

SPECIAL FIRST DIVISION

[G.R. No. 138869, August 29, 2002]

**DAVID SO, PETITIONER, VS. COURT OF APPEALS AND PEOPLE
OF THE PHILIPPINES, RESPONDENTS.**

R E S O L U T I O N

PUNO, J.:

For resolution are the "Urgent Manifestation of an Extraordinary Supervening Event"^[1] dated February 7, 2002, and "Motion for Suspension of Execution and Modification of Judgment"^[2] dated February 14, 2002, filed by petitioner David So, as well as the Consolidated Comment filed by the Office of the Solicitor General.

On August 21, 2001, we affirmed the decision of the Court of Appeals in CA-GR SP No. 49680 denying the petition for certiorari with prayer for preliminary injunction seeking to restrain the execution of the judgment of the Regional Trial Court in Criminal Case Nos. 8345 and 8346 finding petitioner guilty of violation of B.P. Blg. 22.

On September 25, 2001, petitioner So filed a Motion for New Hearing relying on the promulgation of Administrative Circular Nos. 12-2000 and 13-2001 which establish a rule of preference in the imposition of the penalties under B.P. Blg. 22, wherein a fine instead of imprisonment may be imposed upon the discretion of the judge. Thereafter, petitioner So filed a Motion for Reconsideration of the Court's decision alleging basically the same arguments. In a Resolution dated January 16, 2002, both motions were denied.

On February 11, 2002, petitioner So filed an Urgent Manifestation of an Extraordinary Supervening Event alleging that he underwent a serious triple heart bypass at the Makati Medical Center on January 21, 2002, and that to impose imprisonment upon him is a "sentence of death." He seeks a retroactive application of Administrative Circular No. 12-2000 in his favor and prays that, for humanitarian grounds, a fine instead of imprisonment be imposed.

Petitioner also filed a Motion for Suspension of Execution and Modification of Judgment, contending that his having undergone open heart surgery warrants, for humanitarian reasons and in the higher interest of justice, the suspension of the execution of the judgment of conviction and the modification of the sentence from imprisonment to a fine in double the amount of the checks subject of this petition.

In its Consolidated Comment, the Office of the Solicitor General averred that in the cases of *Vaca vs. Court of Appeals*^[3] and *Rosa Lim vs. People of the Philippines*,^[4] this Court deleted the penalty of imprisonment and imposed only a fine equivalent to double the amount of the checks involved. It held that it would best serve the ends of criminal justice if in fixing the penalty within the range of discretion allowed by Section 1, paragraph 1 of B.P. Blg. 22, "the same philosophy underlying the

Indeterminate Sentence Law is observed, namely, that of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness with due regard to the protection of the social order.” It submits the resolution of the foregoing motions to the sound discretion of this Court in accordance with Administrative Circular No. 13-2001.

The dispositive portion of the decision in Criminal Case Nos. 8345 and 8346 reads as follows:

“WHEREFORE, finding the accused guilty beyond reasonable doubt in the two above-entitled cases, the Court hereby sentences the accused as follows:

In Crim. Case No. 8345: To suffer imprisonment of one (1) year; to indemnify the offended party, Faustino Puzon, the sum of P6,000.00, Philippine Currency; and to pay the costs.

In Crim. Case No. 8346: To suffer imprisonment of one (1) year; to indemnify the offended party, Faustino Puzon, the sum of P28,600.00, Philippine Currency; and to pay the costs.”^[5]

In the cited case of *Vaca vs. Court of Appeals*,^[6] the petitioners were convicted of violation of B.P. Blg. 22 and were sentenced to one year imprisonment and to pay a fine of P10,000.00. The Court, however, took into consideration the advanced age of one of the accused and the fact that all the accused were first offenders, and deleted the sentence of imprisonment and ordered the payment of double the amount of the checks involved. It rationalized, viz:

“x x x Petitioners are first-time offenders. They are Filipino entrepreneurs who presumably contribute to the national economy. Apparently, they brought this appeal, believing in all good faith, although mistakenly, that they had not committed a violation of B.P. Blg. 22. Otherwise, they could simply have accepted the judgment of the trial court and applied for probation to evade a prison term. It would best serve the ends of criminal justice if in fixing the penalty within the range of discretion allowed by § 1, par. 1, the same philosophy underlying the Indeterminate Sentence Law is observed, namely, that of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness with due regard to the protection of the social order. In this case we believe that fine in an amount equal to double the amount of the check involved is an appropriate penalty to impose on each of the petitioners.”

The doctrine enunciated in the *Vaca* case, and reiterated in *Rosa Lim vs. People of the Philippines*,^[7] was eventually adopted by this Court as a policy on the matter of the imposition of penalties for violations of B.P. Blg. 22, under Administrative Circular No. 12-2000 issued on November 12, 2000.

In accord with this policy, Administrative Circular No. 13-2001 issued on February 14, 2001 vests in the courts “the discretion to determine, taking into consideration the peculiar circumstances of each case, whether the imposition of fine alone would best serve the interests of justice, or whether forbearing to impose imprisonment