

Obligations on Banks when paying cheques >>

What should happen when a bank pays a cheque and the account holder complains that it should not have been paid. The Victorian case of Nemur Varity Pty Limited v NAB discussed these issues.

The Nemur case involved the wrongful payment of insurance premium monies leaving some clients of Nemur uninsured.

The judges said that:

- The paying bank is wrong if it pays cheques to a party not named on the cheque when it is obvious that the party drawing the cheque intended it for someone else.
- The normal damages when cheques are wrongly paid is the face value of the cheques.
- Sometimes, there might be greater damage if it flowed from the wrong payment.
- A bank should not pay a cheque if the drawer of the cheque would not have paid it.

In summary, the normal damages for a wrongly paid cheque is the face value of the cheque. If the drawer of the cheque would not have reasonably paid the cheque it would be wrong for the bank to do so. Damages may be greater if it can be shown that the damages flowed from the wrongful payment.

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