

SECOND DIVISION

[G.R. No. 193362, January 18, 2012]

**EDGARDO MEDALLA, PETITIONER, VS. RESURRECCION D. LAXA,
RESPONDENT.**

R E S O L U T I O N

REYES, J.:

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by Edgardo Medalla (petitioner) assailing the Decision^[1] dated May 17, 2010 and Resolution^[2] dated August 13, 2010 issued by the Court of Appeals (CA) in CA-G.R. SP No. 101818.

Sometime in April 1998, the petitioner issued to Resurreccion Laxa (respondent) a Far East Bank Check dated May 5, 1998 in the amount of P742,000.00 as payment of the loan which he obtained from the latter. However, when the said check was deposited by the respondent on May 5, 1998, the same was dishonored as the account from which it was drawn had already been closed. Thereupon, the respondent verbally informed the petitioner of the dishonor of the said check and subsequently sent him a demand letter dated May 7, 1998. Nevertheless, the petitioner failed to pay the amount of the said check.

For his part, the petitioner admitted to having issued the subject check but averred that it was not meant to be deposited or encashed, but that it was a mere guarantee for the loan he obtained from the respondent. Likewise, the petitioner admitted to having been informed by the respondent of the fact of the dishonor of the subject check.

The petitioner further alleged that he had executed a Real Estate Mortgage over his parcel of land in Bulacan in favor of the respondent with the understanding that, should he fail to pay his loan, the latter would foreclose the said mortgage and apply the proceeds thereof to his loan. Reneging on the said agreement, the respondent opted not to foreclose the mortgage and deposit the subject check instead.

Consequently, in an Information docketed as Criminal Case No. 0058531, the petitioner was charged with violation of Batas Pambansa Blg. 22 (B.P. 22) before the Metropolitan Trial Court (MeTC) of Metro Manila.

After due proceedings, the MeTC of Metro Manila, on July 29, 2003, rendered a Decision^[3] finding the petitioner guilty beyond reasonable doubt of the crime charged. He was then sentenced to suffer the penalty of imprisonment of six months and to pay the respondent the amount of P742,000.00, less the amount of partial payments made by the former, and the amount of P20,000.00 as attorney's fees.

Aggrieved, the petitioner appealed from the said Decision to the Regional Trial Court

(RTC) of Quezon City. The petitioner claimed that he and the respondent had entered into a novation of contract thereby effectively obliterating his liability for the issuance of the said dishonored check. He pointed out that, during the pendency of the case with the MeTC of Metro Manila, he and the respondent entered into a new agreement with respect to the civil aspect of the case pursuant to which, substantial payments were made by him, with only P25,000.00 left unpaid.

On November 21, 2005, the RTC of Quezon City rendered a Decision affirming the July 29, 2003 Decision of the MeTC of Metro Manila, albeit with modification. The RTC of Quezon City deleted the penalty of imprisonment for six months and, instead, imposed a fine in the amount of P200,000.00.

The RTC of Quezon City opined that the prosecution was able to establish beyond reasonable doubt all the elements of the crime charged. As to the petitioner's defense of novation, the RTC of Quezon City held that the substantial payments made by the petitioner to the respondent would not affect his criminal liability for violation of B.P. 22 since what is punished by the said law is the issuance *per se* of a worthless check and not the failure to pay his obligation.

A Motion for Partial Reconsideration^[4] was filed by the petitioner but it was denied by the RTC of Quezon City in its Order^[5] dated November 27, 2007.

The petitioner then filed a petition for review with the CA reiterating his arguments before the RTC of Quezon City. On May 17, 2010, the CA rendered the herein assailed Decision^[6] dismissing the petition for review filed by the petitioner and affirming the November 21, 2005 Decision of the RTC of Quezon City.

On the petitioner's defense of novation, the CA found the same untenable and asserted that, for novation to prevent criminal liability, it must occur prior to the filing of Information in court. The petitioner sought reconsideration of the May 17, 2010 Decision but it was denied by the CA in its Resolution^[7] dated August 13, 2010.

Undaunted, the petitioner instituted the instant petition for review on *certiorari* before this Court asserting the following arguments: (1) the prosecution failed to establish the fact of the dishonor of the subject check beyond reasonable doubt; and (2) the novation subsequently entered between him and the respondent extinguished his criminal liability.

The petition is denied.

A perusal of the arguments set forth by the petitioner in support of the instant petition would clearly show that the same only raised questions of fact. The petition failed to show any extraordinary circumstance justifying a departure from the established doctrine that findings of fact of the CA are conclusive on the Court and will not be disturbed on appeal. The issue on whether the prosecution was able to establish the dishonor of the subject check is factual in nature and, hence, not a proper subject of a petition for review on *certiorari* under Rule 45.

Settled is the rule that when the trial court's factual findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this