



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated November 18, 2020 which reads as follows:

“G.R. No. 233969 (Ramon L. Lugtu and Dina S. Lugtu, Petitioners, v. People of the Philippines, Alfredo C. Adriano and Araceli Adriano, Respondents). – Petitioners Ramon L. Lugtu (Ramon) and Dina S. Lugtu (Dina) assail the Court of Appeal’s (CA) Decision¹ in CA-G.R. SP No. 147448 promulgated on 30 May 2017, whereby the appellate court affirmed the judgment rendered on 04 January 2016 by Branch 215, Regional Trial Court (RTC) of Quezon City in Criminal Case No. R-QZN-15-05096-05116-CR. The RTC’s judgment, in turn, affirmed with modification the decision of Branch 39, Metropolitan Trial Court (MeTC) of Quezon City in Criminal Case Nos. 06-140664-84,² finding Ramon guilty of violating Batas Pambansa Blg. (BP) 22 or the Anti-Bouncing Checks Law, while acquitting Dina of the same crime for insufficiency of evidence. Both, however, were adjudged civilly liable to pay private complainants Php7,252,488.09, representing the total face value amount of the dishonored checks plus stipulated interest and costs of suit.

Antecedents

In September 2006, twenty-one (21) similarly worded Informations, except for the check number and amount involved, were filed against accused Ramon and Dina, charging them of violating BP 22 by issuing worthless checks. The first of these Informations reads:

That on or about the 8th day of August 2003, in Quezon City, Philippines, the said accused, conspiring, confederating with

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¹ *Rollo*, pp. 7-17; penned by then Associate Justice Romeo F. Barza, and concurred in by Associate Justices Socorro B. Inting and Ramon Paul L. Hernando (now a Member of this Court) of the Court of Appeals, Manila.

² *Id.* at 80-88; penned by Presiding Judge Juvenal N. Bella.

and mutually helping each other, did then and there, willfully, unlawfully, and feloniously make or draw and issued to SPOUSES ALFREDO C. ADRIANO & ARACELI ADRIANO to apply on account or for value UCPB Check No. 0005526478 postdated November 08, 2003 payable to the order Alfredo or Araceli Adriano in the amount of P32,000.00 Philippine Currency, said accused well knowing that at the time of issued (sic) he/she/they did not have sufficient funds in or credit with the drawee bank for payment of such check in full upon its presentment which check when presented for payment was subsequently dishonored by the drawee bank for Account Closed and despite receipt of notice of such dishonor, said accused failed to pay said offended party the amount of said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

Contrary to law.³

Upon arraignment, accused-appellant pleaded not guilty to the charge. Thus, trial on the merits ensued.⁴

The prosecution alleged that private respondents, spouses Alfredo C. Adriano and Araceli Adriano, invested money into the business of Altus NVTERA Corporation (Altus), represented by petitioners. The parties agreed that the private respondents' investment would earn monthly interest of 1.6% up to March 2004 and was evidenced by five (5) promissory notes issued by the corporation, through petitioners. Subsequently, petitioners, as joint signatories, issued twenty-one (21) UCPB Checks⁵ representing full payment of the promissory notes plus the agreed interest up to March 2004. However, upon presentment, the checks were dishonored for the reason "Account Closed." Private respondents alleged that they sent repeated demands/notices to petitioners to make good the checks but petitioners failed to do so. Nevertheless, petitioner Ramon sent them a letter dated 07 February 2004 acknowledging Altus' liability and assuring them payment in due time. The private respondents again sent to petitioners a demand letter dated 14 April 2004, which they claim was ignored, prompting them to file against petitioners a complaint for violating of BP 22.⁶

For their defense, petitioners alleged that Altus, which is engaged in the lending business by providing credit accommodation to public school teachers, had a Memorandum of Agreement with the Department of Education (DepEd), wherein the latter undertook to

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³ *Id.* at 8.

⁴ *Id.* at 81.

⁵ *Id.* at 83.

⁶ *Id.* at 83-84.

collect the amortizations with interest from the teachers who have outstanding loans with Altus under an Automatic Payroll Deduction System (APDS). The only limitation is that DepEd would not collect from the teachers if their minimum take-home pay will fall below the Php2,000.00 mark, as provided under the 2001 General Appropriations Act (GAA). In 2002, however, the Congress enacted the 2002 GAA which increased the minimum take-home pay of the teachers to Php3,000.00. Thus, according to petitioners, DepEd further refused to collect from the teachers whenever their take home pay fell below the minimum Php3,000.00 limit. This also led to Altus not receiving funds to pay for the checks it issued to private respondents. Thus, petitioners sought exemption from criminal liability arguing that the enactment of the 2002 GAA produced a situation where what used to be a perfectly legal act under the 2001 GAA – the collection by the DepEd of the amortizations on loans of teachers even if the take home pay is reduced to a level lower than Php3,000.00 – became an illegal act under the 2002 GAA.⁷

Ruling of the MeTC

On 06 June 2014, the MeTC rendered judgment finding petitioner Ramon guilty as charged. The trial court reasoned that the stipulations made by the parties during pre-trial that, among others: (1) the signatures appearing on the checks belonged to Ramon and Dina; (2) Ramon sent a reply letter with respect to the notice of dishonor; (3) the subject checks were duly issued; and (4) there was notice of dishonor and all checks were dishonored for the reason “Account Closed”, are all judicial admissions that established the existence of the elements of a violation of BP 22.⁸

Nevertheless, the MeTC ruled the said admissions were only conclusive to Ramon because the prosecution failed to prove Dina’s actual receipt of the notice of dishonor. In particular, the MeTC held that the prosecution merely presented the registry return cards allegedly without authenticating the signature of the recipient. Thus, Dina was acquitted of the charges against her.⁹

For his penalty, Ramon was ordered to pay fines of various amounts in lieu of imprisonment pursuant to Supreme Court Administrative Circular Nos. 12-2000 and 13-2001, and considering the prosecution failed to prove that Ramon was not a first-time

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⁷ *Id.* at 84.

⁸ *Id.* at 85.

⁹ *Id.*

offender.¹⁰ Nevertheless, the MeTC decreed subsidiary imprisonment in case of Ramon's insolvency.¹¹

Further, Ramon and Dina were both adjudged civilly liable. According to the MeTC, the prosecution was able to prove by preponderance of evidence the indebtedness of both petitioners, especially when it was already admitted during pre-trial that the signatures on the checks belong to Ramon and Dina, while the latter failed to prove payment of the checks.¹² Hence, they were ordered to pay the total amount of Php7,252,488.09 with the stipulated interest of 1.6% per month from the filing of the Information until fully paid, and Php131,582.61 as costs of suit.¹³

Ruling of the RTC

On appeal, the RTC affirmed the MeTC's ruling with modification. Thus:

WHEREFORE, the assailed Decision is hereby AFFIRMED with MODIFICATION, DELETING subsidiary imprisonment in case of insolvency in view of the age of accused Ramon Lugtu, who is already more than 80 years old, and considering the challenges of Altus in its collection efforts with the enactment of the 2002 General Appropriations Act. Furthermore, in view of the affirmation of the civil aspect of these cases, private complainants-appellees' Urgent Motion for Issuance of Writ of Execution is likewise GRANTED.¹⁴

The RTC held that the MeTC correctly ruled the matters stipulated upon during pre-trial are judicial admissions which established the existence of the elements of a violation of BP 22.¹⁵ It likewise ruled that the passage of the GAA 2002 could not be considered a lawful or insuperable cause that could exempt Ramon from criminal liability. While the GAA 2002 may have limited the DepEd's capacity as a collecting agency, it did not prevent accused from collecting on their own the outstanding loans of the teachers they have loan contracts with.¹⁶ The RTC was also not convinced by Ramon's assertion that he has limited liability considering that he signed the checks only as an officer of Altus, which is a corporation

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¹⁰ *Id.* at 86.

¹¹ *Id.* at 87-88.

¹² *Id.* at 86-87.

¹³ *Id.* at 88.

¹⁴ *Id.* at 77.

¹⁵ *Id.* at 74.

¹⁶ *Id.* at 75.

with a separate juridical personality. It explained that BP 22 expressly provides that if the check was drawn by a corporation, the person or persons who actually signed the check shall be liable.¹⁷ Finally, the RTC affirmed the MeTC's finding that both Ramon and Dina are civilly liable.¹⁸

Ruling of the CA

As mentioned, the CA rendered its Decision denying petitioners' appeal. The dispositive portion of the CA's Decision reads:

WHEREFORE, the petition is hereby DENIED and the appealed Decision and Order of the RTC-Branch 215 of Quezon City, in Criminal Case Nos. Q-15-05096 to 05116, are AFFIRMED.¹⁹

The CA affirmed the RTC's ruling that Ramon could not successfully claim the enactment of the GAA 2002 as a lawful and insuperable cause that prevented him from fulfilling his obligation to the private respondents, and thus, exempting him from criminal liability. The appellate court points out that the gravamen of a BP 22 violation is the act of drawing worthless checks and not the non-payment of a debt;²⁰ and violations of BP 22 are *malum prohibitum* that are punished without regard to the perpetrator's intent.²¹

It also explained BP 22 clearly provides that corporate officers are held liable when the worthless check was drawn by a corporation. Hence, Ramon could not hide behind the "separate juridical personality" argument to escape criminal liability.²²

On 06 September 2017, the CA issued a Resolution denying petitioners' motion for reconsideration.²³

Issue

The Court is confronted with the issue of whether or not petitioner Ramon was correctly convicted for violating BP 22. He

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¹⁷ *Id.* at 76.

¹⁸ *Id.*

¹⁹ *Id.* at 16.

²⁰ *Id.* at 14.

²¹ *Id.* at 14-15.

²² *Id.* at 15.

²³ *Id.* at 19-21.

maintains the doctrine of “separate juridical entity” imposes upon corporate officers limited liability and thus, he should not be held criminally liable for the checks drawn by Altus, absent any indication that the corporation was used as a subterfuge for fraud.²⁴

Petitioners also argue that the trial courts and CA erred in finding them civilly liable in their personal capacity for the amount of the checks and for payment of interest. Civil liability should remain with Altus since the promissory notes and checks were issued and drawn by the corporation. They merely signed the checks as officers of Altus. They also claim that BP 22 has no provision on civil liability.²⁵

Ruling of the Court

The present petition is partially granted.

Petitioner Ramon’s criminal liability is clear under the provisions of BP 22, which provides that “[w]here the check is drawn by a corporation, company or entity, **the person or persons who actually signed the check** in behalf of such drawer shall be liable under this Act.”²⁶

Moreover, the Court, in several instances, had maintained that corporate officers cannot escape liability from BP 22 by the mere invocation of the veil of corporate fiction:

The Court finds itself unable to agree with Mitra's posture. The third paragraph of Section 1 of BP 22 reads: "Where the check is drawn by a corporation, company or entity, the person or persons

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²⁴ *Id.* at 40.

²⁵ *Id.* at 41-46.

²⁶ Section 1. Checks without sufficient funds. - Any person who 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 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 had not the drawer, without any valid reason, ordered the bank to stop payment, shall be punished by imprisonment of not less than thirty days but not more than one (1) year or by a fine of not less than but not more than double the amount of the check which fine shall in no case exceed Two Hundred Thousand Pesos, or both such fine and imprisonment at the discretion of the court.

The same penalty shall be imposed upon any person who, having sufficient funds in or credit with the drawee bank when he makes or draws and issues a check, 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.

Where the check is drawn by a corporation, company or entity, the person or persons who actually signed the check in behalf of such drawer shall be liable under this Act.

who actually signed the check in behalf of such drawer shall be liable under this Act." **This provision recognizes the reality that a corporation can only act through its officers. Hence, its wording is unequivocal and mandatory — that the person who actually signed the corporate check shall be held liable for a violation of BP 22. This provision does not contain any condition, qualification or limitation.**²⁷ (Emphasis supplied)

The same is true anent petitioner Ramon's civil liability. We held in *Navarra v. People*²⁸ that BP 22 fused the civil liability for the amount of the worthless checks with the criminal prosecution of the violation of the law. It is also unimportant that the civil liability should have belonged to the corporation. Thus:

When a corporate officer issues a worthless check in the corporate name, he may be held personally liable for violating a penal statute. The statute imposes criminal penalties on anyone who draws or issues a check on any bank with knowledge that the funds are not sufficient in such bank to meet the check upon presentment. Moreover, the corporate officer cannot shield himself from liability on the ground that it was a corporate act and not his personal act. The general rule is that a corporate officer who issues a bouncing corporate check can be held civilly liable when he is convicted. The criminal liability of the person who issued the bouncing checks in behalf of a corporation stands independent of the civil liability of the corporation itself, such civil liability arising from the Civil Code. **But BP 22 itself fused this criminal liability with the corresponding civil liability of the corporation itself by allowing the complainant to recover such civil liability, not from the corporation, but from the person who signed the check in its behalf.** (Emphasis supplied)

Nevertheless, We find it necessary to exculpate Dina from her civil liability in view of her acquittal. In *Ongkingco v. Sugiyama and People*,²⁹ We held that civil liability under BP 22 is extinguished together with the extinguishment of the criminal liability and regardless of the reason of the acquittal. We held:

As a general rule, when a corporate officer issues a worthless check in the corporate's name, he or she may be held personally liable for violating a penal statute, *i.e.*, Section 1 of B.P. 22. However, a corporate officer who issues a bouncing corporate check can only be held civilly liable when he or she is convicted. **Conversely, once acquitted of the offense of violating B.P. 22, a corporate officer is discharged of any civil liability arising from the issuance of the worthless check in the name of the**

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²⁷ *Mitra v. People*, G.R. No. 191404, 05 July 2010, 637 Phil. 645-655 (2010) [Per J. Mendoza].

²⁸ G.R. No. 203750, 06 June 2016 [Per J. Peralta].

²⁹ G.R. No. 217787, 18 September 2019 [Per J. Peralta].

corporation he or she represents. This is without regard as to whether his acquittal was based on reasonable doubt or that there was a pronouncement by the trial court that the act or omission from which the civil liability might arise did not exist.
(Emphasis supplied)

On the proper penalty to be imposed upon petitioner Ramon, We give due respect to the MeTC's discretion to impose the penalty of fine instead of imprisonment. The Court, in issuing Administrative Circular No. 13-01,³⁰ clarified that the determination of whether to impose prison term or fine in BP 22 cases rests upon the sound discretion of the trial judge. Thus:

Thus, Administrative Circular No. 12-2000 establishes a rule of preference in the application of the penal provisions of B.P. 22 such that where the circumstances of both the offense and the offender clearly indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone should be considered as the more appropriate penalty. Needless to say, the determination of whether the circumstances warrant the imposition of a fine alone rests solely upon the Judge. Should the Judge decide that imprisonment is the more appropriate penalty, Administrative Circular No. 12-2000 ought not be deemed a hindrance.

It is, therefore, understood that:

1. Administrative Circular 12-2000 does not remove imprisonment as an alternative penalty for violations of B.P. 22;
2. The Judges concerned may, in the exercise of sound discretion, and taking into consideration the peculiar circumstances of each case, determine whether the imposition of a fine alone would best serve the interests of justice or whether forbearing to impose imprisonment would depreciate the seriousness of the offense, work violence on the social order, or otherwise be contrary to the imperatives of justice; and
3. Should only a fine be imposed and the accused be unable to pay the fine, there is no legal obstacle to the application of the Revised Penal Code provisions on subsidiary imprisonment.

Notwithstanding, the Court does not agree with the findings of the RTC, as affirmed by the CA, on the deletion of subsidiary

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³⁰ Clarification of Administrative Circular No. 12-2000 on the Penalty for Violation of Batas Pambansa Blg. 22, Otherwise Known as the Bouncing Checks Law, issued on 14 February 2001.

imprisonment in lieu of failure to pay fine. Administrative Circular No. 13-01 is clear; there is no legal obstacle on the application of subsidiary imprisonment should only a fine be imposed and the accused is unable to pay the same. It has long been settled that the provisions of subsidiary imprisonment under the Revised Penal Code applies suppletorily to *Batas Pambansa Blg. 22* pursuant to Article 10 of the same Code,³¹ which provides:

ART. 10. *Offenses not subject to the provisions of this Code.* – Offense which are or in the future may be punishable under special laws are not subject to the provisions of this Code. **This code shall be supplementary to such laws, unless the latter should specifically provide the contrary.** (Emphasis supplied)

As regards Ramon's civil liability, the discussion above leads to the inevitable conclusion that he alone should be held liable for the total face value of the checks amounting to Php7,252,488.09 with interest. Nevertheless, the interest imposed by the MeTC should be modified. According to the factual findings of the trial courts and the CA, the amount of interest agreed by the parties under the promissory note was already included in the face value amounts of the checks.³² Hence, it was erroneous for the MeTC to use the stipulated interest of 1.6% in imposing interest on the judgment award since Ramon's and Altus' contractual liability to pay interest would have been fulfilled by requiring him to pay the face value of the checks. Moreover, Ramon's liability to pay interest upon the MeTC's judgment award is predicated on his civil liability *ex-delicto* and not on a judgment in a litigation involving an obligation consisting in the payment of a sum of money such as loans or forbearance of money.³³ As such, the interest imposed by the court should always be the prevailing legal interest prescribed by the *Bangko Sentral ng Pilipinas*.³⁴

Thus, pursuant to *Nacar v. Gallery Frames*³⁵ and *Lara's Gift and Decors, Inc. v. Midtown Industrial Sales, Inc.*,³⁶ We rule that the judgment award should earn legal interest of six percent (6%) *per annum*, computed from the filing of the Informations – which is the making of judicial demand for Ramon's liability – until full payment.

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³¹ See *Yu v. People*, G.R. No. 134172, 20 September 2004, 481 Phil. 780-790 (2004) [Per J. Sandoval-Gutierrez].

³² *Rollo*, p. 9.

³³ See *Eastern Shipping Lines, Inc. v. Court of Appeals*, G.R. No. 97412, 12 July 1994, 304 Phil. 236-254 (1994) [Per J. Vitug].

³⁴ *Lara's Gift and Decors, Inc. v. Midtown Industrial Sales, Inc.*, G.R. No. 225433, 28 August 2019 [Per J. Carpio].

³⁵ G.R. 189871, 13 August 2013, 716 Phil. 267-283 (2013) [Per J. Peralta].

³⁶ *Supra* at note 31.

WHEREFORE, premises considered, the present petition for review on *certiorari* is hereby **PARTIALLY GRANTED**. The Decision of the Court of Appeals in CA-G.R. SP No. 147448 is **AFFIRMED with MODIFICATIONS**. Petitioner Ramon L. Lugtu's conviction is **AFFIRMED**. Nevertheless, petitioner Dina S. Lugtu's civil liability as pronounced by the MeTC in Criminal Case Nos. 06-140664-84 is **DELETED**.

Aside from the fines imposed upon him by the MeTC, petitioner Ramon L. Lugtu is **ORDERED** to pay the private respondents the amount of Php7,252,488.09 representing the total value of the worthless checks, plus legal interest of six percent (6%) *per annum* computed from the filing of the Informations until full payment, with subsidiary imprisonment in case of insolvency pursuant to Article 39 of the Revised Penal Code. The imposition of costs of suit by the MeTC is likewise **AFFIRMED**.

SO ORDERED." *Carandang, J., on official leave.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gr/16*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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