

SPOUSES BENITO LO BUN TIONG and CAROLINE SIOK CHING TENG, Petitioners, vs. VICENTE BALBOA, Respondent.

G.R. No. 158177. January 28, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The spouses Benito Lo Bun Tiong and Caroline Siok Ching Teng (petitioners) charge Vicente Balboa (respondent) with forum shopping.

On February 24, 1997, respondent filed with the Regional Trial Court (RTC) of Manila (Branch 34), Civil Case No. 97-82225 for Collection of Sum of Money against petitioners. The amount sought covers three post-dated checks issued by petitioner Caroline Siok Ching Teng (Caroline), as follows: Asia Trust Check No. BNDO57546 dated December 30, 1996 for P2,000,000.00; Asia Trust Check No. BNDO57547 dated January 15, 1997 for P1,200,000.00; and Asia Trust Check No. BNDO57548 dated January 31, 1997 for P1,975,250.00 – or a total of P5,175,250.00.[1]

On July 21, 1997, separate criminal complaints for violation of Batas Pambansa Blg. 22 (B.P. No. 22) were filed against Caroline before the Municipal Trial Court (MTC) of Manila (Branch 10), covering the said three checks. These cases were docketed as Criminal Case Nos. 277576 to 78.[2]

On August 11, 1998, the RTC rendered its Decision in Civil Case No. 97-82225 finding petitioners liable, as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants ordering the latter:

- To play the plaintiff the sum of P5,175,250.00 plus 6% interest per annum until full payment;
- To pay the plaintiff the sum of P100,000.00 as and for attorney's fees.
- To pay the cost of suit.

The counterclaim is hereby dismissed for lack of merit. SO ORDERED.[3]

Thereafter, in a Decision dated December 5, 2001 rendered in Criminal Case Nos. 277576 to 78, the MTC acquitted Caroline of the offenses charged for failure of the prosecution to prove her guilt beyond reasonable doubt. The MTC, however, found Caroline civilly liable in favor of respondent for the amounts covered by these checks, to wit:

WHEREFORE, accused Caroline Siok Ching Teng is acquitted of the charge for violation of BP Blg. 22 for failure of the prosecution to prove her guilt beyond reasonable doubt. The accused is ordered civilly liable to the offended party for the amounts of the checks subject of the three informations herein, i.e., P1,200,000.00, P1,975,250.00 and P2,000,000.00.

SO ORDERED.[4]

Petitioner sought partial reconsideration of the MTC Decision praying for the deletion of the award of civil indemnity, but it was denied by the MTC per Order dated April 12, 2002. Thus, Caroline appealed to the RTC, which docketed the case as Criminal Case Nos. 02-204544-46.

In the meantime, petitioners brought to the Court of Appeals (CA) on appeal the RTC Decision in Civil Case No. 97-82225, docketed as CA-G.R. CV No. 61457. In the assailed Decision dated November 20, 2002, the CA[5] dismissed the appeal for lack of merit and affirmed the RTC Decision in toto. The dispositive portion of the assailed CA Decision reads:

WHEREFORE, in view of the foregoing and finding no reversible error in the appealed Decision dated August 11, 1998 of Branch 34 of the Regional Trial Court of Manila in Civil Case No. 97-82225, the instant appeal is DISMISSED for lack of merit, and said Decision is affirmed in toto.

SO ORDERED.[6]

Petitioners moved for reconsideration of the CA Decision, but this was denied per Resolution dated April 21, 2003.[7]

On May 8, 2003, the RTC as an appellate court, rendered its Decision in Criminal Case No. 02-204544-46, modifying the MTC Decision by deleting the award of civil damages.[8]

Now before the Court for resolution is the Amended Petition filed under Rule 45 of the Rules of Court, questioning the CA Decision dated November 20, 2002 and Resolution dated April 21, 2003, on the lone ground that:

PUBLIC RESPONDENT COURT OF APPEALS ACTED WITHOUT JURISDICTION AND WITH GRAVE ABUSE OF DISCRETION IN ALLOWING PRIVATE RESPONDENT TO RECOVER TWICE FOR THE SAME OBLIGATION ON ACCOUNT OF THE SAID PRIVATE RESPONDENT'S DELIBERATE FAILURE AND REFUSAL TO INFORM THE REGIONAL TRIAL COURT THAT THE CIVIL OBLIGATION BEING SUED UPON IS THE SUBJECT OF CRIMINAL COMPLAINTS WITH THE METROPOLITAN TRIAL COURT, AND FOR WHICH THE CIVIL OBLIGATION WAS SUBSEQUENTLY ADJUDGED.[9]

Petitioners contend that the assailed CA Decision and Resolution should be reconsidered and the RTC Decision dated August 11, 1998 dismissed as respondent's act of filing Civil Case No. 97-82225 and Criminal Cases Nos. 277576 to 78 constitutes forum shopping.

Forum shopping is the institution of two or more actions or proceedings grounded on the same cause, on the supposition that one or the other court would render a favorable disposition. It is usually resorted to by a party against whom an adverse judgment or order has been issued in one forum, in an attempt to seek and possibly to get a favorable opinion in another forum, other than by an appeal or a special civil action for certiorari.[10]

There is forum shopping when the following elements concur: (1) identity of the parties or, at least, of the parties who represent the same interest in both actions; (2) identity of the rights asserted and relief prayed for, as the latter is founded on the same set of facts; and (3) identity of the two preceding particulars, such that any judgment rendered in the other action will amount to res judicata in the action under consideration or will constitute litis pendentia.[11]

In *Hyatt Industrial Manufacturing Corp. v. Asia Dynamic Electrix Corp.*,[12] the Court ruled that there is identity of parties and causes of action between a civil case for the recovery of sum of money as a result of the issuance of

bouncing checks, and a criminal case for the prosecution of a B.P. No. 22 violation. Thus, it ordered the dismissal of the civil action so as to prevent double payment of the claim. The Court stated:

x x x The prime purpose of the criminal action is to punish the offender to deter him and others from committing the same or similar offense, to isolate him from society, reform or rehabilitate him or, in general, to maintain social order. The purpose, meanwhile, of the civil action is for the restitution, reparation or indemnification of the private offended party for the damage or injury he sustained by reason of the delictual or felonious act of the accused. Hence, the relief sought in the civil aspect of I.S. No. 00-01-00304 and I.S. No. 00-01-00300 is the same as that sought in Civil Case No. MC 01-1493, that is, the recovery of the amount of the checks, which, according to petitioner, represents the amount to be paid by respondent for its purchases. x x x

This was reiterated in *Silangan Textile Manufacturing Corp. v. Demetria*,^[13] where the civil case for the recovery of the amount covered by the bouncing checks was also ordered dismissed.

In *Hyatt and Silangan*, the Court applied Supreme Court Circular No. 57-97 effective September 16, 1997, which provides:

- The criminal action for violation of Batas Pambansa Blg. 22 shall be deemed to necessarily include the corresponding civil action, and no reservation to file such action separately shall be allowed or recognized.

This was later adopted as Rule 111(b) of the 2000 Revised Rules of Criminal Procedure, to wit:

(b) The criminal action for violation of Batas Pambansa Blg. 22 shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed.

Upon filing of the aforesaid joint criminal and civil actions, the offended party shall pay in full the filing fees based on the amount of the check involved, which shall be considered as the actual damages claimed. Where the complaint or information also seeks to recover liquidated, moral, nominal, temperate or exemplary damages, the offended party shall pay the filing fees based on the amounts alleged therein. If the amounts are not so alleged but any of these damages are subsequently awarded by the court, the filing fees based on the amount awarded shall constitute a first lien on the judgment.

Where the civil action has been filed separately and trial thereof has not yet commenced, it may be consolidated with the criminal action upon application with the court trying the latter case. If the application is granted, the trial of both actions shall proceed in accordance with section 2 of this Rule governing consolidation of the civil and criminal actions.

The foregoing, however, are not applicable to the present case. It is worth noting that Civil Case No. 97-82225 was filed on February 24, 1997, and Criminal Cases Nos. 277576 to 78 on July 21, 1997, prior to the adoption of Supreme Court Circular No. 57-97 on September 16, 1997. Thus, at the time of filing of Civil Case No. 97-82225 and Criminal Cases Nos. 277576 to 78, the governing rule is Section 1, Rule 111 of the 1985 Rules of Court, to wit:

SEC. 1. Institution of criminal and civil actions. – When a criminal action is instituted, the civil action for the recovery of civil liability is impliedly instituted with the criminal action, unless the offended party waives the civil action, reserves his right to institute it separately, or institutes the civil action prior to the criminal action.

Such civil action includes the recovery of indemnity under the Revised Penal Code, and damages under Articles 32, 33, 34 and 2176 of the Civil Code of the Philippines arising from the same act or omission of the accused.

x x x (Emphasis supplied)

Under the foregoing rule, an action for the recovery of civil liability arising from an offense charged is necessarily included in the criminal proceedings, unless (1) there is an express waiver of the civil action, or (2) there is a reservation to institute a separate one, or (3) the civil action was filed prior to the criminal complaint.[14] Since respondent instituted the civil action prior to the criminal action, then Civil Case No. 97-82225 may proceed independently of Criminal Cases Nos. 277576 to 78, and there is no forum shopping to speak of.

Even under the amended rules, a separate proceeding for the recovery of civil liability in cases of violations of B.P. No. 22 is allowed when the civil case is filed ahead of the criminal case. Thus, in the Hyatt case, the Court noted, viz.:

x x x This rule [Rule 111(b) of the 2000 Revised Rules of Criminal Procedure] was enacted to help declog court dockets which are filled with B.P. 22 cases as creditors actually use the courts as collectors. Because ordinarily no filing fee is charged in criminal cases for actual damages, the payee uses the intimidating effect of a criminal charge to collect his credit gratis and sometimes, upon being paid, the trial court is not even informed thereof. The inclusion of the civil action in the criminal case is expected to significantly lower the number of cases filed before the courts for collection based on dishonored checks. It is also expected to expedite the disposition of these cases. Instead of instituting two separate cases, one for criminal and another for civil, only a single suit shall be filed and tried. It should be stressed that the policy laid down by the Rules is to discourage the separate filing of the civil action. The Rules even prohibit the reservation of a separate civil action, which means that one can no longer file a separate civil case after the criminal complaint is filed in court. The only instance when separate proceedings are allowed is when the civil action is filed ahead of the criminal case. Even then, the Rules encourage the consolidation of the civil and criminal cases. We have previously observed that a separate civil action for the purpose of recovering the amount of the dishonored checks would only prove to be costly, burdensome and time-consuming for both parties and would further delay the final disposition of the case. This multiplicity of suits must be avoided. Where petitioners' rights may be fully adjudicated in the proceedings before the trial court, resort to a separate action to recover civil liability is clearly unwarranted. (Emphasis supplied)

Moreover, the RTC, in its Decision in Criminal Case Nos. 02-204544-46, already deleted the award of civil damages. Records do not disclose that appeal had been taken therefrom. There is, therefore, no double recovery of the amounts covered by the checks or unjust enrichment on the part of respondent.

WHEREFORE, the petition is DENIED for lack of merit. The Decision dated November 20, 2002 and Resolution dated April 21, 2003 of the Court of Appeals are AFFIRMED.

Costs against petitioners.

SO ORDERED.

Ynares-Santiago, (Chairperson), Corona, Nachura, and Reyes, JJ., concur.

[1] Records, pp. 3-9.

[2] Rollo, p. 193.

[3] Records, p. 262.

[4] Rollo, p. 125.

[5] Per Associate Justice Sergio L. Pestaño, with Acting Presiding Justice Cancio C. Garcia and Eloy R. Bello, Jr., concurring.

[6] CA rollo, p. 132.

[7] Id. at 162.

[8] Rollo, p. 196.

[9] Id. at 71-72.

[10] R & E Transport, Inc. v. Latag, 467 Phil. 355, 371 (2004).

[11] Silangan Textile Manufacturing Corporation v. Demetria, G.R. No. 166719, March 12, 2007, 518 SCRA 160, 168.

[12] G.R. No. 163597, July 29, 2005, 465 SCRA 454.

[13] Silangan Textile Manufacturing Corporation v. Demetria, id.

[14] Sanchez v. Far East Bank and Trust Company, G.R. No. 155309, November 15, 2005, 475 SCRA 97, 113.

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