

**MANSION BISCUIT CORPORATION, REPRESENTED BY ITS
PRESIDENT, ANG CHO HONG, PETITIONER, VS. COURT OF APPEALS,
TY TECK SUAN SUBSTITUTED BY HIS HEIRS, ROSENDA TY,
ELIZABETH TY KOH, E...**

G.R. No. 94713. November 23, 1995

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

The instant petition for review seeks the reversal of the decision of the Court of Appeals dated May 8, 1990 dismissing petitioner's appeal of the civil aspect of Criminal Cases Nos. 5598-V-83 entitled "People of the Philippines v. Ty Teck Suan" and 5599-V-83 entitled "People of the Philippines v. Ty Teck Suan and Siy Gui", both for violation of Batas Pambansa Bilang 22, otherwise known as the Bouncing Checks Law.

The established facts are as follows:

Sometime in 1981, Ty Teck Suan, as president of Edward Ty Brothers Corporation, ordered numerous cartons of nutri-wafer biscuits from Mansion Biscuit Corporation. Before the delivery of the goods on November 12, 1981, Ty Teck Suan issued to Ang Cho Hong, president of Mansion, four (4) postdated checks totalling P404,980.00 as payment for the nutri-wafer biscuits.[1] Four (4) other postdated checks in the amount of P100,000.00 each,[2] were issued by Ty Teck Suan with Siy Gui as co-signor in December of the same year.

Accordingly, Mansion Biscuit Corporation delivered the goods from November 12, 1981 to January 7, 1982, inclusive.[3]

When the first four checks dated December 24, 1981, January 2, 1982, January 9, 1982 and January 16, 1982 were deposited, they were all dishonored due to insufficiency of funds.[4] Ang Cho Hong informed Ty Teck Suan of the dishonor and requested him to replace the checks with cash or good checks. Ty Teck Suan failed to heed said request.[5]

Subsequently, Ty Teck Suan delivered a total of 1,150 sacks of Australian flour to Mansion Biscuit on February 11, 1982, February 22, 1982 and March 8, 1982. Said deliveries plus cash advanced by Ty Teck Suan in December 1981 amounted to P162,500.00.[6] The same amount was applied by Mansion Biscuit as payment for the first postdated check issued by Ty Teck Suan in the amount of P104,980.00. (This resulted in the exclusion of the first check from the information which was later filed against Ty Teck Suan.[7])

On March 1, 1982, Ang Cho Hong sent Ty Teck Suan a formal demand letter[8] requesting that the latter make good the value of the dishonored checks within five (5) days from receipt thereof.[9] Thereafter, the second batch of checks issued by Ty Teck Suan and Siy Gui dated March 20, 1982, April 10, 1982, May 1, 1982 and May 22, 1982 all became due and payable but on deposit, they were all dishonored again.[10] On August 3, 1982, Mansion Biscuit, through its counsel, sent a final demand letter[11] informing Ty Teck Suan that it would be constrained to file an action against him should he continuously refuse to pay.

Ty Teck Suan having failed to meet his obligation, an information for violation of Batas Pambansa Blg. 22 (Bouncing Checks Law) was filed against him before the Regional Trial Court, Branch 172 in Valenzuela, Metro Manila on February 16, 1983. Docketed as Criminal Case No. 5598-V-83, the same reads:

That on or about and during the month of January, 1982, in the municipality of Valenzuela, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the said accused Ty Teck Suan, knowing fully well that he has no sufficient funds with the Rizal Commercial Banking Corporation, Quezon Avenue Branch, did then and there willfully, unlawfully and feloniously prepare, issue and make out, for value check No. 034847 dated January 2, 1982, in the amount of P100,000.00, check No. 034848 dated January 9, 1982, in the amount of P100,000.00, and check No. 034849 dated January 16, 1982, in the amount of P100,000.00 drawn against the said bank in payment of cartons of Nutri-Wafer biscuits purchased from the Mansion Biscuit Corporation, represented by Ang Cho Hong, President thereof, by the Edward Ty Brothers Corporation thru said accused Ty Teck Suan, but the said checks upon presentation with the said bank for deposit and verification of sufficiency of funds was (sic) dishonored and refused payment on the ground of 'insufficient funds', and despite repeated demands to make good said checks or redeem the same within five (5) banking days from demands, said accused failed and refused to do so, to the damage and prejudice of the said Mansion Biscuit Corporation, in the total amount of P300,000.00.

Contrary to law.[12] (Emphasis ours)

An identical information for violation of B.P. Blg. 22, docketed as Criminal Case No. 5599-V-83, was likewise filed against Ty Teck Suan and Siy Gui, the treasurer of the Edward Ty Brothers Corporation, for their having issued checks Nos. 10698023, 10698024, 10698025 and 10698026 drawn against the Equitable Banking Corporation and respectively dated March 20, 1982, April 10, 1982, May 1, 1982 and May 22, 1982 for the amount of P100,000.00 each or in the total sum of P400,000.00. The checks were allegedly issued in payment for cartons of nutri-wafer biscuits purchased from Mansion Biscuit but were refused payment for insufficiency of funds upon presentment at the said bank.[13]

Ty Teck Suan and Siy Gui pleaded not guilty to the charges. In the course of the trial, complainant Ang Cho Hong filed a verified motion for the issuance of a writ of attachment. Even as the accused filed a bond in the amount of P700,000.00, the court issued an order of attachment on some of his real properties on November 26, 1984.[14]

After the prosecution rested its case, Ty Teck Suan filed a motion to dismiss by way of demurrer to evidence, which Siy Gui likewise adopted as his own. The motion to dismiss was based on the following grounds: (a) the subject checks were issued merely to guarantee or secure fulfillment of the agreement with the complainant; (b) the four Equitable Banking Corporation checks were issued by the accused only as replacement for the four Rizal Banking Corporation checks issued by Ty Teck Suan alone, and (c) the trial court had no jurisdiction over the offense.[15]

On October 12, 1987, after the prosecution filed an opposition to the motion to dismiss, the trial court, presided by then Judge Teresita Dizon-Capulong,[16] issued an order granting the motion to dismiss, stating that:

On issuance of checks prior to August 8, 1984 when the Ministry of Justice ruled otherwise, the defense of issuance of checks to guarantee the payment of an obligation was still a valid defense. The transaction between the accused Ty Teck Suan and the complaining witness occurred in the months of March, April and May 1982 in Criminal Case No. 5599-V-83; and during the month of January 1982 in Criminal Case No. 5598-V-83. The jurisprudence in connection with the issuance of checks which were dishonored after issuance but which checks were issued to guarantee payment (sic) an obligation are still applicable to both accused. Supreme Court rulings where issuance of bouncing check is neither estafa nor violation of BP 22 are enunciated in Virginia Montano vs.

Josefino Galvez, June 19, 1981; Alice Quizon vs. Lydia Calingo, October 23, 1981; Alfredo Guido vs. Miguel A. Mateo, et al., November 17, 1981; Zenaida Lazarao vs. Maria Aquino, August 7, 1981. The stare decisis in these cases is where the check is issued as part of an arrangement to guarantee or secure the payment of an obligation, whether pre-existing or not the drawer is not criminally liable for either Estafa or Violation of BP Blg. 22.

xxx xxx xxx.

Therefore, the Court concludes that the issuance of the above-mentioned checks by the accused subject of these two criminal cases, and their subsequent dishonor can not be considered in Violation of BP 22 because one important element of the offense is missing; that the check is made or drawn and issued to apply on account or for value and because these were issued to guarantee the fulfillment of an agreement to deliver biscuits by complainant when accused Ty Teck Suan would place orders.[17]

In the same order of dismissal, Judge Capulong found that accused Siy Gui's liability had not been established by the prosecution as it appeared that he had no personal transactions with the complainant although he was a co-signatory in the second batch of four checks.[18] The dispositive portion of the above-mentioned order reads:

WHEREFORE, the Court finds merit in the Motion to Dismiss based on Demurrer to Evidence. Both accused are hereby declared not guilty of the offense charged in the Information in both cases. The bail bonds posted for their provisional liberty are ordered CANCELLED.

Consequently, the Order of Attachment issued in this case is hereby set aside.

SO ORDERED.[19]

The prosecution then filed a motion for reconsideration and for clarification as to the civil aspect of the criminal actions which were deemed impliedly instituted therein.[20] The defense opposed the motion.

On October 30, 1987, the lower court denied the motion on the ground that:

xxx no civil liability can be enunciated and enforced in this (sic) criminal cases due to the acquittal of both accused. Above-cited liability of both accused if any, can be ventilated and enforced only in a separate action on the agreement guaranteed by the checks. xxx[21]

Thus, on November 11, 1987, the petitioner filed a special civil action of certiorari and injunction with the Court of Appeals, docketed as CA-G.R. SP No. 13264, questioning only the propriety of the trial court's order setting aside the order of attachment.[22]

On February 22, 1988, the Court of Appeals rendered a decision[23] annulling and setting aside the questioned portion of the order dated October 17, 1987 which set aside the writ of attachment.

Meanwhile, petitioner Mansion Biscuit Corporation filed another appeal to the Court of Appeals, docketed as CA-G.R. CV No. 16580, this time assailing the trial court's ruling absolving defendants from civil liability in the criminal cases. Petitioner contended that the acquittal of the accused in the criminal cases did not necessarily extinguish their civil liability, citing Padilla v. Court of Appeals,[24] People v. Jalandoni,[25] Maximo v. Gerochi, Jr.[26] and People v. Relova.[27]

On January 10, 1989, while the appeal was pending with the Court of Appeals, Ty Teck Suan died. A motion to dismiss the appeal concerning him pursuant to Section 21, Rule 3 of the Rules of Court was filed by his counsel. This was opposed by petitioner.[28] In the resolution of January 8, 1990, the Court of Appeals denied the motion to dismiss for lack of merit and granted the substitution of appellee Ty Teck Suan by his children named Rosenda Ty, Elizabeth Ty Koh, Edward Ty, Edmund Ty, Edgar Ty, Evelyn T. Lim, Edwin Ty and Edison Ty.[29]

On May 8, 1990, the Court of Appeals rendered a decision^[30] dismissing the appeal for lack of merit. It held that the civil liability sought to be enforced by the complainant was not the personal obligation of Ty Teck Suan but a contractual liability of Edward Ty Brothers Corporation of which Ty Teck Suan was the president. The civil liability of Edward Ty Brothers Corporation to Mansion Biscuit was not litigated and resolved in the criminal cases because Edward Ty Brothers Corporation was not a party thereto. Accordingly, the appellate court held that a separate civil action should be instituted by petitioner against Edward Ty Brothers Corporation.

Their motion for reconsideration having been denied, petitioner came to this Court by way of the instant petition for review alleging that respondent Court of Appeals erred in: (a) limiting its appeal to civil liability arising from contract; (b) refusing to acknowledge the quasi-delict or tort committed by Ty Teck Suan; (c) insisting that the contractual liability could not be enforced against Ty Teck Suan; (d) not ruling that Ty Teck Suan, by his actuations, had personally assumed liability, and (e) disregarding the conclusive findings of the Court of Appeals in CA-G.R. No. SP No. 13264.^[31]

Petitioner contends that "when Ty Teck Suan committed the illegal act of insuring and delivering worthless checks as advance payment, thus successfully inducing Ang Cho Hong, president of Mansion, to deliver several hundred cartons of nutri-van biscuits, two (2) civil liabilities arose, namely: (1) the civil liability arising from crime under Article 100 of the Revised Penal Code, and (2) the civil liability arising from tort or quasi--delict."^[32] Petitioner further alleges that when Ty Teck Suan and Siy Gui were acquitted in the criminal cases, "only the civil liability arising from crime was extinguished" pursuant to Article 100 of the Revised Penal Code, but their civil liability based on quasi-delict remained.

Private respondents, on the other hand, asseverate that Ty Teck Suan and Siy Gui could not be held liable for a contractual liability of the corporation which they represented. They maintain the view that petitioner must file a separate civil action against Edward Ty Brothers Corporation inasmuch as the latter is the real party in interest and was not a party to the criminal cases filed against them which are subject of the present petition for review.

We are thus confronted with the issue of whether or not the petitioner can enforce the civil liability for non-payment of the nutri-wafer biscuits in question against private respondents notwithstanding the fact that the latter contracted the agreement in behalf of Edward Ty Brothers Corporation.

We rule in the negative.

The civil liability for non-payment of the nutri-wafer biscuits delivered by petitioner to the Edward Ty Brothers Corporation cannot be enforced against the private respondents because the said civil liability was not the personal liability of Ty Teck Suan to Mansion Biscuit Corporation, rather, it was the contractual liability of Edward Ty Brothers Corporation, of which Ty Teck Suan was president, to Mansion Biscuit Corporation. This is borne out by the records of the case. The information in Criminal Cases Nos. 5598-V-83 and 5599-V-83 filed against Ty Teck Suan and Siy Gui reveal that the checks were issued "in payment of the cartons of nutri-wafer biscuits purchased from the Mansion Biscuit Corporation, represented by Ang Cho Hong, president thereof, by Edward Ty Brothers Corporation thru said accused Ty Teck Suan."^[33] Moreover, petitioner itself admitted that the contract was executed by and between Edward Ty Brothers Corporation, represented by its president, Ty Teck Suan, and Mansion Biscuit Corporation,^[34] likewise represented by its president, Ang Cho Hong. This was correctly observed by respondent Court of Appeals in its assailed decision and we quote:

The civil liability which the complainant seeks to enforce is the unpaid value of the nutri-van biscuits which were allegedly ordered by Ty Teck Suan from complainant and delivered by the latter between 12 November 1981 and the first week of January 1982. It is apparent from the record, however, that this civil liability is not the personal liability of Ty Teck Suan to private complainant Ang Cho Hong. It is the contractual liability of Edward Ty

Brothers Corporation of which Ty Teck Suan was president, to Mansion Biscuit Corporation, of which Ang Cho Hong was president. This is clear from the Statement of Facts in plaintiffs-appellant's brief, the relevant and pertinent portions of which read:

Sometime in 1981, Teck Suan, as president of Edward Ty Brothers Corporation ordered numerous cartons of nutri-van biscuits from Mansion Biscuit Corporation. As payment for these goods, Ty Teck Suan issued four (4) postdated checks amounting P404,980.00. These checks were delivered to Mr. Ang Cho Hong, president of Mansion biscuit corporation sometime during the first week of November, 1981 (p. 17, tsn of March 14, 1984). (at p. 10 of Brief. Underscoring ours.)

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These goods were received by Ty Teck Suan, through Edward Ty Brothers Corporation as its Consignees, and this was evidenced by the different receipts that have been issued by Edward Ty Brothers Corporation and its Consignees x x x, as well as by the 'authority to deliver' documents issued by Edward Ty Brothers Corporation x x x and signed by one Elizabeth Ty Kho, the daughter of Ty Teck Suan (p. 24, tsn of June 13, 1984). (at pp. 11-12, *ibid*) Likewise, the informations uniformly state that the checks were in 'payment of cartons of Nutri-Wafers biscuit purchased from the Mansion Biscuit Corporation, represented by Ang Cho Hong, President thereof, by the Edward Ty Brothers Corporation thru said accused Ty Teck Suan...

It is quite obvious from the foregoing that Ty Teck Suan did not purchase the biscuits for himself but for Edward Ty Brothers Corporation in his capacity as its president. Neither did Ang Cho Hong sell and deliver the biscuits in his personal capacity but for and in behalf of Mansion Biscuits Corporation of which he was president. The issue of the civil liability of Edward Ty Brothers Corporation to Mansion Biscuits Corporation arising from the contract of purchase and sale between them could not have been and was not litigated and resolved in the criminal case inasmuch as they were not parties therein. A separate civil action must be instituted by Mansion Biscuits Corporation against Edward Ty Brothers Corporation to enforce the contract between them.[35]

With respect to the issue of tortious liability, the respondent court had this to say:

Another telling circumstance against plaintiff-appellant's posture is his statement of the sole issue to be resolved in this appeal, to wit:

Statement of Issues

Whether or not plaintiff-appellant has established his right to the payment of the goods he delivered to defendants-appellees.

It is quite clear from the foregoing that plaintiff-appellant is enforcing a contractual, not a tortious, liability.

Assuming that plaintiff-appellant has basis for his quasi-delict claim, the same must be addressed still against Edward Ty Brothers Corporation for the established facts show that the post-dated checks were issued by accused-appellee not in payment of his personal obligations but of the corporation's. Moreover, the fraud allegedly committed by accused-appellee was merely incidental to the contractual obligation, not an independent act which could serve as a source of obligation. The cases cited by plaintiff-appellant, to illustrate that the existence of a contract does not preclude an action on quasi-delict where the act that breaks the contract constitutes a quasi-delict, have no application because the acts complained of therein were performed to break an existing contract, whereas the alleged fraud herein was committed at the time of the creation of the contractual relationship and as an incident thereof.[36]

Necessarily, any claim for tortious liability must be ventilated in a separate action against the proper party.

As a sidelight, we would like to reiterate our ruling in *People v. Bayotas*,^[37] where we summarized the rules with respect to recovery of civil liability arising from crime and other sources, to wit:

1. Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon.

2. Corollarily, the claim for civil liability survives notwithstanding the death of accused, if the same may also be predicated on a source of obligation other than delict. Article 1157 of the Civil Code enumerates these other sources of obligation from which the civil liability may arise as a result of the same act or omission:

- a) Law
- b) Contracts
- c) Quasi-contracts
- d) xxx xxx xxx
- e) Quasi-delicts.

3. Where the civil liability survives, as explained in Number 2 above, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Section 1, Rule III of the 1984 Rules on Criminal Procedures as amended. This separate civil action may be enforced either against the executor/administrator or the estate of the accused, depending on the source of obligation upon which the same is based as explained above.

4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private-offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription.^[38]

In the case at bench, the acquittal of Ty Teck Suan and Siy Gui extinguished both their criminal and civil liability as it is clear from the order acquitting them that the issuance of the checks in question did not constitute a violation of B.P. Blg. 22. Consequently, no civil liability arising from the alleged delict may be awarded.

WHEREFORE, premises considered, the judgment appealed from is hereby **AFFIRMED** in toto.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Hermosisima, Jr., JJ., concur.

[1] Exhibits D, E, F and G, Folder of Exhibits, pp. 28-31.

[2] Exhibits H, I, J and K, id., at 32-35.

[3] Exhibits L-6 to L-8, id., at 37-39.

[4] Exhibits D-1, E-1, F-1 and G-1, id., at 28-31.

[5] TSN, July 11, 1984, pp. 15-16.

[6] Exhibit L, Folder of Exhibits, p. 36.

[7] TSN, July 27, 1984, pp. 24-27.

[8] Exhibit N, Folder of Exhibits, p. 85.

[9] TSN, July 11, 1984, pp. 17-18.

[10] Exhibits H-1, I-1, J-1 and K-1, Folder of Exhibits, pp. 32-35.

[11] Exhibit O, id., at 86.

[12] Original Records, pp. 1-2.

[13] A copy of this information is attached to the inside back cover of the Record of the case below.

[14] Original Records, p. 116.

[15] Id., at 409-419.

[16] She took over the case which was heard before Judge Samilo Barlongay.

[17] Original Records, pp. 438-440.

[18] Id., at 440.

[19] Ibid.

[20] Id., at 446-449.

[21] Id., at 463.

[22] Id., pp. 477-496.

[23] Penned by Associate Justice Gloria C. Paras and concurred in by Associate Justices Vicente V. Mendoza and Conrado T. Limcaoco.

[24] 129 SCRA 558 [1984].

[25] 131 SCRA 454 [1984].

[26] 144 SCRA 326 [1986].

[27] 148 SCRA 292 [1987].

[28] CA Records, pp. 47, 53-55.

[29] Id., at 82.

[30] Penned by Associate Justice Luis A. Javellana and concurred in by Associate Justices Felipe B. Kalalo and Abelardo M. Dayrit.

[31] Petition, p. 14; Rollo, p. 18.

[32] Id., at 15; Id., at 19.

[33] See Notes 12 and 13, supra.

[34] Appellant's Brief, p. 10, Court of Appeals' Rollo in CA-G.R. No. 16580.

[35] Rollo, pp. 41-43.

[36] *Id.*, at 46.

[37] 236 SCRA 270 [1994].

[38] *Id.*, at 255-256.

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