

## **THIRD DIVISION**

**[ G.R. No. 200090, March 06, 2013 ]**

**ERLINDA C. SAN MATEO, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### **D E C I S I O N**

**ABAD, J.:**

Sometime in May and July 2005, petitioner Erlinda C. San Mateo ordered assorted yarns amounting to P327,394.14 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 P134,275.00.

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.

In November 2005, Sehwan 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, Sehwan deposited the remaining checks which were all dishonored because the account had been closed. Sehwan 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, Sehwan'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 Sehwani not to deposit her checks unless she gave a go signal. But Sehwani 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 P134,275.00.

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 Sehwani requesting the latter to defer the deposit of her checks; and (3) her statement in her Amended Affidavit that Sehwani'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.<sup>[1]</sup>

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 Sehwani 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.<sup>[2]</sup> 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 Sehwani 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