

EMMA P. NUGUID, PETITIONER, VS. CLARITA S. NICDAO, RESPONDENT.

G.R. NO. 150785. September 15, 2006

Ponente: CORONA, J.

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CORONA, J.:

In this petition for review on certiorari under Rule 45 of the Rules of Court, Emma P. Nuguid assails the decision of the Court of Appeals (CA) dated October 30, 2001 in CA-G.R. No. 23054:

WHEREFORE, the Petition for Review is hereby GRANTED and the Assailed Decision dated May 10, 1999 of the Regional Trial Court [RTC], Branch 5, Bataan, affirming the Decision dated January 11, 1999 of the First Municipal Circuit Trial Court of Dinalupihan-Hermosa, Bataan is REVERSED and SET ASIDE.

The petitioner CLARITA S. NICDAO is hereby ACQUITTED of the offense charged. NO COSTS.

SO ORDERED.[2]

Petitioner seeks a review of the decision with respect to the alleged lack of civil liability of respondent Clarita S. Nicdao. Stemming from two cases of violation of BP 22,[3] this petition involves the following facts:

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Accused Clarita S. Nicdao is charged with having committed the crime of Violation of BP 22 in fourteen (14) counts. The criminal complaints allege that sometime in 1996, from April to August thereof, [respondent] and her husband [,] of Vignette Superstore [,] approached [petitioner] and asked her if they [could] borrow money to settle some obligations. Having been convinced by them and because of the close relationship of [respondent] to [petitioner], the latter lent the former her money. Thus, every month, she was persuaded to release P100,000.00 to the accused until the total amount reached P1,150,000.00.

As security for the P1,150,000.00, [respondent] gave [petitioner] the following open dated Hermosa Savings Bank (HSLB) (sic) with the assurance that if the entire amount is not paid within one (1) year, [petitioner] can deposit the check:

Check No.

Amount

7277

P100,000.00 (Exhibit "A")

7348

150,000.00 (Exhibit "A")

12118

100,000.00 (Exhibit "A")

8812

50,000.00 (Exhibit "A")

12102

100,000.00 (Exhibit "A")

7255

100,000.00 (Exhibit "A")

2286

50,000.00 (Exhibit "A")

8128

100,000.00 (Exhibit "A")

7254

50,000.00 (Exhibit "A")

7278

100,000.00 (Exhibit "A")

4540

50,000.00 (Exhibit "A")

4523

50,000.00 (Exhibit "A")

12103

50,000.00 (Exhibit "A")

7294

100,000.00 (Exhibit "A")

P1,150,000.00

In June 1997, [petitioner] together with Samson Ching demanded payment of the sums [above- mentioned], but [respondent] refused to acknowledge the indebtedness. Thus, on October 6, 1977, [petitioner] deposited all aforementioned checks in the bank of Samson Ching totaling P1,150,000.00 since all the money given by her to [respondent] came from Samson Ching. The checks were all returned for having been drawn against insufficient funds (DAIF).

A verbal and written demand was made upon [respondent] to pay the amount represented by the bounced checks, but [to] no avail. Hence, a complaint for violation of BP 22 was filed against the [respondent]. [4](Citation omitted)

After petitioner instituted 14 criminal cases[5] (docketed as Criminal Case Nos. 9458-9471) for violation of BP

22 involving the sum of P1,150,000, corresponding warrants of arrest were issued against respondent. On November 12, 1997, respondent was arraigned. She pleaded not guilty and trial ensued.

In a decision dated January 11, 1999, Judge Manuel M. Tan of the Municipal Circuit Trial Court of Dinalupihan, Bataan found respondent guilty of the charges against her. Respondent was sentenced to pay P1,150,000, plus interest, and to suffer imprisonment equivalent to one year for each violation of BP 22, or a total of 14 years of imprisonment.

On appeal, the decision was affirmed in toto by the Regional Trial Court of Dinalupihan, Bataan. Respondent elevated the case to the CA. On October 30, 2001, the CA reversed the decision of the lower courts and acquitted respondent. According to the CA, certain substantial facts were overlooked by the trial court. These circumstances, if properly considered, justified a different conclusion on the case.[6]

Petitioner now comes to us, raising this main issue: whether respondent remains civilly liable to her for the sum of P1,150,000. In this connection, she asserts that respondent obtained loans from her in the aggregate amount of P1,150,000 and that these loans have not been paid.

From the standpoint of its effects, a crime has a dual character: (1) as an offense against the State because of the disturbance of the social order and (2) as an offense against the private person injured by the crime unless it involves the crime of treason, rebellion, espionage, contempt and others (wherein no civil liability arises on the part of the offender either because there are no damages to be compensated or there is no private person injured by the crime[7]). What gives rise to the civil liability is really the obligation of everyone to repair or to make whole the damage caused to another by reason of his act or omission, whether done intentionally or negligently and whether or not punishable by law.[8]

Extinction of penal action does not carry with it the eradication of civil liability, unless the extinction proceeds from a declaration in the final judgment that the fact from which the civil liability might arise did not exist.[9]

On one hand, as regards the criminal aspect of a violation of BP 22, suffice it to say that:

[t]he gravamen of BP 22 is the act of making and issuing a worthless check or one that is dishonored upon its presentment for payment [and] the accused failed to satisfy the amount of the check or make arrangement for its payment within 5 banking days from notice of dishonor. The act is *malum prohibitum*, pernicious and inimical to public welfare. Laws are created to achieve a goal intended to guide and prevent against an evil or mischief. Why and to whom the check was issued is irrelevant in determining culpability. The terms and conditions surrounding the issuance of the checks are also irrelevant.[10]

On the other hand, the basic principle in civil liability *ex delicto* is that every person criminally liable is also civilly liable, crime being one of the five sources of obligations under the Civil Code.[11] A person acquitted of a criminal charge, however, is not necessarily civilly free because the quantum of proof required in criminal prosecution (proof beyond reasonable doubt) is greater than that required for civil liability (mere preponderance of evidence[12]). In order to be completely free from civil liability, a person's acquittal must be based on the fact that he did not commit the offense.[13] If the acquittal is based merely on reasonable doubt, the accused may still be held civilly liable since this does not mean he did not commit the act complained of.[14] It may only be that the facts proved did not constitute the offense charged.[15]

Acquittal will not bar a civil action in the following cases: (1) where the acquittal is based on reasonable doubt as only preponderance of evidence is required in civil cases; (2) where the court declared the accused's liability is not criminal but only civil in nature and (3) where the civil liability does not arise from or is not based upon the criminal act of which the accused was acquitted.[16]

In this petition, we find no reason to ascribe any civil liability to respondent. As found by the CA, her supposed civil liability had already been fully satisfied and extinguished by payment. The statements of the appellate court leave no doubt that respondent, who was acquitted from the charges against her, had already been completely relieved of civil liability:

[Petitioner] does not dispute the fact that payments have already been made by petitioner in [the stated] amounts but argues that the Demand Draft represented payment of a previous obligation. However, no evidence of whatever nature was presented by the prosecution to substantiate their claim that there was indeed a previous obligation involving the same amount for which the demand draft was given. Except for this bare allegation, which is self-serving, no documentary evidence was ever adduced that there were previous transactions involving the subject amount.

Likewise, [petitioner] admitted having received the cash payments from petitioner on a daily basis but argues that the same were applied to interest payments only. It however appears that [petitioner] was charging [respondent] with an exorbitant rate of interest $\frac{1}{2}\%$ on a daily basis. xxx In any event, the cash payments [made] were recorded at the back of the cigarette cartons by [petitioner] in her own handwriting as testified to by [respondent] and her employees, Melanie Tolentino and Jocelyn Nicdao. Indeed, the daily cash payments marked in evidence as Exhibits 7 to 15 reveal that [respondent] had already paid her obligation to [petitioner] in the amount of P5,780,000.00 as of July 21, 1997 and that she stopped making further payments when she realized that she had already paid such amount.

From the foregoing, it would appear that [respondent] made a total payment of P6,980,000.00, inclusive of the P1,200,000.00 Demand Draft, which is definitely much more than P1,150,000.00, the amount she actually borrowed from [petitioner]. These facts were never rebutted by [petitioner].

Moreover, we find no evidence was presented by the prosecution to prove that there was a stipulation in writing that interest will be paid by [respondent] on her loan obligations [as required under Article 1956 of the Civil Code].

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By and large, the obligation of [respondent] has already been extinguished long before the encashment of the subject checks. A check is said to apply for account only when there is still a pre-existing obligation. In the case at bench, the pre-existing obligation was extinguished after full payment was made by [respondent]. We therefore find the clear and

convincing documentary evidence of payment presented by [respondent] worthy of credence.[17] (emphasis supplied)

WHEREFORE, the petition is hereby DENIED. The October 30, 2001 decision of the Court of Appeals in CA-G.R. No. 23054 is AFFIRMED.

Costs against petitioner.

SO ORDERED.

Puno, (Chairperson), Sandoval-Gutierrez, Azcuna and Garcia, JJ., concur.

[1] The Court of Appeals was impleaded as a respondent but we have excluded it pursuant to Section 4 of Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Josefina Guevara-Salonga and concurred in by Associate Justices Godardo A. Jacinto (retired) and Eloy R. Bello, Jr., of the Sixth Division of the Court of Appeals; rollo, p. 53.

[3] Anti-Bouncing Checks Law.

[4] CA Decision, rollo, pp. 39-40; MCTC Decision in Criminal Case Nos. 9458-9471, id., pp. 68-69. See also Petition, id., pp. 21-22.

[5]

Samson Ching, petitioner's partner, had earlier instituted a criminal case for eleven counts of violation of BP 22 against Nicdao, this time involving the sum of P20,950,000. It was docketed as Criminal Case Nos. 9433-9443.

In Criminal Case Nos. 9433-9443, Hon. Manuel M. Tan of the Municipal Circuit Trial Court found Nicdao guilty of the charges.

Nicdao filed two separate petitions for review with the CA. The petition for review of the RTC decision on Criminal Case Nos. DH-848-99 to DH-858-99 was docketed as CA-G.R. No. 23055. Meanwhile, the petition involving Criminal Case Nos. DH-859-99 to DH-872-99, docketed as CA-G.R. No. 23054, is the subject matter of this petition.

The Office of the Solicitor General filed a motion for consolidation of the two petitions on October 13, 1999 pursuant to Section 7 (b) (1) of the 1988 Revised Rules of the CA.

Without resolving and acting on the motion for consolidation, the CA, through Associate Justice Artemio G. Tuquero, decided CA-G.R. No. 23055 on November 22, 1999. The CA reversed and set aside the RTC decision and acquitted Nicdao.

Samson Ching questioned the civil aspect of the CA decision by way of petition for review on certiorari before this Court. The case was docketed as G.R. No. 141181. At the time of the filing of the present petition, G.R. No. 141181 was allegedly still pending with the Court's First Division.

[6] Rollo, p. 52.

[7] Reyes, *The Revised Penal Code: Criminal Law 1* (2001), p. 876. Citation omitted.

[8] See also *Occena v. Icamina*, G.R. No. 82146, 22 January 1990, 181 SCRA 328, 333.

[9] Reyes *supra* note 7, at 878, citing Sec. 2, par. 4, Rule III, Revised Rules of Criminal Procedure.

[10] Boado, *Notes and Cases on the Revised Penal Code and Special Penal Laws* (2002), p. 692. Citations omitted. See also *Ngo v. People*, G.R. No. 155815, 14 July 2004, 434 SCRA 522, 530-533; *King v. People*, 377 Phil. 692 (1999); *Navarro v. Court of Appeals*, G.R. Nos. 112389-90, 1 August 1994, 234 SCRA 639.

[11] *Id.*, p. 298. Civil Code, Art. 1156.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *Id.*, p. 302. See also Reyes, *supra* note 7, at 879.

Civil liability may exist, although the accused is not held criminally liable, in the following cases:

- Acquittal on reasonable doubt (Civil Code, Art. 29)

- Acquittal from a cause of nonimputability (Revised Penal Code, Art. 101)
- Acquittal in the criminal action for negligence (Civil Code, Art. 2177)
- When there is only civil responsibility (De Guzman v. Alva, 51 O.G. 1311)
- In cases of independent civil actions (Civil Code, Arts. 31-34).

[17] CA Decision, rollo, pp. 48-52. Citations omitted.

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