793 Phil. 248

THIRD DIVISION

[G.R. No. 185473, August 17, 2016]

BERNADETTE IDA ANG HIGA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

REYES, J.:

Before the Court is a Petition for Review on *Certiorari*[1] under Rule 45 of the Rules of Court assailing the Decision[2] dated July 30, 2008 and the Resolution[3] dated November 5, 2008 of the Court of Appeals (CA) in CA-G.R. CR No. 30242, which affirmed the Decision[4] dated December 22, 2005 of the Regional Trial Court (RTC) of Las Piñas City, Branch 202, in Criminal Case No. 05-1001-51, finding Bernadette Ida Ang Higa (petitioner) guilty beyond reasonable doubt of fifty-one (51) counts of violation of Batas Pambansa Bilang 22 (B.P. Blg. 22), otherwise known as the Bouncing Checks Law.

The Facts

The records of the case showed that the private complainant, Ma. Vicia Carullo (Carullo), is a manufacturer and seller of jewelry while the petitioner was her former customer who later became her dealer.[5]

For the period of April to November 1996, Carullo delivered numerous pieces of jewelry to the petitioner for the latter to sell. The petitioner returned those items that were not sold, and as security for the payments of those items that were eventually sold, the petitioner gave Carullo a total of fifty-one (51) post-dated checks. However, when the subject checks were deposited on their respective due dates, they were dishonored on the ground that they were drawn against a closed account.[6]

Thereafter, Carullo notified and sent demand letters to the petitioner who then asked for time to settle her account by replacing the subject checks with cash. However, the petitioner did not make good of her promise so Carullo filed the cases against her.[7]

During the trial, the delivery receipts were submitted to prove that the subject checks were issued with valuable consideration in favor of Carullo. The representatives of Metrobank in Las Piñas City Branch and B.F. Homes, Paranaque City, Aguirre Branch were also presented and they testified that, based on the record of their banks, the subject checks were dishonored for the reason that they were drawn against a closed account. They said that the accounts of the petitioner in their respective branches were closed because she mishandled them.[8]

For her part, the petitioner alleged that there was lack of consideration and that she already paid the subject checks. However, she failed to prove her claim since she was not able to finish her testimony and did not present any piece of evidence to disprove the evidence against her.[9]

In the Joint Decision[10] dated May 23, 2005 of the Metropolitan Trial Court (MeTC) of Las Piñas City, Branch 79, the petitioner was found guilty beyond reasonable doubt of 51 counts of violation of B.P. Blg. 22. The dispositive portion of the decision reads:

> WHEREFORE PREMISES CONSIDERED, the prosecution having sufficiently proved the offense charged against the [petitioner] in the instant cases, the Court finds [the petitioner] guilty beyond reasonable doubt of 51 counts of Violation of [B.P.] Blg. 22 alleged in the Informations of the above-entitled cases, and pursuant to Section 1 of the aforesaid law, there being no mitigating nor aggravating circumstances, hereby sentences [the petitioner] to pay the fine, as follows:
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> x x x x
>
> or in the total amount of SIX MILLION NINETY-THREE THOUSAND FIVE HUNDRED FIFTY PESOS (P6,093,550.00), with subsidiary imprisonment in case of insolvency, to suffer an imprisonment of one (1) year of *prision correccional*, to pay [Carullo] the amount of SIX MILLION FOUR HUNDRED FIFTY THOUSAND TWO HUNDRED SIXTY (P6,450,260.00) PESOS representing the amount of the fifty-one (51) bounced checks, subjects of the instant cases, and to pay the costs.
>
> Since there is no agreement in writing as to the payment of interest, the court cannot grant the same.
>
> SO ORDERED.[11]

On appeal, the RTC Decision[12] dated December 22, 2005 modified the MeTC decision, by sentencing the petitioner to suffer imprisonment of one (1) year of *prision correccional* for each count of violation of B.P. Blg. 22 and to pay a fine in the total amount of P6,093,550.00 with subsidiary imprisonment in case of insolvency or non-payment, to wit:

> WHEREFORE, in view of the foregoing premises, the appeal filed by [the petitioner] is hereby DENIED for lack of merit, however, the Joint Decision, dated May 23, 2005, of the [MeTC], Branch 79, Las Piñas City is hereby **MODIFIED** in so far as the penalty imposed is concerned, to wit: [the petitioner] is sentenced to suffer imprisonment of one (1) year of prision correccional for **each** count of Violation of B.P. [Blg.] 22 and to pay a fine in the aggregate sum of SIX MILLION NINETY-THREE THOUSAND FIVE HUNDRED FIFTY PESOS (P6,093,550.00) with subsidiary imprisonment in case of insolvency or non-payment pursuant to Article 39 of the Revised Penal Code.
>
> SO ORDERED.[13]

Aggrieved, the petitioner filed a motion for reconsideration[14] on February 7, 2006 with the RTC, but it was denied in its Order[15] dated June 15, 2006 for lack of merit. Thereafter, the petitioner filed a Petition for Review[16] under Rule 42 of the Rules of Court with the CA.

All the same, on July 30, 2008, the CA Decision[17] denied the petition and affirmed the RTC decision.

Undeterred, the petitioner filed a motion for reconsideration[18] on August 19, 2008, but it was denied in the CA Resolution[19] dated November 5, 2008. Hence, this petition.

The Issue Presented

The main issue to be resolved is whether the penalty imposed by the RTC and affirmed by the CA, sentencing the petitioner with imprisonment of one (1) year of *prision correccional* for each count of violation of B.P. Blg. 22, is proper.

Ruling of the Court

The petition is meritorious.

To begin with, there is no doubt that the petitioner committed violations of B.P. Blg. 22 and the petitioner does not dispute the judgment of the lower courts finding her guilty as charged. However, she assails the penalty of imprisonment of one (1) year of *prision correccional* for each count of violation of B.P. Blg. 22 or a total of 51 years imposed upon her.

While the Court sustains the conviction of the petitioner, it is appropriate to modify the penalty of imprisonment that was imposed since it is out of the range of the penalty prescribed in Section 1[20] of B.P. Blg. 22 and in view of Administrative Circular (A.C.) No. 12-2000,[21] which provides:

> Section 1 of B.P. Blg. 22 (*An Act Penalizing the Making or Drawing and Issuance of a Check Without Sufficient Funds for Credit and for Other Purposes*) imposes the penalty of imprisonment of not less than thirty (30) days but not more than one (1) year or a fine of not less than but not more than double the amount of the check, which fine shall in no case exceed P200,000[.00], or both such fine and imprisonment at the discretion of the court.

The underlying principle behind A.C. No. 12-2000 was established by the Court in its ruling in *Vaca v. CA*[22] and *Lim v. People of the Philippines*.[23] In these cases, the Court held that "it would best serve the ends of criminal justice if, in fixing the penalty to be imposed for violation of B.P. [Blg.] 22, the same philosophy underlying the Indeterminate Sentence Law is observed, i. e. that of redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness with due regard to the protection of the social order."[24]

In A.C. No. 13-2001,[25] clarifications have been made as to queries regarding the

authority of Judges to impose the penalty of imprisonment for violations of B.P. Blg. 22. The Court explained that the clear tenor and intention of A.C. No. 12-2000 is not to remove imprisonment as an alternative penalty, but to lay down a rule of preference in the application of the penalties provided for in B.P. Blg. 22.[26] The Court was emphatic in clarifying that it is not the Court's intention to decriminalize violation of B.P. Blg. 22 or to delete the alternative penalty of imprisonment. The rule of preference provided in A.C. No. 12-2000 does not foreclose the possibility of imprisonment for violators of B.P. Blg. 22, neither does it defeat the legislative intent behind the law.[27]

To reiterate, A.C. No. 12-2000 merely establishes a rule of preference in the application of the penal provisions of B.P. Blg. 22, and Section 1 thereof imposes the following alternative penalties for its violation, to wit: (a) imprisonment of not less than 30 days but not more than one year; or (b) a fine of not less than but not more than double the amount of the check which fine shall in no case exceed P200,000[.00]; or (c) both such fine and imprisonment at the discretion of the court.[28]

There is an array of cases where this Court merely imposes fine rather than both fine and imprisonment. In *Lee v. CA*,[29] the Court ruled that the policy laid down in the cases of *Vaca* and *Lim* with regard to redeeming valuable human material and preventing unnecessary deprivation of personal liberty and economic usefulness, should be considered in favor of the accused who is not shown to be a habitual delinquent or a recidivist.[30] Said doctrines squarely apply in the instant case there being no proof or allegation that the petitioner is not a first time offender.

Moreover, the lower courts should have considered that the penalty of imprisonment must be graduated or proportionate to the amount of the check rather than imposing the same penalty of one year of *prision correccional* for the check that bounced amounting to P7,600.00 and the one for P200,000.00. Thus, a guilty person who issued a worthless check of lesser amount could be imprisoned for the same term as that of a guilty person who issued one worth millions. "Justice demands that crime be punished and that the penalty imposed to be commensurate with the offense committed."[31]

Indeed, the imposition by the RTC, as affirmed by the CA, of imprisonment of one year of *prision correccional* for each count of violation of B.P. Blg. 22 resulting in a total of 51 years is too harsh taking into consideration the fact that the petitioner is not a recidivist, and that past transactions show that the petitioner had made good in her payment. It cannot be gainsaid that what is involved here is the life and liberty of the petitioner. If her penalty of imprisonment remains uncorrected, it would not be conformable with law and she would be made to suffer the penalty of imprisonment of 51 years, which is outside the range of the penalty prescribed by law; thus, the penalty imposed upon the petitioner should be duly corrected.

"An appeal in a criminal case throws the entire case for review and it becomes our duty to correct any error, as may be found in the appealed judgment, whether assigned as an error or not."[32] Accordingly, the Court finds that the penalty of imprisonment imposed by the lower courts should be modified to six (6) months for each count of violations of B.P. Blg. 22. Furthermore, the total amount of the subject