MA. CORAZON LIM, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

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HERNANDO, J:

Can a person who issued a check to secure the debt of another person be held liable for violating the law on bouncing checks?

The Facts

Petitioner was charged with a violation of Batas Pambansa Blg. 22 (BP 22) in an Information dated August 30, 2007 filed before the Municipal Trial Court in Cities (MTCC) in Bacolod City docketed as Crim. Case No. 07-09-14120.[1]

Upon her arraignment on October 24, 2007, she pleaded not guilty. After the Judicial Dispute Resolution (JDR) failed, the preliminary conference and trial on the merits ensued.

It appears that on January 26, 2005, petitioner issued in favor of J.S. Finance Corp. Equitable PCI Bank Check No. 0253453, drawn against her account with said bank, for Php 82,600.00, which she did allegedly to guarantee the loan obligation of her daughter Ma. Cecilia Lim and the latter's boyfriend, Emil Lizares. When the debtors failed to settle their obligation, and petitioner's check was dishonored due to "account closed", J.S. Finance Corp. proceeded to commence a criminal case against the petitioner for violation of BP Blg. 22 before the MTCC.

The following were admitted by the prosecution:

> 1. The daughter of the accused in the person of Ma. Cecilia Lim and Emil Lizares had an outstanding account with J.S. Finance Corporation;
>
> 2. Ma. Cecilia Lim and Emil Lizares executed a promissory note in favor of J.S. Finance Corporation without the signature of the accused;
>
> 3. No demand letter was sent by J.S. Finance Corporation to Ma. Cecilia Lim;
>
> 4. No case was filed by J.S. Finance Corporation against either or both Ma. Cecilia Lim or Emil Lizares.[2]

The prosecution was able to present evidence against the accused, including the aspect denied by the defense relative to the sending and receipt by her of a notice of dishonor and demand for payment. The defense, on the other hand, did not present any evidence.

The MTCC Judgment

On June 29, 2009, the MTCC rendered a judgment of conviction as follows:

> WHEREFORE, in view of the foregoing, judgment is hereby rendered convicting the accused of the offense of Violation of Batas Pambansa Blg. 22 and she is hereby sentenced to pay a fine of Eighty Two Thousand Six Hundred Pesos (Php82,600.00) with subsidiary imprisonment in case of insolvency. On the civil aspect, the accused is hereby ordered to indemnify the offended party JS Finance Corporation of the sum of Eighty Two

> Thousand Six Hundred Pesos (Php82,600.00) plus the cost.
>
> SO ORDERED.[3]

Accused appealed on the alleged error that the trial court erred in convicting her since there was lack of evidence to prove her guilt beyond reasonable doubt based on the following:

> 1. The prosecution failed to establish the alleged issuance and delivery of the check to private complainant;
>
> 2. There is no proof that there was no sufficient funds to cover the check, and that the check, subject matter of the present case, indeed bounced or returned due to insufficiency of funds or account closed; and
>
> 3. There is no proof that accused personally received a notice of dishonor from the private complainant or from the bank. The prosecution likewise failed to present the person from the Philippine Postal Corporation who may have delivered the demand letter to the accused. He would be the least biased person who could have easily testified that he personally delivered to the accused the mail containing the demand letter from the private complainant. Demand is a condition sine qua non before the institution of the present case.[4]

In its Appeal Memorandum,[5] the prosecution traversed accused's arguments.

The RTC Judgment

On July 29, 2010, the Regional Trial Court (RTC), Branch 46 of Bacolod City affirmed the conviction of the accused. The RTC found that accused cannot evade the fact of issuance of the check since she admitted that she issued the said check subject matter of the criminal charge during the preliminary conference. Said admission partook of a judicial admission and such admission can be used against her interest. It also found that the corpus delicti of the offense was established by the prosecution's formal offer of Exh. "A", which is Equitable PCI Bank Check No. 0253453 with notation that the check was dishonored for the reason of "Account Closed"; the dishonored check is the best evidence of an unpaid indebtedness against the drawer thereof. As to the last issue, the court a quo also found that the Notice of Dishonor (Demand Letter) was property served on accused as she had been notified about it in writing. In addition, Lean T. Serdenia testified that she delivered a copy of such letter personally to the accused in the City Treasurer's Office albeit she refused to acknowledge receipt thereof. Such witness was not subjected to cross-examination.

Consequently, the RTC disposed as follows:

> WHEREFORE, in view of the foregoing considerations, Judgment is hereby rendered DISMISSING the Appeal interposed by the accused Ma. Corazon Lim, and the Decision of the Court a quo is AFFIRMED in toto.
>
> The Court directs the accused to pay the costs.
>
> SO ORDERED.[6]

Likewise, the Motion for Reconsideration[7] was denied in the November 12, 2010 Order.[8]

The Assignment of Errors

Dissatisfied by the judgment of convictions rendered by the lower courts, the petitioner is now before Us on the assigned errors that:

> 1. The RTC failed to consider the fact that the bouncing of the check was not established because the circumstances surrounding the closing of the account have not been established. It was also not established that when the check was presented for payment, there was no sufficient funds to cover the same; and

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> 2. The RTC failed to consider that the testimony of Lean T. Serdenia was self-serving plus resort to the post office was not availed of despite the alleged refusal of the accused to acknowledge receipt of the demand letter.[9]

The Office of the Solicitor General recommended for the affirmance of the judgment of conviction.[10]

The Ruling of this Court

The law enumerates the elements of B.P. Blg. 22, to wit, (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.[11]

One aspect that is readily apparent in this case is that petitioner merely issued the check, PCI Bank Check No. 0253453 under Current Account No. 00-1113-00802-0 dated January 26, 2005, for Php82,600.00 to JS Finance Corporation, in order to cover the debts of Ma. Cecilia Lim and Emil Lizares. However, she did not sign the promissory note evidencing the indebtedness. What then is her liability?

BP 22 punishes the mere act of issuing a worthless check. The law does not look either at the actual ownership of the check or of the account against which it was made, drawn, or issued, or at the intention of the drawee, maker or issuer.

The case of Ruiz v. People,[12] where accused therein raised the defenses that she issued the check as an accommodation party and that she was not the owner of the account against which the check was drawn, is squarely applicable with the case of the petitioner, thus:

> In Lozano v. Martinez, this Court ruled that 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 and putting them in circulation. The law includes all checks drawn against banks. The law was designed to prohibit and altogether eliminate the deleterious and pernicious practice of issuing checks with insufficient or no credit or funds therefor. Such practice is deemed a public nuisance, a crime against public order to be abated. 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. It is a crime classified as malum prohibitum. The law is broad enough to include, within its coverage, the making and issuing of a check by one who has no account with a bank, or where such account was already closed when the check was presented for payment.[13] (Emphasis ours.)

Consequently, the mere act of issuing a worthless check, whether as a principal obligor or as a mere accommodation party, such as the case of petitioner, is punishable under BP 22.

In an apparent move to exculpate herself, petitioner set up the defense that there was no notice of dishonor presented to her nor any evidence given by the prosecution that she received a notice of dishonor. However, both lower courts found that the petitioner was notified about such fact of dishonor in writing. Morever, Leah T. Serdenia testified that she delivered a copy of the letter of dishonor but she refused to acknowledge receipt thereof. This witness was not subjected to cross-examination by the defense making her assertions unrebutted.

Coming now to the imposable penalty, the MTCC ruling, as affirmed by the RTC, imposed a fine of Php82,600.00 with subsidiary imprisonment in case of insolvency and to indemnify the respondent the amount of Php82,600.00 plus costs. The cases of Llenado v. People[14] and Mitra v. People[15] imposed a fine as a penalty but with subsidiary imprisonment in case of insolvency and We find no reason to depart from these rulings.

Consequently, the judgment of the RTC affirming the decision of the MTCC should be affirmed.

WHEREFORE, this petition for review is DENIED. The Decision dated July 29, 2010 of the Regional Trial Court, Branch 46 of Bacolod City in Civil Case No. 09-32636 is AFFIRMED. Costs against petitioner.

SO ORDERED.

Salandanan-Manahan, and Quijano-Padilla, JJ., concur.

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[1] The indictment reads:

> That on or about the 26[th] day of January 2005, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused knowing fully well that her account with the EQUITABLE PCIBANK, Hilado-Bacolod Branch, Bacolod City, had already been closed, did then and there willfully, unlawfully and feloniously make out, issue and deliver to herein offended party, JS FINANCE CORPORATION, a corporation dully organized and existing under Philippine laws, herein represented by its legal counsel and authorized representative JAN MICHAEL J. YEE EPCIB Check No. 0253453 dated January 26, 2005 in the amount of EIGHTY TWO THOUSAND SIX HUNDRED (Php82,600.00) PESOS, Philippine currency, in payment of the loan she obtained from the herein offended party; that when said check was presented to the drawee bank for payment, the same was dishonored and returned for reason of "Account Closed", and herein accused, despite notice of dishonor and demands made upon her failed and refused, and still fails and refuses to redeem or make good the said check up to the present time, to the damage and prejudice of the offended party in the aforementioned amount.
>
> Act contrary to law.

[2] MTCC Decision dated June 29, 2009; Rollo, pp. 20-30A.

[3] Ibid. MTCC Decision was penned by Presiding Judge Eliseo C. Geolingo.

[4] Annex "C"; Memorandum; Rollo, pp. 32-34.

[5] Annex "D"; Appeal Memorandum for the prosecution; Rollo, pp. 36-41.

[6] Annex "E"; Judgment On Appeal dated July 29, 2010; Rollo, pp. 43-48. RTC Decision was penned by Judge George S. Patriarca.

[7] Annex "F"; Motion for Reconsideration dated August 16, 2010; Rollo, pp. 49-52.

[8] Annex "G"; Order dated November 12, 2010; Rollo, p. 53.

[9] Assignment of Errors, Petition for Review; Rollo, pp. 11-19; 15.

[10] Comment; Rollo, pp. 88-95.

[11] Lim v. People, G.R. No. 143231, October 26, 2001, 368 SCRA 436.

[12] G.R. No. 160893, November 18, 2005, 475 SCRA 476. See also the case of Resterio v. People, G.R. No. 177438, September 24, 2012.

[13] Ibid.

[14] G.R. No. 193279 March 14, 2012, 668 SCRA 330.

[15] G.R. No. 191404, July 5, 2010.

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