ANITA CHENG, PETITIONER, VS. SPOUSES WILLIAM SY AND TESSIE SY, RESPONDENTS.

G.R. No. 174238. July 07, 2009

Ponente: NACHURA, J.

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NACHURA, J.:

This is a petition[1] for review on certiorari under Rule 45 of the Rules of Court of the Order dated January 2, 2006[2] of the Regional Trial Court (RTC), Branch 18, Manila in Civil Case No. 05-112452 entitled Anita Cheng v. Spouses William Sy and Tessie Sy.

The antecedents are as follows--

Petitioner Anita Cheng filed two (2) estafa cases before the RTC, Branch 7, Manila against respondent spouses William and Tessie Sy (Criminal Case No. 98-969952 against Tessie Sy and Criminal Case No. 98-969953 against William Sy) for issuing to her Philippine Bank of Commerce (PBC) Check Nos. 171762 and 71860 for P300,000.00 each, in payment of their loan, both of which were dishonored upon presentment for having been drawn against a closed account.

Meanwhile, based on the same facts, petitioner, on January 20, 1999, filed against respondents two (2) cases for violation of Batas Pambansa Bilang (BP Blg.) 22 before the Metropolitan Trial Court (MeTC), Branch 25, Manila (Criminal Case Nos. 341458-59).

On March 16, 2004, the RTC, Branch 7, Manila dismissed the estafa cases for failure of the prosecution to prove the elements of the crime. The Order dismissing Criminal Case No. 98-969952 contained no declaration as to the civil liability of Tessie Sy.[3] On the other hand, the Order in Criminal Case No. 98-969953 contained a statement, "Hence, if there is any liability of the accused, the same is purely `civil,' not criminal in nature."[4]

Later, the MeTC, Branch 25, Manila, dismissed, on demurrer, the BP Blg. 22 cases in its Order[5] dated February 7, 2005 on account of the failure of petitioner to identify the accused respondents in open court. The Order also did not make any pronouncement as to the civil liability of accused respondents.

On April 26, 2005, petitioner lodged against respondents before the RTC, Branch 18, Manila, a complaint[6] for collection of a sum of money with damages (Civil Case No. 05-112452) based on the same loaned amount of P600,000.00 covered by the two PBC checks previously subject of the estafa and BP Blg. 22 cases.

In the assailed Order[7] dated January 2, 2006, the RTC, Branch 18, Manila, dismissed the complaint for lack of jurisdiction, ratiocinating that the civil action to collect the amount of P600,000.00 with damages was already impliedly instituted in the BP Blg. 22 cases in light of Section 1, paragraph (b) of Rule 111 of the Revised Rules of Court.

Petitioner filed a motion for reconsideration[8] which the court denied in its Order[9] dated June 5, 2006. Hence, this petition, raising the sole legal issue -

> Whether or not Section 1 of Rule 111 of the 2000 Rules of Criminal Procedure and Supreme Court Circular No. 57-97 on the Rules and Guidelines in the filing and prosecution of criminal cases under BP Blg. 22 are applicable to the present case where the nature of the order dismissing the cases for bouncing checks against the respondents was [based] on the failure of the prosecution to identify both the accused (respondents herein)?[10]

Essentially, petitioner argues that since the BP Blg. 22 cases were filed on January 20, 1999, the 2000 Revised Rules on Criminal Procedure promulgated on December 1, 2000 should not apply, as it must be given only prospective application. She further contends that that her case falls within the following exceptions to the rule that the civil action correspondent to the criminal action is deemed instituted with the latter--

> (1) additional evidence as to the identities of the accused is necessary for the resolution of the civil aspect of the case;
>
> (2) a separate complaint would be just as efficacious as or even more expedient than a timely remand to the trial court where the criminal action was decided for further hearings on the civil aspect of the case;
>
> (3) the trial court failed to make any pronouncement as to the civil liability of the accused amounting to a reservation of the right to have the civil liability litigated in a separate action;
>
> (4) the trial court did not declare that the facts from which the civil liability might arise did not exist;
>
> (5) the civil complaint is based on an obligation ex-contractu and not ex-delicto pursuant to Article 31[11] of the Civil Code; and
>
> (6) the claim for civil liability for damages may be had under Article 29[12] of the Civil Code.

Petitioner also points out that she was not assisted by any private prosecutor in the BP Blg. 22 proceedings.

The rule is that upon the filing of the estafa and BP Blg. 22 cases against respondents, where the petitioner has not made any waiver, express reservation to litigate separately, or has not instituted the corresponding civil action to collect the amount of P600,000.00 and damages prior to the criminal action, the civil action is deemed instituted with the criminal cases.[13]

This rule applies especially with the advent of the 2000 Revised Rules on Criminal Procedure. Thus, during the pendency of both the estafa and the BP Blg. 22 cases, the action to recover the civil liability was impliedly instituted and remained pending before the respective trial courts. This is consonant with our ruling in Rodriguez v. Ponferrada[14] that the possible single civil liability arising from the act of issuing a bouncing check can be the subject of both civil actions deemed instituted with the estafa case and the prosecution for violation of BP Blg. 22, simultaneously available to the complaining party, without traversing the prohibition against forum shopping.[15] Prior to the judgment in either the estafa case or the BP Blg. 22 case, petitioner, as the complainant, cannot be deemed to have elected either of the civil actions both impliedly instituted in the said criminal proceedings to the exclusion of the other.[16]

The dismissal of the estafa cases for failure of the prosecution to prove the elements of the crime beyond reasonable doubt--where in Criminal Case No. 98-969952 there was no pronouncement as regards the civil liability of the accused and in Criminal Case No. 98-969953 where the trial court declared that the liability of the accused was only civil in nature--produced the legal effect of a reservation by the petitioner of her right to litigate separately the civil action impliedly instituted with the estafa cases, following Article 29 of the Civil Code.[17]

However, although this civil action could have been litigated separately on account of the dismissal of the estafa cases on reasonable doubt, the petitioner was deemed to have also elected that such civil action be prosecuted

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together with the BP Blg. 22 cases in light of the Rodriguez v. Ponferrada ruling.

With the dismissal of the BP Blg. 22 cases for failure to establish the identity of the accused, the question that arises is whether such dismissal would have the same legal effect as the dismissed estafa cases. Put differently, may petitioner's action to recover respondents' civil liability be also allowed to prosper separately after the BP Blg. 22 cases were dismissed?

Section 1 (b), Rule 111 of the 2000 Revised Rules on Criminal Procedure states -

> Section 1. Institution of criminal and civil actions. -
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> x x x
>
> (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 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 [is] 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.

Petitioner is in error when she insists that the 2000 Rules on Criminal Procedure should not apply because she filed her BP Blg. 22 complaints in 1999. It is now settled that rules of procedure apply even to cases already pending at the time of their promulgation. The fact that procedural statutes may somehow affect the litigants' rights does not preclude their retroactive application to pending actions. It is axiomatic that the retroactive application of procedural laws does not violate any right of a person who may feel that he is adversely affected, nor is it constitutionally objectionable. The reason for this is that, as a general rule, no vested right may attach to, nor arise from, procedural laws.[18]

Indeed, under the present revised Rules, the criminal action for violation of BP Blg. 22 includes the corresponding civil action to recover the amount of the checks. It should be stressed, this policy is intended to discourage the separate filing of the civil action. In fact, the Rules even prohibits the reservation of a separate civil action, i.e., 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 encourages the consolidation of the civil and criminal cases. Thus, where petitioner's rights may be fully adjudicated in the proceedings before the court trying the BP Blg. 22 cases, resort to a separate action to recover civil liability is clearly unwarranted on account of res judicata, for failure of petitioner to appeal the civil aspect of the cases. In view of this special rule governing actions for violation of BP Blg. 22, Article 31 of the Civil Code is not applicable.[19]

Be it remembered that rules governing procedure before the courts, while not cast in stone, are for the speedy, efficient, and orderly dispensation of justice and should therefore be adhered to in order to attain this objective.[20]

However, in applying the procedure discussed above, it appears that petitioner would be left without a remedy to

recover from respondents the P600,000.00 allegedly loaned from her. This could prejudice even the petitioner's Notice of Claim involving the same amount filed in Special Proceedings No. 98-88390 (Petition for Voluntary Insolvency by Kolin Enterprises, William Sy and Tessie Sy), which case was reportedly archived for failure to prosecute the petition for an unreasonable length of time.[21] Expectedly, respondents would raise the same defense that petitioner had already elected to litigate the civil action to recover the amount of the checks along with the BP Blg. 22 cases.

It is in this light that we find petitioner's contention that she was not assisted by a private prosecutor during the BP Blg. 22 proceedings critical. Petitioner indirectly protests that the public prosecutor failed to protect and prosecute her cause when he failed to have her establish the identities of the accused during the trial and when he failed to appeal the civil action deemed impliedly instituted with the BP Blg. 22 cases. On this ground, we agree with petitioner.

Faced with the dismissal of the BP Blg. 22 cases, petitioner's recourse pursuant to the prevailing rules of procedure would have been to appeal the civil action to recover the amount loaned to respondents corresponding to the bounced checks. Hence, the said civil action may proceed requiring only a preponderance of evidence on the part of petitioner. Her failure to appeal within the reglementary period was tantamount to a waiver altogether of the remedy to recover the civil liability of respondents. However, due to the gross mistake of the prosecutor in the BP Blg. 22 cases, we are constrained to digress from this rule.

It is true that clients are bound by the mistakes, negligence and omission of their counsel.[22] But this rule admits of exceptions - (1) where the counsel's mistake is so great and serious that the client is prejudiced and denied his day in court, or (2) where the counsel is guilty of gross negligence resulting in the client's deprivation of liberty or property without due process of law.[23] Tested against these guidelines, we hold that petitioner's lot falls within the exceptions.

It is an oft-repeated exhortation to counsels to be well-informed of existing laws and rules and to keep abreast with legal developments, recent enactments and jurisprudence. Unless they faithfully comply with such duty, they may not be able to discharge competently and diligently their obligations as members of the Bar.[24] Further, lawyers in the government service are expected to be more conscientious in the performance of their duties as they are subject to public scrutiny. They are not only members of the Bar but are also public servants who owe utmost fidelity to public service.[25] Apparently, the public prosecutor neglected to equip himself with the knowledge of the proper procedure for BP Blg. 22 cases under the 2000 Rules on Criminal Procedure such that he failed to appeal the civil action impliedly instituted with the BP Blg. 22 cases, the only remaining remedy available to petitioner to be able to recover the money she loaned to respondents, upon the dismissal of the criminal cases on demurrer. By this failure, petitioner was denied her day in court to prosecute the respondents for their obligation to pay their loan.

Moreover, we take into consideration the trial court's observation when it dismissed the estafa charge in Criminal Case No. 98-969953 that if there was any liability on the part of respondents, it was civil in nature. Hence, if the loan be proven true, the inability of petitioner to recover the loaned amount would be tantamount to unjust enrichment of respondents, as they may now conveniently evade payment of their obligation merely on account of a technicality applied against petitioner.

There is unjust enrichment when (1) a person is unjustly benefited, and (2) such benefit is derived at the expense of or with damages to another. This doctrine simply means that a person shall not be allowed to profit or enrich himself inequitably at another's expense. One condition for invoking this principle of unjust enrichment is that the aggrieved party has no other recourse based on contract, quasi-contract, crime, quasi-delict or any other provision

of law.[26]

Court litigations are primarily designed to search for the truth, and a liberal interpretation and application of the rules which will give the parties the fullest opportunity to adduce proof is the best way to ferret out the truth. The dispensation of justice and vindication of legitimate grievances should not be barred by technicalities.[27] For reasons of substantial justice and equity, as the complement of the legal jurisdiction that seeks to dispense justice where courts of law, through the inflexibility of their rules and want of power to adapt their judgments to the special circumstances of cases, are incompetent to do so,[28] we thus rule, pro hac vice, in favor of petitioner.

WHEREFORE, the petition is GRANTED. Civil Case No. 05-112452 entitled Anita Cheng v. Spouses William Sy and Tessie Sy is hereby ordered REINSTATED. No pronouncement as to costs.

SO ORDERED.

Ynares-Santiago, J., (Chairperson), Chico-Nazario, Velasco, Jr., and Peralta, JJ., concur.

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[1] Rollo, pp. 3-19.

[2] Id. at 22-27.

[3] Id. at 45-47.

[4] Id. at 48-50.

[5] Id. at 42-44.

[6] Id. at 51-53.

[7] Supra note 2.

[8] Rollo, pp. 28-38.

[9] Id. at 41.

[10] Id. at 6.

[11] Art. 31. When the civil action is based on an obligation not arising from the act or omission complained of as a felony, such civil action may proceed independently of the criminal proceedings and regardless of the result of the latter.

[12] Art. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

[13] Section 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 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.

A waiver of any of the civil actions extinguishes the others. The institution of, or the reservation of the right to file, any of said civil actions separately waives the others.

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The reservation of the right to institute the separate civil actions shall be made before the prosecution starts to present its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.

In no case may the offended party recover damages twice for the same act or omission of the accused.

When the offended party seeks to enforce civil liability against the accused by way of moral, nominal, temperate or exemplary damages, the filing fees for such civil action as provided in these Rules shall constitute a first lien on the judgment except in an award for actual damages.

In cases wherein the amount of damages, other than actual, is alleged in the complaint or information, the corresponding filing fees shall be paid by the offended party upon the filing thereof in court for trial. (Rule 111, 1988 Rules on Criminal Procedure)

[14] G.R. Nos. 155531-34, July 29, 2005, 465 SCRA 338.

[15] Rodriguez v. Ponferrada, id. at 350.

[16] Ibid.

[17] Jarantilla v. Court of Appeals, 253 Phil. 425, 433 (1989), citing Bernaldes, Jr. v. Bohol Land Transportation, Inc., 117 Phil. 288, 291-292 (1963) and Bachrach Motors Co. v. Gamboa, 101 Phil. 1219 (1957).

[18] Tan, Jr. v. Court of Appeals, 424 Phil. 556, 559 (2002).

[19] Hyatt Industrial Manufacturing Corp. v. Asia Dynamic Electrix Corp., G.R. No. 163597, July 29, 2005, 465 SCRA 454, 461-462.

[20] Id.

[21] Rollo, p. 23.

[22] Lynx Industries Contractor, Inc. v. Tala, G.R. No. 164333, August 24, 2007, 531 SCRA 169, 176.

[23] Ceniza-Manantan v. People, G.R. No. 156248, August 28, 2007, 531 SCRA 364, 380.

[24] Santiago v. Atty. Rafanan, 483 Phil. 94, 105 (2004).

[25] Ramos v. Imbang, A.C. No. 6788, August 23, 2007, 530 SCRA 759, 768.

[26] Chieng v. Santos, G.R. No. 169647, August 31, 2007, 531 SCRA 730, 747-748.

[27] LCK Industries, Inc. v. Planters Development Bank, G.R. No. 170606, November 23, 2007, 538 SCRA 634, 653.

[28] Id. at 652.

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