

SECOND DIVISION

[G.R. No. 149275, September 27, 2004]

**VICKY C. TY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

D E C I S I O N

TINGA, J.:

Petitioner Vicky C. Ty ("Ty") filed the instant *Petition for Review* under Rule 45, seeking to set aside the *Decision*^[1] of the Court of Appeals Eighth Division in CA-G.R. CR No. 20995, promulgated on 31 July 2001. The *Decision* affirmed with modification the judgment of the Regional Trial Court (RTC) of Manila, Branch 19, dated 21 April 1997, finding her guilty of seven (7) counts of violation of *Batas Pambansa* Blg. 22^[2] (B.P. 22), otherwise known as the Bouncing Checks Law.

This case stemmed from the filing of seven (7) *Informations* for violation of B.P. 22 against Ty before the RTC of Manila. The *Informations* were docketed as Criminal Cases No. 93-130459 to No. 93-130465. The accusatory portion of the *Information* in Criminal Case No. 93-130465 reads as follows:

That on or about May 30, 1993, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to Manila Doctors' Hospital to apply on account or for value to Editha L. Vecino Check No. Metrobank 487712 dated May 30, 1993 payable to Manila Doctors Hospital in the amount of ₱30,000.00, said accused well knowing that at the time of issue she did not have sufficient funds in or credit with the drawee bank for payment of such check in full upon its presentment, which check when presented for payment within ninety (90) days from the date hereof, was subsequently dishonored by the drawee bank for "Account Closed" and despite receipt of notice of such dishonor, said accused failed to pay said Manila Doctors Hospital the amount of the check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

Contrary to law.^[3]

The other *Informations* are similarly worded except for the number of the checks and dates of issue. The data are hereunder itemized as follows:

<i>Criminal Case No.</i>	<i>Check No.</i>	<i>Postdated</i>	<i>Amount</i>
93-130459	487710	30 March 1993	₱30,000.00
93-130460	487711	30 April 1993	₱30,000.00

93-130461	487709	01 March 1993	P30,000.00
93-130462	487707	30 December 1992	P30,000.00
93-130463	487706	30 November 1992	P30,000.00
93-130464	487708	30 January 1993	P30,000.00
93-130465	487712	30 May 1993	P30,000.00 ^[4]

The cases were consolidated and jointly tried. At her arraignment, Ty pleaded not guilty.^[5]

The evidence for the prosecution shows that Ty's mother Chua Lao So Un was confined at the Manila Doctors' Hospital (hospital) from 30 October 1990 until 4 June 1992. Being the patient's daughter, Ty signed the "Acknowledgment of Responsibility for Payment" in the Contract of Admission dated 30 October 1990.^[6]

As of 4 June 1992, the Statement of Account^[7] shows the total liability of the mother in the amount of P657,182.40. Ty's sister, Judy Chua, was also confined at the hospital from 13 May 1991 until 2 May 1992, incurring hospital bills in the amount of P418,410.55.^[8] The total hospital bills of the two patients amounted to P1,075,592.95. On 5 June 1992, Ty executed a promissory note wherein she assumed payment of the obligation in installments.^[9] To assure payment of the obligation, she drew several postdated checks against Metrobank payable to the hospital. The seven (7) checks, each covering the amount of P30,000.00, were all deposited on their due dates. But they were all dishonored by the drawee bank and returned unpaid to the hospital due to insufficiency of funds, with the "Account Closed" advice. Soon thereafter, the complainant hospital sent demand letters to Ty by registered mail. As the demand letters were not heeded, complainant filed the seven (7) *Informations* subject of the instant case.^[10]

For her defense, Ty claimed that she issued the checks because of "an uncontrollable fear of a greater injury." She averred that she was forced to issue the checks to obtain release for her mother whom the hospital inhumanely and harshly treated and would not discharge unless the hospital bills are paid. She alleged that her mother was deprived of room facilities, such as the air-condition unit, refrigerator and television set, and subject to inconveniences such as the cutting off of the telephone line, late delivery of her mother's food and refusal to change the latter's gown and bedsheets. She also bewailed the hospital's suspending medical treatment of her mother. The "debasing treatment," she pointed out, so affected her mother's mental, psychological and physical health that the latter contemplated suicide if she would not be discharged from the hospital. Fearing the worst for her mother, and to comply with the demands of the hospital, Ty was compelled to sign a promissory note, open an account with Metrobank and issue the checks to effect her mother's immediate discharge.^[11]

Giving full faith and credence to the evidence offered by the prosecution, the trial court found that Ty issued the checks subject of the case in payment of the hospital bills of her mother and rejected the theory of the defense.^[12] Thus, on 21 April 1997, the trial court rendered a *Decision* finding Ty guilty of seven (7) counts of

violation of B.P. 22 and sentencing her to a prison term. The dispositive part of the *Decision* reads:

CONSEQUENTLY, the accused Vicky C. Ty, for her acts of issuing seven (7) checks in payment of a valid obligation, which turned unfounded on their respective dates of maturity, is found guilty of seven (7) counts of violations of Batas Pambansa Blg. 22, and is hereby sentenced to suffer the penalty of imprisonment of SIX MONTHS per count or a total of forty-two (42) months.

SO ORDERED.^[13]

Ty interposed an appeal from the *Decision* of the trial court. Before the Court of Appeals, Ty reiterated her defense that she issued the checks “under the impulse of an uncontrollable fear of a greater injury or in avoidance of a greater evil or injury.” She also argued that the trial court erred in finding her guilty when evidence showed there was absence of valuable consideration for the issuance of the checks and the payee had knowledge of the insufficiency of funds in the account. She protested that the trial court should not have applied the law mechanically, without due regard to the principles of justice and equity.^[14]

In its *Decision* dated 31 July 2001, the appellate court affirmed the judgment of the trial court with modification. It set aside the penalty of imprisonment and instead sentenced Ty “to pay a fine of sixty thousand pesos (P60,000.00) equivalent to double the amount of the check, in each case.”^[15]

In its assailed *Decision*, the Court of Appeals rejected Ty’s defenses of involuntariness in the issuance of the checks and the hospital’s knowledge of her checking account’s lack of funds. It held that B.P. 22 makes the mere act of issuing a worthless check punishable as a special offense, it being a *malum prohibitum*. What the law punishes is the issuance of a bouncing check and not the purpose for which it was issued nor the terms and conditions relating to its issuance.^[16]

Neither was the Court of Appeals convinced that there was no valuable consideration for the issuance of the checks as they were issued in payment of the hospital bills of Ty’s mother.^[17]

In sentencing Ty to pay a fine instead of a prison term, the appellate court applied the case of *Vaca v. Court of Appeals*^[18] wherein this Court declared that in determining the penalty imposed for violation of B.P. 22, the philosophy underlying the Indeterminate Sentence Law should be observed, *i.e.*, redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness, with due regard to the protection of the social order.^[19]

Petitioner now comes to this Court basically alleging the same issues raised before the Court of Appeals. More specifically, she ascribed errors to the appellate court based on the following grounds:

- A. THERE IS CLEAR AND CONVINCING EVIDENCE THAT PETITIONER WAS FORCED TO OR COMPELLED IN THE OPENING OF THE ACCOUNT AND THE ISSUANCE OF THE SUBJECT CHECKS.

B. THE CHECKS WERE ISSUED UNDER THE IMPULSE OF AN *UNCONTROLLABLE FEAR OF A GREATER INJURY OR IN AVOIDANCE OF A GREATER EVIL OR INJURY*.

C. THE EVIDENCE ON RECORD PATENTLY SHOW[S] *ABSENCE OF VALUABLE CONSIDERATION* IN THE ISSUANCE OF THE SUBJECT CHECKS.

D. IT IS AN UNDISPUTED FACT THAT THE PAYEE OF *THE CHECKS* WAS *FULLY AWARE OF THE LACK OF FUNDS* IN THE ACCOUNT.

E. THE HONORABLE COURT OF APPEALS, AS WELL AS THE HONORABLE TRIAL COURT [,] SHOULD NOT HAVE APPLIED CRIMINAL LAW MECHANICALLY, WITHOUT DUE REGARD TO THE PRINCIPLES OF JUSTICE AND EQUITY.

In its *Memorandum*,^[20] the Office of the Solicitor General (OSG), citing jurisprudence, contends that a check issued as an evidence of debt, though not intended to be presented for payment, has the same effect as an ordinary check; hence, it falls within the ambit of B.P. 22. And when a check is presented for payment, the drawee bank will generally accept the same, regardless of whether it was issued in payment of an obligation or merely to guarantee said obligation. What the law punishes is the issuance of a bouncing check, not the purpose for which it was issued nor the terms and conditions relating to its issuance. The mere act of issuing a worthless check is *malum prohibitum*.^[21]

We find the petition to be without merit and accordingly sustain Ty's conviction.

Well-settled is the rule that the factual findings and conclusions of the trial court and the Court of Appeals are entitled to great weight and respect, and will not be disturbed on appeal in the absence of any clear showing that the trial court overlooked certain facts or circumstances which would substantially affect the disposition of the case.^[22] Jurisdiction of this Court over cases elevated from the Court of Appeals is limited to reviewing or revising errors of law ascribed to the Court of Appeals whose factual findings are conclusive, and carry even more weight when said court affirms the findings of the trial court, absent any showing that the findings are totally devoid of support in the record or that they are so glaringly erroneous as to constitute serious abuse of discretion.^[23]

In the instant case, the Court discerns no compelling reason to reverse the factual findings arrived at by the trial court and affirmed by the Court of Appeals.

Ty does not deny having issued the seven (7) checks subject of this case. She, however, claims that the issuance of the checks was under the impulse of an uncontrollable fear of a greater injury or in avoidance of a greater evil or injury. She would also have the Court believe that there was no valuable consideration in the issuance of the checks.

However, except for the defense's claim of uncontrollable fear of a greater injury or avoidance of a greater evil or injury, all the grounds raised involve factual issues

which are best determined by the trial court. And, as previously intimated, the trial court had in fact discarded the theory of the defense and rendered judgment accordingly.

Moreover, these arguments are a mere rehash of arguments unsuccessfully raised before the trial court and the Court of Appeals. They likewise put to issue factual questions already passed upon twice below, rather than questions of law appropriate for review under a Rule 45 petition.

The only question of law raised—whether the defense of uncontrollable fear is tenable to warrant her exemption from criminal liability—has to be resolved in the negative. For this exempting circumstance to be invoked successfully, the following requisites must concur: (1) existence of an uncontrollable fear; (2) the fear must be real and imminent; and (3) the fear of an injury is greater than or at least equal to that committed.^[24]

It must appear that the threat that caused the uncontrollable fear is of such gravity and imminence that the ordinary man would have succumbed to it.^[25] It should be based on a real, imminent or reasonable fear for one's life or limb.^[26] A mere threat of a future injury is not enough. It should not be speculative, fanciful, or remote.^[27] A person invoking uncontrollable fear must show therefore that the compulsion was such that it reduced him to a mere instrument acting not only without will but against his will as well.^[28] It must be of such character as to leave no opportunity to the accused for escape.^[29]

In this case, far from it, the fear, if any, harbored by Ty was not real and imminent. Ty claims that she was compelled to issue the checks—a condition the hospital allegedly demanded of her before her mother could be discharged—for fear that her mother's health might deteriorate further due to the inhumane treatment of the hospital or worse, her mother might commit suicide. This is speculative fear; it is not the uncontrollable fear contemplated by law.

To begin with, there was no showing that the mother's illness was so life-threatening such that her continued stay in the hospital suffering all its alleged unethical treatment would induce a well-grounded apprehension of her death. Secondly, it is not the law's intent to say that any fear exempts one from criminal liability much less petitioner's flimsy fear that her mother might commit suicide. In other words, the fear she invokes was not impending or insuperable as to deprive her of all volition and to make her a mere instrument without will, moved exclusively by the hospital's threats or demands.

Ty has also failed to convince the Court that she was left with no choice but to commit a crime. She did not take advantage of the many opportunities available to her to avoid committing one. By her very own words, she admitted that the collateral or security the hospital required prior to the discharge of her mother may be in the form of postdated checks or jewelry.^[30] And if indeed she was coerced to open an account with the bank and issue the checks, she had all the opportunity to leave the scene to avoid involvement.

Moreover, petitioner had sufficient knowledge that the issuance of checks without