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ACCORDINGLY, the decision of the trial court dated September 28, 1987 is AFFIRMED with the modification that accused-appellant is ordered to pay the amount of P40,000.00 as civil indemnity to the victim.

SO ORDERED.

Narvasa (Chairman), Cruz, Gancayco and *Griño-Aquino, JJ.*, concur.

FIRST DIVISION

(G.R. No. 84588. May 29, 1991)

THE CONSOLIDATED BANK AND TRUST CORPORATION (SOLIDBANK), *petitioner, vs.* HONORABLE COURT OF APPEALS, F. ANTONIO M. ANDAL AND ANTONIO ROXAS CHUA, *respondents.*

(G.R. No. 84659. May 29, 1991)

F. ANTONIO M. ANDAL AND ANTONIO ROXAS CHUA, JR., *petitioners, vs.* HONORABLE COURT OF APPEALS, AND THE CONSOLIDATED BANK AND TRUST CORPORATION, *respondents.*

SYLLABUS

1. REMEDIAL LAW; CIVIL PROCEDURE; MOTION TO DISMISS; GROUPS THEREFOR; LACK OF CAUSE OF ACTION; RULE.-- The rule is that a defendant moving to dismiss a complaint on the ground of lack of a cause of action is regarded as having hypothetically admitted all the averments thereof. The test of the sufficiency of the facts found in a petition, as constituting a cause of action, is whether or not, admitting the facts alleged, the Court can render a valid judgment upon the same in accordance with the prayer thereof. In determining the existence of a cause of action, only the statements in the complaint

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may properly be considered. We have held that it is error for the court to take cognizance of external facts or hold preliminary hearings to determine their existence. If the allegations in a complaint furnish sufficient basis by which the complainant can be maintained, the same should not be dismissed regardless of the defenses that may be averred by the defendants. As suggested Sutherland, the following questions may be used as a guide to determine the sufficiency of a cause of action: (1) Does the complaint show that the plaintiff has suffered an injury? (2) Is it an injury which the law recognizes as a wrong and for which it provides a remedy? (3) Is the defendant liable for the alleged wrong done? (4) If the defendant is liable, to what extent is he liable, and what will be the remedy for such injury?

2. ID.; ID.; ID.; ID.; ID.; DEFERMENT OF RESOLUTION THEREOF NOT PROPER.-- It should be pointed out, that the respondent court erred in holding that the resolution of the motion to dismiss on the ground of insufficient cause of action, could be deferred if the ground did not appear to be indubitable. While the trial court has discretion to defer the hearing if the ground for a motion to dismiss is not indubitable, such deferment would be in excess of its jurisdiction if the ground of the motion is lack of cause of action. As the allegations in the complaint are deemed hypothetically admitted with the filing of the motion, the motion to dismiss can be resolved without waiting for trial on the merits.

3. ID.; ID.; CAUSE OF ACTION; SUFFICIENT IN CASE AT BAR.-- It has been hypothetically admitted that Solidbank has been prejudiced in the amount of P16,381,889.53, which represents the total obligation under the various promisory notes UPLFC executed in its favor. This obligation is legally demandable. Moreover, although it is conceded to be a corporate debt for which the corporate officers and stockholders cannot ordinarily be held personally liable, the complaint contained the allegation that the officers of UPLFC had fraudulently collected from their debtors the accounts which they had previously assigned to Solidbank and failed to remit the same to the latter. If this is true, then they can be held personally liable in accordance with Sec. 31 of the Corporation Code, which states that: Sec. 31. Liability of Directors, trustees or officers. - Directors or trustees who will fully and knowingly vote for the assent to patently

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unlawful acts of the corporation, or who are guilty of gross negligence or bad faith in directing, the affair of the corporation or acquire any personal or pecuniary interest or conflict with their duty as such directors or trustees shall be liable jointly and severally for all damages resulting therefrom suffered by the corporation, its stockholders or members and other persons. x x x It is the opinion of the Court that the complaint sufficiently stated a cause of action and that the denial of the motion for its dismissal was not improper.

4. ID.; PROVISIONALS REMEDIES; PRELIMINARY ATTACHMENT; GRANT THEREOF UNDER SECTION 1 (B) OF RULE 57 OF THE RULES OF COURT; FIDUCIARY CAPACITY APPLIES ONLY TO THE PHRASE *"ANY OTHER PERSON"*.-- Sec. 1. *Grounds upon which the attachment may issue.* - A plaintiff or any proper party may at the commencement of the action or at any time thereafter have the property of the adverse party attached as security for the satisfaction of any judgment that may be recovered in the following cases: x x x (b) In an action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity, or for a willful violation of duty; When the embezzlement of money or property is committed by a defendant who is a public officer, or an officer of a corporation, or is an attorney, factor, broker or agent or clerk of the plaintiff, it is not necessary to establish his fiduciary capacity as this is assumed from the nature of his position. According to Francisco in his authoritative work, it is only when the misappropriation was committed by *any other person* (i.e., other than those mentioned above) that has fiduciary relationship with the plaintiff will have to be established.

5. ID.; ID.; ID.; MAYBE ISSUED *EX PARTE*.-- It is worth noting that a writ of attachment may be ordered issued even *ex parte*, provided that there is compliance with Sec. 3 of Rule 5 57, thus: Sec. 3. *Affidavit and bond required.* - An order of attachment shall be granted only when it is made to appear by the affidavit of the applicant, or of some other persons who personally knows of the facts that a sufficient cause of action exists, that the cause is one of those mentioned in Sec. 1 hereof, that there is no other

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sufficient security for the claim sought to be enforced by the action, and that the amount due to the applicant, or the value of the property the possession of which he is entitled to recover, as much as the sum for which the order is granted above all legal counterclaims. The affidavit and the bond required by the next succeeding section must be duly filed with the clerk or judge of the court before the order issues. The absence of notice or hearing is allowed on the ground that the defendant might abscond or dispose of his property before a writ of attachment is actually issued. The judge before whom the application is made has full discretion in considering the supporting evidence proffered by the applicant. The sufficiency or insufficiency of an affidavit depends upon the amount of credit given to it by the judge, and its acceptance or rejection is left to his sound discretion.

6. ID.; ID.; ID.; DISCHARGE OF THE WRIT NOT PROPER IN CASE AT BAR.-- The complaint of Solidbank was filed because of the failure of UPLFC to remit the proceeds of the assigned receivable which had allegedly been converted by its officers. The alleged fraud was the reason why UPLFC was unable to remit the collection. Considering that this ground for the issuance of the writ if attachment is the very basis of the complaint itself, we feel that a trial on the merits of this issue is necessary. The discharge the attachment order on the ground that no such fraud was committed would have the effect of deciding or prejudging the principal action. The merits of the complaint are not triable in a motion to discharge an attachment; otherwise an applicant for the dissolution of the writ could force a trial of the merits of the case on the strength alone of the motion.

7. ID.; APPEAL; RULE ON EFFECT OF REVERSAL OF JUDGMENT TO PARTIES WHO FAILED TO APPEAL; EXCEPTIONS; CASE AT BAR.-- The lifting of the writ which was made to cover even the defendants who did not appeal was not juridically defective. The general rule on this matter is that a reversal of a judgment on appeal is binding on the parties to the suit but does not inure to the benefit of parties who did not join in the appeal. The exception is when their rights and liabilities and those of the parties appealing are so interwoven and dependent as to be inseparable, in which case a reversal as to one operates as a reversal to all. This exception is applicable to the defendants who did not appeal because the complaint against them arose from their collective transactions with Solidbank.

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APPEARANCES OF COUNSEL

Tañada, Vivo & Tan and *C.M. de los Reyes & Associates* for Solidbank.

Gonzales, Batiller, Bilog & Associates for F. Antonio Andal and Antonio Roxas Chua, Jr.

DECISION

CRUZ, *J.*:

These two cases have been consolidated because they involve the same decision rendered by the respondent court in CA G.R. SP No. 12425.[1]

For resolution are the issues of: (1) the sufficiency of a complaint sought to be dismissed for failure to state a cause of action; and (2) the validity of the issuance of a writ of preliminary attachment.

The case started on January 21, 1987, when Consolidated Bank and Trust Company (hereinafter referred to as Solidbank) filed a complaint for recovery of a sum of money, with prayer for preliminary attachment, against United Pacific Leasing and Financing Corporation (henceforth, UPLFC) and Antonio M. Andal and his spouse.[2]

The plaintiff claimed that by virtue of a Term Loan Line granted to UPLFC in September, 1982, credit facilities in the aggregate amount of P20 million were made available to the said corporation. In exchange, the defendant executed in favor of Solidbank deeds of assignment of various receivables of UPLFC to be applied to the payment of the loan. Efforts at collecting from the assigned credits proved fruitless, and the several demands for payment made upon the defendant were ignored.

In support of the prayer for preliminary attachment, the complaint alleged that --

11. The defendants, in bad faith and by employing illegal machinations, successfully enticed plaintiff bank into granting them

[1] De Paño, Jr., *J., ponente*: Fule and Torres, Jr., *concurring*.

[2] Annex "C." *Rollo*, pp. 66-71, G.R. No. 84659.

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enormous credit facilities in an aggregate amount of *P20 million* upon the security of Deeds of Assignment of receivables of its debtors which at the inception the defendants never intended to fulfill, as manifested by their fraudulent acts of collecting directly from their account debtors of the receivables which they no longer own since said receivables were already assigned and owned by the plaintiff bank. Defendants never informed their account debtors of the fact of assignments of their debts to the plaintiff bank, nor remitted the proceeds or collection of the receivables to the plaintiff bank, appropriating the same for their own use and benefit to the damage and prejudice of the plaintiff bank.

12. The propensity of the defendants to commit fraudulent acts and transactions are discernible from the letters dated February 11, 1986 and May 27, 1986 of DELFIN P. ANGCAO, Securities and Exchange Specialist and from ROSARIO N. LOPEZ, Associate Commissioner, respectively, denouncing the defendants' failure to submit substantial documents necessary in the determination of its financial condition as well as reprimanding the same to desist from engaging in financing company activities until a certificate of authority is secured.

13. The fraudulent acts of the defendants are grounds for attachment under Rule 57, Secs. b and d of the Rules of Court.

On January 26, 1987, Judge Ceferino Gaddi of the Regional Trial Court of Manila granted the prayer for preliminary attachment.[3]

The original complaint was amended on February 17, 1987, with the impleading of Antonio Roxas Chua, Jr., Luis Tirso Revilla, Jose F. Unson, Oscar T. Africa, Ricardo Zarate, Albert W. Ambs and their respective spouses as additional defendants. The aforenamed individuals were members of the board of directors of UPLFC. Their respective wives were included in order to bind their separate conjugal partnerships on the ground that these had benefited from the acts complained of.[4]

On March 6, 1987, Antonio Andal and Antonio Roxas Chua, Jr., with their respective spouses, filed a motion to lift the order of attachment. They also moved to dismiss the case itself, claiming failure to state a cause of action against them because: (a) there was no privity of contract between them and the plaintiff; (b) the

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[3] Annex "D." *Rollo*, p. 102, G.R. No. 84659.
[4] Annex "F." *Rollo*, pp. 104-110, G.R. No. 84659.

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defendant corporation had a legal personality distinct and separate from that of its stockholders/officers/directors; and (c) there was no legal basis for the alleged solidary liability of the defendants.[5]

On June 2, 1987, the trial court issued an omnibus order dissolving the writ of attachment as to the spouses of the individual defendants but retaining the same against the latter. It also denied the motion to dismiss.[6]

The trial court, while deferring resolution of the alleged absence of privity of contract between the parties, noted that the complaint contained allegations that the individual defendants, as members of the board of directors of UPLFC, had employed illegal machinations in obtaining enormous credit facilities for the corporation. It further declared that the grounds for the motion were not indubitable and would require the presentation of evidence before they could be resolved.

The motion to reconsider the above order insofar as it denied the motion to dismiss filed by Andal and Chua, Jr. was denied by the trial court on July 13, 1987.

On July 23, 1987, Andal and Chua questioned these orders before the respondent court in a petition for *certiorari* and prohibition with application for a writ of preliminary injunction. This was docketed as CA G.R. SP No. 12425, entitled Andal, Chua, Jr. *v.* Hon. Gaddi and Solidbank.

In its decision dated March 4, 1988, the respondent court modified the assailed orders.[7]

The respondent court first declared that the trial court was authorized to defer the resolution of the motion to dismiss because the grounds therefor did not appear to be indubitable.

Regarding the legal basis for the issuance of the writ of preliminary attachment, the respondent court observed that the grounds relied upon, to wit, Sec. 1(b) and (d) of Rule 57 of the Rules of Court, were not applicable. Solidbank could not invoke Sec. 1(b) because it had no fiduciary relationship with the individual

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[5] Annex "J." *Rollo*, pp. 122-129, G.R. No. 84659.
[6] Annex "A." *Rollo*, pp. 58-64, G.R. No. 84659.
[7] *Rollo*, pp. 18-26, G.R. No. 84658.

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defendants. No allegation had been made to that effect in the complaint. Neither were the individual defendants public officers nor were they related to Solidbank in any manner as officers, attorneys, factors or the like.

The respondent court added that the plaintiffs could not rely either on Sec. 1(d) because the application for the issuance of the writ failed to point out any fraudulent act committed by the defendants in contracting the debt. The initial loan of P5 million incurred on September 28, 1982, and the final loan of P.5 million acquired on April 18, 1985, were received by UPLFC and not by any of the individual defendants. Moreover, there was no allegation in the complaint that the individual defendants had committed the alleged fraud contemporaneously with the contracting of the loan. And even if such fraud had indeed been committed, this was nevertheless done in October 1985, several months after the last grant of P500,000.00, made on April 18, 1985.

Finding this decision unsatisfactory, both parties have appealed to this Court.

In G.R. No. 84659, the petitioners insist that the complaint failed to state a cause of action against them because they are not privy to the contract executed between Solidbank and UPLFC.

In G.R. No. 84588, the petitioners allege that the respondent court committed grave abuse of discretion in not lifting the writ of preliminary attachment. They also question the ruling of the court that the lifting should in effect also inure to the benefit of the defendants who did not appeal.

We come first to the alleged lack of a cause of action.

The rule is that a defendant moving to dismiss a complaint on the ground of lack of a cause of action is regarded as having hypothetically admitted all the averments thereof.[8] The test of the sufficiency of the facts found in a petition, as constituting a cause of action, is whether or not, admitting the facts alleged, the Court can render a valid judgment upon the same in accordance with the

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[8] Heirs of Ildefonso Cosculla, Sr. v. Rico General Insurance Corp., 179 SCRA 511; Martinez v. United Finance Corp., 34 SCRA 524; Garcon v. Redemptorist Fathers, 17 SCRA 341.

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prayer thereof.

In determining the existence of a cause of action, only the statements in the complaint may properly be considered. We have held that it is error for the court to take cognizance of external facts or hold preliminary hearings to determine their existence.[9] If the allegations in a complaint furnish sufficient basis by which the complaint can be maintained, the same should not be dismissed regardless of the defenses that may be averred by the defendants.[10]

As suggested by Sutherland, the following questions may be used as a guide to determine the sufficiency of a cause of action: (1) Does the complaint show that the plaintiff has suffered an injury? (2) Is it an injury which the law recognizes as a wrong and for which it provides a remedy? (3) Is the defendant liable for the alleged wrong done? (4) If the defendant is liable, to what extent is he liable, and what will be the legal remedy for such injury?[11]

It has been hypothetically admitted that Solidbank has been prejudiced in the amount of P16,381,889.53, which represents the total obligation under the various promissory notes UPLFC executed in its favor. This obligation is legally demandable. Moreover, although it is conceded to be a corporate debt for which the corporate officers and stockholders cannot ordinarily be held personally liable, the complaint contained the allegation that the officers of UPLFC had fraudulently collected from their debtors the accounts which they had previously assigned to Solidbank and failed to remit the same to the latter. If this is true, then they can be held personally liable in accordance with Sec. 31 of the Corporation Code, which states that:

Sec. 31. *Liability of directors, trustees or officers.* - Directors or trustees who wilfully and knowingly vote for or assent to patently unlawful acts of the corporation, or who are guilty of gross negligence or bad faith in directing the affair of the corporation or acquire any personal or pecuniary interest or conflict with their duty as such directors or trustees shall be liable jointly and severally for all damages resulting

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[9] D.C. Crystal Incorporation v. Laya, 170 SCRA 234.

[10] Reiñares v. Arrastria, 115 Phil. 726.

[11] Sutherland's Code Pleading Practice and Forms, p. 167 cited in Francisco's Civil Procedures, Vol. 1, 1971 ed., pp. 939-940.

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therefrom suffered by the corporation, its stockholders or members and other persons.

. . . . . .

It is the opinion of the Court that the complaint sufficiently stated a cause of action and that the denial of the motion for its dismissal was not improper.

It should be pointed out, however, that the respondent court erred in holding that the resolution of the motion to dismiss on this ground could be deferred if the ground did not appear to be indubitable. While the trial court has discretion to defer the hearing if the ground for a motion to dismiss is not indubitable, such deferment would be in excess of its jurisdiction if the ground of the motion is lack of a cause of action. As the allegations in the complaint are deemed hypothetically admitted with the filing of the motion, the motion to dismiss can be resolved without waiting for trial on the merits.[12]

We now resolve the issue of the lifting of the writ of attachment.

The respondent court held that Sec. 1(b) of Rule 57 of the Rules of Court was not applicable in the absence of fiduciary relationship between Solidbank and the officers of UPLFC. However, there is nothing in Sec. 1(b), which is reproduced below, to warrant such conclusion:

Sec. 1. *Grounds upon the attachment may issue.* - A plaintiff or any proper party may at the commencement of the action or at any time thereafter have the property of the adverse party attached as security for the satisfaction of any judgment that may be recovered in the following cases:

. . . . . .

(b) In an action for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or an officer of a corporation, or an attorney, factor, broker, agent or clerk, in the course of his employment as such, or by any other person in a fiduciary capacity, or for a willful violation of duty;

When the embezzlement of money or property is committed by a defendant who is a public officer, or an officer of a corporation, or is an attorney, factor, broker or agent or clerk of the plaintiff, it

[12] Foster Parents Plant Int./Bicol v. Demetriou, 142 SCRA 505.

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is not necessary to establish his fiduciary capacity as this is assumed from the nature of his position. According to Francisco in his authoritative work, it is only when the misappropriation was committed by *any other person* (i.e., other than those mentioned above) that his fiduciary relationship with the plaintiff will have to be established.[13]

It is pointless therefore to insist that there is no fiduciary relationship between Solidbank and the defendants, who are officers not of Solidbank but of UPLFC. This argument is immaterial. Such a relationship does not have to be shown because it suffices that the questioned acts were committed by the officers of UPLFC in the course of their duties and not by "any other person in a fiduciary capacity."

The second ground relied upon by Solidbank in its ancillary action for attachment is the first portion of Sec. 1(d), which provides that the writ may issue:

Sec. 1 . . .

(d) In an action against a party who has been guilty of a fraud in contracting the debt or incurring the obligation upon which the action is brought. . . .;

It is worth noting that a writ of attachment may be ordered issued even *ex parte*,[14] provided that there is compliance with Sec. 3 of Rule 57, thus:

Sec. 3. *Affidavit and bond required.* - An order of attachment shall be granted only when it is made to appear by the affidavit of the applicant, or of some other persons who personally knows of the facts, that a sufficient cause of action exists, that the case is one of those mentioned in Sec. 1 hereof, that there is no other sufficient security for the claim sought to be enforced by the action, and that the amount due to the applicant, or the value of the property the possession of which he is entitled to recover, as much as the sum for which the order is granted above all legal counterclaims. The affidavit and the bond required by the next succeeding section must be duly filed with the clerk or judge of the court before the order issues.

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[13] Francisco's Revised Rules of Court in the Phil., Vol. IV-A, 1971 ed., p. 16.

[14] Toledo *v.* Burgos, 168 SCRA 513; Filinvest Credit Corp., Inc. *v.* Relova, 117 SCRA 420; Belisle Investment & Finance Corp. Inc. *v.* State Investment House, Inc., 151 SCRA 630.

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The absence of notice or hearing is allowed on the ground that the defendant might abscond or dispose of his property before a writ of attachment is actually issued.[15] The judge before whom the application is made has full discretion in considering the supporting evidence proffered by the applicant. The sufficiency or insufficiency of an affidavit depends upon the amount of credit given to it by the judge, and its acceptance or rejection is left to his sound discretion.[16]

In light of the foregoing principle and the above-quoted rule, we find that the trial court complied with the procedural requirements when it issued the writ of attachment. What presently concerns this Court is the question of whether or not the respondent court committed grave abuse of discretion when it lifted the said writ.

The fraud that the rules require under the said provision must have been committed *contemporaneously* with the contracting of the debt or obligation. As alleged in the complaint itself, the assignment of receivables was done sometime in October 1985, or several months subsequent to the grant of the loan of P500,000.00 on April 18, 1985. Even if it be assumed that the collection of the receivables by UPLFC after their assignment to Solidbank was a form of fraud, it is nevertheless true, as the respondent court has noted, that it was not committed in contracting the debt.

We agree with this conclusion. However, it should be made clear that, contrary to the findings of the respondent court, the assignment of receivables could not have been made only in October 1985. Two circumstances would negate this. The first is that in a correspondence dated October 28, 1985, Solidbank was already asking for the remittance of the collections previously assigned to it.[17] The second is that the certified list of assigned receivables issued to UPLFC showed that the earliest expiry date thereof was January 30, 1982.[18] If indeed the assignment was made on October 28, 1985, simple prudence would have dissuaded Solidbank from accepting the receivables which were more than three years overdue.

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[15] Mindanao Savings & Loan Asso., Inc. v. CA, 172 SCRA 480.
[16] La Grande v. Samson, 58 Phil. 578 cited in Toledo v. Burgos, 168 SCRA 513.
[17] *Rollo*, p. 81, G.R. No. 84659.
[18] *Rollo*, pp. 82-84 G.R. No. 84659

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At any rate, there is no proof that when the assignment was made, it was already the intention of UPLFC not to make good on its obligation. It was incumbent upon Solidbank to establish the alleged fraudulent intent of UPLFC, but it has failed to do this. Aside from its bare allegations that what induced it to extend the P20 million Term Loan was the assignment of the receivables, there is nothing in the record to show that UPLFC meant to defraud the plaintiff at the outset. And even if it be assumed that the assignment was indeed simultaneous with the loan, there is no evidence of when UPLFC started to directly receive payments on the receivables.

It was only on October 28, 1985, that the demand to remit the previous collections was made by Solidbank. Since the earliest loan was granted sometime in 1982, it would appear that the UPLC was able to fulfill its obligations to Solidbank from 1982 to 1985. This would disprove the alleged intent of the borrower to defraud Solidbank at the time the loan was contracted.

The complaint of Solidbank was filed because of the failure of UPLFC to remit the proceeds of the assigned receivables which had allegedly been converted by its officers. The alleged fraud was the reason why UPLFC was unable to remit the collection. Considering that this ground for the issuance of the writ of attachment is the very basis of the complaint itself, we feel that a trial on the merits of this issue is necessary. The discharge the attachment order on the ground that no such fraud was committed would have the effect of deciding or prejudging the principal action. The merits of the complaint are not triable in a motion to discharge an attachment; otherwise, an applicant for the dissolution of the writ could force a trial of the merits of the case on the strength alone of the motion.[19]

The lifting of the writ which was made to cover even the defendants who did not appear was not jurisdictionally defective. The general rule on this matter is that a reversal of a judgment on appeal is binding on the parties to the suit but does not inure to the benefit of parties who did not join in the appeal. The exception is when their rights and liabilities and those of the parties appealing are so interwoven and dependent as to be inseparable, in which case

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[19] G.B. Inc. v. Sanchez, 98 Phil. 886; Mindanao Savings v. CA 172 SCRA 480.

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a reversal as to one operates as a reversal to all. [20] This exception is applicable to the defendants who did not appeal because the complaint against them arose from their collective transactions with Solidbank.

WHEREFORE, the challenged orders of the respondent court dated June 2, 1987 and July 13, 1987, are MODIFIED, and a new judgment is entered:

(1) in G.R. No. 84659, AFFIRMING the denial of the motion to dismiss the complaint; and

(2) in G.R. No. 84588, REVERSING the lifting of the writ of preliminary attachment, which is hereby REINSTATED, subject to the posting of the required bond, pending trial of the complaint on the merits.

SO ORDERED.

Narvasa (Chairman), Gancayco and *Medialdea, JJ.*, concur.
Griño-Aquino, J., on leave.

THIRD DIVISION

(G.R. No. 87437. May 29, 1991)

JOAQUIN M. TEOTICO, *petitioner, vs.* DEMOCRITO O. AGDA, SR., and HON. JUDGE IGNACIO M. CAPULONG, Regional Trial Court, Branch No. 134, Makati, Metro Manila, *respondents.*

SYLLABUS

1. CONSTITUTIONAL LAW; CIVIL SERVICE; TRANSFER OR ASSIGNMENT TO OTHER PLACE.-- Where respondent has not been appointed to any specific station but merely *designated* as *Acting Regional Administrator For* FIDA

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[20] 4 C.J. 1206, Alling *v.* Wenzel, 132 111, 264-278 cited in Gov't. of the Phil. *v.* Tizon, 20 SCRA 1182; Petilla *v.* CA, 151 SCRA 1.