

MARLYN LAZARO, PETITIONER, VS. THE COURT OF APPEALS (EIGHTH DIVISION) AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 105461. November 11, 1993

Ponente: PADILLA, J.

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PADILLA, J.:

Petitioner Marlyn Lazaro was charged with the separate crimes of Estafa and Violation of Batas Pambansa Bilang 22, otherwise known as the Bouncing Checks Law.

On 24 September 1990, the Regional Trial Court, Branch 86, Quezon City rendered a joint decision* in Criminal Case Nos. Q-90-13387 and Q-90-13388 the dispositive part of which reads:

"WHEREFORE, the Court finds the accused, MARLYN LAZARO, guilty beyond reasonable doubt of the crime of Violation of B.P. 22, and hereby sentences said accused to suffer one (1) year imprisonment and to indemnify the offended party, Rudy Chua, in the sum of SEVENTY TWO THOUSAND (P72,000.00) PESOS, Philippine Currency, without subsidiary imprisonment in case of insolvency, with the accessories provided for by law.

For reasons above stated, accused is acquitted in the charge for the crime of estafa.

SO ORDERED." [1]

On appeal, the Court of Appeals in a decision** dated 31 March 1992 affirmed the trial court decision in toto. A Motion For Reconsideration was denied on 15 May 1992. Hence, this petition for review which raises the following issues:

"I. THE DECISION OF THE HONORABLE COURT OF APPEALS IS CONTRARY TO THE EVIDENCE ADDUCED IN THE LOWER COURT.

II. THAT RESPONDENT HONORABLE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION TANTAMOUNT TO DENY PETITIONER'S DUE PROCESS OF LAW (SIC) IN DISREGARDING THE FACT THAT THE AMOUNT WHICH IS COVERED BY (THE) CHECK IN QUESTION HAS ALREADY BEEN PAID BY PETITIONER WHEN SHE EXECUTED A DEED OF SALE IN FAVOR OF PRIVATE COMPLAINANT OF HER CAR.

III. THE RESPONDENT COURT OF APPEALS ERRED IN AFFIRMING THE JUDGMENT OF THE LOWER COURT." [2]

The evidence for the prosecution established the following:

1. On or about 13 October 1989, herein petitioner Marlyn Lazaro received from complainant Rudy Chua the amount of Ninety Thousand (P90,000.00) Pesos as advance payment for deliveries of sugar, cigarettes and luncheon meat ordered by the latter from Lazaro who is a businesswoman.

2. On 27 October 1989, petitioner made a partial delivery of the ordered goods worth Eighteen Thousand (P18,000.00) Pesos. Petitioner was unable to deliver the rest of goods ordered by Chua. Petitioner, as a refund of the amount of Seventy-Two Thousand (P72,000.00) Pesos, issued Prudential Bank Check No. 599175 dated 28 October 1989 for the aforementioned amount.
3. On 30 October 1989, complainant Chua deposited the check in his account. The check was dishonored by the bank and stamped "Account Closed."
4. To make up for the dishonor, Lazaro indorsed Trader's Royal Bank Check No. 393173 issued by a certain Lolita Soriano and payable "to cash". The check which was dated 18 November 1989 was likewise dishonored and marked "Account Closed."
5. Chua then sent a demand letter to Lazaro asking for the payment of the Seventy-Two Thousand (P72,000.00) Pesos covered by the first check within five (5) days from receipt of the letter.
6. For failure of the accused to pay the amount, Chua filed complaints for estafa and violation of B.P 22 against Lazaro.

Petitioner Lazaro admits having received from complainant Rudy Chua the amount of Ninety Thousand (P90,000.00) Pesos for the goods ordered by the latter. It is also undisputed that Lazaro was unable to deliver all the goods ordered and paid for by Chua and that Lazaro issued the aforementioned Prudential Bank Check No. 599175 in the amount of Seventy Thousand (P70,000.00) Pesos. The check was however dishonored for being drawn against a closed account. It is contended by petitioner Marlyn Lazaro that she executed a Deed of Sale dated 29 November 1989 wherein she conveyed to complainant Rudy Chua her 1980 Toyota Corolla Liftback to settle her obligation and that since her obligation to Chua has already been extinguished, there can be no violation of Batas Pambansa Blg. 22, private complainant not having been prejudiced or damaged by reason of the issuance of her dishonored check.[3]

Petitioner's argument is without merit. In *Que vs. People*,^[4] this Court stated that the clear intention of the framers of Batas Pambansa Bilang 22 is to make the mere act of issuing a worthless check *malum prohibitum*. In prosecutions for violation of BP 22 therefore, prejudice or damage is not a pre-requisite for conviction. In the more recent case of *People vs. Nitafan*^[5] this Court ruled that the agreement surrounding the issuance of the checks need not be first looked into, since the law has clearly provided that the mere issuance of any kind of check, regardless of the intent of the parties; i. e., whether the check is intended merely to serve as a guarantee or deposit, but which check is subsequently dishonored, makes the person who issued the check liable. The intent of the law is to curb the proliferation of worthless checks and to protect the stability and integrity of checks as a means of payment of obligations.

That the obligation of Marlyn Lazaro to complainant Chua has been extinguished by the conveyance by the former of her car to Chua does not also justify the cancellation of the indemnity awarded. It should be noted that BP 22 provides that a fine of not less than but not more than double the amount of the dishonored check may be imposed by the court.^[6] In the case of *Esler vs. Ledesma*,^[7] this Court stated that a fine is a pecuniary punishment imposed by a lawful tribunal upon a person convicted of a crime. Clearly, the fine provided for in BP 22 was intended as an additional penalty for the act of issuing a worthless check. This is the only logical conclusion since the law does not require that there be damage or prejudice to the individual complainant by reason of the issuance of the worthless check.

WHEREFORE, the judgment appealed from is hereby **AFFIRMED** in toto, with costs against the petitioner.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Nocon, and Puno, JJ., concur.

* Penned by Judge Antonio P. Solano

[1] Rollo, p. 31

** Penned by Associate Justice Quirino D. Abad Santos with the concurrence of Associate Justices Lorna S. Lombos-De La Fuente and Eduardo R. Bengzon

[2] Rollo, p. 85

[3] Petitioner's Memorandum, p. 13

[4] G.R. Nos. 75217-18, 21 September 1987, 154 SCRA 161

[5] G.R. No. 75954, 22 October 1992, 215 SCRA 79

[6] Section 1, BP 22

[7] G.R. No. L-28638, 21 September 1928, 52 Phil. 114

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