

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. HERBERTO A. MANZANILLA, PRESIDING JUDGE, BRANCH XLVII, REGIONAL TRIAL COURT OF NEGROS OCCIDENTAL, BACOLOD CITY, LOURDES TAN CHUA ...

G.R. Nos. 66003-04. December 11, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The people appeal pursuant to the provisions of Republic Act No. 5440 from two orders of the respondent Regional Trial Court of Negros Occidental, in Bacolod City (Branch XLVII)*, dismissing Criminal Cases Nos. RTC-268 and 275 thereof, both in the nature of prosecutions for violation of the Bouncing Checks Law (Batas Blg. 22) against the private respondents, Johnny Tan Chua and Lourdes Tan Chua, son and mother.

The facts are uncontroverted.

On January 12, 1980, the private respondent Lourdes Tan Chua entered into a contract with New C. T. Glass and Aluminum General Merchandise, a retail firm based in Bacolod City, managed by Antonio Yu, for the supply of swing doors, wall panels, and similar goods, for installation in her building located in Iloilo City, costing the total sum of P370,000.00. In payment thereof, the respondent issued among other checks, two Metropolitan Bank and Trust Company (Iloilo City Branch) checks postdated September 30, 1980 and November 30, 1980, in the sums of P10,000.00 and P15,000.00, respectively. The first check was signed by Johnny Tan Chua, the second, by Lourdes Tan Chua. Both checks were drawn and signed in Iloilo City.

Seasonably, the checks were deposited with the Metropolitan Bank and Trust Company, Bacolod City Branch. However, the same were dishonored for "insufficient funds." Due demands to make good the checks were made upon the private respondents, but they failed.

After the preliminary investigation, the City Fiscal of Bacolod City filed with the respondent court the proper separate informations against the private respondents for violation of Batas Blg. 22.

The cases were, thereafter, consolidated.

After joint arraignment, the Chuas moved to dismiss the cases on the ground of lack of jurisdiction. The trial court, then presided over by Judge Segundino Chua, denied the motion.

Trial then proceeded, with the prosecution resting on September 23, 1982.

On June 21, 1983, the private respondents filed a second motion to dismiss insisting that the court lacked jurisdiction to try the two cases and that the evidence was insufficient to secure conviction.

On August 9, 1983, the trial court, with a new judge presiding, now respondent Judge Herberto A. Manzanilla, issued the first of the two challenged orders, dismissing the cases for lack of jurisdiction, the offenses having been

allegedly consummated in Iloilo City. On October 18, 1983, he issued an order denying reconsideration.

According to the respondent judge, the jurisdiction to try the cases in question is vested in the Regional Trial Court in Iloilo City where the checks were dishonored. The people argue, on the other hand, that the checks were, nonetheless, delivered to the payee in Bacolod City.

While the parties raise a number of issues, we deem the jurisdictional question to be decisive in the appeal. On this regard, we find for the people.

Violation of the bad checks act is committed when one "makes or draws and issues any check to apply on account or for value, knowing at the time of issue that he does not have sufficient funds" or "having sufficient funds in or credit with the drawee bank x x x shall fail to keep sufficient funds or to maintain a credit to cover the full amount of the check if presented within a period of ninety (90) days from the date appearing thereon, for which reason it is dishonored by the drawee bank." [1] Contrary to the opinion of the respondent judge, dishonor is but one ingredient of the offense. [2] In so holding, he has discounted the elements of "making or drawing and issuing" of the worthless check, or "knowledge" by the drawer "at the time of issue" that he has insufficient funds to cover it, or having sufficient funds, "shall fail" to cover the full amount of the check within ninety days from issuance.

In the case at bar, it is not disputed that the private respondents knew at the time they issued the two checks in question that they had not enough funds in the drawee bank to cover the said checks. "Knowledge," therefore, as an essential ingredient of the offense charged and as defined in the statute, is, by itself, a continuing eventuality, whether the accused be within one territory or another. Being so, is sufficient to confer jurisdiction upon the trial court.

The act of issuing the bum checks, as charged in the informations, furthermore, is a *malum prohibitum*. [3] As such, it is committed by the very fact of its performance. [4] In that event, jurisdiction or venue is determined by the allegations in the information. [5] In this case, the information states that the offense was committed in Bacolod City. The legal requirements set forth in Rule 110, Section 15 of the Revised Rules of Court as amended have, therefore, been substantially complied with.

WHEREFORE, the Orders dated August 9, 1983 and October 18, 1983 are hereby REVERSED and SET ASIDE. This case is remanded to the lower court for further proceedings. Costs against the private respondents.

IT IS SO ORDERED.

Yap (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

* Hon. Herberto Manzanilla, Presiding Judge.

[1] Batas Pambansa Blg. 22, Sec. 1, emphasis supplied.

[2] *People v. Veridiano II*, No. L-62243, Oct. 12, 1984, 132 SCRA 523 (1984); *Lozano v. Martinez*, Nos. L-63419; 66839-42; 71654; 74524-25; 75122-49; 75812-13; 75765-67; 75789, December 18, 1986, 146 SCRA 323 (1986).

[3] *Lozano v. Martines*, *supra*, 334.

[4] *Colmenares v. Villar*, No. L-27126, May 29, 1970, 33 SCRA 186 (1970).

[5] *Supra*, 189, citing *Mediante v. Ortiz*, L-19425, 27 April 1967, 19 SCRA 832 (1967); *Arches v. Bellosillo*, 46 O.G. 71.

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