

MA. ELIZA C. GARCIA, PETITIONER, VS. HON. COURT OF APPEALS, AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 138197. November 27, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

For review is the decision[1] dated October 9, 1998 of the Court of Appeals in CA-G.R. CR No. 21239, affirming the conviction by the Regional Trial Court of petitioner for violation of Batas Pambansa Bilang 22, and the resolution[2] dated March 25, 1999 denying her motion for reconsideration.

On May 22, 1996, petitioner Ma. Eliza C. Garcia was charged of two counts of violation of B.P. 22, otherwise known as the Bouncing Checks Law. In Criminal Case No. 21632, the information reads:

On or about or prior to January 8, 1996 in Pasig City and within the jurisdiction of this Honorable Court, the accused, did then and there willfully, unlawfully and feloniously make or draw and issue to Carl W. Valentin, to apply on account, the check described below:

Check No. : 057066

Drawn Against : City Trust

In the amount of : P323,113.50

Postdated : January 8, 1996

Payable to : Carl Valentin

said accused well knowing that at the time of issue, she did not have 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 (90) days from the date thereof, was subsequently dishonored by the drawee bank for the reason "Account Closed" and despite receipt of notice of such dishonor, the accused failed to pay said payee the face amount of said check or make arrangement for full payment within five (5) banking days after receiving notice.

Contrary to law.[3]

In Crim. Case No. 21633, the information states:

On or about or prior to January 24, 1996 in Pasig City and within the jurisdiction of this Honorable Court, the accused, did then and there willfully, unlawfully and feloniously make or draw and issue to Carl W. Valentin, to apply on account, the check described below:

Check No. : 057067

Drawn Against : City Trust

In the amount of : P146,886.50

Postdated : January 24, 1996

Payable to : Carl Valentin

said accused well knowing that at the time of issue, she did not have 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 (90) days from the date thereof, was subsequently dishonored by the drawee bank for the reason "Account Closed" and despite receipt of notice of such dishonor, the accused failed to pay said payee the face amount of said check or make arrangement for full payment within five (5) banking days after receiving notice.

Contrary to law.[4]

The uncontroverted facts, as found by the trial court and the CA, are as follows:

Sometime in 1994, petitioner Ma. Eliza C. Garcia introduced herself as a stockbroker to private complainant Carl Valentin and convinced him to invest in the stock market.[5] Consequently, Garcia purchased and sold shares of stocks for the account of Valentin as evidenced by the purchase and sale confirmation slips issued to him by petitioner.

In the course of their business dealings, petitioner Garcia issued to private complainant Valentin Check No. 057066 dated January 8, 1996, drawn against City Trust Banking Corporation in the amount of P323,113.50, and Check No. 057067 dated January 24, 1996, drawn against the same bank in the amount of P146, 886.50.[6] Both checks were payable to private complainant. Upon presentment of the checks for payment, the drawee bank dishonored them for the reason "account closed.."[7] Valentin notified petitioner of the dishonor and the latter promised to pay the value thereof within a period of three (3) months. Thereafter, petitioner gave Carl Valentin a check in the amount of P100, 000. Again, it bounced.[8]

Despite repeated demands, petitioner failed to pay her obligation prompting private complainant to file an action against her in the Metropolitan Trial Court of Pasig City, Branch 69 for violation of B.P. 22.

Before the MTC, Ppetitioner waived the presentation of evidence on her behalf. However, she submitted a memorandum contending that the prosecution failed to prove that the subject checks were made or drawn by her, claiming that private complainant failed to properly identify the signatures appearing thereon. Petitioner further claimed that the prosecution failed to prove that she handled the stock investments of private complainant.[9]

After trial, the Metropolitan Trial Court of Pasig City rendered a verdict of conviction, which reads:

WHEREFORE, as regards Criminal Case No. 21632, accused MARIA ELIZA C. GARCIA is hereby convicted of the crime of Violation of Batas Pambansa Blg. 22 and sentenced her to suffer ONE (1) YEAR imprisonment and to pay a fine of THREE HUNDRED TWENTY THREE THOUSAND ONE HUNDRED THIRTEEN AND 50/100 (P323,113.50) PESOS plus costs with subsidiary imprisonment in case of default in accordance with paragraph No. 1 of Article 39 of the Revised Penal Code. As to the civil liability, she is further ordered to pay complainant Mr. CARL W. VALENTIN the sum of THREE HUNDRED TWENTY THREE THOUSAND ONE HUNDRED THIRTEEN and 50/100 (P323,113.50) PESOS as indemnity for actual damages without subsidiary imprisonment in case of default.

As regards Criminal Case No. 21633 accused MARIA ELIZA C. GARCIA is hereby convicted of the crime of Violation of Batas Pambansa Blg. 22 and sentenced her to suffer ONE (1) YEAR imprisonment and to pay a fine of ONE HUNDRED FORTY SIX THOUSAND EIGHT HUNDRED EIGHTY SIX and 50/100 (P146,886.50) PESOS plus costs with subsidiary imprisonment in case of default in accordance with paragraph

No. 1 of Article 39 of the Revised Penal Code. As to the civil liability, she is further ordered to pay complainant Mr. CARL W. VALENTIN the sum of ONE HUNDRED FORTY SIX THOUSAND EIGHT HUNDRED EIGHTY SIX and 50/100 (P146,886.50) PESOS as indemnity for actual damages without subsidiary imprisonment in case of default.

SO ORDERED.[10]

On appeal, the Regional Trial Court in Pasig City affirmed in toto the lower court's decision.

Petitioner elevated the case to the Court of Appeals by way of petition for review which the respondent court denied in the first assailed decision, affirming the trial court's decision.

In due time, petitioner further appealed her conviction to the CA. In a decision dated October 9, 1998, however, the appellate court affirmed the metropolitan trial court's judgment but reduced the fine imposed on her in Criminal Case No. 21632 to P200,000. Her motion for reconsideration was denied by the appellate court in the assailed resolution of March 25, 1999.

Hence, this petition. Before us, petitioner now raises the following issues:

- WHETHER OR NOT THE PROSECUTION FAILED TO PROVE A VIOLATION OF B.P. 22;[11] and
- WHETHER OR NOT THE PENALTY IMPOSED IS ERRONEOUS.[12]

The principal issue in this case is whether petitioner Ma. Eliza C. Garcia has been erroneously convicted and sentenced for violation of the Bouncing Checks Law (Batas Pambansa Bilang 22).

Petitioner contends that the appellate court erred in convicting her for violation of B.P. 22 despite the failure of the prosecution to prove her guilt beyond reasonable doubt. She claims that the prosecution failed to prove the identity of the person or persons who issued or drew the checks. She further asserts that the penalty meted her was erroneous, harsh, and improper.

The Office of the Solicitor General, for the State, avers that private complainant positively identified petitioner as the one who issued and signed the subject checks.[13] The OSG stresses that the penalty imposed by the CA was justified under the Revised Penal Code and prevailing jurisprudence.

The elements of the violation of B.P. 22 are: (1) the accused makes, draws, or issues any check to apply on account or for value; (2) the accused knows at the time of issue that 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) the 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 the bank to stop payment.[14]

We find the foregoing elements present in this case. Petitioner issued City Trust Check No. 057066, dated January 8, 1996, in the amount of P323,113.50 and payable to Carl Valentin, representing proceeds of his stock market investments which she brokered. She also issued for the same purpose City Trust Check No. 057067, dated January 24, 1996, in the amount of P146,886.50 also payable to Carl Valentin. It is undisputed that she did not have sufficient funds to cover the checks at the time she issued it. The checks, which were deposited on the date indicated on each, were subsequently dishonored because the account from which the money should have been drawn against was closed by petitioner. Despite demands made on her by private complainant to pay the value of the check, petitioner failed to pay. Neither did she make arrangements for payment in full of the checks by the bank within five banking days after notice of dishonor so as to absolve her of any liability for issuing a bouncing check.

Quite tellingly, petitioner does not categorically deny issuing the two checks or that the signature on those checks were hers. Neither does she deny the ownership of the account against which the checks were drawn. She merely claims that the prosecution failed to establish that the signature appearing on the two checks were her handwriting. However, her contentions lack persuasiveness. Private complainant unwaveringly testified that petitioner issued to him the checks. Being the one who issued the checks, it is easy to infer that petitioner was also the one who signed them in view of the fact that her signatures thereon match those in the confirmation slips that she prepared and issued in private complainant's presence. Further, while it is true that the dishonored checks are the best evidence to prove violation of B.P. 22, the lower court is not precluded from admitting proof other than these checks themselves to prove that petitioner indeed issued them.

Second, Section 3 of B.P. 22,[15] which is in the nature of a rule of evidence, provides that the introduction in evidence of the unpaid and dishonored check with the drawee bank's refusal to pay stamped or written thereon or attached thereto, giving the reason therefor, shall constitute prima facie proof of the making or issuance of said check, and the due presentment to the drawee for payment and the dishonor thereof. While it is true that the presumption is merely prima facie, the accused must, nonetheless, present proof to the contrary to overcome this presumption.

On this point, both the RTC and the CA found that petitioner failed to present a well-grounded defense to exculpate her from criminal liability. In any event, this Court finds no cogent reason to deviate from the settled rule that the factual findings of a trial court especially when affirmed by the appellate court are binding on the Supreme Court[16] and entitled to utmost respect.[17] We find no palpable error that would warrant a reversal of the CA's finding of facts, particularly since such conclusion is supported by the evidence on record, to sustain the judgment of the lower courts convicting petitioner.

However, there is need to modify now the penalty imposed in view of Administrative Circular No. 12-2000, Re: Penalty for Violation of B.P. 22,[18] which provides:

Section 1 of B.P. Blg. 22 (An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds for Credit and for Other Purposes) imposes the penalty of imprisonment of not less than thirty (30) days but not more than one (1) year OR a fine of not less than but not more than double the amount of the check, which fine shall in no case exceed P200,000, OR both such fine and imprisonment at the discretion of the court.

In its decision in *Eduardo Vaca, v. Court of Appeals* (G.R. No. 131714, 16 November 1998; 298 SCRA 656, 664) the Supreme Court (Second Division) per Mr. Justice Vicente V. Mendoza, modified the sentence imposed for violation of B.P. Blg. 22 by deleting the penalty of imprisonment and imposing only the penalty of fine in an amount double the amount of the check. In justification thereof, the Court said:

Petitioners are first-time offenders. They are Filipino entrepreneurs who presumably contribute to the national economy. Apparently, they brought this appeal, believing in all good faith, although mistakenly, that they had not committed a violation of B.P. Blg. 22. Otherwise, they could simply have accepted the judgment of the trial court and applied for probation to evade a prison term. It would best serve the ends of criminal justice if in fixing the penalty within the range of discretion allowed by §1, par. 1, the same philosophy underlying the Indeterminate Sentence Law is observed, namely, that of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness with due regard to the protection of the social order. In this case we believe that a fine in an amount equal to double the amount of the check involved is an appropriate penalty to impose on each of the petitioners.

In the recent case of *Rosa Lim v. People of the Philippines* (G. R. No. 130038, 18 September 2000), the Supreme Court en banc, applying *Vaca* also deleted the penalty of imprisonment and sentenced the drawer of the bounced

check to the maximum of the fine allowed by B.P. Blg. 22, i.e., P200,000, and concluded that “such would best serve the ends of criminal justice.”

All courts and judges concerned should henceforth take note of the foregoing policy of the Supreme Court on the matter of the imposition of penalties for violations of B.P. Blg. 22.

x x x

Considering the circumstances in Criminal Cases Nos. 21632 and 21633, the deletion of the penalty of imprisonment in both cases is proper.

Under B.P. 22, Section 1, par. 1, the fine that may be imposed is “not less than, but not more than double, the amount of the check which fine shall in no case exceed two hundred thousand pesos.” Thus, in lieu of imprisonment, petitioner herein shall pay a fine for each violation in the amount of P200,000 in Criminal Case No. 21632,[19] and another P200,000 in Criminal Case No. 21633.[20]

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CR No. 21239 dated October 9, 1998 is AFFIRMED with MODIFICATION. Petitioner MA. ELIZA C. GARCIA is hereby ordered to pay private complainant, CARL W. VALENTIN, the sum of three hundred twenty three thousand one hundred thirteen pesos and fifty centavos (P323,113.50) in Criminal Case No. 21632, and one hundred forty six thousand eight hundred eighty six pesos and fifty centavos (P146,886.50) in Criminal Case No. 21633, by way of restitution representing the face values of the checks, plus legal interest thereon of 6 percent per annum from the filing of the respective informations until the amount is fully paid. Petitioner is further ORDERED to pay a fine for each violation of B.P. 22, in the amount of P200,000 in Criminal Case No. 21632, and P200,000 in Criminal Case No. 21633, with subsidiary imprisonment in the event of nonpayment.

Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Acting C.J., Mendoza, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, pp. 21-28.

[2] Id. at 30.

[3] Records, p. 2.

[4] Id. at 4.

[5] TSN, November 4, 1996, pp. 4-5 in Records, pp. 68-83.

[6] Id. at 5.

[7] Id. at 7.

[8] Id. at 9.

[9] Rollo, pp. 22-23.

[10] Records, pp. 102-103 Rollo. at p..

[11] Rollo, p. 11.

[12] Id. at 15.

[13] Id. at 50.

[14] People vs. Flores, G.R. Nos. 146921-22, January 31, 2002, p. 10.

[15] SEC. 3. Duty of drawee; rules of evidence. – It shall be the duty of the drawee of any check, when refusing to pay the same to the holder thereof upon presentment, to cause to be written, printed or stamped in plain language thereon, or attached thereto, the reason for drawee's dishonor or refusal to pay the same: Provided, That where there are no sufficient funds in or credit with such drawee bank, such fact shall always be explicitly stated in the notice of dishonor or refusal. In all prosecution under this Act, the introduction in evidence⁴ of any unpaid and dishonored check, having the drawee's refusal to pay stamped or written thereon, or attached thereto, with the reason therefor as aforesaid, shall be prima facie evidence of the making or issuance of said check, and the due presentment to the drawee for payment and the dishonor thereof, and that the same was properly dishonored for the reason written, stamped or attached by the drawee on such dishonored check.

Notwithstanding receipt of an order to stop payment, the drawee shall state in the notice that there were no sufficient funds in or credit with such bank for the payment in full of such check, if such be the fact.

[16] Lorenzana vs. People, 353 SCRA 396, 403 (2001).

[17] Ong vs. CA, 272 SCRA 725, 730 (1997).

[18] Issued on the 21st day of November 2000.

[19] P200,000 is less than twice the value of the P323, 113.50 check.

[20] P200,000 is less than twice the value of the P146, 886.50 check.

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