ALBERTO LIM, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 143231. October 26, 2001

Ponente: DAVIDE, JR., C.J.

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DAVIDE, JR., C.J.:

In his petition for review on certiorari filed in this case petitioner seeks to set aside the decision[1] of the Court of Appeals of 24 April 2000 in CA-G.R. No. 21016 which affirmed in toto the decision[2] of the Regional Trial Court of Quezon City, Branch 90, finding petitioner Alberto Lim (hereafter ALBERTO) guilty of twelve (12) counts of violation of Batas Pambansa Blg. 22, otherwise known as the Bouncing Checks Law.

This case stemmed from the filing on 15 July 1993 of twelve (12) informations for violations of B.P. 22 against ALBERTO before the Regional Trial Court of Quezon City. The informations were docketed as Criminal Cases Nos. Q-93-46489 to 93-46500. The information in Criminal Case No. Q-93-46489 reads as follows:

The undersigned accuses Alberto Lim of a Violation of Batas Pambansa Bilang 22, committed as follows:

That on or about the month of May 1992, Quezon City, Philippines, the said accused ALBERTO LIM did then and there willfully, unlawfully and feloniously make or draw and issue to ROBERT T. LU to apply on account or for value METROBANK Check No. 206033 postdated November 6, 1992 payable to the order of CASH in the amount of P250,000.00, Philippine Currency, said accused well knowing that at the time of issue he 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 complainant the amount of said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

CONTRARY TO LAW.[3]

The other informations are similarly worded except for the number of the checks and their amounts and dates of issue. They are hereunder itemized as follows:

Criminal Case No.	Check No.	Postdated	Amount
Q-93-46490			

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206031

5 November 1992

P250,000.00

Q-93-46491

206022

5 November 1992

P300,000.00

Q-93-46492

206023

6 November 1992

P300,000.00

Q-93-46493

206056

6 November 1992

P15,000.00

Q-93-46494

206055

6 November 1992

P15,000.00

Q-93-46495

206066

7 November 1992

P12,500.00

Q-93-46496

206064

6 November 1992

P12,500.00

Q-93-46497

206030

5 November 1992

P200,000.00

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Q-93-46498

206061

5 November 1992

P10,000.00

Q-93-46499

206062

5 November 1992

P12,500.00

Q-93-46500

206054

5 November 1992

P15,000.00[4]

Upon motion of the prosecution, the twelve cases were consolidated and jointly tried.

At arraignment, ALBERTO pleaded not guilty.[5]

The evidence for the prosecution shows that sometime in the month of May 1992, ALBERTO issued to private complainant Robert Lu (hereafter, ROBERT), for purpose of rediscounting, sixty-four (64) Metrobank checks, including the twelve (12) checks subject of the informations filed in these cases. The checks were signed by ALBERTO in the presence of ROBERT at the latter's office located at the Elco Building, 202 E. Rodriguez Boulevard, Quezon City. Upon the respective dates of maturity, each of the twelve (12) checks were deposited by ROBERT at the Roosevelt Branch of the United Coconut Planters Bank, which, however, were all dishonored by the drawee bank for the reason "Account Closed." ROBERT then immediately informed ALBERTO of the fact of dishonor and demanded payment of the amounts of the checks. ALBERTO explained to ROBERT that he encountered some financial difficulties and would settle the account in two or three weeks time. When ALBERTO failed to make good on his promise, ROBERT endorsed the case to his lawyer who sent a demand letter dated 29 December 1992 to ALBERTO. ALBERTO received the demand letter on 9 January 1993. For failure to settle his account within the seven days grace period provided in the demand letter, ALBERTO caused the filing of the twelve informations subject of the instant case.

For his defense, ALBERTO alleged that sometime in 1989, Sarangani Commercial, Inc. (hereafter Sarangani Inc.) issued to ROBERT seven checks as payment for its obligation to the latter in the amount of P1,600,000. ALBERTO, as guarantor, affixed his signature in all of the seven checks. When the said seven checks bounced, ALBERTO issued more than three hundred checks, including the twelve checks which were the subject of the present case, as replacements. He further alleged that ROBERT had already received the total amount of P4,021,000 from the proceeds of the replacements checks, which amount is more than the total obligation of Sarangani, Inc. which was accommodated by him. Thus, the principal of the said obligation as well as all interest thereof, if any, have already been fully covered by said payments. It is therefore the contention of ALBERTO that with the full payment of the accommodated obligation, the twelve checks subject of the present case have no valuable consideration.

On 10 October 1996, the trial court, rejecting the contentions of the defense, rendered a decision finding

ALBERTO guilty of violation of B.P. Blg. 22 in each of the twelve cases. The dispositive part of the decision reads:

> WHEREFORE, the accused Alberto Lim, being guilty beyond reasonable doubt of committing the crimes charged in the informations in these twelve (12) cases for Violation of B.P. Blg. 22, is hereby sentenced: to suffer six (6) months of imprisonment in each of these twelve (12) cases Criminal Cases Nos. Q-93-46489 to Q-93-46500, (inclusive) and to pay to the private complainant Robert Lu the twelve (12) checks in question in these cases in the total amount of ONE MILLION, THREE HUNDRED NINETY TWO THOUSAND, FIVE HUNDRED PESOS (P1,392, 500.00) with interest thereon at 12% per annum from the date of the filing of these cases, July 15, 1993, until the said amount is fully paid, with costs.
>
> SO ORDERED.

Not satisfied, ALBERTO filed a motion for reconsideration which was denied by the trial court.[6] On appeal, the Court of Appeals affirmed in toto the decision of the trial court, hence, the present petition raising the following arguments:

> - The petitioner is not guilty of violating Batas Pambansa Bilang 22 as the subject checks lack valuable consideration.
>
> - In any event, the factual setting of the present case warrants leniency in the imposition of criminal penalty on petitioner.[7]

We find petition without merit.

The conviction of ALBERTO must be sustained. The law enumerates the elements of B.P. Blg. 22 to be (1) the making, drawing and issuance of any check to apply for 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 the check in full upon its presentment; and (3) the 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.[8]

The issuance of the twelve checks and its subsequent dishonor were admitted by ALBERTO. His defense rests solely on the payment of the obligation by Sarangani, Inc. including its interests, which was allegedly accommodated by him. ALBERTO insists that as a guarantor, he merely issued the twelve checks to replace the bad checks that were previously issued by Sarangani, Inc., and considering that the total amount of the checks encashed by ROBERT have exceeded the amount of the bad checks including the interest, then the twelve checks already lack valuable consideration.

The issue of whether the twelve checks were issued merely to accommodate the obligation of Sarangani, Inc. as well as the issue of payment of the said obligation are factual issues which are best determined by the trial court. Well-settled is the rule that the factual findings and conclusions of the trial court and the Court of Appeals are entitled to great weight and respect, and will not be disturbed on appeal in the absence of any clear showing that the trial court overlooked certain facts or circumstances which would substantially affect the disposition of the case.[9] The jurisdiction of this court over cases elevated from the Court of Appeals is confined to the review of errors of law ascribed to the Court of Appeals whose findings of fact are conclusive, absent any showing that the findings by the respondent court are entirely devoid of any substantiation on record.[10]

In the instant case, we see no reason to disturb the factual findings of the trial court which has been affirmed in toto by the Court of Appeals. ALBERTO's allegation that the checks were issued to replace or accommodate the bad checks of Sarangani, Inc. is not worthy of belief. The seven(7) checks issued by Sarangani, Inc. were all dated

and dishonored in September 1989. The twelve (12) checks including the other fifty-two (52) checks were all dated November 1992, hence the same cannot be a replacement of the bad checks which were dishonored as far back as three years ago.

In addition, even the corresponding amount of the checks negates said conclusion. The total amount of the seven (7) checks, representing the obligations of Sarangani, Inc., is only P1,600,000,[11] while the sum total of the twelve (12) checks and the remaining fifty-two checks is P7,455,000.[12] If we add the P7,455,000 to the value of the more than three hundred checks, which ALBERTO alleged to have been issued also in payment of the said obligation then the total amount of all the replacement checks will be P111,476,000.

Moreover, records show that the twelve(12) checks and the other fifty-two (52) checks were issued sometime May 1992 and all postdated 1992,[13] whereas the 330 checks which were submitted to prove the fact of payment were all encashed before the issuance of the said checks. Thus, if full payment was made as early as July 22, 1991, the date of the last check of the 330 checks, why would ALBERTO issue the twelve (12) checks and the fifty-two (52) checks, if not for a consideration other than to answer for an obligation which was already paid. Hence, the 330 checks submitted by the defense did not prove that the twelve checks were not issued for valuable consideration. On the contrary, it supported the version of the prosecution that the checks were issued for rediscounting and not as replacements for the bad checks of Sarangani, Inc., as claimed by ALBERTO.

Further, if indeed it were true as claimed by ALBERTO that the indebtedness covered by the checks sued upon has been paid, the petitioner should have redeemed or taken the checks back in the ordinary course of business. But the same checks remained in the possession of the complainant who asked for the satisfaction of the obligations involved when said checks became due, without the petitioner heeding the demand for him to redeem his checks which bounced.[14]

Hence, without evidentiary support, ALBERTO's claim that the twelve checks lacks valuable consideration must fail. Upon issuance of the said checks, it is presumed, in the absence of evidence to the contrary, that the same was issued for valuable consideration. B.P. Blg. 22 punishes the issuance of a bouncing check. It is also worthy to note that it is not the non-payment of an obligation which the law punishes, but the act of making and issuing a check that is dishonored upon presentment for payment.[15] The purpose for which it was issued and the terms and conditions relating to its issuance are immaterial. What is primordial is that such issued checks were worthless and the fact of its worthlessness is known to appellant at the time of their issuance, a required element under B.P. Blg. 22. This is because the mere act of issuing a worthless check is malum prohibitum.[16]

ALBERTO's alternative prayer for the modification of penalty by deleting the sentence of imprisonment and, in lieu thereof, that a fine in an increased amount be imposed must likewise be denied.

His reliance in Administrative Circular No. 12-2000 is misplaced. As clarified in Administrative Circular No. 13-2001:

> The clear tenor and intention of Administrative Circular No. 12-2000 is not to remove imprisonment as an alternative penalty, but to lay down a rule of preference in the application of the penalties provided for in B.P. Blg. 22.
>
> The pursuit of this purpose clearly does not foreclose the possibility of imprisonment for violators of B.P. Blg. 22. Neither does it defeat the legislative intent behind the law.
>
> Thus, Administrative Circular No. 12-2000 establishes a rule of preference in the application of the penal provisions of B.P. Blg. 22 such that where the circumstances of both the offense and the offender clearly indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone should be considered as the more appropriate penalty. Needless to say, the determination of whether the circumstances

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> warrant the imposition of a fine alone rests solely upon the Judge. Should the Judge decide that imprisonment is the more appropriate penalty, Administrative Circular No. 12-2000 ought not be deemed a hindrance.

In this case, we agree with the Court of Appeals in upholding the trial court's imposition of imprisonment. ALBERTO is not a first time offender. He has previously been convicted of 50 counts of violation of B.P. Blg. 22 in Criminal Cases Nos. Q-93-44583 to Q-93-44632, and was placed on probation.[17]

However, despite his prior conviction, he claims that the same shall not be taken against him. He argues that:

> It bears emphasis that the sixty-four postdated checks which include the subject checks in the subject decision, were issued by the petitioner to Mr. Lu all at the same time to cover the unpaid obligation of Sarangani. Undeniably, should only one single complaint was filed for all the sixty-four checks which bounced, then all of the cases should have been brought up and heard in only one branch of the Regional Trial Court of Quezon City. But, as fate have it, two criminal complaints were separately filed by Mr. Lu which complaints were eventually heard buy two branches of the said court, to wit: Branch 90 and Branch 103.
>
> With the aforesaid scenario, petitioner had been put into a bind. Thusly, when the joint decision [Annex "G"] was promulgated by RTC-Branch 103, petitioner seasonably applied for probation, which application was granted by the court, after the latter has determined to its satisfaction the qualification of petitioner. Nonetheless, petitioner's worries are far from over because when the decision of RTC-Branch 90 was subsequently promulgated, petitioner was left with no recourse but to appeal. Needless to state, petitioner can no longer apply for probation because of his earlier availment in the first complaint of Mr. Lu. This, notwithstanding the fact that all the sixty-four checks were issued by the petitioner to Mr. Lu at the same time and meant to cover an obligation of like nature. Whereas, had there been only one complaint filed for all the said checks, there should have been only one judgment of conviction and petitioner could have had fully availed of the benefits of the Probation Law [PD 968 as amended].It is, therefore pathetic to even contemplate on the prospect of petitioner languishing in jail only because of the fact that the sixty-four bum checks he issued were divided into two criminal complaints.[18]

The foregoing arguments must be rejected. His allegation that the checks subject of that previous conviction were part of the sixty-four (64) checks which he issued at the same time to cover one and the same obligation, is not true. A reading of the decision in Criminal Cases Nos. Q93-44583 to Q93-44632 will show that there are two accused namely, ALBERTO and William Tan,[19] since the checks subject of those cases were issued and signed by both accused. Also, the amount of each of the fifty (50) checks ranges from P122,595.77 to P546,114.00 while the sixty-four (64) checks including the twelve checks were issued and signed solely by ALBERTO, the amount of which ranges from P10,000 to P300,000. Hence the fifty (50) checks subject of his prior conviction and the twelve (12) checks subject of the present case are different from each other.

His act of issuing the fifty (50) and the sixty-four (64) bouncing checks is a serious offense. To impose only fine would be to depreciate the seriousness of his malefactions. The importance of arresting the proliferation of bouncing checks can not be overemphasized.

Besides, it is of no moment even if the fifty (50) checks were part of the sixty-four (64) checks. Each act of drawing and issuing a bouncing check constitutes a violation of B.P. Blg. 22. The rule that there is only one offense when the offender is moved by one criminal intent or purpose does not apply because in a statutory offense or malum prohibitum malice or criminal intent is immaterial.[20] The mischief of circulating unfunded checks is injurious not only to the payee or holder of such checks but to society in general, and the business community, in particular. The nefarious practice "can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public interest."[21]

WHEREFORE, the instant petition is DENIED. The decision of the Court of Appeals upholding the decision of

the Regional Trial Court, Branch 90, Quezon, City in Criminal Cases Nos. Q-93-46489 to 46500 is hereby AFFIRMED.

SO ORDERED.

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

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[1] Per Associate Justice Bernardo P. Abesamis, concurred in by Eugenio S. Labitoria and Elvi John Asuncion, JJ., Rollo, 23-29.

[2] Per Judge Reynaldo Daway. Original Record (OR), 265-270.

[3] OR, 1; CA Rollo, 18.

[4] Id.; id., 19-41.

[5] OR, 41-42.

[6] OR, 290.

[7] Rollo, 13-14.

[8] Lim v. People, G.R. No. 130038, 18 September 2000.

[9] American Home Assurance Co. v. Chua, 309 SCRA 250 [1999].

[10] Villanueva v. People, G.R. No. 135098, 12 April 2000; Bunag Jr. v. Court of Appeals, 211 SCRA 440 [1992]; Morales v. Court of Appeals, 197 SCRA 391 [1991].

[11] Exhibits "1" to "7."

[12] Exhibits "A," "A-1" to "A-63," OR, 11-26.

[13] OR, 8-9.

[14] Dico v. Court of Appeals, 305 SCRA 637 [1999] citing section 3[q] Rule 131, Revised Rules of Court of the Philippines.

[15] Ibasco v. Court of Appeals, 261 SCRA 449 [1996].

[16] Llamado v. Court of Appeals, 270 SCRA 423 [1997].

[17] Annex "6," Rollo, 41-44.

[18] Rollo, 6-7

[19] Annex "6," Rollo, 41-44.

[20] Circular of the Ministry of Justice dated 3 January 1982, as cited in Antonio L. Gregorio, Fundamentals of Criminal Law Review 843 (9[th] ed. 1997).

[21] Domingo Dico, Jr. v. Court of Appeals, supra note 14; Cruz v. Court of Appeals, 233 SCRA 301 [994].

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