EDDIE B. SABANDAL, PETITIONER, VS. HON. FELIPE S. TONGCO, PRESIDING JUDGE, REGIONAL TRIAL COURT, MANILA, BRANCH 42, AND PHILIPPINES TODAY, RESPONDENTS.

G.R. No. 124498. October 05, 2001

Ponente: PARDO, J.

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PARDO, J.:

The Case

The case is a petition to suspend the criminal proceedings in the Regional Trial Court, Manila, Branch 42,[1] where petitioner Eddie B. Sabandal is charged with eleven counts of violation of Batas Pambansa Bilang 22.[2]

The Facts

On February 18, 1989, Eddie B. Sabandal entered into a memorandum of agreement on dealership with respondent Philippines Today, Inc. for the distribution of the newspaper Philippines Today, (now Philippine Star) in Bacolod City and in designated towns in Negros Occidental.[3]

Under the agreement, petitioner shall pay for an equivalent amount of one month of deliveries in advance within the first seven days of the succeeding month. Petitioner's allowable percentage of return shall be 10% and be entitled to a rebate of P0.15 per copy sold.

After execution of the agreement, respondent Philippines Today, Inc. made regular deliveries of the agreed copies of the newspaper to petitioner.

In order to make partial payments for the deliveries, on December 18, 1990 to April 15, 1991, petitioner issued to respondent several checks amounting to ninety thousand (P90,000.00) pesos.

When respondent presented petitioner's checks to the drawee banks for payment, the bank dishonored the checks for insufficiency of funds and/or account closed. Consequently, respondent made oral and written demands for petitioner to make good the checks. However, petitioner failed to pay despite demands.

In December 1992, on the basis of a complaint-affidavit filed by respondent Philippines Today, Inc., assistant city prosecutor of Manila Jacinto A. de los Reyes, Jr. filed with the Regional Trial Court, Manila eleven informations for violation of Batas Pambansa Bilang 22 against petitioner.[4]

Three years later, or on October 11, 1995, petitioner filed with the Regional Trial Court, Negros Occidental at Himamaylan, a complaint against Philippines Today, Inc. for specific performance, recovery of overpayment and damages.[5]

On October 11, 1995, petitioner also filed with the Regional Trial Court, Manila, Branch 42, a motion to suspend trial in the criminal cases against him based on a prejudicial question.[6]

On November 27, 1995, the trial court denied petitioner's motion to suspend trial based on a prejudicial

question.[7]

On December 20, 1995, petitioner filed with the trial court a motion for reconsideration of the denial.[8]

On January 9, 1996, the trial court denied the motion for reconsideration.[9]

Hence, this petition.[10]

The Issue

The issue raised is whether a prejudicial question exists to warrant the suspension of the trial of the criminal cases for violation of Batas Pambansa Bilang 22 against petitioner until after the resolution of the civil action for specific performance, recovery of overpayment, and damages.

The Court's Ruling

The petition has no merit.

The two (2) essential elements of a prejudicial question are: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed.[11]

"A prejudicial question is defined as that which arises in a case the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal. The prejudicial question must be determinative of the case before the court but the jurisdiction to try and resolve the question must be lodged in another court or tribunal. It is a question based on a fact distinct and separate from the crime but so intimately connected with it that it determines the guilt or innocence of the accused."[12]

"For a civil action to be considered prejudicial to a criminal case as to cause the suspension of the criminal proceedings until the final resolution of the civil, the following requisites must be present: (1) the civil case involves facts intimately related to those upon which the criminal prosecution would be based; (2) in the resolution of the issue or issues raised in the civil action, the guilt or innocence of the accused would necessarily be determined; and (3) jurisdiction to try said question must be lodged in another tribunal."[13]

If both civil and criminal cases have similar issues or the issue in one is intimately related to the issues raised in the other, then a prejudicial question would likely exist, provided the other element or characteristic is satisfied.[14] It must appear not only that the civil case involves the same facts upon which the criminal prosecution would be based, but also that the resolution of the issues raised in the civil action would be necessarily determinative of the guilt or innocence of the accused.[15] If the resolution of the issue in the civil action will not determine the criminal responsibility of the accused in the criminal action based on the same facts, or there is no necessity "that the civil case be determined first before taking up the criminal case," therefore, the civil case does not involve a prejudicial question.[16] Neither is there a prejudicial question if the civil and the criminal action can, according to law, proceed independently of each other.[17]

In this case, the issue in the criminal cases for violation of Batas Pambansa Bilang 22 is whether the accused knowingly issued worthless checks. The issue in the civil action for specific performance, overpayment, and damages is whether complainant Sabandal overpaid his obligations to Philippines Today, Inc. If, after trial in the civil case, petitioner is shown to have overpaid respondent, it does not follow that he cannot be held liable for the bouncing checks he issued, for the mere issuance of worthless checks with knowledge of the insufficiency of funds to support the checks is itself an offense.[18]

The lower court, therefore, did not err in ruling that the pendency of a civil action for specific performance,

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overpayment, and damages did not pose a prejudicial question in the criminal cases for violation of Batas Pambansa Bilang 22.

Furthermore, the peculiar circumstances of the case clearly indicate that the filing of the civil case was a ploy to delay the resolution of the criminal cases. Petitioner filed the civil case three years after the institution of the criminal charges against him. Apparently, the civil action was instituted as an afterthought to delay the proceedings in the criminal cases.

Petitioner's claim of overpayment to respondent may be raised as a defense during the trial of the cases for violation of Batas Pambansa Bilang 22 charged against him. The civil action for recovery of civil liability is impliedly instituted with the filing of the criminal action.[19] Hence, petitioner may invoke all defenses pertaining to his civil liability in the criminal action.[20]

The Fallo

WHEREFORE, the Court hereby DISMISSES the petition for lack of merit. The Court directs the Regional Trial Court, Manila to proceed with the trial of the criminal cases against petitioner with all judicious dispatch in accordance with the Speedy Trial Act of 1998.[21]

No costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, and Ynares-Santiago, JJ., concur.
Kapunan, J., (on official leave).

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[1] In Criminal Cases Nos. 92-113446-56, Judge Felipe S. Tongco, presiding.

[2] Otherwise known as the Bouncing Checks Law.

[3] Petition, Annex "A", Rollo, p. 34.

[4] Petition, Annexes "B", "C", "D", "E", "F", "G", "H", "I", "J", "K", "L", Rollo, pp. 35-45.

[5] Peittion, Annex "M", Rollo, pp. 46-52.

[6] Petition, Annex "N", Rollo, pp. 54-56.

[7] Petition, Annex "P", Rollo, pp. 61-62.

[8] Petition, Annex "Q", Rollo, pp. 63-73.

[9] Petition, Annex "R", Rollo, p. 74.

[10] Filed on April 24, 1996, Rollo, pp. 17-32. On June 23, 1999, the Court gave due course to the petition (Rollo, pp. 176-177). The case was considered submitted for decision upon the filing of petitioner's memorandum on October 12, 1999 (Rollo, pp. 271-280).

[11] Rule 111, Section 5, 1985 Rules of Criminal Procedure; Dichaves v. Apalit, 333 SCRA 54, 57 [2000]; Ching v. Court of Appeals, 331 SCRA 16, 27 [2000].

[12] Donato v. Luna, 160 SCRA 441 [1988]; Quiambao v. Osorio, 158 SCRA 674 [1988]; Ras v. Rasul, 100 SCRA 125, 127 [1980].

[13] Prado v. People, 218 Phil. 573, 577 [1984].

[14] Alano v. Court of Appeals, 347 Phil. 549, 553 [1997], citing Benitez v. Concepcion, Jr., 112 Phil. 105 [1961].

[15] Te v. Court of Appeals, G. R. No. 126746, November 29, 2000; Beltran v. People, 334 SCRA 106, 111 [2000].

[16] Isip v. Gonzales, 148-A Phil. 212 [1971].

[17] Rojas v. People, 156 Phil. 224, 229 [1974].

[18] Lozano v. Martinez, 146 SCRA 323 [1986].

[19] Rule 111, Section 1, 1985 Rules of Criminal Procedure; Garcia v. Court of Appeals, 334 Phil. 621, 632 [1997]; Manuel v. Alfeche, Jr., 328 Phil. 832, 840-841 [1996].

[20] First Producers Holdings Corporation v. Co, 336 SCRA 551, 559 [2000]; Javier v. Intermediate Appellate Court, 171 SCRA 605 [1989].

[21] R. A. No. 8493.

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