



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 2, 2020** which reads as follows:*

“G.R. No. 252812 – (ANNALIZA PIZARRO-ESPIRITU, petitioner v. PEOPLE OF THE PHILIPPINES, respondent). – The case is a petition for review on *certiorari*¹ under Rule 45 of the Rules of Court, filed by herein Annaliza Pizarro-Espiritu (petitioner), seeking to reverse and set aside the Decision² dated October 25, 2018 and the Resolution³ dated July 1, 2020 of the Court of Appeals (CA) in CA-G.R. CR No. 37662, which affirms the Decision⁴ dated June 5, 2015 of Branch 2, Regional Trial Court (RTC) of Balanga City, Bataan, finding petitioner guilty of violation of *Batas Pambansa Blg. 22 (BP 22)* otherwise known as the Bouncing Checks Law.

The case originated from a complaint⁵ filed by Esperanza Mena (private respondent) against petitioner, for issuing a worthless check in the amount of ₱1,500,000.00. She was charged of violation of BP 22 by virtue of the information,⁶ to wit:

That on or about August 2011, in Pilar, Bataan, Philippines and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully and unlawfully make or draw and issue Bank of Commerce (Balanga City) Check No. 0000100 and [postdated] it to May 2, 2012 in the amount of One Million Five Hundred Thousand Pesos (P1,500,000.00) in the payment of her obligation to Esperanza Magpoc-Mena, the said accused knowing fully well that at the time she issued the said check she

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¹ *Rollo*, pp. 11-25.

² *Id.* at 32-49; penned by Associate Justice Eduardo B. Peralta, Jr. with Associate Justices Ramon R. Garcia and Geraldine C. Fiel-Macaraig, concurring.

³ *Id.* at 51-52.

⁴ *Id.* at 161 -166; penned by Acting Presiding Judge Philger Noel B. Inovejas.

⁵ *Id.* at 67-68, June 13, 2012.

⁶ *Id.* at 67-68.

did not have sufficient funds in or credit with the drawee bank for the payment in full of the said check upon presentment; which check when presented for payment was dishonored by the drawee bank for the reason that it was drawn against an Account Closed and notwithstanding receipt of notice of such dishonored the said accused failed and refused and still fails and refuses to pay the said amount, or to make arrangement with the drawee bank for payment in full of the same within Ten (10) banking days after receiving the notice; to the damage and prejudice of the said Esperanza M. Mena, in the aforementioned amount of P1,500,000.00 Philippine currency.

CONTRARY TO LAW.⁷

Trial ensued. After trial, on November 4, 2014, the 3rd Municipal Circuit Trial Court (MCTC) of Orion-Pilar, Province of Bataan, ruled that petitioner is guilty beyond reasonable doubt for violation of BP 22, to wit:

WHEREFORE, judgment is rendered by the court finding accused Annaliza Pizarro Espiritu **GUILTY** beyond reasonable doubt of violation of BP No. 22, and sentencing her to pay the fine of P1,500,000.00 with subsidiary imprisonment in case of insolvency not to exceed six (6) months pursuant to paragraph 2, Article 39 of the Revised Penal Code of the Philippines.

Accused is likewise ordered to indemnify private complainant Esperanza M. Mena P1,500,000.00 representing the amount of the dishonored Bank of Commerce (Balanga City) Check No. 0000100 dated May 2, 2012, with legal interest of six (6%) [sic] percent per annum from date of filing of the criminal complaint until the finality of this decision, and thereafter 12% per annum until the principal amount of P1,500,000.00 is fully paid.

SO ORDERED.⁸

Aggrieved with her conviction, petitioner appealed to RTC. On June, 5, 2015, the RTC dismissed petitioner's appeal and affirmed *in toto* the Decision of MCTC, to wit:

WHEREFORE, the appeal is DISMISSED for lack of merit. The Judgment of the lower court is affirmed *in toto* except that the principal amount of P1,500,000.00 shall earn interest at the rate of six percent (6%) per annum from the time of the filing of the criminal complaint with the MCTC Orion-Pilar until its full satisfaction consistent with the New Civil Code and the recent Circular from the Central Bank, Moreover, considering that the

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⁷ Id. at 67.

⁸ Id. at 151.

private complainant was compelled to litigate to protect her interest, i.e. to recover the amount of money representing the face value of the worthless check issued by the accused-appellant, she is entitled to be awarded attorney's fees and litigation expenses in the reasonable amount of Fifty Thousand Pesos (P50,000.00).

Cost against the accused-appellant.

SO ORDERED.⁹

Unsatisfied, petitioner escalated her case to the CA thru a petition for review under Rule 42 of the Rules of Court. On October 25, 2018, the CA sustained petitioner's conviction. It held that all the elements for the crime of violation of BP 22 were adequately established by the prosecution. The CA at the same time modified the penalty in accordance with Administrative Circular No. 12-2000 in conjunction with Administrative Circular No. 13-01. Thus, the dispositive part of the decision reads as follows:

WHEREFORE, premises considered, the instant Petition for Review is hereby DENIED. Hence, the assailed Decision of the RTC is hereby AFFIRMED with MODIFICATION only insofar as the verdict for petitioner to pay a fine of P200,000.00 with subsidiary imprisonment in case of insolvency not to exceed six (6) months and to indemnify private complainant the amount of P1,500,000.00 with legal interest of six percent (6%) per annum from the time the complaint was filed with the MCTC Orion-Pilar until the amount is fully paid.

SO ORDERED.¹⁰

Petitioner filed a motion for reconsideration on the above-mentioned decision but the same was denied in July 1, 2020. Hence, the present petition.

Issue

1. Whether or not, in the instant case, the elements of the crime of violation of BP No. 22 were not proven.
2. Whether or not petitioner's guilt was not proven beyond reasonable doubt.

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⁹ Id. at 165.

¹⁰ Id. at 48.

Ruling

The petition should be denied. The CA committed no reversible error in affirming the conviction of petitioner.

Time and again, we rule that factual findings of the trial courts, when adopted and confirmed by the CA, are binding and conclusive on this Court, and will generally not be reviewed on appeal, absent any of the recognized exceptions.¹¹ The present case is of no exception. As affirmed by the CA, the prosecution has successfully proved the elements to hold herein petitioner guilty for violation of BP 22.

Petitioner admitted that she issued the Bank of Commerce Check No. 0000100 dated May 2, 2012 in the amount of the ₱1,500,000.00 which she gave to private respondent.¹² Petitioner, based on her testimony, knew that the check has no fund at the time of issue and insists that private respondent knew the same. The said check when presented was dishonored because the account where it should be drawn was already closed.¹³ Thus, all circumstances show the elements of the violation of BP 22 are present.

Petitioner anchors her petition on the discrepancy between private complainant's *Sinumpaang Salaysay* and *Panghukumang Salaysay*. At the onset, this argument was already raised in the petition before the CA. To reiterate CA's ruling, testimony made in open court takes precedence over sworn statements/affidavits. It is oft repeated that affidavits are usually abbreviated and inaccurate. Oftentimes, an affidavit is incomplete, resulting in its seeming contradiction with the declarant's testimony in court. Generally, the affiant is asked standard questions, coupled with ready suggestions intended to elicit answers, that later turn out not to be wholly descriptive of the series of events as the affiant knows them. Worse, the process of affidavit-taking may sometimes amount to putting words into the affiant's mouth, thus allowing the whole statement to be taken out of context.¹⁴ Thus, because of this, the Court has consistently held that inconsistencies between the testimony of a witness in open court, on one hand, and the statements in his sworn affidavit, on the other hand, referring only to minor and collateral matters, do not affect his credibility and the veracity and weight of his

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¹¹ *Insular Investment and Trust Corporation v. Capital One Equities Corporation*, 686 Phil. 819, 830-831 (2012).

¹² *Id.* at 123.

¹³ *Id.* at 131.

¹⁴ *Kummer v. People*, 717 Phil. 670, 679 (2013).

testimony as they do not touch upon the commission of the crime itself. Slight contradictions, in fact, even serve to strengthen the credibility of the witnesses, as these may be considered as badges of truth rather than indicia of bad faith; they tend to prove that their testimonies have not been rehearsed. Nor are such inconsistencies, and even improbabilities, unusual, for no person has perfect faculties of senses or recall.¹⁵

Further, the discrepancy being pointed out by petitioner deals with the purpose of the issuance of the check. Such fact is immaterial in the crime charged. It must be noted that lack of valuable consideration or the purpose of the issuance of the check is not an element of the crime of BP 22. The mere act of issuing a worthless check, either as a deposit, as a guarantee, or even as an evidence of a pre-existing debt or as a mode of payment is covered by BP 22. It is a crime classified as *malum prohibitum*. The law is broad enough to include, within its coverage, the making and issuing of a check by one who has no account with a bank, or where such account was already closed when the check was presented for payment.¹⁶

With regard to the imposition of penalty, We affirm the ruling of CA, however, We modify the same on the imposition of interest. It must be noted that the complaint was filed in June 13, 2012. Thus, in view of our ruling in *Nacar v. Gallery Frames*,¹⁷ We modify the rate of legal interest imposed. Pursuant to our ruling in *Nacar*, the sum of ₱1,500,000.00 due to private respondent shall earn interest at the rate of 12% *per annum* from the filing of the Information until June 30, 2013 and thereafter, at the rate of 6% *per annum* from July 1, 2013 until finality of this Resolution. The total amount owing to private respondents as set forth in this Resolution shall further earn legal interest at the rate of 6% *per annum* from its finality until full payment.¹⁸

WHEREFORE, the petition is **DENIED** for lack of merit. The Decision of the Court of Appeals dated October 25, 2018 and Resolution dated July 1, 2020 in CA-G.R. CR No. 37662 are **AFFIRMED with MODIFICATION**. Petitioner is sentenced to pay a fine of ₱200,000.00 with subsidiary imprisonment not to exceed six (6) months in case of insolvency. The amount of ₱1,500,000.00 due to private respondent shall earn interest at the rate of twelve percent (12%) *per annum* from the filing of the Information until June

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¹⁵ *People v. Perreras*, 414 Phil. 480, 488 (2001).

¹⁶ *Lozano v. Hon. Martinez*, 230 Phil. 406, 422 (1986).

¹⁷ 716 Phil. 267 (2013).

¹⁸ *Id.* at 281.

30, 2013 and thereafter, at the rate of six percent (6%) *per annum* from July 1, 2013 until finality of this Resolution. The total amount owing to private respondent as set forth in this Resolution shall further earn legal interest at the rate of six percent (6%) *per annum* from its finality until full payment.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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The Hon. Presiding Judge
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(Crim. Case No. 7421)

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