



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **03 January 2022** which reads as follows:*

“**G.R. No. 257059** (*Divina Patacsil Alvaro v. People of the Philippines*). – This Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assails the Decision² dated November 5, 2020 and the Resolution³ dated March 25, 2021 of the Court of Appeals (CA) in CA-G.R. CR No. 44665. The CA affirmed petitioner’s conviction for two (2) counts of violation of *Batas Pambansa Blg. (BP) 22*.⁴

The Antecedents

Divina Patacsil Alvaro (petitioner) obtained a loan from private complainant Jay S. Bautista (Bautista) sometime in 2013. To guarantee the payment of the loan, petitioner issued to Bautista the following: (1) Security Bank Check No. 0511667, dated February 2, 2014, in the amount of ₱20,000.00; and (2) Security Bank Check No. 0511669, dated February 7, 2014, in the amount of ₱15,000.00.⁵

When Bautista presented the two checks with the drawee bank on the due dates for payment, they were dishonored for the reason that petitioner had no sufficient funds therein to cover the respective amounts. Despite personal receipt of the demand letter on February 18, 2014, petitioner ignored the demand to pay and failed to make good the value of the checks.⁶

¹ *Rollo*, pp. 9-21.

² *Id.* at 76-82; penned by Associate Justice Marlene B. Gonzales-Sison, with Associate Justices Tita Marilyn Payoyo-Villordon and Carlito B. Calpatura, concurring.

³ *Id.* at 94-95.

⁴ Entitled “An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds or Credit and for Other Purposes”, approved on April 3, 1979.

⁵ *Id.* at 76.

⁶ *Id.* at 76-77.

Subsequently, Bautista sued petitioner for Estafa and violation of BP 22. The estafa complaint was dismissed. However, petitioner was charged before Branch 2 of the Municipal Trial Court in Cities (MTCC) of Baguio City with two (2) counts of violation of BP 22.⁷ The Information against her in Criminal Case No. 132433 is quoted below:

That sometime in the month of November 2013, in the city of Baguio, Philippines and within the jurisdiction of this Honorable Court, the above-named accused knowing at the time of issue that she does not have sufficient funds in or credit in full upon its presentment, did then and there willfully, unlawfully, and feloniously draw and issue a Security Bank, La Trinidad, Benguet Branch bearing Check No. 051169 dated February 7, 2014 in the amount of P15,000.00 payable to JAY S. BAUTISTA, to apply for account or value, which check when presented by complainant Jay Bautista for payment was dishonored by the drawee bank for the reason "DRAWN AGAINST INSUFFICIENT FUND" and that the latter failed to pay to complainant the amount due thereon or make arrangement for the payment in full by the drawee of such check within [five] (5) days after receiving notice of dishonor, and in spite of repeated demands made upon her[,] accused failed, neglected, and refused to pay the amount of her dishonored check, to the damage and prejudice of the offended party in the amount of FIFTEEN THOUSAND (P15,000.00) PESOS, Philippine Currency.⁸

The Information against petitioner in Criminal Case No. 132434 is similarly worded as above, except for the check number, date of the check, and amount, which are Security Bank Check No. 051167, February 2, 2014, and ₱20,000.00, respectively.⁹

During trial before the MTCC, petitioner admitted issuing the subject checks but alleged that they were not intended to be deposited or presented for payment with the bank. She claimed that the checks were only intended to serve as security and/or guarantee for the loans.¹⁰ Further, she denied having received the demand letter on February 18, 2014 or any notice from the bank that she had no sufficient funds therein to cover the checks.¹¹

⁷ *Id.*

⁸ *Id.* at 45.

⁹ *Id.* at 47.

¹⁰ *Id.* at 77.

¹¹ *Id.*

Ruling of the MTCC

In its Joint Decision¹² dated June 23, 2017, the MTCC convicted petitioner of two counts of violation of BP 22 as follows:

WHEREFORE, the Court hereby finds the accused Divina Alvaro GUILTY beyond reasonable doubt for two (2) counts of violation of BP 22. She is hereby meted the penalty of FINE in the full face value of each check issued in both Criminal Case No. 132433 and Criminal Case No. 132434.

With subsidiary imprisonment in case of insolvency.

Accused is similarly adjudged civilly liable to private complainant Jay Bautista in the principal amount of THIRTY FIVE THOUSAND PESOS (P35,000.00), subject to the legal interest of 6% *per annum* counted from the default. Upon finality of this judgment, the 6% interest rate *per annum* shall be computed from such finality until the satisfaction thereof.

SO ORDERED.¹³

Not satisfied with the ruling, petitioner appealed to the Regional Trial Court (RTC).

Ruling of the RTC

In its Decision¹⁴ dated July 31, 2019, the RTC affirmed the ruling of the MTCC judgment. Petitioner filed a Motion for Reconsideration,¹⁵ but the same was denied in an Order¹⁶ dated December 26, 2019.

Ruling of the CA

In its assailed Decision¹⁷ dated November 5, 2020, the CA affirmed the decision of the RTC. It held that the prosecution was able to establish beyond reasonable doubt all the elements of the offense. The CA found that petitioner's issued checks were dishonored upon presentment for the reason "drawn against insufficient fund."¹⁸

¹² *Id.* at 53-60; penned by Presiding Judge Glenda T. Ortiz-Soriano.

¹³ *Id.* at 60.

¹⁴ *Id.* at 61-64; penned by Presiding Judge Maria Ligaya V. Itliong-Rivera.

¹⁵ *Id.* at 65-68.

¹⁶ *Id.* at 69-70.

¹⁷ *Id.* at 76-82.

¹⁸ *Id.* at 79.

The CA further found that petitioner indeed received the demand letter. It upheld the finding of the RTC that petitioner's signatures on the subject checks and the demand letter were very similar, leading to the conclusion that they were made by one and the same person.¹⁹

Petitioner moved for reconsideration²⁰ of the CA Decision, but to no avail.²¹ Hence, the instant petition.

Issue

Whether the CA erred in affirming petitioner's conviction for two (2) counts of violation of BP 22.

Ruling of the Court

The petition is denied.

Petitioner argues that the prosecution failed to prove beyond reasonable doubt that she received the demand letter or notice of dishonor. Verily, the issue is purely factual, which is not proper in a petition for review under Rule 45 of the Rules of Court. The Court is not a trier of facts; only errors of law are generally reviewed in petitions for review on *certiorari* assailing the decisions of the CA.²² The Court will not again review the evidence which had already been thoroughly evaluated and considered by the MTCC, the RTC, and the CA. This is even more true in the present case because petitioner failed to show that the CA Decision was based on misapprehension of facts, or pure speculation, or was otherwise tainted with grave abuse of discretion.

Hence, the Court finds no reason to reverse the CA Decision.

The prosecution was able to establish beyond reasonable doubt petitioner's guilt for two (2) counts of violation of BP 22. The elements of the offense are as follows: "(1) the accused makes, draws, or issues any check to apply to account or for value; (2) the accused knows at the time of issue that [he/she] does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its

¹⁹ *Id.*

²⁰ *Id.* at 83-88.

²¹ *Id.* at 94-95.

²² *Go-Bangayan v. Spouses Ho*, G.R. No. 203020, June 28, 2021; citing *Acebedo Optical v. National Labor Relations Commission*, 554 Phil. 524, 541 (2007).

presentment; and (3) the 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.”²³ It is a settled fact that in the case, petitioner issued the subject checks that were dishonored upon presentment for payment as they were “drawn against insufficient fund.”²⁴ She was duly notified of such dishonor but failed to make good the value of the checks.²⁵

Notably, the MTCC imposed legal interest at the rate of six percent (6%) *per annum* on the value of the checks from default or extrajudicial demand on February 18, 2014. The MTCC likewise imposed the same interest rate on the monetary award from finality of its decision until full payment.²⁶ Such is in conformity with *Nacar v. Gallery Frames*.²⁷

Accordingly, petitioner’s civil liability in the amount of ₱35,000.00 representing the face value of the two (2) checks shall be subject to six percent (6%) interest *per annum* from February 18, 2014, the date petitioner received the demand letter, until the finality of this Resolution. The total amount of the foregoing shall, in turn, earn six percent (6%) legal interest *per annum* from finality of this Resolution until fully paid.

WHEREFORE, the petition is **DENIED**. The Decision dated November 5, 2020 and the Resolution dated March 25, 2021 of the Court of Appeals in CA-G.R. CR No. 44665 are **AFFIRMED**.

Petitioner Divina Patacsil Alvaro is found guilty beyond reasonable doubt of two (2) counts of violation of *Batas Pambansa Blg. 22* as respectively charged in Criminal Case No. 132433 and Criminal Case No. 132434, and is ordered to pay the following fines with subsidiary imprisonment in case of insolvency for each count:

1. ₱15,000.00 in Criminal Case No. 132433; and
2. ₱20,000.00 in Criminal Case No. 132434.

Furthermore, petitioner Divina Patacsil Alvaro is ordered to pay

²³ *People v. Flores*, 426 Phil. 187, 198 (2002); citing *King v. People*, 377 Phil. 692-711 (1999) and *Nieva, Jr. v. Court of Appeals*, 338 Phil. 529-545 (1997).

²⁴ *Rollo*, p. 57.

²⁵ *Id.* at 58-59.

²⁶ *Id.* at 60.

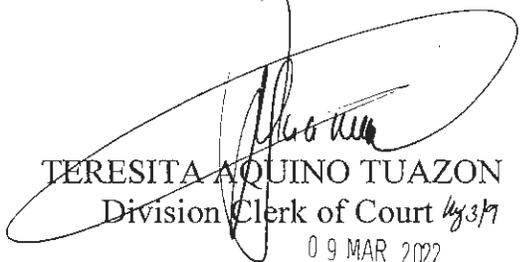
²⁷ 716 Phil. 267 (2013).

private complainant Jay S. Bautista the amount of ₱35,000.00 representing the face value of the two (2) bounced checks in Criminal Case No. 132433 and Criminal Case No. 132434, with six percent (6%) interest *per annum* to be computed from February 18, 2014, the date of the extrajudicial demand, until finality of this Resolution.

The foregoing monetary awards shall earn legal interest at the rate of six percent (6%) *per annum* from finality of this Resolution until fully paid.

SO ORDERED.”

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *by 3/9*
09 MAR 2022

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