

## CASE NOTE: GREECE

CASE CITATION:  
5526/1999

NAME AND LEVEL OF COURT:  
Athens Court of First Instance

JUDGE:  
Gavalas Dimitrios

**Composed by the judge Gavalas Dimitrios, Judge of First Instance, who is appointed by the President of the Board of Administration consisting of three members and by the secretary Anna Blazaki.**

The court held a public meeting on the 7th January 1998 to rule in the case between:

The claimant I. M. resident of Kalamaki who was present with his attorney A.K.

The defendants

1. The Banking Company with the corporate name A.B sited in Athens and is legally represented
2. I. X.
3. K. E. who are represented by the attorney L.T.

The claimant asks for his claim, number 4132/1996 for which the day of hearing was determined the 12/2/1997, to be accepted. During the day of hearing, the court procedure was postponed.

During the proceedings the attorneys of the parties developed their allegations and asked for the acceptance of everything that is mentioned in their minutes and claims.

### After considering the pleadings

#### Based on the law

The claimant, with the claim in question states that, on the 24/1/1995 he entered into branch number 116 of the Bank situated in Suggrou Avenue and as a response to an advertising campaign of the Bank, opened a savings account, depositing the amount of 1.100.000 drachmas (equivalent of 3.300 €). That after filling in the application form, the CASHCARD-DEBIT “the first banking and debit card” was posted to him by mail while he was made aware of his Personal Secret Code (also known as Personal Identification Number, or PIN). That on the 12/10/1995 unknown persons committed burglary in his car and removed his bag and the above mentioned card. The claimant, in order to suspend his account, informed the first defendant within a few minutes, but as a result of the negligence shown by the two later defendants, the account was not suspended and the thieves removed the amount of 1.200.000 drachmas (equivalent of 3.600 €) from his account. As a

consequence, the claimant seeks the issuance of a copy of the transactions statement of the account which belongs jointly to him and his wife. Additionally, he demands that the defendants pay the amount of 1.200.000 drachmas (equivalent of 3.600 €) jointly and completely along with the legal interest from the 12/10/95 or from the 30/11/95 or from the service of the claim. In addition, he asks for the issued decision to be temporarily executed and for the defendants to be ordered to the payment of his legal costs.

The claim, including the above content, is propitiously discussed in this Court of competent regional and objective jurisdiction for the judgment of this case under the normal procedure, and is also legally admitted based on sections 830 of the Greek Civil Code, 907, 908, and 176 of the Greek Code of the Civil Procedure and should be further investigated for its essential acceptance given that the appropriate legal stamp has been already deposited.

From the depositions of the witnesses who were examined during the oral procedure in the Court and from the legal documents that are invoked, the parties admitted the following facts: On the 24/1/1995 the claimant entered into branch number 116 of the Bank sited in Suggrou Avenue and opened a joint savings account in his name and in the name I.G of his wife with the following number [ ], depositing at the same day the amount of 1.100.000 drachmas. Afterwards the claimant filled in an application form which included general terms and conditions drafted in advance on behalf of the Bank for an unlimited number of future contracts, with which he requested the issuance of a card for the purpose of automatic transactions. Some weeks later, the claimant received by mail the CASHCARD – DEBIT “the first banking and debit card” while he was made aware of his personal security number (PIN). The claimant had neither used the card in any transaction, nor assigned the card to anyone or confided the PIN to any other person. On the 12/10/1995 at 14.10 the claimant parked and locked his car outside 584 Vouliagmenis Avenue and entered into an air conditioning store. When he came out of the store, three minutes later, he noticed the burglary of his car from which his bag with all his personal belongings and his card were removed together with the other credit cards, nevertheless the document that mentioned his personal identification number was not removed.

