PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. NATY CHUA, ACCUSED-APPELLANT.

G.R. No. 130632. September 28, 1999

Ponente: DAVIDE, JR., J.

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DAVIDE, JR., J.:

In a decision[1] rendered in Criminal Case No. C-34417 for estafa under Article 315(2) (d) of the Revised Penal Code[2] and Criminal Cases Nos. C-34418 to C-34421 for violations of Batas Pambansa Blg. 22,[3] the Regional Trial Court of Kalookan, Branch 130, found accused-appellant Naty Chua (hereafter NATY) guilty beyond reasonable doubt in all cases.

The Information in Criminal Case No. C-34417 charged NATY with estafa allegedly committed as follows:

> That on, about and sometime during the month of October 1988 in Kalookan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused defrauded and deceived one Robert Loo Tian in the following manner to wit: the said accused received from said complainant cash money amounting to P232,650.00 and in exchange thereof issued in favor of said complainant the following checks to wit:
>
> Name of Bank
>
> Check No.
>
> Date
>
> Amount
>
> Far East Bank & Trust Co.
>
> 909202
>
> 3/24/89
>
> P 7,500.00
>
> Equitable Bank
>
> 12276355
>
> 4/20/89
>
> 5,150.00
>
> Urban Bank
>
> 088899
>
> 4/05/89

20,000.00

Equitable Bank

12276356

5/23/89

100,000.00

Equitable Bank

12276357

6/06/89

50,000.00

Equitable Bank

12276358

6/23/89

50,000.00

when said accused knew fully well at the time that she ha[d] no sufficient funds in the bank and would not have such funds even on the date stated on the face thereof and upon presentment of such checks to the drawee bank for payment, the same were all dishonored for the reasons "Drawn Against Insufficient Funds" and "Account Closed"; that despite due notice as required by Republic Act No. 4885 and notwithstanding repeated demands, the herein accused, did then and there wilfully, unlawfully and feloniously refuse and fail to make good her checks in the total amount of P232,650.00 and still refuses and fails to do so, to the damage and prejudice of the said complainant in the aforementioned amount.

Contrary to Law.[4]

The accusatory portion of the information in Criminal Case No. C-34418 reads as follows:

That on or about and sometime during the month of October 1988 in Caloocan City, Metro Manila, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously make and issue Check No 12276355 drawn against the Equitable Banking Corp., in the amount of P5,150.00 dated April 20, 1989 to apply for value in favor of ROBERT LOO TIAN well knowing at the time of issue that she had no sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment, which check was subsequently dishonored for the reason "Drawn Against Insufficient Funds" and with the intent to defraud, failed and still fails to pay the said complainant the amount of P5,150.00 despite receipt of notice from the drawee bank that said check had been dishonored and had not been paid.

Contrary to law.[5]

The Informations in Criminal Cases Nos. C-34419 to C-34421[6] are similarly worded as in Criminal Case No. C-34418 except as to the dates of issue, and the numbers and amounts of the checks. Involved therein are Check No. 12276356 dated 23 May 1989 in the amount of P100,000; Check No. 12276357 dated 6 June 1989 in the amount of P50,000; and Check No. 12276358 dated 23 June 1989 in the amount of P50,000. The ground for the dishonor of the checks was "Drawn Against Insufficient Funds."

The cases were consolidated and jointly tried. Upon arraignment, NATY pleaded not guilty in each case.[7]

The evidence for the prosecution is summarized in the challenged decision of the trial court as follows:

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> Complainant Robert Loo Tian testified that sometime in October 1988, his sister-in-law Teresita Lim brought to his house in Kalookan City the herein accused Naty Chua and introduced her to him. The accused wanted to borrow money in the amount of P200,000.00. He was at first reluctant and told them to come back after two or three days. When the accused Naty Chua and Teresita Lim returned to his house two or three days later, he agreed to Naty Chua's request and gave her the amount of P232,650.00 in cash in consideration of which the accused issued and delivered him six (6) personal postdated checks, drawn against the Equitable Banking Corporation. When the six (6) checks became due in March 1989, he wanted to deposit them but the accused told him not to deposit them because they were not funded and promised to replace them. Sometime within that month of March 1989, the accused replaced the six (6) personal checks with another six (6) postdated checks, four of which were her personal checks (Exhibits B, D, E, F) drawn against the Equitable Banking Corporation, while the other two (Exhibits A, C) were checks endorsed to her by Gracita del Rosario and Susana de Guzman (TSN, June 11, 1990, pp. 16-17).
>
> When the two endorsed checks (Exhibits A, C) became due, he made an arrangement with Teresita Lim to deposit them in her personal account because Teresita Lim had money and immediately paid him in cash, whereas if he had to deposit them in his personal account, he would have to wait for another three days before the checks could be cleared. However, the two checks when presented for payment were dishonored for the reason that they were drawn against insufficient funds (Exhibits A-2, C-4, on Exhibits A and C), as a result of which he had to return to Teresita Lim the amount he had received from her. He looked for the accused in order to request her to make good the checks but she was nowhere to be found.
>
> The four personal checks made and issued by the accused Naty Chua (Exhibits B, D, E, F) were deposited by him in his personal account, but they were all dishonored upon presentment and returned unpaid for reasons of insufficient fund (IF) in the case of the Check Exhibit B, and Account Closed with regard to the Checks Exhibits D, E and F. Since he could not find the accused personally, he sent her by registered mail two letters of demand, both dated July 7, 1989, one addressed to her residence at No. 229-F Kanlaon Street, Quezon City, and other to her place of business at No. 147 Carlos Palanca Street, Quiapo, Manila (Exhibits G, H). Both letters were returned by the Post Office for the reason that they were unclaimed by the accused. He noticed, however, that the envelope of one of the letters (Exhibit G) was already opened when returned to him.
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> Complainant filed with the Kalookan City Police Station a case against the accused (Exhibit I) which case was subsequently forwarded to the Office of the Fiscal (Exhibit J). During the confrontation, at the Fiscal's Office, the accused appeared personally and offered to settle the case by paying to him the amount of P1,000.00 a month, an offer which he rejected for it would take her 17 ½ years to complete the payment.
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> Teresita Lim corroborated his testimony in all material points.
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> Alfredo de la Cruz, signature verifier of the Equitable Banking Corporation, who appeared pursuant to a subpoena duces tecum, produced before the Court the statement of account of accused Naty Chua with the Bank (Exhibit L). He testified that Check No. 12276355 (Exhibit B) was deposited on April 20, 1989 but was returned the following day for the reason "Insufficient Fund" (TSN, June 25, 1990, p. 7. See also Exhibit L-2 on Exhibit L); that the account of Naty Chua was closed on June 21, 1989; that the three other checks (Exhibits D, E, F) were no longer reflected in the statement of account since her account had been closed, so that said checks were dishonored and returned for the reason "Account Closed". (TSN, June 25, 1990, pp. 8, 9).[8]

On the other hand, NATY interposed the defense of denial. She denied knowing Robert Loo Tian (hereafter ROBERT) and issuing checks to him. She testified that she received a subpoena from the City Prosecutor's Office of Kalookan City sometime in July 1989. Since she did not know the complainant, she "deemed it proper not to attend the hearing." She sent her mother to the prosecutor's office to find out who filed the case against her. Her mother reported that the complainant was one Robert Loo Tian and that the latter was interested in just settling the case. Her mother and ROBERT agreed at the prosecutor's office to meet at Aldy's Restaurant at 2:00

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p.m., and her mother advised her to meet with ROBERT.

Accompanied by her mother, her uncle Benjamin Manalo, and her friend Precy, NATY went to Aldy's Restaurant at the appointed hour. Mrs. Loo Tian was there waiting outside the restaurant. Since the restaurant was still closed, her uncle suggested that they go instead to Silver City Restaurant across the street and just wait for ROBERT there.

When they were already inside the restaurant Mrs. Loo Tian made a phone call to ROBERT. NATY's companions all sat on one table. NATY sat on the table next to them, as their table was already fully occupied; besides, she wanted to show then that she and ROBERT did not know each other. After waiting for one-and–a half hours, ROBERT arrived and approached the table where his wife and NATY's companions were sitting. He faced Precy and asked her, "Naty, why [didn't] you want to appear at the fiscal's office?" NATY'S mother answered, "That is not Naty" and pointed at her and said, "That is Naty." When Ben Manalo asked her whether she knew ROBERT, she shook her head to indicate that she did not know him. ROBERT just stared at her and sat down at the table of her companions. ROBERT then said that they should just settle the case and that she should help him by letting Susan appear before the prosecutor's office in order for Susan to pay the P20,000 check issued to Teresita Lim. ROBERT also told her that she could pay to him in installment the amounts of the checks. She refused and told ROBERT that she did not know him, nor did she have an obligation to him. As for Susan's whereabouts, she had no knowledge thereof.

NATY further declared that the four checks issued by her were for Teresita Lim as collateral for her loan and that she already paid these checks in cash and in kind out of the goods taken by Teresita from her store. The goods taken by Teresita worth P65,000 and charged against her loan were covered by delivery receipts. She further claimed that the cash payments she made were listed on a piece of paper and signed by Teresita after each payment. However, she was unable to take back the checks from Teresita. When she requested an accounting Teresita wanted her to produce the list of payments made, but she did not give her list to Teresita. Unfortunately, the list is now missing; although at the time Teresita demanded its production, it was still existing.

Finally, NATY asserted that she merely stood as guarantor to the checks she indorsed, which represented the loans obtained from teresita Lim by Susana de Guzman in the amount of P20,000 and by Gracita del Rosario in the amount of P7,500.[9]

Benjamin Manalo corroborated NATY's testimony as to what transpired during the meeting at Silver City Restaurant. He testified that NATY did not sit at their table but sat on the third table away from them and they all pretended that they did not know each other. ROBERT came in after a while and proceeded to their table. ROBERT mistook Precy for Naty, and he was corrected by NATY's mother.[10]

The trial court did not believe NATY. It found unworthy her claim that her four personal postdated checks and the two indorsed checks were issued and indorsed not to ROBERT but to Teresita, since ROBERT was in possession thereof. It did not give credence to her claim that she had already paid the amounts evidenced by the checks. It held:

> There is no doubt in the mind of the Court that the six (6) checks (Exhibits A, B, C, D, E, F) are replacement checks (TSN, May 2, 1990, pp. 44, 46. See also Affidavit of Robert Loo Tian, Exhibit I) made, issued and delivered by the accused to the complainant to replace the six (6) personal checks all postdated previously issued by her which she admitted were unfunded on their due date. Not only did the accused fail to deposit the amount necessary to cover the payment of the original six postdated checks but she also failed to deposit the amount to cover the payment of the four of the six replacement checks. Thus, there was fraud or deceit, constituting false pretense and fraudulent acts. The Court is convinced that the prosecution has proven beyond reasonable doubt the guilt of the accused.[11]

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The trial court likewise found NATY guilty of violation of Batas Pambansa Blg. 22 for having issued four worthless checks. The law punishes the mere issuance, regardless of the intent of the parties, of any kind of check which is subsequently dishonored.

Accordingly, the trial court rendered judgment against NATY. In the estafa case it sentenced her to suffer the penalty of thirty (30) years of reclusion perpetua and to indemnify the offended party ROBERT in the amount of P232,650, plus 12% interest per annum from date of demand; and in each of the four cases for violations of Batas Pambansa Blg. 22, it imposed upon her the penalty of imprisonment of one (1) year.

NATY interposed an appeal from the decision to the Court of Appeals, which was, however, referred to us in view of the penalty of reclusion perpetua imposed in the estafa case.

We accepted the appeal.

In her Appellant's Brief, NATY contends that the trial court erred in

> (A)
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> ... CONVICTING [HER] DESPITE THE EVIDENCE BY THE PROSECUTION ITSELF THAT THE CHECKS IN QUESTION [WERE] NOT THE EFFICIENT CAUSE FOR THE SUBJECT LOAN TRANSACTION;
>
> (B)
>
> ... CONVICTING [HER] OF ESTAFA DESPITE FAILURE OF THE PROSECUTION TO PROVE SIMULTANEITY IN THE ISSUANCE OF THE CHECKS AND RECEIPT OF BENEFITS;
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> (C)
>
> ... FAILING TO APPRECIATE THE UNQUESTIONABLE FACT THAT THE CHECKS IN THESE CASES WERE ISSUED WHEN THE OBLIGATIONS WERE ALREADY EXISTING;
>
> (D)
>
> ... MISINTERPRETING THE LAW ON ESTAFA BY ITS SCATTERED ATTRIBUTION OF ITS ELEMENTS TO DIFFERENT SETS OF CHECKS;
>
> (E)
>
> ... CONVICTING [HER] DESPITE CLEAR EVIDENCE THAT PRIOR SETTLEMENT OR RECONCILIATION OF THE ACCOUNT IS REQUIRED TO DETERMINE THE BALANCE OF THE LOAN TRANSACTION INVOLVED IN THESE CASES;
>
> (F)
>
> ... CONVICTING [HER] IN THIS CASE DESPITE THE CLEAR AND INDUBITABLE ABSENCE OF DECEIT ON HER PART IN ENTERING INTO THE SUBJECT LOAN TRANSACTION;
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> (G)
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> ... CONVICTING [HER] OF BATAS PAMBANSA BLG. 22 DESPITE THE OVERWHELMING EVIDENCE THAT THE PRIVATE COMPLAINANT HIMSELF, IN CONSPIRACY WITH HIS SISTER-IN-LAW, ARE THE WRONGDOERS IN THIS CASE;
>
> (H)

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> ... VIOLAT[ING] [HER] CONSTITUTIONAL RIGHT TO PRESUMPTION OF INNOCENCE IN CONVICTING HER ON EVIDENCE WAY BELOW THE REASONABLE-DOUBT STANDARD IN CRIMINAL CASES AND THROUGH ITS TOTAL AND CONVENIENT DISREGARD OF THE DEFENSE EVIDENCE IN THIS CASE.

NATY argues that one of the elements of estafa under Article 315 (2) (d) of the Revised Penal Code is a finding beyond reasonable doubt that the issuance of the check was the "efficient cause" and the "means used to obtain a valuable consideration." This element was absent in her case because the issuance of the checks was not the inducement for the loan to her. The inducements were the intercession made by Teresita Lim, ROBERT's sister-in-law, and the interest to be earned on the money lent. NATY further stresses that the checks for which she was convicted were not the same checks originally issued, but replacement checks issued sometime in March 1989 when her loan obligation was already four months old. Hence, there was already a pre-existing obligation for which the replacement checks were made to answer. She did not, therefore, commit the crime of estafa.

In addition, NATY faults the trial court for refusing to consider her claim that she had already paid her loan as shown by the fifteen receipts totalling P65,000.

In the Appellee's Brief, the Office of the Solicitor General (OSG) submits that NATY cannot be convicted of estafa under Article 315 (2) (d) of the Revised Penal Code, since the subject checks were replacement checks issued and delivered in payment of a pre-existing obligation. Hence, the checks could no longer be considered as the means employed by NATY to obtain a loan from complainant. The element of deceit was thus lacking.

However, the OSG agrees with the trial court that NATY violated B.P. Blg. 22 in the issuance of the four replacement checks. She issued the checks as payment for the money she borrowed from complainant, but all the checks bounced. Despite demand, she failed to make good the checks.

The OSG then recommends that NATY's conviction for estafa be reversed and she be acquitted thereof, while her conviction for violation of B.P. Blg. 22 be affirmed with the modification that she be required to indemnify the offended party of the amount equivalent to the value of the checks she personally issued.

After deliberating on the assigned errors and the briefs submitted by the parties, we find NATY's appeal partially impressed with merit.

NATY should be acquitted in the case for estafa. She is charged under Article 315(2) (d) of the Revised Penal Code, as amended by R.A. No. 4885, which penalizes any person who shall defraud another "by postdating a check or issuing a check in payment of an obligation when the offender had no funds in the bank or his funds deposited therein were not sufficient to cover the amount of the check." The elements therefor are (1) postdating or issuance of a check in payment of an obligation contracted at the time the check was issued; (2) lack or insufficiency of funds to cover the check; and (3) damage to the payee thereof.[12] Damage and deceit are essential elements of the offense and must be established with satisfactory proof to warrant conviction,[13] while the false pretense or fraudulent act must be committed prior to, or simultaneously with, the issuance of the bad check.[14]

What is obvious to us is that NATY borrowed money from ROBERT through the intercession of the latter's sister-in-law, Teresita Lim. In payment therefor she issued postdated checks. When such checks became due she notified ROBERT not to deposit them, since these were not yet funded. ROBERT agreed that NATY replace the checks with another set of six postdated checks, four of which were her personal checks and the other two were issued by another which NATY indorsed to ROBERT. Ineluctably, the replacement checks were issued in payment of an obligation long contracted and incurred. It cannot therefore be said that NATY committed fraudulent acts in the issuance and the indorsement of the replacement checks. In short, the replacement checks

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were by no means the device used by NATY to induce ROBERT to lend her money without which the transaction would not have been consummated.

Even assuming arguendo that the checks subject of this case were the original postdated checks issued by NATY at the time of the transaction, still no estafa was committed. The trial court had overlooked portions of the testimony of ROBERT obviously indicating that what transpired between ROBERT and NATY was a simple loan transaction, the principal of which was payable at a future date with interest.[15] This was amply corroborated by prosecution witness Teresita Lim, who declared that it was she who introduced NATY to ROBERT and asked the latter whether he could lend money to NATY.[16] ROBERT himself admitted that what motivated him to lend the amount to NATY was not her issuing the original postdated checks[17] but the expectation that he would receive an interest equivalent to 1% a month of the total amount borrowed from him.

However, NATY is liable under Batas Pambansa Blg. 22 for issuing four replacement checks. The law makes the mere act of issuing a worthless check punishable as a special offense.[18] The gravamen of the offense under this law is the act of issuing a worthless check or a check that is dishonored upon its presentment for payment.[19] The law has made the mere act of issuing a bum check a malum prohibitum, an act proscribed by legislature for being deemed pernicious and inimical to public welfare.[20] It is undisputed that the four replacement checks in question were issued by NATY and that these were all dishonored due to insufficiency of funds.

WHEREFORE, in view of the foregoing, judgment is hereby rendered REVERSING the challenged decision of the Regional Trial Court of Kalookan City, Branch 130, insofar as Criminal Case No. C-34417 is concerned and ACQUITTING accused-appellant NATY CHUA of the crime of estafa charged therein; and AFFIRMING it insofar as the conviction of NATY CHUA in Criminal Cases Nos. C-34418 to C-34421 for violations of Batas Pambansa Blg. 22 and the imposition of the penalty of imprisonment of one (1) year in each case are concerned, with the modification that she is further ordered to pay the offended party Robert Loo Tian the face value of the checks involved therein, to wit: P5,150; P100,000; P50,000; and P50,000, or a total of P205,150, with legal interest from the filing of the informations until the finality of this decision and at the rate of 12% per annum thereafter until the amounts are fully paid.

No pronouncement as to costs.

SO ORDERED.

Puno, Kapunan, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Original Record (OR), 223-240; CA Rollo, 9-25. Per Judge Jaime T. Hamoy.

[2] As amended by R.A. No. 4885 and P.D. 818.

[3] Entitled “An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds or Credit and for Other Purposes.”

[4] OR, 2.

[5] Id., 4.

[6] Id., 6, 8, 10.

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[7] OR, 36.

[8] OR, 226-228.

[9] TSN, 30 January 1991, 3-20.

[10] TSN, 24 June 1992, 8-13

[11] OR, 244.

[12] People v. Tugbang, 196 SCRA 341, 350-351 1991].

[13] People v. Grospe, 157 SCRA 154, 161 1988].

[14] People v. Sabio, Sr., 86 SCRA 568, 580 [1978].

[15] TSN, 2 May 1990, 6.

[16] TSN, 28 November 1990, 5, 22, 25.

[17] TSN, 2 May 1990, 40.

[18] People v. Tugbang, supra note 15.

[19] Lozano v. Martinez, 146 SCRA 324, 338 [1986].

[20] People v. Laggui, 171 SCRA 305, 311 [1989].

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