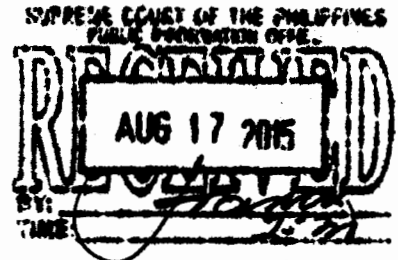




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated **July 13, 2015** which reads as follows:

“G.R. No. 216464 (Estrella Aldaba, *petitioner* v. Jerry Ching and Lily Go, *respondents*). -

Before us is a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court assailing the twin Resolutions dated 29 August 2014¹ and 20 January 2015² of the Court of Appeals in CA-G.R. SP No. 135794 which dismissed the appeal of petitioner Estrella Aldaba (Aldaba) from the uniform rulings of the lower courts, the Regional Trial Court (RTC), Branch 8 and the Metropolitan Trial Court (MeTC), Branch 23, both of the City of Manila in Criminal Case No. 13-297720-24 and Criminal Case Nos. 329645-49-CR, respectively. The MeTC, and affirmed by the RTC on appeal, acquitted Aldaba of violation of Batas Pambansa Blg. 22, The Bouncing Checks Law, but found her civilly liable for the face value of the bounced checks she had issued.

In five (5) similarly worded Informations, differing only in the number of the checks, Aldaba was charged before the MeTC with violation of B.P. Blg. 22, for five (5) checks issued to respondents Jerry Ching (Ching) and Lily Go (Go), nephew and aunt, respectively, representing the total amount ₱1,105,000.00. The Information in Criminal Case Nos. 329645-49-CR reads:

- over - five (5) pages

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¹ Rollo, pp. 23-26; Penned by Associate Justice Maria Elisa Sempio Dy with Associate Justices Ramon M. Bato, Jr. and Rodil V. Zalameda concurring.

² Id. at 28-30

That on or about August 17, 1998 in the City of Manila, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to JERRY C. CHING & LILY GO to apply on account or for value ALLIED BANK Check No. 0009999 post dated Dec. 26, 1998 payable to CASH in the amount of P500,000.00 said accused well knowing that at the time of issue she/he/they did not have sufficient funds or credit with the drawee bank for payment of such check in full upon its presentment for payment within ninety (90) days from the date thereof was subsequently dishonored by the drawee bank for "ACCOUNT CLOSED" and despite receipt of notice of such dishonor, said accused failed to pay said Jerry Ching & Lily Go the amount of the check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.³

According to the prosecution, sometime in June 1998, respondents initially intended to purchase property of Aldaba's daughter for the purchase price of ₱2,000,000.00. For this purpose, Aldaba had a Special Power of Attorney from her daughter authorizing her to sell the latter's property. Aldaba likewise appointed a Vicky Tolentino (Tolentino), Aldaba's neighbor and whom Ching has known since 1996, to broker the sale of the realty.

Prior to the actual sale, respondents already advanced half of the purchase price to Aldaba in the amount of ₱1,000,000.00. In one instance of payment, Tolentino received the money, and thereafter handed it to Aldaba. When respondents were about to pay the full amount of the purchase price of ₱2,000,000.00, Aldaba suddenly increased it to ₱2,500,000.00. Consequently, respondents backed out from purchasing the property and asked for the return of the ₱1,000,000.00 payments they had already made plus interests. Thus, Aldaba issued the five (5) checks to respondents in the following amounts: (1) two checks of ₱500,000.00 each and (2) three checks of ₱35,000.00 each. However, upon presentment for payment, all the checks were dishonored for reason "Account Closed."

As her defense, Aldaba claimed that she issued the five (5) checks simply to accommodate Tolentino who needed the checks to get into a rediscounting checks business handled by respondent Go. Thus, one of the checks in the amount of ₱500,000.00 was issued to Go. Aldaba likewise alleged that she lent Tolentino a ₱500,000.00 check upon the understanding that the latter will not negotiate it. According to Aldaba, she also had an agreement with Tolentino for the latter to broker the sale of her property in Malolos, Bulacan and so Aldaba confidently issued checks to Tolentino as possible commission for their intended sale transaction.

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³ Id. at 39.

After trial, the MeTC acquitted Aldaba of five (5) counts of violation of B.P. Blg. 22 due to insufficiency of evidence, specifically on the element of the crime that Aldaba had received a notice of dishonor of the checks. Nonetheless, the MeTC ordered payment of: (1) ₱1,000,000.00, the face value of the two (2) checks plus 12% interest per annum from date of judicial demand, (2) attorney's fees of ₱20,000.00, and (3) costs of suit.

On appeal by Aldaba, the RTC affirmed the ruling of the MeTC on Aldaba's acquittal for the crime but civilly liable to respondents, the payees, for ₱1,000,000.00.

Undaunted, Aldaba appealed to the Court of Appeals which, as previously adverted to, dismissed her petition for review on purely procedural grounds. In a Resolution dated 29 August 2014, the appellate court found the petition for review fatally defective: (1) the notary public before whom the verification/certification of non-forum shopping was subscribed and sworn to failed to indicate his place of commission, in violation of the 2004 Rules on Notarial Practice; (2) the copies of relevant pleadings and documents that would support the allegations in the petition are incomplete, in violation of paragraph 2, Section 1, Rule 65 and paragraph 2, Section 3, Rule 46 of the 1997 Rules of Civil Procedure; and (3) the counsel who represented petitioner failed to indicate his current IBP and PTR number in violation of Bar Matter no. 1132, 1 April 2003.

In its 20 January 2015 Resolution, the appellate court dismissed Aldaba's motion for reconsideration.

Hence, this petition for review on *certiorari* by Aldaba.

We find no reversible error in the appellate court's dismissal of Aldaba's petition for review for the fatal defects contained therein.

We completely agree with the Court of Appeal's succinct ruling thereon:

After a careful examination of the records, we observe that the notary public before whom the verification/certification of non-forum shopping was subscribed and sworn failed to indicate the province or city where said notary public was commissioned, in violation of the requirement laid by the 2004 Rules on Notarial Practice. This made the verification and certification of non-forum shopping defective. Such

defect adversely affects the nature of the petition as one taken under oath. Therefore, in effect, petitioner miserably failed to comply with the verification and certification of non-forum shopping requirement as specifically provided for under Section 2, Rule 42 of the 1997 Rules of Civil Procedure.

Moreover, petitioner failed to attach copies of pleadings and documents filed before the Metropolitan Trial Court and the Regional Trial Court that would support the allegations of the petition [under Sections 2 and 3 of Rule 42 of the 1997 Rules of Civil Procedure].

x x x x

Failure of petitioner to comply with the foregoing requirements as specifically provided under the Rules of Court warrants the dismissal of the instant petition for review.

In addition, petitioner's counsel failed to indicate his current IBP and PTR number as strictly required under Bar Matter (BM) No. 1132 x x x.⁴

In fact, as observed by the Court of Appeals, even with the outright dismissal of her petition, Aldaba failed to rectify the defects contained therein.

We likewise do not find reversible error in the trial courts' uniform ruling that Aldaba is civilly liable to respondents for the value of the checks in the amount of ₱1,000,000.00. Exceptional circumstances do not obtain herein for us to reverse the factual findings of the lower courts' that Aldaba indeed owed respondents the value of the checks issued to them.

However, we modify the order to pay legal interest of twelve percent (12%) *per annum* and reduce it to six percent (6%) *per annum* in accordance with Bangko Sentral ng Pilipinas Circular No. 799, Series of 2013.

WHEREFORE, the petition is **DENIED** for no reversible error in the Court of Appeal's Resolutions dated 29 August 2014 and 20 January 2015 in CA-G.R. SP No. 135794. The Decision of the Metropolitan Trial Court, Branch 23, Manila in Criminal Case Nos. 329645-49-CR is **AFFIRMED with MODIFICATION** that petitioner Estrella Aldaba is ordered to pay the face value of the two (2) checks issued to respondents Jerry Ching and Lily Go in the amount of ₱1,000,000.00 plus legal interest of six percent (6%) *per annum*.

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Id. at 24-25.

SO ORDERED.”

Very truly yours,

~~_____~~
EDGAR O. ARICHETA
Division Clerk of Court ^{M 1/M}
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