

PACIFICO T. BRANZUELA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

THE CASE

Before this court is a joint petition for review under Rule 42 seeking the reversal of the Joint Judgment[1] dated 29 May 2009 of the Regional Trial Court, 7th Judicial Region, Branch 1, City of Tagbilaran in Crim. Case Nos. 14058-14075, dismissing the appeal of the petitioner, Pacifico T. Branzuela, and accordingly, affirming the MTCC's judgment[2] dated 18 July 2008 finding him guilty of eighteen (18) counts of violation of Batas Pambansa Blg. 22, otherwise known as the Bouncing Check Law.

THE FACTUAL ANTECEDENTS

On 12 July 2006, City Prosecutor Bibiana Z. Bautista filed against the petitioner eighteen (18) separate informations,[3] which are identically worded, except for the check number, the amount and the date, as follows:

“That on or about the 24[th] day of May, 2005 in the City of Tagbilaran, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that he did not have sufficient funds deposited with the bank, did, then and there, willfully, unlawfully, and feloniously make out and issue Check No. 0108311 dated May 24, 2005 in the amount of FIFTEEN THOUSAND EIGHT HUNDRED TWELVE PESOS (P15,812.00), Philippine Currency, drawn against Pilipino Rural Bank (PRBank), Tagbilaran City Branch and pay to the order of Bohol People's Lumber Corp. and thereafter, did then and there, willfully, unlawfully and feloniously pass on, give and deliver the said check to Engr. Albert M. Uy in payment of a certain obligation; however, upon presentment of the check for encashment or payment at its drawee bank within a period ninety (90) days from the date appearing thereon, the same was dishonored and refused payment for the reason “DRAWN AGAINST INSUFFICIENT FUNDS” and the accused neither paid nor made arrangement with the drawee bank within five (5) banking days from receipt of a written notice of non-payment, and despite demand to redeem the said check, accused has failed and refused and still fails and refuses to do so, to the damage and prejudice of the said Albert M. Uy, in the amount to be proved during the trial of the case.

Acts committed contrary to the provisions of Batas Pambansa Bilang 22.”

Hereunder are the details in the seventeen (17) Informations filed against the petitioner, to wit:

Check No. Date Value

0109743 May 27, 2005

P19,247.00

0109742 May 31, 2005

P19,545.00

0110506 June 3, 2005

P 7,560.00

0109719 June 4, 2005

P23,320.00

0109714 June 11, 2005

P21,350.00

0110523 June 17, 2005

P12,794.00

0111469 June 15, 2005

P 9,744.00

0110167 June 18, 2005

P 8,735.00

0110504 July 4, 2005

P14,326.00

0110515 June 30, 2005

P16,892.00

0110538 June 25, 2005

P17,775.00

0110505 June 24, 2005

P11,505.00

0110152 June 21, 2005

P16,015.00

0111493 July 8, 2005

P11,916.00

0111466 July 10, 2005

P 8,496.00

0111485 July 11, 2005

P11,270.00

0111465 July 15, 2005

P 9,374.00

When arraigned, the petitioner pleaded not guilty. Records will show that the prosecution presented the testimony of the private complainant and Exhibits “A” to “U”, with submarkings; while the defense offered the testimony of the petitioner and Exhibits “1” and “2”, with submarkings.

As culled from the judgment of the Municipal Trial Court in Cities (MTCC), the facts of the case are as follow:

“Prosecution's evidence

Engr. Albert Uy, Manager of Bohol People's Lumber Corporation located along M. Parras St., City of Tagbilaran, declared that he knew accused Pacifico Branzuela having been one of their clients/customers. On several occasions, accused purchased on credit various construction materials from Bohol People's Lumber Corporation payable on a fixed and certain period of time and he issued the eighteen (18) checks subject matter of these cases (Exhs. “D” thru “U”) in payment of his obligation, vouching that the said checks were good and sufficiently funded.

Complainant presented the checks to the drawee bank for payment on their due dates but the same were dishonored on the ground of DAIF (drawn against insufficient funds) or Account Closed as shown in the Check Return Advice (Exhs. “D-1” thru “U-1”). He personally informed the accused that his checks were dishonored. A demand letter advising accused of the dishonor of the checks was sent by his counsel to the accused (Exh. “C”) by registered mail as shown by Registry Receipt No. 4447 (Exh. “C-1”) and the same was received by someone whose signature was not legible per Registry Return Receipt (Exh. “C-2”).

Weeks after the demand letter was sent to accused he came to complainant's office to settle his obligation. But despite repeated demands made, accused failed to and still fails to redeem the checks to the damage and prejudice of the complainant.”

“Defense's Evidence

Accused maintained that he issued the checks subject matter of these cases to the Bohol People's Lumber Corporation only as an evidence of indebtedness and in compliance with the requirements of said corporation for purchase on credit. Their agreement was that the checks would not be presented or deposited to the bank for payment but they shall be replaced by the accused with cash as the checks were not funded with the knowledge of the complainant. But despite such agreement, Bohol People's Lumber Corp. presented the checks to the bank for payment.

Accused claimed that no written notice was sent to him to give him the opportunity to make good the checks or make arrangement with the bank within five (5) banking days from receipt of the written notice. If ever there was a written notice of dishonor sent to him as claimed by private complainant Engr. Albert Uy, he did not receive the same. He only knew that the checks were dishonored when he received the Court Order directing him to submit counter-affidavit.

On cross-examination, accused admitted that he issued the subject checks in payment of the construction materials procured from Engr. Albert M. Uy. He had conversation with Engr. Uy regarding his checks which bounced and he undertook to pay obligation in installment. He made payment of P15,872.00.”

Unfortunately, the MTCC did not lend credence to the to the defense put up by appellant.

THE RULING OF THE MUNICIPAL TRIAL COURT IN CITIES

“WHEREFORE, Judgment is hereby rendered as follows:

1. In Criminal Case No. 16630:

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt oif Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of FIFTEEN THOUSAND EIGHT HUNDRED

TWELVE PESOS (P15,812.00) Philippine Currency, with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of FIFTEEN THOUSAND EIGHT HUNDRED TWELVE PESOS (P15,812.00) representing the value of PRBank Check No. 0108311 dated May 24, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS AND 50/100 (P1,392.50) and to pay the costs;

X X X X

SO ORDERED.”

In convicting the petitioner, the MTCC ratiocinated, that,

“The main issue to be resolved is whether or not accused can be held guilty of Violation of Batas Pambansa Bilang 22.

Section 1 of Batas Pambansa Bilang 22 provides for the elements of the crime to be committed, to wit:

1)

the making, drawing and issuance of any check to apply to account or for value;

2)

the knowledge of the maker, drawer, or issuer that at the time of issue he does not have sufficient funds in or credit with the drawee bank for the payment of the check in full upon its presentment; and

3)

the subsequent dishonor of the check by the drawee bank for insufficiency of funds or credit or dishonor for the same reason had not the drawer, without any valid reason ordered the bank to stop payment.

Based on the evidence presented, the Court finds that elements 1 and 3 are present. Accused issued the checks in question and the checks when presented for payment were dishonored for the reason “DRAWN AGAINST INSUFFICIENT FUNDS” or “ACCOUNT CLOSED”. Whether the checks were issued as security or guaranty as claimed by accused is of no moment. Criminal liability attaches whether the checks were issued in payment of an obligation or to guarantee payment of that obligation. 'What the law punishes is the issuance of a bouncing check and not the purpose for which the check was issued, nor the terms and conditions of its issuance – the contention that the accused issued the checks merely to guarantee payment of her obligation is hardly a defense.’ (Caras vs. Court of Appeals and People of the Philippines, 366 SCRA 371)

As to element No. 2 of knowledge by the accused that at the time of issue of the subject checks he does not have sufficient funds or credit with the drawee bank for the payment of the checks in full upon its presentment. It is difficult for the prosecution to prove this element because it involves a state of the mind. However, Section 2 of Batas Pambansa Bilang 22 provides that:

'The making, drawing and issuance of a check payment of which is refused by the drawee bank because of insufficient funds in or credit with such bank, when presented within ninety (90) days from the date of the check, shall be prima facie evidence of knowledge of such insufficiency of funds or credit unless such maker or drawer pays the holder thereof the amount due thereon, or makes arrangements for payment in full by the drawee of such check within five (5) banking days after receiving notice that such check has not been paid by the drawee.'

The evidence shows that the checks were presented for payment within ninety (90) days from the date of the checks. There was a demand letter dated May 4, 2006 signed by complainant's counsel, Atty. Florendo C.

Columnas, addressed to the accused (Exh. "C") and sent by registered mail on May 11, 2006 as shown by registry receipt No. 4447 (Exh. "C-1") and was received by someone whose signature is not legible per registry return receipt (Exh. "C-2").

The accused, however, denied having received a demand letter or notice of dishonor.

The Court noted that the demand letter (Exh. "C") was sent to the accused at Purok 5, Barangay Mariveles, Dauis, Bohol. It is the same address used by the Court when furnishing copies of Orders and subpoena to the accused and one was received by one Jean Branzuela, one time by his wife and another was received by one whose signature resembles that of the accused. These means that communications for the accused at his given addresses were received.

The Court believes that the demand letter was received at the residence of the accused as it was delivered by the letter carrier at this given address and was received by one of the occupants thereat. The signature of the recipient even resembles two (2) major strokes of the accused's signature as appearing in the subject checks, in his counter-affidavit and in his signatures on the records when made to sign for his appearances on agreed court settings.

As held by the Supreme Court in a long line of cases, the gravamen of the offense is the act of making and issuing a worthless check or any check that is dishonored upon its presentment for payment (*Lim vs. People*, 340 SCRA 497). It is a crime classified as *malum prohibitum*. The mere act of issuing a worthless check, either as a deposit, as a guarantee, or even as an evidence of a pre-existing debt or as a mode of payment is covered by B.P 22.

The Court therefore finds the prosecution to have prove the guilt of the accused Pacifico T. Branzuela beyond reasonable doubt of Violation of Batas Pambansa Bilang 22 and for the civil liability attached to it. The payee of the check is entitled to receive the money for which the worthless check was issued. Having been caused the damage, the complainant is entitled to recompense (*Banal vs. Tadeo, Jr.*, 156 SCRA 325) in the amount of the face value of the check involved (*Wong v. Court of Appeals, et. al.*, 359 SCRA 457)

As to attorney's fees, its award is the exception rather than the rule in this jurisdiction and the Court opts to go by the general rule.

The Court however finds it proper to cause the reimbursement of filing fee expenses incurred by the private complainant.

Violation of Batas Pambansa Bilang 22 is punishable by the penalty of imprisonment of not less than thirty (30) days but not more than one (1) year or by a fine of not less than but not more than double the amount of the check which fine shall in no case exceed Two Hundred Pesos (P200,000.00), or both such fine and imprisonment at the discretion of the Court. However, in keeping with the Supreme Court Administrative Circular No. 12-2000 and 13-2001 and the present trend of jurisprudence in this kind of cases, the Court prefers to impose the penalty of fine."

THE RULING OF THE REGIONAL TRIAL COURT

On appeal,[4] the Regional Trial Court affirmed the MTCC's judgment, thus-

"THIS APPELLATE COURT, sustains the above-findings of the trial Court. Having heard the witnesses, observed their demeanor during the trial in these cases, this Court does not disturbed the said findings and conclusions of the Court a-quo.

WHEREFORE, premises considered, this Court AFFIRMS the conviction of the accused. Thus –

1. Criminal Case No. 14058
(Cr C No. 16630, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of FIFTEEN THOUSAND EIGHT HUNDRED TWELVE PESOS (P15,812.00) Philippine Currency, with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of FIFTEEN THOUSAND EIGHT HUNDRED TWELVE PESOS (P15,812.00) representing the value of PRBank Check No. 0108311 dated May 24, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

2. In Criminal Case No. 14059
(Cr C No. 16631, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of NINETEEN THOUSAND TWO HUNDRED FORTY[-]SEVEN PESOS (P19,247.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of NINETEEN THOUSAND TWO HUNDRED FORTY[-]SEVEN PESOS (P19,247.00) representing the value of PRBank Check No. 0109743 dated May 27, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

3. In Criminal Case No. 14060
(Cr C No. 16632, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of NINETEEN THOUSAND FIVE HUNDRED FORTY[-]FIVE PESOS (P19,545.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of NINETEEN THOUSAND TWO HUNDRED FORTY[-]FIVE PESOS (P19,545.00) representing the value of PRBank Check No. 0109742 dated May 31, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

4. In Criminal Case No. 14061
(Cr C No. 16633, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of SEVEN THOUSAND FIVE HUNDRED SIXTY PESOS (P7,560.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of SEVEN THOUSAND FIVE HUNDRED SIXTY (P7,560.00) representing the value of PRBank Check No. 0110506 dated June 3, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

5. In Criminal Case No. 14062
(Cr C No. 16634, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of TWENTY THREE THOUSAND THREE HUNDRED TWENTY PESOS (P23,320.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of TWENTY THREE

THOUSAND THREE HUNDRED TWENTY PESOS (P23,320.00) representing the value of PRBank Check No. 0109719 dated June 4, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

6. In Criminal Case No. 14063
(Cr C No. 16635, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of TWENTY-ONE THOUSAND THREE HUNDRED FIFTY PESOS (P21,350.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of TWENTY-ONE THOUSAND THREE HUNDRED FIFTY PESOS (P21,350.00) representing the value of PRBank Check No. 0109714 dated June 11, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

7. In Criminal Case No. 14064
(Cr C No. 16636, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of TWELVE THOUSAND SEVEN HUNDRED NINETY[-]FOUR PESOS (P12,794.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of TWELVE THOUSAND SEVEN HUNDRED NINETY[-]FOUR PESOS (P12,794.00) representing the value of PRBank Check No. 0110523 dated June 17, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

8. In Criminal Case No. 14065
(Cr C No. 16637, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of NINE THOUSAND SEVEN HUNDRED FORTY[-]FOUR PESOS (P9,744.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of NINE THOUSAND SEVEN HUNDRED FORTY[-]FOUR PESOS (P9,744.00) representing the value of PRBank Check No. 0111469 dated June 15, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

9. In Criminal Case No. 14066
(Cr C No. 16638, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of EIGHT THOUSAND SEVEN HUNDRED THIRTY[-]FIVE PESOS (P8,735.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of EIGHT THOUSAND SEVEN HUNDRED THIRTY[-]FIVE PESOS (P8,735.00) representing the value of PRBank Check No. 0110167 dated June 18, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

10. In Criminal Case No. 14067
(Cr C No. 16639, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang

22, he is hereby sentenced to suffer the penalty of fine of FOURTEEN THOUSAND THREE HUNDRED TWENTY[-]SIX PESOS (P14,326.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of FOURTEEN THOUSAND THREE HUNDRED TWENTY[-]SIX PESOS (P14,326.00) representing the value of PRBank Check No. 0110504 dated July 4, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

11. In Criminal Case No. 14068

(Cr C No. 16640, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of SIXTEEN THOUSAND EIGHT HUNDRED NINETY[-]TWO PESOS (P16,892.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of SIXTEEN THOUSAND EIGHT HUNDRED NINETY[-]TWO PESOS (P16,892.00) representing the value of PRBank Check No. 0110515 dated June 30, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

12. In Criminal Case No. 14069

(Cr C No. 16641, MTCC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of SEVENTEEN THOUSAND SEVEN HUNDRED SEVENTY[-]FIVE PESOS (P17,775.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of SEVENTEEN THOUSAND SEVEN HUNDRED SEVENTY[-]FIVE PESOS (P17,775.00) representing the value of PRBank Check No. 0110538 dated June 25, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

13. In Criminal Case No. 14070

(Cr C No. 16642, MCTC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of ELEVEN THOUSAND FIVE HUNDRED FIVE PESOS (P11,505.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of ELEVEN THOUSAND FIVE HUNDRED FIVE PESOS (P11,505.00) representing the value of PRBank Check No. 0110505 dated June 24, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

14. In Criminal Case No. 14071

(Cr C No. 16643, MCTC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of SIXTEEN THOUSAND FIFTEEN PESOS (P16,015.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of SIXTEEN THOUSAND FIFTEEN PESOS (P16,015.00) representing the value of PRBank Check No. 0110152 dated June 21, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

15. In Criminal Case No. 14072

(Cr C No. 16644, MCTC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of ELEVEN THOUSAND NINE HUNDRED SIXTEEN PESOS (P11,916.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of ELEVEN THOUSAND NINE HUNDRED SIXTEEN PESOS (P11,916.00) representing the value of PRBank Check No. 0111493 dated July 8, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

16. In Criminal Case No. 14073

(Cr C No. 16645, MCTC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of EIGHT THOUSAND FOUR HUNDRED NINETY[-]SIX PESOS (P8,496.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of EIGHT THOUSAND FOUR HUNDRED NINETY[-]SIX PESOS (P8,496.00) representing the value of PRBank Check No. 0111466 dated July 10, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

17. In Criminal Case No. 14074

(Cr C no. 16646, MCTC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of ELEVEN THOUSAND TWO HUNDRED SEVENTY PESOS (P11,270.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of ELEVEN THOUSAND TWO HUNDRED SEVENTY PESOS (P11,270.00) representing the value of PRBank Check No. 0111485 dated July 11, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount of ONE THOUSAND THREE HUNDRED NINETY[-] TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

18. In Criminal Case No. 14075

(Cr C No. 16647, MCTC)

Finding accused Pacifico T. Branzuela guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22, he is hereby sentenced to suffer the penalty of fine of NINE THOUSAND THREE HUNDRED SEVENTY[-]FOUR PESOS (P9,374.00) Philippine Currency with subsidiary imprisonment in case of insolvency and to pay the private complainant Engr. Albert M. Uy the sum of NINE THOUSAND THREE HUNDRED SEVENTY-FOUR PESOS (P9,374.00) representing the value of PRBank Check No. 0111465 dated July 15, 2005 and to reimburse private complainant the filing fee expenses in this case in the total amount ONE THOUSAND THREE HUNDRED NINETY[-]TWO PESOS and 50/100 (P1,392.50) and to pay the costs;

THE APPEAL is hereby ordered DISMISSED.

SO ORDERED.”

Hence, this joint petition wherein the petitioner makes the following assignment of errors:

“1[st]

THE RTC APPELLATE COURT GRAVELY ERRED IN AFFIRMING THE JOINT JUDGMENT OF THE

COURT A QUO FINDING THAT ACCUSED PACIFICO T. BRANZUELA ACTUALLY RECEIVED THE WRITTEN NOTICE OF DISHONOR; and

2[nd]

THE RTC APPELLATE COURT GRAVELY ERRED IN AFFIRMING THE JOINT JUDGMENT OF THE COURT A QUO FINDING THAT ACCUSED PACIFICO T. BRANZUELA IS GUILTY BEYOND REASONABLE DOUBT DESPITE OF THE FACT THAT PACIFICO T. BRANZUELA DID NOT ACTUALLY RECEIVE THE WRITTEN NOTICE OF DISHONOR.”

The petitioner's contention:

As settled in *Betty King v. People of the Philippines*, there must be proof of actual receipt of the notice of dishonor by the maker, drawer or issuer of the dishonored checks and that such person failed within five banking days from receipt of the notice to pay the holder of the check the amount due thereon or to make arrangement for its payment. Absent such proof, the prosecution for violation of BP 22 cannot prosper.

Therefore, the court a quo's finding that he actually received the notices of dishonor just because these notices were sent to the same address used by the court when sending copies of its orders and subpoena and allegedly received by persons residing thereat does not mean that he actually received them. In fact, the demand letter that was supposedly sent was “received by someone whose signature is not legible per registry return receipt.” Absent proof of his actual receipt of the notices of dishonor, the prosecution cannot claim to have proven his guilt beyond reasonable doubt.

The respondent People's contention:

In *Lee v. CA* (G.R. No. 145498, January 17, 2005), “the prima facie presumption of knowledge of insufficiency of funds can be established through the demand letter sent to petitioner which was duly received as shown by the registry return receipt.” Similarly, in this instance, “the prosecution successfully established the prima facie presumption of 'knowledge of insufficiency' of funds through the personal demand made by private complainant to petitioner and the formal demand letter sent to petitioner which he duly received as shown by the registry return receipts (Exhibits “C” and series bearing his signature), after the checks were dishonored after due presentment for encashment by private complainant.”

What is more, as observed by the trial and appellate courts the records will disclose that the signature on the subject checks and that on the registry return card are the same. More important, the records will likewise disclose that after the checks were dishonored, the petitioner received the demand letter and subsequently, a meeting was held between the petitioner and the private complainant to discuss the manner by which the petitioner will settle his obligation, which the petitioner confirmed in his cross-examination.

The petitioner's knowledge of the dishonor is further proven by the voluntary partial payment of P10,000.00, which he made on 3 October 2007, after he met with the private complainant.

Therefore, “considering that the finding of facts of the MTCC were based on facts and case laws, which was affirmed by the RTC on appeal, the same are conclusive (*Gaviola v. People*, G.R. No. 163927, January 27, 2006).

Both parties filed their respective memorandum.[5]

THE ISSUE

The threshold issue to be resolved is whether or not the petitioner is liable for violation of B.P. Blg. 22.

THIS COURT'S RULING

The petition lacks merit.

As to how one may be held liable for violation of BP 22, the case of *San Mateo v. People*,^[6] is instructive, viz -

To be liable for violation of B.P. 22, the following essential elements must be present: (1) the making, drawing, and issuance of any check to apply for account or for value; (2) the knowledge of the maker, drawer, or issuer that at the time of issue he does not have sufficient funds in or credit with the drawee bank for the payment of the check in full upon its presentment; and (3) the subsequent dishonor of the check by the drawee bank for insufficiency of funds or credit or dishonor for the same reason had not the drawer, without any valid cause, ordered the bank to stop payment.

In the case at bar, all three elements have been sufficiently established to be present. The second element, though, needs a thorough discussion since it has to be shown that the issuer, in this case the petitioner, at the time of the issuance of the check had knowledge that he did not have enough funds or credit with the drawee bank for the payment thereof upon its presentment. It cannot be overemphasized that the second element involves a state of mind, which is difficult to verify. On this consideration, "Section 2 of BP 22 creates a presumption *juris tantum* that the second element *prima facie* exists when the first and third elements of the offense are present".

In this instance, the petitioner denies receiving the notices of dishonor. He alleges that the prosecution failed to present evidence that the demand letters/notices of dishonor supposedly sent to his residence were actually received by him.

We are not persuaded.

At this juncture, we agree with the MTCC's finding, which was affirmed by the Regional Trial Court, that the petitioner, indeed, received the notices of dishonor/demand letters sent to him by the private complainant. Viz -

"The Court noted that the demand letter (Exh. "C") was sent to the accused at Purok 5, Barangay Mariveles, Dauis, Bohol. It is the same address used by the Court when furnishing copies of Orders and subpoena to the accused and one was received by one Jean Branzuela, one time by his wife and another was received by one whose signature resembles that of the accused. These means that communications for the accused at his given addresses were received.

The Court believes that the demand letter was received at the residence of the accused as it was delivered by the letter carrier at this given address and was received by one of the occupants thereat. The signature of the recipient even resembles two (2) major strokes of the accused's signature as appearing in the subject checks, in his Counter-Affidavit and in his signatures on the records when he made to sign for his appearance on agreed court settings.

More important, the petitioner admitted in his cross-examination that he met with the private complainant before the filing of the cases against him to discuss the dishonor of the subject checks and to settle this matter as it was seen to be causing a conflict between them. That, it was in that meeting that he promised to pay his obligations with the private complainant, which obligations arose from the bum checks he issued. To wit -

"Q:

You made mentioned a while ago that there was a some sort of a meeting or conference between you and Albert Uy in the house of Albert Uy regarding the matter that the checks issued by you were not honored, that is correct?

A:

Yes.

Q:

You would confirm that other than you and Albert Uy there were other members of BCBP?

A:

Yes.

Q:

And the action group leader at that time was a certain Mr. Tabel, who is now deceased?

A:

Yes, Dodong Tabel.

Q:

And that happened even before Engr. Albert Uy filed a complaint against you in the Office of the City Prosecutor, that correct?

A:

Yes, Sir.

Q:

The purpose of such conference held was to settle that matters projected conflict between you and Engr, Albert Uy and Engr. Albert Uy on the dishonor of your checks, that is correct?

A:

Yes, Sir.

Q:

And in that particular settlement, there were or you undertook and promised to pay in installment payments your obligations from Engr. Albert Uy arising from the checks which bounced the subject matter of these cases.

A:

Yes, Sir.”[7]

Indeed, opportunity was afforded the petitioner to do something about the bum checks he issued but he forfeited such an opportunity. Hence, the petitioner has no one but himself to blame for it.

Since the three elements of the offense punished under the first paragraph of Section 1 of BP Blg. 22 are present in this instance, we do not find any error in the Regional Trial Court's affirmation of the trial court's joint judgment convicting the petitioner of violation of BP Blg. 22. Verily, in *People v. Ng*,[8]

The trial court's determination as to the credibility of witnesses and its findings of fact should be accorded great weight and respect more so when affirmed by the appellate court. To reiterate, a look at the records shows no facts of substance and value that have been overlooked, which, if considered, might affect the outcome of the instant appeal. Deference to the trial court's findings must be made as it was in the position to easily detect whether a witness is telling the truth or not.

WHEREFORE, the Joint Judgment dated 29 May 2009 of the Regional Trial Court, 7[th] Judicial Region, Branch 1 of the City of Tagbilaran in Crim. Case Nos. 14058, 14059, 14060, 14061, 14062, 14063, 14064, 14065, 14066, 14067, 14068, 14069, 14070, 14071, 14072, 14073, 14074 and 14075 is hereby AFFIRMED in toto.

SO ORDERED.

Maxino, P.A.A., and Francisco, R.C., JJ., concur.

[1] Annex “A”, Original Records, pp. 39-60.

[2] Annex “B”, Original Records, pp. 61-72.

[3] Annexes “C” to “C-17”, Rollo, pp. 73-108.

[4] Joint Notice of Appeal dated 30 September 2008, Rollo, p. 130.

[5] Petitioner's Memorandum, Rollo, pp. 202-210. Memorandum of Authorities filed by the OSG, Rollo, pp. 211-221.

[6] Erlinda C. San Mateo v. People of the Philippines, G.R. No. 200090, March 6, 2013.

[7] TSN dated June 11, 2008 as quoted in the Private Complainant's Brief filed with the RTC, Rollo, pp. 148-154. With Annexes. People's Comment, Rollo, pp. 184-199.

[8] People of the Philippines v. Ng Yik Bun, et. al., G.R. No. 180452, January 10, 2011. Citing People v. Macabare, G.R. No. 179941, August 25, 2009, 597 SCRA 119, citing People v. Mateo, G.R. No. 179036, July 28, 2008, 560 SCRA 375.

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