



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated 09 November 2020 which reads as follows:

“G.R. No. 252963 (Mary Grace V. Valbuena v. People of the Philippines and RCBC Securities, Inc.). – After a judicious study of the case, the Court resolves to **DENY** the instant petition¹ and **AFFIRM with MODIFICATION** the September 6, 2019 Decision² and the June 10, 2020 Resolution³ of the Court of Appeals (CA) in CA-G.R. CR No. 41662 for failure of petitioner Mary Grace V. Valbuena (petitioner) to sufficiently show that the CA committed any reversible error in finding her guilty beyond reasonable doubt of violation of *Batas Pambansa Blg. (BP) 22*,⁴ and accordingly, sentencing her, as follows: (a) to pay a fine in the amount of ₱200,000.00, with subsidiary imprisonment in case of insolvency;⁵ (b) to indemnify private respondent RCBC Securities, Inc. (respondent) the face value of the dishonored checks in the amount of ₱7,200,000.00, with legal interest at the rate of twelve percent (12%) per annum from January 18, 2012, the earliest date petitioner received the notice of dishonor, to June 30, 2013, and thereafter, at the rate of six percent (6%) interest per annum from July 1, 2013 until full payment,⁶ and the total amount of the foregoing shall, in turn, earn an interest at the rate of 6% per annum from finality of the Resolution until full payment. and (c) to pay the costs of suit.

¹ *Rollo*, pp. 15-31.

² *Id.* at 36-57. Penned by Associate Justice Rafael Antonio M. Santos with Associate Justices Manuel M. Barrios and Ruben Reynaldo G. Roxas, concurring.

³ *Id.* at 59-65.

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 In *Abarquez v. CA* (455 Phil. 965 [2003]), the Court clarified that administrative Circular No. 12-2000 does not remove imprisonment as an alternative penalty, but laid down the rule of preference in the application of the penalties provided for in B.P. 22, in 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. It likewise ruled that the determination of whether the circumstances warrant the imposition of a fine alone rests solely upon the Judge, and that should the Judge decide that imprisonment is the more appropriate penalty, Administrative Circular 12-2000 ought not be deemed a hindrance.

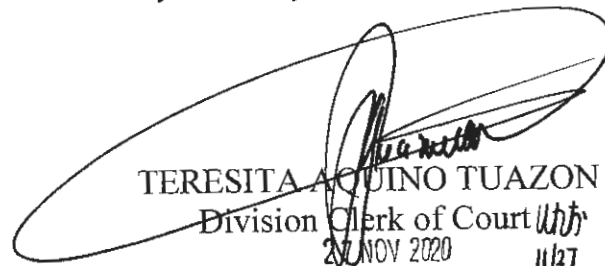
⁶ See *Ongkingco v. Sugiyama*, G.R. No. 217787, September 18, 2019.

11/27

As correctly ruled by the CA, the prosecution was able to establish all the elements⁷ of the crime charged, since it was proven that: (a) petitioner admitted issuing the subject check; (b) said check was subsequently dishonored by Banco De Oro (BDO) Kamuning Branch upon presentment for payment by respondent; (c) petitioner was aware that her BDO account had no sufficient funds at the time she issued said check, since she was served with the Notice of Dishonor and demand for payment by respondent on four (4) different occasions; and (d) despite said knowledge, petitioner failed to make good the value of the check. It bears stressing that the gravamen of the offense punished by BP 22 is the act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment. It is not the non-payment of an obligation which the law punishes, as the law is not intended or designed to coerce a debtor to pay his debt. The thrust of the law is to prohibit, under pain of penal sanctions, the making of worthless checks and putting them in circulation,⁸ as in this case. Finally, there being no indication that the courts *a quo* overlooked, misunderstood, or misapplied the surrounding facts and circumstances of the case, the Court finds no reason to deviate from their factual findings. In this regard, it should be noted that the trial court was in the best position to assess and determine the credibility of the witnesses presented by both parties.⁹

SO ORDERED. (Rosario, *J.*, designated Additional Member per Special Order No. 2797 dated November 5, 2020.)”

By authority of the Court:


TERESITA AQUINO TUAZON
Division Clerk of Court
27 NOV 2020 11/27

⁷ “To be liable for violation of B.P. 22, the following essential elements must be present: (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 he does not have sufficient funds in or credit with the drawee bank for the payment of the check in full upon its presentment; and (3) the subsequent dishonor of the check by the drawee bank for insufficiency of funds or credit or dishonor for the same reason had not the drawer, without any valid cause, ordered the bank to stop payment.” See *San Mateo v. People*, 705 Phil. 630, 636-637 (2013); citation omitted.

⁸ *Sumbilla v. Matrix Finance Corporation*, 762 Phil. 130, 143 (2015).

⁹ See *Cahulogan v. People*, G.R. No. 225695, March 21, 2018, citing *Peralta v. People*, 817 Phil. 554, 563 (2017), further citing *People v. Matibag*, 757 Phil. 286, 293 (2015).

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HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 141
1200 Makati City
(Crim. Case No. 369305-R00-00)

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Supreme Court, Manila

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*with copy of CA Decision dated 6 September 2019
Please notify the Court of any change in your address.
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