



Republic of the Philippines  
Supreme Court  
Baguio City

THIRD DIVISION

NOTICE

Sirs/Mesdames

*Please take notice that the Court, Third Division, issued a Resolution dated April 19, 2023, which reads as follows:*

**“G.R. No. 264045 (*Daphine R. Molintas*<sup>1</sup> v. *People of the Philippines*).** – This is a Petition for Review on *Certiorari*<sup>2</sup> seeking to reverse and set aside the Decision<sup>3</sup> dated March 16, 2022, as well as the Resolution<sup>4</sup> dated September 19, 2022, of the Court of Appeals (CA) in CA-G.R. SP No. 169621. The CA affirmed the Joint Decision<sup>5</sup> dated December 27, 2019, rendered by the Regional Trial Court (RTC) of Baguio City, Branch 60 in Criminal Case Nos. 41242-R and 41243-R, which upheld the Joint Decision<sup>6</sup> dated November 25, 2017 of the Municipal Trial Court in Cities (MTCC) of Baguio City, Branch 1 in Criminal Case Nos. 135960 and 135961 finding Daphine R. Molintas (petitioner) guilty beyond reasonable doubt for two counts of violation of Batas Pambansa Bilang 22 (B.P. 22),<sup>7</sup> otherwise known as the Bouncing Checks Law.

After careful consideration of the issues raised and the arguments advanced in the present petition, the Court resolves to deny the same for failure of petitioner to sufficiently show that the CA committed any reversible error in sustaining her conviction as to warrant the exercise of the Court’s appellate jurisdiction.

Factual findings of the trial court, when affirmed by the CA, are considered binding and conclusive. While there are recognized exceptions, such as when the evaluation was reached arbitrarily or when the trial court overlooked, misunderstood or misapplied some facts or circumstances of weight and substance which could affect the result of the case, none of these

<sup>1</sup> A.k.a. Daphne Molintas; a.k.a. Daphine Yvonne Olive R. Molintas.

<sup>2</sup> *Rollo*, pp. 12-24.

<sup>3</sup> *Id.* at 82-92; penned by Associate Justice Manuel M. Barrios, with Associate Justices Gabriel T. Robeniol and Lorenza R. Bordios concurring.

<sup>4</sup> *Id.* at 103-104.

<sup>5</sup> *Id.* at 45-51; penned by Judge Rufus Gayo Malecдан, Jr.

<sup>6</sup> *Id.* at 32-43; penned by Judge Roberto R. Mabalot.

<sup>7</sup> “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.

obtains in this instance.<sup>8</sup>

In cases of violation of B.P. 22, the following essential elements must be established: (1) the making, drawing, and issuance of any check to apply for account or for value; (2) the knowledge of the maker, drawer, or issuer that at the time of issue there were no sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment; and (3) the dishonor of the check by the drawee bank for insufficiency of funds or credit or the dishonor for the same reason had not the drawer, without any valid cause, ordered the drawee bank to stop payment.<sup>9</sup>

All the elements were sufficiently proven by the prosecution. The two Producers Savings Bank checks with Check No. 0140010416 dated August 1, 2016 in the amount of ₱199,000.00 and Check No. 0140010417 dated September 1, 2016 in the amount of ₱199,000.00 were offered in evidence. These checks were dishonored upon presentation for payment for the reason "Account Closed." Petitioner failed to rebut the presumption of knowledge of insufficient funds, which attaches when the two checks were presented and dishonored by Producers Savings Bank within 90 days from its issuance and petitioner failed to pay the amount of the checks or make arrangements for their payment within five days from the time the written notice of dishonor was received by her on October 12, 2016. As found by the MTCC, petitioner admitted during pre-trial that she personally received the final demand letter *cum* notice of dishonor dated October 10, 2016, as evidenced by the signature affixed opposite her name in the said letter.<sup>10</sup>

Yet, in an attempt to exculpate herself from criminal liability, petitioner maintains that the checks were not issued for account or for value as she was not under any obligation to pay private complainant, Pacita C. Balasuit (Balasuit), not being privy to the deed of conditional sale and/or the rescission agreement between her and Marites Mendez (Mendez).<sup>11</sup> Hence, petitioner claims that Mendez, not Balasuit, is the real party-in-interest or the proper party to institute the criminal cases.<sup>12</sup> Petitioner likewise contends that she could not be held liable because the checks issued were not intended as payment, but merely to guarantee the refund of Mendez's money from the rescinded sale.<sup>13</sup>

**Petitioner's arguments do not persuade.** To begin with, they are reiteration of those already exhaustively passed upon by the lower courts.

As payee of the subject checks, Balasuit is the proper party to file the criminal complaint for two counts of violation of B.P. 22 against petitioner. The law does not require that the payee of a check be the same as the obligee

<sup>8</sup> *Labosta v. People*, G.R. No. 243926, June 23, 2020.

<sup>9</sup> *Mandagan v. Jose M. Valero Corporation*, G.R. No. 215118, June 19, 2019.

<sup>10</sup> *Rollo*, pp. 32-33 and 36, Joint Decision.

<sup>11</sup> *Id.* at 17, Petition for Review on *Certiorari*.

<sup>12</sup> *Id.* at 20, Petition for Review on *Certiorari*.

<sup>13</sup> *Id.* at 22, Petition for Review on *Certiorari*.

of the obligation in consideration for which the check has been issued.<sup>14</sup> What the law punishes is the issuance itself of a bouncing check and not the purpose for which it was issued or of the terms and conditions relating to its issuance.<sup>15</sup> In this case, there is no question that petitioner had the obligation to return the money of Mendez in view of the sale transaction that did not push through. The Court notes that petitioner did not dispute the allegation of having acceded to the request of Mendez, who was then an overseas worker, to issue the checks in the name of the latter's representative, Balasuit. Thus, when the checks were issued by petitioner to Balasuit as payee, they were issued to apply "on account."

Notwithstanding, it must be emphasized that violation of B.P. 22 is principally a crime against public interest.<sup>16</sup> As expounded in the case of *Lozano v. Martinez*:<sup>17</sup>

The effects of the issuance of a worthless check transcends the private interests of the parties directly involved in the transaction and touches the interests of the community at large. The mischief it creates is not only a wrong to the payee or holder, but also an injury to the public. The harmful practice of putting valueless commercial papers in circulation, multiplied a thousand fold, can very well pollute the channels of trade and commerce, injure the banking system and eventually hurt the welfare of society and the public interest.<sup>18</sup>

From the foregoing and as correctly ruled by the CA,<sup>19</sup> it is clear that the real party-in-interest is the People of the Philippines and Balasuit, as the private offended party, is but a witness in the prosecution of the crimes, her interest being limited only to the civil aspect thereof.<sup>20</sup>

Neither does the law make any distinction between checks issued in payment of an obligation and those made merely to guarantee that obligation,<sup>21</sup> contrary to petitioner's assertion. The gravamen of the offense punished by B.P. 22 is the act of making and issuing a worthless check or any check that is dishonored upon its presentment for payment and putting them in circulation. All checks drawn against banks – whether as a deposit, as a guarantee, or even as an evidence of a pre-existing debt or as a mode of payment – are covered. It is a crime classified as *malum prohibitum*.<sup>22</sup>

With regard to the penalty, Section 1 of B.P. 22 imposes the following alternative penalties for its violation: (a) imprisonment of not less than 30 days but not more than one year; or (b) a fine of not less than but not more than double the amount of the check which fine shall in no case exceed

<sup>14</sup> *Ngo v. People*, 478 Phil. 676, 688 (2004).

<sup>15</sup> *Ricaforte v. Jurado*, 559 Phil. 97, 110 (2007), citing *Ruiz v. People*, 512 Phil. 127 (2005).

<sup>16</sup> *Rimando v. Spouses Aldaba*, 745 Phil. 358, 364 (2014).

<sup>17</sup> 230 Phil. 406 (1986).

<sup>18</sup> *Id.* at 424.

<sup>19</sup> *Rollo*, p. 90, CA Decision.

<sup>20</sup> *Pili, Jr. v. Resurreccion*, G.R. No. 222798, June 19, 2019.

<sup>21</sup> *Ngo v. People*, supra note 14 at 688.

<sup>22</sup> *Resterio v. People*, 695 Phil. 693, 702 (2012), citing *Ruiz v. People*, 512 Phil. 127 (2005).

₱200,000.00; or (c) both such fine and imprisonment at the discretion of the court.

In this connection, Administrative Circular (A.C.) No. 12-2000<sup>23</sup> lays down a rule of preference in the application of the above-mentioned penalties, based on the principle enunciated in *Vaca v. Court of Appeals*<sup>24</sup> that “[i]t would best serve the ends of criminal justice if, in fixing the penalty within the range of discretion allowed by Section 1, paragraph 1, the same philosophy underlying the Indeterminate Sentence Law is observed, namely, that of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness with due regard to the protection of the social order.”<sup>25</sup>

In A.C. No. 13-2001,<sup>26</sup> the Court clarified that the clear tenor and intention of A.C. No. 12-2000 is not to remove imprisonment as an alternative penalty. Rather, the Court explained 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,” the determination of which rests solely upon the Judge.

In the case at bar, the Court finds no reason to disturb the act of the MTCC, as affirmed by the RTC and the CA, in choosing to impose a fine (with subsidiary imprisonment in case of insolvency).<sup>27</sup> Nevertheless, to be more in accord with Section 1 of B.P. 22, the MTCC should have separately imposed the penalty of fine amounting to ₱200,000.00 for each of the two counts, instead of adding them into one fine in the sum of ₱400,000.00.

Further, the Court deems it wise and prudent to delete the second paragraph of the dispositive portion of the MTCC Joint Decision<sup>28</sup> dated November 25, 2017, which states:

Accused is directed to comply with the Compromise Agreement she executed with the private complainant; should there be payment/s, she is

<sup>23</sup> Issued on February 21, 2001.

<sup>24</sup> 359 Phil. 187 (1998).

<sup>25</sup> *Id.* at 196.

<sup>26</sup> Issued on February 14, 2001.

<sup>27</sup> Pursuant to paragraph 2, Article 39 of the Revised Penal Code, as amended by Republic Act No. 5465 which lapsed into law on April 21, 1969, and further amended by Republic Act No. 10159 which was approved on April 10, 2012.

Article 39. *Subsidiary Penalty.* – If the convict has no property with which to meet the fine mentioned in paragraph 3 of the next preceding article, he shall be subject to a subsidiary personal liability at the rate of one day for each amount equivalent to the highest minimum wage rate prevailing in the Philippines at the time of the rendition of judgment of conviction by the trial court, subject to the following rules:

x x x x

2. When the principal penalty imposed be only a fine, the subsidiary imprisonment shall not exceed six months, if the culprit shall have been prosecuted for a grave or less grave felony, and shall not exceed fifteen days, if for a light felony.

<sup>28</sup> *Rollo*, pp. 32-43.

ordered to coordinate with the court sheriff.<sup>29</sup>

Article 2034 of the Civil Code provides that there may be a compromise upon the civil liability arising from an offense. Here, the civil aspect of the two cases has been the subject of a Compromise Agreement dated March 28, 2017, which has been judicially approved by the MTCC on even date and decreed as the final judgment between the parties on said civil aspect, thereby leading to the provisional dismissal of the criminal aspect of the cases with the consent of petitioner.<sup>30</sup>

It is noteworthy to point out that the non-fulfillment by petitioner of the terms and conditions of the Compromise Agreement prompted the prosecution to move for the revival of the criminal aspect of the cases dismissed provisionally, as well as for the issuance of a writ of execution, which were both granted by the MTCC.<sup>31</sup> With the revival, the only issue left for determination is the criminal culpability of petitioner. And with the writ of execution already issued, it is superfluous for the MTCC to direct petitioner to comply with the Compromise Agreement as part of the disposition in the criminal aspect of the cases lodged against her.

**WHEREFORE**, premises considered, the petition is **DENIED**. The Decision dated March 16, 2022 and the Resolution dated September 19, 2022 of the Court of Appeals in CA-G.R. SP No. 169621 are **AFFIRMED with MODIFICATION**. Petitioner Daphine R. Molintas is found **GUILTY** beyond reasonable doubt of two (2) counts of violation of Batas Pambansa Bilang 22 in Criminal Case Nos. 135960 and 135961 and is sentenced to pay a fine of ₱200,000.00 for each count, with subsidiary imprisonment not exceeding six months in case of insolvency.

The second paragraph of the dispositive portion of the Joint Decision dated November 25, 2017 rendered by the Municipal Trial Court in Cities of Baguio City, Branch 1 in Criminal Case Nos. 135960 and 135961 directing petitioner to comply with the Compromise Agreement she executed with private complainant and, should there be payment/s, ordering her to coordinate with the court sheriff is **DELETED**.

Costs against petitioner.

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
Division Clerk of Court *JB 4/8/23*

<sup>29</sup> Id. at 43, MTCC Joint Decision dated November 25, 2017.

<sup>30</sup> Id. at 33, MTCC Joint Decision dated November 25, 2017.

<sup>31</sup> Id. at 34, MTCC Joint Decision dated November 25, 2017.

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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 60, 2600 Baguio City  
(Criminal Case Nos. 135960 and 135961)

The Presiding Judge  
MUNICIPAL TRIAL COURTS IN CITIES  
First Branch, 2600 Baguio City  
(Crim. Case Nos. 135960 and 135961)

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