; and that the check had two parallel lines in the upper left hand corner, which practice means that the check could only be deposited but may not be converted into cash —should have put the plaintiff to inquiry as to the why of the possession of the check by Manuel Gonzales, and why he used it to pay his wife's account.

Having failed to ascertain the nature of the title of Gonzales to the check, plaintiff was not in good faith, and it may not be considered as a holder of the check in good faith. The rule that a possessor of the instrument is prima facie a holder in due course does not apply because there was a defect in the title of the holder (Gonzales), because the instrument is not payable to him or to bearer. The burden was, therefore, placed upon it to show that notwithstanding the suspicious circumstances, it acquired the check in actual good faith.

Plaintiff has not proved that it acquired the check in good faith and may not be deemed a holder in due course thereof. Therefore plaintiff could not collect on the check as it subject to the defense of lack of delivery as the checks delivery was for safekeeping merely and, therefore, there was no delivery required by law.

**Green v. Lopez, 1917**

Facts:

- A negotiable note was issued by defendant to a payee which the latter later on indorsed to the present holders, the plaintiffs.
- The defendant refused to pay the note alleging that plaintiffs were not bona fide holders of the note by indorsement, because they had knowledge of the existence of certain equitable defenses which the makers were entitled to set up as against the payee of the noted, before they acquired it by indorsement from the payee.
- The plaintiff on the other hand claims that he sent an employee to call upon the makers of the note to inquire whether it was a good note which would be paid at maturity, and that upon his return this employee stated that he had been informed by the makers of the note that it was a good note duly executed by them and that it would be paid when due.

Issue:

Whether the defendant could refuse payment on the note.

Ruling:

No. The court ruled that the allegations of the defendant were either wholly false or he failed to make himself understood resulting to the fact that no knowledge of the existence of equitable defenses was made known to the plaintiff, the purchaser of the note.

There was nothing on the face of the note to put the purchasers on notice of the existence of such equitable defenses. It was entirely regular in form and came into their possession in the usual course of business. Under these circumstances the burden of proof was manifestly upon the maker of the note to establish the fact of knowledge of the equitable defenses before they could be permitted to rely upon such defenses as against the purchasers.

Equitable defenses of this nature can in no event defeat the right of the holders of a negotiable note by indorsement and for valuable consideration, until and unless knowledge of the existence of such equitable defenses is brought home to them, or until it appears that the holders had such knowledge of the existence of defects in the instrument as to charge them with bad faith in acquiring it under all the attendant circumstances.

**Fossum v. Hermanos, 1923**

Facts:

- Hermanos placed an order for a tail shaft of a vessel with Fossum's Company, providing the latter of the specifications and the purpose for its use.
- Plaintiff drawn a time draft upon defendant payable to PNB.
- Said draft was presented to Hermanos and was accepted.
- When the shaft arrived, the same was found not to be in conformity with the specifications and thus Hermanos refused to pay the draft.
- Having been dishonored, PNB indorsed the draft in blank, without consideration, and delivered it to Fossum.
- Fossum instituted the present action for the recovery of the amount in the draft.
- Fossum argues that he may still recover against the person primarily liable where it appears that he derives his title through a holder in due course.

Issue:

Whether Fossum has indeed derived his titled through a holder in due course and thus he could collect on the draft.

Ruling:

No. It was incumbent on the plaintiff to show, that the person under whom the plaintiff claims (i. e., the bank) was a holder in due course. The presumption to the effect that every holder is deemed prima facie to be a holder in due course expressed in Section 59 of the NIL arises only in favor of a person who is a holder in the same defined in section 191 of the same law, that is, a payee or indorse is in possession of the draft, or the bearer thereof. Under this definition, in order to be a holder, one must be in possession of the note or the bearer thereof. If this action had been instituted by the bank itself, the presumption that the bank was a holder in due course would have arisen from the tenor of the draft and the fact that it was in the bank's possession; but when the instrument passed out the possession of the bank and into the possession of the present plaintiff, no presumption arises as to the character in which the bank held the paper.

Further, It is a well-known rule of law that if the original payee of a note unenforceable for lack of consideration repurchases the instrument after transferring it to a holder in due course, the paper again becomes subject in the payee's hands to the same defenses to which it would have been subject if the paper had never passed through the hands of a holder in due course.

**State Investment House v. IAC, 1989**

**Facts:** New Sikatuna Wood Industries Inc. (NSWI) requested for a loan from Harris Chua, who issued 3 crossed checks. Subsequently, NSWI entered in an agreement with the State Investment House Inc. (SIHI), under a deed of sale, where the former assigned and discounted 11 postdated checks including the 3 issued by Chua. When the 3 checks were allegedly deposited by SIHI, the checks were dishonored by reason of "insufficient funds," "stop payment" and "account closed." SIHI made demands upon Chua to make good said checks, Chua failed to do so.

**Issue:** Whether SIHI is a holder in due course so as to recover the amounts in the checks from Chua, the drawer.

**Ruling:** The Negotiable Instruments Law does not mention "crossed checks" but the Court has recognized the practice that crossing the check (by two parallel lines in the upper left portion of the check) means that the check may only be deposited in the bank and that the check may be negotiated only once (to one who has an account with a bank). The act of crossing a 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. Herein, SIHI rediscounted the check knowing that it was a crossed check. His failure to inquire from the holder (NSWI) the purpose for which the checks were crossed prevents him from being considered in good faith, and thus, as a holder in due course. SIHI, therefor is subject to personal defenses, such as the lack of consideration between the NSWI and Chua, i.e. resulting from the non-consummation of the loan.

**Far East bank v. Gold Palace Jewellery Co., 2008**

- Samuel Tagoe, purchased from the respondent Gold Palace's store several pieces of jewelry
- In payment of the same, he offered a Foreign Draft issued by the United Overseas Bank (Malaysia) BHD Medan Pasar, Kuala Lumpur Branch (UOB), addressed to the Land Bank of the Philippines, Manila (LBP), and payable to the respondent company.
- When Far East, the collecting bank, presented the draft for clearing to LBP, the drawee bank, the latter cleared the same
- UOB's account with LBP was debited, and Gold Palace's account with Far East was credited with the amount stated in the draft.
- After around 3 weeks, LBP informed Far East that the amount in Foreign Draft had been materially altered and that it was returning the same.
- After refunding the amount earlier paid by LBP, Far East demanded from Gold Palace the payment of the difference between the amount in the materially altered draft and the amount debited from the respondent company's account.
- Failure to heed Far East demand, Far East instituted the present action for recovery of sum of money with damages.

Issue:

Whether Far East could debit Gold Palace's account for the amount refunded to LBP.

Ruling:

No. The drawee bank LBP cleared and paid the subject foreign draft and forwarded the amount thereof to the collecting bank Far East. The latter then credited to Gold Palace's account the payment it received. Under the law, the drawee, by the said payment, recognized and complied with its obligation to pay in accordance with the tenor of his acceptance. The tenor of the acceptance is determined by the terms of the bill as it is when the drawee accepts. Stated simply, LBP was liable on its payment of the check according to the tenor of the check at the time of payment, which was the raised amount.

Because of that engagement, LBP could no longer repudiate the payment it erroneously made to a due course holder. Gold Palace was not a participant in the alteration of the draft, was not negligent, and was a holder in due course. Having relied on the drawee bank's clearance and payment of the draft and not being negligent, respondent is amply protected by Section 62 of the NIL. Gold Palace, had no facility to ascertain with the drawer, UOB Malaysia, the true amount in the draft. It was left with no option but to rely on the representations of LBP that the draft was good.

Far East cannot invoke the warranty of the payee/depositor who indorsed the instrument for collection to shift the burden it brought upon itself. This is precisely because the said indorsement is only for purposes of collection which, under Section 36 of the NIL, is a restrictive indorsement. Without any legal right to do so, the collecting bank, therefore, could not debit respondent's account for the amount it refunded to the drawee bank.

Far East's remedy under the law is not against Gold Palace but against the drawee-bank or the person responsible for the alteration.

**Associated Bank v. CA, 1996**

**Facts:** The Province of Tarlac maintains a current account with the Philippine National Bank (PNB Tarlac Branch) where the provincial funds are deposited. Portions of the funds were allocated to the Concepcion Emergency Hospital. Checks were issued to it and were received by the hospital's administrative officer and cashier (Fausto Pangilinan). Pangilinan, through the help of Associated Bank but after forging the signature of the hospital's chief (Adena Canlas), was able to deposit the checks in his personal account. All the checks bore the stamp "All prior endorsement guaranteed Associated Bank." Through post-audit, the province discovered that the hospital did not receive several allotted checks, and sought the restoration of the debited amounts from PNB. In turn, PNB demanded reimbursement from Associated Bank. Both banks resisted payment. Hence, the present action.

**Issue:** Who shall bear the loss resulting from the forged checks.

**Held:** PNB is not negligent as it is not required to return the check to the collecting bank within 24 hours as the banks involved are covered by Central Bank Circular 580 and not the rules of the Philippine Clearing House. Associated Bank, and not PNB, is the one duty-bound

to warrant the instrument as genuine, valid and subsisting at the time of indorsement pursuant to Section 66 of the Negotiable Instruments Law. The stamp guaranteeing prior indorsement is not an empty rubric; the collecting bank is held accountable for checks deposited by its customers. However, due to the fact that the Province of Tarlac is equally negligent in permitting Pangilinan to collect the checks when he was no longer connected with the hospital, it shares the burden of loss from the checks bearing a forged indorsement. Therefore, the Province can only recover 50% of the amount from the drawee bank (PNB), and the collecting bank (Associated Bank) is liable to PNB for 50% of the same amount.

**Banco De Oro v. Equitable Bank, 1988**

Facts:

- Banco De Oro drew six crossed Manager's check payable to certain member establishments of Visa Card.
- The Checks were deposited with Equitable Bank to the credit of its depositor, a certain Aida Trencio.
- After stamping at the back of the Checks the usual endorsements: 'All prior and/or lack of endorsement guaranteed' the defendant sent the checks for clearing through the Philippine Clearing House Corporation (PCHC).
- Banco De Oro paid the Checks and its clearing account was debited for the value of the Checks and Equitable Bank's clearing account was credited for the same amount.
- Thereafter, Banco De Oro discovered that the endorsements appearing at the back of the Checks and purporting to be that of the payees were forged and/or unauthorized or otherwise belong to persons other than the payees.
- Banco De Oro presented the Checks directly to Equitable Bank for the purpose of claiming reimbursement from the latter.
- However, defendant refused to accept such direct presentation and to reimburse Banco De Oro for the value of the Checks
- Hence, this case.

Issue:

Whether Banco De Oro could collect reimbursement from Equitable Bank.

Ruling:

Yes. The petitioner having stamped its guarantee of "all prior endorsements and/or lack of endorsements" is now estopped from claiming that the checks under consideration are not negotiable instruments. It led the said respondent to believe that it was acting as endorser of the checks and on the strength of this guarantee said respondent cleared the checks in question and credited the account of the petitioner. Petitioner is now barred from taking an opposite posture by claiming that the disputed checks are not negotiable instrument.

A commercial bank cannot escape the liability of an endorser of a check and which may turn out to be a forged endorsement. Whenever any bank treats the signature at the back of the checks as endorsements and thus logically guarantees the same as such there can be no doubt said bank has considered the checks as negotiable.

The collecting bank or last endorser generally suffers the loss because it has the duty to ascertain the genuineness of all prior endorsements considering that the act of presenting

the check for payment to the drawee is an assertion that the party making the presentment has done its duty to ascertain the genuineness of the endorsements.

While the drawer generally owes no duty of diligence to the collecting bank, the law imposes a duty of diligence on the collecting bank to scrutinize checks deposited with it for the purpose of determining their genuineness and regularity. The collecting bank being primarily engaged in banking holds itself out to the public as the expert and the law holds it to a high standard of conduct.

**Far East Realty v. CA, 1988**

Facts:

- Petitioner alleged, that the private respondents approached the petitioner at its office in Manila and asked the latter to extend to them an accommodation loan
- Private respondents delivered to the petitioner the China Banking Corporation Check drawn by Dy Hian Tat which was issued on September 13, 1960, and signed by them at the back of said check, with the assurance that the said check can be presented for payment on or immediately after one month and said bank would honor the same;
- Petitioner agreed and actually extended to the private respondents an accommodation loan
- When the aforesaid check was presented for payment to the China Banking Corporation on March 5, 1964, said check bounced and was not cashed by said bank, for the reason that the current account of the drawer thereof had already been closed;
- Petitioner demanded from the private respondents the payment of their aforesaid loan obligation, but the latter failed and refused to pay notwithstanding repeated demands therefor.

Issue:

Whether presentment for payment and notice of dishonor of the questioned check were made within reasonable time.

Ruling:

No. Where the instrument is not payable on demand, presentment must be made on the day it falls due. Where it is payable on demand, presentment must be made within a reasonable time after issue, except that in the case of a bill of exchange, presentment for payment will be sufficient if made within a reasonable time after the last negotiation thereof.

"Reasonable time" has been defined as so much time as is necessary under the circumstances for a reasonable prudent and diligent man to do, conveniently, what the contract or duty requires should be done, having a regard for the rights and possibility of loss, if any, to the other party.

In the instant case, the check in question was issued on September 13, 1960, but was presented to the drawee bank only on March 5, 1964, and dishonored on the same date. After dishonor by the drawee bank, a formal notice of dishonor was made by the petitioner through a letter dated April 27, 1968. Under these circumstances, the petitioner undoubtedly failed to exercise prudence and diligence on what he ought to do as required by law. The petitioner likewise failed to show any justification for the unreasonable delay.

**PNB v. Seeto, 1952**

Facts:

- On March 13, 1948, Respondent Seeto presented a check to PNB at Surigao, Surigao, dated March 10, 1948,, payable to cash or bearer, and drawn by one Gan Yek Kiao against the Cebu branch of Philippine Bank of Communications.
- Seeto made a general and unqualified indorsement of the check, and petitioner's agency accepted it and paid respondent the amount therefor.
- The check was mailed to petitioner's Cebu branch on March 20, 1948 and it was presented to the drawee bank for payment on April 9, 1948, but the check was dishonored for "insufficient funds."
- The check was returned to petitioner and it immediately sent a letter to the respondent herein demanding immediate refund of the value of the check.
- Respondent refused to make the refund demanded, claiming that at the time of the negotiation of the check the drawer had sufficient funds in the drawee bank, and that had the petitioner not delayed to forward the check until the drawer's funds were exhausted, the same would have been paid.

Issue:

Whether there was unreasonable delay in the presentation of the check for payment at the drawee bank which discharges the respondent's liability.

Ruling:

Yes. The check is dated March 10 and was cashed by the petitioner's agency on March 13, 1948. It was not mailed until seven days thereafter, i.e., on March 20, 1948, or ten days after issue. No excuse was given for this delay. Assuming that it took one week, or say ten days, or until March 30, for the check to reach Cebu, neither can there be any excuse for not presenting it for payment at the drawee bank until April 9, 1948, or 10 days after it reached Cebu. There was unreasonable delay in the presentation of the check for payment at the drawee bank, and that as a consequence thereof, the indorser, respondent herein, was thereby discharged.

The Court was unable to find any authority sustaining the proposition that an indorser of a check is not discharged from liability for an unreasonable delay in presentation for payment. This is contrary to the essential nature and character of negotiable instruments - their negotiability. They are supposed to be passed on with promptness in the ordinary course of business transactions; not to be retained or kept for such time as the holder may want, otherwise the smooth flow of commercial transactions would be hindered.

**International Corporate Bank v. Gueco, 2001**

- Respondent spouses, obtained a loan from petitioner bank for the purchase of a car secured by a chattel mortgage.
- Unable to pay the monthly amortizations, the bank sued for collection.
- Thru negotiations, the amount due was reduced and payment will release the car.

- Respondent delivered a manager's check in the said amount but petitioner bank refused to release the car for respondent's refusal to sign the joint motion to dismiss.
- Unable to recover possession of the car, respondent filed an action for damages against respondent based on fraud.
- Respondents alleged that the delivery of the check produced the effect of payment.
- Petitioner, however, did not encash the check because of the present case and the check became stale.

Issue:

Whether petitioner should return the car or its value and that the latter, because of its own negligence, should suffer the loss occasioned by the fact that the check had become stale.

Ruling:

No. A check must be presented for payment within a reasonable time after its issue. In the case at bar, the check involved is a manager's check and is accepted in advance by the act of issuance. Assuming that presentment is needed, failure to present on time will result to the discharge of the drawer only to the extent of the loss caused by the delay.

If a check had become stale, it becomes imperative that the circumstances that caused its non-presentment be determined. In the case at bar, there is no doubt that the petitioner bank held on the check and refused to encash the same because of the controversy surrounding the signing of the joint motion to dismiss. The Court sees no bad faith or negligence in this position taken by the Bank.

**Metropol (Bacolod) Financing & Investment Corp. v. Sambok Motors, 1983**

Facts:

- Dr. Javier Villaruel executed a promissory note in favor of Ng Sambok Sons Motors Co., Ltd.,
- On the same date, Sambok Motors, a sister company of Ng Sambok Sons Motors Co., Ltd., and under the same management as the former, negotiated and indorsed the note in favor of plaintiff Metropol Financing & Investment Corporation with the following indorsement: "Pay to the order of Metropol Bacolod Financing & Investment Corporation with recourse. Notice of Demand; Dishonor; Protest; and Presentment are hereby waived.
- Metropol formally presented the promissory note for payment to the maker.
- Dr. Villaruel failed to pay the promissory note as demanded, hence Metropol notified Sambok of the fact that the same has been dishonored and demanded payment.
- Sambok failed to pay, so Metropol filed a complaint for collection of a sum of money
- Sambok did not deny its liability but contended that it could not be obliged to pay until after its co-defendant Dr. Villaruel, has been declared insolvent.

Issue:

Whether Sambok Motors Company, by adding the words "with recourse" in the indorsement of the note, becomes a qualified indorser; that being a qualified indorser, it does not warrant that if said note is dishonored by the maker on presentment, it will pay the amount to the holder.

Ruling:

No. A qualified indorsement constitutes the indorser a mere assignor of the title to the instrument. It may be made by adding to the indorser's signature the words "without recourse" or any words of similar import. Such an indorsement relieves the indorser of the general obligation to pay if the instrument is dishonored but not of the liability arising from warranties on the instrument as provided in Section 65 of the Negotiable Instruments Law. However, appellant Sambok indorsed the note "with recourse" and even waived the notice of demand, dishonor, protest and presentment.

"Recourse" means resort to a person who is secondarily liable after the default of the person who is primarily liable. Appellant, by indorsing the note "with recourse" does not make itself a qualified indorser but a general indorser who is secondarily liable, because by such indorsement, it agreed that if Dr. Villaruel fails to pay the note, plaintiff-appellee can go after said appellant. The effect of such indorsement is that the note was indorsed without qualification. A person who indorses without qualification engages that on due presentment, the note shall be accepted or paid, or both as the case may be, and that if it be dishonored, he will pay the amount thereof to the holder. Appellant Sambok's intention of indorsing the note without qualification is made even more apparent by the fact that the notice of demand, dishonor, protest and presentment were all waived. The words added by said appellant do not limit his liability, but rather confirm his obligation as a general indorser.

Appellant Sambok is not only secondarily liable because after an instrument is dishonored by non-payment, the person secondarily liable thereon ceases to be such and becomes a principal debtor. His liability becomes the same as that of the original obligor. Consequently, the holder need not even proceed against the maker before suing the indorser.

**Crystal vs. CA, 1976**

**Facts:** The Supreme Court, in its decision of 25 February 1975, affirmed the decision of the Court of Appeals, holding that Raymundo Crystal's redemption of the property acquired by Pelagia Ocang, Pacita, Teodulo, Felicisimo, Pablo, Lydia, Dioscoro and Rodrigo, all surnamed de Garcia, was invalid as the check which Crystal used in paying the redemption price has been either dishonored or had become stale (Ergo, the value of the check was never realized). Crystal filed a motion for reconsideration.

**Issue:** Whether the conflicting circumstances of the check being dishonored and becoming stale affect the validity of the redemption sale.

**Held:** For a check to be dishonored upon presentment and to be stale for not being presented at all in time are incompatible developments that have variant legal consequences. If indeed the questioned check was dishonored, the redemption was null and void. If it had only become state, it becomes imperative that the circumstances that caused its non-presentment be determined, for if it was not due to the fault of the drawer, it would be unfair to deprive him of the rights he had acquired as redemptioner. Herein, it appears that there is a strong showing that the check was not dishonored, although it became stale, and that Pelagia Ocang had actually been paid the full value thereof. The Supreme Court, thus, reconsidered its decision and remanded the case to the trial court for further proceedings.

**Paulino Gullas v. PNB, 1935**

Facts:

- United States Veterans Bureau issued a warrant payable to the order of Francisco Sabectoria Bacos.
- Paulino Gullas and Pedro Lopez signed as indorsers of this check.
- Thereupon it was cashed by the Philippine National Bank.
- Subsequently the treasury warrant was dishonored.
- The bank sent notices by mail to Mr. Gullas which could not be delivered to him at that time because he was in Manila.
- The bank then proceeded to apply the outstanding balances of Mr. Gullas' current accounts with it to the part payment of the subject check.

Issue:

Whether PNB properly set off the account of Gullas with the payment of the indorsed check.

Ruling:

No. Although PNB had with respect to the deposit of Gullas a right of set off, its remedy was not enforced properly.

Notice of dishonor is necessary in order to charge an indorser and that the right of action against him does not accrue until the notice is given. Prior to the mailing of notice of dishonor, and without waiting for any action by Gullas, the bank made use of the money standing in his account to make good for the treasury warrant. The action of the bank was prejudicial to Gullas. As such Gullas should be awarded nominal damages because of the premature action of the bank.

**Ang v. Associated bank, 2007**

Facts:

- The defendants obtained a loan, evidenced by 2 promissory notes and was agreed that the loan would be payable, jointly and severally.
- Despite repeated demands for payment, the defendants failed and refused to settle their obligation.
- Petitioner Tomas Ang contends the bank knew that he did not receive any valuable consideration for affixing his signatures on the notes but merely lent his name as an accommodation party and thus should not be held liable.

Issue:

Whether the bank could proceed against Tomas Ang for the payment of the loan.

Ruling:

Yes. The accommodation party is liable on the instrument to a holder for value even though the holder, at the time of taking the instrument, knew him or her to be merely an accommodation party, as if the contract was not for accommodation.

In the instant case, petitioner agreed to be "jointly and severally" liable under the two promissory notes that he co-signed with Antonio Ang Eng Liong as the principal debtor. This being so, it is completely immaterial if the bank would opt to proceed only against petitioner or Antonio Ang Eng Liong or both of them since the law confers upon the creditor the prerogative to choose whether to enforce the entire obligation against any one, some or all of the debtors. Nonetheless, petitioner, as an accommodation party, may seek reimbursement from Antonio Ang Eng Liong, being the party accommodated.

Consequently, in issuing the two promissory notes, petitioner as accommodating party warranted to the holder in due course that he would pay the same according to its tenor. It is no defense to state on his part that he did not receive any value therefor because the phrase "without receiving value therefor" used in Sec. 29 of the NIL means "without receiving value by virtue of the instrument" and not as it is apparently supposed to mean, "without receiving payment for lending his name."

Furthermore, since the liability of an accommodation party remains not only primary but also unconditional to a holder for value, even if the accommodated party receives an extension of the period for payment without the consent of the accommodation party, the latter is still liable for the whole obligation and such extension does not release him because as far as a holder for value is concerned, he is a solidary co-debtor.

**American Bank v. Macondray, 1905**

Facts:

- A bill of exchange was drawn by V.S. Wolff against F. H. TAYLOR & Co., payable to himself.
- The defendant, certified that the signature, V. S. Wolff, to said bill of exchange was genuine. ,
- The same was indorsed to American Bank in the US and later on was protested because F. H. TAYLOR & Co. could not be found nor its representative after diligent search.
- American Bank then claims the right to recover from defendant upon the theory that the defendant guaranteed the payment of said bill of exchange.
- Defendant denies that part of the statement which appears in his alleged indorsement, "Payment guaranteed. Protest, demand, and notice of nonpayment waived," as this was added to said indorsement after the signature of Macondray & Co. had been affixed to said indorsement.

Issue:

Whether Macondray & Co. is liable upon said bill of exchange as an indorser.

Ruling:

No. The liability of an indorser of a bill of exchange, after due protest and notice of nonpayment and dishonor, is the same as that of the original obligors on such a contract, and any material alteration in the terms of this contract by the holder of the same, without the consent of the obligor, will relieve such obligor from all liability thereon.

Notwithstanding that the defendant is relieved from liability by reason of this material alteration in his indorsement, his original indorsement created no liability whatever. The original indorsement by the defendant was for the purpose only of assuring the plaintiff that the signature of V. S. Wolff, as attached to the original bill of exchange, was genuine — that is to say, that the person whom he represented himself to be. It was an indorsement of identification of the person only, and not for the purpose of incurring any liability as to the payment of such bill of exchange. There was no attempt to show that the drawer of said bill of exchange, V. S. Wolff, was not the person who actually drew and signed said bill of exchange.

**Montinola v. PNB, 1951**

**FACTS:**

Ramos, as a disbursing officer of an army division of the USAFE, made cash advancements w/ the Provincial Treasurer of Lanao. In exchange, the Prov'l Treasurer of Lanao gave him a P500,000 check. Thereafter, Ramos presented the check to Laya for encashment. Laya in his capacity as Provincial Treasurer of Misamis Oriental as drawer, issued a check to Ramos in the sum of P100000, on the Philippines National Bank as drawee; the P400000 value of the check was paid in military notes.

Ramos was unable to encash the said check for he was captured by the Japanese. But after his release, he sold P30000 of the check to Montinola for P90000 Japanese Military notes, of which only P45000 was paid by the latter. The writing made by Ramos at the back of the check was to the effect that he was assigning only P30000 of the value of the document with an instruction to the bank to pay P30000 to Montinola and to deposit the balance to Ramos's credit. This writing was, however, mysteriously obliterated and in its place, a supposed indorsement appearing on the back of the check was made for the whole amount of the check. At the time of the transfer of this check to Montinola, the check was long overdue by about 2-1/2 years.

Montinola instituted an action against the PNB and the Provincial Treasurer of Misamis Oriental to collect the sum of P100,000, the amount of the aforesaid check. There now appears on the face of said check the words in parenthesis "Agent, Phil. National Bank" under the signature of Laya purportedly showing that Laya issued the check as agent of the Philippine National Bank.

Issue:

Whether the words, 'Agent, Phil, National Bank' were added after Laya had issued the check and thus constitutes material alteration which discharges the instrument.

**HELD:**

Yes. The words "Agent, Phil. National Bank" now appearing on the face of the check were added or placed in the instrument after it was issued by the Provincial Treasurer Laya to Ramos. The check was issued by only as Provincial Treasurer and as an official of the Government, which was under obligation to provide the USAFE with advance funds, and not as agent of the bank, which had no such obligation. The addition of those words was made after the check had been transferred by Ramos to

Montinola. The insertion of the words "Agent, Phil. National Bank," which converts the bank from a mere drawee to a drawer and therefore changes its liability, constitutes a material alteration of the instrument without the consent of the parties liable thereon, and so discharges the instrument

**Metrobank v. FNCB, 1982**

Facts:

- On August 25, 1964, a check payable for P50,000.00 to CASH drawn by Joaquin Cunanan and Co. on FNCB was deposited with the Metrobank by a certain Salvador Sales.
- The check was cleared by FNCB the same day and the amount credited to his deposit with Metro Bank.
- Sales withdrew his total deposit with Metro Bank and the withdrawal of the balance was allowed only when FNCB, upon verification made by Metrobank of the regularity and genuineness of the check deposit, assured Metrobank that the fast movement of the account was "not unusual."
- Subsequently, FNCB returned the cancelled check to drawer Joaquin Cunanan and Co. and the company notified FNCB that the check had been altered, the actual amount of P50.00 having been raised to P50,000.00, and the name of the payee, Manila Polo Club, having been superimposed with the word CASH.
- FNCB notified Metro Bank of the alteration on September 4, 1964.
- When Metro Bank refused to reimburse FNCB for the amount of P50,000.00, it filed an action for recovery of the amount with the Court of First Instance of Manila.
- After trial, the Trial Court rendered judgment ordering Metro Bank to reimburse FNCB the amount of P50,000.00. On appeal, the Court of Appeals affirmed the decision.
- Hence, the present petition.

Issue:

Which bank is liable for the payment of the altered check, the drawee bank (FNCB) or the collecting bank (Metrobank)?

Ruling:

The drawee bank. Under Central Bank Circular No. 9 as amended by Circular No. 138 and Circular No. 169, , the drawee bank receiving the check for clearing from the Central Bank Clearing House must return the check to the collecting bank within the 24-hour period if the check is defective for any reason.

In this case, the check was not returned to Metro Bank in accordance with the 24-hour clearing house period, but was cleared by FNCB. Failure of FNCB, therefore, to call the attention of Metro Bank to the alteration of the check in question until after the lapse of nine days, negates whatever right it might have had against Metro Bank in the light of the said Central Bank Circular. Its remedy lies not against Metro Bank, but against the party responsible for the changing the name of the payee and the amount on the face of the check.

Neither does the indorsement of Metrobank make it liable. The indorsement itself is very clear when it begins with words 'For clearance, clearing office." In other words, such an indorsement must be read together with the 24-hour regulation on clearing House Operations of the Central Bank. Once that 24-hour period is over, the liability on such an indorsement has ceased.

**State Investment House vs. CA, 1993**

**Facts:** Nora B. Moulic issued to Corazon Victoriano checks, as security for pieces of jewelry sold on commission. Victoriano negotiated the checks to the State Investment House Inc. (SIHI). Moulic failed to sell the pieces of jewelry, so he returned them to the payee before the maturity of the checks. The checks, however, could not be retrieved as they had already been negotiated. Before the check's maturity dates, Moulic withdrew her funds from the drawee bank. Upon presentment of the checks for payment, they were dishonored for insufficiency of funds. SIHI sued to recover the value of the checks.

**Issue:** Whether the personal defense of failure or absence of consideration is available, or conversely, whether SIHI is a holder in due course.

**Held:** On their faces, the post-dated checks were complete and regular; SIHI bought the checks from the payee (Victoriano) before their due dates; SIHI took the checks in good faith and for value, albeit at a discounted price; and SIHI was never informed not made aware that the checks were merely issued to payee as security and not for value. Complying with the requisites of Section 52 of the Negotiable Instruments Law, SIHI is a holder in due course. As such, it holds the instruments free from any defect of title of prior parties, and from defenses available to prior parties among themselves. SIHI may enforce full payment of the checks. The defense of failure or absence of consideration is not available as SIHI was not privy to the purpose for which the checks were issued.

That the post-dated checks were merely issued as security is not a ground for the discharge of the instrument as against a holder in due course. It is not one of the grounds outlined in Section 119 of the Negotiable Instrument Law, for the instrument to be discharged.

It must be noted that the drawing and negotiation of a check have certain effects aside from the transfer of title or the incurring of liability in regard to the instrument by the transferor. The holder who takes the negotiated paper makes a contract with the parties on the face of the instrument. There is an implied representation that funds or credit are available for the payment of the instrument in the bank upon which it is drawn. Consequently, the withdrawal of the money from the drawee bank to avoid liability on the checks cannot prejudice the rights of holders in due course.

The drawer, Moulic, is liable to the holder in due course, SIHI.

New Pacific Timber v. Seneris, 1980

**Facts:** A check was deposited by the petitioner in court for the payment of the judgment obligation in the amount of P50,000.00. She said the check is a cashier's check of the

Equitable Banking Corp., a bank of good standing and reputation and it was a certified crossed check. But said check was refused by the court as payment foe judgment obligation.

**Issue:** Whether a certification of the check by a drawee bank is equivalent of acceptance.

**Held:** Yes. Where a check is certified by the bank on which it is drawn, the certification is equivalent to acceptance since the said check had been certified by the drawee bank, by the certification, the funds represented by the check are transferred form the credit of the maker to that of the payee or holder, and for all intent and purpose, the latter becomes the depositor of the drawee bank, with rights and duties of can in such situation. Said certification implies that the check is drawn upon sufficient funds in the hand of the drawee, that they have been set apart for its satisfaction and that they will be applied whenever the check is presented for payment. She object of certifying a check, as regards to both parties, is to enable the holder to use it as money. When the holder procures the check to be certified, the check operates as an assignment of a part of the funds to the creditor. Due exception is when a check which has been cleared and credited to the amount of the creditor shall be equivalent to a delivery to the creditor in cash in an amount equal to the amount credited to his account.

**PNB vs. National City Bank, 1936**

**Facts:** An unknown person or persons negotiated with Motor Service Co. checks purportedly issued by the Pangasinan Transportation Co. by JL Klar, Manager and Treasurer, against PNB and in favor of International Auto Repair Shop for P144.50 and P215.75. Said checks were indorsed by said unknown persons in the manner indicated at the back thereof. The checks were indorsed fro deposit at the National City Bank of New York (NCBNY) and Motor Service Co. was credited with the amounts thereof. Said checks were cleared at the clearing house and PNB credited NCBNY for the amounts thereof, believing that the signatures of the drawer are genuine, etc. PNB found that the signature were forged when so informed by the Pangasinan Transportation Co. It demanded reimbursement from NCBNY and Motor Service Co. Both refused. Pangasinan Transportation objected to its deduction of its deposit.

**Issue [1]:** Whether the payment of the checks made by the drawee bank constitutes an acceptance.

**Held [1]:** A check is a bill of exchange payable on demand and only the rules governing bills of exchange payable on demand are applicable to it (Section 185). The fact that acceptance is a step unnecessary insofar as bills of exchange payable on demand are concerned, it follows that the provisions relative to "acceptance" are without application to checks. There is nothing in law, however, against the presentation of checks for acceptance before they are paid. Certification is equivalent to acceptance (Section 187). When certified, the drawer will perform his promise by any other means than the payment of money (Section 132). When certified, the drawer and all indorsers are discharged from liability thereon (Section 188), and then the check operates as an assignment of a part of the funds to the credit of the drawer with the bank (Section 189). Acceptance has a technical meaning in the Negotiable Instruments Law. With few exceptions, "payment" neither includes or implies "payment." Payment of the check, cashing it on presentment is not acceptance.

**Issue [2]:** Whether the drawee bank is liable for the amount in a forged check for its failure to detect the forgery.

**Held [2]:** In determining the relative rights of a drawee who, under a mistake of fact, has paid, and a holder who has received such payment, upon a check to which the name of the drawer is forged, it is only fair to consider the question of diligence or negligence contributed to the success of the fraud or to mislead the drawee. To entitle the holder of a forged check to retain the money obtained thereon, there must be a showing that the duty to ascertain the genuineness of the signature rested entirely upon the drawee, and that the constructive negligence of such drawee in failing to detect the forgery was not affected by any disregard of duty on the part of the holder, or by failure of any precaution which, from his implied assertion in presenting the check as a sufficient voucher, the drawee had the right to believe he had taken. Under the circumstance of the case, if the PNB is allowed to recover, there will be no change of position as to the injury or prejudice of the Motor Service Co.

**Tibajia vs. CA, 1993**

**Facts:** A suit for collection of sum of money was ruled in favor of Eden Tan and against the spouses Norberto Jr. and Carmen Tibajia. After the decision was made final, Tan filed a motion for execution and levied upon the garnished funds which were deposited by the spouses with the cashier of the Regional Trial Court of Pasig. The spouses, however, delivered to the deputy sheriff the total money judgment in the form of Cashier's Check (P262,750) and Cash (P135,733.70). Tan refused the payment and insisted upon the garnished funds to satisfy the judgment obligation. The spouses filed a motion to lift the writ of execution on the ground that the judgment debt had already been paid. The motion was denied.

**Issue:** Whether the spouses have satisfied the judgment obligation after the delivery of the cashier's check and cash to the deputy sheriff.

**Held:** A check, whether a manager's check or ordinary check, is not legal tender, and an offer of a check in payment of a debt is not a valid tender of payment and may be refused receipt by the obligee or creditor (Philippine Airlines vs. Court of Appeals; Roman Catholic Bishop of Malolos vs. Intermediate Appellate Court). The court is not, by decision, sanctioning the use of a check for the payment of obligations over the objection of the creditor (Fortunado vs. Court of Appeals).

**Gempesaw vs. CA, 1993**

**Facts:** Natividad Gempesaw issued checks, prepared by her bookkeeper, a total of 82 checks in favor of several supplies. Most of the checks for amounts in excess of actual obligations as shown in their corresponding invoices. It was only after the lapse of more than 2 years did she discovered the fraudulent manipulations of her bookkeeper. It was also learned that the indorsements of the payee were forged, and the checks were brought to the chief accountant of Philippine Bank of Commerce (the Drawee Bank, Buendia Branch) who deposited them in the accounts of Alfredo Romero and Benito Lam. Gempesaw made demand upon the bank to credit the amount charged due the checks. The bank refused. Hence, the present action.

**Issue:** Who shall bear the loss resulting from the forged indorsements.

**Held:** As a rule, a drawee bank who has paid a check on which an indorsement has been forged cannot charge the drawer's account for the amount of said check. An exception to the rule is where the drawer is guilty of such negligence which causes the bank to honor such checks. Gempesaw did not exercise prudence in taking steps that a careful and prudent businessman would take in circumstances to discover discrepancies in her account. Her negligence was the proximate cause of her loss, and under Section 23 of the Negotiable Instruments Law, is precluded from using forgery as a defense. On the other hand, the banking rule banning acceptance of checks for deposit or cash payment with more than one indorsement unless cleared by some bank officials does not invalidate the instrument; neither does it invalidate the negotiation or transfer of said checks. The only kind of indorsement which stops the further negotiation of an instrument is a restrictive indorsement which prohibits the further negotiation thereof, pursuant to Section 36 of the Negotiable Instruments Law. In light of any case not provided for in the Act that is to be governed by the provisions of existing legislation, pursuant to Section 196 of the Negotiable Instruments Law, the bank may be held liable for damages in accordance with Article 1170 of the Civil Code. The drawee bank, in its failure to discover the fraud committed by its employee and in contravention banking rules in allowing a chief accountant to deposit the checks bearing second indorsements, was adjudged liable to share the loss with Gempesaw on a 50:50 ratio.

**Associated Bank vs. CA, 1992**

**Facts:** Melissa's RTW's customers issued cross checks payable to Melissa's RTW, which its proprietor Merle Reyes did not receive. It was learned that the checks had been deposited with the Associated Bank by one Rafael Sayson. Sayson was not authorized by Reyes to deposit and encash said checks. Reyes filed an action for the recovery of the total value of the checks plus damages.

**Issue:** Whether the bank was negligent for the loss.

**Held:** Crossing a check means that the drawee bank should not encash the check but merely accept it for deposit, that the check may be negotiated only once by one who has an account in a bank, and that the check serves as warning that it was issued for a definite purpose so that he must inquire if he has received the check pursuant to that purpose. The effect, thus, relate to the mode of its presentment for payment, in accordance with Section 72 of the Negotiable Instruments Law. The bank paid the checks notwithstanding that title had not passed to the indorser, as the checks had been crossed and issued "for payee's account only." It does did so in its own peril and became liable to the payee for the value of the checks. The failure of the bank to make an inquiry as to Sayson's authority was a breach of its duty. The bank is negligent and is thus liable to Reyes.

**Moran vs. CA, 1994**

**Facts:** George and Librada Moran maintained 3 joint accounts with CityTrust Banking Corporation. The Morans issued checks in favor of Petrophil Corporation, which were dishonored for insufficiency of funds. Moran deposited the amount that would cover the checks the day after the check's clearing. Petrophil did not deliver the Morans' fuel orders for their Wack-Wack Petron Gasoline station, prompting the latter to temporarily stop business operations. The Morans sued the bank for damages.

**Issue:** Whether a bank is liable for its refusal to pay a check on account of insufficient funds, notwithstanding the fact the fact that a deposit was made later in the day.

**Held:** A check is a bill of exchange drawn on a bank payable on demand. Where the bank possesses funds of a depositor, it is bound to honor his checks to the extent of the amount of the deposits. Failure to do so, when deposit is sufficient, entitles the drawer to substantial damages without proof of actual damages. Herein, however, the balance of the account maintained in the bank was not enough to cover either of the two checks when they were dishonored. A check, as distinguished from an ordinary bill of exchange, is supposed to be drawn against a previous deposit of funds. As such, a drawer must remember his responsibilities every time he issues a check. He must personally keep track of his available balance in the bank and not rely on the bank to notify him of the necessity to fund the checks he previously issued. A bank is under no obligation to make part payment on a check, up to only the amount of the drawer's funds, where the check is drawn for an amount larger than what the drawer has on deposit. A check is intended not only to transfer a right to the amount named in it, but to serve the further purpose of affording evidence for the bank of the payment of such amount when the check is taken up. Clearly, a bank is not liable for its refusal to pay a check on account of insufficient funds, notwithstanding the fact that a deposit may be made later in the day. Before a bank depositor may maintain a suit to recover a specific amount from his bank, he must first show that he had on deposit sufficient funds to meet his demand.

**PNB vs. Quimpo, 1988**

**Facts:** Francisco Gozon was a depositor of the Philippine National Bank (PNB Caloocan City branch). Ernesto Santos, Gozon's friend, took a check from the latter's checkbook which was left in the car, filled it up for the amount of P5,000, forged Gozon's signature, and encashed it. Gozon learned about the transaction upon receipt of the bank's statement of account, and requested the bank to recredit the amount to his account. The bank refused. Hence, the present action.

**Issue:** Who shall bear the loss resulting from the forged check.

**Held:** The prime duty of a bank is to ascertain the genuineness of the signature of the drawer or the depositor on the check being encashed. It is expected to use reasonable business prudence in accepting and cashing a check being encashed or presented to it. Payment in neglect of duty places upon him the result of such negligence. Still, Gozon's act in leaving his checkbook in the car, where his trusted friend remained in, cannot be considered negligence sufficient to excuse the bank from its own negligence. The bank bears the loss.

**Republic Bank vs. CA, 1991**

**Facts:** San Miguel Corporation issued a dividend check for P240 in favor of J. Roberto Delgado, a stockholder. Delgado altered the amount of the check to P9,240. The check was indorsed and deposited by Delgado with Republic Bank. Republic Bank endorsed the check to First National City Bank (FNCB), the drawee bank, by stamping on the back of the check "all prior and / or lack of indorsements guaranteed. Relying on the endorsement, FNCB paid the amount to Republic Bank. Later on, San Miguel informed FNCB of the material alteration

of the amount. FNCB recredited the amount to San Miguel's account, and demanded refund from Republic Bank. Republic Bank refused. Hence, the present action.

**Issue:** Who shall bear the loss resulting from the altered check.

**Held:** When an indorsement is forged, the collecting bank or last indorser, as a general rule, bears the loss. But the unqualified indorsement of the collecting bank on the check should be read together with the 24-hour regulation on clearing house operation. Thus, when the drawee bank fails to return a forged or altered check to the collecting bank within the 24-hour clearing period (as provided by Section 4c of Central Bank Circular 9, as amended), the collecting bank is absolved from liability. The drawee bank, FNCB, should bear the loss for the payment of the altered check for its failure to detect and warn Republic Bank of the fraudulent character of the check within the 24-hour clearing house rule.

Westmont Bank v. Ong, 2002

**FACTS:**

Ong was supposed to be the payee of the checks issued by Island Securities. Ong has a current account with petitioner bank. He opted to sell his shares of stock through Island Securities. The company in turn issued checks in favor of Ong but unfortunately, the latter wasn't able to receive any. His signatures were forged by Tamlinco and the checks were deposited in his own account with petitioner. Ong then sought to collect the money from the family of Tamlinco first before filing a complaint with the Central Bank. As his efforts were futile to recover his money, he filed an action against the petitioner. The trial and appellate court decided in favor of Ong.

**HELD:**

Since the signature of the payee was forged, such signature should be deemed inoperative and ineffectual. Petitioner, as the collecting bank, grossly erred in making payment by virtue of said forged signature. The payee, herein respondent, should therefore be allowed to collect from the collecting bank.

It should be liable for the loss because it is its legal duty to ascertain that the payee's endorsement was genuine before cashing the check. As a general rule, a bank or corporation who has obtained possession of a check with an unauthorized or forged indorsement of the payee's signature and who collects the amount of the check other from the drawee, is liable for the proceeds thereof to the payee or the other owner, notwithstanding that the amount has been paid to the person from whom the check was obtained.

**DOCTRINE OF DESIRABLE SHORT CUT**—plaintiff uses one action to reach, by desirable short cut, the person who ought to be ultimately liable as among the innocent persons involved in the transaction. In other words, the payee ought to be allowed to recover directly from the collecting bank, regardless of whether the check was delivered to the payee or not.

On the issue of laches, Ong didn't sit on his rights. He immediately sought the intervention

of Tamlinco's family to collect the sum of money, and later the Central Bank. Only after exhausting all the measures to settle the issue amicably did he file the action.

**Sumacad v. Province of Samar, 1956**

Facts:

- A check was issued by Province of Samar to Paulino M. Santos drawn against the Philippine National Bank Cebu Branch.
- The payee negotiated the check with James McGuire.
- James McGuire presented the check to the municipal treasurer of Borongan for payment, but the latter (who merely noted it) was not able or did not choose to pay the same.
- Upon seeking payment of the check with Philippine National Bank, the latter requested the Bureau of Posts to furnish it with photostatic copies of the check and requested James McGuire to present the check to the provincial treasurer and the provincial auditor for certification.
- Before the check could be certified, the province of Samar, withdraw its money with PNB and left an insufficient balance to cover the check.
- James McGuire transferred his rights to the check to the herein plaintiffs who, unable to cash it, filed in the Court of First Instance of Samar.

Issue:

Whether PNB is liable for the amount of the Check.

Ruling:

Yes. An implied acceptance of the check by the appellant bank was thereby created. The request by the appellant bank from the Bureau of Posts for photostatic copies of the check and the subsequent requirement by it for its presentation by James McGuire to the provincial treasurer and the provincial auditor for certification, would be an empty gesture if the appellant did not thereby mean to assume the obligation of paying the check and holding sufficient deposit of the drawer for the purpose. Even so, appellant's resulting obligation is merely subsidiary, the province of Samar being primarily liable to pay the check.

**Allied Banking Corporation v. Lim Sio Wan, 2008**

Facts:

- Respondent Lim Sio Wan deposited with petitioner Allied at a money market placement.

- A person claiming to be Lim Sio Wan called up Allied to pre-terminate the money market placement and to issue a manager's check representing the proceeds of the placement.
- The bank issued Manager's Check in the name of Lim Sio Wan, as payee and the same was cross-checked "For Payee's Account Only" and given to a certain Santos.
- Thereafter, the manager's check was deposited in the account of FCC at respondent Metrobank, with the forged signature of Lim Sio Wan as indorser.
- The Allied check was deposited with Metrobank in the account of FCC as Producers Bank's payment of its obligation to FCC when the latter demanded the payment of the proceeds of its placement with Producers Bank.
- To clear the check, Metrobank stamped a guaranty on the check, which reads: "All prior endorsements and/or lack of endorsement guaranteed."
- The check was sent to Allied through the PCHC. Upon the presentment of the check, Allied funded the check even without checking the authenticity of Lim Sio Wan's purported indorsement. Thus, the amount on the face of the check was credited to the account of FCC.
- When Allied refused to pay Lim Sio Wan, claiming that the latter had authorized the pre-termination of the placement and its subsequent release to Santos, Lim Sio Wan filed the instant case.

Issue:

What are the liabilities of the parties?

Ruling:

Producers Bank must be held liable to Allied and Metrobank for the amount of the check which Allied and Metrobank are adjudged to pay Lim Sio Wan based on a proportion of 60:40.

Lim Sio Wan, as creditor of the bank for her money market placement, is entitled to payment upon her request, or upon maturity of the placement, or until the bank is released from its obligation as debtor. Until any such event, the obligation of Allied to Lim Sio Wan remains unextinguished.

In the instant case, the trial court correctly found Allied negligent in issuing the manager's check and in transmitting it to Santos without even a written authorization. In fact, Allied did not even ask for the certificate evidencing the money market placement or call up Lim Sio Wan at her residence or office to confirm her instructions. Both actions could have prevented the whole fraudulent transaction from unfolding. Allied's negligence must be considered as the proximate cause of the resulting loss.

The liability of Allied, however, is concurrent with that of Metrobank as the last indorser of the check. When Metrobank indorsed the check in compliance with the PCHC Rules and Regulations without verifying the authenticity of Lim Sio Wan's indorsement and when it accepted the check despite the fact that it was cross-checked payable to payee's account only, its negligent and cavalier indorsement contributed to the easier release of Lim Sio Wan's money and perpetuation of the fraud. Given the relative participation of Allied and Metrobank to the instant case, both banks cannot be adjudged as equally liable. Hence, the 60:40 ratio of the liabilities of Allied and Metrobank, as ruled by the CA, must be upheld.

Considering however that Producers Bank was unjustly enriched at the expense of Lim Sio Wan, Producers Bank should reimburse Allied and Metrobank for the amounts the two latter banks are ordered to pay Lim Sio Wan. With the payment of FCC’s money market placement

and interest in Producers Bank, Producers Bank's indebtedness to FCC was extinguished, thereby benefitting the former. Clearly, Producers Bank was unjustly enriched at the expense of Lim Sio.

**BPI v. CIR, 2006**

Facts:

- Petitioner BPI sold to the Central Bank of the Philippines U.S. dollars.
- BPI instructed, by cable, its correspondent bank in New York to transfer U.S. dollars deposited in BPI's account therein to the Federal Reserve Bank in New York for credit to the Central Bank's account therein.
- Thereafter, the Federal Reserve Bank sent to the Central Bank confirmation that such funds had been credited to its account and the Central Bank promptly transferred to the petitioner's account in the Philippines the corresponding amount in Philippine pesos.
- Then the CIR assessed BPI for DST for all foreign exchange sold to the Central Bank.

Issue:

- Whether BPI should be assessed for DST for all foreign exchange sold to the Central Bank.

Ruling:

Yes. The NIRC imposes a DST on (1) foreign bills of exchange, (2) letters of credit, and (3) orders, by telegraph or otherwise, for the payment of money issued by express or steamship companies or by any person or persons. This enumeration is further limited by the qualification that they should be drawn in the Philippines and payable outside of the Philippines.

The Code of Commerce loosely defines a "letter of credit" and provides for its essential conditions, thus:

Art. 567. Letters of credit are those issued by one merchant to another or for the purpose of attending to a commercial transaction.

Art 568. The essential conditions of letters of credit shall be: 1. To be issued in favor of a definite person and not to order. 2. To be limited to a fixed and specified amount, or to one or more undetermined amounts, but within a maximum the limits of which has to be stated exactly.

A bill of exchange and a letter of credit may differ as to their negotiability, and as to who owns the funds used for the payment at the time payment is made. However, in both bills of exchange and letters of credit, a person orders another to pay money to a third person.

In this case, BPI ordered its correspondent bank in the U.S. to pay the Federal Reserve Bank in New York a sum of money, which is to be credited to the account of the Central Bank. These acts performed by BPI incidental to its sale of foreign exchange to the Central Bank are included among those taxed under Section 195 (now Section 182) of the NIRC.

**Transfield Phil., Inc. v. Luzon Hydro Corp., 2004**

Facts:

Transfield entered into a turn-key contract with Luzon Hydro Corp. (LHC). Under the contract, Transfield were to construct a hydro-electric plants in Benguet and Ilocos. The contract provides for a period for which the project is to be completed and also allows for the extension of the period provided that the extension is based on justifiable grounds such as fortuitous event.

In order to guarantee performance by Transfield, two stand-by letters of credit were required to be opened. During the construction of the plant, Transfield requested for extension of time citing fortuitous events brought about by typhoon, barricades and demonstration. LHC did not give due course to the extension of the period prayed for but referred the matter to arbitration committee.

In the meanwhile, because of the delay in the construction of the plant, LHC called on the stand-by letters of credit because of default. However, the demand was objected by Transfield on the ground that there is still pending arbitration on their request for extension of time. LHC invoked the "independence principle". On the other hand, Transfield claims fraud on the part of LHC on calling the stand-by letters of credit.

Ruling:

Under the independence principle, a LC accommodation is entirely distinct and separate, independent agreement. It is not supposed to be affected by the main contract upon which it rests.

The court held for the LHC. Following the independence principle, even granting that there is still issue to be resolved arising from the turn-key project. This issue is not supposed to affect the obligation of the bank to pay the letter of credit in question. The court stressed that a LC accommodation is intended to benefit not only the beneficiary therein but the applicant thereon. On the issue of fraud, the SC held that there is nothing in the turnkey contract which states that all issues between the parties must be resolved first before LHC can call on the stand-by LC but the contract provides that if Transfield defaults, then LHC can call on these stand-by LC.

**Keng Hua vs. CA**

**Facts:**

1. Sea-Land Service, a shipping company, is a foreign corporation licensed to do business in the Philippines.
2. Sea Land received at its Hong Kong terminal a sealed container fro shipment to Keng Hua.
3. In spite of the notice previously sent by Sea Land, Keng Hua failed
to discharge the cargo during the free period.
4. Keng Hua was only able to discharge the cargo 481 days after the free period, as a result of which demurrage charges accrued. The said fees were paid by Sea Land.

5. Sea Land then asked Keng Hua for the reimbursement of the demurrage charges since under the Bill of Lading executed between Keng Hua (consignee), Ho Kee Wee (shipper) and Sea Land (carrier), both the consignee and the shipper is liable for accruing demurrage fees should the cargo be discharged beyond the grace period allowed by tariff rules.
6. Keng Hua however refused to pay prompting Sea Land to sue Keng Hua for collection of said fees.

**Keng Hua's Defense:**
Bill of Lading is only a Contract between Ho Kee Wee and Sea Land. It is not binding on Keng Hua. Under the Letter of Credit issued by Equitable Banking for Ho Kee Wee Waste Paper (seller of Keng Hua's merchandise and the shipper of the cargo), the remaining balance of the shipment was only 10 metric tons while Sea Land is asking Keng Hua to accept 20 Metric tons. Thus, if Keng Hua accepted the cargo, Keng Hua will be violating customs laws.

**RTC:**

Keng hua is laible to pay demurrage fees

**CA:**

Affirmed the liability of Keng Hua

**ISSUE:** WON Keng Hua is liable for demurrage fee

**HELD:** Yes

**RATIO:**

1. Bill of Lading binding on Ho Kee Wee, Keng Hua and Sea Land as found by CA. Though Keng Hua never expressly consented to the provisions of the Bill of Lading, there was an implied consent since Keng Hua only objected thereto after 6 months after it has received a copy of the Bill of Lading.

2. In a letter of credit, there are three distinct and independent contracts: (1) the contract of sale between the buyer and the seller, (2) the contract of the buyer with the issuing bank, and (3) the letter of credit proper in which the bank promises to pay the seller pursuant to the terms and conditions stated therein. "Few things are more clearly settled in law than that the three contracts which make up the letter of credit arrangement are to be maintained in a state of perpetual separation."

3. Hence, the contract of carriage, as stipulated in the bill of lading in the present case, must be treated independently of the contract of sale between the seller and the buyer, and the contract for the issuance of a letter of credit between the buyer and the issuing bank. Any discrepancy between the amount of the goods described in the commercial invoice in the contract of sale and the amount allowed in the letter of credit will not affect the validity and enforceability of the contract of carriage as embodied in the bill of lading. As the bank cannot be expected to look beyond the documents presented to it by the seller pursuant to the letter of credit, neither can the carrier be expected to go beyond the representations of the shipper in the bill of lading and to verify their accuracy *vis-à-vis* the commercial invoice and the letter of credit. Thus, the discrepancy between the amount of goods indicated in the invoice and the amount in the bill of lading cannot negate Keng Hua's obligation to Sea Land arising from the contract of transportation.

4. Furthermore, Sea Land, as carrier, had no knowledge of the contents of the container. The contract of carriage was under the arrangement known as "Shipper's Load And Count," and the shipper was solely responsible for the loading of the container while the carrier was oblivious to the contents of the shipment. Keng Hua's remedy in case of overshipment lies against the seller/shipper, not against the carrier.

Edward Ong v. CA, 2003

Facts:

Petitioner was convicted of estafa for violation of the Trust Receipts Law by the Regional Trial Court of Manila. He appealed his conviction to the Court of Appeals which affirmed the trial court's decision in toto. Petitioner filed a motion for reconsideration, but the same was denied. The Court of Appeals held that although petitioner is neither a director nor an officer of ARMAGRI International Corporation, he certainly comes within the term "employees or other . . . persons therein responsible for the offense" in Section 13 of the Trust Receipts Law. Hence, the present petition. Petitioner contended that the Court of Appeals erred in finding him liable for the default of ARMAGRI, arguing that in signing the trust receipts, he merely acted as an agent of ARMAGRI. Petitioner asserted that nowhere in the trust receipts did he assume personal responsibility for the undertakings of ARMAGRI which was the entrustee.

Issue:

Whether petitioner was correctly convicted of estafa.

Ruling:

Yes. Petitioner is the person responsible for the offense.

The Trust Receipts Law is violated whenever the entrustee fails to: (1) turn over the proceeds of the sale of the goods, or (2) return the goods covered by the trust receipts if the goods are not sold. The mere failure to account or return gives rise to the crime which is malum prohibitum. There is no requirement to prove intent to defraud.

The Trust Receipts Law expressly makes the corporation's officers or employees or other persons therein responsible for the offense liable to suffer the penalty of imprisonment. In the instant case, petitioner signed the two trust receipts on behalf of ARMAGRI as the latter could only act through its agents. When petitioner signed the trust receipts, he acknowledged receipt of the goods covered by the trust receipts.

**Lee v. Rodil, 1989**

Facts:

- Petitioner Rosemarie M. Lee was charged with estafa.
- The accused moved to quash the information on the ground that the facts charged do not constitute an offense.

- She alleges that the violation of a trust receipt agreement does not constitute estafa notwithstanding an express provision in the "Trust Receipts Law" (P.D. 115) characterizing such violation as estafa and therefore attacks P.D. 115 for being unconstitutional.

Issue:

Whether the violation of a trust receipt agreement constitutes the crime of estafa.

Ruling:

Yes. Acts involving the violation of trust receipt agreements occurring after 29 January 1973 would make the accused criminally liable for estafa under paragraph 1 (b), Article 315 of the Revised Penal Code, pursuant to the explicit provision in Sec. 13 of P.D. 115.

The petitioner has failed to make out a strong case that P.D. 115 conflicts with the constitutional prohibition against imprisonment for non-payment of debt. The loan feature is separate and distinct from the trust receipt. The violation of a trust receipt committed by disposing of the goods covered thereby and failing to deliver the proceeds of such sale has been squarely made to fall under Art. 315 (1)(b) of the Revised Penal Code. P.D. 115 is a valid exercise of police power and is not repugnant to the constitutional provision on non-imprisonment for non-payment of debt.

**Sia v. People, 1983**

Facts:

- Petitioner Sia was charged with estafa for violating a trust receipt agreement with Continental Bank.
- Petitioner contends that having only acted for and in behalf of the Metal Company, in dealing with Continental Bank, as President thereof, he could not be held liable for the crime charged and that the violation of a trust receipt does not constitute estafa.

Issue:

Whether Sia should be held criminally liable.

Ruling:

No. In the absence of an express provision of law making the petitioner liable for the criminal offense committed by the corporation of which he is a president as in fact there is no such provisions in the Revised Penal Code under which petitioner is being prosecuted, the existence of a criminal liability on his part may not be said to be beyond any doubt. In all criminal prosecutions, the existence of criminal liability for which the accused is made answerable must be clear and certain. The maxim that all doubts must be resolved in favor of the accused is always of compelling force in the prosecution of offenses.

Further, the trust receipt arrangement gives rise only to civil liability. The parties to a Trust Receipt agreement are deemed to have consciously entered into a purely commercial transaction that could give rise only to civil liability, never to subject the "entrustee" to

criminal prosecution which could possibly give rise to a case of imprisonment for non-payment of a debt.

If only from the fact that the trust receipt transaction is susceptible to two reasonable interpretation, one as giving rise only to civil liability for the violation of the condition thereof, and the other, as generating also criminal liability, the former should be adopted as more favorable to the supposed offender.

However, the civil liability imposed by the trust receipt is exclusively on the Metal Company as petitioner never intended to be equally liable as the corporation. Without being made so liable personally as the corporation is, there would then be no basis for holding him criminally liable, for any violation of the trust receipt.

V. DOCUMENT OF TITLE
Document of title is a document
o used as proof of possession or control
of the goods sold, or
o authorizing or purporting to authorize
the possessor of the document to
transfer or receive goods represented
by such document (Art.1636(1))
Examples:
- bill of lading
- quedan
- warehouse receipt
It may be negotiable (bearer or order) or nonnegotiable.

**WAREHOUSE RECEIPTS LAW**

**WAREHOUSE RECEIPT**

a. It is a written acknowledgement by a warehouse that he has received and holds certain goods therein described in store for the person to whom it is issued.
b. It is a simple written contract between the owner of the goods and the warehouseman to pay the compensation for that service.
c. It is a bilateral contract. It imports that goods are in the hands of a warehouseman and is a symbolical representation of the property itself.

∗ If goods are stolen and deposited by the thief with a warehouseman, the warehouseman shall not be liable to the holder of the receipt even if he delivers the goods to the real owners without the receipt being surrendered to him. **(Secs. 11 and 141, WRL)**

**MEANING OF NEGOTIABLE UNDER THE ACT**

∗ It indicates that in the passage of warehouse receipts through the channels of commerce, the law regards the property which they describe as following them and gives to their regular transfer by indorsement the effect of manual delivery of the things specified in them.

**DISTINCTION** between the right of a person to whom a receipt has been negotiated and rights of a person to whom a receipt has been transferred.

a. Rights of a person to whom a receipt has been negotiated **(Sec. 41)**:
   1. the title of the person negotiating the receipt over the goods covered by the receipt;
   2. the title of the person (depositor or owner) to whose order by the terms of the receipt the goods were to be delivered over such goods; and
   3. the direct obligation of the warehouseman to hold possession of the goods for him, as if the warehouseman directly contracted with him.

b. Rights of a person to whom receipt has been transferred **(Sec. 42)**: may be defeated by levy and execution
   1. The title of the goods as against the transferor with respect to a negotiable warehouse receipt not duly negotiated (merely steps into the shoes);
   2. If the receipt is non-negotiable, such person also acquires the right to notify the warehouseman of the transfer thereof; and
   3. The rights, thereafter, to acquire the obligation of the warehouseman to hold the goods for him.

∗ An unpaid seller's lien or right of stoppage *in transitu* cannot defeat the right of the holder in good faith of NWR.

**Sec. 25 of Warehouse Receipt Law**

∗ If goods are delivered to a warehouse man by the owner or by a person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner, and the negotiable receipts is issued for them.

∗ While in possession of such warehouseman, the goods cannot be attached or levied upon under execution UNLESS:

1. The document be first surrendered; or
2. Its negotiation is enjoined; or

1. The document is impounded by the court.

   Reason: the law protects an innocent purchaser for value in the negotiation of NWR.

* Goods covered by NWR cannot be attached or levied upon unless receipt is surrendered.

**WAREHOUSEMAN**

* A person lawfully engaged in the business of storing goods for compensation for such service.

**TO WHOM DELIVERED**

* upon demand made by the holder of receipt or depositor provided such demand is accompanied by :

   a. an offer to satisfy the WM's lien;
   b. an offer to surrender the receipt, if negotiable, with such endorsement as would be necessary for the negotiation of the receipt; and
   c. a readiness and a willingness to sign, when the goods are delivered, if such signature is requested by the warehouseman.

**WARRANTIES ON SALE OF RECEIPT: (Sec. 44)**

a. that the receipt is genuine;
b. that he has legal right to negotiate or transfer it;
c. that he has knowledge of no fact which would impair the validity or worth of the receipt; and
d. that he has a right to transfer the title to the goods and that the goods are merchantable or fit for a particular purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby.

**LETTER OF CREDIT-** those issued by one merchant to another for the purpose of attending to a commercial transaction.

**KINDS OF LETTERS OF CREDIT:**

1. **COMMERCIAL LETTER OF CREDIT** - an instrument by which a bank, for the account of a buyer of merchandise, gives formal evidence to a merchandise seller, of its willingness to permit him (the seller), to draw bills against it, on certain terms, and stipulates in legal form that all such bills will be honored.

2. **TRAVELER'S LETTER OF CREDIT**- is a letter from a bank addressed to one or more of its correspondents stating that drafts up to a certain sum drawn by the beneficiary will be honored by the bank.

**ESSENTIAL CONDITIONS OF LETTERS OF CREDIT**:

1. to be issued in favor of a definite person and not to order.
2. to be limited to a fixed and specified amount, or to one or more undetermined amounts, but within a maximum limits of which have to be stated exactly.
3. Those which do not have any of these last circumstances shall be considered as mere letters of recommendation.

**TERM/ DURATION OF A LETTER OF CREDIT**:

1. upon the period fixed by the parties
2. in its absence, within 6 months from its date in any point in the Philippines and within 12 months outside thereof

**BILL OF LADING-** written acknowledgment of receipt of goods and agreement to transport them to a specific place to a person named or to his order. It is not indispensable for the creation of a contract of carriage **(COMPANIA MARITIMA vs. INSURANCE CO. OF NORTH AMERICA, 12 SCRA 213)**

**ON BOARD BILL OF LADING**- issued when the goods have been actually placed aboard the ship with very reasonable expectation that the shipment is as good as on its way.

**FUNCTIONS OF A BILL OF LADING: (MAGELLAN, MANUFACTURING vs. CA 201 SCRA 2021)**

1. **best evidence of the existence of the contract of carriage of cargo;**
2. commercial document whereby, if negotiable, ownership may be transferred by negotiation; and
3. receipt of cargo.

**TRUST RECEIPT LAW**

**TRUST RECEIPT**

* trust receipt is a security transaction intended to aid in financing importers or dealers in merchandise by allowing them to obtain delivery of the goods under certain covenants.

**OBLIGATION OF:**

(A) ENTRUSTER
An entruster releases the title and possession of goods (over which he holds absolute

title or security interest) to an entrustee upon the latter's execution of the trust receipt.

(B) ENTRUSTEE
**(See Sec. 9 of P.D. 115 TRL)**

1. holds the goods, documents or instruments in trust;
2. receives the proceeds in trust;
3. insures the goods for their total value against loss;
4. keeps said goods or proceeds thereof;
5. binds himself to hold the goods in trust for the entruster and to sell or otherwise dispose the same and to turn over to the entruster the amount still owing;
6. returns the goods, documents or instruments if unsold or upon demand of entruster;
7. observes all other terms and conditions of the trust receipt.

**IN CASE OF LOSS: (Sec 10)** The risk of loss shall be borne by the entrustee. Loss of goods, documents or instruments which are the subject of the trust receipt, pending disposition, irrespective of whether or not it is due to the default or negligence of the entrustee shall not extinguish his obligation to the entruster for the value thereof.

* It is assumed that the title and possession is turned over to the entrustee. The law does not cover sales on credit with the title or other interest being retained by the seller as security thereof.

**NO AGENCY RELATIONSHIP IS ESTABLISHED.**

* No agency relationship is established; an entrustee's breach of trust, however, subjects him to criminal and civil liability to estafa. As held by the Supreme Court in **People vs. Cuervo (104 SCRA 312)**, the enactment of P.D. 115 with its penal sanction is, in reality, merely confirmatory of existing jurisprudence on situations covered by Article 315 of the

Revised Penal Code. Thus, the court ruled, an entrustee in a trust receipt who failed to account for the proceeds of the goods sold or to return the goods, as the case maybe, is guilty of estafa even where the offense was committed before the promulgation of P.D. 115 on June 29, 1973. But unlike the old rule, P.D. 115 now expresses a criminal liability on the part of responsible officers of corporation and judicial entities.

**NOTE:** The borrower continues to be the owner of the goods and may not exempt himself from liability by offering the goods to the bank.