

THIRD DIVISION

[G.R. NO. 172989, June 19, 2007]

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF APPEALS AND MARGARITA C. SIA, RESPONDENTS.

DECISION

YNARES-SANTIAGO, J.:

This petition for *certiorari* under Rule 65 of the Rules of Court assails the October 26, 2005 Decision^[1] of the Court of Appeals in CA-G.R. CR No. 28562 which affirmed with modification the Decision of the Regional Trial Court of Makati City, Branch 66, by deleting the penalty of imprisonment and imposing instead a fine of P200,000.00 for each violation of Batas Pambansa (BP) Blg. 22, as well as the April 17, 2006 Resolution^[2] denying its motion for partial reconsideration.

Honig Sugar Trading Corporation (HSTC) is a domestic corporation engaged in the trading of raw and refined sugar and its by-products. Fifty percent (50%) of its outstanding capital stock is owned by New Frontier Holding Corp. (NFHC), also a domestic corporation wholly owned by respondent Margarita C. Sia's family. South Pacific Sugar Corporation (SPSC) is another domestic corporation wholly owned and controlled by the Sia family. Respondent Margarita C. Sia was the Chairman of the Board of Directors of HSTC and the President and a member of the board of directors of SPSC. HSTC and SPSC do business with each other; SPSC refines the raw sugar of HSTC, sometimes buys them for resale, and sells HSTC's refined sugar. Generally, their business transactions were carried on a credit basis.

In the course of their transactions, SPSC issued checks in favor of HSTC, with respondent Sia as signatory. Among the checks issued by respondent were: HRR0005306773 for P42,625,000; HRR0005306682 for P15,840,000; HRR0005306774 for P91,776,970 and HRR0005306775 for P9,180,000, in the total amount of P159,421,970.00.

On January 13, 1999, Sia wrote a letter to Mr. Robert Dean of HSTC requesting not to deposit the checks pending the accounting of SPSC's total obligation, and another letter to United Coconut Planters Bank (UCPB) asking for a "Stop Payment Order" (SPO) for the same reason.^[3]

On February 10, 1999, SPSC and HSTC executed a Loan Agreement^[4] whereby the latter extended a loan to SPSC amounting to P579,835,538.63, inclusive of all its outstanding obligations, subject to the completion of the accounting on March 15, 1999.^[5]

HSTC deposited the subject checks in its Far East Bank and Trust Company account in Makati City but were dishonored for having been the subject of a SPO and for

having been "Drawn Against Insufficient Funds" (DAIF).^[6] In four separate letters dated May 26, 1999,^[7] Mr. Raul V. Gamban, President of HSTC, informed respondent of the dishonor and demanded payment thereof. In reply, respondent demanded the withdrawal of the demand letter as HSTC's Board of Directors did not authorize any officer to make such a demand and that the Loan Agreement effectively superseded or cancelled the issued checks.^[8]

On February 23, 2000, Mr. Vicente S. Cenzon, a member of the Board of Directors of HSTC, filed four separate complaint-affidavits^[9] against respondent Sia for violation of *BP Blg. 22* and *estafa*, which led to the filing of four separate Informations before the Metropolitan Trial Court of Makati City, Branch 62. The cases were consolidated and docketed as Criminal Case Nos. 293441-44.^[10]

After joint trial, the trial court rendered a Decision finding respondent guilty of four counts of violation of BP Blg. 22, the dispositive portion of which reads:

WHEREFORE, judgment is rendered finding the accused Margarita C. Sia guilty beyond reasonable doubt of four (4) counts of violation of B.P. 22 and is sentenced to suffer the penalty of Six (6) months imprisonment for each count and to indemnify the private complainant the amount of Forty Two Million Six Hundred Twenty Five Thousand Pesos (P42,625,000.00) in Crim. Case No. 293441; the amount of Fifteen Million Eight Hundred Forty Thousand (P15,840,000.00) Pesos for Crim. Case No. 293442; the amount of Ninety One Million Seven Hundred Seventy Six Thousand and Nine Hundred Seventy (P91,776,970.00) Pesos for Crim. Case No. 293443 and the amount of Nine Million One Hundred Eighty Thousand (P9,180,000.00) for Crim. Case No. 293444 as civil indemnity with interest at the rate of twelve (12%) percent per annum from the filing of the Information until fully paid, plus attorney's fees of Thirty Thousand Pesos (P30,000.00) and costs.

SO ORDERED.^[11]

Respondent appealed before the Regional Trial Court which affirmed the joint decision of the lower court.^[12] She then filed a petition for review with the Court of Appeals which affirmed her conviction but modified the decision by deleting the penalty of imprisonment and imposing instead a fine of P200,000.00 for each case, thus:

WHEREFORE, the petition for review is partially GRANTED. The assailed decision of RTC Br. 66 Makati City affirming the joint decision of the MTC Br. 62 of Makati City is hereby AFFIRMED with MODIFICATION that the imposition of the penalty of 6 months imprisonment for each case on petitioner be deleted and adjudging her instead to pay a fine of P200,000.00 for each of the cases, in addition to the civil liability for the value of the checks in question. In case petitioner is unable to pay such fine, the rule on subsidiary penalty under Article 39 of the Revised Penal Code shall be applied.

SO ORDERED.^[13]

Both parties filed motions for reconsideration with the Court of Appeals which were both denied.^[14]

On June 26, 2006, petitioner People of the Philippines, thru the Office of the Solicitor General (OSG), filed a petition for certiorari under Rule 65 of the Rules of Court alleging that:

I

RESPONDENT COURT GRAVELY ABUSED ITS DISCRETION WHEN IT DOWNGRADED THE PENALTY IMPOSED ON RESPONDENT SIA FROM IMPRISONMENT TO FINE DESPITE HER CHARACTER AS A WHITE-COLLARED OFFENDER AND ECONOMIC SABOTEUR.

II

RESPONDENT COURT GRAVELY ABUSED ITS DISCRETION WHEN IT CREDITED RESPONDENT SIA WITH GOOD FAITH BASED ON SUPPOSED DOCUMENTS THAT SHE HERSELF DID NOT IDENTIFY ON THE WITNESS STAND NOR SUBJECTED TO THE PEOPLE'S SCRUTINY AND EXAMINATION.

III

RESPONDENT COURT GRAVELY ABUSED ITS DISCRETION WHEN IT RULED THAT RESPONDENT SIA IS NOW SHIELDED AGAINST DOUBLE JEOPARDY.^[15]

At the outset, it must be stated that the petition suffers from a fatal infirmity. Petitioner's remedy from the adverse decision of the Court of Appeals would have been to file a petition for review on *certiorari* under Rule 45 within 15 days after notice of denial of its motion for partial reconsideration. This is the proper remedy of a party aggrieved by a decision of the Court of Appeals. However, instead of a petition for review under Rule 45, petitioner filed a petition for *certiorari* under Rule 65 alleging grave abuse of discretion on the part of the Court of Appeals when it substituted the penalty of imprisonment with a fine of P200,000.00 for each case.

A petition under Rule 65 is an independent action that cannot be availed of as a substitute for the lost remedy of an ordinary appeal, including that under Rule 45, especially if such loss or lapse was occasioned by one's own neglect or error in the choice of remedies. And under Section 5(f) of Rule 56 of the Rules of Court, an error in the choice or mode of appeal, as in this case, merits an outright dismissal.^[16]

Furthermore, the instant petition lacks merit. It seeks to impose a harsher penalty upon respondent in clear violation of Section 2 of Rule 122. Indeed, both the accused and the prosecution may appeal a criminal case, but the government may do so only if the accused would not be placed in double jeopardy. Moreover, the prosecution cannot appeal on the ground that the accused should have been given a more severe penalty.^[17]

In *People v. Leones*,^[18] we held that while "it is true that this Court is the Court of