

THERESA MACALALAG, PETITIONER, VS PEOPLE OF THE PHILIPPINES, RESPONDENT

G.R. NO. 164358. December 20, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

This Petition for Review seeks to set aside the Court of Appeals' 10 October 2003 Decision[1] convicting petitioner Theresa Macalalag (Macalalag) of Violation of Batas Pambansa Blg. 22, and its 13 May 2004 Resolution denying her Motion for Reconsideration.

The factual and procedural antecedents of this case are as follows:

On two separate occasions, particularly on 30 July 1995 and 16 October 1995, petitioner Theresa Macalalag obtained loans from Grace Estrella (Estrella), each in the amount of P100,000.00, each bearing an interest of 10% per month. Macalalag consistently paid the interests starting 30 August 1995. Finding the interest rates so burdensome, Macalalag requested Estrella for a reduction of the same to which the latter agreed. On 16 April 1996 and 1 May 1996, Macalalag executed Acknowledgment/Affirmation Receipts promising to pay Estrella the face value of the loans in the total amount of P200,000.00 within two months from the date of its execution plus 6% interest per month for each loan. Under the two Acknowledgment/Affirmation Receipts, she further obligated herself to pay for the two (2) loans the total sum of P100,000.00 as liquidated damages and attorney's fees in the total sum of P40,000.00 as stipulated by the parties the moment she breaches the terms and conditions thereof.

As security for the payment of the aforesaid loans, Macalalag issued two Philippine National Bank (PNB) Checks (Check No. C-889835 and No. 889836) on 30 June 1996, each in the amount of P100,000.00, in favor of Estrella. However, when Estrella presented said checks for payment with the drawee bank, the same were dishonored for the reason that the account against which the same was drawn was already closed. Estrella sent a notice of dishonor and demand to make good the said checks to Macalalag, but the latter failed to do so. Hence, Estrella filed two criminal complaints for Violation of Batas Pambansa Blg. 22 before the Municipal Trial Court in Cities (MTCC) of Bacolod City, docketed as Criminal Cases No. 76367 and No. 76368.

When arraigned, Macalalag entered a plea of "not guilty." On trial, Macalalag admitted her indebtedness and the issuance of the two PNB checks. She, however, stated that she already made payments over and above the value of the said checks. According to her, she made a total payment of P355,837.98, including the payment of P199,837.98 made during the pendency of the cases. Estrella admitted the payment of P199,837.98 but claimed that the same amount was applied to the payment of the interest.

On 5 February 2001, the MTCC of Bacolod City rendered its Decision, disposing of the case as follows:

WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered declaring the accused Theresa Macalalag guilty beyond reasonable doubt of the crime charged. Pursuant however to Eduardo Vaca vs. Court of Appeals case (G.R. No. 131714, November 16, 1998[.] 298 SCRA 656) and the Rosa Lim vs. People x x x case (G.R. No. 130038, September 18, 2000) where the Supreme Court deleted these penalty of imprisonment,

the penalty therefore imposable is a fine of P100,000.00 for each of the two (2) checks and subsidiary imprisonment in case of insolvency or failure to pay said fine.

As she is criminally liable, she is likewise ordered to pay as civil indemnity the total amount of P200,000.00 with interest at the legal rate from the time of the filing of the informations until the amount is fully paid; less whatever amount was thus far paid and validly deducted from the principal sum originally claimed.[2]

Petitioner Macalalag appealed with the Regional Trial Court (RTC) of Bacolod City, which affirmed in toto the MTCC Decision. Petitioner Macalalag appealed anew with the Court of Appeals, which affirmed the RTC and the MTCC decisions with modification to the effect that, among other things, accused was convicted only of one (1) count of Violation of Batas Pambansa Blg. 22, corresponding to the issuance of the second check. The decretal portion of the Court of Appeals Decision reads:

WHEREFORE, foregoing premises considered, the petition is PARTLY GRANTED. Accordingly, the dispositive portion of the February 9, 2001 Decision of the Municipal Trial Court in Cities of Bacolod City, Branch 3, as affirmed by the Regional Trial Court of Bacolod City, Branch 43, is hereby MODIFIED to read as follows:

"WHEREFORE, PREMISES CONSIDERED, judgment is hereby rendered declaring the accused Theresa Macalalag guilty beyond reasonable doubt of the crime charged. Pursuant however to Eduardo Vaca vs. Court of Appeals case (G.R. No. 131714, November 16, 1998[,] 298 SCRA 659) and the Rosa Lim vs. People of the Philippines case (G.R. No. 130038, September 18, 2000) where the Supreme Court deleted the penalty of imprisonment, the penalty therefore imposable is a fine of P100,000.00 for the second check and subsidiary imprisonment in case of insolvency or failure to pay said fine.

As she is criminally liable, she is likewise ordered to pay civil indemnity in the amount of P100,000.00 with interest at the legal rate from the time of the filing of the information until the amount is fully paid; less P195,837.98, the amount credited to the accused after paying the first loan, to be applied to the second loan."[3]

In acquitting petitioner Macalalag of one count of violation of Batas Pambansa Blg. 22, the Court of Appeals reversed the RTC ruling which held that *Medel v. Court of Appeals*[4] is not applicable as it applies only in civil cases where the validity of the interest rate is in issue, and cannot be applied in criminal cases for violation of Batas Pambansa Blg. 22.[5] In *Medel*, we held that, while the Usury Law is now legally inexistent, the stipulated rate of interest at 5.5% per month is iniquitous or unconscionable, which the court could equitably reduce.

The Court of Appeals was correct in applying *Medel* to the case at bar. The criminal action for violation of Batas Pambansa Blg. 22 is deemed to include the corresponding civil action.[6] In fact, no reservation to file such civil action shall be allowed.[7] Verily then, whether the interest is unconscionable or not can be determined in the instant case. Furthermore, in all criminal prosecutions, any doubt should be resolved in favor of the accused and strictly against the State. Following this principle, the issue of whether the *Medel* case should be applied in favor of Macalalag should be resolved in her favor.

The stipulated interest of 10% per month, and even the reduced rate of 6% per month, are higher than the interest rates declared unconscionable in *Medel* and in several other cases with allegations of unconscionable interests. Such cases were synthesized by then Associate Justice (now Chief Justice) Reynato Puno in *Ruiz v. Court of Appeals*[8]:

The foregoing rates of interests and surcharges are in accord with *Medel vs. Court of Appeals*, *Garcia vs. Court of Appeals*, *Bautista vs. Pilar Development Corporation*, and the recent case of *Spouses Solangon vs. Salazar*. This Court invalidated a stipulated 5.5% per month or 66% per annum interest on a P500,000.00 loan in *Medel* and a 6% per month or 72% per annum interest on a P60,000.00 loan in *Solangon* for being excessive,

iniquitous, unconscionable and exorbitant. In both cases, we reduced the interest rate to 12% per annum. We held that while the Usury Law has been suspended by Central Bank Circular No. 905, s. 1982, effective on January 1, 1983, and parties to a loan agreement have been given wide latitude to agree on any interest rate, still stipulated interest rates are illegal if they are unconscionable. Nothing in the said circular grants lenders carte blanche authority to raise interest rates to levels which will either enslave their borrowers or lead to a hemorrhaging of their assets. On the other hand, in *Bautista vs. Pilar Development Corp.*, this Court upheld the validity of a 21% per annum interest on a P142,326.43 loan, and in *Garcia vs. Court of Appeals*, sustained the agreement of the parties to a 24% per annum interest on an P8,649,250.00 loan. It is on the basis of these cases that we reduce the 36% per annum interest to 12%. An interest of 12% per annum is deemed fair and reasonable. While it is true that this Court invalidated a much higher interest rate of 66% per annum in *Medel* and 72% in *Solangan* it has sustained the validity of a much lower interest rate of 21% in *Bautista* and 24% in *Garcia*. We still find the 36% per annum interest rate in the case at bar to be substantially greater than those upheld by this Court in the two (2) aforecited cases.

Applying *Medel*, therefore, the Court of Appeals convicted petitioner Macalalag of one count of Batas Pambansa Blg. 22 and computed her civil liability as follows:

Thus, applying the *Medel* doctrine, the interest rate imposed by Estrella on the loans of Macalalag should be reduced to 12% per annum only plus 1% a month penalty charge as liquidated damages on each loan.

We now proceed to the determination of whether Macalalag had already paid her obligations to Estrella.

There is no dispute that Macalalag obtained the first P100,000.00 loan from Estrella on July 30, 1995. The said amount multiplied by 1% interest per month until July 1, 1996, the time the check representing the said amount was dishonored ($P100,000.00 \times 1\% \times 11 + P100,000.00$), would be P111,000.00.

The second loan of P100,000.00 was obtained on October 16, 1995 and the check that was issued for the payment of the said loan was also dishonored on July 1, 1996. Using the above formula ($P100,000.00 \times 1\% \times 8.5 + P100,000.00$), Macalalag's obligation would only be P108,500.00.

Thus, when the checks were dishonored, Macalalag's total obligation to Estrella was P219,500.00.

In the instant case, it has been established that Macalalag made a total payment of P355,837.98 (P199,837.98 plus P156,000.00) (See 275-276, Records). The P156,000.00 was paid starting August 30, 1995 until June 15, 1996 while the amount of P199,837.98 was paid to complainant sometime in 1997 considering that the acknowledgment receipt was dated January 5, 1998.

In the Acknowledgment/Affirmation Receipts, Macalalag promised to pay Estrella the principal loans within two (2) months after the execution of said documents. Thus, the two (2) loans of P100,000.00 each, or a total of P200,000.00, were demandable only on June 16, 1996 and July 1, 1996, respectively. Hence, the total amount of P156,000.00 already paid by Macalalag to Estrella could very well be applied to the face value of the first loan which fell due on June 16, 1996, including the 1% interest rate per month on the two (2) loans or a total of 2% per month. Thus, Macalalag could no longer be held liable for violation of B.P. Blg. 22 insofar as the first check is concerned since the same was already paid prior to its presentment for payment.

However, with respect to the second check, there is no doubt that Macalalag is liable under B.P. Blg. 22. Macalalag admitted having issued the said check and that said check, when presented for payment for payment with the drawee bank bounced for the reason "account closed". Despite notice of dishonor, Macalalag failed to make good the said check. All the elements of violation of B.P. Blg. 22, viz: a) the making, drawing or issuance of any check to apply to account or for value; b) the knowledge of the maker[,] drawer, or issuer that at the time of the 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, c) the subsequent dishonor of the check by the drawee bank for insufficiency of funds or credit, or dishonor for the same reason had not the drawer, without any valid cause,

ordered the bank to stop payment (Sycip, Jr. vs. Court of Appeals, 328 SCRA 447), are, therefore, present.

In view of the foregoing, the penalty imposed on Macalalag by the trial court should be modified. In accordance with the Vaca vs. Court of Appeals (294 SCRA 656) case, Macalalag should be meted the penalty of fine amounting to P100,000.00 only corresponding to the face value of the second check with subsidiary imprisonment in case of insolvency. Likewise, Macalalag should pay the civil indemnity in the total amount of P100,000.00 with interest at the legal rate from the time of the filing of the Information until fully satisfied less the amount of P195,837.98 which amount should be credited to her. This amount represents the balance after full payment of the first loan computed as follows:

P355,837.98 - total amount paid by petitioner to private complainant

(P199,837.98 and P156,000.00)

LESS:

P160,000.00 - to fully pay the first loan (P100,000.00 face value of the loan plus interests at P21,000.00 and P39,000.00)

P195,837.98 - amount to be credited to petitioner to be applied to pay the second loan.[9]

We have repeatedly held that there is no violation of Batas Pambansa Blg. 22 if the complainant was actually told by the drawer that he has no sufficient funds in a bank.[10] Where, as in the case at bar, the checks were issued as security for a loan, payment by the accused of the amount of the check prior to its presentation for payment would certainly serve the same purpose.

Batas Pambansa Blg. 22 was not intended to shelter or favor nor encourage users of the banking system to enrich themselves through the manipulation and circumvention of the noble purpose and objectives of the law.[11] Such manipulation is manifest when payees of checks issued as security for loans present such checks for payment even after the payment of such loans.

Petitioner Macalalag, however, claims that she should not be convicted of even one count of Violation of Batas Pambansa Blg. 22. Petitioner Macalalag claims that: (1) the payment of the accounts before the checks became due and demandable and/or before the same are presented for payment would exempt the petitioner from Violation of Batas Pambansa Blg. 22;[12] (2) the redeemable value of the check is limited only to its face value and does not include interest;[13]and (3) partial redemption of the check will exempt the accused from criminal liability for Violation of Batas Pambansa Blg. 22.[14]

Petitioner Macalalag claims that, considering that she had already paid P156,000.00 at the time the subject checks were presented for payment, the amount of P100,000.00 should be applied for redemption of the first check and the remaining amount of P56,000.00 should be treated as partial redemption of the second check. Petitioner Macalalag posits that said partial redemption exempts her from criminal liability because it was made before the check was presented for payment.

The petition must fail.

Even if we agree with petitioner Macalalag that the interests on her loans should not be imputed to the face value of the checks she issued, petitioner Macalalag is still liable for Violation of Batas Pambansa Blg. 22. Petitioner Macalalag herself declares that before the institution of the two cases against her, she has made a total payment of P156,000.00. Applying this amount to the first check (No. C-889835), what will be left is P56,000.00, an amount insufficient to cover her obligation with respect to the second check. As stated above, when Estrella presented the checks for payment, the same were dishonored on the ground that they were drawn against a closed account.

Despite notice of dishonor, petitioner Macalalag failed to pay the full face value of the second check issued.

Only a full payment of the face value of the second check at the time of its presentment or during the five-day grace period^[15] could have exonerated her from criminal liability. A contrary interpretation would defeat the purpose of Batas Pambansa Blg. 22, that of safeguarding the interest of the banking system and the legitimate public checking account user,^[16] as the drawer could very well have himself exonerated by the mere expediency of paying a minimal fraction of the face value of the check.

Neither could petitioner Macalalag's subsequent payment of P199,837.98 during the pendency of the cases against her before the MTCC result in freeing her from criminal liability because the same had already attached after the check was dishonored. Said subsequent payments can only affect her civil, not criminal, liability. A subsequent payment by the accused would not obliterate the criminal liability theretofore already incurred.^[17]

It is well to note that the gravamen of Batas Pambansa Blg. 22 is the issuance of a check, not the nonpayment of an obligation.^[18] The law has made the act of issuing a bum check a *malum prohibitum*.^[19] Consequently, the lack of criminal intent on the part of the accused is irrelevant,^[20] and the accused will be convicted for violation thereof as long as the following elements are proven:

- 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.^[21]

All these elements have been conclusively proven in Court, the second element by the *prima facie* evidence established by Section 2 of Batas Pambansa Blg. 22, which 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.

WHEREFORE, the Petition is DENIED. The Court of Appeals Decision dated 10 October 2003 and Resolution dated 13 May 2004, affirming the conviction of petitioner Theresa Macalalag of one count of Violation of Batas Pambansa Blg. 22, are AFFIRMED. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Callejo, Sr., JJ., concur.

* Retired as of 7December 2006.

[1] Penned by Associate Justice Elvi John A. Asuncion with Associate Justices Godardo A. Jacinto and Lucas P. Bersamin, concurring; rollo, pp. 16-22.

[2] Rollo, pp. 38-39.

[3] Id. at 22.

[4] G.R. No. 131622, 27 November 1998, 299 SCRA 481.

[5] Rollo, p. 42.

[6] Section 1(b), Rule 111 of the Rules of Court provides:

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 courts, 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.

[7] Id.

[8] 449 Phil. 419, 434-435 (2003), citing *Medel v. Court of Appeals*, G.R. No. 131622, 27 November 1998, 299 SCRA 481; *Garcia v. Court of Appeals*, G.R. Nos. L-82282-83, 24 November 1988; *Spouses Bautista v. Pilar Development Corporation*, 371 Phil. 533 (1999); *Spouses Solangon v. Salazar*, 412 Phil. 816 (2001); *Spouses Almeda v. Court of Appeals*, 326 Phil. 309 (1996).

[9] Rollo, pp. 19-21.

[10] *Yu Oh v. Court of Appeals*, 451 Phil. 380, 395 (2003); *Lee v. Court of Appeals*, G.R. No. 145498, 17 January 2005, G.R. No. 145498, 448 SCRA 455, 476; *Eastern Assurance and Surety Corporation v. Court of Appeals*, 379 Phil. 84, 91 (2000); *Young v. Court of Appeals*, G.R. No. 140425, 10 March 2005, 453 SCRA 109, 120.

[11] *Vergara v. People*, G.R. No. 160328, 4 February 2005, 450 SCRA 495, 507.

[12] Id. at 117-119.

[13] Id. at 119-121.

[14] Id. at 121-123.

[15] Batas Pambansa Blg. 22, Section 2.

[16] *Magno v. Court of Appeals*, G.R. No. 96132, 26 June 1992, 210 SCRA 471, 478.

[17] *Dayawon v. Judge Badilla*, 394 Phil. 218, 225 (2000).

[18] *Lozano v. Martinez*, G.R. No. L-63419, 18 December 1986, 146 SCRA 323, 338.

[19] *People v. Laggui*, G.R. Nos. 76262-63, 16 March 1989, 171 SCRA 305, 311; *People v. Manzanilla*, G.R. Nos. L-66003-04, 11 December 1987, 156 SCRA 279, 283.

[20] *People v. Lo Ho Wing*, G.R. No. 88017, 21 January 1991, 193 SCRA 122, 130.

[21] Danao v. Court of Appeals, G.R. No. 122353, 6 June 2001, 358 SCRA 450, 457-458.

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