YOLANDA AGUIRRE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 144142. August 23, 2001

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Petitioner Yolanda Aguirre filed the instant petition for review on certiorari seeking to reverse and set aside the Decision, dated November 25, 1999, of the Court of Appeals (CA) in CA-G.R. CR No. 20436 which affirmed her conviction for violation of the Batasang Pambansa Blg. 22 (B.P. Blg. 22).[1] She likewise assails the Resolution, dated May 31, 2000, of the appellate court denying her motion for reconsideration.

The Regional Trial Court, Branch 20 of Cebu City found petitioner guilty beyond reasonable doubt of violating B.P. Blg. 22 upon three separate informations filed against her. Except for the dates and the amounts involved, these informations uniformly read as follows:

> That on or about the 2[nd] day of February 1993 (CBU-32174), 4[th] day of February (CBU-32175), and on the 9[th] day of February 1996 (CBU-32176), and for sometime prior and subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, knowing at the time of issue of the check he/she does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment, with deliberate intent, with intent of gain and of causing damage, did then and there issue or draw BPI Family Bank Check No. 5102553 dated February 2, 1993 in the amount of P40,000.00 (CBU-32174), BPI Family Bank Check No. 5102554 dated February 4, 1993 in the amount of P50,000.[00] (CBU-32175), and BPI Family Bank Check No. 5102557 dated February 9, 1993 in the amount of P225,703.10 (CBU-32176), all payable to Dinah Wei which check was issued in payment of an obligation of said accused, but when presented with said bank, the same was dishonored for reason of "account closed" and despite notice and demands made to redeem or make good said check, said accused failed and refused and up to the present time still fails and refuses to do so, to the damage and prejudice of said Dinah Wei in the amounts of P40,000.00, P50,000.00 and P225,703.10 respectively, Philippine currency.
>
> CONTRARY TO LAW.[2]

At her arraignment, petitioner pleaded not guilty to all the charges. Since they involved substantially similar facts, the cases were consolidated. Trial ensued. The prosecution presented Dinah Wei, the private complainant, who basically testified that she knew petitioner because she (private complainant) used to supply rice to petitioner. Some time in 1992, petitioner and private complainant had a transaction where petitioner would buy rice from private complainant in the amount of P600,000.00. The purchase price was payable by petitioner within fifteen (15) days. In payment thereof, petitioner issued to private complainant the subject checks: BPI Family Bank Check No. 5102557 (Exhibit "A"), BPI Family Bank Check No. 5102554 (Exhibit "B") and BPI Family Bank Check No. 5102553 (Exhibit "C").[3]

When private complainant presented the checks for payment, however, they were dishonored. The back of the checks each bore the stamp "account closed" (Exhibits "A-1", "B-1" and "C-1", respectively). Private complainant

immediately went to petitioner to inform her about the dishonor and demanded that she pay the amounts of the checks. Despite her promise, petitioner never paid private complainant.[4]

When it was her turn to adduce evidence, petitioner continuously moved for the postponement of the hearings. Thereafter, the trial court declared petitioner to have waived her right to present evidence in her defense. On July 15, 1996, the trial court then rendered judgment finding petitioner guilty of violating B.P. Blg. 22. The dispositive portion of the trial court's decision reads:

> WHEREFORE, in view of all the foregoing premises, judgment is hereby rendered finding accused YOLANDA AGUIRRE guilty beyond reasonable doubt of the offense of violation of Batas Pambansa Bilang 22 and said accused is hereby sentence [sic] to suffer the imprisonment of separate one (1) year in CBU-32174, and another separate one (1) year imprisonment in CBU-32175 and another separate one (1) year in CBU-32176.
>
> Accused is hereby ordered to pay private complainant, DINAH WEI, the following amounts:
>
> (1) The sum of P40,000.00 in CBU-32174, the sum of P50,000.00 in CBU-32175, and the sum of P225,703.10 in CBU-32176 plus legal interest of 6% per annum thereon respectively from the filing of said information until fully paid;
>
> (2) The sum of P5,000.00 as attorney's fees
>
> SO ORDERED.[5]

Petitioner appealed her conviction to the CA. In essence, she claims that she was deprived of due process when the trial court declared that her right to present evidence as "deemed waived, forfeited and abandoned." The appellate court, however, found no merit in the appeal. The CA declared that petitioner was not deprived of due process because she was given ample opportunity to present her evidence. The CA thus affirmed petitioner's conviction:

> WHEREFORE, finding no error in the decision appealed from, the same is hereby AFFIRMED in toto.[6]

Her motion for reconsideration having been denied, petitioner now comes to this Court solely alleging that:

> THE HONORABLE COURT OF APPEALS, 13[TH] DIVISION, ERRED IN AFFIRMING EN TOTO THE DECISION OF THE REGIONAL TRIAL COURT, Br. 20, CEBU CITY, IN DECLARING THE HEREIN PETITIONER TO HAVE WAIVED, FORFEITED AND ABANDONED HER RIGHT TO ADDUCE/PRESENT EVIDENCE.[7]

Petitioner's contention does not persuade.

Contrary to petitioner's claim, the records show that she was given ample opportunity by the trial court to present her evidence. As found by the CA:

> A careful review of the records of the case evidently show that the trial court duly afforded accused-appellant her right to present evidence. The trial court in view of the absence of either appellant or her counsel granted the motions of her counsel for continuance to enable the defense to present its evidence. The prosecution rested its case as early as April 20, 1995 but accused-appellant continuously requested postponement of hearing. It was only on February 9, 1996, when the trial court was constrained to declare the right of the accused to present evidence as deemed waived, forfeited or abandoned due to the non-appearance of appellant or her counsel. Accused-appellant did not file any motion or pleading to have said order reconsidered. As aptly pointed out by the Solicitor General, if it were true that appellant wanted to present her evidence, she should have taken advantage of the ample opportunity to present, to be heard and to testify in open court with the assistance of her counsel. She cannot now claim that she was denied her right to be present and present her

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evidence.[8]

The essential requirements of due process in this jurisdiction are well-established:

(1)

There must be a court or tribunal clothed with judicial authority to hear and determine the matter before it;

(2)

Jurisdiction must be lawfully acquired over the person of the defendant or property which is the subject of the proceeding;

(3)

The defendant must be given an opportunity to be heard; and

(4)

Judgment must be rendered upon lawful hearing.[9]

Applying the above test, the Court finds that petitioner in this case cannot feign denial of due process because she had been given the opportunity to present her side.[10]

The liability of petitioner for violation of B.P. Blg. 22 had been duly established by the trial court in this wise:

After a careful and judicious study of the evidence adduced in this case, the prosecution was able to prove the guilt of the accused beyond reasonable doubt for the commission of violations of Batas Pambansa Bilang 22 in the above-entitled criminal cases. It has been duly established that accused Yolanda Aguirre issued those three (3) BPI Family Checks (marked as Exhibits "A", "B" and "C") in payment of her obligation to pay the rice which private complainant sold to her. When presented for payment all of said checks were all dishonored for reason of accounts closed as shown in the validations at the back of said checks pointing to the fact that the same were dishonored for account closed (marked as Exhibits "A-1", "B-1" and "C-1"). Despite demands from the accused by private complainant, Dinah Wei, for the former to replenish said dishonored checks, the said accused simply promised to pay her said amounts covered by those bum checks but she did not pay Dinah Wei after all.

Clearly then the accused in issuing those checks which consequently bounced or dishonored for reason of their having accounts closed violated Batas Pambansa Bilang 22 which provides among other things:

"Section 1. Checks without sufficient funds. Any person who makes or draws and issues any check to apply on account or for value, knowing 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,which check is subsequently dishonored by the drawee bank for insufficiency of funds or credit xxx, shall be punished by imprisonment of not less than thirty days but not more than one (1) year or by a fine of not less than but not more than double the amount of the check which fine shall in no case exceed Two Hundred thousand pesos, or both such fine and imprisonment at the discretion of the court. xxx."

And the Supreme Court had ruled and held that "what the law punishes is the issuance of a bouncing check not the purpose for which it was issued nor the terms and conditions relating to its issuance. The mere act of issuing a worthless check is malum prohibitum". (Cruz vs. Court of Appeals, 233 SCRA 301). All the elements, therefore, of the violation of Batas Pambansa Blg. 22 are all present in the instant criminal cases and for which the accused is solely liable, to wit: "[a] 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." (Navarro vs. Court of Appeals, 234 SCRA 639).

Significantly, petitioner does not question the foregoing findings and conclusions of the trial court. In any case, the Court finds no cogent reason to deviate from the settled rule that factual findings of the trial court are binding on the Supreme Court when supported by substantial evidence on record and carry more weight when affirmed by the appellate court, as in this case.[11]

However, there is need to modify the penalty imposed on petitioner in view of the Court's rulings in Vaca vs. Court of Appeals[12] and Lim vs. People of the Philippines[13] that:

> [I]t 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.[14]

Absent showing that petitioner acted in bad faith, the deletion of the penalty of imprisonment in this case is proper. The imposition of fine equivalent to the value of the subject checks is an appropriate penalty to be imposed on petitioner. Under B.P. Blg. 22 §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 shall pay the fine for each violation in the amounts of P40,000.00 (Crim. Case No. CBU-32174), P50,000.00 (Crim. Case (Crim. Case No. CBU-32175) and P200,000.00 (Crim. Case No. 32176), respectively.

WHEREFORE, the decision of the Court of Appeals in CA-G.R. CR No. 20436 is AFFIRMED with modification that the sentence of imprisonment is deleted. Instead, petitioner is ORDERED to pay the fine for each violation in the amounts of P40,000.00 (Crim. Case No. CBU-32174), P50,000.00 (Crim. Case No. CBU-32175) and P200,000.00 (Crim. Case No. CBU-32176), respectively.

SO ORDERED.
Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

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[1] Bouncing Checks Law.

[2] RTC Decision, p. 1; Rollo, p. 42.

[3] Id., at 2; Rollo, p. 43.

[4] Id.

[5] Id., at 3; Rollo, p. 44.

[6] CA Decision, p. 3; Rollo, p. 33.

[7] Petition, p. 5, Rollo, p. 25.

[8] See Note 6.

[9] People vs. Sesbreño, 314 SCRA 87, 107 (1999).

[10] Amion vs. Chingson, 301 SCRA 614, 624 (1999).

[11] Galang vs. Court of Appeals, 324 SCRA 139, 143 (2000).

[12] 298 SCRA 656 (1998).

[13] G.R. No. 130038, September 18, 2000.

[14] See Note 12, p. 664.

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