ISMAEL F. MEJIA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 149937. June 21, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

Before us is a Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Decision[1] of the Court of Appeals dated July 27, 2001 in CA-G.R. CR No. 15066 and its Resolutions dated September 13, 2001 and October 22, 2001 denying petitioner's first and second motions for reconsideration.

The facts are:

Rodolfo M. Bernardo, Jr. was a client of Atty. Ismael F. Mejia, petitioner. Sometime in January 1985, Bernardo requested petitioner to pay his real estate taxes. Bernardo then delivered to petitioner a blank check. Petitioner wrote the amount of P27,700.00 thereon with his name as payee. Thereafter, he encashed the check. On March 14, 1985, petitioner furnished Bernardo a statement of account showing that only P17,700.00 was actually spent for realty taxes. Petitioner explained that he spent the remaining P10,000.00 for the hospitalization of his wife. Both parties treated this amount of P10,000.00 as petitioner's loan. Thereupon, petitioner requested Bernardo to lend him an additional amount of P40,000.00 as he needed the money for his wife's medication. Bernardo agreed and gave P40,000.00 more to petitioner. To secure the payment of his P50,000.00 loan, petitioner issued Philippine National Bank (PNB) Check No. 156919 dated May 15, 1985 in the amount of P50,000.00 in favor of Bernardo. Petitioner also handed to Bernardo a Promissory Note, also of the same date, stating that he will pay the loan on or before May 15, 1985.

When the check became due and demandable, petitioner requested Bernardo not to encash it until July 15, 1985. But petitioner failed to pay on that day. Instead, he asked Bernardo again to defer the encashment of the check. On October 8, 1985, Bernardo deposited the check but it was dishonored by the PNB, the drawee bank, due to petitioner's closed account. Bernardo then sent petitioner a letter informing him that the check was dishonored and demanding payment therefor. But petitioner refused to pay. He then delivered a list of his attorney's fees to Bernardo which the latter did not pay.

Eventually, Bernardo caused the filing with the Regional Trial Court, Branch 197, Pasig City an Information for violation of Batas Pambansa Blg. 22 (B.P. 22) against petitioner, thus:

> That on or about the 14[th] day of March 1985 in the municipality of Pasig, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously make out and issue a Philippine National Bank Check No. 156919 postdated May 15, 1985 in the amount of P50,000.00, in exchange for cash, well knowing that he did not have sufficient funds with the drawee bank for payment of such check in full upon presentment; that when said check was presented to the drawee bank for payment, the same was dishonored and/or refused payment for the reason "ACCOUNT

> CLOSED", and the said accused, despite the lapse of five (5) banking days from notice of dishonor and repeated demands made upon him, failed and refused and still fails and refuses to make good the said check or to pay the value of the check, to the damage and prejudice of said Rodolfo M. Bernardo, Jr., in the aforementioned amount of P50,000.00, Philippine Currency.
>
> Contrary to law.

When arraigned, with the assistance of his counsel, petitioner pleaded not guilty to the offense charged. Trial ensued thereafter.

On May 21, 1993, the trial court rendered its Decision, the dispositive portion of which reads:

> WHEREFORE, this Court hereby finds the accused Ismael F. Mejia guilty beyond reasonable doubt of the crime of Violation of Batas Pambansa Bilang 22, and he is hereby sentenced to pay a FINE of P50,000.00 to the Government.
>
> Said accused is also hereby declared civilly liable to the offended party, Rodolfo M. Bernardo, Jr., and said accused is ordered to pay said offended party the value of the bouncing check in the amount of P50,000.00 with interest thereon of six percent (6%) per annum from November 15, 1985 until the same is fully paid, plus the amount of P10,000,00 as and for attorney's fees, in addition to the costs of the suit.
>
> SO ORDERED.

On appeal, the Court of Appeals, on July 27, 2001, rendered its Decision affirming with modification the judgment of the trial court, thus:

> WHEREFORE, premises considered and pursuant to applicable law and jurisprudence on the matter and on evidence at hand, judgment is hereby rendered dismissing the instant appeal. However, the decision dated May 21, 1993 of the trial court is modified deleting the award of attorney's fees since no evidence was adduced to prove such fact. All other aspects of the decision are affirmed. No pronouncement as to costs.
>
> SO ORDERED.

Petitioner filed a motion for reconsideration but it was denied by the Court of Appeals in a Resolution dated September 13, 2001.

Petitioner filed a second motion for reconsideration. Again, the appellate court, in its Resolution dated October 22, 2001, denied the same for being a prohibited pleading.

Hence, the present petition.

The basic issue for our resolution is whether the Court of Appeals erred in affirming the assailed Decision of the trial court convicting petitioner for violation of B.P. 22.

For violation of B.P. 22, the prosecution must prove the following essential elements: (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 there are no sufficient funds in or credit with the drawee bank for the payment of such 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.[2]

The trial court found that petitioner issued the check as guarantee for his loan obtained from Bernardo. At the time he issued the check, he knew that his account with the PNB had been closed. When Bernardo deposited the check, it was dishonored by the PNB, the drawee bank, for the reason "account closed." Petitioner was duly notified of

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such dishonor. In fact, he admitted having received Bernardo's demand letter urging him to make good the check within five (5) banking days from notice. But petitioner failed to heed such demand.

Settled is the rule that factual findings of the trial court which have been affirmed in toto by the Court of Appeals are entitled to great weight and respect by this Court and will not be disturbed absent any showing that the trial court overlooked certain facts and circumstances which could substantially affect the outcome of the case.[3] This exception is not present here.

It must be emphasized that the gravamen of the offense charge is the issuance of a bad check.[4] The purpose for which the check was issued, the terms and conditions relating to its issuance, or any agreement surrounding such issuance are irrelevant to the prosecution and conviction of petitioner.[5] To determine the reason for which checks are issued, or the terms and conditions for their issuance, will greatly erode the faith the public reposes in the stability and commercial value of checks as currency substitutes, and bring havoc in trade and in banking communities.[6] The clear intention of the framers of B.P. 22 is to make the mere act of issuing a worthless check malum prohibitum.[7]

Petitioner, in praying for his acquittal, begs us to exercise mercy and compassion on him considering that he is a good man who has encountered so much pain and suffering in his life. While we sympathize with his seeming misfortunes, we cannot exonerate him. Courts are not the forum to plead for sympathy. The duty of courts is to apply the law, disregarding their feeling of sympathy or pity for an accused. The remedy is elsewhere - clemency from the executive or an amendment of the law by the legislature, but surely, at this point, we cannot but apply the law.[8]

WHEREFORE, we DENY the petition. The challenged Decision of the Court of Appeals and its twin Resolutions in CA-G.R. CR No. 15066 are AFFIRMED. Costs against petitioner.

SO ORDERED.
Puno, C.J., (Chairperson), Corona, Azcuna, and Garcia, JJ., concur.

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[1] Penned by Associate Justice Jose L. Sabio, Jr., and concurred in by Associate Justice Ma. Alicia Austria-Martinez (now a member of this Court) and Associate Justice Hilarion L. Aquino (retired); rollo, pp. 09-21.

[2] Marigomen v. People, G.R. No. 153451, May 26, 2005, 459 SCRA 169.

[3] Yulo v. People, G.R. No. 142762, March 04, 2005, 452 SCRA 705.

[4] Josef v. People, G.R. No. 146424, November 18, 2005, 475 SCRA 417.

[5] Ruiz v. People, G.R. No. 160893, November 18, 2005, 475 SCRA 476.

[6] People v. Nitafan, G.R. No. 75954, October 22, 1992, 215 SCRA 79, citing Lozano v. Martinez, 146 SCRA 323 (1986).

[7] Narte v. Court of Appeals, G.R. No. 132552, July 14, 2004, 434 SCRA 336.

[8] People v. Amigo, G.R. No. 116719, January 18, 1996, 252 SCRA 43.

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