

SECOND DIVISION

[G.R. No. 163597, July 29, 2005]

**HYATT INDUSTRIAL MANUFACTURING CORP., PETITIONER, VS.
ASIA DYNAMIC ELECTRIX CORP. AND COURT OF APPEALS,
RESPONDENTS.**

DECISION

PUNO, J.:

This is a petition for review of the decision of the Court of Appeals dated October 8, 2003 in CA-G.R. SP No. 71467 and its resolution dated May 14, 2004. The assailed decision and resolution reversed the order dated December 10, 2001 of the Regional Trial Court of Mandaluyong City, Branch 210 in Civil Case No. MC 01-1493 denying the motion to dismiss filed by herein respondent, Asia Dynamic Electrix Corporation.

On April 4, 2001, petitioner Hyatt Industrial Manufacturing Corporation filed before the Regional Trial Court of Mandaluyong City a complaint for recovery of sum of money against respondent Asia Dynamic Electrix Corporation. The complaint alleged that respondent purchased from petitioner various electrical conduits and fittings amounting P1,622,467.14. Respondent issued several checks in favor of petitioner as payment. The checks, however, were dishonored by the drawee bank on the ground of insufficient funds/account closed. The complaint further alleged that respondent failed to pay despite demand. It prayed that respondent be ordered to pay the amount of purchase, plus interest and attorney's fees.^[1]

Respondent moved to dismiss the complaint on the following grounds: (1) the civil action was deemed included in the criminal actions for violation of *Batas Pambansa Blg. 22* (B.P. 22) previously filed by petitioner against the officers of respondent corporation; (2) Section 1(b) of Rule 111 of the Revised Rules of Criminal Procedure prohibits the filing of a separate civil action in B.P. 22 cases; and (3) respondent was guilty of forum shopping and unjust enrichment.^[2]

The trial court denied the motion to dismiss in its order dated December 10, 2001. It ruled that since the act complained of arose from the alleged non-payment of the petitioner of its contractual debt, and not the issuance of checks with insufficient funds, in accordance with Article 31 of the Civil Code, the civil action could proceed independently of the criminal actions. It said that Section 1(b) of Rule 111 of the Revised Rules of Criminal Procedure does not apply to the obligation in this case, it being *ex-contractu* and *not ex-delicto*.^[3]

Respondent questioned said order before the Court of Appeals in a petition for *certiorari*. The appellate court, in its decision dated October 8, 2003, reversed the order of the trial court. It held that the civil actions deemed instituted with the filing of the criminal cases for violation of B.P. 22 and Civil Case No. MC 01-1493 are of the same nature, *i.e.*, for sum of money between the same parties for the same

transaction. Considering that the courts where the two criminal cases were pending acquired jurisdiction over the civil actions, which were deemed instituted therein, the respondent court could no longer acquire jurisdiction over the same case.^[4]

Respondent filed a motion for reconsideration which was denied by the Court of Appeals in its resolution dated May 14, 2004.^[5]

Hence, this petition raising the following arguments:

1. There is no identity of interests, causes of action, and reliefs in Civil Case No. MC 01-1493 before the Regional Trial Court of Mandaluyong City and the criminal complaints for violation of BP Blg. 22 filed against Gil Santillan and Juanito Pamatmat before the Metropolitan Trial Court of Pasig City docketed as I.S. No. 00-01-00304 and I.S. No. 00-01-00300.
2. Petitioner is not guilty of forum shopping.
3. Petitioner did not violate Section 1(b) of Rule 111 of the Revised Rules on Criminal Procedure when it filed the complaint in Civil Case No. MC 01-1493.^[6]

The petition is unmeritorious.

It appears that prior to the filing of the case for recovery of sum of money before the Regional Trial Court of Mandaluyong City, petitioner had already filed separate criminal complaints for violation of B.P. 22 against the officers of respondent corporation, Gil Santillan and Juanito Pamatmat. They were docketed as I.S. No. 00-01-00304^[7] and I.S. No. 00-01-00300,^[8] respectively, and were both pending before the Metropolitan Trial Court of Pasig City. These cases involve the same checks which are the subjects of Civil Case No. MC 01-1493 before the Regional Trial Court of Mandaluyong City.

We agree with the ruling of the Court of Appeals that upon filing of the criminal cases for violation of B.P. 22, the civil action for the recovery of the amount of the checks was also impliedly instituted under Section 1(b) of Rule 111 of the 2000 Rules on Criminal Procedure. Under the present revised Rules, the criminal action for violation of B.P. 22 shall be deemed to include the corresponding civil action. The reservation to file a separate civil action is no longer needed.^[9] The Rules provide:

Section 1. *Institution of criminal and civil actions.* —

(a) x x x

(b) The criminal action for violation of Batas Pambansa Blg. 22 shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed.

Upon filing of the aforesaid joint criminal and civil actions, the offended party shall pay in full the filing fees based on the amount of the check involved, which shall be considered as the actual damages claimed.

Where the complaint or information also seeks to recover liquidated, moral, nominal, temperate or exemplary damages, the offended party shall pay additional filing fees based on the amounts alleged therein. If the amounts are not so alleged but any of these damages are subsequently awarded by the court, the filing fees based on the amount awarded shall constitute a first lien on the judgment.

Where the civil action has been filed separately and trial thereof has not yet commenced, it may be consolidated with the criminal action upon application with the court trying the latter case. If the application is granted, the trial of both actions shall proceed in accordance with section 2 of this Rule governing consolidation of the civil and criminal actions.

The foregoing rule was adopted from Circular No. 57-97 of this Court. It specifically states that the criminal action for violation of B.P. 22 shall be deemed to include the corresponding civil action. It also requires the complainant to pay in full the filing fees based on the amount of the check involved. Generally, no filing fees are required for criminal cases, but because of the inclusion of the civil action in complaints for violation of B.P. 22, the Rules require the payment of docket fees upon the filing of the complaint. This rule was enacted to help declog court dockets which are filled with B.P. 22 cases as creditors actually use the courts as collectors. Because ordinarily no filing fee is charged in criminal cases for actual damages, the payee uses the intimidating effect of a criminal charge to collect his credit *gratis* and sometimes, upon being paid, the trial court is not even informed thereof.^[10] The inclusion of the civil action in the criminal case is expected to significantly lower the number of cases filed before the courts for collection based on dishonored checks. It is also expected to expedite the disposition of these cases. Instead of instituting two separate cases, one for criminal and another for civil, only a single suit shall be filed and tried. It should be stressed that the policy laid down by the Rules is to discourage the separate filing of the civil action. The Rules even prohibit the reservation of a separate civil action, which means that one can no longer file a separate civil case after the criminal complaint is filed in court. The only instance when separate proceedings are allowed is when the civil action is filed ahead of the criminal case. Even then, the Rules encourage the consolidation of the civil and criminal cases. We have previously observed that a separate civil action for the purpose of recovering the amount of the dishonored checks would only prove to be costly, burdensome and time-consuming for both parties and would further delay the final disposition of the case. This multiplicity of suits must be avoided. Where petitioners' rights may be fully adjudicated in the proceedings before the trial court, resort to a separate action to recover civil liability is clearly unwarranted.^[11] In view of this special rule governing actions for violation of B.P. 22, Article 31 of the Civil Code^[12] cited by the trial court will not apply to the case at bar.

The pendency of the civil action before the court trying the criminal case bars the filing of another civil action in another court on the ground of *litis pendentia*. The elements of *litis pendentia* as a ground for dismissal of an action are: (1) identity of parties, or at least such parties who represent the same interest in both actions; (2) identity of rights asserted and relief prayed for, the relief being founded on the same facts; and (3) the identity, with respect to the two preceding particulars in the two cases, is such that any judgment that may be rendered in the pending case, regardless of which party is successful, would amount to *res judicata* in the other.