JANE CARAS Y SOLITARIO, PETITIONER, VS. HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 129900. October 02, 2001

Ponente: QUISUMBING, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-129900/

QUISUMBING, J.:

This is an appeal by certiorari from the decision of the Court of Appeals[1] which affirmed the decision of the Regional Trial Court of Quezon City, Branch 92, finding petitioner Jane Caras y Solitario guilty of 15 counts of Batas Pambansa Blg. 22 (Bouncing Checks Law) violations.

The facts of the case as found by the Court of Appeals are as follows:

> JANE S. CARAS has appealed from the judgment of conviction in fifteen (15) related cases of Violation of the Bouncing Checks Law. The first Information (docketed as Criminal Case No. Q-93-44420) against her reads as follows:
>
> That on or about the 5[th] day of January 1992 in Quezon City, Philippines, the said accused did then and there wilfully, unlawfully and feloniously make or draw and issue to Chu Yang T. Atienza to apply on account or for value PCI Bank, Commonwealth Ave. Branch Check No. 017744 dated March 18, 1992 payable to the order of CASH in the amount of P14,125.00 Philippine Currency, said accused well knowing that at the time of issue she did not have sufficient funds in or credit with the drawee bank for payment of such check in full upon its presentment which check when presented for payment was subsequently dishonored by the drawee bank for Account Closed and despite receipt of notice of such dishonor, said accused failed to pay said Chu Yang T. Atienza the amount of said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

In Criminal Case Nos. Q-93-44421 to Q-93-44434, the informations were similarly worded as above, except for the respective amounts involved, dates, numbers of checks and dates of commission.

When arraigned on August 16, 1993, accused Caras pleaded "not guilty". Thereafter, trial proceeded.

The evidence for the prosecution tends to show that on or about February 18, 1992, up to May 31, 1992 at Quezon City, accused Jane Caras obtained from complainant Chu Yang T. Atienza on installment various gift checks and purchase orders from Uniwide Sales and in payment thereof, the accused issued to the complainant the following checks drawn against Philippine Commercial Bank:

> Check No.
>
> Date
>
> Amount
>
> 017744

3-18-92

P 14,125.00

017743

3-03-92

P 14,625.00

017627

3-03-92

P 14,125.00

017745

4-03-92

P 14,125.00

017664

4-18-92

P 23,500.00

017746

4-18-92

P 14,125.00

017789

3-18-92

P 14,125.00

017790

4-03-92

P 14,125.00

017663

4-02-92

P 23,500.00

017662

3-18-92

P 24,440.00

017768

3-18-92

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

P 7,062.50

017788

3-03-92

P 14,125.00

017665

5-02-92

P 23,500.00

017767

3-03-92

P 7,062.50

017769

3-31-92

P540,318.35

When the checks were presented for deposit or encashment, they were all dishonored for the reason "Account Closed". Despite repeated verbal and written demands made on her to replace the dishonored checks with cash, she failed and refused to do so.

The accused admitted that she issued the fifteen (15) checks. She claimed, however, that they were given to Marivic Nakpil,[2] alleged sister of the complainant, as "guarantee deposit," that is, for every gift check and purchase order given to the accused, she issued personal checks to guarantee its payment. The checks are not to be encashed nor deposited with any bank. With regard to Check No. 017769 in the amount of P540,316.35 (Exh. "O"), accused claimed that she entrusted the said check to Marivic Nakpil in blank, with her signature but without any amount or numerical figures on the face of the check.

On May 13, 1994, the Court a quo rendered its judgment with the following disposition:

WHEREFORE, Judgment is hereby rendered as follows:

- In Crim. Case No. Q-93-44420 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;

- In Crim. Case No. Q-93-44421 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambans Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and indemnify the offended party in the amount of P14,625.00 and to pay the costs;

- In Crim. Case No. Q-93-44422 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;

- In Crim. Case No. Q-93-44423 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;

- In Crim. Case No. Q-93-44424 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to indemnify the offended party in the amount of P23,500.00 and to pay the costs;

- In Crim. Case No. Q-93-44425 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;

- In Crim. Case No. Q-93-44426 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;

- In Crim. Case No. Q-93-44427 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;

- In Crim. Case No. Q-93-44428 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to indemnify the offended party in the amount of P23,500.00 and to pay the costs;

- In Crim. Case No. Q-93-44429 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to indemnify the offended party in the amount of P24,440.00 and to pay the costs;

- In Crim. Case No. Q-93-44430 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of two (2) months and to indemnify the offended party in the amount of P7,062.50 and to pay the costs;

- In Crim. Case No. Q-93-44431 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;

- In Crim. Case No. Q-93-44432 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to indemnify the offended party in the amount of P23,500.00 and to pay the costs;

- In Crim. Case No. Q-93-44433 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of two (2) months and to indemnify the offended party in the amount of P7,062.50 and to pay the costs;

- In Crim. Case No. Q-93-44434 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of eight (8) months and to indemnify the offended party in the amount of P540,318.35 and to pay the costs.

SO ORDERED.[3]

On June 13, 1994, petitioner filed a Motion for Reconsideration which was denied by the trial court in an Order dated September 22, 1994. Petitioner then filed an appeal with the Court of Appeals which rendered judgment as follows:

> WHEREFORE, the appealed decision is hereby AFFIRMED in toto. Costs against appellant.

SO ORDERED.[4]

On April 11, 1997, petitioner filed a Motion for Reconsideration which was denied by the Court of Appeals in a Resolution dated July 15, 1997.

Hence, this petition, in which petitioner alleges that the Court of Appeals erred:

- IN NOT RESOLVING THE ISSUES BROUGHT OUT IN THE MOTION FOR RECONSIDERATION;

- IN COMPLETELY IGNORING THE PURPOSE OF THE ISSUANCE OF THE CHECKS;

- IN COMPLETELY IGNORING THE LACK OF PERSONALITY OF THE PRIVATE COMPLAINANT TO INITIATE AND PROSECUTE THESE CASES;

- IN NOT ACQUITTING THE ACCUSED FOR LACK OF CONSIDERATION (AS TO PCIB CHECK NO 017769 FOR P540,318.35) AND FOR LACK OF KNOWLEDGE OF THE INSUFFICIENCY OF HER FUNDS;

- IN COMPLETELY IGNORING THAT THE COURT A QUO HAD NO TERRITORIAL JURISDICTION OVER THE OFFENSE.[5]

Petitioner admits having issued the checks subject of this case, save for one, but insists that she issued them merely to guarantee payment of her obligation to a certain Marivic Nakpil; they were not supposed to have been deposited in a bank. Petitioner also denies having transacted with private complainant Chu Yang T. Atienza, and asserts that the latter did not have personality to prosecute this case.

Petitioner argues that one of the checks, PCIB check no. 017769, was issued in blank. She claims that this check was issued without consideration and that the element of the crime that the check must be issued for value is lacking as regards this particular check. Also in relation to her fourth assignment of error, petitioner asserts that she was not properly notified of the dishonor of her checks. She maintains that the prosecution failed to show that she received the notices of dishonor purportedly sent to her. She points out that no return card nor acknowledgment receipt for the first demand letter was presented in evidence. While there was a return card attached to the second demand letter, this was not marked nor offered in evidence, and hence must be ignored.[6]

Petitioner also assails the jurisdiction of the Quezon City RTC over the case, maintaining that there is no evidence showing that the checks were issued and delivered in Quezon City. Neither is there evidence as to where the private complainant received the checks, and whether or not she received them from the accused herself.

For its part, the Office of the Solicitor General argues that B.P. 22 does not make any distinction regarding the purpose for which the checks were issued. Thus, it is of no moment even if it were true that, as claimed by accused, the checks she issued were meant only to guarantee payment of her obligation. Criminal liability attaches whether the checks were issued in payment of an obligation or to guarantee payment of that obligation.[7] There is violation of B.P. 22 when a worthless check is issued and is subsequently dishonored by the drawee bank. The OSG also points out that accused did not deny having issued the subject checks.

After a careful consideration of the records and the submissions of the parties, we find that the resolution of this petition hinges on the issue of whether the prosecution evidence suffices to convict the accused, herein petitioner Jane Caras. The elements of the offense under Section 1 of B.P. Blg. 22 are: (1) drawing and issuance of any check to apply on account or for value; (2) knowledge by the maker, drawer, or issuer that at the time of issue he did not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon presentment; and (3) said check is subsequently dishonored by the drawee bank for insufficiency of funds or credit, or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

the bank to stop payment.[8]

What the law punishes is the issuance of a bouncing check and not the purpose for which the check was issued, nor the terms and conditions of its issuance. There are matters we need to pursue, because, as said in Llamado v. Court of Appeals,[9]

> ...to determine the reasons 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 about havoc in trade and in banking communities.

Thus, petitioner's contention that she issued the checks subject of this case merely to guarantee payment of her obligation is hardly a defense. The mere act of issuing a worthless check is malum prohibitum and is punishable under B.P. 22, provided the other elements of the offense are properly proved.

In particular, we note that the law provides for a prima facie rule of evidence. Knowledge of insufficiency of funds in or credit with the bank is presumed from the act of making, drawing, and issuing a check payment of which is refused by the drawee bank for insufficiency of funds when presented within 90 days from the date of issue. However, this presumption may be rebutted by the accused-petitioner. Such presumption does not hold when the maker or drawer pays or makes arrangements for the payment of the check within five banking days after receiving notice that such check had been dishonored.[10] Thus, it is essential for the maker or drawer to be notified of the dishonor of her check, so she could pay the value thereof or make arrangements for its payment within the period prescribed by law.

Petitioner denies having received any notice that the checks she issued had been dishonored by the drawee bank. After carefully going over the records of this case, we find that indeed no clear evidence is shown on whether petitioner was informed that her checks had been dishonored.

The notice of dishonor, as held in Lao v. Court of Appeals,[11] may be sent by the offended party or the drawee bank. Complainant testified that she hired lawyers to prepare and send the demand letters.[12] The prosecution presented and marked in evidence two letters demanding payment which were purportedly sent to petitioner. However, the prosecution presented no evidence that would establish petitioner's actual receipt of any demand letter which could have served as notice to petitioner. None of the letters contained an indication that they were actually received by petitioner. No acknowledgement receipt nor return card for the first and second demand letters were offered in evidence. Such omission and neglect on the part of the prosecution is fatal to its cause.

There is testimony on record that private complainant asked petitioner to pay the value of the checks. However, there is no mention of when the demand to pay was made, whether before or after the checks were dishonored by the drawee bank.[13] It is possible that payment was requested before the checks were deposited, since, as testified to by petitioner, the usual arrangement was that she issues checks and then she replaces them with cash. The checks were not deposited but were, instead, returned to her.[14] However, according to the prosecution, petitioner started having problems with her cash flow resulting to her inability to replace the checks she issued with cash. But such problems leading to illiquidity of petitioner are not material elements of the crime. What is pertinent here is prior notice to the drawer that her checks have been dishonored, so that within five banking days from receipt of such notice she could pay the check fully or make arrangements for such payment.

Even the testimony of Manuel Panuelos, branch manager of PCI Bank where petitioner maintained her checking account, indicates that the bank also failed to send notice to petitioner for her to pay the value of the checks or make arrangements for their payment within five days from the dishonor of the said checks. Note his testimony on cross-examination:

Q:

Did you give the accused notice within five (5) banking days within which to make arrangement with the bank within ninety (90) days regarding the bounced checks?

Atty. Palaña:

Your Honor, that is already answered by the witness.

Atty. Dela Torre:

No, that is not the answer, what I want is that.....

Court:

Reform

Atty. Dela Torre:

Is it not your procedure that when a check bounced, you give notice to the ....

A:

It is not our procedure.

Q:

It is not your procedure?

A:

No. In fact we do it verbally....

Q:

Is it not standard operating procedure in your bank to give customers notice within five (5) banking days to make arrangement with the bank within ninety (90) days regarding the bounced check?

A:

No, that is not our procedure.

Q:

You do not follow that procedure?

A:

We do not. That is not our standard procedure.[15]

Petitioner on the witness stand denied receiving any notice from the bank.

Q:

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

> Madam Witness, all these checks were deposited with the bank in one day. Will you please tell this Honorable Court when the first check bounced by the reason of DAIF, were you notified by your depositary bank which is PCIB within five (5) banking days to make arrangement within...days regarding that bouncing checks?
>
> A:
>
> No, sir, I did not receive any notice.[16]

The absence of proof that petitioner received any notice informing her of the fact that her checks were dishonored and giving her five banking days within which to make arrangements for payment of the said checks prevents the application of the disputable presumption that she had knowledge of the insufficiency of her funds at the time she issued the checks. Absent such presumption, the burden shifts to the prosecution to prove that petitioner had knowledge of the insufficiency of her funds when she issued the said checks, otherwise, she cannot be held liable under the law.[17]

Even more crucial, the absence of any notice of dishonor personally sent to and received by the accused is a violation of the petitioner's right to due process. This is in effect our ruling in Lao vs. Court of Appeals,[18] where we held:

> It has been observed that the State, under this statute, actually offers the violator "a compromise by allowing him to perform some act which operates to preempt the criminal action, and if he opts to perform it the action is abated". This was also compared "to certain laws"(citing E.O. 107, 83 O.G. No. 7, p. 576 (February 16, 1987), and E.O. 122, 89 O.G. No. 44, p. 6349 (November 1, 1993) allowing illegal possessors of firearms a certain period of time to surrender the illegally possessed firearms to the Government, without incurring any criminal liability" (citing Nitafan, David G., Notes and Comments on the Bouncing Checks Law (BP Blg. 22), pp. 121-122). In this light, the full payment of the amount appearing in the check within five banking days from notice of dishonor is a "complete defense" (citing Navarro vs. Court of Appeals, 234 SCRA 639). The absence of a notice of dishonor necessarily deprives an accused an opportunity to preclude a criminal prosecution. Accordingly, procedural due process clearly enjoins that a notice of dishonor be actually served on petitioner. Petitioner has a right to demand - and the basic postulates of fairness require - that the notice of dishonor be actually sent to and received by her to afford her the opportunity to avert prosecution under B.P. Blg. 22. (Underscoring and emphasis supplied.)

Absent a clear showing that petitioner actually knew of the dishonor of her checks and was given the opportunity to make arrangements for payment as provided for under the law, we cannot with moral certainty convict her of violation of B.P. Blg. 22. The failure of the prosecution to prove that petitioner was given the requisite notice of dishonor is a clear ground for her acquittal.[19] Discussion of the other assigned errors need no longer detain us.

However, it should be stressed that this decision in no way prejudices the civil obligations, if any, that she might have incurred by reason of her transactions with private complainant. For we note that petitioner does not deny having issued the subject checks.[20] And while no criminal liability could be imposed in this case for lack of sufficient proof of the offense charged, a fair distinction should be made as to civil aspects of the transaction between the parties.

WHEREFORE, the assailed decision of the Court of Appeals affirming that of the Regional Trial Court, is REVERSED and SET ASIDE. Petitioner Jane Caras is ACQUITTED on the ground that her guilt has not been established beyond reasonable doubt. This decision is without prejudice to the filing of an appropriate civil case, if warranted, to determine the civil aspects of petitioner's transactions.

No pronouncement as to costs.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

---

[1] CA Rollo, pp. 102-115.

[2] Also spelled as "Napil" and "Narpil" in the records.

[3] RTC Records, pp. 112-116.

[4] CA Rollo, p. 115.

[5] Rollo, pp. 18-19.

[6] Rollo, p.136.

[7] Citing Que v. People, G.R. No. L-75217-18, 154 SCRA 160, 164 (1987).

[8] Nieva, Jr. v. Court of Appeals, G.R. Nos. 95796-97, 272 SCRA 1, 12 (1997).

[9] [G.R. No. 99032, 270 SCRA 423, 431 (1997).]

[10] B.P. Blg. 22, Section 2 provides:

SEC. 2. Evidence of knowledge of insufficient funds. -- The making, drawing and issuance of a check payment of which is refused by the drawee because of insufficient funds in or credit with such bank, when presented within ninety (90) days from the date of the check, shall be prima facie evidence of knowledge of such insufficiency of funds or credit unless such maker or drawer pays the holder thereof the amount due thereon, or makes arrangements for payment in full by the drawee of such check within five (5) banking days after receiving notice that such check has not been paid by the drawee.

[11] G.R. No. 119178, 274 SCRA 572, 592 (1997).

[12] TSN, Chu Yang Atienza, October 5, 1993, pp. 17-20.

[13] TSN, Jane Caras, December 16, 1993, pp. 13-14.

[14] Id. at 5.

[15] TSN, Manuel Panuelos, October 26, 1993, pp. 10-11.

[16] TSN, Jane Caras, December 16, 1993, p. 9.

[17] Idos vs. Court of Appeals, G.R. No. 110782, 296 SCRA 194, 210 (1998).

[18] G.R. No. 119178, 274 SCRA 572, 594 (1997).

[19] See King v. People, G.R. No. 131540, 319 SCRA 654, 670 (1999).

[20] See TSN, Chu Yang Atienza, October 5, 1993, p. 16; TSN, Jane Caras, December 16, 1993, p. 11.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.