

ROBERTO MENDOZA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SEVERINO VERGARA, RESPONDENTS.

CA-G.R. CR No. 32463, May 28, 2010

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Court of Appeals

The Case

When the reason for the law ceases, the law ceases. It is not the letter alone, but the spirit of the law also that gives it life.[1] In this Petition for Review filed under Rule 42 of the Rules of Court, Roberto Mendoza (“Mendoza”) seeks the reversal of the Decision[2] dated January 12, 2009 of the Regional Trial Court of Calamba City,[3] as well as his acquittal in Criminal Case No. 35315-99, for violation of Batas Pambansa Blg. 22, entitled “People of the Philippines, Plaintiff, versus Roberto Mendoza, Accused.”

The Facts

In a complaint filed on December 3, 1999 before the Municipal Trial Court in Cities (“MTCC”) of Calamba City, Severino B. Vergara (“Vergara”) accused Mendoza of the crime of “Violation of Batas Pambansa Blg. 22” committed as follows:

“That sometime in May 1999[,] in the Municipality of Calamba, Province of Laguna and within the jurisdiction of this Honorable Court, the above-named accused, as payment for his obligation or outstanding loan to Complainant, in lieu of cash, then and there, willfully, unlawfully and feloniously issued and drew in favor of the latter a postdated Philippine Savings Bank Check No. 0007850 dated May 3, 1999 in the amount of P500,000.00, knowing fully well, at the date of issuance thereof, that he did not have sufficient funds in the bank and without informing this fact to herein Complainant.

AND, that after said check was deposited by Private Complainant with his depository bank, the check was returned to him for the reason that it was stamped 'Account Closed' and that notwithstanding ORAL AND WRITTEN demands to Accused to deposit the necessary amount with the bank to cover subject check or to change said check, he failed and refused to pay as he still fails and refuse[s] to do so, to the damage and prejudice of herein Private Complainant, SEVERINO B. VERGARA, in the total amount of FIVE HUNDRED THOUSAND PESOS, Philippine Currency.

CONTRARY TO LAW.”[4]

When arraigned on March 28, 2000, Mendoza pleaded “not guilty” of the crime charged. When he however failed to appear during the pre-trial conference on May 9, 2000, the same was terminated, and trial on the merits thereafter ensued.[5]

The evidence for the prosecution was summarized in the Decision of the MTCC as follows:

“The prosecution presented its lone witness the private complainant, Severino Vergara, whose testimony may be summarized as follows: That in April 1998 and before the May 1998 election[s], accused issued Philippine Savings Bank check No. 0007850 dated May 3, 1999 in the amount of P500,000.00 as payment for the loan of the accused to private complainant amounting between P300,000.00 to P400,000.00. Private complainant

stated that the interest of the loan was included in the sum of P500,000.00.

When the said check was presented for payment it was dishonored due to 'Account Closed'. A notice of dishonor with demand to pay dated June 15, 1999 (Records, Exhibit 'C', p. 8) was sent by private complainant, which was received by Concepcion Mendoza as evidenced by LBC Timed Delivery Contract (Ibid., Exhibit 'C-1'). Upon receipt of said notice, accused made a partial payment and left a balance of P150,000.00. Upon the pleas of the accused, the balance of P150,000.00 was reduced by the private complainant to P90,000.00 and the former paid P20,000.00 (TSN, Severino Vergara, September 12, 2002, pp. 2-9)."[6] (emphasis Ours)

In his defense, Mendoza presented the following testimony:

"For his part[,] accused testified that he borrowed an amount of P300,000.00 from the private complainant and he issued to him (private complainant) a check which contains only his (accused) signature. When accused failed to pay the private complainant, the latter suggested that he (private complainant) would get the L300 Mitsubishi FB of accused. Thereafter[,] accused signed a Deed of Absolute Sale over the said property in favor of Pablo Villa in the amount of P180,00.00. Witness stated that while they did not agree as to the payment in interest, private complainant put an interest to the loan and that was the reason why the loan amounted to P500,000.00. According to him, he made partial payments with the total amount of P225,000.00 as evidenced by a piece of paper (Records, p. 180) containing the signature of the private complainant. He stated, however, that he cannot anymore locate the original copy of said piece of paper. He denied having received the notice of dishonor sent by the private complainant (TSN, Roberto Mendoza, November 22, 2005, pp. 2-6).

On cross-examination, he testified that he obtained a loan of P300,000.00 and private complainant told him that the latter will only charge a low interest for the said loan. He denied having made partial payment of P255,000.00. According to him, his two cars were made as collaterals for the loan. One of the cars was sold and the proceed[s] of P180,000.00 was given to the private complainant. He added that the daughter of the accused handed to him a computation showing that his balance was only P65,000.00. According to him, he talked to the private complainant after he was sent a demand letter and told the private complainant to reduce his obligation since he has already paid the private complainant the amount of P135,000.00 representing interests (TSN, Roberto Mendoza, February 6, 2007, pp. 2-3). On re-direct examination, he testified that he can no longer remember who received the demand letter since he was out of town most of the time. He added that it was the private complainant who issued and filled up the blank check that he (accused) issued to the latter (Ibid., p. 4)."[7]

On August 11, 2008, the MTCC rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, the Court hereby renders judgment in this case finding accused Roberto Mendoza 'GUILTY' beyond reasonable doubt of Violation of Batas Pambansa Bilang 22 and accordingly sentences him to pay a Fine in the amount of P200,000.00 with subsidiary imprisonment in case of insolvency.

He is ordered to pay the private complainant the sum of Seventy Thousand Pesos as actual damage computed at Twelve (12%) Percent interest per annum from the filing of the complaint until fully paid.

SO ORDERED."[8]

Aggrieved, Mendoza appealed the MTCC Decision to the RTC, contending in the main that he was convicted of violation of BP Blg. 22 on an incomplete and delivered check, which was completed by Vergara in abuse of authority accorded to him. Mendoza argued that the blank check only served as an additional security to his loan obligation to Vergara considering that Mendoza already secured his loan with his two (2) vehicles.[9]

The Ruling of the RTC

On January 12, 2009, the RTC rendered its Decision affirming in toto the August 11, 2008 Decision of the

MTCC, viz.:

“The crime charged in the information has the following essential elements, to wit: ‘For violation of B.P. 22, the prosecution must prove the following essential elements: (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 there are no sufficient funds in or credit with the drawee bank for the payment of such 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.’ (Mejia vs. People, G.R. No. 149937, June 21, 2007)

In the assailed decision, the trial court cited the testimonial evidence provided by the prosecution’s lone witness, namely, Severino Vergara, thus –

‘The prosecution presented as its lone witness the private complainant, Severino Vergara, whose testimony may be summarized as follows: That in April 1998 and before the May 1998 election[s], accused issued Philippine Savings Bank check No. 0007850 dated May 3, 1999 in the amount of P500,000.00 as payment for the loan of the accused to private complainant amounting between P300,000.00 to P400,000.00. Private complainant stated that the interest of the loan was included in the sum of P500,000.00.

When the said check was presented for payment, it was dishonored due to ‘Account Closed’. A notice of dishonor with demand to pay dated June 15, 1999 was sent be[sic] private complainant, which was received by Concepcion Mendoza as evidenced by LBC Timed Delivery Contract. Upon receipt of said notice, accused made a partial payment and left a balance of P150,000.00. Upon the pleas of the accused, the balance of P150,000.00 was reduced by the private complainant to P90,000.00 and the former paid P20,000.00.’ (vide, appealed decision, p. 297, case records)

The lower court also cited the testimonial evidence provided by the accused, thus –

For his part[,] accused testified that he borrowed an amount of P300,000.00 from the private complainant and he issued to him (private complainant) a check which contains only his (accused) signature. When accused failed to pay the private complainant, the latter suggested that he (private complainant) would get the L300 Mitsubishi FB of accused. Thereafter[,] accused signed a Deed of Absolute Sale over the said property in favor of Pablo Villa in the amount of P180,000.00. Witness stated that while they did not agree as to the payment in interest, private complainant put an interest to the loan and that was the reason why the loan amounted to P500,000.00. According to him, he made partial payments with a total amount of P225,000.00 as evidenced by a piece of paper containing the signature of the private complainant. He stated, however, that he cannot anymore locate the original copy of said piece of paper. He denied having received the notice of dishonor sent by the private complainant.

xxx xxx xxx (vide, appealed decision, p. 297, case records)’

In his appeal memorandum, the accused-appellant contends that the trial court committed reversible errors because the lower court’s basis in convicting the accused was an ‘invalid check’ which he issued to the private complainant. The accused posits the theory that when the check was delivered to the private complainant, it was mechanically incomplete and that the details in the check were supplied by the private complainant in violation of their alleged agreement. According to the accused, the check was issued as additional ‘guaranty’ for the loan of P300,000.00 but the private complainant charged P200,000.00 as interest thereon, although there was no agreement in writing to pay interest, and the amount stated in the check was P500,000.00. The appellant also argues that he already made substantial payments and only P65,000.00 remains as the outstanding balance of the loan as purportedly admitted by the private complainant. However, the appellant’s alleged proof of partial payment of the loan was a xerox copy of a computation, dated February 05, 2002, allegedly signed by the private complainant showing that the balance of the obligation was P65,000.00.

Notwithstanding the foregoing arguments proffered by the accused-appellant, the entirety of the evidence on

record are adequate in proving each and every element of the crime charged in the information. The alleged invalidity of the check as well as the subsequent partial payment of the obligation represented by the check are not a lawful excuses or defenses to the crime defined in B.P. Blg. No. [sic] 22.

What the appellant strongly suggests is that the check should not have been presented for payment because it was allegedly in violation of a previous agreement between him and the private complainant. However, this particular defense is unavailable to the accused because the very same defense was rejected by the Supreme Court when it enunciated the following ruling, thus –

'The trial court found that petitioner issued the check as guarantee for his loan obtained from Bernardo. At the time he issued the check, he knew that his account with the PNB had been closed. When Bernardo deposited the check, it was dishonored by the PNB, the drawee bank, for the reason "account closed". Petitioner was duly notified of such dishonor. In fact, he admitted having received Bernardo's demand letter urging him to make good the check within five (5) banking days from notice. But petitioner failed to heed such demand.

Settled is the rule that factual findings of the trial court which have been affirmed in toto by the Court of Appeals are entitled to great weight and respect by this Court and will not be disturbed absent any showing that the trial court overlooked certain facts and circumstances which could substantially affect the outcome of the case. This exception is not present here.

It must be emphasized that the gravamen of the offense charge[d] is the issuance of a bad check. The purpose for which the check was issued, the terms and conditions relating to its issuance, or any agreement surrounding such issuance are irrelevant to the prosecution and conviction of petitioner. To determine the reason for which checks are issued, or the terms and conditions for their issuance, will greatly erode the faith the public reposes in the stability and commercial value of checks as currency substitutes, and bring havoc in trade and in banking communities. The clear intention of the framers of B.P. 22 is to make the mere act of issuing a worthless check *malum prohibitum*.

Petitioner, in praying for his acquittal, begs us to exercise mercy and compassion on him considering that he is a good man who has encountered so much pain and suffering in his life. While we sympathize with his seeming misfortunes, we cannot exonerate him. Courts are not the forum to plead for sympathy. The duty of courts is to apply the law, disregarding their feeling of sympathy or pity for an accused. The remedy is elsewhere – clemency from the executive or an amendment of the law by the legislature, but surely, at this point, we cannot but apply the law. (Mejia vs. People, G.R. No. 149937, June 21, 2007)' (emphasis omitted, italics supplied)

Clearly, this Court has no alternative but to follow the doctrinal guideline provided by the Supreme Court in the abovequoted ruling. While the appellant may have paid his obligations partially, there was no showing by direct and competent evidence that such partial payments were made before the dishonor of the check. On the contrary, what is quite certain from the evidence adduced by the parties is that the alleged partial payments were made by the appellant after the check was already dishonored for insufficiency of funds and the appellant was notified of such dishonor.

What is essential in the instant case is that the appellant had knowledge that at the time of issue of the subject check there were no sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment. In other words, the subsequent partial payment of the obligation covered by the dishonored check does not serve as a legal justification that would exonerate the accused from criminal liability. Indeed, the following findings of the lower court correctly applied the law to the facts established by the prosecution's evidence, to wit: (underscoring supplied)

'For liability to attach under B.P. Blg. 22, prosecution must establish that checks were issued, the same were subsequently dishonored and that the issuer at the time of the check's issuance had knowledge that he did not have enough funds or credit in the bank for payment thereof upon its presentment.

Indeed, the prosecution has sufficiently proven the first and third elements of the offense charged that the accused had drawn and issued the Philippine Savings Bank check as payment to his obligation and when deposited for payment, said check was dishonored for having been drawn against a closed account.

Section 2 of the B.P. 22 creates a presumption juris tantum that the second element prima facie exists when the first and third elements of the offense are present. If not rebutted, it suffices to sustain a conviction. However, to create the prima facie presumption, it must be shown that he or she received a notice of dishonor and within five banking days thereafter, failed to satisfy the amount of the check or shall arrange for its payment.

While it appears from the evidence presented by the prosecution that the demand letter was not personally received by the accused, the prosecution has adduced sufficient evidence to show that the accused was duly notified of the said dishonor by the person who received the said demand letter since accused talked to private complainant to reduce his obligation since he already paid the private complainant the amount of P135,000.00 after the notice of dishonor was sent to him.” (vide, appealed decision, p. 298, case records)

After a careful consideration of the errors assigned in this appeal and the arguments raised in connection with entirety of the evidence presented by the prosecution, this Court hereby rules that the lower court did not commit any serious reversible error in the appealed decision. In the main, the appellant failed to substantiate by strong and convincing evidence that the lower court committed misapprehension of facts or misapplication of the law that would alter the outcome of the case. On the contrary, this Court has ascertained that the findings of the lower court have clear and strong evidentiary support and it agrees with the lower court that the prosecution has sufficiently prove[n] the guilt of the accused by proof beyond reasonable doubt. Accordingly, this Court holds that there is NO factual and legal bases for reversing the appealed decision.”[10]

Hence, this petition for review.

Issues

In his petition, Mendoza assigned the following as issues for Our resolution:

“1. WHETHER OR NOT THE DECISION OF THE REGIONAL TRIAL COURT IN AFFIRMING THE MUNICIPAL TRIAL COURT’S DECISION BY CONVICTING THE PETITIONER OF VIOLATION OF B.P. BLG. 22 BASED ON AN INVALID CHECK IS VALID?

2. WHETHER OR NOT THE DECISION OF THE APPELLATE REGIONAL TRIAL COURT IN UPHOLDING THE DECISION OF THE MUNICIPAL TRIAL COURT ANENT THE PAYMENT OF INTEREST EVEN WITHOUT THE SAME BEING STIPULATED IN WRITING IS VALID?”[11]

OUR RULING

Mendoza maintains that the check he delivered to Vergara to serve as security for his P300,000.00 loan was a blank check and that only his signature was affixed thereon.[12] He avers that this blank check was invalid for being an incomplete but delivered instrument, and must be avoided.[13] Moreover, he contends that it was Vergara who inserted the amount of Five Hundred Thousand Pesos (P500,000.00) on the check to represent his loan obligation and the interest of Two Hundred Thousand Pesos (P200,000.00), even if no interest was ever agreed upon in writing, which invalidates the check as a negotiable instrument.[14]

On the other hand, the Office of the Solicitor General (“OSG”) argues that Mendoza is liable under B.P. Blg. 22, but recommends that he be relieved from paying the actual damages of Seventy Thousand Pesos (P70,000.00) at twelve percent (12%) per annum awarded by the MTCC[15] on the ground that the interest rate imposed by Vergara on Mendoza’s P300,000.00 loan was unconscionable and should be rightfully and equitably reduced to twelve percent (12%) per annum only.[16]

The OSG alleges that by computing Mendoza's total loan obligation based on twelve percent (12%) interest shows that Mendoza is liable to pay Vergara the amount of Three Hundred Thirty Nine Thousand pesos (P339,000.00); as compared to the total amount of Three Hundred Seventy Thousand pesos (P370,000.00) that Mendoza had already paid Vergara.[17]

The petition has merit.

To sustain a conviction for violation of B.P. Blg. 22, the following elements must be proved beyond reasonable doubt: (1) the accused makes, draws, or issues any check to apply to account or for value; (2) the accused knows at the time of the issuance that he/she 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 check is subsequently dishonored for insufficiency of funds or credit, or it would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment.[18]

In the instant case, the MTCC found that the prosecution had sufficiently proved the first and third elements of the offense charged when accused issued the Philippine Savings Bank check to Vergara, and when said check was presented for payment, it was dishonored for having been drawn against a closed account.[19]

As regards the second element, a presumption *juris tantum* that knowledge of insufficiency of funds exists when the first and third elements concur. And, in order to create this presumption, it must be shown that the drawer or maker received a notice of dishonor and, within five (5) banking days thereafter, failed to satisfy the amount of the check or arrange for its payment.[20]

However, this presumption is not conclusive. It may be rebutted by evidence of full payment, as full payment is a complete defense that would lie regardless of the strength of the evidence presented by the prosecution. In essence, the law affords the drawer the opportunity to avert prosecution by performing some acts that would operate to preempt the criminal action.[21]

As a general rule, for full payment to affect an accused's criminal liability, it must be made at the time of its presentment or during the five-day grace period given to him upon notice of dishonor and any subsequent payments only affect his civil liability. However, in the case of *Griffith v. Court of Appeals*, the High Tribunal ruled that if the payments were made beyond the five-day grace period but prior to the institution of the criminal offense, the payment collected justifies the acquittal of accused.[22]

In the case at bar, as noted by the OSG, the factual findings of the MTCC, and affirmed by the RTC, show that upon receipt of the demand letter dated June 15, 1999, petitioner made a partial payment and left a balance of P150,000.00.[23] By necessary inference, Mendoza, upon his receipt of the notice of dishonor, made a partial payment of Three Hundred Fifty Thousand pesos (P350,000.00). Considering that the face value of the dishonored check was Five Hundred Thousand pesos (P500,000.00), Mendoza's payment of P350,000 upon receipt of the notice of dishonor did not satisfy the rule on full payment that will exonerate Mendoza from his criminal liability.

But this Court notes that the OSG recommended the deletion of Mendoza's civil liability from the MTCC award on the ground that Mendoza's civil liability had already been extinguished.[24] The OSG argued that:

“In *Macalalag v. People* [511 SCRA 400 (2006)], the Supreme Court overturned the conviction of the petitioner therein for one count of violation of B.P. Blg. 22 because it found that the interest rate that was imposed on her obligation by the private respondent therein was unconscionable and that the payments made by the former were more than enough to cover her obligation for one (1) of the checks that she issued.”[25] (emphasis supplied)

The OSG thus computed Mendoza's total liability, viz.:

“Applying the said formula to this case, the interest rate imposed by Severino [Vergara] on the PhP300,000.00 loan of petitioner should be equitably reduced to twelve per cent (12%) per annum only. Thus, the outstanding balance of petitioner to Severino is only three hundred thirty nine thousand pesos (PhP339,000.00) computed as follows: 300,000 (principal amount of the loan) x 1% x 13 (April 1998 [time when petitioner borrowed the money from Severino] – May 30, 1999 [time when the check was presented for payment and eventually dishonored]) + 300,000 = PhP339,000.00.

According to the factual findings of the MTCC, which was affirmed by the RTC, upon receipt of the demand letter dated June 15, 1999, petitioner made a partial payment and left a balance of P150,000.00. After petitioner's repeated pleas to Severino to reduce the said amount, the latter reduced the same to ninety thousand pesos (PhP90,000.00). Then, petitioner paid him twenty thousand pesos (PhP20,000.00).

Based on the aforesaid admissions of Severino which were given weight both by the MTCC and the RTC, petitioner had already paid the total amount of three hundred seventy thousand pesos (PhP370,000.00) (350,000 + 20,000), which is definitely over and above the PhP339,000.00 legal obligation of petitioner to Severino.

Therefore, petitioner's civil liability to Severino had long been extinguished by the payment of the said amount.”[26] (emphasis Ours)

On the foregoing premise, this Court finds that acquittal of petitioner is in order.

When the interest stipulated upon by the parties in a loan is iniquitous or unconscionable, it is contrary to morals, if not against the law.[27] Such stipulation is void.[28]

The foregoing facts considered, it thus appears that Mendoza had indeed fully paid his total loan obligation, as soon as he was notified of the check's dishonor and before the complaint below for violation of BP Blg. 22 was filed, it being conceded that the amount which Vergara included in the value of the check[29] to reflect Mendoza's loan is unconscionable and, therefore, void.

We should be reminded that the Bouncing Checks Law (BP Blg. 22) was devised to safeguard the interest of the banking system and the legitimate public checking account user. It was not designed to favor or encourage those who seek to enrich themselves through manipulation and circumvention of the purpose of the law. As in the case of *Tan v. PCIB*,[30] Mendoza's conviction and sentence could not be upheld without running afoul with basic principles of fairness and justice for, in Our view, Vergara already exacted his “proverbial pound of flesh” when Mendoza paid a total of P350,000.00 upon his receipt of the notice of dishonor.

While the gravamen of violation of BP Blg. 22 is the issuance of worthless checks that are dishonored upon presentment for payment, We, on the other hand, are not supposed to lose sight of the fact that courts cannot apply penal laws mechanically, especially when the reason therefor already ceased prior to his prosecution.[31] BP Blg. 22 affords the drawer the opportunity to avert prosecution by performing some acts that would operate to preempt the criminal action, that is to fully pay his obligation.[32]

It is axiomatic that when the reason for the law ceases, the law ceases, as it is not the letter alone, but the spirit of the law also that gives it life.[33]

WHEREFORE, the instant petition is hereby GRANTED. The RTC's assailed Decision dated January 12, 2009 is REVERSED and SET ASIDE. Petitioner Roberto Mendoza is hereby ACQUITTED of the charge of violation of BP Blg. 22 in Criminal Case No. 16051-08-C (MTC Crim. Case No. 35315-99). No costs.

SO ORDERED.

Acosta, and Gaerlan,[*] JJ., concur

[*] Acting Junior Member: per Office Order No.118-10-ABR dated May 18, 2010.

[1] Griffith v. Court of Appeals, 379 SCRA 94, 106(2002).

[2] Rollo, pages 29 – 36.

[3] Branch 92, Judge Alberto F. Serrano.

[4] Rollo, page 53.

[5] Ibid., page 59.

[6] Rollo, page 26.

[7] Rollo, page 26.

[8] Ibid., page 28.

[9] Rollo, page 95.

[10] Rollo, pages 31 – 36.

[11] Rollo, page 10.

[12] Ibid., page 12.

[13] Ibid., page 13.

[14] Ibid., page 17.

[15] Rollo, page 153.

[16] See Rollo, pages 154 – 159.

[17] Rollo, pages 159 – 160.

[18] Tan v. PCIB, G.R. No. 152666, April 23, 2008.

[19] Rollo, page 27.

[20] Tan v. PCIB, supra.

[21] Ibid.

[22] Tan v. PCIB, supra.

[23] Rollo, page 160.

[24] Ibid., page 154.

[25] Rollo, page 154.

[26] Ibid., pages 159 – 161.

[27] Art. 1306, Civil Code.

[28] Medel v. Court of Appeals, 299 SCRA 481, 489 (1998); cf. Art. 1409, Civil Code.

[29] Rollo, page 28.

[30] Note 18, *supra*.

[31] Griffith v. Court of Appeals, 379 SCRA 94, 106 (2002).

[32] Tan v. PCIB, G.R. No. 152666, April 23, 2008.

[33] Griffith v. Court of Appeals, *supra*.

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