

VICTOR ONGSON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 156169. August 12, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

The instant petition for review seeks to annul and set aside the June 27, 2002 decision[1] of the Court of Appeals in CA-G.R. CR No. 18662 which affirmed with modification the March 8, 1995 decision[2] of the Regional Trial Court of Quezon City, Branch 97, in Criminal Case Nos. Q-93-43435 to Q-43442, finding petitioner Victor Ongson guilty beyond reasonable doubt of eight (8) counts of violation of Batas Pambansa Blg. 22 (B.P. 22).

The evidence for the prosecution shows that on separate occasions, private complainant Samson Uy extended loans to petitioner and as payment therefor, he issued to Uy eight (8) post dated checks. Upon presentment, the checks were dishonored and despite demands, petitioner failed to make good the bounced checks. On April 15, 1993, eight (8) separate Informations were filed against petitioner and docketed as follows:

Criminal Case No.

Check

No.

Date Amount Drawee

Bank Reason for the
dishonor

Q-93-43435[3] 119789[4] Nov. 23, 1992 P200,000.00 PSB Payment Stopped/Drawn Against Insufficient Funds (DAIF)

Q-93-43436[5] 492837[6] Nov. 4, 1992 24,000.00 FBTC Account Closed

Q-93-43437[7] 492615[8] Oct. 15, 1992 3,117.00 FBTC DAIF

Q-93-43438[9] 492319[10] Oct. 15, 1992 11,887.10 FBTC DAIF

Q-93-43439[11] 492482[12] Oct. 15, 1992 50,000.00 FBTC DAIF

Q-93-43440[13] 492581[14] Oct. 4, 1992 25,500.00 FBTC DAIF

Q-93-43441[15] 492666[16] Oct. 2, 1992 200,000.00 FBTC DAIF

Q-93-43442[17] 492580[18] Sept. 28, 1992 68,145.62 FBTC DAIF

Except as to the check's drawee bank, number, amount and date of issue, the Informations were similarly worded

in this wise:

That on or about the 23rd day of November, 1992, in Quezon City, Philippines, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to SAMSON UY to apply on account or for value Philippine Savings Bank Check No. 119789 dated November 23, 1992 payable to Cash in the amount of P200,000.00, Philippine Currency, said accused well knowing that at the time of issue she/he/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 insufficiency of funds/Account Closed and despite receipt of notice of such dishonor, said accused failed to pay said Samson Uy 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.[19]

Upon arraignment, petitioner entered a plea of not guilty.

At the pre-trial, petitioner admitted the authenticity of his signatures on the checks, the stamps of dishonored deposit, the dates thereof and reasons for dishonor.[20]

After the prosecution rested its case, the defense presented Rowena Carbon but since she failed to appear for continuation of the cross-examination,[21] the trial court ordered her testimony stricken off the record.[22] The defense also presented Evelyn Villareal who testified that Liana's Supermarket, where Uy was sole distributor of petitioner's beverage products, issued check vouchers to Uy.[23]

On March 8, 1995, the trial court rendered a one-page decision finding petitioner guilty as charged, the full text of which reads:

The consolidated Informations, above-numbered, for violation of Batas Pambansa Blg. 22, for eight (8) counts are on record.

Upon arraignment accused pleaded Not Guilty and at the pre-trial, he agreed to and signed the Pre-trial order on Page 108, dated July 14th, 1993, wherein accused admitted the authenticity of the signatures on the checks in question, Exh "B", Exh "C", "D", "E", "F", "G", "H", "I" and submarkings thereon, showing the fact of dishonor, the reason therefor and the dates thereof, reserving only for trial on the merits the issue of the correctness of the amounts and the consideration.

The private complainant testified as to the consideration, which is also presumed under the law, unless rebutted by accused, which he failed to do, convincing the court beyond reasonable doubt of his guilt as charged herein.

WHEREFORE, accused Victor Ongson is hereby declared GUILTY of Violations of Batas Pambansa Blg. 22 on eight (8) counts and sentenced to serve 6 months imprisonment for each of the eight (8) counts and to pay a fine equivalent to the amount of the said checks mentioned in the above-numbered informations or a total of P582,149.72, and to indemnify, as actual and compensatory damages, the private complainant Samson Uy in the same amount of the said checks, or P582,149.72 plus interest at 12% from the date of this decision.

SO ORDERED.[24]

Petitioner appealed to the Court of Appeals contending he was denied due process and that the trial court's decision violated the Constitution and the Rules of Court. In the assailed decision of June 27, 2002, the Court of Appeals found no infirmity in the trial court's decision and affirmed the conviction of petitioner, but modified the penalty as follows:

WHEREFORE, with the MODIFICATIONS that the penalty of fine is hereby DELETED and appellant sentenced to a prison term of thirty (30) days in each of the eight (8) counts whereof he was found guilty by the

lower court, the decision appealed from is hereby AFFIRMED and this appeal DISMISSED.

No pronouncement as to costs.

SO ORDERED.[25]

Petitioner filed a motion for reconsideration but was denied. Hence, the instant petition. The issues for resolution are:

- 1) Was the decision of the trial court violative of the requirements of the Constitution and the Rules of Court?
- 2) Was the conviction of petitioner proper?

Section 14, Article VIII of the Constitution, as well as Section 1 of Rule 36 and Section 1, Rule 120 of the Rules on Civil Procedure, similarly state that a decision, judgment or final order determining the merits of the case shall state, clearly and distinctly, the facts and the law on which it is based. Pertinently, the Court issued on January 28, 1988 Administrative Circular No. 1, which requires judges to make complete findings of facts in their decision, and scrutinize closely the legal aspects of the case in the light of the evidence presented, and avoid the tendency to generalize and to form conclusion without detailing the facts from which such conclusions are deduced.

We emphasized in *Velarde v. Social Justice Society*,^[26] citing *Yao v. Court of Appeals*,^[27] that:

"Faithful adherence to the requirements of Section 14, Article VIII of the Constitution is indisputably a paramount component of due process and fair play. It is likewise demanded by the due process clause of the Constitution. The parties to a litigation should be informed of how it was decided, with an explanation of the factual and legal reasons that led to the conclusions of the court. The court cannot simply say that judgment is rendered in favor of X and against Y and just leave it at that without any justification whatsoever for its action. The losing party is entitled to know why he lost, so he may appeal to the higher court, if permitted, should he believe that the decision should be reversed. A decision that does not clearly and distinctly state the facts and the law on which it is based leaves the parties in the dark as to how it was reached and is precisely prejudicial to the losing party, who is unable to pinpoint the possible errors of the court for review by a higher tribunal. More than that, the requirement is an assurance to the parties that, in reaching judgment, the judge did so through the processes of legal reasoning. It is, thus, a safeguard against the impetuosity of the judge, preventing him from deciding *ipse dixit*. Vouchsafed neither the sword nor the purse by the Constitution but nonetheless vested with the sovereign prerogative of passing judgment on the life, liberty or property of his fellowmen, the judge must ultimately depend on the power of reason for sustained public confidence in the justness of his decision."

...

In the present case, it is starkly obvious that the assailed Decision contains no statement of facts - much less an assessment or analysis thereof - or of the court's findings as to the probable facts. The assailed Decision begins with a statement of the nature of the action and the question or issue presented. Then follows a brief explanation of the constitutional provisions involved, and what the Petition sought to achieve. Thereafter, the ensuing procedural incidents before the trial court are tracked. The Decision proceeds to a full-length opinion on the nature and the extent of the separation of church and state. Without expressly stating the final conclusion she has reached or specifying the relief granted or denied, the trial judge ends her "Decision" with the clause "SO ORDERED."

What were the antecedents that necessitated the filing of the Petition? What exactly were the distinct facts that gave rise to the question sought to be resolved by SJS? More important, what were the factual findings and analysis on which the trial court based its legal findings and conclusions? None were stated or implied. Indeed,

the RTC's Decision cannot be upheld for its failure to express clearly and distinctly the facts on which it was based. Thus, the trial court clearly transgressed the constitutional directive.

The significance of factual findings lies in the value of the decision as a precedent. How can it be so if one cannot apply the ruling to similar circumstances, simply because such circumstances are unknown? Otherwise stated, how will the ruling be applied in the future, if there is no point of factual comparison?

Based on the foregoing considerations, we find that the trial court's decision in the case at bar did not state the material facts, i.e., the transaction that led to the issuance of the checks, their respective amounts, the date and reason for dishonor. The decision likewise failed to discuss the elements of B.P. 22 and other pertinent facts. Clearly, the absence of relevant antecedents as well as the lack of evaluation of the evidence adduced by the parties and justification for its conclusion render the instant decision void.

The Court would ordinarily remand this case to the court a quo for compliance with the constitutional requirements. However, we deem it proper to resolve the case on the merits to avoid further delay.[28]

Section 1 of B.P. 22, states:

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.

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 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.

Where the check is drawn by a corporation, company or entity, the person or persons who actually signed the check in behalf of such drawer shall be liable under this Act.

The elements of violation of B.P. 22 are: (1) making, drawing, and issuance of any check to apply on account or for value; (2) 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) 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.[29]

The first element, i.e., making, drawing, and issuance of any check, requires that the check be properly described in the Information to inform the accused of the nature and cause of the accusation against him. Without a sufficient identification of the dishonored check in the Information, the conviction of the accused should be set aside for being violative of the constitutional requirement of due process.[30]

In the instant case, petitioner should be acquitted in Criminal Case Nos. Q-93-43437 and Q-93-43442, because the date of the check and the amount thereof as stated in the Informations vary with the exhibits submitted by the prosecution, which inconsistencies violate petitioner's constitutional right to be informed of the nature of the offense charged.

The Information[31] in Criminal Case No. Q-93-43437, described Check No. 492615 as dated October 15, 1992,

for P3,117.00. The records, however, show that said check differ from Exhibit "I," because the date and amount stated therein are October 17, 1992 and 3,117.50, respectively. Likewise in Criminal Case No. Q-93-43442, the date of Check No. 492580 as reflected in the Information[32] is September 28, 1992, while Exhibit "D" shows October 2, 1992.

As held in *Dico v. Court of Appeals*,[33] citing *Alonto v. People*,[34] these inconsistencies justify the acquittal of the accused. Thus -

In the information filed by Felipe C. Belcina, Prosecutor II, the check involved is described as Far East Bank and Trust Company (FEBTC) Check No. 364903 dated 12 May 1993 in the amount of P100,000 payable to Equitable Banking Corporation. However, after going over the records of the case, the parties, including the courts, overlooked the fact that the check being identified in court was different from that described in the information. The prosecution marked as its Exhibit "B" FEBTC Check No. 369403 dated 12 May 1993 in the amount of P100,000 payable to Equitable Banking Corporation. The issue as to the identity of the check, though not raised as an error, should be considered in favor of the petitioner.

The variance in the identity of the check nullifies petitioner's conviction. The identity of the check enters into the first element of the offense under Section 1 of B.P. Blg. 22 - that a person draws or issues a check on account or for value. There being a discrepancy in the identity of the checks described in the information and that presented in court, petitioner's constitutional right to be informed of the nature of the offense charged will be violated if his conviction is upheld.

In the case of *Alonto v. People*, this Court had this to say when there was a variance involving the date as regards the check described in the information and that adduced in evidence:

This Court notes, however, that under the third count, the information alleged that petitioner issued a check dated 14 May 1992 whereas the documentary evidence presented and duly marked as Exhibit "I" was BPI Check No. 831258 in the amount of P25,000 dated 05 April 1992. Prosecution witness Fernando Sardes confirmed petitioner's issuance of the three BPI checks (Exhibits G, H, and I), but categorically stated that the third check (BPI Check No. 831258) was dated 14 May 1992, which was contrary to that testified to by private complainant Violeta Tizon, i.e., BPI check No. 831258 dated 05 April 1992. In view of this variance, the conviction of petitioner on the third count (Criminal Case No. Q-93-41751) cannot be sustained. It is on this ground that petitioner's fourth assignment of error is tenable, in that the prosecution's exhibit, i.e., Exhibit "I" (BPI Check No. 831258 dated 05 April 1992 in the amount of P25,000) is excluded by the law and the rules on evidence. Since the identity of the check enters into the first essential element of the offense under Section 1 of B.P. 22, that is, that a person makes, draws or issues a check on account or for value, and the date thereof involves its second element, namely, that at the time of issue the maker, drawer or issuer knew that he or she did not have sufficient funds to cover the same, there is a violation of petitioner's constitutional right to be informed of the nature of the offense charged in view of the aforesaid variance, thereby rendering the conviction for the third count fatally defective.

With respect to Criminal Case Nos. Q-93-43435, Q-93-43436, Q-93-43438, Q-93-43439, Q-93-43440 and Q-93-43441, the judgment of conviction should be affirmed.

There is no merit in petitioner's contention that the checks were issued without valuable consideration. 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, which 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 endorser.[35]

In the case at bar, the prosecution established beyond reasonable doubt that petitioner received money in various

amounts from private complainant. Whether the amounts were loans or investment in the business of petitioner, the checks were issued for valuable consideration. Either way, petitioner is under obligation to pay private complainant. Likewise, the prosecution proved that some of the checks were payment for private complainant's commission from selling the products of petitioner. Hence, the latter cannot successfully claim that the issuance of the checks were not for a valuable consideration.

Interestingly, while petitioner denied existence of consideration, he at the same time admitted that his obligation was P358,872.72 and not P582,149.72.[36] It appears from Rowena Carbon's testimony that, as sole distributor of petitioner's product to Liana's Supermarket, private complainant received from the latter 3 checks in the amounts of P41,748.00, P78,840.00 and P105,209.00, but were not remitted to petitioner.[37] Hence, Carbon claimed that the total unremitted amount of the checks should be deducted from the indebtedness of the latter.

These declarations of Carbon, however, will not warrant the acquittal of petitioner because Carbon's testimony was stricken off the record by the trial court. Even if Carbon's testimony was retained, the alleged receipt by private complainant of the P41,748.00 and P78,840.00 checks will not warrant the acquittal of petitioner because the same were without documentary basis;[38] and while the amount of P105,209.00 was supported with a voucher dated July 29, 1992,[39] petitioner failed to positively show that private complainant did not remit said amount. Likewise, Carbon did not specify whether the check was drawn to cash or to the order of Beverly Food Ventures Corporation. If it was drawn to cash, then it is petitioner's burden to prove that the payment was intended for Beverly Food Ventures Corporation and not for private complainant. If it was paid to the order of the corporation, then the latter must at least establish that private complainant was able to encash and profit from said check. Moreover, Evelyn Villareal never validated the alleged receipt by private complainant of the P41,748.00, P78,840.00 and P105,209.00 checks. While she declared that Liana's Supermarket issued checks to petitioner, the subject 3 checks were not specified in her testimony.

Then too, the gravamen of the offense punished by B.P. 22 is the act of making and issuing a worthless check, that is, a check that is dishonored upon its presentation for payment. The mere act of issuing a worthless check is *malum prohibitum*. So also, it is not the nonpayment of the obligation that is being punished, but the making of worthless checks.[40] What the law punishes is such issuance of a bum check and not the purpose for which the check was issued nor the terms or conditions relating to its issuance.[41] Thus, even if there had been payment through compensation or some other means, there could still be prosecution for violation of B.P. 22.[42]

As to the second element, we have held that knowledge involves a state of mind which is 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 (5) banking days from notice of dishonor.[43]

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

SEC. 2. Evidence of knowledge of insufficient funds. - The making, drawing and issuance of a check payment of which is refused by the drawee 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.

For this presumption to arise, the prosecution must prove the following: (a) the check is presented within ninety (90) days from the date of the check; (b) the drawer or maker of the check receives notice that such check has not been paid by the drawee; and (c) the drawer or maker of the check fails to pay the holder of the check the amount

due thereon, or make arrangements for payment in full within five (5) banking days after receiving notice that such check has not been paid by the drawee. In other words, the presumption is brought into existence only after it is proved that the issuer had received a notice of dishonor and that within five days from receipt thereof, he failed to pay the amount of the check or to make arrangements for its payment. The presumption or prima facie evidence as provided in this section cannot arise, if such notice of nonpayment by the drawee bank is not sent to the maker or drawer, or if there is no proof as to when such notice was received by the drawer, since there would simply be no way of reckoning the crucial 5-day period.[44] Furthermore, the notice of dishonor must be in writing; a verbal notice is not enough.[45]

In the instant case, petitioner through counsel, admitted receipt of private complainant's demand letters sent via registered mail, informing him of the dishonor of the checks and the reason therefor; and demanding that the value of the check be paid in cash. Pertinent portion of the transcript of stenographic notes, reads:

ATTY. YABUT [private respondent's counsel]:

... Exh. "J" is the demand letter dated November 27, 1992 and the signature of the counsel therein marked as Exh. "J-1" to prove that a demand letter was sent to the accused and to his wife, Mrs. Grace Tiu Ongson, demanding therein that the said dishonored check be encashed or be replaced and the Registry Receipt which is Exh. "J-2" and Registry Return Receipt which is Exh. "J-3" is being offered to prove that the said demand letter was sent by registered mail and the same was sent as per Exh. "J-2" and received [on December 7, 1992] by the accused thru his representative which is Exh. "J-3"; and Exh. "K" is the same demand letter dated November 27, 1992 and signed by the counsel which is marked as Exh. "K-1" addressed to the accused and/or his wife, Mrs. Grace Tiu Ongson and demanding therein that the said check which is stated in the said demand letter which bounced be replaced with cash; Exh. "K-2" which is the Registry Receipt; and Exh. "K-3" which is the Registry Return Receipt is being offered to prove that the demand letter was sent to the accused by registered mail and that the same was received [on December 7, 1992] by his authorized representative; Exh. "L" is the demand letter dated December 3, 1992 addressed to the accused demanding therein that the said check contained in the demand letter be replaced with cash or be made good and the signature therein of the lawyer which is Exh. "L-1" is being offered to prove that the demand letter was sent by the lawyer and that the registry receipt marked as Exh. "L-2" and the Registry Return Receipt, Exh. "L-3" is being offered to prove that it was sent by registered mail and that the same was received by the accused [on December 7, 1992]; Exh. "M" which is a demand letter dated December 15, 1992 sent to the accused demanding therein that the check bounced and that the same should be replaced with cash or be made good accordingly, and the signature of the lawyer which is Exh. "M-1" to prove that the said lawyer sent a demand letter to the accused; and the Registry Receipt marked as Exh. "M-2" and the Registry Return Receipt Exh. "M-3" to prove that the demand letter was sent to the accused and received by his representative [on December 18, 1992]; we are therefore offering for the admission of this Honorable Court the exhibits from Exh. "A" to Exh. "M" accordingly and the testimony of the private complainant to this Honorable Court.

COURT:

Any comments?

ATTY. GIRONELLA [petitioner's counsel]:

With the kind permission of the Honorable Court.

COURT:

Proceed.

ATTY. GIRONELLA:

With respect to the various demand letters marked as Exhs. "H", "J", "K", "L" and "M", we admit them insofar as we intend to prove that there was such a demand letter and demand these letters were received by the accused (sic);[46]

In *King v. People*,[47] it was held that the accused's admission through counsel, made during the trial, binds the client. Similarly, in *Rigor v. People*,[48] the Court ruled that the accused cannot pretend that he did not receive the notice of dishonor of the check because the transcript of records shows that the accused admitted knowledge of the dishonor of his check through a demand letter received by him.

Section 4 of Rule 129, states:

SEC. 4. Judicial admissions. - An admission, verbal or written, made by a party in the course of the proceedings in the same case, does not require proof. The admission may be contradicted only by showing that it was made through palpable mistake or that no such admission was made.

That only a representative of petitioner signed the registry return receipt in the case at bar is of no consequence because of the unqualified admission by the latter that he received private complainant's demand letter with notice of dishonor. Said admission binds him considering that he never denied receipt of the notice of dishonor. Neither did he contradict said judicial admission of receipt of the notice nor alleged a palpable mistake in making the same. Thus, petitioner's receipt of the notice of dishonor without paying the value of the checks or making arrangements for its payment within five (5) days from receipt of said notice, established the prima facie presumption that he had knowledge of the insufficiency of his funds in or credit with the bank at the time of the issuance of the checks. Failing to overcome this legal presumption, the findings of the courts below must be sustained.

The third element of violation of B.P. 22, i.e., the dishonor of the check by the drawee bank, is also attendant in the present case as shown by the reason for the dishonor as stamped in the dorsal portion of the checks which are also prima facie presumptions of such dishonor and the reasons therefor.[49] In *Garcia v. Court of Appeals*,[50] it was held that while it is true that the presumption is merely prima facie, the accused must, nonetheless, present proof to the contrary to overcome this presumption. Here, other than the bare allegations of petitioner, he presented no well-grounded defense to prove that the subject checks were not dishonored by the drawee banks.

Likewise, in *Recuerdo v. People*,[51] the court emphasized that it is not required much less indispensable, for the prosecution to present the drawee bank's representative as a witness to testify on the dishonor of the checks. The prosecution may present, as it did in this case, only private complainant as a witness to prove all the elements of the offense charged. Said witness is competent and qualified to testify that upon presentment for payment, the subject checks were dishonored by the drawee bank.

Furthermore, the dishonor was bolstered by the pre-trial order duly signed by petitioner where he admitted dishonor of the subject checks.[52] Incidentally, there is no merit in petitioner's contention that the pre-trial was irregular because it was held in his absence and before arraignment. Records show that the May 17, 1993 pre-trial held in the absence of petitioner was annulled by the trial court.[53] Pre-trial was re-set and conducted on July 14, 1993, after arraignment in the presence of petitioner,[54] who affixed his signature in the pre-trial order with the assistance of counsel.

All told, the Court finds that all the elements of violation of B.P. 22 had been established beyond reasonable doubt by the prosecution. Nevertheless, the penalty imposed by the Court of Appeals should be modified.

Under Administrative Circular No. 12-2000, imprisonment need not be imposed on those found guilty of violating B.P. Blg. 22. Administrative Circular No. 13-2001, issued on February 14, 2001, vests in the courts the discretion

to determine, taking into consideration the peculiar circumstances of each case, whether the imposition of fine (of not less than but not more than double the amount of the check, but in no case exceeding P200,000.00), would best serve the interest of justice, or whether forbearing to impose imprisonment would depreciate the seriousness of the offense, work violence on the social order, or otherwise contrary to the imperatives of justice.[55]

In *Recuerdo v. People*, and *Young v. Court of Appeals*,[56] it was held that where there is neither proof nor allegation that the accused is not a first time offender, imposition of the penalty of fine instead of imprisonment is proper. Likewise, in *Lee v. Court of Appeals*,[57] we ruled that the policy laid down in *Vaca v. Court of Appeals*,[58] and *Lim v. People*,[59] of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness, should be considered in favor of the accused who is not shown to be a habitual delinquent or a recidivist. Said doctrines squarely apply in the instant case there being no proof or allegation that petitioner is not a first time offender.

Finally, petitioner should be ordered to pay interest of 12% per annum pursuant to *Cabrera v. People*,[60] that when an obligation is breached, and it consists in the payment of a sum of money, the interest due should be that which may have been stipulated in writing. In the absence of such stipulation, the rate shall be 12% per annum computed from judicial or extrajudicial demand. In this case, there was no stipulated interest on petitioner's obligation to pay the value of the dishonored checks. Demand for payment was made extrajudicially as evidenced by petitioner's receipt of private complainant's demand letter with notice of dishonor. The applicable interest rate is therefore 12% per annum from the date of receipt of the demand letter on December 7, 1992 for Check Nos. 492666, 492482, 492581 and 492319; December 10, 1992 for Check No. 119789; and December 18, 1992 for Check No. 492837 until finality of this decision. From the finality of this decision, the total amount of the dishonored checks inclusive of interest shall further earn 12% interest per annum until fully paid.

WHEREFORE, the petition is PARTIALLY GRANTED. The June 27, 2002 decision of the Court of Appeals in CA-G.R. CR No. 18662 is AFFIRMED with MODIFICATIONS.

In Criminal Case Nos. Q-93-43437 and Q-93-43442, petitioner Victor Ongson is ACQUITTED of violation of B.P. Blg. 22 on the ground that his guilt has not been proved beyond reasonable doubt.

In Criminal Case Nos. Q-93-43435, Q-93-43436, Q-93-43438, Q-93-43439, Q-93-43440 and Q-93-43441 petitioner is found guilty beyond reasonable doubt of violation of B.P. Blg. 22 and is sentenced as follows:

- (1) In Criminal Case No. Q-93-43435, petitioner is sentenced to pay a fine of P200,000.00 and to indemnify private complainant Samson Uy in the amount of P200,000.00 with 12% interest per annum from the date of receipt of the demand letter on December 10, 1992, until the finality of this Decision;
- (2) In Criminal Case No. Q-93-43436, petitioner is sentenced to pay a fine of P48,000.00 and to indemnify private complainant Samson Uy in the amount of P24,000.00 with 12% interest per annum from the date of receipt of the demand letter on December 18, 1992, until the finality of this Decision;
- (3) In Criminal Case No. Q-93-43438, petitioner is sentenced to pay a fine of P23,774.20 and to indemnify private complainant Samson Uy in the amount of P11,887.10 with 12% interest per annum from the date of receipt of the demand letter on December 7, 1992, until the finality of this Decision;
- (4) In Criminal Case No. Q-93-43439, petitioner is sentenced to pay a fine of P100,000.00 and to indemnify private complainant Samson Uy in the amount of P50,000.00 with 12% interest per annum from the date of receipt of the demand letter on December 7, 1992, until the finality of this Decision;
- (5) In Criminal Case No. Q-93-43440, petitioner is sentenced to pay a fine of P51,000.00 and to indemnify private complainant Samson Uy in the amount of P25,500.00 with 12% interest per annum from the date of receipt of the demand letter on December 7, 1992, until the finality of this Decision; and

(6) In Criminal Case No. Q-93-43441, petitioner is sentenced to pay a fine of P200,000.00 and to indemnify private complainant Samson Uy in the amount of P200,000.00 with 12% interest per annum from the date of receipt of the demand letter on December 7, 1992, until the finality of this Decision.

The total amount of the dishonored checks inclusive of interest shall further earn 12% interest per annum from the finality of the decision until fully paid.

No pronouncement as to costs.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] Penned by now Supreme Court Associate Justice Cancio C. Garcia and concurred in by Associate Justices Marina L. Buzon and Eliezer R. De Los Santos (Rollo, pp. 25-37).

[2] Penned by Judge Oscar L. Leviste, Rollo, p. 114.

[3] Records, pp. 2-3.

[4] Exhibit "B", Folder of Exhibits, p. 1.

[5] Records, pp. 4-5.

[6] Exhibit "C", Folder of Exhibits, p. 1.

[7] Records, pp. 6-7.

[8] Exhibit "I", Folder of Exhibits, p. 2.

[9] Records, pp. 8-9.

[10] Exhibit "H", Folder of Exhibits, p. 2.

[11] Records, pp. 10-11.

[12] Exhibit "G", Folder of Exhibits, p. 2.

[13] Records, pp. 12-13.

[14] Exhibit "F", Folder of Exhibits, p. 2.

[15] Records, pp. 14-15.

[16] Exhibit "E", Folder of Exhibits, p. 1.

[17] Records, pp. 16-17.

[18] Exhibit "D", Folder of Exhibits, p. 1.

[19] Records, p. 2.

[20] Rollo, p. 49.

[21] Records, p. 194.

[22] Id. at 201.

[23] TSN, 29 November 1993, pp. 9-11.

- [24] Rollo, p. 114.
- [25] Id. at 37.
- [26] G.R. No. 159357, 28 April 2004, 428 SCRA 283, 306-308.
- [27] G.R. No. 132428, 24 October 2000, 344 SCRA 202.
- [28] *People v. Lizada*, 444 Phil. 67, 80 (2003). See also *People v. Bugarin*, 339 Phil. 570, 580(1997).
- [29] *Dico v. Court of Appeals*, G.R. No. 141669, 28 February 2005.
- [30] Id.
- [31] Records, p. 6.
- [32] Id. at 16.
- [33] Supra.
- [34] G.R. No. 140078, 9 December 2004, 445 SCRA 624.
- [35] *Lee v. Court of Appeals*, G.R. No. 145498, 17 January 2005.
- [36] TSN, 6 October 1993, p. 30.
- [37] Id. at 14-16.
- [38] Id. at 16-17.
- [39] Id. at 19-22.
- [40] *Ngo v. People*, G.R. No. 155815, 14 July 2004, 434 SCRA 522, 530-531.
- [41] *Sia v. People*, G.R. No. 149695, 28 April 2004, 428 SCRA 206, 221.
- [42] *Tan v. Mendez, Jr.*, 432 Phil. 760, 769-770 (2002).
- [43] *Lee v. Court of Appeals*, supra.
- [44] *Dico v. Court of Appeals*, supra.
- [45] *Marigomen v. People*, G.R. No. 153451, 26 May 2005.
- [46] TSN, 13 September 1993, pp. 56-57 (emphasis supplied).
- [47] 377 Phil. 692, 705(1999).
- [48] G.R. No. 144887, 17 November 2004, 442 SCRA 450, 462-463.
- [49] *King v. People*, supra at 708.
- [50] G.R. No. 138197, 27 November 2002, 393 SCRA 79, 86.
- [51] 443 Phil. 770, 780 (2003).
- [52] Records, p. 108.
- [53] Id. at 90-91.
- [54] Id. at 106.

[55] *Recuerdo v. People*, supra at 781.

[56] G.R. No. 140425, 10 March 2005.

[57] G.R. No. 145498, 17 January 2005.

[58] 359 Phil. 187(1998).

[59] 394 Phil. 844 (2000).

[60] G.R. No. 150618, 24 July 2003, 407 SCRA 247.

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