

DREAMWORK CONSTRUCTION, INC., PETITIONER, VS. CLEOFÉ S. JANIOLA AND HON. ARTHUR A. FAMINI, RESPONDENTS.

G.R. No. 184861. June 30, 2009

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-184861/>

VELASCO JR., J.:

The Case

Petitioner Dreamwork Construction, Inc. seeks the reversal of the August 26, 2008 Decision[1] in SCA No. 08-0005 of the Regional Trial Court (RTC), Branch 253 in Las Piñas City. The Decision affirmed the Orders dated October 16, 2007[2] and March 12, 2008[3] in Criminal Case Nos. 55554-61 issued by the Metropolitan Trial Court (MTC), Branch 79 in Las Piñas City.

The Facts

On October 18, 2004, petitioner, through its President, Roberto S. Concepcion, and Vice-President for Finance and Marketing, Normandy P. Amora, filed a Complaint Affidavit dated October 5, 2004[4] for violation of Batas Pambansa Bilang 22 (BP 22) against private respondent Cleofé S. Janiola with the Office of the City Prosecutor of Las Piñas City. The case was docketed as I.S. No. 04-2526-33. Correspondingly, petitioner filed a criminal information for violation of BP 22 against private respondent with the MTC on February 2, 2005 docketed as Criminal Case Nos. 55554-61, entitled *People of the Philippines v. Cleofé S. Janiola*.

On September 20, 2006, private respondent, joined by her husband, instituted a civil complaint against petitioner by filing a Complaint dated August 2006[5] for the rescission of an alleged construction agreement between the parties, as well as for damages. The case was filed with the RTC, Branch 197 in Las Piñas City and docketed as Civil Case No. LP-06-0197. Notably, the checks, subject of the criminal cases before the MTC, were issued in consideration of the construction agreement.

Thereafter, on July 25, 2007, private respondent filed a Motion to Suspend Proceedings dated July 24, 2007[6] in Criminal Case Nos. 55554-61, alleging that the civil and criminal cases involved facts and issues similar or intimately related such that in the resolution of the issues in the civil case, the guilt or innocence of the accused would necessarily be determined. In other words, private respondent claimed that the civil case posed a prejudicial question as against the criminal cases.

Petitioner opposed the suspension of the proceedings in the criminal cases in an undated Comment/Opposition to Accused's Motion to Suspend Proceedings based on Prejudicial Question[7] on the grounds that: (1) there is no prejudicial question in this case as the rescission of the contract upon which the bouncing checks were issued is a separate and distinct issue from the issue of whether private respondent violated BP 22; and (2) Section 7, Rule 111 of the Rules of Court states that one of the elements of a prejudicial question is that "the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action"; thus, this element is missing in this case, the criminal case having preceded the civil case.

Later, the MTC issued its Order dated October 16, 2007, granting the Motion to Suspend Proceedings, and reasoned that:

Should the trial court declare the rescission of contract and the nullification of the checks issued as the same are without consideration, then the instant criminal cases for alleged violation of BP 22 must be dismissed. The belated filing of the civil case by the herein accused did not detract from the correctness of her cause, since a motion for suspension of a criminal action may be filed at any time before the prosecution rests (Section 6, Rule 111, Revised Rules of Court).[8]

In an Order dated March 12, 2008,[9] the MTC denied petitioner's Motion for Reconsideration dated November 29, 2007.

Petitioner appealed the Orders to the RTC with a Petition dated May 13, 2008. Thereafter, the RTC issued the assailed decision dated August 26, 2008, denying the petition. On the issue of the existence of a prejudicial question, the RTC ruled:

Additionally, it must be stressed that the requirement of a "previously" filed civil case is intended merely to obviate delays in the conduct of the criminal proceedings. Incidentally, no clear evidence of any intent to delay by private respondent was shown. The criminal proceedings are still in their initial stages when the civil action was instituted. And, the fact that the civil action was filed after the criminal action was instituted does not render the issues in the civil action any less prejudicial in character.[10]

Hence, we have this petition under Rule 45.

The Issue

WHETHER OR NOT THE COURT A QUO SERIOUSLY ERRED IN NOT PERCEIVING GRAVE ABUSE OF DISCRETION ON THE PART OF THE INFERIOR COURT, WHEN THE LATTER RULED TO SUSPEND PROCEEDINGS IN CRIM. CASE NOS. 55554-61 ON THE BASIS OF "PREJUDICIAL QUESTION" IN CIVIL CASE NO. LP-06-0197.[11]

The Court's Ruling

This petition must be granted.

The Civil Action Must Precede the Filing of the Criminal Action for a Prejudicial Question to Exist

Under the 1985 Rules on Criminal Procedure, as amended by Supreme Court Resolutions dated June 17, 1988 and July 7, 1988, the elements of a prejudicial question are contained in Rule 111, Sec. 5, which states:

SEC. 5. Elements of prejudicial question. -- The two (2) essential elements of a prejudicial question are: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed.

Thus, the Court has held in numerous cases[12] that the elements of a prejudicial question, as stated in the above-quoted provision and in *Beltran v. People*,[13] are:

The rationale behind the principle of prejudicial question is to avoid two conflicting decisions. It has two essential elements: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed.

On December 1, 2000, the 2000 Rules on Criminal Procedure, however, became effective and the above provision was amended by Sec. 7 of Rule 111, which applies here and now provides:

SEC. 7. Elements of prejudicial question.--The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed. (Emphasis supplied.)

Petitioner interprets Sec. 7(a) to mean that in order for a civil case to create a prejudicial question and, thus, suspend a criminal case, it must first be established that the civil case was filed previous to the filing of the criminal case. This, petitioner argues, is specifically to guard against the situation wherein a party would belatedly file a civil action that is related to a pending criminal action in order to delay the proceedings in the latter.

On the other hand, private respondent cites Article 36 of the Civil Code which provides:

Art. 36. Pre-judicial questions which must be decided before any criminal prosecution may be instituted or may proceed, shall be governed by rules of court which the Supreme Court shall promulgate and which shall not be in conflict with the provisions of this Code. (Emphasis supplied.)

Private respondent argues that the phrase "before any criminal prosecution may be instituted or may proceed" must be interpreted to mean that a prejudicial question exists when the civil action is filed either before the institution of the criminal action or during the pendency of the criminal action. Private respondent concludes that there is an apparent conflict in the provisions of the Rules of Court and the Civil Code in that the latter considers a civil case to have presented a prejudicial question even if the criminal case preceded the filing of the civil case.

We cannot agree with private respondent.

First off, it is a basic precept in statutory construction that a "change in phraseology by amendment of a provision of law indicates a legislative intent to change the meaning of the provision from that it originally had." [14] In the instant case, the phrase, "previously instituted," was inserted to qualify the nature of the civil action involved in a prejudicial question in relation to the criminal action. This interpretation is further buttressed by the insertion of "subsequent" directly before the term criminal action. There is no other logical explanation for the amendments except to qualify the relationship of the civil and criminal actions, that the civil action must precede the criminal action.

Thus, this Court ruled in *Torres v. Garchitorea* [15] that:

Even if we ignored petitioners' procedural lapse and resolved their petition on the merits, we hold that Sandiganbayan did not abuse its discretion amounting to excess or lack of jurisdiction in denying their omnibus motion for the suspension of the proceedings pending final judgment in Civil Case No. 7160. Section 6, Rule III of the Rules of Criminal Procedure, as amended, reads:

Sec. 6. Suspension by reason of prejudicial question. - A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.

Sec. 7. Elements of prejudicial question. - The elements of a prejudicial question are: (a) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action, and (b) the resolution of such issue determines whether or not the criminal action may proceed.

Under the amendment, a prejudicial question is understood in law as that which must precede the criminal action and which requires a decision before a final judgment can be rendered in the criminal action with which said question is closely connected. The civil action must be instituted prior to the institution of the criminal action. In this case, the Information was filed with the Sandiganbayan ahead of the complaint in Civil Case No. 7160 filed

by the State with the RTC in Civil Case No. 7160. Thus, no prejudicial question exists. (Emphasis supplied.)

Additionally, it is a principle in statutory construction that "a statute should be construed not only to be consistent with itself but also to harmonize with other laws on the same subject matter, as to form a complete, coherent and intelligible system." [16] This principle is consistent with the maxim, *interpretare et concordare leges legibus est optimus interpretandi modus* or every statute must be so construed and harmonized with other statutes as to form a uniform system of jurisprudence. [17]

In other words, every effort must be made to harmonize seemingly conflicting laws. It is only when harmonization is impossible that resort must be made to choosing which law to apply.

In the instant case, Art. 36 of the Civil Code and Sec. 7 of Rule 111 of the Rules of Court are susceptible of an interpretation that would harmonize both provisions of law. The phrase "previously instituted civil action" in Sec. 7 of Rule 111 is plainly worded and is not susceptible of alternative interpretations. The clause "before any criminal prosecution may be instituted or may proceed" in Art. 36 of the Civil Code may, however, be interpreted to mean that the motion to suspend the criminal action may be filed during the preliminary investigation with the public prosecutor or court conducting the investigation, or during the trial with the court hearing the case.

This interpretation would harmonize Art. 36 of the Civil Code with Sec. 7 of Rule 111 of the Rules of Court but also with Sec. 6 of Rule 111 of the Civil Code, which provides for the situations when the motion to suspend the criminal action during the preliminary investigation or during the trial may be filed. Sec. 6 provides:

SEC. 6. Suspension by reason of prejudicial question.--A petition for suspension of the criminal action based upon the pendency of a prejudicial question in a civil action may be filed in the office of the prosecutor or the court conducting the preliminary investigation. When the criminal action has been filed in court for trial, the petition to suspend shall be filed in the same criminal action at any time before the prosecution rests.

Thus, under the principles of statutory construction, it is this interpretation of Art. 36 of the Civil Code that should govern in order to give effect to all the relevant provisions of law.

It bears pointing out that the circumstances present in the instant case indicate that the filing of the civil action and the subsequent move to suspend the criminal proceedings by reason of the presence of a prejudicial question were a mere afterthought and instituted to delay the criminal proceedings.

In *Sabandal v. Tongco*, [18] we found no prejudicial question existed involving a civil action for specific performance, overpayment, and damages, and a criminal complaint for BP 22, as the resolution of the civil action would not determine the guilt or innocence of the accused in the criminal case. In resolving the case, we said:

Furthermore, the peculiar circumstances of the case clearly indicate that the filing of the civil case was a ploy to delay the resolution of the criminal cases. Petitioner filed the civil case three years after the institution of the criminal charges against him. Apparently, the civil action was instituted as an afterthought to delay the proceedings in the criminal cases. [19]

Here, the civil case was filed two (2) years after the institution of the criminal complaint and from the time that private respondent allegedly withdrew its equipment from the job site. Also, it is worth noting that the civil case was instituted more than two and a half (2 ½) years from the time that private respondent allegedly stopped construction of the proposed building for no valid reason. More importantly, the civil case praying for the rescission of the construction agreement for lack of consideration was filed more than three (3) years from the execution of the construction agreement.

Evidently, as in *Sabandal*, the circumstances surrounding the filing of the cases involved here show that the filing of the civil action was a mere afterthought on the part of private respondent and interposed for delay. And as

correctly argued by petitioner, it is this scenario that Sec. 7 of Rule 111 of the Rules of Court seeks to prevent. Thus, private respondent's positions cannot be left to stand.

The Resolution of the Civil Case Is Not Determinative of the Prosecution of the Criminal Action

In any event, even if the civil case here was instituted prior to the criminal action, there is, still, no prejudicial question to speak of that would justify the suspension of the proceedings in the criminal case.

To reiterate, the elements of a prejudicial question under Sec. 7 of Rule 111 of the Rules of Court are: (1) the previously instituted civil action involves an issue similar or intimately related to the issue raised in the subsequent criminal action; and (2) the resolution of such issue determines whether or not the criminal action may proceed.

Petitioner argues that the second element of a prejudicial question, as provided in Sec. 7 of Rule 111 of the Rules, is absent in this case. Thus, such rule cannot apply to the present controversy.

Private respondent, on the other hand, claims that if the construction agreement between the parties is declared null and void for want of consideration, the checks issued in consideration of such contract would become mere scraps of paper and cannot be the basis of a criminal prosecution.

We find for petitioner.

It must be remembered that the elements of the crime punishable under BP 22 are as follows:

- (1) the making, drawing, and issuance of any check to apply for account or for value;
- (2) the knowledge of the maker, drawer, or issuer that at the time of issue there are no sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment; and
- (3) 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.[20]

Undeniably, the fact that there exists a valid contract or agreement to support the issuance of the check/s or that the checks were issued for valuable consideration does not make up the elements of the crime. Thus, this Court has held in a long line of cases[21] that the agreement surrounding the issuance of dishonored checks is irrelevant to the prosecution for violation of BP 22. In *Mejia v. People*,[22] we ruled:

It must be emphasized that the gravamen of the offense charge is the issuance of a bad check. The purpose for which the check was issued, the terms and conditions relating to its issuance, or any agreement surrounding such issuance are irrelevant to the prosecution and conviction of petitioner. To determine the reason for which checks are issued, or the terms and conditions for their issuance, will greatly erode the faith the public reposes in the stability and commercial value of checks as currency substitutes, and bring havoc in trade and in banking communities. The clear intention of the framers of B.P. 22 is to make the mere act of issuing a worthless check *malum prohibitum*.

Lee v. Court of Appeals[23] is even more poignant. In that case, we ruled that the issue of lack of valuable consideration for the issuance of checks which were later on dishonored for insufficient funds is immaterial to the success of a prosecution for violation of BP 22, to wit:

Third issue. Whether or not the check was issued on account or for value.

Petitioner's claim is not feasible. 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. Valuable consideration, in turn,

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 indorser.

In this case, petitioner himself testified that he signed several checks in blank, the subject check included, in exchange for 2.5% interest from the proceeds of loans that will be made from said account. This is a valuable consideration for which the check was issued. That there was neither a pre-existing obligation nor an obligation incurred on the part of petitioner when the subject check was given by Bautista to private complainant on July 24, 1993 because petitioner was no longer connected with Unlad or Bautista starting July 1989, cannot be given merit since, as earlier discussed, petitioner failed to adequately prove that he has severed his relationship with Bautista or Unlad.

At any rate, we have held that what the law punishes is the mere act of issuing a bouncing check, not the purpose for which it was issued nor the terms and conditions relating to its issuance. This is because the thrust of the law is to prohibit the making of worthless checks and putting them into circulation.^[24] (Emphasis supplied.)

Verily, even if the trial court in the civil case declares that the construction agreement between the parties is void for lack of consideration, this would not affect the prosecution of private respondent in the criminal case. The fact of the matter is that private respondent indeed issued checks which were subsequently dishonored for insufficient funds. It is this fact that is subject of prosecution under BP 22.

Therefore, it is clear that the second element required for the existence of a prejudicial question, that the resolution of the issue in the civil action would determine whether the criminal action may proceed, is absent in the instant case. Thus, no prejudicial question exists and the rules on it are inapplicable to the case before us.

WHEREFORE, we GRANT this petition. We hereby REVERSE and SET ASIDE the August 26, 2008 Decision in SCA No. 08-0005 of the RTC, Branch 253 in Las Piñas City and the Orders dated October 16, 2007 and March 12, 2008 in Criminal Case Nos. 55554-61 of the MTC, Branch 79 in Las Piñas City. We order the MTC to continue with the proceedings in Criminal Case Nos. 55554-61 with dispatch.

No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 88-90. Penned by Judge Salvador V. Timbang.

[2] Id. at 65-67.

[3] Id. at 75-76.

[4] Id. at 23-27.

[5] Id. at 28-41.

[6] Id. at 42-45.

[7] Id. at 46-48.

[8] Id. at 67.

[9] Id. at 75-76.

[10] Id. at 90.

[11] Id. at 11.

[12] *Carlos v. Court of Appeals*, G.R. No. 109887, February 10, 1997, 268 SCRA 25, 33; *Tuanda v. Sandiganbayan*, G.R. No. 110544, October 17, 1995, 249 SCRA 342, 351; *Apa v. Fernandez*, G.R. No. 112381, March 30, 1995, 242 SCRA 509, 512; *Yap v. Paras*, G.R. No. 101236, January 30, 1994, 205 SCRA 625, 629; *Umali v. IAC*, G.R. No. 63198, June 21, 1990, 186 SCRA 680, 685.

[13] G.R. No. 137567, June 20, 2000, 334 SCRA 106, 110.

[14] R.E. Agpalo, *Statutory Construction* 97 (4th ed., 1998).

[15] G.R. No. 153666, December 27, 2002, 394 SCRA 494, 508-509.

[16] R.E. Agpalo, *supra* note 14, at 269-270.

[17] *Algura v. The Local Government Unit of the City of Naga*, G.R. No. 150135, October 30, 2006, 506 SCRA 81, 98; *Valencia v. Court of Appeals*, G.R. No. 122363, April 29, 2003, 401 SCRA 666, 680-81; *Bañares v. Balising*, G.R. No. 132624, March 13, 2000, 328 SCRA 36, 49; *Cabada v. Alunan III*, G.R. No. 119645, August 22, 1996, 260 SCRA 838, 848; *Republic v. Asuncion*, G.R. No. 108208, March 11, 1994, 231 SCRA 211; *Corona v. Court of Appeals*, G.R. No. 97356, September 30, 1992, 214 SCRA 378, 392.

[18] G.R. No. 124498, October 5, 2001, 366 SCRA 567.

[19] Id. at 572.

[20] *Mejia v. People*, G.R. No. 149937, June 21, 2007, 525 SCRA 209, 213-214.

[21] *Rigor v. People*, G.R. No. 144887, November 17, 2004, 442 SCRA 451, 461; *Narte v. Court of Appeals*, G.R. No. 132552, July 14, 2004, 434 SCRA 336, 341; *Lazaro v. Court of Appeals*, G.R. No. 105461, November 11, 1993, 227 SCRA 723, 726-727, citing *People v. Nitafan*, G.R. No. 75954, October 22, 1992, 215 SCRA 79, 84-85 and *Que v. People*, Nos. L-75217-18, September 21, 1987, 154 SCRA 161, 165.

[22] *Supra* note 20, at 214-215.

[23] G.R. No. 145498, January 17, 2005, 448 SCRA 455.

[24] Id. at 474-475.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.