

SECOND DIVISION

[G.R. No. 135098, April 12, 2000]

**PAULINO VILLANUEVA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

QUISUMBING, J.:

For review, under Rule 45 of the Rules of Court, is the decision^[1] of the Court of Appeals dated May 12, 1998 in CA-G.R. No. 17883, which affirmed the joint judgment^[2] rendered on October 20, 1994 by the Regional Trial Court of Daet, Camarines Norte, Branch 41, in Criminal Cases Nos. 6929, 6940, 6941, 6942, and 6943, finding petitioner guilty of violating Batas Pambansa (BP) Blg. 22, the Bouncing Checks Law. Also for review is the appellate court's resolution dated August 15, 1998, denying petitioner's motion for reconsideration.

The facts, as culled from the records, are as follows:

Petitioner Paulino Villanueva was a finance officer of the Philippine Constabulary/Integrated National Police (now Philippine National Police). He occasionally dabbled in money-lending. Private complainant below, Carmencita S. Rafer, was his neighbor. She was married to an overseas worker and had some extra cash available for investment. On March 1989, petitioner issued SOLIDBANK (Daet Branch) Check No. PA-0145244, postdated September 30, 1989, in the amount to P50,000.00 payable to Carmencita Rafer. That same month, petitioner issued SOLIDBANK (Daet Branch) Check No. PA-0145247 postdated September 30, 1989, for P52,000.00 payable to the spouses Jesus and Carmencita Rafer. The following month, petitioner again issued SOLIDBANK (Daet Branch) Check No. PA-0145246, postdated October 31, 1989, payable to the Rafer couple in the sum of P100,000.00. Two months later, petitioner made out two more checks payable to Carmencita Rafer, i.e. SOLIDBANK (Daet Branch) Check No. PA-0145258, postdated December 30, 1989, for P20,000.00 and SOLIDBANK (Daet Branch) Check No. PA-0139884, postdated December 31, 1989, in the amount of P75,000.00.

On February 22 and 23, 1990, Carmencita Rafer tried to encash the five checks issued by petitioner at the Daet branch of Solidbank. The said checks were dishonored and stamped "Account Closed." Rafer then repeatedly demanded that petitioner make good the value of the dishonored checks, but petitioner refused. She then complained, and the Prosecutor charged petitioner in five informations for violations of B.P. Blg. 22, the Bouncing Checks Law.

The information in Criminal Case No. 6929 reads:

"That on or about the month of March 1989, in the municipality of Daet, province of Camarines Norte, Philippines, and within the jurisdiction of

this Honorable Court, the above-named accused, well knowing that he did not have funds in the bank, did then and there willfully, unlawfully and feloniously issue and make out a postdated SOLIDBANK Daet Branch Check No. PA0145244 dated September 30, 1989 in the amount of P50,000.00 and delivered the same to CARMENCITA S. RAFER in payment of a loan by the accused obtained from the latter, and when the said check was presented to the drawee bank for payment, the same was dishonored and rejected for the reason that said check was drawn against [a] closed account, and despite repeated demands made upon the accused to make good the value of the check or pay its equivalent amount, failed and refused to do so, to the damage and prejudice of said Carmencita S. Rafer in the aforestated amount.

"CONTRARY TO LAW." [3]

The informations in Criminal Cases Nos. 6940 to 6943, inclusive, were similarly worded as in Criminal Case No. 6929, except as to the dates, check numbers, and amounts involved. The cases were then consolidated and jointly tried.

Upon arraignment, petitioner pleaded "Not Guilty" to all five charges.

Private complainant argued that the dishonored checks were meant to be the payments of various loans extended by her to petitioner. Petitioner, in turn, did not deny having drawn the checks subject of the offense, but raised the defense that:

"[W]hat they agreed to was a money-lending partnership where Rafer provided the sums and Villanueva the operations. Their target clientele were the PC/INP personnel and civilian staff who were charged interests at 20% per month, of which Rafer was to get 15% and Villanueva 5%. When Rafer gave the amounts to be loaned, Villanueva issued the checks and the amounts thereon represent the sums given plus the interests to be earned in six (6) months but less his stipends. These were given as guarantees because Rafer had a change of mind and wanted that instead of the collections being deposited in the bank she wanted it paid to her outright. Villanueva had accordingly paid Rafer, but out of misplaced trust he failed to get back the checks." [4]

On October 20, 1994, the trial court rendered a joint judgment, which found the petitioner guilty on all five counts. The *fallo* of said judgment reads:

"WHEREFORE, in the light of all the foregoing, finding the accused Paulino Villanueva, guilty beyond reasonable doubt (of violations) of the Bouncing Check Law (Batas Pambansa 22), is hereby sentenced in these consolidated cases, to suffer imprisonment as follows:

1. In Criminal Case No. 6929, he is hereby sentenced (to) imprisonment of One (1) year and to indemnify the complainant P50,000.00.
2. In Criminal Case No. 6940, he is sentenced to One (1) year imprisonment and to indemnify the complainant P20,000.00.
3. In Criminal Case No. 6941, he is hereby sentenced (to) One

(1) year and to indemnify the complainant P75,000.00.

4. In Criminal Case No. 6942, he is hereby sentenced to One (1) year imprisonment and to indemnify the complainant P52,000.00.

5. In Criminal Case No. 6943, he is hereby sentenced (to) One (1) year imprisonment and to indemnify the complainant P100,000.00.

The accused shall serve these sentences simultaneously in accordance with Art. 70, Revised Penal Code and with costs.

"SO ORDERED."^[5]

Petitioner appealed to the Court of Appeals. In affirming the trial court's judgment *in toto*, the appellate court held:

"It is undeniably true that Villanueva made and issued the checks in consideration for sums of money he received from Rafer and these same checks were subsequently dishonored by the bank upon their presentment, and he failed to make good on them after notice and demand. As such, the full weight of the law must certainly be applied to him. *B.P. Blg. 22 was enacted to prohibit under pain of penal sanctions, the making of worthless checks and putting them in circulation. It is not the non-payment of an obligation which the law punishes, but the act of making and issuing a check upon presentment for payment.* (Italics in the original, citation omitted).

"WHEREFORE, the appeal is DISMISSED for lack of merit and the Decision dated October 20, 1994 is AFFIRMED *in toto*.

"SO ORDERED."^[6]

Petitioner then belatedly moved for reconsideration, but the appellate court denied the same on August 15, 1998. The Court of Appeals resolution denying petitioner's motion for reconsideration noted:

"It appears that the flurry of entries of appearances and motions and the withdrawals thereof, are but futile attempts to confound and confuse. Likewise, the accused-appellant wrongly alleges that the Motion for Reconsideration and/or New Trial attached to his Manifestation and Motion dated June 1, 1999 was personally filed and received on June 1, 1998. It was in fact personally filed on June 11, 1998 (p. 130, rollo).

"Regardless of their worth, the eminent point is that the subject Motion for Reconsideration was filed out of time, and the same is DENIED while the Resolution of June 29, 1998 is MAINTAINED.

"SO ORDERED."^[7]

Hence, the instant petition relying on the following grounds: