

SECOND DIVISION

[G.R. Nos. 159418-19, December 10, 2003]

**NORMA DE JOYA, PETITIONER, VS. THE JAIL WARDEN OF
BATANGAS CITY AND HON. RUBEN A. GALVEZ AS PRESIDING
JUDGE OF BATANGAS CITY MUNICIPAL TRIAL COURT IN CITIES,
BRANCH I, RESPONDENTS.**

D E C I S I O N

CALLEJO, SR., J.:

This is a petition for a writ of *habeas corpus* filed by Norma de Joya praying for her release from the Batangas City Jail on the claim that her detention was illegal.

The Antecedents

The petitioner was charged separately with violations of Batas Pambansa Blg. 22 before the Municipal Trial Court In Cities in Batangas City. The docket numbers and accusatory portion of each of the Informations reads:

Criminal Case No. 25484

That on or about September 28, 1994 at Batangas City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, well-knowing that she does not have funds in or credit with the Solid Bank, Batangas Branch, Batangas City, did then and there, wilfully, unlawfully and feloniously draw, make and issue to Flor Catapang de Tenorio, Solid Bank Check No. 040297 postdated to October 28, 1994 in the amount of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS, Philippine Currency, to apply on account or for value, but when said check was presented for full payment with the drawee bank within a period of ninety (90) days from the date of the check, the same was dishonored by the drawee bank on the ground `account closed,' which in effect is even more than a dishonor for insufficiency of funds, and despite notice of dishonor and demands made upon her to make good her check by making proper arrangement with the drawee bank or pay her obligation in full directly to Flor Catapang de Tenorio, accused failed and refused to do so, which acts constitute a clear violation of the aforecited law, to the damage and prejudice of transaction in commercial documents in general and of Flor Catapang de Tenorio in particular in the aforementioned amount.

CONTRARY TO LAW.^[1]

...

Criminal Case No. 25773

That on or about October 17, 1994 at Batangas City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, well-knowing that she does not have fund in or credit with the Security Bank and Trust Company, Batangas Branch, Batangas City, did then and there, wilfully, unlawfully and feloniously draw, make and issue to Resurreccion T. Castillo, Security Bank and Trust Company Check No. 038111 postdated to October 24, 1994 in the amount of TWO HUNDRED TWENTY-FIVE THOUSAND PESOS (P225,000.00), Philippine Currency, to apply on account or for value, but when said check was presented for full payment with the drawee bank within a period of ninety (90) days from the date of the check, the same was dishonored by the drawee bank on the ground of 'account closed,' which in effect is even more than a dishonor for insufficiency of funds, and despite notice of dishonor and demands made upon her to make good her check by making proper arrangement with the drawee bank or pay her obligation in full directly to Resurreccion T. Castillo, accused failed and refused to do so, which acts constitute a clear violation of the aforecited law, to the damage and prejudice of transaction in commercial documents in general and of Resurreccion T. Castillo in particular in the aforementioned amount.

CONTRARY TO LAW.^[2]

When arraigned in both cases, the petitioner, assisted by counsel, pleaded not guilty. While trial was going on, the petitioner jumped bail. No evidence was thereby adduced in her defense in any of the two cases.

On December 14, 1995, the trial court promulgated its decision in Criminal Case No. 25484. The petitioner and her counsel failed to appear despite due notice. The decretal portion of the decision reads as follows:

WHEREFORE, this Court finds the accused Norma de Joya guilty of the crime of Violation of Batas Pambansa Blg. 22, and hereby sentences said accused to suffer an imprisonment of one (1) year and to indemnify the offended party, Flor Catapang Tenorio, in the sum of ONE HUNDRED FIFTY THOUSAND (P150,000.00) PESOS, Philippine Currency.

SO ORDERED.^[3]

On March 21, 1997, the decision in Criminal Case No. 25773 was likewise promulgated *in absentia*. The decretal portion of the said decision reads:

WHEREFORE, the Prosecution having satisfactorily established the guilt of the accused beyond reasonable doubt, this Court hereby sentences herein-accused Norma de Joya of imprisonment of ONE (1) YEAR and to pay complainant Resurreccion Castillo of the amount of TWO HUNDRED TWENTY-FIVE THOUSAND (P225,000.00) PESOS by way of damages.

SO ORDERED.^[4]

The petitioner remained at large and no appeal was filed from any of the said decisions. In the meantime, the Court issued Supreme Court Administrative Circular

No. 12-2000 on November 21, 2000 enjoining all courts and judges concerned to take notice of the ruling and policy of the Court enunciated in *Vaca v. Court of Appeals*^[5] and *Lim v. People*^[6] with regard to the imposition of the penalty for violations of B.P. Blg. 22.

After five years, the petitioner was finally arrested while she was applying for an NBI clearance. She was forthwith detained at the Batangas City Jail on December 3, 2002. On July 28, 2003, the petitioner filed an urgent motion with the Municipal Trial Court of Batangas City asking the court to apply SC Admin. Circular No. 12-2000 retroactively pursuant to Article 22 of the Revised Penal Code and to order her release from detention. The public prosecutor opposed the motion. In an Order dated August 15, 2003, the trial court denied the motion on three grounds: (a) its decision convicting the petitioner of violation of B.P. Blg. 22 had long become final and executory; hence, could no longer be amended to change the penalty imposed therein; (b) the SC Circular should be applied prospectively; and (c) the SC Circular did not amend B.P. Blg. 22, a substantive law, but merely encourages trial court judges to have a uniform imposition of fine.

Hence, the petition at bar.

The petitioner posits that SC Admin. Circular No. 12-2000 deleted the penalty of imprisonment for violation of B.P. Blg. 22 and allows only the imposition of a fine. The trial court was mandated to apply SC Admin. Circular No. 12-2000 retroactively conformably with Article 22 of the Revised Penal Code citing the ruling of this Court in *United States v. Pacrose*.^[7] The petitioner prays that the Court declare her detention illegal and order her release from the Batangas City Jail.

The Office of the Solicitor General (OSG) opposed the petition contending that:

- 1) THE TWO (2) JUDGMENTS OF CONVICTION AGAINST THE PETITIONER HAD LONG ATTAINED FINALITY AND COULD NO LONGER BE MODIFIED.
- 2) ADMINISTRATIVE CIRCULAR NO. 12-2000 AS MODIFIED BY ADMINISTRATIVE CIRCULAR NO. 13-2001 DID NOT DELETE THE PENALTY OF IMPRISONMENT IN BP 22 CASES.
^[8]

The OSG cited the ruling of this Court in *Abarquez v. Court of Appeals*.^[9]

The petition has no merit.

Section 4, Rule 102 of the Rules of Court, as amended, provides that the writ of *habeas corpus* is not allowed if the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record:

Sec. 4. *When writ not allowed or discharged authorized.* – If it appears that the person alleged to be restrained of his liberty is in the custody of an officer under process issued by a court or judge or by virtue of a judgment or order of a court of record, and that the court or judge had jurisdiction to issue the process, render the judgment; or make the order,