

TERESITA A. DIMAANO, PETITIONER, VS PEOPLE OF THE PHILIPPINES, RESPONDENT.

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MACALINO, J:

The Case

Assailed and sought to be reversed and set aside in this Petition for Review[1] under Rule 42 of the Rules of Court are the Joint Decision[2] dated February 19, 2013 (“Assailed Decision”) and the Order[3] dated April 18, 2013 (“Assailed Order”) of the Regional Trial Court (“RTC”) of Calapan City, Oriental Mindoro, Branch 40 in Crim. Case Nos. CR-12-10,620 to CR-12-10,623 for violation of Batas Pambansa Bilang 22 (“B.P. 22”). The dispositive portions of the assailed issuances read:

Assailed Decision

“ACCORDINGLY, the decision dated 30 May 2012 of the lower court subject of this appeal is hereby AFFIRMED in toto.

SO ORDERED.”[4]

Assailed Order

“ACCORDINGLY, the Motion for Reconsideration is hereby DENIED for lack of merit.

SO ORDERED.”

The Facts

In separate Informations[5] dated February 28, 2008, Petitioner Teresita A. Dimaano (“Petitioner”) was charged with four (4) counts of violation of B.P. 22, committed as follows:

Crim. Case No. 6076

“That on or about the 24[th] day of August 2006, at Barangay Sampaguaita, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with fraudulent deceit, did then and there willfully, unlawfully and feloniously draw and issue an East West Bank Check No. 0000511623 dated October 10, 2006, in the amount of TWO HUNDRED THOUSAND PESOS (Php200,000.00), Philippine Currency, drawn against her account with the said bank in favor of ALELI ENSSNER, in payment of one hundred sixty (160) sacks of rice, knowing that at the time of issue of such check she has no sufficient funds in or credit with the said bank to cover the amount called for in said check, and without informing the payee thereof, for which the said check, upon presentment for payment with the said bank, was subsequently dishonored and rejected and accused failed to pay the holder thereof the amount due thereon or deposit the amount necessary to cover her check within five (5) banking days from receipt of notice from the bank and/or the payee or holder thereof that said check has been dishonored for reason of “ACCOUNT CLOSED” or to pay her obligation to said ALELI ENSSNER as called for in the said check despite repeated demands, to the damage and prejudice of the latter in the said sum.”

Crim. Case No. 6077

“That on or about the 28[th] day of August 2006, at Barangay Sampaguaita, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named

accused, with fraudulent deceit, did then and there willfully, unlawfully and feloniously draw and issue an East West Bank Check No. 0000511671 dated October 11, 2006, in the amount of TWO HUNDRED FIFTY THOUSAND PESOS (PhP250,000.00), Philippine Currency, drawn against her account with the said bank in favor of ALELI ENSSNER, in payment of two hundred fifty-five (255) sacks of rice, knowing that at the time of issue of such check she has no sufficient funds in or credit with the said bank to cover the amount called for in said check, and without informing the payee thereof, for which the said check, upon presentment for payment with the said bank, was subsequently dishonored and rejected and accused failed to pay the holder thereof the amount due thereon or deposit the amount necessary to cover her check within five (5) banking days from receipt of notice from the bank and/or the payee or holder thereof that said check has been dishonored for reason of "ACCOUNT CLOSED" or to pay her obligation to said ALELI ENSSNER as called for in the said check despite repeated demands, to the damage and prejudice of the latter in the said sum."

Crim. Case No. 6078

"That on or about the 31[st] day of August 2006, at Barangay Sampaguita, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with fraudulent deceit, did then and there willfully, unlawfully and feloniously draw and issue an East West Bank Check No. 0000511601 dated October 2, 2006, in the amount of ONE HUNDRED THOUSAND PESOS (PhP100,000.00), Philippine Currency, drawn against her account with the said bank in favor of ALELI ENSSNER, in payment of eighty (80) sacks of rice, knowing that at the time of issue of such check she has no sufficient funds in or credit with the said bank to cover the amount called for in said check, and without informing the payee thereof, for which the said check, upon presentment for payment with the said bank, was subsequently dishonored and rejected and accused failed to pay the holder thereof the amount due thereon or deposit the amount necessary to cover her check within five (5) banking days from receipt of notice from the bank and/or the payee or holder thereof that said check has been dishonored for reason of "ACCOUNT CLOSED" or to pay her obligation to said ALELI ENSSNER as called for in the said check despite repeated demands, to the damage and prejudice of the latter in the said sum."

Crim. Case No. 6079

"That on or about the month of September 2006, at Barangay Sampaguita, Municipality of Naujan, Province of Oriental Mindoro, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with fraudulent deceit, did then and there willfully, unlawfully and feloniously draw and issue an East West Bank Check No. 0000511670 dated October 12, 2006, in the amount of SEVEN HUNDRED THOUSAND PESOS (PhP700,000.00), Philippine Currency, drawn against her account with the said bank in favor of ALELI ENSSNER, in payment of five hundred sixty nine (569) sacks of rice, knowing that at the time of issue of such check she has no sufficient funds in or credit with the said bank to cover the amount called for in said check, and without informing the payee thereof, for which the said check, upon presentment for payment with the said bank, was subsequently dishonored and rejected and accused failed to pay the holder thereof the amount due thereon or deposit the amount necessary to cover her check within five (5) banking days from receipt of notice from the bank and/or the payee or holder thereof that said check has been dishonored for reason of "ACCOUNT CLOSED" or to pay her obligation to said ALELI ENSSNER as called for in the said check despite repeated demands, to the damage and prejudice of the latter in the said sum."

When arraigned on October 15, 2008, Petitioner pleaded not guilty to the crimes charged.[6] At the pre-trial held on April 15, 2009, the parties arrived at the following stipulations:

- "1. That the accused [Petitioner] issued the East West Bank Check No. 0000511623
2. That a demand letter dated November 09, 2006 was sent to the accused and was received by the accused." [7]

During trial and in her Sinumpaang Salaysay[8] dated January 16, 2007, private complainant Aleli Enssner ("Enssner") sought to establish that she is a businesswoman engaged in the sale of rice. Sometime in August

2006, Enssner met Petitioner in the former's rice mill in Brgy. Sampaguita, Naujan, Oriental Mindoro. Introducing herself as a rice dealer in Marikina, Santolan and Sta. Ana, Petitioner allegedly bought 160 sacks of rice from Enssner and issued to the latter Eastwest Bank Check No. 0000511623 dated October 10, 2006 for the amount of PhP200,000.00. The entire 160 sacks of rice were delivered to Petitioner's house in Marikina on August 24, 2006.

After a few days, Petitioner returned to Enssner's rice mill and purchased 255 more sacks of rice. As consideration for the said sale, Petitioner issued to Enssner Eastwest Bank Check No. 0000511671 dated October 11, 2006 in the amount of PhP250,000.00. The goods were delivered on August 28, 2006 by Enssner and Rhea Fabricas ("Fabricas") to Petitioner in Marikina and Santolan.[9]

Thereafter, Petitioner again bought 80 sacks of rice from Enssner, for which she issued Eastwest Bank Check No. 0000511601 dated October 2, 2006 for the amount of PhP100,000.00. The sacks of rice subject of the sale were delivered to Petitioner in Santolan on August 31, 2006.

For the fourth time, in September 2006, Petitioner purchased 569 sacks of rice from Enssner. As payment therefor, Petitioner issued to Enssner Eastwest Bank Check No. 0000511670 dated October 12, 2006 worth PhP700,000.00. The voluminous sacks of rice were delivered to Petitioner in Marikina, Santolan and Sta. Ana on September 9 and 14, 2006.

Upon presentment by Enssner to the bank, however, the four (4) subject checks were dishonored for reason of "Account Closed". When notified of such dishonor, Petitioner offered to Enssner a land titled in her name as payment for her purchases. Yet, upon verification from the Register of Deeds, Enssner discovered that Petitioner's land title was spurious. Verbally and through a written demand, Enssner asked Petitioner to make good her obligation which nonetheless proved futile. Enssner thus instituted Crim. Case Nos. 6076 to 6079 for violation of B.P. 22 and Crim. Case Nos. CR-08-9150 to CR-08-9153 for estafa against Petitioner. Crim. Case Nos. 6076 to 6079 were filed with the Municipal Trial Court ("MTC") of Naujan, Oriental Mindoro, while Crim. Case Nos. CR-08-9150 to CR-08-9153 were assigned to Branch 39 of the RTC of Calapan City, Oriental Mindoro.

For her part, Petitioner vehemently denied the accusations against her through her testimony and her Sinumpaang Salaysay[10] dated February 17, 2010. According to Petitioner, it was she who sold rice to Enssner in August 2006. They then became close friends and exchanged contact details, including their respective addresses.

A few days later, Enssner came to Petitioner's house in Marikina with a truckload of rice. Avowedly, the sacks of rice were not sold due to a price disagreement between Enssner and the supposed buyer. Hence, Enssner asked permission for the unloading of the said sacks of rice in the house of Petitioner and requested the latter to help her sell the same.

Although Petitioner acceded to Enssner's request, she did not know how to sell the rice. Notwithstanding this, Enssner's driver returned to Petitioner's house with another truckload of rice. This time, Petitioner asked a friend in Sampaloc to accommodate them as there was no more storage space in her house.

Later, Petitioner found a buyer of rice, who was allowed by Enssner to purchase through credit. In turn, Enssner asked Petitioner to lend her two (2) checks which she will show to her supplier of rice. Apparently, all the sacks of rice delivered by Enssner to Petitioner were also acquired by the former through credit. Petitioner thus gave Enssner two (2) blank checks, provided she will not present them for payment.

After two (2) weeks, Enssner's truck came back with sacks of rice, which were unloaded to Petitioner's cousin in San Andres. Again, Enssner allegedly borrowed from Petitioner additional two (2) checks in blank. Petitioner once more reminded Enssner not to present the checks for payment since she already makes online deposits of the sale proceeds to Enssner's UCPB account. Petitioner recalled that she even went to Enssner's house in Naujan to

hand her the proceeds of the sale of rice amounting to PhP100,000.00. Enssner, however, did not issue any receipt.

Shortly thereafter, Enssner's truck driver and her secretary, Fabricas, again arrived at Petitioner's house to unload sacks of rice. Due to her busy schedule, Petitioner made online remittances of the buyers' payments amounting to PhP298,000.00 to Enssner's UCPB account.

Petitioner maintained that she warned Enssner that her Eastwest Bank checking account has no sufficient funds and that it was Enssner who filled up the entries in the blank checks contrary to their agreement. She thus asserted her innocence because she does not owe Enssner the amounts stated in the Informations.

On May 30, 2012, the MTC rendered a Decision[11] in Crim. Case Nos. 6076 to 6079 decreeing as follows:

“Premises considered[,] judgment is hereby rendered sentencing the accused to suffer imprisonment of thirty (30) days for each count of violation of B.P. 22 [as] aforestated and ordering the accused to pay the private complainant the total amount of P1,250,000.00 representing the aggregate amount of the subject checks and another P50,000.00 as and for attorney's fees.

SO ORDERED.”[12]

The MTC found the prosecution's version of the story more credible because it is consistent with human reason and experience as well as with the mercantile norms of the given and similar situations. It observed that “the testimony of the accused that she merely lent the subject four (4) checks to Enssner without intention of having the same deposited or presented for payment is a cheap run around to evade the provisions of Batas Pambansa Blg. 22. It is a case of invoking one's own foolishness just to be exonerated from the conviction of an offense designated as *malum prohibitum*.”[13] Likewise, it ruled that the admitted signature in Eastwest Bank Check No. 0000511623 and those of the denied signatures in Eastwest Bank Check Nos. 000051671, 0000511601 and 0000511670 (“the disputed checks”) are the same and similar with no noticeable distinctions; and that notably, the denied signatures passed the signature verifier of the drawee bank. Since what is punished by B.P. 22 is not the failure to pay an obligation but the issuance of checks that subsequently bounced or were dishonored for insufficiency or lack of funds, and it is a basic precept in Negotiable Instruments Law that an endorsement in blank gives the endorsee an authority to fill up the instrument to the extent of the actual obligation, the MTC found Petitioner's conviction in order.

Aggrieved, Petitioner filed her Notice of Appeal[14] dated July 5, 2012. Her appeal, docketed as Crim. Case Nos. CR-12-10,620 to CR-12-10,623, was assigned to Branch 40 the RTC of Calapan City, Oriental Mindoro.

As aforementioned, the RTC in the Assailed Decision affirmed in toto the MTC's May 30, 2012 Decision. In addition to the MTC's findings, the RTC ruled that although Petitioner claimed payment to Enssner of the sale price of the sacks of rice, she adduced no proof to support such claim.

Petitioner moved for a reconsideration[15] of the Assailed Decision but still failed to secure a favorable judgment as the RTC in the Assailed Order denied her motion for lack of merit.

The Issue

Hence, Petitioner resorted to filing the instant Petition for Review raising the sole issue of:

“WHETHER THE REGIONAL TRIAL COURT ERRED IN AFFIRMING THE DECISION OF THE MUNICIPAL TRIAL COURT OF NAUJAN, ORIENTAL MINDORO”[16]

Our Ruling

We affirm Petitioner's conviction.

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.[17]

It must be noted that with respect to the first check, Eastwest Bank Check No. 0000511623, Petitioner admitted having issued the same. But to exonerate herself from liability on the disputed checks, Petitioner maintains that she did not affix her signature thereon, thus implying that the same were forged.

We are not persuaded.

Allegations of forgery, like all other allegations, must be proved by clear, positive, and convincing evidence by the party alleging it. It should not be presumed but must be established by comparing the alleged forged signature with the genuine signatures. Although handwriting experts are often offered as witnesses, they are not indispensable because judges must exercise independent judgment in determining the authenticity or genuineness of the signatures in question.[18]

Here, the MTC judge observed that the signatures in Eastwest Bank Check No. 0000511623 and the disputed checks are similar and have no striking differences. This determination was likewise confirmed by the RTC on appeal. Moreover, in this Petition for Review, Petitioner neither submitted Eastwest Bank Check No. 0000511623 and the disputed checks for comparison nor presented a sample of her true signature. Thus, Petitioner's defense of forgery must fail for she did not adduce any evidence in support thereof.

Having established that her signatures on the four (4) subject checks are genuine, Petitioner cannot successfully claim that the lack of material details thereon, which Enssner later filled up, falls short of the first element. The MTC correctly reasoned that pursuant to Section 14 of the Negotiable Instruments Law, where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. Hence, the moment the instrument is completed, the presumption is that the instrument was completed with prior authority from the maker or the drawer and that the person who completed the instrument did not exceed his authority. It is up to the maker or drawer to prove that there was no authority to complete the instrument or fill up the blank portions or that the person who completed the instrument exceeded his authority.[19] Except for her bare allegations, however, Petitioner failed to prove that Enssner had no authority to complete the four (4) subject checks.

Petitioner's defense that the four (4) subject checks were merely lent by her to Enssner must likewise be rejected. That the check was not intended to be deposited is really of no consequence to Petitioner's incurring criminal liability under B.P. 22, as held in *Resterio v. People*. [20]

With respect to the second element, the law itself creates a prima facie presumption of knowledge of insufficiency of funds. Section 2 of B.P. 22 provides:

“Section 2. Evidence of knowledge of insufficient funds. - 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.” (Underscoring supplied)

Such knowledge is legally presumed from the dishonor of the checks for insufficiency of funds. If not rebutted, it suffices to sustain a conviction.[21]

Despite receipt of a written demand from Enssner, Petitioner was unable to pay the value of the four (4) subject checks. While Petitioner asserts having tendered cash payments to Enssner online, she again miserably failed to prove the same. As a general rule, one who pleads payment has the burden of proving it. The debtor has the burden of showing with legal certainty that the obligation has been discharged by payment[22], which is lacking in the instant case.

The third element, or the fact of dishonor for reason of “Account Closed”, was likewise proven by Enssner and hardly contested by Petitioner.

As the prosecution successfully established all the elements of violation of B.P. 22, We find that Petitioner's conviction was proper. Nonetheless, the penalty imposed by the MTC, as affirmed by the RTC, must be modified.

Under Administrative Circular No. 12-2000, imprisonment need not be imposed on those found guilty of violating B.P. 22. Administrative Circular No. 13-2001, issued on February 14, 2001, vests in the courts the discretion to determine, taking into consideration the peculiar circumstances of each case, whether the imposition of fine (of not less than but not more than double the amount of the check, but in no case exceeding P200,000.00), would best serve the interest of justice, or whether forbearing to impose imprisonment would depreciate the seriousness of the offense, work violence on the social order, or otherwise contrary to the imperatives of justice.[23]

Thus, it was held that where there is neither proof nor allegation that the accused is not a first time offender, imposition of the penalty of fine instead of imprisonment is proper. Likewise, the Supreme Court ruled that the policy laid down in *Vaca v. Court of Appeals*[24] and *Lim v. People*[25] of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness, should be considered in favor of the accused who is not shown to be a habitual delinquent or a recidivist.[26]

Considering that there is absence of proof or allegation that Petitioner is not a first time offender, We deem it proper to impose upon her the penalty of a fine in the amount of PhP200,000.00, instead of imprisonment of thirty (30) days, for each count of violation of B.P. 22.

Also, We deem proper the deletion of the award of attorney's fees. Both the MTC and the RTC awarded attorney's fees to Enssner without giving any factual or legal basis therefor. The award merely appeared on the dispositive portion of the MTC's Decision which was affirmed by the RTC without explanation or justification. It is settled that the power of the court to award attorney's fees demands factual, legal and equitable justification[27], which is absent in the case at bench.

Finally, legal interest at the rate of six percent (6%) per annum must be imposed on Petitioner's civil liability amounting to PhP1,250,000.00 from the finality of this Decision until its satisfaction.[28]

WHEREFORE, premises considered, the Joint Decision dated February 19, 2013 and the Order dated April 18, 2013 of the Regional Trial Court of Calapan City, Oriental Mindoro, Branch 40 in Crim. Case Nos. CR-12-10,620 to CR-12-10,623 are AFFIRMED with MODIFICATION. Accordingly, Petitioner Teresita A. Dimaano is hereby sentenced to pay a FINE in the amount of PhP200,000.00, instead of imprisonment of thirty (30) days, for each count of violation of B.P. 22. Furthermore, she is ordered to pay Aleli Enssner PhP1,250,000.00 representing the face value of the four (4) subject checks, with legal interest at the rate of six percent (6%) per annum from finality of this judgment until its satisfaction. The award of attorney's fees is DELETED.

SO ORDERED.

Castillo, M., J. Chairperson, and Galapate-Laguilles, Z. T., JJ., concur.

[*] Formerly CA-G.R. SP No. 129727.

[1] Rollo, pp. 10-32.

[2] Rollo, pp. 91-103.

[3] Rollo, pp. 112.

[4] Rollo, p. 103.

[5] Rollo, pp. 82-87.

[6] See Petitioner's Certificate of Arraignment (Rollo, p. 88).

[7] Rollo, pp. 33-34.

[8] Rollo, pp. 35-37.

[9] See also Fabricas' Sinumpaang Salaysay dated January 16, 2007 (Rollo, pp. 38-39).

[10] Rollo, pp. 42-45.

[11] Rollo, pp. 72-80.

[12] Rollo, p. 80.

[13] MTC Decision, p. 7 (Rollo, p. 78).

[14] Rollo, p. 89.

[15] Rollo, pp. 104-111.

[16] Petition for Review, p. 10 (Rollo, p. 20).

[17] *San Mateo v. People*, G.R. No. 200090, March 6, 2013.

[18] *Lim v. Equitable PCI Bank*, G.R. No. 183918, January 15, 2014.

[19] Aquino, *Notes and Cases on Banks, Negotiable Instruments and Other Commercial Documents* (2006 Edition), p. 233.

[20] G.R. No. 177438, September 24, 2012.

[21] *Ricaforte v. Jurado*, G.R. No. 154438, September 5, 2007.

[22] *G & M (Phils.), Inc. v. Cruz*, G.R. No. 140495, April 15, 2005.

[23] *Ongson v. People*, G.R. No. 156169, August 12, 2005.

[24] 359 Phil. 187 (1998).

[25] 394 Phil. 844 (2000).

[26] *Supra*, at note 23.

[27] People's Trans-East Asia Insurance Corporation v. Doctors of New Millenium Holdings, G.R. No. 172404, August 13, 2014.

[28] See Nacar v. Gallery Frames, G.R. No. 189871, August 13, 2013.

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