

PAZ M. DINGLE, PETITIONER, VS. HON. INTERMEDIATE APPELLATE COURT AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 75243. March 16, 1987

Ponente: PARAS, J.

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PARAS, J.:

Paz M. Dingle, herein petitioner, and her husband Nestor Dingle, are owners of a family business known as "PMD Enterprises" which was managed by the latter.

Nestor Dingle entered into a transaction with one Ernesto Ang whereby PMD Enterprises would sell 400 of washed silica sand to Ang and Ang gave as advanced payment a certain amount to Nestor Dingle.

Nestor Dingle, however, failed to deliver the 400 tons of washed silica sand, so he issued to Ang two (2) postdated checks drawn by him and his wife as authorized signatories of PMD Enterprises in the total amount of P51,885.93 representing the value of the undelivered washed silica sand. The checks were dishonored for being "drawn against insufficient funds." When informed of the dishonor Nestor Dingle replaced the checks with one (1) Equitable Banking Corporation Check in the amount of P51,885.93 which was also signed by both spouses. This was also dishonored. Two (2) letters were sent to and received by Nestor Dingle for the payment of the amount covered by the dishonored check. No payment was made. Hence, the spouses were charged with the violation of BP Blg. 22, otherwise known as the Anti-Bouncing Check Law.

The trial court found them guilty as charged and sentenced each of them to suffer imprisonment of six (6) months of arresto mayor, to pay a fine of P52,000.00 and to indemnify the offended party the amount of P51,885.92.

Paz Dingle appealed and the Intermediate Appellate Court (now the Court of Appeals)[1] modified the decision by imposing upon her the penalty of imprisonment for a period of only 30 days.

Insisting on her innocence, Paz Dingle filed the instant petition contending that she did not incur any criminal liability under BP 22 because she had no knowledge of the dishonor of the checks issued by her husband and for that matter even the transaction of her husband with Ang.

The Solicitor General in his Memorandum recommended that petitioner be acquitted of the instant charge because from the testimony of the sole prosecution witness Ernesto Ang, it was established that he dealt exclusively with Nestor Ang. Nowhere in his testimony is the name of Paz Dingle ever mentioned in connection with the transaction and with the issuance of the check. In fact, Ang categorically stated that it was Nestor Dingle who received his two (2) letters of demand. This lends credence to the testimony of Paz Dingle that she signed the questioned checks in blank together with her husband without any knowledge of its issuance, much less of the transaction and the fact of dishonor.

In the case of *Florentino Lozano vs. Hon. Martinez*, promulgated December 18, 1986, it was held that an essential element of the offense is knowledge on the part of the maker or drawer of the check of the insufficiency of his funds.

WHEREFORE, on reasonable doubt, the assailed decision of the Intermediate Appellate Court (now the Court of Appeals) is hereby SET ASIDE and a new one is hereby rendered ACQUITTING petitioner on reasonable doubt.

SO ORDERED.

Fernan, (Chairman), Alampay, Gutierrez, Jr., Padilla, Bidin, and Cortes, JJ., concur.

[1] Penned by Justice Lorna Lombos-De La Fuente and concurred in by Justices Emilio Gancayco and Manuel Reyes.

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