

## THIRD DIVISION

[ G.R. No. 117488, September 05, 1996 ]

**SANTIAGO IBASCO, PETITIONER, VS. COURT OF APPEALS AND  
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**DAVIDE, JR., J.:**

His motion to reconsider the decision<sup>[1]</sup> of the Court of Appeals of 11 August 1994 in CA-G.R. CR No. 13300 affirming *in toto* the decision<sup>[2]</sup> of 20 November 1991 of the Regional Trial Court (RTC) of Gumaca, Quezon, Branch 62, in Criminal Cases Nos. 2755-G, 2756-G, and 2757-G having been denied,<sup>[3]</sup> the petitioner filed this petition for review. The trial court found him guilty of the offense punished in *B.P. Blg. 22* (Bouncing Checks Law).

The accusatory portion of the information in Criminal Case No. 2755-G dated 31 March 1987 reads as follows:

That on or about the 18th day of April 1984, at Barangay Camohaguin, Municipality of Gumaca, Province of Quezon, Philippines, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously issue and make out Check No. DAT 41911, in the amount of EIGHTEEN THOUSAND NINETY PESOS and TEN CENTAVOS (P18,090.10), Philippine currency, drawn against the United Coconut Planters Bank, Daet Branch, and payable to Manuel Trivinio in payment for feeds purchased from the latter; that the accused knew fully well at the time of the issuance of said check that he did not have sufficient funds in or credit with the drawee bank for the payment of said check in full upon presentment; that upon presentation of said check to the bank for payment, the same was dishonored and refused payment for the reason that there was no sufficient funds to cover said check; and that despite notice to the accused by said Manuel Trivinio that said check was dishonored for lack of funds, said accused failed to deposit the necessary amount to cover said check, to the damage and prejudice of Manuel Trivinio, now represented by his heirs, in the aforesaid sum.

Contrary to law.<sup>[4]</sup>

The informations in Criminal Case No. 2757-G and Criminal Case No. 2-757-G are similarly worded as in Criminal Case No. 2755-G except as to the date of the violation of *B.P. Blg. 22*, the number of the checks, and the amounts thereof. In Criminal Case No. 2756-G, the violation was committed on 23 March 1984 and involved Check No. DAT 41910 in the amount of P17,900.00.<sup>[5]</sup> In Criminal Case No. 2757-G, the violation was committed on 24 February 1984 and involved Check No. 41909 in the amount of P15,576.30.<sup>[6]</sup>

The cases were consolidated and jointly tried. Upon arraignment, the petitioner pleaded not guilty to the charges.

The evidence for the prosecution is summarized in the challenged decision of the Court of Appeals as follows:

The facts are as follow [sic]: The complaining witness Maria Negro Trivinio and her late husband Manuel Trivinio operate an animal feed mill in Gumaca, Quezon while accused-appellant Santiago Ibasco and his wife operate a piggery in Daet, Camarines Norte. On or about October 26, 1983, accused-appellant Santiago Ibasco and his wife, came to the residence of the Trivinios at Sitio Seawall, Bgy. Camohaguin, Gumaca, Quezon and requested credit accommodation for the supply of ingredients in the manufacture of animal feeds (TSN, March 15, 1988, p. 7). In accordance with the agreed credit arrangement, the Trivinios made three deliveries of darak with a total value of P51,566.49 (Id., p. 9) and in payment, accused-appellant issued three (3) postdated checks, to wit: (1) Check No. 41909, postdated February 24, 1984, for P15,576.30 (Exh. A- Criminal Case No. 2757-G; Id., p. 9); (2) Check No. 41910, postdated March 23, 1984 for P17,900.00 (Exh. A-2756-G; Id., p. 5) and (3) Check No. 41911, postdated April 18, 1984 for P18,090.10 (Exh. A- Criminal Case No. 2755-G; Id., p. 10). All checks were drawn against United Coconut Planters Bank, Daet Branch. Upon presentment to the Bank for payment of their due dates, the checks bounced for being drawn against insufficient funds (Exhs. B-2755-G, B-2756-G and B-2757-G). The Trivinio spouses notified accused-appellant of the dishonor (TSN, March 13, 1988, p. 11). Accused-appellant replied by telegram offering his real property in Daet as security. Accused-appellant invited the Trivinios to come to Daet and inspect the property (Exh. C; Folder of Minutes and Exhibits, p. 13). When the Trivinios arrived in Daet, the accused told them that the property is across the sea, and, not wanting to cross the sea, the couple did not anymore inspect the property (TSN, March 15, 1988, p. 14). For failure of the accused to settle his account with the Trivinios, the instant case was filed.<sup>[7]</sup>

The original records of the aforementioned criminal cases show that after the presentation of the evidence for both parties had been concluded, the trial court required the parties to submit their respective memoranda. However, before submitting his memorandum, the petitioner's new counsel filed a motion to dismiss on the ground of lack of jurisdiction since, it is claimed, the checks were "prepared, issued and delivered to the payee ... at the office of the accused in Daet, Camarines Norte."<sup>[8]</sup>

In its order<sup>[9]</sup> of 14 November 1991, the trial court denied the motion to dismiss considering that the informations alleged that the violations were committed in Barangay Camohaguin, Gumaca, Quezon, and that pieces of evidence, viz., the affidavits<sup>[10]</sup> of Maria Negro, the surviving spouse of Manuel Trivinio who was presented by the defense as a hostile witness, established that the checks were issued in the said place.

On 17 December 1991, the trial court promulgated its decision<sup>[11]</sup> dated 20 November 1991 convicting the petitioner. The dispositive portion of the decision reads:

WHEREFORE, this Court firmly believes and so holds that the prosecution had equitably proved its case by the evidences [sic] presented, finds the accused guilty beyond reasonable doubt in Criminal Cases Nos. 2755-G, 2756-G and 2757-G, and imposes the penalty in each criminal cases [sic]:

In Criminal Case No. 2755-G, One (1) Year imprisonment and a fine of P36,180.20.

In Criminal Case No 2756-G, One (1) Year imprisonment and a fine of P35,800.00.

In Criminal Case No. 2757-G, One (1) Year imprisonment and a fine of P31,152.60. <sup>[12]</sup>

The trial court gave full faith and credit to the evidence offered by the prosecution and, disregarding the theory of the defense, it opined and ruled as follows:

Batas Pambansa Blg. 22 was purposely enacted to prevent the proliferation of worthless checks in the mainstream of daily business and to avert not only the undermining the Banking System of the country, but also the infliction of damage and injury upon trade and commerce occasioned by the indiscriminate issuance of such checks. By its very nature, the offenses defined BP 22 are against public interest while the crime of Estafa is against property.

Since the act and commission specified in BP Blg. 22 are not necessarily evil or wrongful from their nature and neither are they inherently illicit and immoral and considering that the law which penalize [sic] such act or commission is a special statutory law, the offenses are considered *mala prohibita* and considering the rule in cases of *mala prohibita*, the only inquiry is whether or not the law has been violated (People vs. KIBLER, 106, NY, 321, cited in U.S. vs. Go Chico, 14 Phil. 132) criminal intent is not necessary where the acts are prohibited for reasons of public policy (People vs. Conosa, C.A. 45, O.G. 3953). The defense of good faith and absence of criminal intent would not prosper in prosecution for violation (Res. No. 447, S.1980, Tomayo vs. Desederio, Dec. 8, 1980 & Res. No. 624, S.1981. ESCOBAR vs. SY, Sept. 1, 1981).

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It is of no moment that by the evidence presented by the accused that a pre-existing obligation took place and that the products delivered by the deceased husband of complaining witness was [sic] below par; and that his piggery suffered losses. This situation can be a basis for a civil action which accused actually filed against complaining witness, but it cannot divest of the glaring fact that the checks he issued bounced and was [sic] dishonored.<sup>[13]</sup>

As to the issue of jurisdiction, the trial court held:

. . . The sworn statement of Maria Negro Trivinio which repudiated the allegation of the accused in questioning the jurisdiction of this Court; between the protestation of the accused that the place of issuance to be at [sic] Daet, Camarines Norte and the positive allegation of witness Maria Negro Trivinio that the checks were delivered at their residence in Gumaca, Quezon by the accused, this Court gives weight and credence to the testimony of said witness and accused is bound by his own evidence.  
[14]

The petitioner seasonably appealed<sup>[15]</sup> the decision to the Court of Appeals which docketed the case as CA-G.R. CR No. 13300.

In his Brief in CA-G.R. CR No. 13300, the petitioner contended that the trial court erred: (a) in not dismissing the cases for lack of Jurisdiction; (b) in not dismissing the cases for failure of the prosecution to prove the guilt of the accused beyond reasonable doubt; (c) in not taking into consideration that the liability of the accused should have been civil in nature and not criminal; and (d) in not disregarding the testimony of Maria *Negro vda. de* Trivinio since it is not clear and convincing and is incredible.<sup>[16]</sup>

In its challenged decision<sup>[17]</sup> of 11 August 1994, the Court of Appeals rejected these claims of the petitioner and affirmed *in toto* the trial court's decision. As to the issue of lack of jurisdiction, the Court of Appeals ruled:

We agree with the lower court. The sworn statement, Exhibit 10, of Maria Trivinio who was presented by accused-appellant as his last witness, in the words of the lower court, "repudiated the allegation of the accused in questioning the jurisdiction of this Court; between the protestation of the accused that the place of issuance to be at [sic] Daet, Camarines Norte and the positive allegation of witness Maria Negro Trivinio that the checks were delivered at their residence in Gumaca, Quezon by the accused, this Court gives weight and credence to the testimony of said witness and accused is bound by his own evidence" (Decision, pp. 16-17; Rollo, pp. 96-98).

At any rate, as held in the case of *People vs. Grospe*, 157 SCRA 154, a violation of BP 22 is an offense that appears to be continuing in nature. The knowledge on the part of maker or drawer of the check of the insufficiency of his funds, which is an essential ingredient of the offense is by itself a continuing eventuality, whether the accused be within one territory or another. Said the Supreme Court:

In respect of the Bouncing checks case, the offense also appears to be continuing in nature. It is true that the offense is committed by the very fact of its performance (*Colmenares vs. Villar*, No. L-27126, May 29, 1970, 33 SCRA 186); and that the Bouncing Checks Law penalizes not only the fact of dishonor of a check but also the act of making or drawing and issuance of a bouncing check (*People vs. Hon. Veridiano, II*, No. L-62243, 132 SCRA 523). The case, therefore, could have been filed also

in Bulacan. As held in *Que vs. People of the Philippines*, G.R. Nos. 75217-18, September 11, 1987 "the determinative factor (in determining venue) is the place of the issuance of the check". However, it is likewise true that, knowledge on the part of the maker or drawer of the check of the insufficiency of his funds, which is an essential ingredient of the offense is by itself a continuing eventuality, whether the accused be within one territory or another (*People vs. Hon. Manzanilla*, G.R. Nos. 66003-04, December 11, 1987). Accordingly, jurisdiction to take cognizance of the offense also lies in the Regional Trial Court of Pampanga.

And, as pointed out in the *Manzanilla* case, jurisdiction or venue is determined by the allegation in the Information, which are controlling (*Arches vs. Bellosillo*, 81 Phil. 190, 193, cited in *Tuzon vs. Cruz*, No. L-27410, August 28, 1975, 66 SCRA 235). The Information filed herein specifically alleges that the crime was committed in San Fernando, Pampanga, and, therefore, within the jurisdiction of the Court below. (at page 164)

This ruling was reiterated in the case of *Lim vs. Rodrigo*, 167 SCRA 487, where it was held:

Besides, it was held in *People v. Hon. Manzanilla*, *supra*, that as "violation of the bad checks act is committed when one 'makes or draws and issues any checks [sic] to apply on account or for value, knowing at the time of issue that he does not have sufficient funds' or having sufficient funds in or credit with the drawee bank x x x shall fail to keep sufficient funds or to maintain a credit to cover the full amount of the check if presented within a period of ninety (90) days from the date appearing thereon, for which reason it is dishonored by the drawee bank," "knowledge" is an essential ingredient of the offense charged. As defined by the statute, knowledge, is, by itself, a continuing eventuality, whether the accused be within one territory or another. This being the case, the Regional Trial Court of Baguio City has jurisdiction to try Criminal Case No. 2089-R (688).

Moreover, we ruled in the same case of *People v. Hon. Manzanilla*, reiterated in *People vs. Grospe*, *supra*, that jurisdiction or venue is determined by the allegations in the information. The allegation in the information under consideration that the offense was committed in Baguio City is therefore controlling and sufficient to vest jurisdiction upon the Regional Trial Court of Baguio City. (at pages 492-493).

In the case at bench it appears that the three (3) checks were deposited in Lucena City.<sup>[18]</sup>

As to the second error wherein the petitioner asserted that the checks were issued "as a guarantee only for the feeds delivered to him" and that there is no estafa if a check is issued in payment of a pre-existing obligation, the Court of Appeals pointed out that the petitioner obviously failed to distinguish a violation of *B.P. Blg. 22* from estafa under Article 315 (2) [d] of the Revised Penal Code.<sup>[19]</sup> It further stressed that *B.P. Blg. 22* applies even in cases where dishonored checks were issued as a