

FIRST DIVISION

[G.R. No. 119000, July 28, 1997]

**ROSA UY, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF
THE PHILIPPINES, RESPONDENTS.**

DECISION

BELLOSILLO, J.:

This is an appeal by certiorari from the decision of respondent Court of Appeals^[1] which affirmed in toto the decision of the Regional Trial Court of Manila, Br. 32,^[2] finding the accused ROSA UY guilty of violating B.P. Blg. 22 in Crim. Cases Nos. 84-32335 to 84-32340, inclusive, and acquitting her of estafa under Art. 315, par. 2 (a), of the Revised Penal Code in Crim. Case No. 84-32334.

Rosa Uy was employed as an accountant in Don Tim Shipping Company owned by the husband of complaining witness Consolacion Leong. During Rosa's employment she was regarded by the Leongs as an efficient and hardworking employee. On 15 March 1982, a few months before she was to give birth, Rosa resigned. In the meantime, she helped her husband manage their lumber business. The friendly relations between Rosa and Consolacion continued. The two later agreed to form a partnership with Consolacion to contribute additional capital for the expansion of Rosa's lumber business and the latter as industrial partner. Various sums of money amounting to P500,000.00 were claimed to have been given by Consolacion for the business; however, because of the trust they had for each other, no receipt was ever issued.

Thereafter a lumber store with warehouse was constructed in Bulacan, Bulacan, with the funds contributed by Consolacion evidenced by various receipts. But, unfortunately, the friendship between Consolacion and Rosa turned sour when the partnership documents were never processed. As a result, Consolacion asked for the return of her investment but the checks issued by Rosa for the purpose were dishonored for insufficiency of funds.

The preceding events prompted Consolacion to file a complaint for estafa and for violation of the Bouncing Checks Law before the Regional Trial Court of Manila.

On 10 December 1984 an Information for estafa^[3] and several other Informations^[4] for violation of B.P. Blg. 22 were filed against petitioner. The offenses were subsequently consolidated and tried jointly.

Through Consolacion Leong and Alexander D. Bangit the prosecution tried to establish that petitioner Rosa Uy employed deceit in obtaining the amount of P500,000.00 from complainant with respect to Crim. Case No. 84-32334. As regards Crim. Cases Nos. 84-32335 to 84-32340, Alexander D. Bangit, manager of the Commercial Bank of Manila, Malabon Branch, where Rosa Uy maintained an account,

testified on the following transactions with respect to the six (6) checks referred to in Crim. Cases Nos. 84-32335 to 84-32840 which were dishonored:

CHECK NO. DATE PRESENTED REASON FOR DISHONOR

(1) 068604 16 December 1983 Drawn Against Insufficient Fund

(DAIF)/Payment Stopped

(Exh. "G")

(2) 068605 16 December 1983 Drawn Against Insufficient Fund

(DAIF)/Payment Stopped

(Exh. "H")

(3) 068603 16 December 1983 Drawn Against Insufficient Fund

(DAIF)/Payment Stopped

(Exh. "F")

(4) 068601 16 December 1983 Drawn Against Insufficient Fund

(DAIF)/Payment Stopped

(Exh. "E")

(5) 043122 3 January 1984 Drawn Against Insufficient Fund

(DAIF)/Payment Stopped

(Exh. "A")

(6) 068660 24 January 1984 Drawn Against Insufficient Fund

(DAIF)/Payment Stopped

(Exh. "I")

For her part, petitioner and her witnesses Fernando Abad and Antonio Sy maintained that no misrepresentation was committed and that the funds were utilized to construct the building in Bulacan, Bulacan. With respect to the issuance of the subject checks, petitioner did not deny their existence but averred that these were issued to evidence the investment of complainant in the proposed partnership between them.

After a joint trial, the Manila Regional Trial Court acquitted petitioner of estafa but convicted her of the charges under B.P. Bldg. 22.^[5]

On appeal, respondent appellate court affirmed the decision of the trial court.

Petitioner now raises the following issues before us in this petition for review on certiorari: (a) whether the RTC of Manila acquired jurisdiction over the violations of the Bouncing Checks Law, and (b) whether the checks had been issued on account or for value.^[6]

As regards the first issue, petitioner contends that the trial court never acquired jurisdiction over the offenses under B.P. Blg. 22 and that assuming for the sake of argument that she raised the matter of jurisdiction only upon appeal to respondent appellate court, still she cannot be estopped from questioning the jurisdiction of the trial court.

It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases the offense should have been committed or any one of its essential ingredients took place within the territorial jurisdiction of the court. Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus, it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory.^[7] Furthermore, the jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information.^[8] And once it is so shown, the court may validly take cognizance of the case. However, if the evidence adduced during the trial show that the offense was committed somewhere else, the court should dismiss the action for want of jurisdiction.^[9]

In the case at bar, the complaint for estafa and the various charges under B.P. Blg. 22 were jointly tried before the Regional Trial Court of Manila. Petitioner challenges the jurisdiction of the lower court stating that none of the essential elements constitutive of violation of B.P. Blg. 22 was shown to have been committed in the City of Manila. She maintains that the evidence presented established that (a) complainant was a resident of Makati; (b) petitioner was a resident of Caloocan City; (c) the place of business of the alleged partnership was located in Malabon; (d) the drawee bank was located in Malabon; and, (e) the checks were all deposited for collection in Makati. Taken altogether, petitioner concludes that the said evidence would only show that none of the essential elements of B.P. Blg. 22 occurred in Manila. Respondent People of the Philippines through the Solicitor General on the one hand argues that even if there is no showing of any evidence that the essential ingredients took place or the offense was committed in Manila, what is critical is the fact that the court acquired jurisdiction over the estafa case because the same is the principal or main case and that the cases for violations of the Bouncing Checks Law are merely incidental to the estafa case.

We disagree with respondent. The crimes of estafa and violation of the Bouncing Checks Law are two (2) different offenses having different elements and, necessarily, for a court to acquire jurisdiction each of the essential ingredients of each crime has to be satisfied.

In the crime of estafa, deceit and damage are essential elements of the offense and have to be established with satisfactory proof to warrant conviction.^[10] For violation of the Bouncing Checks Law, on the other hand, the elements of deceit and damage are neither essential nor required. Rather, the elements of B.P. Blg. 22 are (a) the

making, drawing and issuance of any check to apply to account or for value; (b) the maker, drawer or issuer knows at the time of issuance that he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment; and, (c) the check is subsequently dishonored by the drawee bank for insufficiency of funds or credit or would have been dishonored for the same reason had not the drawer, without valid reason, ordered the bank to stop payment.^[11] Hence, it is incorrect for respondent People to conclude that in as much as the Regional Trial Court of Manila acquired jurisdiction over the estafa case then it also acquired jurisdiction over the violations of B.P. Blg. 22. The crime of estafa and the violation of B.P. Blg. 22 have to be treated as separate offenses and therefore the essential ingredients of each offense have to be satisfied.

In this regard, the records clearly indicate that business dealings were conducted in a restaurant in Manila where sums of money were given to petitioner; hence, the acquisition of jurisdiction by the lower court over the estafa case. The various charges for violation of B.P. Blg. 22 however are on a different plain. There is no scintilla of evidence to show that jurisdiction over the violation of B.P. Bldg. 22 had been acquired. On the contrary, all that the evidence shows is that complainant is a resident of Makati; that petitioner is a resident of Caloocan City; that the principal place of business of the alleged partnership is located in Malabon; that the drawee bank is likewise located in Malabon and that all the subject checks were deposited for collection in Makati. Verily, no proof has been offered that the checks were issued, delivered, dishonored or knowledge of insufficiency of funds occurred in Manila, which are essential elements necessary for the Manila Court to acquire jurisdiction over the offense.

Upon the contention of respondent that knowledge on the part of the maker or drawer of the check of the insufficiency of his funds is by itself a continuing eventuality whether the accused be within one territory or another, the same is still without merit. It may be true that B.P. Blg. 22 is a transitory or continuing offense and such being the case the theory is that a person indicted with a transitory offense may be validly tried in any jurisdiction where the offense was in part committed. We note however that knowledge by the maker or drawer of the fact that he has no sufficient funds to cover the check or of having sufficient funds is simultaneous to the issuance of the instrument. We again find no iota of proof on the records that at the time of issue, petitioner or complainant was in Manila. As such, there would be no basis in upholding the jurisdiction of the trial court over the offense.

In an attempt to salvage the issue that the RTC of Manila had jurisdiction over the violations of B.P. Blg. 22, respondent relies on the doctrine of jurisdiction by estoppel. Respondent posits that it took some five (5) years of trial before petitioner raised the issue of jurisdiction.

The Revised Rules on Criminal Procedure, under Rule 117, Sec. 3, provides that the accused may move to quash the complaint or information on any of the following grounds: x x x (b) that the court trying the case has no jurisdiction over the offense charged or over the person of the accused. Moreover, under Sec. 8 of the same Rule it is provided that the failure of the accused to assert any ground of a motion to quash before he pleads to the complaint or information, either because he did not file a motion to quash or failed to allege the same in said motion, shall be deemed a waiver of the grounds of a motion to quash, except the grounds of x x x lack of