CELIA M. MERIZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 134498. November 13, 2001

Ponente: VITUG, J.

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VITUG, J.:

A maxim in statutory construction mandates that penal statutes should be strictly construed against the state and liberally in favor of the accused. The phrase, truly, may not be a mere cliché but, so also, it is not meant to wrongly shield an accused from criminal liability.

On appeal to this Court is the decision, dated 06 July 1999, of the Court of Appeals (6[th] Division), in CA-G.R. No. 18985 affirming in toto the decision of the court a quo in Criminal Case No. 90-5598 to Criminal Case No. 5601, inclusive, which found Celia M. Meriz, herein petitioner, guilty beyond reasonable doubt of having transgressed Batas Pambansa ("BP") Bilang 22.

Petitioner was engaged in the business of manufacturing garments for export using the name and style of "Hi-Marc Needlecraft." During the course of her business undertakings, she obtained a number of loans from Amelia Santos (Santos) and Summit Financing Corporation. Sometime in 1988, petitioner issued in favor of Santos four Pilipinas Bank Checks in the aggregate amount of P188,400.00. Santos deposited the checks with her bank. The checks, however, were later returned, with the notation "Insufficient Funds" stamped on the dorsal portion of each check,[1] by the depositary bank.

On 15 December 1988, Santos, through her counsel, sent a telegram to petitioner, reading -

> "Unless your bounced checks for Two Hundred Twenty-Six Thousand Three Hundred Pesos paid in cash in three (3) days, [we] shall institute criminal action."[2]

Despite the warning, petitioner failed to settle her account. On 05 January 1990, another demand letter was sent; it read:

> "Your account with Mr. and Mrs. Leonardo G. Santos as of December 1, 1989 has amounted to P285,773.90.
>
> "In this connection we demand that you settle this account within seven (7) days from receipt hereof. Failing to do so, we might be constrained to take legal action, including damages and attorney's fees."[3]

On 12 January 1990, petitioner acknowledged the letter-demand; she wrote thusly:

> "Dear Mr. Santos,
>
> "RE: OUR OUTSTANDING ACCOUNT OF P285,733.90
>
> "With reference to the DEMAND LETTER dated January 5, 1990 [sent] to us by your counsel Vicente P. Fernando, we would like to request from you to please give us a little more time to settle said account with you.

> "Business has not been good the past year and up to now we haven't collected yet from our buyer. We've been doing all possible means to generate funds and be able to settle our account. For the meantime, all we ask from you is give us more time.
>
> "We thank you for the consideration.
>
> "Very truly yours,
>
> "(Sgd.) CELIA M. MERIZ"[4]

Still, petitioner did not settle the obligation.

In due time, four informations for violation of BP 22 were filed before Branch 147 of the Regional Trial Court of Makati City; to wit:

> Criminal Case No. 90-5598 -
>
> "That on or about the 30[th] day of September, 1988, in the Municipality of Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused being then the authorized signatory of Hi-Marc Needle Craft, did then and there willfully, unlawfully and feloniously make or draw and issue to Amelia A. Santos, to apply on account or for value the check described below:
>
> Check No. 01587894
>
> Drawn Against Pilipinas Bank -
>
> 135 Sen. Gil Puyat Ave.
>
> Makati, Metro Manila
>
> In the amount of P47,100.00
>
> Dated September 30, 1988
>
> Payable to Amelia Santos

said accused well knowing fully that at the time of issue Hi-Marc Needlecraft had no sufficient funds in or credit with the drawee bank for the payment in full of the face amount of such check upon its presentment which check when presented for payment within ninety (90) days from the date thereof was subsequently dishonored by the drawee bank for the reason `Drawn against insufficient funds/Account Closed' and despite receipt of notice of dishonor, the accused and or Hi-Marc Needlecraft failed to pay said payee the face amount of said check or to make arrangement for full payment thereof, within five (5) banking days after receiving notice."[5]

Criminal Case No. 90-5599 -

"That on or about the 31[st] day of October, 1988, in the Municipality of Makati, Metro Manila, Philippines, and

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within the jurisdiction of this Honorable Court, the said accused being then the authorized signatory of Hi-Marc Needle Craft, did then and there willfully, unlawfully and feloniously make or draw and issue to Amelia A. Santos, to apply on account or for value the check described below:

Check No. 01587895

Drawn Against Pilipinas Bank -

135 Sen. Gil Puyat Ave.

Makati, Metro Manila

In the amount of P47,100.00

Dated October 31, 1988

Payable to Amelia Santos

said accused well knowing fully that at the time of issue Hi-Marc Needlecraft had no sufficient funds in or credit with the drawee bank for the payment in full of the face amount of such check upon its presentment which check when presented for payment within ninety (90) days from the date thereof was subsequently dishonored by the drawee bank for the reason `Drawn against insufficient funds/Account Closed' and despite receipt of notice of dishonor, the accused and or Hi-Marc Needlecraft failed to pay said payee the face amount of said check or to make arrangement for full payment thereof, within five (5) banking days after receiving notice."[6]

Criminal Case No. 90-5600 -

"That on or about the 30[th] day of November, 1988, in the Municipality of Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused being then the authorized signatory of Hi-Marc Needle Craft, did then and there willfully, unlawfully and feloniously make or draw and issue to Amelia A. Santos, to apply on account or for value the check described below:

Check No. 01587896

Drawn Against Pilipinas Bank -

135 Sen. Gil Puyat Ave.

Makati, Metro Manila

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In the amount of P47,100.00

Dated November 30, 1988

Payable to Amelia Santos

said accused well knowing fully that at the time of issue Hi-Marc Needlecraft had no sufficient funds in or credit with the drawee bank for the payment in full of the face amount of such check upon its presentment which check when presented for payment within ninety (90) days from the date thereof was subsequently dishonored by the drawee bank for the reason `Drawn against insufficient funds' and despite receipt of notice of dishonor, the accused and or Hi-Marc Needlecraft failed to pay said payee the face amount of said check or to make arrangement for full payment thereof, within five (5) banking days after receiving notice."[7]

Criminal Case No. 90-5601 -

"That on or about the 15[th] day of December, 1988, in the Municipality of Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused being then the authorized signatory of Hi-Marc Needle Craft, did then and there willfully, unlawfully and feloniously make or draw and issue to Amelia A. Santos, to apply on account or for value the check described below:

Check No. 01587897

Drawn Against Pilipinas Bank -

135 Sen. Gil Puyat Ave.

Makati, Metro Manila

In the amount of P47,100.00

Dated December 15, 1988

Payable to Amelia Santos

said accused well knowing fully that at the time of issue Hi-Marc Needlecraft had no sufficient funds in or credit with the drawee bank for the payment in full of the face amount of such check upon its presentment which check when presented for payment within ninety (90) days from the date thereof was subsequently dishonored by the drawee bank for the reason `Drawn against insufficient funds' and despite receipt of notice of dishonor, the accused and or Hi-Marc Needlecraft failed to pay said payee the face amount of said check or to make

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arrangement for full payment thereof, within five (5) banking days after receiving notice."[8]

Pleas of "not guilty" were entered by the accused at the arraignment. Trial ensued with both parties submitting their respective cases. On 16 March 1994, the trial court, following the reception of evidence, rendered its judgment convicting petitioner of all the charges; it held:

> "WHEREFORE, in view of the foregoing, the Court, finding the accused guilty beyond reasonable doubt of the crimes charged, hereby sentences her to suffer an imprisonment of one (1) year in each of these cases, and to indemnify the complainant the sum of P47,100.00 in each case. With costs."[9]

Aggrieved, petitioner elevated the case, docketed CA-G.R. CR No. 18985, to the Court of Appeals. In its decision of 06 July 1998, the appellate court affirmed in toto the decision of the trial court.

Petitioner, in the instant appeal, would have it that there was an absolute lack of consideration for the subject checks which were issued only as a condition for the grant of loan in her favor and that the requisite element of notice was not complied with.

The petition is bereft of merit.

The essential elements of the offense penalized under BP 22 are "(1) the making, drawing and issuance of any check to apply to account or for value; (2) the knowledge of the maker, drawer or issuer that at the time of issue he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment; and (3) subsequent dishonor of the check by the drawee bank for insufficiency of funds or credit or dishonor for the same reason had not the drawer, without any valid cause, ordered the bank to stop payment."[10]

The Court has consistently declared that the cause or reason for the issuance of the check is inconsequential in determining criminal culpability under BP 22. The Court has since said[11] that a "check issued as an evidence of debt, although not intended for encashment, has the same effect like any other check" and must thus be held to be "within the contemplation of BP 22." Once a check is presented for payment, the drawee bank gives it the usual course whether issued in payment of an obligation or just as a guaranty of an obligation.[12] BP 22 does not appear to concern itself with what might actually be envisioned by the parties,[13] its primordial intention being to instead ensure the stability and commercial value of checks as being virtual substitutes for currency. It is a policy that can easily be eroded if one has yet to determine the reason for which checks are issued, or the terms and conditions for their issuance, before an appropriate application of the legislative enactment can be made. The gravamen of the offense under BP 22 is the act of making or issuing a worthless check or a check that is dishonored upon presentment for payment. The act effectively declares the offense to be one of malum prohibitum. The only valid query then is whether the law has been breached, i.e., by the mere act of issuing a bad check, without so much regard as to the criminal intent of the issuer.[14]

The element of "knowledge" involves a state of mind that obviously would be difficult to establish; hence, the statute itself creates a prima facie presumption of knowledge on the insufficiency of funds or credit coincidental with the attendance of the two other elements. Section 2 of the Act 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 bank 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."

The Court has elucidated in one case[15] thusly -

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> "To begin with, the second element involves knowledge on the part of the issuer at the time of the check's issuance that he did not have enough funds or credit in the bank for payment thereof upon its presentment. B.P. No. 22 creates a presumption juris tantum that the second element prima facie exists when the first and third elements of the offense are present (Magno vs. Court of Appeals, 210 SCRA 471). But such evidence may be rebutted. If not rebutted or contradicted, it will suffice to sustain a judgment in favor of the issue, which it supports (People vs. Nuque, 58 O.G. 8442). As pointed out by the Solicitor General, such knowledge of the insufficiency of petitioner's funds `is legally presumed from the dishonor of his checks for insufficiency of funds.'"

The prima facie presumption that the drawer has knowledge of the insufficiency of funds or credit at the time of the issuance, or on the presentment for payment, of the check might be rebutted by payment of the value of the check either by the drawer or by the drawee bank within five banking days from notice of the dishonor given to the drawer. The payment could thus be a complete defense that would lie regardless of the strength of the evidence offered by the prosecution.[16] It must be presupposed then that the issuer receives a notice of dishonor and that, within five days from receipt thereof, he would have failed to pay the amount of the check or to make arrangement for its payment.

Anent the notice of dishonor, petitioner bewails the inaccuracy thereof. She underscores the fact that the questioned checks have not been sufficiently identified. There is nothing in the law, however, that prescribes the contents of a notice of dishonor except that the same be in writing as opposed to a mere oral notice.[17]

Both the Court of Appeals and the trial court found that a telegram, dated 15 December 1988, and a demand letter, dated 05 January 1990, were sent to petitioner. The latter, in reply to the 05 January 1990 letter, acknowledged her liability and indeed sought an extension within which to satisfy her account. A review of the findings of facts of the Court of Appeals is not a function that the Supreme Court undertakes, and there is here no cogent reason to depart from the rule.

All told, the judgment of conviction must be upheld. Given the circumstances, however, the Court deems it appropriate to modify the sentence of the trial court by deleting the prison sentence of one (1) year and, in its stead, imposing a fine of P94,200.00 in each of the cases.

WHEREFORE, the assailed decision is MODIFIED by deleting the prison sentence of one year and, in its stead, imposing, as the Court so hereby imposes, a fine of P94,200.00 in each of the cases, herein involved, on petitioner Celia M. Meriz. The award of civil indemnity made by the trial court in favor of private complainant is AFFIRMED. Costs against petitioner.

SO ORDERED.

Melo, (Chairman), Panganiban, Sandoval-Gutierrez, and Carpio, JJ., concur.

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[1] TSN, 20 February 1992, pp. 6-7.

[2] Exh. E, Records, p. 119.

[3] Exh. F, Records, p. 120.

[4] Exh. G, Records, p. 121.

[5] Records, p. 1.

[6] Records, p. 5.

[7] Records, p. 9.

[8] Records, p. 13.

[9] Rollo, p. 40.

[10] Lao vs. Court of Appeals, 274 SCRA 572.

[11] Cruz vs. Court of Appeals, 233 SCRA 301.

[12] Dico, Jr. vs. Court of Appeals, 305 SCRA 637.

[13] Que vs. People, 154 SCRA 160.

[14] Cueme vs. People, 334 SCRA 795.

[15] Sycip, Jr. vs. Court of Appeals, 328 SCRA 447.

[16] People vs. Laggui, 171 SCRA 305; Navarro vs. Court of Appeals, 234 SCRA 639; Llamado vs. Court of Appeals, 270 SCRA 423; and Cueme vs. People 334 SCRA 795.

[17] Domagsang vs. Court of Appeals, G.R. No. 139292, 05 December 2000.

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