

VICTOR QUE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND INTERMEDIATE APPELLATE COURT, RESPONDENTS.

G.R. Nos. 75217-18. September 21, 1987

Ponente: PARAS, J.

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PARAS, J.:

Before Us is a Motion for Reconsideration of Our minute resolution[1] dated September 22, 1986 denying the main Petition for Review on Certiorari of the decision[2] and resolution[3] of the respondent Court of Appeals which affirmed the judgment[4] of the Regional Trial Court of Quezon City convicting herein petitioner of the crime of violating Batas Pambansa Blg. 22 on two (2) counts.

In the main Petition filed on August 25, 1986, petitioner seeks a review by certiorari of the appellate court's decision dated January 14, 1986 and the resolution denying petitioner's motion for reconsideration of the same, on the grounds that respondent appellate court not only decided a substantial question of jurisdiction not in accordance with law and applicable jurisprudence but also sanctioned the departure by the lower court from the accepted judicial procedures on the issue of jurisdiction.

In his Motion for Reconsideration, petitioner raises the following grounds:

1. That the denial of the petition by way of a minute resolution is for no stated reason except for "lack of merit."
2. That the respondent-appellate court erred in not considering material facts as well as the principal element of the crime charged showing that the lower court had no jurisdiction to try the instant case.
3. The respondent-appellate court erred in failing to consider that one of the most important elements of the offense charged under Batas Pambansa Blg. 22 which is the place of the issuance of the check is clearly absent in the instant case.

Or simply stated, the issue is whether the decision of both the trial court and appellate court and the denial of the Petition for Review are in accordance with law and evidence.

The motion is without merit.

There is no question that the Regional Trial Court of Quezon City had jurisdiction over the case as provided for in Secs. 10 and 15(a) Rule 110 of the New Rules of Court. The findings of fact of the trial court reveal that the checks in question were issued at Quezon City as admitted by petitioner himself in his answer when he was sued by the complainant on his civil liability. Thus, the trial court held:

"In his answer (Exhibit "H") to the civil complaint for collection of sum of money, docketed as Civil Case No. Q-32445 of the Court of First Instance, Branch IX, Quezon City (Exhibit "G"), the accused inferentially admitted that the purchases and issuance of the check in question were made at Francis Hill Supply located at No. 194 Speaker Perez Street, Sta. Mesa Heights, Quezon City. (Exhibit "G-1" and Exhibit "H-1"). (p. 4, Dec.) (p. 62, Rollo)

It is of no moment whether the said checks were deposited by the complainant in a bank located outside of Quezon City. The determinative factor is the place of issuance which is in Quezon City and thus within the court's jurisdiction.

The argument on petitioner's second issue has likewise no leg to stand on. On this argument that he issued the checks in question merely to guarantee the payment of the purchases by Powerhouse Supply, Inc. of which he is the Manager, We give our stamp of approval on the findings of the appellate court, to wit:

"Neither may appellant's claim in his second assignment of error that the accused issued the checks in question merely to guarantee the payment of the purchases by Powerhouse Supply, Inc. serve to exculpate accused from criminal liability for his act of issuing the checks in question.

"It is now settled that Batas Pambansa Bilang 22 applies even in cases where dishonored checks are issued merely in the form of a deposit or a guarantee. The enactment in question does not make any distinction as to whether the checks within its contemplation are issued in payment of an obligation or merely to guarantee the said obligation. In accordance with the pertinent rule of statutory construction, inasmuch as the law has not made any distinction in this regard, no such distinction can be made by means of interpretation or application. Furthermore, the history of the enactment of subject statute evinces the definite legislative intent to make the prohibition all-embracing, without making any exception from the operation thereof in favor of a guarantee. This intent may be gathered from the statement of the sponsor of the bill (Cabinet Bill No. 9) which was enacted later into Batas Pambansa Bilang 22, when it was introduced before the Batasan Pambansa, that the bill was introduced to discourage the issuance of bouncing checks, to prevent checks from becoming "useless scraps of paper" and to restore respectability to checks, all without distinction as to the purpose of the issuance of the checks. The legislative intent as above said is made all the more clear when it is considered that while the original text of Cabinet Bill No. 9, supra, had contained a proviso excluding from the coverage of the law a check issued as a mere guarantee, the final version of the bill as approved and enacted by the Committee on the Revision of Laws in the Batasan deleted the abovementioned qualifying proviso deliberately for the purpose of making the enforcement of the act more effective (Batasan Record, First Regular Session, December 4, 1978, Volume II, pp. 1035-1036).

"Consequently, what are important are the facts that the accused had deliberately issued the checks in question to cover accounts and that the checks were dishonored upon presentment regardless of whether or not the accused merely issued the checks as a guarantee." (pp. 4-5, Dec. IAC) (pp. 37-38, Rollo)

From the aforequoted paragraphs, it is clear that it is the intention of the framers of Batas Pambansa Bilang 22 to make the mere act of issuing a worthless check *malum prohibitum* and thus punishable under such law.

Finally, We now come to the third argument regarding the denial of the petition by a minute resolution. Although, petitioner in his Reply, thru his counsel, Atty. Joanes G. Caachbay has never questioned the power of this Court to deny petition for review by the issuance of a mere minute resolution as there is no violation whatsoever of the provisions of the Constitution and at the same time, same counsel disowns having knowledge or a hand in the preparation of the motion for reconsideration which was prepared by a certain Atty. Victor T. Avena, We deemed it worthwhile to mention here the case of *In Re: Almacen*, 31 SCRA 562, 574 where We held that:

"Six years ago in *Novino, et al vs. Court of Appeals, et al.*, L-21098, May 31, 1963 (60 O.G. 8099), this Court through the then Chief Justice Cesar Bengzon, articulated its considered view on this matter. There, the petitioner's counsel urged that a "lack of merit" resolution violates Section 12 of Article VIII of the Constitution. Said Chief Justice Bengzon:

"In connection with identical short resolutions, the same question has been raised before; and we held that these 'resolutions' are not 'decisions' within the above constitutional requirement. They merely hold that the petition for review should not be entertained in view of the provisions of Rule 46 of the Rules of Court; and

even ordinary lawyers have all this time so understood it. It should be remembered that a petition to review the decision of the Court of Appeals is not a matter of right, but of sound judicial discretion; and so there is no need to fully explain the court's denial. For one thing, the facts and the law are already mentioned in the Court of Appeals' opinion."

WHEREFORE, premises considered, the motion for recon-sideration of the denial of the instant petition for certiorari, is hereby DENIED.

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

[1] p. 46, Rollo, Second Division

[2] Penned by Justices Lorna Lombos-dela Fuente, concurred in by Justices Emilio A. Gancayco & Jose A. Campos, Jr., An-nex "B" to the Petition.

[3] Resolution dated July 7, 1986 denying petitioner's Motion for Reconsideration Annex "D".

[4] Penned by Judge Antonio P. Solano.

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