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THIRD DIVISION

[G.R. NO. 151876, June 21, 2005]

SUSAN GO AND THE PEOPLE OF THE PHILIPPINES, PETITIONERS, VS. FERNANDO L. DIMAGIBA, RESPONDENT.

DECISION

PANGANIBAN, J.:

Administrative Circular 12-2000, as clarified by Administrative Circular 13-2001, merely establishes a rule of preference in imposing penalties for violations of Batas Pambansa Blg. 22 (BP 22), the "Bouncing Checks Law." When the circumstances of both the offense and the offender indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone -- instead of imprisonment -- is the preferred penalty. As the Circular requires a review of the factual circumstances of a given case, it applies only to pending or future litigations. It is not a penal law; hence, it does not have retroactive effect. Neither may it be used to modify final judgments of conviction.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, assailing the October 10, 2001[2] and the October 11, 2001[3] Orders of the Regional Trial Court (RTC) (Branch 5), Baguio City.[4] The October 10, 2001 Order released Respondent Fernando L. Dimagiba from confinement and required him to pay a fine of P100,000 in lieu of imprisonment. The October 11, 2001 Order disposed as follows:

> "WHEREFORE, [in] applying the doctrine as held in the above-entitled cases in this case, the instant petition for Habeas Corpus should be, as it is hereby, **GRANTED**. The Baguio City Jail Warden is hereby ordered to IMMEDIATELY RELEASE the petitioner from confinement unless he is being held for some other lawful cause other than by virtue of the Sentence Mittimus dated September 28, 2001 issued by CESAR S. VIDUYA, Clerk of Court, MTC 4, Baguio City. Further, the petitioner is required to pay a fine in the amount of P100,000.00 in lieu of his imprisonment, in addition to the civil aspect of the Joint Judgment rendered by MTC 4 dated July 16, 1999."[5]

The Facts

The pertinent facts are not disputed. Respondent Fernando L. Dimagiba issued to Petitioner Susan Go thirteen (13) checks which, when presented to the drawee bank for encashment or payment on the due dates, were dishonored for the reason

"account closed."[6] Dimagiba was subsequently prosecuted for 13 counts of violation of BP 22[7] under separate Complaints filed with the Municipal Trial Court in Cities (MTCC) in Baguio City.[8] After a joint trial, the MTCC (Branch 4) rendered a Decision on July 16, 1999, convicting the accused in the 13 cases. The dispositive portion reads as follows:

> "WHEREFORE, in view of the foregoing disquisition, this Court finds the evidence of the prosecution to have established the guilt of the accused beyond reasonable doubt of the offenses charged and imposes upon the accused the penalty of 3 months imprisonment for each count (13 counts) and to indemnify the offended party the amount of One Million Two Hundred Ninety Five Thousand Pesos (P1,295,000.00) with legal interest per annum commencing from 1996 after the checks were dishonored by reason 'ACCOUNT CLOSED' on December 13, 1995, to pay attorney's fees of P15,000.00 and to pay the costs."[9]

The appeal of Dimagiba was raffled to Branch 4 of the RTC in Baguio City.[10] On May 23, 2000, the RTC denied the appeal and sustained his conviction.[11] There being no further appeal to the Court of Appeals (CA), the RTC issued on February 1, 2001, a Certificate of Finality of the Decision.[12]

Thus, on February 14, 2001, the MTCC issued an Order directing the arrest of Dimagiba for the service of his sentence as a result of his conviction. The trial court also issued a Writ of Execution to enforce his civil liability.[13]

On February 27, 2001, Dimagiba filed a Motion for Reconsideration of the MTCC Order. He prayed for the recall of the Order of Arrest and the modification of the final Decision, arguing that the penalty of fine only, instead of imprisonment also, should have been imposed on him.[14] The arguments raised in that Motion were reiterated in a Motion for the Partial Quashal of the Writ of Execution filed on February 28, 2001.[15]

In an Order dated August 22, 2001, the MTCC denied the Motion for Reconsideration and directed the issuance of a Warrant of Arrest against Dimagiba.[16] On September 28, 2001, he was arrested and imprisoned for the service of his sentence.

On October 9, 2001, he filed with the RTC of Baguio City a Petition[17] for a writ of habeas corpus. The case was raffled to Branch 5, which scheduled the hearing for October 10, 2001. Copies of the Order were served on respondent's counsels and the city warden.[18]

Ruling of the Regional Trial Court

Right after hearing the case on October 10, 2001, the RTC issued an Order directing the immediate release of Dimagiba from confinement and requiring him to pay a fine of P100,000 in lieu of imprisonment. However, the civil aspect of the July 16, 1999 MTCC Decision was not touched upon.[19] A subsequent Order, explaining in greater detail the basis of the grant of the writ of habeas corpus, was issued on

October 11, 2001.[20]

In justifying its modification of the MTCC Decision, the RTC invoked *Vaca v. Court of Appeals*[21] and Supreme Court Administrative Circular (SC-AC) No. 12-2000,[22] which allegedly required the imposition of a fine only instead of imprisonment also for BP 22 violations, if the accused was not a recidivist or a habitual delinquent. The RTC held that this rule should be retroactively applied in favor of Dimagiba.[23] It further noted that (1) he was a first-time offender and an employer of at least 200 workers who would be displaced as a result of his imprisonment; and (2) the civil liability had already been satisfied through the levy of his properties.[24]

On October 22, 2001, Petitioner Go filed a Motion for Reconsideration of the RTC Orders dated October 10 and 11, 2001.[25] That Motion was denied on January 18, 2002.[26]

Hence, this Petition filed directly with this Court on pure questions of law.[27]

The Issues

Petitioner raises the following issues for this Court's consideration:

> "1. [The RTC] Judge was utterly devoid of jurisdiction in amending a final and conclusive decision of the Municipal Trial Court, Branch 4, dated July 16, 1999, in nullifying the Sentence Mittimus, dated September 28, 2001, issued by x x x [the] Municipal Trial Court, Branch 4, Baguio City, and in ordering the release of [Dimagiba] from confinement in jail for the service of his sentence under the said final and conclusive judgment;
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> "2. Assuming only for the sake of argument that habeas corpus is the proper remedy, the Petition for Habeas Corpus is utterly devoid of merit as [Dimagiba was] not entitled to the beneficent policy enunciated in the *Eduardo Vaca* and *Rosa Lim* cases and reiterated in the Supreme Court Circular No. 12-2000; x x x
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> "3. Granting for the sake of argument that [Dimagiba was] entitled to the beneficent policy enunciated in the *Eduardo Vaca* and *Rosa Lim* cases and reiterated in the Supreme Court Circular No. 12-2000, the minimum fine that should be imposed on [Dimagiba] is one million and two hundred ninety five thousand pesos (P1,295,000.00) up to double the said amount or (P2,590,000), not just the measly amount of P100,000; and
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> "4. [The RTC] judge committed grave abuse of discretion amounting to lack or excess of jurisdiction in hearing and deciding [Dimagiba's] Petition for Habeas Corpus without notice and without affording procedural due process to the People of the Philippines through the Office of [the] City Prosecutor of Baguio City or the Office of the Solicitor General."[28]

In the main, the case revolves around the question of whether the Petition for habeas corpus was validly granted. Hence, the Court will discuss the four issues as they intertwine with this main question.[29]

The Court's Ruling

The Petition is meritorious.

Main Issue:
Propriety of the Writ of Habeas Corpus

The writ of habeas corpus applies to all cases of illegal confinement or detention in which individuals are deprived of liberty.[30] It was devised as a speedy and effectual remedy to relieve persons from unlawful restraint; or, more specifically, to obtain immediate relief for those who may have been illegally confined or imprisoned without sufficient cause and thus deliver them from unlawful custody.[31] It is therefore a writ of inquiry intended to test the circumstances under which a person is detained.[32]

The writ may not be availed of when the person in custody is under a judicial process or by virtue of a valid judgment.[33] However, as a post-conviction remedy, it may be allowed when, as a consequence of a judicial proceeding, any of the following exceptional circumstances is attendant: (1) there has been a deprivation of a constitutional right resulting in the restraint of a person; (2) the court had no jurisdiction to impose the sentence; or (3) *the imposed penalty has been excessive*, thus voiding the sentence as to such excess.[34]

In the present case, the Petition for a writ of habeas corpus was anchored on the ruling in *Vaca* and on SC-AC No. 12-2000, which allegedly prescribed the imposition of a fine, not imprisonment, for convictions under BP 22. Respondent sought the retroactive effect of those rulings, thereby effectively challenging the penalty imposed on him for being excessive. From his allegations, the Petition appeared sufficient in form to support the issuance of the writ.

However, it appears that respondent has previously sought the modification of his sentence in a Motion for Reconsideration[35] of the MTCC's Execution Order and in a Motion for the Partial Quashal of the Writ of Execution.[36] Both were denied by the MTCC on the ground that it had no power or authority to amend a judgment issued by the RTC.

In his Petition for habeas corpus, respondent raised the same arguments that he had invoked in the said Motions. We believe that his resort to this extraordinary remedy was a procedural infirmity. The remedy should have been an appeal of the MTCC Order denying his Motions, in which he should have prayed that the execution of the judgment be stayed. But he effectively misused the action he had chosen, obviously with the intent of finding a favorable court. His Petition for a writ of habeas corpus was clearly an attempt to reopen a case that had already become final and executory. Such an action deplorably amounted to forum shopping. Respondent should have resorted to the proper, available remedy instead of instituting a different action in another forum.

The Court also finds his arguments for his release insubstantial to support the issuance of the writ of habeas corpus.

Preference in the Application of Penalties for Violation of BP 22

The following alternative penalties are imposable under BP 22: (1) imprisonment of not less than 30 days, but not more than one year; (2) a fine of not less or more than double the amount of the check, a fine that shall in no case exceed P200,000; or (3) both such fine and imprisonment, at the discretion of the court.[37]

SC-AC No. 12-2000, as clarified by SC-AC No. 13-2001,[38] established a *rule of preference* in imposing the above penalties.[39] When the circumstances of the case clearly indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone may be considered as the preferred penalty.[40] The determination of the circumstances that warrant the imposition of a fine rests upon the trial judge only.[41] Should the judge deem that imprisonment is appropriate, such penalty may be imposed.[42]

SC-AC No. 12-2000 did not delete the alternative penalty of imprisonment. The competence to amend the law belongs to the legislature, not to this Court.[43]

Inapplicability of SC-AC No. 12-2000

Petitioners argue that respondent is not entitled to the benevolent policy enunciated in SC-AC No. 12-2000, because he is not a "first time offender."[44] This circumstance is, however, not the sole factor in determining whether he deserves the preferred penalty of fine alone. The penalty to be imposed depends on the peculiar circumstances of each case.[45] It is the trial court's discretion to impose any penalty within the confines of the law. SC-AC No. 13-2001 explains thus:

> "x x x. Administrative Circular No. 12-2000 establishes a rule of preference in the application of the penal provisions of BP 22 such that where the circumstances of both the offense and the offender clearly indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone should be considered as the more appropriate penalty. Needless to say, the determination of whether the circumstances warrant the imposition of a fine alone rests solely upon the Judge. x x x.
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> It is, therefore, understood that:
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> x x x x x x x x x
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> "2. The Judges concerned, may in the exercise of sound discretion, and taking into consideration the peculiar circumstances of each case, determine whether the imposition of a fine alone would best serve the interests of justice, or whether forbearing to impose imprisonment would depreciate the seriousness of the offense, work violence on the social order, or otherwise be contrary to the imperatives of justice;"