BENJAMIN LEE, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. NO. 145498. January 17, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Petitioner is now before us on a petition for review under Rule 45 of the Rules of Court seeking the reversal of the Decision[1] of the Court of Appeals dated July 30, 1999, which affirmed the judgment of the Regional Trial Court, Branch 79, Quezon City (RTC) convicting him of violating Batas Pambansa Blg. 22 in Criminal Case No. Q-93-50094; and the Resolution [2] dated October 11, 2000, denying his motion for reconsideration.

The facts are as follows:

On October 4, 1993, an Information was filed against petitioner Dr. Benjamin F. Lee and a certain Cesar Al. Bautista, for violation of B.P. Blg. 22, which reads:

> That on or about the 24[th] day of July 1993, in Quezon City, Philippines, the said accused, conspiring together, confederating with, and mutually helping each other, did then and there willfully, unlawfully and feloniously make or draw and issue to Rogelio G. Bergado to apply on account or for value United Coconut Planters Bank Check No. 168341 dated July 24, 1993 payable to the order of Rogelio G. Bergado in the amount of P980,000.00, Philippine Currency, said accused well knowing that at the time of issue they 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 Rogelio G. Bergado the amount of said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.
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> CONTRARY TO LAW.[3]

Petitioner pleaded not guilty in his arraignment on February 1, 1995.[4] Presiding Judge Godofredo L. Legaspi noted in the assailed judgment that trial proceeded insofar only as petitioner is concerned, “since accused Cesar Bautista is presently detained at Municipal Jail at Calapan, Mindoro where he has a pending case before the Metropolitan Trial Court (MTC), Calapan, Mindoro and despite several notices to the jail warden of Calapan, Mindoro, the latter failed to bring the person of said accused to this Court for arraignment.”[5]

For the prosecution, private complainant Rogelio Bergado testified that: on July 19, 1992, he loaned Unlad Commercial Enterprises (Unlad for brevity), through its agent Norma Ilagan, the amount of P500,000.00 with an interest of 4% a month; on September 10, 1992, he loaned another P400,000.00 through Ilagan for the same interest rate; in exchange, he received a total of twenty-six checks, four of which were dishonored for the reason “drawn against insufficient funds”; he went to Calapan, Mindoro and talked to Bautista and the latter replaced the dishonored checks with United Coconut Planters Bank (UCPB) Check No. ARA 168341, signed by Bautista and herein petitioner dated July 24, 1993, in the amount of P980,000.00 representing the total amount loaned plus

interests; when Bergado deposited the check at UCPB, the same was dishonored due to “account closed”; through his lawyer, he sent demand letters to Bautista and petitioner, who, despite having received the same still failed and refused to make any payment. Upon cross-examination, Bergado admitted that he did not see or meet petitioner prior to July 24, 1993 nor did he go to Calapan, Mindoro to check the existence of Unlad prior to lending it the amount of P900,000.00.[6]

The prosecution also presented Zenaida[7] Katigbak, Branch Operations Officer of UCPB Araneta Avenue, Quezon City, who testified that Bautista and petitioner are the authorized signatories of Current Account No. 130-000406-2, against which the check subject of the present criminal case was issued; and that the account was opened on August 22, 1988 and closed on January 31, 1992 due to mishandling of the account, i.e., a check was previously issued against it without sufficient funds.[8]

The prosecution presented UCPB Check No. ARA 168341,[9] UCPB Check Return Slip dated August 5, 1993 stating that Check No. ARA 168341 was returned unpaid due to “account closed”;[10] a demand letter addressed to petitioner dated August 9, 1993;[11] registry return slip;[12] a copy of the complaint affidavit of private complainant;[13] signature card of the current account of petitioner and Bautista at UCPB;[14] and the bank statement of the current account of petitioner and Bautista dated January 31, 1992 reflecting that said account has been closed on said date.[15]

For the defense, petitioner testified that: it is Bautista who is the sole owner of Unlad; he knew Bautista and became his “compadre” because of Bautista’s wife who was his employee; he does not know anything about the check issued by Bautista in favor of Bergado nor did he receive any amount from Bergado or any other person; he agreed to open an account with Bautista in 1988 because Bautista promised to give him 5% interest from the proceeds of loans that will be made in favor of other people from said account; before July of 1989, Bautista also asked him to sign several checks in exchange for 2.5% interest a month from the proceeds of loan to be made in favor of other people; after July 1989, he terminated his accommodation arrangement with Bautista after learning that Bautista was also giving 5% interest to other investors without any accommodation agreement; he asked for the checks he previously signed but Bautista refused to return them saying that he did not have them anymore; and inspite of these, he continued investing in Bautista’s business in the amount of more than P500,000.00.[16]

On cross-examination, petitioner admitted that he signed several checks in blank on different occasions; that he was the one who asked and insisted that Bautista execute Exhs. “1” and “2”, affidavits of Bautista stating that Unlad shall be Bautista’s sole responsibility; and that despite having severed his relationship with Bautista in July of 1989, he did not inform UCPB Araneta, Quezon City branch of such fact and he continued investing in Unlad, from July 1989 to April 1994.[17]

To bolster his claim, petitioner presented: an affidavit executed by Bautista dated May 31, 1993 stating that Bautista is the sole proprietor of Unlad and that any business transaction entered into by Unlad shall be Bautista’s personal responsibility;[18] an affidavit executed by Bautista on June 4, 1990, stating that petitioner is no longer connected with Unlad and that petitioner should not be held liable regarding any transaction entered into by Unlad after July 1989 since petitioner is no longer a signatory;[19] a business permit issued by the Municipality of Calapan certifying that Bautista has been granted a permit to operate a “general merchandise”;[20] a certification from the Department of Trade and Industry, Oriental Mindoro Provincial Office stating that Unlad is registered in the name of Cesar Bautista and/or Placer Bautista;[21] orders of attachment issued by the Regional Trial Court of Oriental Mindoro on the properties of Bautista and petitioner;[22] and checks issued by Bautista in favor of petitioner and his wife Amelia Lee.[23]

On July 22, 1997, the RTC promulgated its decision, the dispositive portion of which reads as follows:

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> WHEREFORE, judgment is hereby rendered in this case finding accused Benjamin Lee guilty beyond reasonable doubt of Violation of Batas Pambansa Blg. 22 and accordingly sentences him to suffer an imprisonment of one (1) year of prision correccional, and to pay the offended party P980,000.00 and to pay a fine of P200,000.00 with subsidiary imprisonment in case of insolvency and non-payment of the fine by the accused.
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> SO ORDERED.[24]

Petitioner went to the Court of Appeals which modified the trial court's judgment, thus:

> WHEREFORE, the Decision is hereby MODIFIED by imposing a penalty of one (1) year and for the accused to pay the private party the sum of Nine Hundred Eighty Thousand Pesos (P980,000.00) as civil indemnity.
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> With cost against the accused.
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> SO ORDERED.[25]

Petitioner's motion for reconsideration was denied on October 11, 2000.

Hence, the present petition with the following assignment of errors:

> 1. THE COURT A QUO COMMITTED A REVERSIBLE ERROR OF LAW IN DISREGARDING PETITIONER'S DEFENSE THAT HE HAD ALREADY SEVERED, SINCE JULY 1989, HIS ACCOMODATION ARRANGEMENT WITH HIS CO-ACCUSED BAUTISTA WHO WAS SOLELY RESPONSIBLE FOR ALL THE TRANSACTIONS ENTERED INTO BY UNLAD COMMERCIAL ENTERPRISES AND THEREFORE PETITIONER HAD NO KNOWLEDGE OF THE SUFFICIENCY OR INSUFFICIENCY OF FUNDS OF UNLAD'S BANK ACCOUNT.
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> 2. THE COURT A QUO HAS DECIDED IN (A) WAY NOT IN ACCORD WITH LAW IN FAILING TO RULE THAT THE SUBJECT CHECK, UCPB CHECK NO. ARA 168341, WAS NOT ISSUED BY PETITIONER TO PRIVATE COMPLAINANT ON ACCOUNT OR FOR VALUE.
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> 3. THE COURT A QUO COMMITTED AN ERROR OF LAW WHEN IT FAILED TO CONSIDER THAT AT THE TIME THE SUBJECT CHECK WAS ISSUED BY BAUTISTA IN FAVOR OF PRIVATE COMPLAINANT, THE LATTER WAS ALREADY AWARE THAT THE RESPECTIVE ESTATES OF THE ACCUSED WERE ALREADY ATTACHED BY THE REGIONAL TRIAL COURT OF CALAPAN, ORIENTAL MINDORO.
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> 4. THE COURT A QUO COMMITTED A REVERSIBLE ERROR OF FACT AND LAW IN NOT ACQUITTING PETITIONER ON GROUND OF REASONABLE DOUBT.
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> 5. THE COURT A QUO AND THE TRIAL COURT COMMITTED REVERSIBLE ERROR OF LAW WHEN THEY FAILED TO DISMISS THE INFORMATION FOR VIOLATION OF B.P. 22 AGAINST THE ACCUSED FOR LACK OF JURISDICTION.[26]

In support of his first assigned error, petitioner claims that: he had no actual knowledge of the sufficiency or insufficiency of the funds handled by his co-accused Bautista; while it is true that he opened a joint account with Bautista at UCPB Araneta Avenue, Quezon City and that he signed several UCPB checks in blank to accommodate Bautista, he already severed his accommodation arrangement with Bautista as early as July of 1989; this is evidenced by the affidavits executed by Bautista dated June 4, 1990 and May 31, 1993 which the court a quo ignored; the Court of Appeals erroneously held that the affidavits of Bautista are "self-serving" since there was no showing that Bautista was lying when he made the statements therein; also, the declarant in this case is Bautista and not petitioner, thus the principle of self-serving statements cannot apply; the affidavits of Bautista are declarations against the interest of the person making it, which are admissible notwithstanding their hearsay

character, since such declarations are relevant to the case and the declarant is not available as a witness despite efforts of petitioner to present Bautista in court; the true test of the reliability of the declaration is not whether it was made ante litem motam as in this case but whether the declaration was uttered under circumstances justifying the conclusion that there was no probable motive to falsify; also, the affidavits of Bautista, having been acknowledged before a notary public, should be given evidentiary weight.[27]

Petitioner also points out that in Lao vs. Court of Appeals[28] the Court held that if knowledge of the insufficiency of funds is proven to be actually absent or non-existent, the accused should not be held liable for the offense defined under Sec. 1 of B.P. Blg. 22; in said case, petitioner was acquitted, even though she was still connected with the corporation at the time of the issuance of the check, since she was not expected or obliged to possess under the organizational structure of the corporation, knowledge of the insufficiency of funds; and that in the case at bar, the court a quo affirmed the conviction of petitioner even though it was established that he had ceased to be connected with co-accused Bautista's business for more than three years prior to the issuance of the subject check and even though it was clear from the testimony of private complainant himself that he had dealt with Bautista and Ilagan only.[29]

Anent the second and third assigned errors, petitioner argues that: in the case at bar, there was neither a pre-existing obligation nor an obligation incurred on the part of petitioner when the subject check was given by Bautista to private complainant on July 24, 1993 since petitioner was no longer connected with Unlad or Bautista starting July of 1989; when Bautista issued the subject check to Bergado on July 24, 1993, Bautista had no more authority to use petitioner's pre-signed checks thus there was no consideration to speak of; petitioner was deceived by Bautista into believing that all the pre-signed checks were already used or issued as of 1989; the court a quo should not have presumed that when petitioner signed the checks and handed the same to Bautista, petitioner had knowledge that their account had no funds; in all criminal cases, suspicion, no matter how strong cannot sway judgment; even assuming that petitioner had issued the subject check when he signed the same sometime before July 1989 and that he had an undertaking to whoever would be the payee, still petitioner should be exempted from criminal liability since petitioner could not comply with the said undertaking due to an insuperable cause, i.e., as early as June 18, 1993, all the properties of petitioner had already been attached/garnished by the Regional Trial Court of Oriental Mindoro.[30]

Petitioner further argues that: private complainant is not a holder in due course because he knew that the account of Bautista and petitioner with UCPB Araneta branch had been closed at the time that he deposited UCPB Check No. ARA 168341 on August 5, 1993; Check No. ARA 374058 in the amount of P500,000.00, which bounced earlier, was drawn from the same UCPB account of Bautista and petitioner which had already been closed by the UCPB on January 31, 1992;[31] private complainant also had knowledge that the respective estates of both accused were already attached by the RTC at the time the subject check was given to him by Bautista since the first order of attachment was issued on June 18, 1993 and was recorded with the Registry of Deeds of Oriental Mindoro on the same date; applying the principle that registration of instrument is notice to the world, Bergado is presumed to know the various orders of attachment/garnishment issued by the court.[32]

As to his fourth assigned error, petitioner argues that: the prosecution failed to prove his guilt beyond reasonable doubt; the prosecution failed to rebut the allegation of petitioner that he was not anymore connected with the business of Bautista and therefore he had no knowledge of the insufficiency of the funds handled by Bautista; and the prosecution and the trial court relied solely on the authenticity of petitioner's signature on the subject check which fact is not enough to convict petitioner of the offense charged.[33]

Finally, anent his fifth assigned error, petitioner claims that the Regional Trial Court which tried and convicted petitioner had no jurisdiction over violations of B.P. Blg. 22 considering that the penalty therefor is imprisonment

of thirty days to one year and/or a fine not less than, and not more than double, the amount, but not to exceed P200,000.00; and that at the time the Information was filed on October 4, 1993, violations of B.P. Blg. 22 fell under the jurisdiction of the MTC in view of Sec. 32 (2) of B.P. Blg. 129 which provides that the MTC has exclusive original jurisdiction over all offenses punishable with imprisonment of not more than four years and two months or a fine of not more than P4,000.00 or both such fine and imprisonment, regardless of other imposable accessory or other penalties including the civil liability arising from such offenses or predicated thereon, irrespective of kin, nature, value or amount thereof.[34]

In his Comment, the Solicitor General contends that: the mere fact that petitioner was a signatory to the check makes him solidarily liable with his co-signatory; if it is true that petitioner severed his accommodation arrangement with Bautista as early as July of 1989, he should have informed the UCPB Araneta Avenue, Quezon City branch that any check that would be issued bearing his signature and that of Bautista and drawn against their joint account after July of 1989 should no longer be honored; the affidavit of Bautista to the effect that petitioner should not be held answerable for any liability of Unlad after July 1989 is not admissible as Bautista was not presented in court nor the prosecution afforded any opportunity to test the veracity of his allegations; having failed to convincingly establish that petitioner has severed his accommodation arrangement with his co-accused Bautista, the presumption stands that he was aware that they no longer had sufficient funds at the time the check was issued; the presumption also stands that the check was issued on account or for value; petitioner also cannot claim that private complainant was aware that petitioner and Bautista's joint account was already closed at the time the subject check was issued and delivered to complainant since there is nothing on record to show that the reason for the non-payment of the checks earlier issued to complainant was due to "account closed"; Bergado claims that the earlier checks were dishonored due to lack of sufficient funds; there is also no merit to the argument of petitioner that private complainant was already aware that petitioner together with Bautista could no longer make good the subject check in view of the various writs of attachment issued by the court against their properties, which writs of attachment were duly recorded with the Register of Deeds; the registration of the various writs of attachment affected only the real properties of petitioner and such registration served as warning to those who may have or intend to have dealings affecting such lands covered by the attachments; with regard to the attachment of their bank accounts, there was no showing that private complainant was aware of the same; there is also no merit to the claim of petitioner that his guilt was not proven beyond reasonable doubt; the prosecution was able to establish that petitioner, together with Bautista, issued the subject check to the complainant in payment of the money loaned by the latter to Unlad; the check bounced for the reason "account closed" and despite demand to make good the check, petitioner and his co-accused failed and refused to pay the complainant; and there is no merit to the claim of petitioner that the RTC had no jurisdiction over the present case following Sec. 32 (2) of B.P. Blg. 129 where it is provided that in order that the offense under the jurisdiction of Municipal Trial Courts, Metropolitan Trial Courts and Municipal Circuit Trial Courts, the imposable penalty must not exceed four years and two months or a fine of not more than P4,000.00 or both such fine and imprisonment; in the case at bar, the imposable fine is way beyond the limit of P4,000.00 as the amount of the check is P980,000.00 thus the RTC had jurisdiction over the case.[35]

Simply stated, the issues that need to be resolved are as follows: (1) whether the RTC, which tried and convicted petitioner, has jurisdiction over the case; (2) whether petitioner had actual knowledge of the sufficiency or insufficiency of funds handled by his co-accused; (3) whether the check was issued on account or for value; (4) whether the private complainant, at the time of issuance, had knowledge that the check had no sufficient funds; and (5) whether the guilt of the accused was proven beyond reasonable doubt.

First issue. Whether the RTC, which tried and convicted petitioner, had jurisdiction over the case.

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Petitioner claims that the RTC which tried and convicted him had no jurisdiction over violations of B.P. Blg. 22 since such jurisdiction is vested on the MTC in view of Sec. 32 (2) of B.P. Blg. 129.

We do not agree.

As clearly provided by Sec. 32 (2) of B.P. Blg. 129, to wit:

> Sec. 32. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Criminal Cases.---Except in cases falling within the exclusive original jurisdiction of Regional Trial Courts and the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:
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> . . . . .
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> (2) Exclusive original jurisdiction over all offenses punishable with imprisonment of not exceeding four years and two months, or a fine of not more than four thousand pesos, or both such fine and imprisonment, regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence they shall have exclusive original jurisdiction where the imposable fine does not exceed twenty thousand pesos. (Emphasis supplied)

the MTC has exclusive jurisdiction over offenses punishable with imprisonment of not exceeding four years and two months, OR, a fine of not more than four thousand pesos or both such fine and imprisonment.

The Information in this case was filed on October 4, 1993.

On March 25, 1994, Republic Act No. 7691 took effect and amended Sec. 32 (2) of B.P. Blg. 129 to read as follows:

> Sec. 32. Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Criminal Cases. ---Except in cases falling within the exclusive original jurisdiction of Regional Trial Courts and of the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts shall exercise:
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> . . . . .
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> (2) Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, that in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof. (Emphasis supplied)

Since the Information in the present case was filed prior to the amendment of R.A. No. 7691, the old rule governs and therefore, considering that the imposable penalty for violation of B.P. Blg. 22 per Section 1, thereof is imprisonment of not less than thirty days but not more than one 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 P200,000.00, or both fine and imprisonment; and inasmuch as the fine imposable in the present case is more than P4,000.00 as the subject amount of the check is P980,000.00, it is the Regional Trial Court that has jurisdiction over the present case. As we held in People vs. Velasco:[36]

> ...as a general rule...the jurisdiction of a court to try a criminal action is to be determined by the law in force at the time of the institution of the action. Where a court has already obtained and is exercising jurisdiction over a controversy, its jurisdiction to proceed to the final determination of the cause is not affected by new legislation placing jurisdiction over such proceedings in another tribunal. The exception to the rule is where the statute

> expressly provides, or is construed to the effect that it is intended to operate as to actions pending before its enactment. Where a statute changing the jurisdiction of a court has no retroactive effect, it cannot be applied to a case that was pending prior to the enactment of a statute.
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> A perusal of R.A. No. 7691 will show that its retroactive provisions apply only to civil cases that have not yet reached the pre-trial stage. Neither from an express proviso nor by implication can it be understood as having retroactive application to criminal cases pending or decided by the Regional Trial Courts prior to its effectivity...At the time the case against the appellant was commenced by the filing of the information on July 3, 1991, the Regional Trial Court had jurisdiction over the offense charged.
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> . . . . .
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> ...In fine, the jurisdiction of the trial court (RTC) over the case of the appellant was conferred by the aforecited law then in force (R.A. No. 6425 before amendment) when the information was filed. Jurisdiction attached upon the commencement of the action and could not be ousted by the passage of R.A. No. 7691 reapportioning the jurisdiction of inferior courts, the application of which to criminal cases is, to stress, prospective in nature.[37]

Second issue. Whether petitioner had actual knowledge of the insufficiency of funds.

We have held that knowledge involves a state of mind difficult to establish, thus the statute itself creates a prima facie presumption that the drawer had knowledge of the insufficiency of his funds in or credit with the bank at the time of the issuance and on the check's presentment for payment if he fails to pay the amount of the check within five banking days from notice of dishonor.[38]

Sec. 2 of B.P. Blg. 22, provides:

> Section 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.

As a rule, the prosecution has a duty to prove all the elements of the crime, including the acts that give rise to the prima facie presumption. Petitioner, on the other hand, has a right to rebut such presumption. Thus, if such knowledge of insufficiency of funds is proven to be actually absent or inexistent, the accused should not be held liable for the offense defined under the first paragraph of Sec. 1 of B.P. Blg. 22,[39] thus:

> 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 or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment, 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.
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> The same penalty shall be imposed upon any person who having sufficient funds in or credit with the drawee bank when he makes or draws and issues a check, shall fail to keep sufficient funds or to maintain a credit or to cover the full amount of the check if presented within a period of ninety (90) days from the date appearing thereon, for which reason it is dishonored by the drawee bank.

. . . .

In the present case, the prosecution has established the prima facie presumption of knowledge of petitioner of insufficient funds through the demand letter sent to petitioner, Exhibit "C"[40] which was duly received by petitioner as shown by the registry return receipt, Exhibit "D".[41]

Petitioner tried to rebut the prima facie presumption by insisting that he is not an owner of Unlad and he has already severed his accommodation arrangement with Bautista as early as 1989. He argues that the affidavits of Bautista exonerating him from any responsibility as well as the private complainant's own testimony that he never dealt with petitioner, should be given weight.

We are not persuaded.

It is a hornbook doctrine that unless the affiant himself takes the witness stand to affirm the averments in his affidavits, the affidavits must be excluded from the judicial proceeding, being inadmissible hearsay.[42] The trial court and the Court of Appeals were correct in considering the same as hearsay evidence and in not giving probative weight to such affidavits.

Moreover, petitioner had admitted that he continued investing in Unlad until April 1994. Hence, he now cannot claim that he has completely severed his ties with Bautista as of 1989. With nothing but his bare assertions, which are ambiguous at best, petitioner has failed to rebut the prima facie presumption laid down by the statute and established by the prosecution.

Petitioner's insistence that since he is not an owner of Unlad, he could not have had any knowledge as to the insufficiency of funds is devoid of merit. As clarified in Lao vs. Court of Appeals,[43] the very case petitioner is invoking, the doctrine that a mere employee tasked to sign checks in blanks may not be deemed to have knowledge of the insufficiency of funds applies only to corporate checks and not to personal checks.[44] In this case, what is involved is a personal and not a corporate check.

Worth mentioning also is the fact that in the Lao case, the notice of dishonor was never personally received by petitioner, thus the prima facie presumption of knowledge of insufficiency of funds never arose. Here, as correctly found by the RTC, petitioner was duly notified of the dishonor of the subject check as shown by Exh. "C,"[45] a letter, specifically mentioning that the subject check was dishonored for reason "Account Closed," with the corresponding registry return receipt showing that petitioner received the notice on August 16, 1993 which petitioner did not impugn.[46]

Third issue. Whether or not the check was issued on account or for value.

Petitioner's claim is not feasible. We have held that upon issuance of a check, in the absence of evidence to the contrary, it is presumed that the same was issued for valuable consideration.[47] Valuable consideration, in turn, may consist either in some right, interest, profit or benefit accruing to the party who makes the contract, or some forbearance, detriment, loss or some responsibility, to act, or labor, or service given, suffered or undertaken by the other side. It is an obligation to do, or not to do in favor of the party who makes the contract, such as the maker or indorser.[48]

In this case, petitioner himself testified that he signed several checks in blank, the subject check included, in exchange for 2.5% interest from the proceeds of loans that will be made from said account. This is a valuable consideration for which the check was issued. That there was neither a pre-existing obligation nor an obligation incurred on the part of petitioner when the subject check was given by Bautista to private complainant on July 24, 1993 because petitioner was no longer connected with Unlad or Bautista starting July 1989, cannot be given merit since, as earlier discussed, petitioner failed to adequately prove that he has severed his relationship with Bautista

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or Unlad.

At any rate, we have held that what the law punishes is the mere act of issuing a bouncing check, not the purpose for which it was issued nor the terms and conditions relating to its issuance. This is because the thrust of the law is to prohibit the making of worthless checks and putting them into circulation.[49]

Fourth issue. Whether the private complainant, at the time of issuance, had knowledge that the checks had no sufficient funds.

We have held that knowledge of the payee that the drawer did not have sufficient funds with the drawee bank at the time the check was issued is immaterial as deceit is not an essential element of the offense under B.P. Blg. 22.[50] This is because the gravamen of the offense is the issuance of a bad check, hence, malice and intent in the issuance thereof are inconsequential.[51]

In Yu Oh vs. Court of Appeals[52] the Court held that there is no violation of B.P. Blg. 22, if complainant was actually told by the drawer that he has no sufficient funds in the bank.[53] In the present case, since there is no evidence that a categorical statement was given to private complainant when the subject check was issued to him, the above ruling cannot apply.

Fifth issue. Whether the guilt of the accused was proved beyond reasonable doubt.

Petitioner maintains that the prosecution has failed to prove his guilt beyond reasonable doubt since the prosecution failed to rebut his allegation that he was not anymore connected with the business of Bautista and the trial court relied solely on the authenticity of petitioner’s signature on the subject check to convict him of the offense charged. We are not convinced.

Proof beyond reasonable doubt does not mean absolute certainty. Suffice it to say the law requires only moral certainty or that degree of proof which produces conviction in a prejudiced mind.[54]

After reviewing the entire records of this case, we find that there is no reason to depart from the trial court’s judgment of conviction. The weight and quantum of evidence needed to prove the guilt of petitioner beyond reasonable doubt were met and established by the prosecution and correctly affirmed by the Court of Appeals.

However, in view of Supreme Court Administrative Circular No. 12-2000, as clarified by Administrative Circular No. 13-2001, establishing a rule of preference in the application of the penalties provided for in B.P. Blg. 22; and the recommendation of the Solicitor General in its Comment that the policy laid down in Vaca vs. Court of Appeals,[55] and Lim vs. People,[56] of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness, be considered in favor of petitioner who is not shown to be a habitual delinquent or a recidivist,[57] we find that the penalty imposed by the Court of Appeals should be modified by deleting the penalty of imprisonment and imposing only a fine of P200,000.00.

An appeal in a criminal case throws the entire case for review and it becomes our duty to correct any error, as may be found in the appealed judgment, whether assigned as an error or not.[58] Considering that the civil aspect of the case is deemed instituted with the criminal case and considering that the trial court and the Court of Appeals failed to award, in their respective judgments, the interest on the amount due to private complainant, it is incumbent upon us to correct the patent error of the lower courts. Private complainant is entitled to a 12% legal interest per annum from the date of finality of judgment.[59]

WHEREFORE, the decision of the Court of Appeals is AFFIRMED with the following MODIFICATIONS: The sentence of imprisonment is deleted. Instead, petitioner is ordered to pay a fine of P200,000.00, subject to subsidiary imprisonment in case of insolvency pursuant to Article 39 of the Revised Penal Code; and petitioner is

ordered to pay the private complainant the amount of P980,000.00 with 12% legal interest per annum from the date of finality of herein judgment.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

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[1] Penned by Justice Eloy R. Bello, Jr., and concurred in by Justices Jainal D. Rasul and Ruben T. Reyes; Rollo, pp. 49-57.

[2] Penned by Justice Eloy R. Bello, Jr. and concurred in by Justices Ruben T. Reyes and Mariano M. Umali (now retired).

[3] Records, p. 1.

[4] Id., p. 45.

[5] Rollo, p. 63.

[6] TSN, May 17, 1995, pp. 4-12.

[7] Spelled as “Zayda” in the TSN, May 24, 1995, but “Zenaida” in the RTC decision, Rollo, p. 63.

[8] TSN, May 24, 1995, pp. 4-6 and 9.

[9] Exh. “A”, Records, p. 76.

[10] Exh. “B”, Records, p. 76.

[11] Exh. “C”, Records, p. 77.

[12] Exh. “D”, Records, p. 78.

[13] Exh. “E”, Records, pp. 79-81.

[14] Exh. “F”, Records, p. 82.

[15] Exh. “G”, Records p. 83.

[16] TSN, August 13, 1996, pp. 7-8, 13-18.

[17] TSN, August 20, 1996, pp. 12-17.

[18] Exh. “1”, Records, p. 189.

[19] Exh. “2”, Records, p. 190.

[20] Exh. “3”, Records, p. 191.

[21] Exh. “4”, Records, p. 192.

[22] Exhs. “5”, “6”, “7”, “8”, “9”, “10”, “11”, “12”, “13” and “14”; Records, pp. 193-206.

[23] Exhs. “15”, “16”, “17”, “18”, “19”, “20”, “21”, “22”, “23”; Records, pp. 207-209.

[24] Rollo, p. 68.

[25] Id., p. 57.

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[26] Rollo, p. 19.

[27] Rollo, pp. 20-25.

[28] G.R. No. 119178, June 20, 1997, 274 SCRA 572.

[29] Rollo, pp. 28-29 and 31.

[30] Id., pp. 31-34.

[31] Id., pp. 35-36.

[32] Id., p. 37.

[33] Id., p. 41.

[34] Id., pp. 41-42.

[35] Rollo, pp. 154-159.

[36] G.R. No. 110592, January 23, 1996, 252 SCRA 135, 147.

[37] Id., pp. 147-148.

[38] Llamado vs. Court of Appeals, G.R. No. 99032, March 26, 1997, 270 SCRA 423, 429-430.

[39] Lao vs. Court of Appeals, G.R. No. 119178, June 20, 1997, 274 SCRA 572, 585-586.

[40] RTC Records, p. 77.

[41] Id., p. 78.

[42] People vs. Quidato, G.R. No. 117401, October 1, 1998, 297 SCRA 1, 8; People vs. Rendoque, January 20, 2000, 322 SCRA 622, 635.

[43] Supra, note 28.

[44] Id., pp. 591-592.

[45] RTC Records, p. 77.

[46] Id., p. 78.

[47] Ty vs. People, G.R. No. 149275, September 27, 2004.

[48] Ibid.

[49] Ibid.

[50] Ty vs. People, supra; Rigor vs. People, G.R. No. 144887, November 17, 2004.

[51] Rigor vs. People, supra.

[52] G.R. No. 125297, June 6, 2003, 403 SCRA 300.

[53] Id., p. 316, citing Eastern Assurance and Surety Corp. vs. Court of Appeals, January 18, 2000, 322 SCRA 73, 79.

[54] People vs. Esquila, G.R. No. 116727, February 27, 1996, 254 SCRA 140, 147.

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[55] November 16, 1998, 298 SCRA 656.

[56] G.R. No. 130038, September 18, 2000, 340 SCRA 497.

[57] Rollo, p. 159.

[58] People vs. Laguerta, October 30, 2000, 344 SCRA 453, 458; People vs. Balacano, July 31, 2000, 336 SCRA 615, 629-630.

[59] Eastern Assurance and Surety Corporation vs. Court of Appeal, January 18, 2000, 322 SCRA 73, 79.

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