

## SECOND DIVISION

**[ A.M. No. MTJ-00-1274, June 08, 2000 ]**

**JEPSON DICHAVES, COMPLAINANT, VS. JUDGE BILLY M. APALIT,  
RESPONDENT.**

### **D E C I S I O N**

**MENDOZA, J.:**

This is a complaint filed by Jepson Dichaves against Judge Billy M. Apalit of Branch 43, Metropolitan Trial Court, Quezon City for partiality and gross ignorance of the law in connection with the latter's handling of Criminal Case Nos. 27874-78, entitled "People v. Navarro," for violation of Batas Pambansa Blg. 22.

The facts are as follows:

On July 29, 1994, complainant caused the filing of the five (5) criminal cases against Ramon Navarro for violation of B.P. Blg. 22 on the ground that five checks in the total amount of P 6,180,000.00, issued by Navarro against the United Coconut Planters Bank, had all been dishonored for insufficiency of funds.

It appears that, on August 11, 1994, Ramon Navarro filed with the Regional Trial Court in Quezon City a complaint, docketed as Civil Case No. Q-94-21343, for recovery of a sum of money against Ernesto Uybocho and Gaikoku Construction and Development Corporation (GCDC). In his complaint, Navarro alleged that, upon his intercession, Uybocho and GCDC were able to obtain loans from complainant, to guarantee which he (Navarro) issued the checks which became the subject of the criminal cases filed against him. In return, Uybocho and GCDC allegedly issued postdated checks to Navarro in the total amount of P 8,140,000.00.

Based on the filing of this case, Navarro moved, on September 9, 1994, for the suspension of the proceedings in the criminal cases, alleging that the issue in the civil case was a prejudicial question, the resolution of which would determine the result of the criminal cases. In his order, dated October 5, 1994, respondent granted Navarro's motion.

Complainant moved for a reconsideration of the order. Pending resolution of the motion, Navarro amended his complaint in Civil Case No. Q-94-21343 by impleading complainant as a defendant or an unwilling co-plaintiff. Navarro contended Uybocho and GCDC - not he - were liable to complainant for the amount of the checks.

On June 19, 1995, respondent denied complainant's motion, prompting complainant to bring an action for *certiorari* in the Court of Appeals. Complainant was upheld and the appellate court set aside respondent's order. It held that the issue in Civil Case No. Q-94-21343 did not constitute a prejudicial question.

Upon resumption of the trial of the criminal cases, Navarro next sought the disqualification of Dichaves' counsel as private prosecutor on the ground that complainant had no right to intervene in the criminal cases. Respondent again granted the motion, holding that the civil action arising from crime was being tried in Civil Case No. Q-94-21343. Complainant moved for reconsideration, arguing that he is merely an unwilling co-plaintiff in Civil Case No. Q-94-21343 and that the obligation owed him by Uyboco to Navarro was different from that owed by the latter to complainant. Complainant pointed out that Uyboco's letters to him never mentioned anything about a guarantee agreement to which Navarro was a party and that the amount of Navarro's checks (P6,180,000.00) was in fact different from the amount owed by Uyboco to Navarro (P8,140,000.00).

On October 28, 1997, respondent rendered a decision in the criminal cases acquitting Navarro of violations of B.P. Blg. 22 on the ground that the checks had been issued by Navarro merely to guarantee Uyboco's obligation to complainant.

Complainant points out the following instances as showing respondent's gross ignorance of the law and manifest partiality: (1) the suspension of the hearing in the criminal cases; (2) the disqualification of complainant's counsel on the ground that the civil aspect of the cases was already being litigated in Civil Case No. Q-94-21343; and (3) the acquittal of accused Navarro on the ground that the checks he issued had been issued merely to guarantee the obligation of other parties. The Office of the Court Administrator, to which this case was referred, found the complaint meritorious and recommended that Judge Apalit be held administratively liable.

After due consideration of this case, we find the recommendation well taken.

*First.* Judge Apalit justifies his suspension of the hearing in the criminal cases on the ground that the issues in that case and those in Civil Case No. Q-94-21343 are intertwined.

The contention has no merit. A prejudicial question is a question which arises in a case the resolution of which is a logical antecedent of the issue involved in said case and the cognizance of which pertains to another tribunal.<sup>[1]</sup> As provided in Rule 111, §5, a civil case constitutes a prejudicial question only if: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue is determinative of whether or not the criminal action may proceed.

In the case at bar, even if Navarro prevailed in the civil case filed by him against Uyboco and GCDC, this result would not be determinative of his guilt in the criminal prosecution for violation of B.P. Blg. 22 for it is now settled that the mere issuance of worthless checks is punishable under B.P. Blg. 22, and it is immaterial whether the checks have been issued merely to guarantee another person's obligation.<sup>[2]</sup>

Indeed, at the time respondent ordered the suspension of the proceeding in the criminal case, complainant was not a party to the civil case. It is difficult to imagine how such case could affect Navarro's criminal liability for issuing to complainant the checks which had been dishonored. Respondent ordered the suspension of proceedings in the criminal cases without even explaining how the resolution of the