

REYNALDO CHAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND FRANK GICA, RESPONDENTS.

Ponente: DIY, J.

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DIY, J.:

Before Us is a Petition for Review[1] under Rule 42 of the 1997 Rules of Civil Procedure, filed by Reynaldo Chan on December 5, 2011, assailing the civil aspect of the Joint Judgment on Appeal rendered by Branch 28, Regional Trial Court of Mandaue City in Criminal Cases Nos. 31687-31693 (18407-18413-A).

The Antecedents

The instant case stemmed from seven (7) Informations for violation of Batas Pambansa (BP) Bilang 22 (Criminal Case Nos. 31687-31693) filed against herein petitioner Reynaldo Chan (hereinafter referred to as “Chan”) with the Municipal Trial Court in Cities of Mandaue City (“MTCC”, for brevity), specifically Branch 3 thereof, upon the initiative of respondent Frank Gica (hereinafter referred to as “Gica”). The accusatory portion of the Information in Criminal Case No. 31687 reads:

That sometime in the month of January, 2004 or thereabouts, in the City of Mandaue, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent of gain, did then and there willfully, unlawfully and feloniously make, draw and issue ALLIED BANK Check bearing No. AAA-0003578966 Dated November 7, 2004 in the amount of ONE HUNDRED THIRTY THOUSAND PESOS (P130,000.00), Philippine Currency[,] payable to the order of Frank Gica to apply on account or for value, the accused fully knowing well that at the time of the issuance of said check that he does not have sufficient funds in or credit with the drawee bank when he make or draw and issue [sic] a check but he failed to keep sufficient funds or to maintain a credit to cover the full amount of the check, which check when presented for encashment was dishonored by the drawee bank for the reason: “Account Closed” or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment, and despite notice of dishonor and demands for payment, said accused failed and refused and still fails and refuses to redeem the check or to make arrangement for payment in full by the drawee bank of such check within five (5) banking days after receiving the notice of dishonor, to the damage and prejudice of the aforementioned private complainant, in the aforestated amount and other claims and charges allowed by civil law.

CONTRARY TO LAW.

The other Informations are similarly worded except for the Check Nos., dates of issue, and corresponding amounts. The data[2] are hereunder itemized, as follows:

Criminal Case No. Bank/Check No. Postdated Amount

31687 Allied Bank/ AAA- November 7, 2004 P130,000.00

0003578966

31688 Allied Bank/AAA- November 8, 2004 P300,000.00

0003578967

31689 Allied Bank/AAA- November 23, 2004 P500,000.00

0003578963

31690 Allied Bank/AAA- November 24, 2004 P150,000.00

0003578965

31691

Allied Bank/AAA- November 28, 2004 P500,000.00

0003578964

31692 Allied Bank/AAA- November 29, 2004 P220,000.00

0003578969

31693 BPI/0996703 December 6, 2004 P359,000.00

Total Amount P2,159,000.00

The parties present conflicting versions of the circumstances surrounding the issuance of the subject checks.

Respondent's Version

Respondent Gica is a sales agent who personally knows petitioner Chan as the latter is engaged in business under the name and style, "Alebon Genuine Merchandising". Petitioner is a customer of respondent Gica. Sometime in January 2004, and on several occasions thereafter, petitioner purchased from respondent several quantities of assorted paints and other chemical products amounting to Two Million One Hundred Fifty Nine Thousand Pesos (P2,159,000.00). As payment for these transactions, the subject postdated checks were allegedly issued by petitioner.

Petitioner assured respondent that the checks are fully funded and that the latter would not encounter any problem in encashing them. Thereafter, when the checks reached maturity, Chan called Gica requesting for extension of the dates of the checks for purposes of presentment. Chan made such requests to extend the dates of the checks ten (10) times. Such extensions were granted by Gica.

Upon maturity of the checks with extended dates, when they were deposited at UCPB, Mandaue City for encashment, the same were returned by the drawee bank for the reason: "Account Closed" stamped on the respective copies of the checks as well as on the Check Return Slips.

Notice of dishonor and several demands, written and oral, were sent to petitioner to redeem these checks and to

settle the accounts, but to no avail.

Petitioner's Version

Chan, on the other hand, asserts that in early 2001, his business in Cagayan de Oro City encountered financial problems. Gica approached Chan informing the latter of his willingness to lend Chan some money. On various dates, Gica loaned varying amounts to Chan. Their agreement was that these loans were "five-six" (5/6) transactions, as they were commonly called. As Gica was constantly out of town, the loans were made through long distance calls. No written agreements were ever made or executed. However, as a form of guarantee, Gica required Chan to issue postdated checks in Cagayan de Oro City.

Chan was able to pay the full amount of the loan by depositing cash, on several occasions, in the bank account of Gica's wife. However, since Chan trusted Gica, the former did not bother to demand the return of the checks.

Chan did not personally receive a notice of dishonor or a demand for payment.

Commencement of the Criminal Action

In September 2005, Gica filed a complaint for Estafa and Violation of BP Blg. 22 against Chan before the Office of the City Prosecutor, Mandaue City.

On December 14, 2005, Assistant City Prosecutor Wilfredo Pangandoyon recommended the filing of seven (7) Informations for violation of BP Blg. 22 but recommended the dismissal of the Estafa case for lack of evidence.

When arraigned, accused, assisted by his counsel Atty. De Leon Gan, Jr., entered a plea of not guilty.[3]

On June 2, 2010, after a full blown trial, MTCC Presiding Judge Wilfredo A. Dagatan promulgated Judgment[4] acquitting Chan for failure of the prosecution to establish the necessary element of violation of BP Blg. 22 that the drawer actually received the Notice of Dishonor of the check. The dispositive portion of the Decision reads:

WHEREFORE, premises considered, judgment is hereby rendered ACQUITTING the accused, REYNALDO CHAN, for the seven (7) counts of the crime of Violation of B.P. 22 as charged.

Furthermore, it can be recalled that on July 10, 2006, complainant through counsel filed in this Court a Motion for the issuance of a Writ of Preliminary Attachment. After due hearing, on July 28, 2006, a Writ of Preliminary Attachment was issued by the Court. Thereafter, Lot 21240-B under Transfer Certificate of Title No. T-52920 subject of the attachment of the aforementioned case is hereby cancelled. The Registry of Deeds is directed to cancel the Annotation of the Writ of Attachment in the above-described property.

All claims are hereby ordered dismissed for lack of merit.

SO ORDERED.

Aggrieved by the Decision, on August 3, 2010, Gica filed a Notice of Appeal[5] regarding the civil aspect of the case.

On July 27, 2011, a Joint Judgment[6] was rendered by Branch 28, RTC, Mandaue City. The dispositive portion of the Joint Decision reads:

WHEREFORE, the assailed Decision of the Municipal Trial Court, Branch 3, Mandaue City dated June 2, 2010 in Criminal Cases Nos. 31687-31693 acquitting the accused appellee Reynaldo Chan of Violation of BP Blg. 22 is hereby affirmed en toto. However, on the finding by the said court a quo that the accused-appellee is not civilly liable, it is hereby reversed. The accused-appellee Reynaldo Chan is hereby directed to pay to the complainant appellant Frank Gica, as his (accused-appellee) civil liabilities, the following amounts:

1. P 130,000.00 in Criminal Case No. 31687
2. P 300,000.00 in Criminal Case No. 31688

3. P 500,000.00 in Criminal Case No. 31689
4. P 150,000.00 in Criminal Case No. 31690
5. P 500,000.00 in Criminal Case No. 31691
6. P 220,000.00 in Criminal Case No. 31692 and
7. P 359,000.00 in Criminal Case No. 31693

MTCC, Branch 3, each at 12% interest per annum from the filing of the Informations until the finality of this Decision, the sum of which, inclusive of the interest, shall be subject thereafter to 12% per annum interest until the amount due is fully paid.

This Court hereby recalls the order of the court a quo in the dispositive portion of the Decision dated June 2, 2010 to lift the levy of Lot 21240-B under TCT No. T-52920 and the cancellation of the annotation of the writ of attachment on the said title.

Costs de officio.

IT IS SO ORDERED.

Aggrieved by the reversal regarding the civil aspect of the case, on August 26, 2011, Chan filed a Motion for Reconsideration[7] of the Joint Judgment rendered by the RTC. On October 14, 2011, the RTC issued an Order[8] denying Chan's Motion for Reconsideration.

Hence, this petition, assigning the following errors of the RTC:

- IN FAILING TO CONSIDER MATERIAL AND RELEVANT EVIDENCES THAT THE FIVE-SIX (5/6) LOANS HAVE BEEN FULLY PAID
- IN RULING IN FAVOR OF CIVIL LIABILITY AND WHEN THE ACT FROM WHICH IT MIGHT ARISE DID NOT EXIST
- IN AWARDING CIVIL LIABILITY DESPITE ACQUITTAL FOR LACK OF EVIDENCE TO PROVE TRANSACTION
- IN REVERSING THE PREVIOUS ORDER LIFTING THE LEVY AND THE CANCELLATION OF ANNOTATION OF THE WRIT OF ATTACHMENT
- IN RELYING ON INSUFFICIENT EVIDENCE TO JUSTIFY THE DECISION
- IN NOT DISMISSING THE CASE FOR LACK OF JURISDICTION
- IN FAILING TO REMAND THE CASE TO THE COURT BELOW IN [sic] TO RULE ON THE FACTUAL ISSUES
- THE AWARD OF CIVIL LIABILITY IS PREMATURE FOR LACK OF CAUSE OF ACTION

Chan contends that the "5/6" loans, equivalent to the face value of the postdated checks, have been fully paid, as evidenced by the deposits made to the bank account of Gica's wife. It is alleged that such deposits totaled P2,200,000.00, more or less. Chan refutes Gica's claim that said deposits were made for other transactions since Gica could not substantiate what these other transactions are. And granting in arguendo that the seven (7) postdated checks have not yet been settled, then the payments received by Gica's wife constitute solutio indebiti.

On the other hand, Gica asserts that their transactions were purchases on credit of assorted paints and chemical products, and that the subject checks served as payments thereof.

Gica also posits that the deposits made in the bank account of Avelina Casas (Gica's wife) were from Asuncion

Chan, the wife of petitioner, and not from Chan himself.

Moreover, Gica points out that his custody over the checks already satisfies, by itself, the quantum of proof (preponderance of evidence) necessary to prove civil liability.

The Ruling of the Court

The petition is bereft of merit.

This Court shall address the above-mentioned assigned errors holistically as they are interrelated. In arriving at Our ruling, We address the following factual and legal matters:

- 1.) Whether the MTCC of Mandaue City has jurisdiction over the case for violation of BP Blg. 22;
- 2.) Whether remand to the lower court is necessary to resolve the factual issues;
- 3.) Whether respondent's custody of the checks satisfies the quantum of proof required to establish an obligation to pay;
- 4.) Whether the obligation of petitioner on the amount of the checks has been extinguished by payment; and
- 5.) Whether an award of civil liability is warranted despite the acquittal of the accused.

Whether the MTCC of Mandaue
City has jurisdiction over the
case for violation of BP Blg. 22

We rule in the affirmative.

It is a settled principle that jurisdiction or venue is determined by the allegations in the information.[9] Quoting the pertinent portions similarly worded in each of the seven (7) Informations:

That sometime in the month of January, 2004 or thereabouts, in the City of Mandaue, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent of gain, did then and there willfully, unlawfully and feloniously make, draw and issue x x x Check bearing No. x x x in the amount of x x x

(Emphasis Ours)

In view of the foregoing principle, it is irrelevant if, after trial, it was later on proven that the checks were actually issued and delivered in Cagayan de Oro City and not in Mandaue City. For the purpose of conferring jurisdiction, the allegation of venue in the information is controlling.

Besides, the only pieces of evidence presented by both parties to establish the place of issuance and delivery of the checks are their conflicting testimonies. Petitioner contends that the checks were issued and delivered in Cagayan De Oro City while respondent maintains that the checks were issued and delivered in Mandaue City. The courts below did not make a determination as to the true place of issuance and delivery, as resolution of such question is unnecessary in conferring jurisdiction and in the resolution of the controversy. We are likewise inclined not to rule on the same.

Significantly, according to the Supreme Court:[10]

If all the acts material and essential to the crime and requisite of its consummation occurred in one municipality or territory, the court therein has the sole jurisdiction to try the case. There are certain crimes in which some acts material and essential to the crimes and requisite to their consummation occur in one municipality or territory and some in another, in which event, the court of either has jurisdiction to try the cases, it being understood that the first court taking cognizance of the case excludes the other. These are the

so-called transitory or continuing crimes under which violation of B.P. Blg. 22 is categorized. In other words, a person charged with a transitory crime may be validly tried in any municipality or territory where the offense was in part committed.

(Emphasis Ours; internal citations omitted)

In the instant petition, it is undisputed that the checks were presented for encashment and was dishonored in Mandaue City. Since the fact of dishonor is an essential element of the crime, then the filing of the criminal action before Mandaue City satisfies the requirement with respect to venue and jurisdiction.

Whether remand to the lower court is necessary to resolve the factual issues

We rule in the negative.

Petitioner posits that the determination of his civil liability necessarily entails the presentation of evidence of both parties. He thus believes that he should have been first required to present evidence to dispute his civil liability before the lower courts. As to said argument, the Supreme Court has this to say:[11]

Contrary to Emilia's (the accused) interpretation, a determination of this quantum of evidence (preponderance of evidence) does not need the presentation of evidence by both parties. As correctly reasoned out by the CA, Emilia's interpretation is absurd as this will only encourage defendants to waive their presentation of evidence in order for them to be absolved from civil liability for lack of preponderance of evidence. Besides, Emilia should note that even when a respondent does not present evidence, a complainant in a civil case is nevertheless burdened to substantiate his or her claims by preponderance of evidence before a court may rule on the reliefs prayed for by the latter. Settled is the principle that "parties must rely on the strength of their own evidence, not upon the weakness of the defense offered by their opponent.

Besides, such remand would entail unnecessary costs for both parties as well as clog the already saturated dockets of the trial courts. Petitioner had been given every opportunity to present his defense in the criminal proceedings before the MTCC. The records now contain the evidence, or the lack of it, necessary to properly resolve this petition. We cannot fathom how a remand could advance better dispensation of justice and not just cause unnecessary delay in the disposition of the case.

Whether respondent's custody of the checks satisfies the quantum of proof required to award civil liability

We rule in the affirmative.

This Court takes note that because of conflicting testimonies on the part of petitioner and respondent, both sides advancing different versions regarding the civil liability of petitioner, this Court thus relies on preponderance of evidence to decide on the matter.

It is settled that the quantum of proof necessary for a finding of civil liability is preponderance of evidence. Preponderance of evidence is defined as the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term 'greater weight of the evidence' or 'greater weight of the credible evidence'. It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[12]

Petitioner raises the findings[13] of the MTCC stating:

Private Complainant asserted that on several occasions the accused purchased paints and chemicals and as payment thereof issued the seven (7) checks with different dates. However, after a close and careful scrutiny, records would reveal that no such evidence were presented or offered by the prosecution precisely to prove the aforementioned transaction. If indeed, such transaction really transpired, they should have presented material evidence, such as but not limited to delivery receipt, official receipt, bill of lading or any evidence for that matter, but they did not. In short, there is nothing for this court to make as basis for the award of civil liability.

However, Our review of the records do not yield any indication that respondent was unable to produce evidence of the sale; only that respondent relied on the checks alone to prove the obligation and did not deem the presentation of the records of sale necessary. Quoting the relevant portion of the testimony of respondent: [14]

Atty. Gan

(to witness Frank Gica on cross-examination)

Q:

Now, Mr. Witness, in paragraph 2 of your Affidavit, you mentioned that Mr. Chan purchased from you assorted paints and chemicals?

A:

Yes, that's correct.

Q:

If you can still remember, can you please enumerate what are those items that Mr. Chan have purchased from you?

A:

There are so many. Chemicals like lacquer thinner, paint thinner and the other one is the paint.

Q:

What is the brand of the paint?

A:

Pressure Island.

Q:

Now, are you a dealer of the chemicals and paints or you are only an agent?

A:

I am an agent, I'm not a dealer.

Q:

Now, in your Affidavit if you can still recall, you filed a case for Violation of Batas Pambansa Bilang 22 at the same time Estafa, is that correct?

A:

Yes, Sir.

Q:

Now, are you aware that there was this Resolution made by the Fiscal dismissing the case of Estafa against Mr. Chan?

A:

I am not aware[.]

Q:

Now, you said that the accused purchased from you paints and chemicals, do you have any documents to prove that indeed there was this transaction between you and that of Mr. Chan?

A:

If you like, I will ask my Manager to produce that document.

xxx

We agree with the findings of the RTC that the issue of whether the transaction is really one of loan or sale is inconsequential. The fact remains that the check itself, under the custody of the payee (respondent) is clear evidence of the existence of an obligation on the part of the issuer (petitioner) to pay the sum embodied in the checks. As held by the Supreme Court in a recent case:[15]

x x x [T]his Court has expressly recognized that a check "constitutes an evidence of indebtedness" and is a veritable "proof of an obligation." Hence, it can be used "in lieu of and for the same purpose as a promissory note." In fact, in the seminal case of *Lozano v. Martinez*,[16] We pointed out that a check functions more than a promissory note since it not only contains an undertaking to pay an amount of money but is an "order addressed to a bank and partakes of a representation that the drawer has funds on deposit against which the check is drawn, sufficient to ensure payment upon its presentation to the bank." This Court reiterated this rule in the relatively recent *Lim v. Mindanao Wines and Liquour Galleria* stating that "a check, the entries of which

are in writing, could prove a loan transaction.”[17] This very same principle underpins Section 24 of the Negotiable Instruments Law (NIL):

Section 24. Presumption of consideration. – Every negotiable instrument is deemed prima facie to have been issued for a valuable consideration; and every person whose signature appears thereon to have become a party for value.

Accordingly, the absence of evidence regarding the alleged sale transaction will not invalidate the monetary claim of respondent as we have established that an obligation to pay exists. We are now left with the question as to whether such obligation has effectively been extinguished by payment thereof.

Whether the obligation of
petitioner on the amount of the
checks has been extinguished
by payment

We rule in the negative.

Payment, as a mode of extinguishing obligations, must be made to the persons enumerated under Articles 1240 and 1241 of the Civil Code which provide:

Article 1240. Payment shall be made to the person in whose favor the obligation has been constituted, or his successor in interest, or any person authorized to receive it.

Article 1241. Payment to a person who is incapacitated to administer his property shall be valid if he has kept the thing delivered, or insofar as the payment has been beneficial to him.

Payment made to a third person shall also be valid insofar as it has redounded to the benefit of the creditor. Such benefit to the creditor need not be proved in the following cases:

- 1.) If after the payment, the third person acquires the creditor's rights;
- 2.) If the creditor ratifies the payment to the third person;
- 3.) If by the creditor's conduct, the debtor has been led to believe that the third person had authority to receive the payment.

In consideration of the foregoing provisions of law, in order to effectively extinguish petitioner's obligation by means of payment, such payment should have been made, primarily, to the respondent himself, and not to the latter's wife. None of the other instances mentioned in the second (2nd) paragraph of Article 1241 are obtaining in this case. No evidence was likewise presented as proof that payment made to Avelina Casas has redounded to the benefit of respondent.

According to petitioner, he agreed to pay via bank deposit to the account of Avelina Casas because the latter is “meticulous, doubtful and jealous.”[18] We agree with the RTC that such reasoning is too flimsy to inspire belief. Being in business for a considerable amount of time, petitioner should have insisted either on a written agreement concerning this mode of payment or in retrieving the checks once the corresponding amounts thereon had been paid.

Petitioner argues that if the payments he made were not for the settlement of his obligation on the checks, then how come respondent could not explain as to what the bank deposits are for. Such argument is unworthy of credence. Upon close scrutiny of the records, particularly, the Transcripts of Stenographic Notes (TSN) taken during trial, no part thereof would indicate that respondent was unable to explain what the bank deposits are for. It

is just that there was no definite question propounded upon respondent requiring him to explain what these bank deposits are for. Quoting the pertinent portion of the TSN:[19]

Atty. Cardenas

(to witness Frank Gica on Redirect Examination)

Q:

Now, Mr. witness, on cross-examination you were asked by the good counsel for the accused that there were payments made by the accused and such payments were coursed through the account of your wife, Avelina Casas, what can you say about that?

A:

The amount as Atty. Gan said that they had sent a money online to my wife's account, that is another transaction, that is not the account of Mr. Reynaldo Chan, that is the account of Asuncion Chan, the wife of Mr. Chan[.]

Q:

So, do you like to tell the Honorable Court that this is the separate account?

A:

Yes.

Q:

Now, also Mr. witness, you were asked by the good counsel that [the] one who received the Letter of Dishonor or Notice of Dishonor was Lorna Castillo x x x

Given the available testimonial evidence, We are convinced that such payments were made by Asuncion Chan, the wife of petitioner, in favor of Avelina Casas, the wife of respondent. And the payments made have no relation to the obligation embodied by the checks. This also negates the assertion of petitioner that if the deposits were not applied for the satisfaction of his obligation on the checks, then solutio indebiti sets in. According to the Civil Code:

Article 2154. If something is received when there is no right to demand it, and it was unduly delivered through mistake, the obligation to return it arises.

In the case before us, it was not sufficiently established that Avelina Casas received the payment when there was no right to demand it, and that it was unduly delivered by mistake. Accordingly, We are inclined to agree with respondent that the payments made were for other transactions and not for the satisfaction of the amounts on the checks.

Petitioner contends that the loan transaction was entered into in "early 2001." On the other hand, respondent

maintains that the “sale on credit” transactions were entered into sometime in January 2004. Although both parties were not able to sufficiently establish the exact date of their posited transactions, We are inclined to give credence to the testimony of respondent on the matter, that the sale transactions were entered into sometime in January 2004.

The earliest bank deposit in favor of Avelina Casas was made as early as October 16, 2001[20] while the latest was made in July 8, 2004.[21] That would mean that as early as July of 2004, the obligation of petitioner on the checks would have already been extinguished although the earliest due date on the checks was November 7, 2004. This would mean that petitioner was able to complete payment more or less four (4) months before the maturity of the obligation. This runs counter to his allegation that his business was suffering from financial reverses.

On the other hand, the allegation of respondent that the several sale transactions were entered in January 2004 seems more realistic as the maturity on the checks starts in November 2004. Stated otherwise, petitioner was given more or less ten (10) months to pay for his purchases (including the extensions).

Also worthy of note is that based on Our computation, the total amount of the deposits made to Avelina Casas is P2,196,980.00 or P37,980.00 more than the total amount of the obligation embodied by the checks (P2,159,000.00). It runs contrary to human experience for a debtor to make an overpayment of such a substantial amount, all the more supporting the position that the bank deposits made were for other transactions and not to satisfy the obligation embodied in the checks.

In consideration of the foregoing, We rule that the obligation to pay of petitioner has not yet been extinguished.

Whether an award of civil
liability is warranted despite
the acquittal of the accused

We rule in the affirmative.

Petitioner invokes Section 2(d), Rule 111 of the Rules of Court, which provides:

The extinction of the penal action does not carry with it extinction of the civil action. However, the civil action based on delict shall be deemed extinguished if there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist.

Petitioner asserts that since his guilt had not been established due to the failure of the prosecution to present clear and convincing evidence of a violation of B.P. Blg. 22, then there was no crime committed. And since there was no crime committed, then there can be no basis for the award of civil liability based on criminal liability.

Such contention deserves scant consideration. As held by the Supreme Court in a fairly recent case:[22]

In any case, even if the Court treats the subject dismissal as one based on insufficiency of evidence as Emilia wants to put it, the same is still tantamount to a dismissal based on reasonable doubt. As may be recalled, the MTCC dismissed the criminal cases because one essential element of BP 22 was missing, i.e., the fact of the bank’s dishonor. The evidence was insufficient to prove said element of the crime as no proof of dishonor of the checks was presented by the prosecution. This, however, only means that the trial court cannot convict Emilia of the crime since the prosecution failed to prove her guilt beyond reasonable doubt, the quantum of evidence required in criminal cases. Conversely, the lack of such proof of dishonor does not mean that Emilia has no existing debt with Mindanao Wines, a civil aspect which is proven by another quantum of evidence, a mere preponderance of evidence.

(Emphasis Ours; internal citations omitted)

In consideration of the aforecited ruling of the Supreme Court, it is clear that the MTCC's acquittal of the accused (due to failure of the prosecution to prove the element of notice of dishonor properly served) is tantamount to a dismissal based on reasonable doubt. Hence, it cannot be said that civil liability does not exist. As We have discussed earlier, the quantum of proof necessary to establish the civil liability of petitioner (preponderance of evidence) was sufficiently met.

The allegation that respondent lacks the legal personality to be awarded the civil liability was not raised in the proceedings before the MTCC. Hence, it cannot be entertained on appeal.

WHEREFORE, premises considered, the instant petition for review is DENIED. The July 27, 2011 Joint Judgment of Branch 28, Regional Trial Court of Mandaue City is hereby AFFIRMED in toto.

SO ORDERED.

Delos Santos, E.L., (Chairperson) and Maxino, P.A.A., JJ., concur.

[1] Rollo, pp. 6-339.

[2] Id., pp. 147-148.

[3] Id., p. 66 (as stated in the Decision rendered by the MTCC dated June 2, 2010, p. 4).

[4] Id., pp. 63-72.

[5] Id., pp. 73-74.

[6] Id., pp. 56-62.

[7] Id., pp. 97-124.

[8] Id., pp. 53-55.

[9] Benito Lim vs. Hon. Rodolfo Rodrigo, G.R. No. 76974, November 18, 1988.

[10] Manuel Lim and Rosita Lim vs. Court of Appeals, et al., G.R. No. 107898, December 19, 1995.

[11] Emilia Lim vs. Mindanao Wines and Liquor Galleria, G.R. No. 175851, July 4, 2012.

[12] Id.

[13] Rollo, pp. 71-72 (Decision of the MTCC dated June 2, 2010, pp. 9-10).

[14] Ibid., pp. 191-193 (TSN, July 22, 2008, pp. 7-9).

[15] Ting Ting Pua vs. Spouses Benito Lo Bun Tiong and Caroline Siok Ching Teng, G.R. No. 198660, October 23, 2013.

[16] G.R. No. L-63419, December 18, 1986.

[17] G.R. No. 175851, July 4, 2012.

[18] Rollo, p. 336 (TSN, June 3, 2009, p. 10).

[19] Id., pp. 180-181 (TSN, November 5, 2008, pp. 3-4).

[20] Rollo, p. 249.

[21] *Id.*, p. 214.

[22] *Supra*, note 11.

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