

## SECOND DIVISION

[ G.R. No. 129900, October 02, 2001 ]

**JANE CARAS Y SOLITARIO, PETITIONER, VS. HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

This is an appeal by *certiorari* from the decision of the Court of Appeals<sup>[1]</sup> which affirmed the decision of the Regional Trial Court of Quezon City, Branch 92, finding petitioner Jane Caras y Solitario guilty of 15 counts of Batas Pambansa Blg. 22 (Bouncing Checks Law) violations.

The facts of the case as found by the Court of Appeals are as follows:

JANE S. CARAS has appealed from the judgment of conviction in fifteen (15) related cases of Violation of the Bouncing Checks Law. The first Information (docketed as Criminal Case No. Q-93-44420) against her reads as follows:

That on or about the 5<sup>th</sup> day of January 1992 in Quezon City, Philippines, the said accused did then and there wilfully, unlawfully and feloniously make or draw and issue to Chu Yang T. Atienza to apply on account or for value PCI Bank, Commonwealth Ave. Branch Check No. 017744 dated March 18, 1992 payable to the order of CASH in the amount of P14,125.00 Philippine Currency, 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 was subsequently dishonored by the drawee bank for Account Closed and despite receipt of notice of such dishonor, said accused failed to pay said Chu Yang T. Atienza the amount of said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

In Criminal Case Nos. Q-93-44421 to Q-93-44434, the informations were similarly worded as above, except for the respective amounts involved, dates, numbers of checks and dates of commission.

When arraigned on August 16, 1993, accused Caras pleaded "not guilty". Thereafter, trial proceeded.

The evidence for the prosecution tends to show that on or about February 18, 1992, up to May 31, 1992 at Quezon City, accused Jane Caras obtained from complainant Chu Yang T. Atienza on installment various gift checks and purchase orders from Uniwide Sales and in payment thereof, the accused issued to the complainant the following checks drawn against Philippine Commercial Bank:

Check No.	Date	Amount
017744	3-18-92	P 14,125.00
017743	3-03-92	P 14,625.00
017627	3-03-92	P 14,125.00
017745	4-03-92	P 14,125.00
017664	4-18-92	P 23,500.00
017746	4-18-92	P 14,125.00
017789	3-18-92	P 14,125.00
017790	4-03-92	P 14,125.00
017663	4-02-92	P 23,500.00
017662	3-18-92	P 24,440.00
017768	3-18-92	P 7,062.50
017788	3-03-92	P 14,125.00
017665	5-02-92	P 23,500.00
017767	3-03-92	P 7,062.50
017769	3-31-92	P540,318.35

When the checks were presented for deposit or encashment, they were all dishonored for the reason "Account Closed". Despite repeated verbal and written demands made on her to replace the dishonored checks with cash, she failed and refused to do so.

The accused admitted that she issued the fifteen (15) checks. She claimed, however, that they were given to Marivic Nakpil,<sup>[2]</sup> alleged sister of the complainant, as "guarantee deposit," that is, for every gift check and purchase order given to the accused, she issued personal checks to guarantee its payment. The checks are not to be encashed nor deposited with any bank. With regard to Check No. 017769 in the amount of P540,316.35 (Exh. "O"), accused claimed that she entrusted the said check to Marivic Nakpil in blank, with her signature but without any amount or numerical figures on the face of the check.

On May 13, 1994, the Court *a quo* rendered its judgment with the following disposition:

WHEREFORE, Judgment is hereby rendered as follows:

1. In Crim. Case No. Q-93-44420 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the

costs;

2. In Crim. Case No. Q-93-44421 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambans Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and indemnify the offended party in the amount of P14,625.00 and to pay the costs;
3. In Crim. Case No. Q-93-44422 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;
4. In Crim. Case No. Q-93-44423 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;
5. In Crim. Case No. Q-93-44424 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to indemnify the offended party in the amount of P23,500.00 and to pay the costs;
6. In Crim. Case No. Q-93-44425 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;
7. In Crim. Case No. Q-93-44426 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;
8. In Crim. Case No. Q-93-44427 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;
9. In Crim. Case No. Q-93-44428 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to indemnify the offended party in the amount of P23,500.00 and to pay the costs;
10. In Crim. Case No. Q-93-44429 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to

indemnify the offended party in the amount of P24,440.00 and to pay the costs;

11. In Crim. Case No. Q-93-44430 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of two (2) months and to indemnify the offended party in the amount of P7,062.50 and to pay the costs;
12. In Crim. Case No. Q-93-44431 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of four (4) months and to indemnify the offended party in the amount of P14,125.00 and to pay the costs;
13. In Crim. Case No. Q-93-44432 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of six (6) months and to indemnify the offended party in the amount of P23,500.00 and to pay the costs;
14. In Crim. Case No. Q-93-44433 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of two (2) months and to indemnify the offended party in the amount of P7,062.50 and to pay the costs;
15. In Crim. Case No. Q-93-44434 - the Court finds accused Jane Caras GUILTY beyond reasonable doubt for Violation of Batas Pambansa Blg. 22 and is hereby sentenced to suffer an imprisonment of eight (8) months and to indemnify the offended party in the amount of P540,318.35 and to pay the costs.

SO ORDERED.<sup>[3]</sup>

On June 13, 1994, petitioner filed a Motion for Reconsideration which was denied by the trial court in an Order dated September 22, 1994. Petitioner then filed an appeal with the Court of Appeals which rendered judgment as follows:

WHEREFORE, the appealed decision is hereby AFFIRMED in toto. Costs against appellant.

SO ORDERED.<sup>[4]</sup>

On April 11, 1997, petitioner filed a Motion for Reconsideration which was denied by the Court of Appeals in a Resolution dated July 15, 1997.

Hence, this petition, in which petitioner alleges that the Court of Appeals erred:

I. IN NOT RESOLVING THE ISSUES BROUGHT OUT IN THE MOTION FOR RECONSIDERATION;

- II. IN COMPLETELY IGNORING THE PURPOSE OF THE ISSUANCE OF THE CHECKS;
- III. IN COMPLETELY IGNORING THE LACK OF PERSONALITY OF THE PRIVATE COMPLAINANT TO INITIATE AND PROSECUTE THESE CASES;
- IV. IN NOT ACQUITTING THE ACCUSED FOR LACK OF CONSIDERATION (AS TO PCIB CHECK NO 017769 FOR P540,318.35) AND FOR LACK OF KNOWLEDGE OF THE INSUFFICIENCY OF HER FUNDS;
- V. IN COMPLETELY IGNORING THAT THE COURT A QUO HAD NO TERRITORIAL JURISDICTION OVER THE OFFENSE.<sup>[5]</sup>

Petitioner admits having issued the checks subject of this case, save for one, but insists that she issued them merely to guarantee payment of her obligation to a certain Marivic Nakpil; they were not supposed to have been deposited in a bank. Petitioner also denies having transacted with private complainant Chu Yang T. Atienza, and asserts that the latter did not have personality to prosecute this case.

Petitioner argues that one of the checks, PCIB check no. 017769, was issued in blank. She claims that this check was issued without consideration and that the element of the crime that the check must be issued for value is lacking as regards this particular check. Also in relation to her fourth assignment of error, petitioner asserts that she was not properly notified of the dishonor of her checks. She maintains that the prosecution failed to show that she received the notices of dishonor purportedly sent to her. She points out that no return card nor acknowledgment receipt for the first demand letter was presented in evidence. While there was a return card attached to the second demand letter, this was not marked nor offered in evidence, and hence must be ignored.<sup>[6]</sup>

Petitioner also assails the jurisdiction of the Quezon City RTC over the case, maintaining that there is no evidence showing that the checks were issued and delivered in Quezon City. Neither is there evidence as to where the private complainant received the checks, and whether or not she received them from the accused herself.

For its part, the Office of the Solicitor General argues that B.P. 22 does not make any distinction regarding the purpose for which the checks were issued. Thus, it is of no moment even if it were true that, as claimed by accused, the checks she issued were meant only to guarantee payment of her obligation. Criminal liability attaches whether the checks were issued in payment of an obligation or to guarantee payment of that obligation.<sup>[7]</sup> There is violation of B.P. 22 when a worthless check is issued and is subsequently dishonored by the drawee bank. The OSG also points out that accused did not deny having issued the subject checks.

After a careful consideration of the records and the submissions of the parties, we find that the resolution of this petition hinges on the issue of whether the prosecution evidence suffices to convict the accused, herein petitioner Jane Caras.