

EN BANC

[A.M. No. RTJ-95-1326, July 08, 1998]

ANNABELLE R. GUTIERREZ, COMPLAINANT, VS. HON. RODOLFO G. PALATTAO, RESPONDENT.

D E C I S I O N**QUISUMBING, J.:**

Complainant Annabelle R. Gutierrez was convicted by respondent Judge Rodolfo G. Pallatao of Branch 33, Regional Trial Court of Manila, for Violation of the Bouncing Checks Law (Batas Pambansa Blg. 22) and for Estafa under Article 315 (2)(d) of the Revised Penal Code. Aggrieved by what she perceived as a wrongful conviction, she filed this administrative case against respondent for Serious Misconduct, Graft and Corruption, Knowingly Rendering an Unjust Decision, Falsification of Public Document, and Gross Ignorance of the Law. She averred that, since the checks that were the bases of the informations against her were not presented in evidence by the prosecution, her conviction was erroneous and the respondent should be held administratively liable therefor.

The material facts, based on the pleadings, are as follows:

Complainant borrowed the sum of Three Hundred Seventy Thousand Pesos (P370,000) from one Ligaya V. Santos, for which she issued five (5) checks as guarantee for the loan, to wit:

Drawee Bank	Check No.	Date	Amount
UCPB	SRD022496	April 7, 1993	P120,000.00
UCPB	SRD022513	April 15, 1993	P 60,000.00
UCPB	PTU031796	June 6, 1993	P 60,000.00
UCPB	PTU031797	June 14, 1993	P 60,000.00
UCPB	PTU031798	June 21, 1993	P 70,000.00

Santos deposited these checks in her account with the Philippine National Bank (PNB). Upon presentment by PNB of said checks to the drawee United Coconut Planters Bank (UCPB), they were dishonored, for the reason: "closed account"

Thereafter, Santos made several verbal and written demands for Gutierrez to pay the amounts covered by the checks, but the latter allegedly refused to make good her obligation to pay. Hence, Santos filed five (5) criminal complaints for the Violation of Batas Pambansa Blg. 22, and one complaint for Estafa against Gutierrez. After preliminary investigation, the corresponding informations were filed in court and the cases were raffled to respondent Judge's sala.

On November 15, 1993, while the said informations were pending in court, Santos executed the following letter in her own handwriting:

"Nov. 15, 1993

TO WHOM IT MAY CONCERN:

This is to certify that I am dropping my charges against Annabelle Rama and that she already change (sic) the bouncing checks with a (sic) – new ones.

I hope for your kind understanding on this case.

(Sgd.) Ligaya V. Santos
Lions Road Arroceros"

On the same day, Gutierrez also executed the following document in her own handwriting:

"I Annabelle Rama Gutierrez certify that I received all my old checks from Mrs. Ligaya Santos in exchange to (sic) the new ones I gave her.

In agreement, Mrs. Santos agreed to dropped (sic) her case against me

(Sgd.) Annabelle Gutierrez
41 Derby, White Plains, Q.C."

The foregoing documents were executed by Santos and Gutierrez after the latter replaced the five (5) checks subject of the informations. The replacement checks were subsequently honored except Check No. SRD-043939 dated May 10, 1994, in the amount of P50,000.00, drawn against the UCPB. This check was allegedly dishonored by the UCPB upon presentment by PNB, Santos' depository bank, for the reason: "stop payment"

The evidence for the prosecution was summarized by respondent Judge in his Decision as follows:

"To prove these cases against the accused, the Fiscal called to the witness stand Ligaya V. Santos, the herein complainant who identified herself as a widow, businesswoman and who resides at Lion's Rd., Arroceros St., Ermita, Manila. In the course of her testimony, the following exhibits were marked in evidence: Exhibit A- letter dated November 15, 1993, Exhibit A-1 – Signature of Ligaya V. Santos, Exhibits B – Check No. SRD-043979 for P50,000.00 Exhibit B-1 – Notice of dishonor, Exhibit C – letter of demand and Exhibit C-1 – signature of complainant. xxx."^[1]

On the basis of the above evidence proffered by the prosecution, respondent Judge convicted the accused in the aforestated five criminal cases for Violation of B.P. Blg. 22 and in one for Estafa. She was sentenced as follows:

"WHEREFORE, premises considered, judgment is hereby rendered convicting the accused for violation of B.P. Blg. 22. In Criminal Case No. 93-128841, accused Annabelle R. Gutierrez is hereby sentenced to suffer imprisonment of one (1) year and to pay a fine of P120,000.00 without subsidiary imprisonment in case of

insolvency. In Criminal Case No. 93-128842, accused is hereby sentenced to suffer imprisonment of one (1) year and to pay a fine of P60,000.00 without subsidiary imprisonment in case of insolvency. For Criminal Case No. 93-128843, accused is hereby sentenced to suffer imprisonment of one (1) year and to pay a fine of P60,000.00 without subsidiary imprisonment in case of insolvency. For Criminal Case No. 128844, accused is hereby sentenced to suffer imprisonment of one (1) year and to pay a fine of P60,000.00 without subsidiary imprisonment in case of insolvency. And for Criminal case No. 93-128845, she is hereby sentenced to suffer imprisonment of one (1) year and to pay a fine of P70,000.00 without subsidiary imprisonment in case of insolvency. No pronouncement as to civil liability as the same was already paid. Since the last check covered by Check No. SRD043939 in the amount of P50,000.00 was dishonored by the drawee bank, accused is hereby ordered to indemnify the offended party the said amount of P50,000.00.

For violation of Article 315 of the Revised Penal Code, accused is found guilty for the crime of Estafa defined and punished under Article 315 of the Revised Penal Code and in the absence of mitigating and aggravating circumstances and applying the indeterminate sentence law, she is hereby sentenced to suffer the penalty of twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum. No pronouncement as to civil liability as the same was already paid. The bailbond posted by herein accused for her provisional liberty ordered cancelled."

Dissatisfied and aggrieved, she filed before us, this Administrative Complaint anchored on the following grounds:

1. That respondent judge has no jurisdiction over the criminal cases for Violation of B.P. Blg. 22 because the imposable penalty therefor, which is imprisonment of not more than one (1) year or a fine not exceeding P200,000.00 or both, is within the exclusive original jurisdiction of the Metropolitan Trial Court (MTC) as provided for by Section 2 of Republic Act No. 7691, otherwise known as the Law on the Expanded Jurisdiction of the MTC.
2. That the venue and time of the commission of the offenses charged were not established in violation of the petitioner's right due process.
3. That the original checks in question were never offered in evidence, hence, the decision is not supported by evidence of corpus delicti.
4. That the penalty of twelve (12) years of prision mayor to twenty (20) years of reclusion temporal was arbitrarily and unjustly imposed.
5. That the decision was antedated and promulgated in a rush in violation of procedural rules.
6. That the cancellation of petitioner's bail is whimsical and arbitrary, constitutive of grave abuse of discretion.

To refute these grounds for the complaint, respondent Judge submitted specific arguments in his Supplemental Comment dated July 7, 1995, which could be summarized as follows:^[2]

(1) The alleged lack of jurisdiction is based on Section 2 of RA 7961 which was approved on March 25, 1994. This law, however, is inapplicable to complainant's case because it did not provide for any retroactive effect as to cover pending criminal cases. The retroactivity therein applies only to civil cases which did not reach the pre-trial stage (Section 7, R.A. No. 7691).

The cases against complainant were filed on November 5, 1993, five (5) months before the approval of the law on March 25, 1994. The law became effective 15 days after its complete publication in the Official Gazette or in two (2) newspapers of general circulation (Section 8, R.A. No. (7691).

(2) Concerning the alleged defect of the Informations in not specifying the exact place and time of the commission of the crime, a perusal of the Informations filed by the City Prosecutor shows that the situs (Manila) and date (first week of March, 1993) of the commission of the offenses charged were sufficiently alleged. The specific place in Manila and the precise time need not be stated, because they are not essential elements of the offense charged. If the stand of the complaint is that the charges in the Informations did not constitute offenses, her remedy would have been the timely filing of a motion to quash before the trial and not to raise the issue collaterally after the decision had been rendered. After the decision, the complaint's remedy is to appeal, which she availed of by filing a notice of appeal.

(3) Regarding the prosecution's failure to offer in evidence the original checks issued by Gutierrez, respondent Judge commented that the same is of no moment because while the original checks were not presented anymore, there is an admission that accused Gutierrez got back the bouncing checks from Ligaya Santos. This document was presented as an exhibit by the prosecution and was not denied by the accused.

(4) Anent the charge that the penalty of twelve (12) years of Reclusion Temporal was arbitrarily and unjustly imposed, the respondent argued that the penalty is based on the amount subject of the fraud which is P370,000.00. Under Art 315 (1st par.), the penalty for estafa is prision correccional in its maximum period to prision mayor in its minimum period if the amount is over P12,000.00 but does not exceed P22,000.00. If there is an excess, for every P10,000.00 excess, there is an additional penalty of one year. If computed totally, the excess would amount to 34.8 years. But under the same Article, the maximum shall only be 20 years. In imposing the penalty of twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum, respondent Judge merely exercised his discretion as the penalty was within the range fixed by law.

(5) On the charge that respondent's decision was antedated and promulgated in a rush, respondent that this charge is unfair, unjust and baseless because it was made to appear wrongly that the respondent Judge falsified his own decision and promulgated it without notice at all.