792 Phil. 214

THIRD DIVISION

[G.R. No. 163494, August 03, 2016]

JESUSA T. DELA CRUZ PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

REYES, J.:

This resolves the petition for review on *certiorari*[1] filed by Jesusa T. Dela Cruz (petitioner) under Rule 45 of the 1997 Rules of Civil Procedure assailing the Decision[2] dated November 13, 2003 and Resolution[3] dated May 4, 2004 of the Court of Appeals (CA) in CA-G.R. CR No. 26337. The CA affirmed the Decision[4] rendered by the Regional Trial Court (RTC) of Manila, Branch 2, on August 31, 2001, in Criminal Case No. 89-72064-86, convicting the petitioner for twenty-three (23) counts of violation of Batas Pambansa Bilang 22 (B.P. Blg. 22), otherwise known as the Bouncing Checks Law.

The Antecedents

The case stems from a complaint for violation of B.P. Blg. 22 filed by Tan Tiac Chiong, also known as Ernesto Tan (Tan), against the petitioner.[5] Tan entered into several business transactions with the petitioner sometime in 1984 to 1985, whereby Tan supplied and delivered to the petitioner rolls of textile materials worth P27,090,641.25. For every delivery made by Tan, the petitioner issued post-dated checks made payable to "Cash". When presented for payment, however, some of the checks issued by the petitioner to Tan were dishonored by the drawee-bank for being "Drawn Against Insufficient Funds" or "Account Closed". The replacement checks later issued by the petitioner were still dishonored upon presentment for payment.[6]

The fourth batch of twenty-three (23) replacement checks issued by the petitioner to Tan became the subject of his complaint. All checks were dated March 30, 1987 and drawn against Family Bank & Trust Co. (FBTC), but were issued for different amounts totaling P6,226,390.29,[7] to wit:

Check No.	Amount
078790	P 145,905.57
078791	145,905.57
078789	145,905.57
078788	145,905.58
078787	145,905.59
078786	145,905.59
078785	1,354,854.50
078784	337,380.50

078783	309,580.17
078782	411,800.15
078804	874,643.86
078803	129,448.30
078796	282,763.60
078802	129,448.36
078801	129,448.36
078800	129,448.38
078799	129,448.36
078798	129,448.36
078797	282,763.60
078795	282,763.61
078794	145,905.57
078793	145,905.57
078792	145,905.57
	P 6,226,390.29

The 23 checks were still later dishonored by the drawee-bank FBTC for the reason "Account Closed". Tan informed the petitioner of the checks' dishonor through a demand letter,[8] but the amounts thereof remained unsatisfied.[9]

In March 1989, 23 informations for violation of B.P. Blg. 22 were filed in court against the petitioner. Upon arraignment, the petitioner pleaded "not guilty" to the charges. The cases were consolidated and thereafter, trial on the merits ensued.[10]

The prosecution was able to present its evidence during the trial; it rested its case on June 5, 1995. The defense, however, failed to present its evidence after it had sought several hearing postponements and resettings. In view of the petitioner's failure to appear or present evidence on scheduled dates, the RTC issued on July 27, 2000 an Order[11] that deemed the petitioner to have waived her right to present evidence. A copy of the order was received by the petitioner's counsel of record.[12]

Ruling of the RTC

The RTC then decided the case based on available records. On August 31, 2001, the RTC rendered its Decision[13] finding the petitioner guilty of the charges. The dispositive portion of the decision reads:

> WHEREFORE, viewed from all the foregoing, the Court finds [the petitioner] guilty beyond reasonable doubt of violation[s] of [B.P.] Blg. 22 on twenty-three (23) counts, and hereby sentences her to suffer imprisonment of one (1) year in every case, and to indemnify [Tan] the amount equal to the collective face value of all the subject checks, and to pay the costs.
>
> SO ORDERED.[14]

Dissatisfied, the petitioner appealed to the CA, arguing, among other grounds, that she was not accorded an ample opportunity to dispute the charges against her. Contrary to the RTC's declaration, the petitioner denied any intention to waive her right to present evidence.[15] In fact, she intended to present a certified public

accountant to prove that she had overpayments with Tan, which then extinguished the obligations attached to the checks subject of the criminal cases.[16]

Ruling of the CA

The appeal was dismissed by the CA *via* the Decision[17] dated November 13, 2003, with dispositive portion that reads:

> **WHEREFORE**, the appeal in the above-entitled case is **DISMISSED**. The assailed Decision dated August 31, 2001 in Criminal Case Nos. U-89-72064-86, of the [RTC], Branch 2 of Manila, is **AFFIRMED *in toto***.
>
> SO ORDERED.[18]

The Present Petition

Hence, this petition for review founded on the following grounds:

> I.
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> THE CA GRAVELY ERRED IN RULING THAT THE PETITIONER HAD BEEN ACCORDED AMPLE OPPORTUNITY TO BE HEARD AND TO PRESENT EVIDENCE.
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> II.
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> THE CA GRAVELY ERRED IN FAILING TO TAKE INTO CONSIDERATION A PREVIOUS DECISION ISSUED BY ONE OF ITS DIVISIONS.
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> III.
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> THE CA GRAVELY ERRED IN RULING THAT THE PETITIONER RECEIVED A NOTICE OF DISHONOR OF THE SUBJECT CHECKS.
>
> IV.
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> EVEN ASSUMING, WITHOUT CONCEDING, THAT THE PETITIONER IS LIABLE FOR VIOLATION OF B.P. BLG. 22, THE CA GRAVELY ERRED IN NOT APPLYING TO THE PETITIONER THE PROVISIONS OF ADMINISTRATIVE CIRCULAR NUMBERS 12-2000 AND 13-2001.[19]

The petitioner prays for an acquittal or, in the alternative, a remand of the case to the RTC so that she may be allowed to present evidence for her defense. She also asks the Court to take into consideration the fact that she was acquitted by the CA in another set of B.P. Blg. 22 cases on the ground that she has overpaid Tan.[20] Granting that the Court still declares her guilty of the offense, she asks for an imposition of fine in lieu of the penalty of imprisonment.[21]

In its Comment,[22] respondent People of the Philippines, through Office of the Solicitor General (OSG), signifies that it was interposing no objection to the

petitioner's alternative prayer of a case remand.[23] The OSG agrees that the petitioner was not duly notified of the hearing scheduled on July 27, 2000, to wit:

> Petitioner was not duly notified of the July 27, 2000 hearing because, one, the notice of said hearing was sent to her former address, and, two, the notice was sent on August 3, 2000, that is, one week after the scheduled date of hearing. Thus, petitioner's failure to appear at the July 27, 2000 hearing is justified by the absence of a valid service of notice of hearing to her.
>
> Petitioner, who is out on bail on a personal undertaking, having posted a cash bond in lieu of a bail bond, is entitled to personal notice of every scheduled hearing, especially the hearing for her presentation of evidence. There must be clear and convincing proof that she, in fact, received the notice of hearing set on July 27, 2000 in order that the questioned Order of the trial court dated July 27, 2000 may be considered without constitutional infirmity. x x x.[24]

The OSG, nonetheless, argues that the petitioner's acquittal in another CA case failed to render applicable the rule on conclusiveness of judgment because there was no identity of subject matter and cause of action between the two sets of cases.[25] As regards the petitioner's alleged failure to receive a notice of dishonor, the OSG maintains that the defense should have been raised at the first instance before the RTC.[26]

Tan filed his own Comment/Opposition,[27] refuting the arguments raised in the petition for review.

Ruling of the Court

The Court finds the petitioner entitled to an acquittal.

Questions of fact under Rule 45

The petition was filed under Rule 45 of the Rules of Court. The general rule is that petitions for review on *certiorari* filed under this rule shall raise only questions of law that must be distinctly set forth. Questions of fact, which exist when the doubt centers on the truth or falsity of the alleged facts, are not reviewable.[28]

Pertinent to this limitation are the petitioner's arguments that delve on *first*, the claim that she was not properly notified of the proceedings before the RTC and, *second*, her alleged non-receipt of a notice of dishonor from Tan. Being questions of fact, the Court, as a rule, finds those unsuitable to review the issues, and instead adheres to the findings already made by the RTC and affirmed by the CA. This is consistent with jurisprudence providing that a trial court's factual findings that are affirmed by the appellate court are generally conclusive and binding upon this Court, for it is not our function to analyze and weigh the parties' evidence all over again except when there is a serious ground to believe a possible miscarriage of justice would thereby result.[29]

By jurisprudence, the following instances may however be considered exceptions to

the application of the general rule that bar a review of factual findings: (1) when the factual findings of the CA and the trial court are contradictory; (2) when the conclusion is a finding grounded entirely on speculation, surmises or conjectures; (3) when the inference made by the CA from the findings of fact is manifestly mistaken, absurd or impossible; (4) when there is grave abuse of discretion in the appreciation of facts; (5) when the appellate court, in making its findings, went beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee; (6) when the judgment of the CA is premised on misapprehension of facts; (7) when the CA failed to notice certain relevant facts which, if properly considered, would justify a different conclusion; (8) when the findings of fact are themselves conflicting; (9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and (10) when the findings of fact of the CA are premised on the absence of evidence but such findings are contradicted by the evidence on record.[30]

Taking into consideration the petitioner's allegations that hinge on the RTC's and CA's alleged errors in their factual findings that could fall under exceptions (2), (3), (6) and (7), and which if considered could materially alter the manner by which the petitioner's guilt was determined, the Cofurt finds it vital to look into these matters.

The petitioner was notified of scheduled hearings

The Court rejects the petitioner's claim that she was not duly notified of scheduled hearing dates by the RTC. It is material that the petitioner was represented by counsel during the proceedings with the trial court. Fundamental is the rule that notice to counsel is notice to the client. When a party is represented by a counsel in an action in court, notices of all kinds, including motions and pleadings of all parties and all orders of the court must be served on his counsel.[31]

Particularly challenged in the instant case was the RTC's service of the notice for the July 27, 2000 hearing, when the petitioner's and her counsel's absence prompted the trial court to deem a waiver of tpe presentation of evidence for the defense. While the petitioner, and the OSG in its Comment, referred to a belated sending of notice of hearing to the petitioner's supposedly old address, it appears that her counsel, Atty. Lorenzo B. Leynes, Jr. (Atty. Leynes), was sufficiently notified prior to July 27, 2000.[32]

Cited in the RTC decision was a timely receipt by Atty. Leynes of the notice, a matter which the petitioner failed to sufficiently refute. Even after several postponements and case resettings had been previously sought by the defense, counsel and the petitioner still failed to appear or come prepared during the hearing.[33] The RTC decision narrates the antecedents, to wit:

> On August 24, 1998, the cases were set for reception of defense evidence, but counsel arrived late causing the resetting to September 24, 1998.
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> On November 5, 1998, on motion of the defense, on the ground [that] its witness was not available, the hearing was transferred to November 19, 1998. Due to the unavailability of the public prosecutor, hearing was reset to January 12, 1999.