

SONIA P. RUIZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 160893. November 18, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court of the Decision[1] of the Regional Trial Court (RTC) of San Jose, Camarines Sur, which affirmed the Decision[2] of the Municipal Trial Court (MTC) of Goa, Camarines Sur, convicting petitioner Sonia P. Ruiz of violation of Batas Pambansa Bilang 22 (B.P. 22), otherwise known as the Bouncing Checks Law.

Sonia Ruiz contracted several loans from Norberta Mendoza amounting to P184,000.00, broken down as follows: P70,000.00 on December 10, 1996; P50,000.00 in February 1997; and P64,000.00 in June 1997.[3]

On July 4, 1997, Ruiz issued United Coconut Planters Bank (UCPB) Check No. 151061[4] dated June 30, 1997; the check for P184,000.00 was drawn against Account No. 320-000534-5. Mendoza deposited the check in her account with the Philippine National Bank (PNB) in Goa, Camarines Sur. However, the drawee bank dishonored the check, as the account against which it was drawn was already closed.[5] PNB notified Mendoza of the dishonor of the check.[6]

In a Letter[7] dated September 22, 1997, Mendoza, through counsel, informed Ruiz that the check had been dishonored "for the reason that her account with the drawee bank was already closed." Mendoza also demanded the payment of the amount of the check plus interest thereon. Ruiz received the letter on September 24, 1997[8] and promised Mendoza that she would pay the amount of the check. However, Ruiz reneged and failed to pay.[9]

Mendoza then filed a complaint against Ruiz in the Office of the Barangay Chairman. Despite due notice, Ruiz failed to appear during the scheduled hearings. Consequently, the Office of the Barangay Chairman issued a Certificate to File Action.[10]

Ruiz was charged with violation of B.P. 22 in the MTC of Goa, Camarines Sur. The accusatory portion of the Information reads:

That on or about June 30, 1997, in the Municipality of Goa, Camarines Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously make, draw out and issue to herein complainant, a UCPB Savings Bank, Goa Branch, Goa, Camarines Sur Check No. 151061 in the amount of P184,000.00 dated June 30, 1997, as payment to herein complainant for accused's outstanding obligation, accused knowing that at the time she issued said Check she did not have sufficient funds in or credit with the drawee bank for the payment of such Check in full upon its presentment, or that said accused failed to keep sufficient funds to maintain a credit for encashment or payment, and which Check when actually presented for payment with the drawee bank on its due date was dishonored for the reason of "account closed," and despite notice of dishonor and demand for payment upon said accused to make good said Check, she has, up to the present, failed to pay the amount due thereon or make

arrangement for the payment in full by the drawee (sic) of said Check within five (5) banking days after receiving notice that said Check has not been paid by the drawee bank, thus to the damage and prejudice of the herein complainant in the aforesaid amount of P184,000.00, Philippine Currency.

ACTS CONTRARY TO LAW.[11]

Ruiz admitted that she drew the check and delivered the same to Mendoza. However, she declared that she did so with the conformity of her sister, Gina Parro, who was the owner of UCPB Account No. 320-000534-5, and that this was done in the presence of Mendoza.[12] Ruiz further declared that Mendoza had asked her to draw and issue the check for the purpose of showing the same to an insurance agent with whom she (Mendoza) had applied for a P1,000,000.00 life insurance. Ruiz further testified that she agreed to draw and issue the check to Mendoza merely for accommodation purposes. She claimed that she informed Mendoza that the check was not funded, and the latter assured her that the check would not be encashed nor deposited.[13] She was surprised when Mendoza deposited the check in her account with the PNB.

After due trial, the MTC rendered judgment convicting Ruiz of violation of B.P. 22. The fallo of the decision reads:

WHEREFORE, the prosecution having proved the guilt of the accused beyond reasonable doubt, Sonia Ruiz is hereby ORDERED to pay a FINE of P200,000.00, with subsidiary imprisonment in case of insolvency, and as civil indemnity, she is also ordered to pay to Norberta Mendoza the face value of UCPB Check No. 151061 of P184,000.00 with legal interest thereon from September 24, 1997, as well as to pay the costs.

SO ORDERED.[14]

On appeal to the RTC, Ruiz contended that B.P. 22 does not apply to a situation where the drawer of a putative check is not the owner of the account against whom the check was drawn, or someone who had no account or credit with the drawee bank. However, the RTC rendered judgment affirming the decision of the MTC:

Sonia Ruiz, now the petitioner, filed the instant a petition, alleging that:

- THE LOWER COURT ERRED IN DISMISSING THE APPEAL OF THE ACCUSED-APPELLANT (HEREIN PETITIONER) WHEN IT APPLIED SECTION 4 OF BATAS PAMBANSA BLG. 22 (B.P. 22) IN ADDRESSING AND PASSING UPON THE VERY LEGAL ISSUE ON WHETHER OR NOT ACCUSED-APPELLANT (HEREIN PETITIONER) CAN BE CONVICTED FOR VIOLATING B.P. 22 BY AFFIXING HER SIGNATURE AS "DRAWER" OF A CHECK WHICH BELONGS TO ANOTHER PERSON AND WAS SUBSEQUENTLY DISHONORED FOR THE REASON OF "ACCOUNT CLOSED"; and
- THE LOWER COURT ERRED IN DISMISSING HEREIN PETITIONER'S APPEAL WHEN IT DECIDED THAT "KNOWLEDGE BY THE PRIVATE COMPLAINANT OF THE FACT THAT THE ACCOUNT AGAINST WHICH THE SUBJECT CHECK WAS DRAWN DOES NOT BELONG TO HEREIN PETITIONER AND OF THE FACT THAT SAID ACCOUNT AGAINST WHICH SAID CHECK WAS DRAWN WAS ALREADY CLOSED" IS NOT A VALID DEFENSE FOR VIOLATION OF B.P. 22.[15]

The petitioner asserts that she filed the petition with this Court since the issue involved is one of law and not of facts. She avers that criminal liability for violation of B.P. 22 only arises if the maker of the check is a depositor of the drawee bank or has a checking account therein. She posits that one who issues a check against a checking account owned by somebody else cannot order the drawee bank to pay the amount of the check to the payee. Citing the ruling of this Court in *Firestone Tire and Rubber Co. of the Philippines v. Ines Chaves & Co. Ltd.*,[16] the petitioner avers that while the maker, in issuing a check, represents that there are funds in the bank for its payment, one who draws a check against an account which he or she does not own cannot possibly represent that

he or she has an existing account with the drawee bank. Besides, the petitioner asserts, she merely accommodated Mendoza, who needed the check as proof to the insurance agent that she had money with which to pay life insurance premiums.

The petitioner reiterates her arguments in the RTC and maintains that she could not be convicted of violation of B.P. 22 considering that when the check was drawn, Mendoza already knew that Gina Parro, the petitioner's sister, did not have sufficient funds with the drawee bank.

In its comment on the petition, the Office of the Solicitor General (OSG) avers that the proper remedy of the petitioner was not to file a petition for review under Rule 45 of the Rules of Court, but a petition for review in the Court of Appeals (CA) under Rule 42 on questions of fact and law. It posits that the decisions of the MTC and the RTC are in accord with the evidence and the law.[17]

The threshold issues for resolution are the following: (a) whether the proper remedy of the petitioner from the decision of the RTC was via a petition for review in the CA under Rule 42 of the Rules of Court; and (b) whether the RTC erred in affirming the decision of the MTC convicting the petitioner of violation of B.P. 22.

On the first issue, the Court agrees with the OSG's contention that, under Section 3, Rule 122 of the Revised Rules of Criminal Procedure, the proper remedy of the petitioner from the decision of the RTC on appeal from an MTC decision was to file a petition for review under Rule 42 of the Rules of Court, in which the petitioner may raise errors of facts or law, or both, committed by the RTC.[18] If the aggrieved party fails to file such petition within the period therefor, the RTC decision becomes final and executory, beyond the jurisdiction of the CA or even by this Court to reverse or modify.

The instant petition filed under Rule 45 of the Rules of Court is improper for another reason – the petitioner also raised factual issues. Section 1 of Rule 45 of the Rules of Court provides that only questions of law may be raised in this Court on a petition for review. In *Republic v. Sandiganbayan*,[19] this Court distinguished a question of fact from a question of law:

... A question of law exists when the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of the witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.

As gleaned from the following allegations in her petition in this Court, the petitioner raised questions of facts, viz.:

It is noteworthy in the case at bench that petitioner "issued" said check believing that she was not violating the provisions of B.P. 22 considering that the account against which said check was drawn and issued is/was not hers. Be it noted that the purpose on which said check was "issued" and "drawn" by petitioner was to accommodate or help private complainant about her problem on insurance. It was private complainant who was the author of all these circumstances and the one who was so insistent for the petitioner to sign on the said check as "drawer" to avoid whatever trouble such as being criminally prosecuted under B.P. 22 that might hound petitioner's sister since the latter is the true and real owner of the check in question considering that the check was only given by the petitioner's sister just to accommodate private complainant's plea to borrow a check as a proof for her to show that come a certain date she has money.[20]

...

Undeniably, petitioner "issued" the check in question upon the prodding of the private complainant because at that time private complainant was in dire need of a check in order to show it to the insurance agent whom private complainant secured an insurance policy in the amount of ONE MILLION (P1,000,000.00) PESOS that come a certain date private complainant has already an amount for the payment of her insurance.

Admittedly, private complainant promised the petitioner and her (petitioner's) sister that said check would not be presented for payment or deposit with the drawee bank (UCPB) since the purpose of which said check was signed by the petitioner as "drawer" was to help private complainant of her problem about her insurance.

It is very suspicious and highly intriguing why private complainant presented the subject check for payment with the drawee bank (UCPB) even if she knew very well that the one who "issued" said check was a complete stranger to the check in question.[21]

In contrast to the petitioner's claim, the private complainant averred that the check was made and delivered in payment of the petitioner's P184,000.00 loan, and that she (private complainant) was unaware that it was drawn and issued by the petitioner against an account belonging to her sister, Gina Parro. The private complainant averred she had not known that the petitioner had no account with UCPB, and that the latter failed to make arrangements with the said bank to pay the amount of the check upon its presentment. Thus, the petition tasks this Court to calibrate the conflicting testimonies of the petitioner and the private complainant, determine the probative weight thereof, and resolve whether the petitioner's defense deserves merit or not. As such, this petition should be dismissed for being the improper remedy.

Even assuming *gratia argumenti* that the only issues raised in this case are of law, a careful study of the case shows that, in any event, the petition is destined to fail.

The petitioner posits that she is not criminally liable for violation of B.P. 22 because she merely accommodated the private complainant and was not the owner of UCPB Account No. 320-000534-5 against which the subject check was drawn. She insists that the law applies only to a maker of the dishonored check who has an account with the drawee bank. The RTC, however, rejected this defense. The OSG, for its part, asserts that the ruling of the RTC is correct, thus:

To give merit to petitioner's argument would be to defeat the primary purpose of B.P. 22. For, B.P. 22 was enacted to discourage the issuance of bouncing checks, to prevent checks from becoming "useless scraps of paper," and to restore respectability to checks, all without distinction as to the purpose of the issuance of the checks (Roberto Cruz versus Court of Appeals, et al., 233 SCRA 301 [1994]. Accordingly, the ownership of the check should not be material in the determination of liability for Violation of B.P. 22. Otherwise, unscrupulous people may just start drawing or issuing checks of other people with insufficient or no funds at all knowing that they will incur no criminal liability by employing such a scheme.

When petitioner issued the subject check to complainant, she did so in the capacity of a drawer and upon her representation that she will make good said check. On this point, the Regional Trial Court aptly held:

In the light of the evidence adduced on record, it is beyond an iota of doubt that the accused-appellant did not have credit or understanding or arrangement with UCPB Savings Bank, Goa Branch for the payment of the check which she borrowed from her sister Gina Parro. The latter is the one who had the "credit" as the word is defined by Section 4, B.P. 22 with the bank. But the latter did not sign the check. It was signed by the accused-appellant who was a complete stranger to the bank. Obviously at the time that the accused-appellant issued the particular check no. 151061 in favor of the private offended party, she had full knowledge that she does not only have sufficient funds thereat but that she is entirely bereft of any account or credit or arrangement/understanding with the UCPB, Goa Branch for the full payment of the check upon its presentment. It was likewise obvious from the very start that if the said check were presented for payment it would be dishonored by the UCPB Goa Branch as the accused did not have any "credit" with said bank as the

word "credit" is defined by Section 4 of BP 22. In common parlance the accused did not have a current account with said bank. That she nonetheless, issued Check No. 151061 under such circumstance is a violation of BP 22. (p. 6, RTC Decision)

B.P. 22 covers any check which bounces. It does not matter then that the subject check belongs to the accused or another person. Therefore, petitioner's deliberate act of drawing a worthless check is the very act which B.P. 22 punishes.

The importance of arresting the proliferation of worthless checks need not be underscored. The mischief created by unfunded checks in circulation is injurious not only to the payee or holder, but to the public as well. This harmful practice "can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public interest" (Roberto Cruz versus Court of Appeals, et al., supra). The gravamen of the offense punished by B.P. 22 is the act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment. It is not the non-payment of an obligation which the law punishes. The law is not intended or designed to coerce a debtor to pay his debt. The thrust of the law is to prohibit, under pain of penal sanctions, the making of worthless checks and putting them in circulation (Remigio S. Ong versus People of the Philippines, et al., 346 SCRA 117 (2000)).[22]

The Court holds that the ruling of the RTC is in accord with the law and the evidence on record.

Section 1 of B.P. 22 provides:

SECTION 1. Checks without sufficient funds.-Any person who makes or draws and issued any check to apply on account or for value, knowing at the time 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 the corporation, company or entity, the person or persons who actually signed the check in behalf of such drawer shall be liable under this Act.

To be liable for violation of B.P. 22, the prosecution is burdened to prove beyond reasonable doubt the following elements:

- The accused makes, draws or issues any check to apply to account or for value;
- The accused knows at the time of the issuance that he or she does not have sufficient funds in, or credit with, the drawee bank for the payment of the check in full upon its presentment; and
- The check is subsequently dishonored by the drawee bank for insufficiency of funds or credit or it would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment.[23]

In *Lozano v. Martinez*,^[24] this Court ruled that the gravamen of the offense is the act of making and issuing a worthless check or any check that is dishonored upon its presentment for payment and putting them in circulation. The law includes all checks drawn against banks.^[25] The law was designed to prohibit and altogether eliminate

the deleterious and pernicious practice of issuing checks with insufficient or no credit or funds therefor. Such practice is deemed a public nuisance, a crime against public order to be abated. The mere act of issuing a worthless check, either as a deposit, as a guarantee, or even as an evidence of a pre-existing debt or as a mode of payment is covered by B.P. 22. It is a crime classified as *malum prohibitum*.^[26] The law is broad enough to include, within its coverage, the making and issuing of a check by one who has no account with a bank, or where such account was already closed when the check was presented for payment. As the Court in *Lozano* explained:

The effects of the issuance of a worthless check transcends the private interests of the parties directly involved in the transaction and touches the interests of the community at large. The mischief it creates is not only a wrong to the payee or holder, but also an injury to the public. The harmful practice of putting valueless commercial papers in circulation, multiplied a thousandfold, can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public interest. As aptly stated –

The "check flasher" does a great deal more than contract a debt; he shakes the pillars of business; and to my mind, it is a mistaken charity of judgment to place him in the same category with the honest man who is unable to pay his debts, and for whom the constitutional inhibition against "imprisonment for debt, except in cases of fraud" was intended as a shield and not a sword.^[27]

Considering that the law imposes a penal sanction on one who draws and issues a worthless check against insufficient funds or a closed account in the drawee bank, there is, likewise, every reason to penalize a person who indulges in the making and issuing of a check on an account belonging to another with the latter's consent, which account has been closed or has no funds or credit with the drawee bank.

The evidence on record shows that the petitioner drew and signed the subject check with the knowledge and consent of her sister, Gina Parro, the owner of the check and UCPB Account No. 320-000534-5. Parro knew that the check was to be delivered by the petitioner to the private complainant in payment of her P184,000.00 loan. Verily, Parro had full knowledge of the petitioner's acts, thus approved and sanctioned them; as such, the check must be given legal effect.^[28] The records show that the private complainant was completely impervious of the fact that another person owned the account against which the petitioner drew the check, and that such account had already been closed when the check was delivered to her. The private complainant believed all along that the check was drawn against the petitioner's account with the UCPB. It was only when the petitioner testified in the trial court that the private complainant became aware that such checking account belonged to the petitioner's sister.

Equally barren of factual and legal basis is the petitioner's defense that she issued the said check merely to accommodate the private complainant, the latter knew that it was Gina Parro who owned the check, and such check was drawn against a closed account. Aside from her uncorroborated testimony, the petitioner failed to adduce any evidence to prove such claim. Neither is there any indication on the face of the check that the petitioner drew the check merely as an accommodation party. What the records show is that the petitioner drew and delivered the check in payment of a loan in favor of the private complainant.

It bears stressing that, whether a person is an accommodation party is a question of intent. When the intent of the parties does not appear on the face of the check, it must be ascertained in the light of the surrounding facts and circumstances. Invariably, the tests applied are the purpose test and the proceeds test.^[29] Under both tests, the petitioner is not an accommodation party. And even assuming she was such party, this circumstance is not a defense to a charge for violation of B.P. 22. What the law punishes is the issuance itself of a bouncing check and not the purpose for which it was issued or of the terms and conditions relating to its issuance. The mere act of issuing a worthless check, whether merely as an accommodation, is covered by B.P. 22. Hence, the agreement

surrounding the issuance of a check is irrelevant to the prosecution and conviction of the petitioner.[30] Moreover, as aptly elucidated by the OSG –

... Petitioner's claim that it was issued to accommodate private complainant's request to use it as "show money" to a third person, and that private complainant agreed not to deposit it, was emphatically denied by the latter, thus:

Atty. Delena:

Madam Witness, at the hearing of this case on June 8, 2000 where the accused testified in her defense, she claimed that sometime in November 1996 you requested her to issue a check to show to an insurance agent that you have a check on a certain date, what can you say to that?

Answer:

No, I did not request her to issue a check to show to an insurance agent.

...

Question:

Now, according to her, you insisted to issue you (sic) a check for more than three (3) times and/or that she lend you a check because of her account to you, what can you say to that?

Answer:

I did not insist her (sic) to issue me a check, she issued me a check because of her loan to me.

...

Court:

Will you read the question?

Stenographer:

Can you recall the amount of loan from you?

Answer:

P184,000.00.

(TSN, p. 4, April 29, 2002-Labrador)

...

Question:

And that she issued the check and affixed her signature on the check on your assurance that the check will not be encashed or deposited with the bank, what can you say to that also?

Answer:

We have not agreed on that, Sir.

(TSN, p. 5, April 29, 2002-Labrador)

It is settled that the evaluation of testimonies of the witnesses by the trial court is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value which, if considered, might affect the result of the case. For indeed, the evaluation of

the credibility of witnesses and their testimonies is a matter best undertaken by the trial court, considering its opportunity to observe the witnesses and their demeanor, conduct and attitude, especially under cross-examination (People versus Panique, 316 SCRA 757 [1999]; People versus Napiot, 311 SCRA 772 [1999]).[31]

The Court is convinced that the defense interposed by the petitioner was merely an afterthought. The evidence on record shows that when she was notified by the private complainant that the check was dishonored for having been drawn against a closed account, the petitioner promised to pay the check after the release of a loan she and her husband were applying for:

QUESTION: When you were informed by the PNB Bank, Goa Branch, Camarines Sur that this check, Exhibit "A" has no more fund because the account of the drawer was already closed, what did you do?

ANSWER: I went to her store and I informed her that the check was already closed account.

QUESTION: What did she tell you, if any?

ANSWER: She promised me that she will pay because they applied [a] loan in AFPSLAI Manila with her husband.

QUESTION: Now, did she tell you that she will be making good for a certain specific time?

ANSWER: Yes, Sir.

QUESTION: When did she promised to pay?

ANSWER: Her husband promised that he [would] personally go to Manila so that the processing of the loan will be expedited and when he comes back to Goa, he will pay me the amount.

QUESTION: When was that if you can still remember when he promised to pay?

ANSWER: After the account was discovered closed.

QUESTION: Did her husband, Mrs. Witness, make good his promise to pay you when he came back from Manila?

ANSWER: No, Sir.

QUESTION: Up to the present?

ANSWER: No, Sir.[32]

Contrary to the petitioner's claim, she never informed the private complainant that her sister was the owner of the account on which the check was drawn. It was only when she testified in her defense that the petitioner claimed, for the first time, that she made and issued her sister's check against the latter's closed account with the UCPB merely to accommodate the private complainant, who she also claimed was aware of such fact.

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED. The decision of the Regional Trial Court is AFFIRMED. Costs against the petitioner.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, and Tinga, JJ., concur.

Chico-Nazario, J., on leave.

[1] Criminal Case No. T-2484, Penned by Judge Eufonio K. Maristela; Rollo, pp. 20-26.

[2] Penned by Judge Ramon V. Efondo; Records, pp. 473-477.

[3] TSN, 29 September 1998, pp. 5-9; Records, pp. 65-69.

- [4] Exhibit "A;" Id. at 209.
- [5] Ibid.
- [6] Exhibit "B," Id. at 210.
- [7] Exhibit "C," Id. at 211.
- [8] Exhibit "C-2."
- [9] TSN, 29 September 1998, p. 11; Records, p. 71.
- [10] Exhibit "F," Records, p. 214.
- [11] Records, p. 1.
- [12] TSN, 8 June 2000, pp. 6-10.
- [13] Ibid.
- [14] Records, p. 477.
- [15] Rollo, p. 7.
- [16] G.R. No. L-17106, 19 October 1966, 18 SCRA 356.
- [17] Rollo, pp. 66-73.
- [18] Section 2, Rule 42, Rules of Court.
- [19] G.R. No. 102508, 30 January 2002, 375 SCRA 145.
- [20] Rollo, p. 12.
- [21] Rollo, p. 14.
- [22] Rollo, pp. 66-69.
- [23] Yu Oh v. Court of Appeals, G.R. No. 125297, 6 June 2002, 403 SCRA 300.
- [24] G.R. No. L-63419, 18 December 1986, 146 SCRA 323.
- [25] People v. Nitafan, G.R. No. 75954, 22 October 1992, 215 SCRA 79.
- [26] Ibid.
- [27] Lozano v. Martinez, *supra*.
- [28] Strader v. Haley, 12 N.W. 2d 608 (1944); Farmer's Co-op. Exchange Co. of Good Thunder v. Fidelity & Deposit Co., 182 N.W. 1008 (1921).
- [29] Branch Banking and Trust Co. v. Thompson, 418 S.E. 2d 694 (1992).
- [30] People v. Nitafan, *supra*.
- [31] Rollo, pp. 71-73.
- [32] TSN, 29 September 1998, pp. 10-11; Records, pp. 70-71.

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