



Republic of the Philippines
Supreme Court

Manila

THIRD DIVISION

ERLINDA C. SAN MATEO,
Petitioner,

G.R. No. 200090

- versus -

Present:
VELASCO, JR., *J.*, *Chairperson*,
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

March 6, 2013

x ----- *Atty. Copeland* x

DECISION

ABAD, *J.*:

Sometime in May and July 2005, petitioner Erlinda C. San Mateo ordered assorted yarns amounting to ₱327,394.14 from ITSP International, Incorporated through its Vice-President for Operations Ravin A. Sehwan. In partial payment thereof, San Mateo issued 11 postdated Metrobank checks amounting to ₱134,275.00.

Whenever a check matured, however, San Mateo would either call or write to Sehwan requesting him not to deposit the checks due to lack of sufficient funds. In consideration of their business relationship, Sehwan acceded to the request. But San Mateo continued to fail to settle her account.

On October 6, 2005, Sehwan deposited Metrobank Check 917604197 dated July 25, 2005 but it was dishonored for insufficiency of funds. Sehwan immediately informed San Mateo of the dishonor, who asked him to defer depositing the other checks since she was encountering financial difficulties. On October 8, 2005, Sehwan received a letter from San Mateo explaining her predicament and reiterating her request to coordinate first with her office before depositing any other check. She also offered to replace Metrobank Check 917604197 with a manager's check but failed to do so.

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In November 2005, Sehwni tried to follow up with San Mateo but she never returned his call. On November 7, 2005, he deposited Metrobank Check 917604206 dated July 21, 2005 but San Mateo made a stop payment order. On November 11, 2005, he received a letter from San Mateo apologizing for her failure to pay with a promise to communicate on November 21, 2005. Since San Mateo failed to make payments, Sehwni deposited the remaining checks which were all dishonored because the account had been closed. Sehwni attempted to contact San Mateo but she never responded. He also sent demand letters to her last known address but she still failed to pay the value of the checks.

On November 23, 2005, Sehwni's counsel sent a demand letter to San Mateo's residence at Greenhills, San Juan but the security guard of the townhouse complex refused to accept the letter in compliance with San Mateo's order. Thus, the liaison officer left the letter with the security guard with the instruction to deliver the same to San Mateo. Thereafter, he sent a copy of the demand letter to San Mateo by registered mail which was returned to his counsel's office with the notation "N/S Party Out 12/12/05" and that San Mateo did not claim it despite three notices to her dated December 12, 2005, December 22, 2005, and January 2, 2006, respectively.

On June 5, 2006, San Mateo was charged with 11 counts of violation of Batas Pambansa (B.P.) 22. During trial, she claimed that she has an agreement with Sehwni not to deposit her checks unless she gave a go signal. But Sehwni ignored this agreement and deposited the nine checks which resulted in the closure of her account.

On August 27, 2009, the Metropolitan Trial Court (MeTC) of Taguig City, Branch 74 found San Mateo guilty of 10 counts of violation of B.P. 22. She was sentenced to suffer the straight penalty of imprisonment of six months for each count and ordered to pay the total value of the 11 checks amounting to ₱134,275.00.

In finding her criminally liable for 10 counts of violation of B.P. 22 but civilly liable for the total value of the 11 checks, the MeTC declared that Metrobank Check 917604206 was dishonored not because of insufficiency of funds or closed account but because of a stop payment order from San Mateo.

San Mateo appealed to the Regional Trial Court (RTC) of Pasig City, Branch 70 which affirmed her conviction on June 1, 2010. The RTC ruled that the third element of notice of dishonor was duly established during the trial by the following facts: (1) her unjustified refusal to claim the demand letter sent to her by registered mail despite three notices from the postmaster; (2) her various letters to Sehwni requesting the latter to defer

the deposit of her checks; and (3) her statement in her Amended Affidavit that Sehwni's act of depositing the nine checks resulted in the closure of her account.

Undeterred, San Mateo elevated the case to the Court of Appeals (CA). On August 23, 2011, the CA affirmed the RTC Decision and reiterated that all the elements for violation of B.P. 22 had been sufficiently proven in this case.¹

On March 1, 2012, San Mateo filed a petition for review on *certiorari* before this Court raising the following issues: (1) whether or not the subject checks were issued for valuable consideration; (2) whether or not the demand letter sent by Sehwni constituted the notice of dishonor required under B.P. 22; and (3) whether or not the penalty of imprisonment is proper. In a Resolution dated April 23, 2012, the Court denied the petition for its failure to show that the CA committed reversible error when it upheld the factual findings of both the MeTC and the RTC that all the elements for violation of B.P. 22 had been sufficiently proven to convict San Mateo of the said crime.

On May 30, 2012, San Mateo filed a motion for reconsideration. On July 16, 2012, the Court granted the motion and reinstated the petition.

We grant the petition.

It is a settled rule that the remedy of appeal through a petition for review on *certiorari* under Rule 45 of the Rules of Court contemplates only errors of law and not errors of fact.² The issues of: (1) whether or not the subject checks were issued for valuable consideration; and (2) whether or not the demand letter sent by Sehwni constituted the notice of dishonor required under B.P. 22, are factual matters that belong to the proper determination of the MeTC, the RTC and the CA. But when such courts have overlooked certain facts and circumstances which, if taken into account, would materially affect the result of the case, this Court may re-examine their findings of facts.³

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

¹ *Rollo*, pp. 34-47.

² *Llenado v. People*, G.R. No. 193279, March 14, 2012, 668 SCRA 330, 333.

³ *Bax v. People*, G.R. No. 149858, September 5, 2007, 532 SCRA 284, 289.

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.⁴

In this case, the third element is present and had been adequately established. With respect to the first element, the Court gives full faith and credit to the findings of the lower courts that the checks were issued for value since San Mateo herself admitted that she drew and issued the same as payment for the yarns she ordered from ITSP. Besides, the Court has consistently pronounced that the issue of lack of valuable consideration for the issuance of checks which were later on dishonored for insufficient funds is immaterial to the success of a prosecution for violation of B.P. 22.⁵

But the Court finds that the second element was not sufficiently established. Section 2⁶ of B.P. 22 creates the presumption that the issuer of the check was aware of the insufficiency of funds when he issued a check and the bank dishonored it. This presumption, however, arises only after it is proved that the issuer had received a written notice of dishonor and that, within five days from receipt thereof, he failed to pay the amount of the check or to make arrangements for its payment.⁷

Here, there is no basis in concluding that San Mateo knew of the insufficiency of her funds. While she may have requested Sehwni in her letters dated October 8, 2005 and November 11, 2005, to defer depositing all the checks, with maturity dates of July and August 2005, otherwise, her account will close, such act did not amount to an admission that, when she issued those checks, she knew that she would have no sufficient funds in the drawee bank to pay for them.⁸

Upon the other hand, the records show that Sehwni tried to serve the notice of dishonor to San Mateo two times. On the first occasion, Sehwni's counsel sent a demand letter to San Mateo's residence at Greenhills, San Juan which the security guard refused to accept. Thus, the liaison officer left the letter with the security guard with the instruction to hand it to San Mateo. But the prosecution failed to show that the letter ever reached San Mateo.

On the second occasion, Sehwni's counsel sent a demand letter to San Mateo by registered mail which was returned with the notation "N/S

⁴ *Rico v. People*, 440 Phil. 540, 551 (2002).

⁵ *Dreamwork Construction, Inc. v. Janiola*, G.R. No. 184861, June 30, 2009, 591 SCRA 466, 478.

⁶ Section 2. *Evidence of knowledge of insufficient funds*. - The making, drawing and issuance of a check payment of which is refused by the drawee because of insufficient funds in or credit with such bank, when presented within ninety (90) days from the date of the check, shall be *prima facie* evidence of knowledge of such insufficiency of funds or credit unless such maker or drawer pays the holder thereof the amount due thereon, or makes arrangements for payment in full by the drawee of such check within (5) banking days after receiving notice that such check has not been paid by the drawee.

⁷ *Moster v. People*, G.R. No. 167461, February 19, 2008, 546 SCRA 287, 297.

⁸ *Sia v. People*, G.R. No. 149695, April 28, 2004, 428 SCRA 206, 226.

Party Out 12/12/05” and that San Mateo did not claim it despite three notices to her.

It has been the consistent ruling of this Court that receipts for registered letters including return receipts do not themselves prove receipt; they must be properly authenticated to serve as proof of receipt of the letters, claimed to be a notice of dishonor.⁹ To be sure, the presentation of the registry card with an unauthenticated signature, does not meet the required proof beyond reasonable doubt that the accused received such notice. It is not enough for the prosecution to prove that a notice of dishonor was sent to the accused. The prosecution must also prove *actual receipt* of said notice, because the fact of service provided for in the law is reckoned from receipt of such notice of dishonor by the accused.¹⁰

In *King v. People*,¹¹ the complainant sent the accused a demand letter *via* registered mail. But the records showed that the accused did not receive it. The postmaster likewise certified that the letter was returned to sender. Yet despite the clear import of the postmaster’s certification, the prosecution did not adduce proof that the accused received the post office notice but unjustifiably refused to claim the registered mail. The Court held that it was possible that the drawee bank sent the accused a notice of dishonor, but the prosecution did not present evidence that the bank did send it, or that the accused actually received it. It was also possible that the accused was trying to flee from the complainant by staying in different addresses. But speculations and possibilities cannot take the place of proof. The conviction must rest on proof beyond reasonable doubt.¹²

Since there is insufficient proof that San Mateo actually received the notice of dishonor, the presumption that she knew of the insufficiency of her funds cannot arise. For this reason, the Court cannot convict her with moral certainty of violation of B.P. 22.

Nevertheless, San Mateo’s acquittal does not entail the extinguishment of her civil liability for the dishonored checks.¹³ An acquittal based on lack of proof beyond reasonable doubt does not preclude the award of civil damages.¹⁴ For this reason, the trial court’s directive for San Mateo to pay the civil liability in the amount of ₱134,275.00 representing the total value of the 11 checks plus 12% interest per annum from the time the said sum became due and demandable until fully paid, stands.

⁹ *Svensen v. People*, G.R. No. 175381, February 26, 2008, 546 SCRA 659, 666.

¹⁰ *Alferez v. People*, G.R. No. 182301, January 31, 2011, 641 SCRA 116, 123-124.

¹¹ *King v. People*, 377 Phil. 692 (1999).

¹² *Id.* at 710.

¹³ *Ambito v. People*, G.R. No. 127327, February 13, 2009, 579 SCRA 69, 94.

¹⁴ *Supra* note 3, at 292-293.

WHEREFORE, the Court **GRANTS** the petition. The assailed Decision dated August 23, 2011 of the Court of Appeals in CA-G.R. CR 33434 finding petitioner Erlinda C. San Mateo guilty of 10 counts of violation of B.P. 22 is **REVERSED** and **SET ASIDE**. Petitioner Erlinda C. San Mateo is hereby **ACQUITTED** on the ground that her guilt has not been established beyond reasonable doubt. She is ordered, however, to indemnify the complainant, ITSP International, Incorporated, represented by its Vice-President for Operations Ravin A. Sehwan, the amount of ₱134,275.00 representing the total value of the 11 checks plus 12% interest per annum from the time the said sum became due and demandable until fully paid.

SO ORDERED.



ROBERTO A. ABAD
Associate Justice

WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



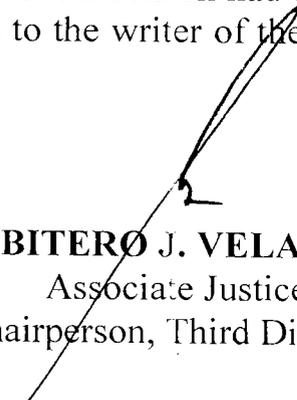
JOSE CATRAL MENDOZA
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

ATTESTATION

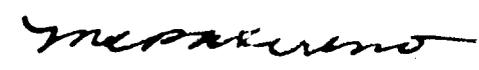
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice