

ORIEL MAGNO, PETITIONER, VS. HONORABLE COURT OF APPEALS AND PEOPLE OF THE PHILIP-PINES, RESPONDENTS.

G.R. No. 96132. June 26, 1992

Ponente: PARAS, J.

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PARAS, J.:

This is an appeal by certiorari under Rule 45 of the Revised Rules of Court, from the decision* of the respondent Court of Appeals which affirmed in toto the decision of the Regional Trial Court of Quezon City, Branch 104 finding the accused petitioner, guilty of violations of Batas Pambansa Blg. 22, in Criminal Cases Q-35693 to 35696 before they were elevated on appeal to the respondent appellate Court under CA-G.R. CR No. 04889.

The antecedent facts and circumstances of the four (4) counts of the offense charged, have been clearly illustrated, in the Comment of the Office of the Solicitor General as official counsel for the public respondent, thus:

Petitioner was in the process of putting up a car repair shop sometime in April 1983, but he did not have complete equipment that could make his venture workable. He also had another problem, and that while he was going into this entrepreneurship, he lacked funds with which to purchase the necessary equipment to make such business operational. Thus, petitioner, representing Ultra Sources International Corporation, approached Corazon Teng, (private complainant) Vice President of Mancor Industries (hereinafter referred to as Mancor) for his needed car repair service equipment of which Mancor was a distributor. (Rollo, pp. 40-41)

Having been approached by petitioner on his predicament, who fully bared that he had no sufficient funds to buy the equipment needed, the former (Corazon Teng) referred Magno to LS Finance and Management Corporation (LS Finance for brevity) advising its Vice-President, Joey Gomez, that Mancor was willing and able to supply the pieces of equipment needed if LS Finance could accommodate petitioner and provide him credit facilities. (Ibid., p. 41)

The arrangement went through on condition that petitioner has to put up a warranty deposit equivalent to thirty per centum (30%) of the total value of the pieces of equipment to be purchased, amounting to P29,790.00. Since petitioner could not come up with such amount, he requested Joey Gomez on a personal level to look for a third party who could lend him the equivalent amount of the warranty deposit, however, unknown to petitioner, it was Corazon Teng who advanced the deposit in question, on condition that the same would be paid as a short term loan at 3% interest. (Ibid., p. 41)

The specific provision in the Leasing Agreement, reads:

"1.1. WARRANTY DEPOSIT - Before or upon delivery of each item of Equipment, the Lessee shall deposit with the Lessor such sum or sums specified in Schedule A to serve as security for the faithful performance of its obligations.

"This deposit shall be refunded to the Lessee upon the satisfactory completion of the entire period of Lease, subject to the conditions of clause 1.12 of this Article." (Ibid., p. 17)

As part of the arrangement, petitioner and LS Finance entered into a leasing agreement whereby LS Finance would lease the garage equipments and petitioner would pay the corresponding rent with the option to buy the same. After the documentation was completed, the equipment were delivered to petitioner who in turn issued a postdated check and gave it to Joey Gomez who, unknown to the petitioner, delivered the same to Corazon Teng. When the check matured, petitioner requested through Joey Gomez not to deposit the check as he (Magno) was no longer banking with Pacific Bank.

To replace the first check issued, petitioner issued another set of six (6) postdated checks. Two (2) checks dated July 29, 1983 were deposited and cleared while the four (4) others, which were the subject of the four counts of the aforesaid charges subject of the petition, were held momentarily by Corazon Teng, on the request of Magno as they were not covered with sufficient funds. These checks were a) Piso Bank Check Nos. 006858, dated August 15, 1983, 006859 dated August 28, 1983 and 006860 dated September 15, 1983, all in the amount of P5,038.43 and No. 006861 dated September 28, 1983, in the amount of P10,076.87. (Ibid., pp. 42 & 43)

Subsequently, petitioner could not pay LS Finance the monthly rentals, thus it pulled out the garage equipments. It was then on this occasion that petitioner became aware that Corazon Teng was the one who advanced the warranty deposit. Petitioner with his wife went to see Corazon Teng and promised to pay the latter but the payment never came and when the four (4) checks were deposited they were returned for the reason "account closed." (Ibid., p. 43)

After joint trial before the Regional Trial Court of Quezon City, Branch 104, the accused-petitioner was convicted for violations of BP Blg. 22 on the four (4) cases, as follows:

"x x x finding the accused-appellant guilty beyond reasonable doubt of the offense of violations of B.P. Blg. 22 and sentencing the accused to imprisonment for one year in each Criminal Case Nos. Q-35693, Q-35695 and Q-35696 and to pay to complainant the respective amounts reflected in subject checks." (Ibid., pp. 25, 27)

Reviewing the above and the affirmation of the above-stated decision of the court a quo, this Court is intrigued about the outcome of the checks subject of the cases which were intended by the parties, the petitioner on the one hand and the private complainant on the other, to cover the "warranty deposit" equivalent to the 30% requirement of the financing company. Corazon Teng is one of the officers of Mancor, the supplier of the equipment subject of the Leasing Agreement subject of the high financing scheme undertaken by the petitioner as lessee of the repair service equipment, which was arranged at the instance of Mrs. Teng from the very beginning of the transaction.

By the nature of the "warranty deposit" amounting to P29,790.00 corresponding to 30% of the "purchase/lease" value of the equipments subject of the transaction, it is obvious that the "cash out" made by Mrs. Teng was not used by petitioner who was just paying rentals for the equipment. It would have been different if petitioner opted to purchase the pieces of equipment on or about the termination of the lease-purchase agreement in which case he had to pay the additional amount of the warranty deposit which should have formed part of the purchase price. As the transaction did not ripen into a purchase, but remained a lease with rentals being paid for the loaned equipment, which were pulled out by the Lessor (Mancor) when the petitioner failed to continue paying possibly due to economic constraints or business failure, then it is lawful and just that the warranty deposit should not be charged against the petitioner.

To charge the petitioner for the refund of a "warranty deposit" which he did not withdraw as it was not his own account, it having remained with LS Finance, is to even make him pay an unjust "debt", to say the least, since petitioner did not receive the amount in question. All the while, said amount was in the safekeeping of the financing company, which is managed, supervised and operated by the corporation officials and employees of LS Finance. Petitioner did not even know that the checks he issued were turned over by Joey Gomez to Mrs. Teng,

whose operation was kept from his knowledge on her instruction. This fact alone evoke suspicion that the transaction is irregular and immoral per se, hence, she specifically requested Gomez not to divulge the source of the "warranty deposit".

It is intriguing to realize that Mrs. Teng did not want the petitioner to know that it was she who "accommodated" petitioner's request for Joey Gomez, to source out the needed funds for the "warranty deposit". Thus it unfolds the kind of transaction that is shrouded with mystery, gimmickry and doubtful legality. It is in simple language, a scheme whereby Mrs. Teng as the supplier of the equipment in the name of her corporation, Mancor, would be able to "sell or lease" its goods as in this case, and at the same time, privately financing those who desperately need petty accommodations as this one. This *modus operandi* has in so many instances victimized unsuspecting businessmen, who likewise need protection from the law, by availing of the deceptively called "warranty deposit" not realizing that they also fall prey to leasing equipment under the guise of a lease-purchase agreement when it is a scheme designed to skim off business clients.

This maneuvering has serious implications especially with respect to the threat of the penal sanction of the law in issue, as in this case. And, with a willing court system to apply the full harshness of the special law in question, using the "*mala prohibita*" doctrine, the noble objective of the law is tainted with materialism and opportunism in the highest degree.

This angle is bolstered by the fact that since the petitioner or lessee referred to above in the lease agreement knew that the amount of P29,790.00 subject of the cases, were mere accommodation-arrangements with somebody thru Joey Gomez, petitioner did not even attempt to secure the refund of said amount from LS Finance, notwithstanding the agreement provision to the contrary. To argue that after the termination of the lease agreement, the warranty deposit should be refundable in full to Mrs. Teng by petitioner when he did not cash out the "warranty deposit" for his official or personal use, is to stretch the nicety of the alleged law (B.P. No. 22) violated.

For all intents and purposes, the law was devised to safeguard the interest of the banking system and the legitimate public checking account user. It did not intend to shelter or favor nor encourage users of the system to enrich themselves through manipulations and circumvention of the noble purpose and objective of the law. Least should it be used also as a means of jeopardizing honest-to-goodness transactions with some color of "get-rich" scheme to the prejudice of well-meaning businessmen who are the pillars of society.

Under the utilitarian theory, the "protective theory" in criminal law, "affirms that the primary function of punishment is the protective (sic) of society against actual and potential wrongdoers." It is not clear whether petitioner could be considered as having actually committed the wrong sought to be punished in the offense charged, but on the other hand, it can be safely said that the actuations of Mrs. Carolina Teng amount to that of potential wrongdoers whose operations should also be clipped at some point in time in order that the unwary public will not be falling prey to such a vicious transaction. (Aquino, *The Revised Penal Code*, 1987 Edition, Vol. I, p. 11)

Corollary to the above view, is the application of the theory that "criminal law is founded upon that moral disapprobation x x x of actions which are immoral, i.e., which are detrimental (or dangerous) to those conditions upon which depend the existence and progress of human society. This disapprobation is inevitable to the extent that morality is generally founded and built upon a certain concurrence in the moral opinions of all. x x x That which we call punishment is only an external means of emphasizing moral disapprobation: the method of punishment is in reality the amount of punishment." (Ibid., p. 11, citing *People v. Roldan Zaballero*, CA 54 O.G. 6904. Note also Justice Pablo's view in *People v. Piosca and Peremne*, 86 Phil. 31).

Thus, it behooves upon a court of law that in applying the punishment imposed upon the accused, the objective of retribution of a wronged society, should be directed against the "actual and potential wrongdoers." In the instant case, there is no doubt that petitioner's four (4) checks were used to collateralize an accommodation, and not to cover the receipt of an actual "account or credit for value" as this was absent, and therefore petitioner should not be punished for mere issuance of the checks in question. Following the aforecited theory, in petitioner's stead the "potential wrongdoer", whose operation could be a menace to society, should not be glorified by convicting the petitioner.

While in case of doubt, the case should have been resolved in favor of the accused, however, by the open admission of the appellate court below, even when the ultimate beneficiary of the "warranty deposit" is of doubtful certainty, the accused was convicted, as shown below:

"Nor do We see any merit in appellant's claim that the obligation of the accused to complainant had been extinguished by the termination of the leasing agreement -- by the terms of which the warranty deposit advanced by complainant was refundable to the accused as lessee -- and that as the lessor L.S. Finance neither made any liquidation of said amount nor returned the same to the accused, it may be assumed that the amount was already returned to the complainant. For these allegations, even if true, do not change the fact, admitted by appellant and established by the evidence, that the four checks were originally issued on account or for value. And as We have already observed, in order that there may be a conviction under the first paragraph of Section 2 of BP Blg. 22 -- with respect to the element of said offense that the check should have been made and issued on account or for value -- it is sufficient, all the other elements of the offense being present, that the check must have been drawn and issued in payment of an obligation.

"Moreover, even granting, arguendo, that the extinguishments, after the issuance of the checks, of the obligation in consideration of which the checks were issued, would have resulted in placing the case at bar beyond the purview of the prohibition in Section 1 of BP Big. 22, there is no satisfactory proof that there was such an extinguishment in the present case. Appellee aptly points out that appellant had not adduced any direct evidence to prove that the amount advanced by the complainant to cover the warranty deposit must already have been returned to her." (Rollo, p. 30)

It is indubitable that the respondent Court of Appeals even disregarded the cardinal rule that the accused is presumed innocent until proven guilty beyond reasonable doubt. On the contrary, the same court even expected the petitioner-appellant to adduce evidence to show that he was not guilty of the crime charged. But how can he produce documents showing that the warranty deposit has already been taken back by Mrs. Teng when she is an officer of Mancor which has interest in the transaction, besides being personally interested in the profit of her side-line. Thus, even if she may have gotten back the value of the accommodation, she would still pursue collecting from the petitioner since she had in her possession the checks that "bounced".

That the court a quo merely relied on the law, without looking into the real nature of the warranty deposit is evident from the following pronouncement:

"And the trial court concluded that there is no question that the accused violated BP Blg. 22, which is a special statutory law, violations of which are mala prohibita. The court relied on the rule that in cases of mala prohibita, the only inquiry is whether or not the law had been violated, proof of criminal intent not being necessary for the conviction of the accused, the acts being prohibited for reasons of public policy and the defenses of good faith and absence of criminal intent being unavailing in prosecutions for said offenses." (Ibid., p. 26)

The crux of the matter rests upon the reason for the drawing of the postdated checks by the petitioner, i.e., whether they were drawn or issued "to apply on account or for value", as required under Section 1 of BP Blg. 22. When viewed against the following definitions of the catch-terms "warranty" and "deposit", for which the

postdated checks were issued or drawn, all the more, the alleged crime could not have been committed by petitioner:

“a) Warranty - A promise that a proposition of fact is true. A promise that certain facts are truly as they are represented to be and that they will remain so; x x x.” (Black’s Law Dictionary, Fifth Edition, (1979) p. 1423)

A cross-reference to the following term shows:

“Fitness for Particular Purpose: - Where the seller at the time of contracting has reason to know any particular purpose for which the goods are required and that the buyer is relying on the seller’s skill or judgment to select or furnish suitable goods, there is, unless excluded or modified, an implied warranty that the goods shall be fit for such purpose.” (Ibid., p. 573)

“b) Deposit: - Money lodged with a person as an earnest or security for the performance of some contract, to be forfeited if the depositor fails in his undertaking. It may be deemed to be part payment and to that extent may constitute the purchaser the actual owner of the estate.

“To commit to custody, or to lay down; to place; to put. To lodge for safe--keeping or as a pledge to intrust to the care of another.

“The act of placing money in the custody of a bank or banker, for safety or convenience, to be withdrawn at the will of the depositor or under rules and regulations agreed on. Also, the money so deposited, or the credit which the depositor receives for it. Deposit, according to its commonly accepted and generally understood among bankers and by the public, includes not only deposits payable on demand and for which certificates, whether interest-bearing or not, may be issued, payable on demand, or on certain notice, or at a fixed future time.” (Ibid., pp. 394-395)

Furthermore, the element of “knowing at the time of issue that he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment, which check is subsequently dishonored by the drawee bank for insufficiency of funds or credit or would have been dishonored for the same reason x x x” is inversely applied in this case. From the very beginning, petitioner never hid the fact that he did not have the funds with which to put up the warranty deposit and as a matter of fact, he openly intimated this to the vital conduit of the transaction, Joey Gomez, to whom petitioner was introduced by Mrs. Teng. It would have been different if this predicament was not communicated to all the parties he dealt with regarding the lease agreement the financing of which was covered by L.S. Finance Management.

WHEREFORE, the appealed decision is REVERSED and the accused-petitioner is hereby ACQUITTED of the crime charged.

SO ORDERED.

Padilla, J., concur.

Narvasa, C.J., (Chairman), in the result.

Regalado, J., pro hac vice.

Nocon, J., on leave.

* Penned by Associate Justice Lorna S. Lombos-De La Fuente and concurred in by Associate Justices Jesus M. Elbinias and Luis L. Victor.

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