

SC ADMINISTRATIVE CIRCULAR NO. 13-2001, February 14, 2001

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T O

: ALL JUDGES

SUBJECT

: CLARIFICATION OF ADMINISTRATIVE CIRCULAR NO. 12-2000 ON THE PENALTY FOR VIOLATION OF BATAS PAMBANSA BLG. 22, OTHERWISE KNOWN AS THE BOUNCING CHECKS LAW

Clarification has been sought by concerned Judges and other parties regarding the operation of Administrative Circular 12-2000 issued on 21 November 2000. In particular, queries have been made regarding the authority of Judges to

- Impose the penalty of imprisonment for violations of Batas Pambansa Blg. 22; and
- Impose subsidiary imprisonment in the event that the accused, who is found guilty of violating the provisions of B.P. Blg. 22, is unable to pay the fine which he is sentenced to pay

considering that Administrative Circular No. 12-2000 adopted the rulings in *Eduardo Vaca v. Court of Appeals* (G.R. No. 131714, 16 November 1998, 298 SCRA 656) and *Rosa Lim v. People of the Philippines* (G.R. No. 130038, 18 September 2000) as a policy of the Supreme Court on the matter of the imposition of penalties for violations of B.P. Blg. 22, without mentioning whether subsidiary imprisonment could be resorted to in case of the accused's inability to pay the fine.

The clear tenor and intention of Administrative Circular No. 12-2000 is not to remove imprisonment as an alternative penalty, but to lay down a rule of preference in the application of the penalties provided for in B.P. Blg. 22.

The pursuit of this purpose clearly does not foreclose the possibility of imprisonment for violators of B.P. Blg. 22. Neither does it defeat the legislative intent behind the law.

Thus, Administrative Circular No. 12-2000 establishes a rule of preference in the application of the penal provisions of B.P. Blg. 22 such that where the circumstances of both the offense and the offender clearly indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone should be considered as the more appropriate penalty. Needless to say, the determination of whether the circumstances warrant the imposition of a fine alone rests solely upon the Judge. Should the Judge decide that imprisonment is the more appropriate penalty, Administrative Circular No. 12-2000 ought not be deemed a hindrance.

It is, therefore, understood that

- Administrative Circular 12-2000 does not remove imprisonment as an alternative penalty for violations of B.P. Blg. 22;
- The Judges concerned may, in the exercise of sound discretion, and taking into consideration the peculiar circumstances of each case, determine whether the imposition of a fine alone would best serve the interests of justice or whether forbearing to impose imprisonment would depreciate the seriousness of the offense, work violence on the social order, or otherwise be contrary to the imperatives of justice;
- Should only a fine be imposed and the accused be unable to pay the fine, there is no legal obstacle to the application of the Revised Penal Code provisions on subsidiary imprisonment.

The issuance of this Administrative Circular was authorized by the Court En Banc in A.M. No. 00-11-01-SC at its session of 13 February 2001.

The Clerk of Court of the Supreme Court and the Court Administrator shall immediately cause the implementation of this Administrative Circular.

This Administrative Circular shall be published in a newspaper of general circulation not later than 20 February 2001.

Issued this 14th day of February, 2001.

(Sgd.) HILARIO G. DAVIDE, JR.

Chief Justice

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