

SECOND DIVISION

[G.R. No. 191404, July 05, 2010]

**EUMELIA R. MITRA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND FELICISIMO S. TARCELO, RESPONDENTS.**

D E C I S I O N

MENDOZA, J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court assailing the July 31, 2009 Decision^[1] and the February 11, 2010 Resolution of the Court of Appeals (CA) in CA-G.R. CR No. 31740. The subject decision and resolution affirmed the August 22, 2007 Decision of the Regional Trial Court, Branch 2, Batangas City (*RTC*) which, in turn, affirmed the May 21, 2007 Decision of the Municipal Trial Court in Cities, Branch 2, Batangas City (*MTCC*).

THE FACTS:

Petitioner Eumelia R. Mitra (*Mitra*) was the Treasurer, and Florencio L. Cabrera, Jr. (now deceased) was the President, of Lucky Nine Credit Corporation (*LNCC*), a corporation engaged in money lending activities.

Between 1996 and 1999, private respondent Felicisimo S. Tarcelo (*Tarcelo*) invested money in LNCC. As the usual practice in money placement transactions, Tarcelo was issued checks equivalent to the amounts he invested plus the interest on his investments. The following checks, signed by Mitra and Cabrera, were issued by LNCC to Tarcelo.^[2]

Bank	Date Issued	Date of Check	Amount	Check No.
Security Bank	September 15, 1998	January 15, 1999	P 3,125.00	0000045804
-do-	September 15, 1998	January 15, 1999	125,000.00	0000045805
-do-	September 20, 1998	January 20, 1999	2,500.00	0000045809
-do-	September 20, 1998	January 20, 1999	100,000.00	0000045810
-do-	September 30, 1998	January 30, 1999	5,000.00	0000045814
-do-	September 30, 1998	January 30, 1999	200,000.00	0000045815
-do-	October 3, 1998	February 3, 1999	2,500.00	0000045875
-do-	October 3, 1998	February 3, 1999	100,000.00	0000045876

	1998	1999		
-do-	November 17, 1998	February 17, 1999	5,000.00	0000046061
-do-	November 17, 1998	March 17, 1999	5,000.00	0000046062
-do-	November 17, 1998	March 17, 1999	200,000.00	0000046063
-do-	November 19, 1998	January 19, 1999	2,500.00	0000046065
-do-	November 19, 1998	February 19, 1999	2,500.00	0000046066
-do-	November 19, 1998	March 19, 1999	2,500.00	0000046067
-do-	November 19, 1998	March 19, 1999	100,000.00	0000046068
-do-	November 20, 1998	January 20, 1999	10,000.00	0000046070
-do-	November 20, 1998	February 20, 1999	10,000.00	0000046071
-do-	November 20, 1998	March 20, 1999	10,000.00	0000046072
-do-	November 20, 1998	March 20, 1999	10,000.00	0000046073
-do-	November 30, 1998	January 30, 1999	2,500.00	0000046075
-do-	November 30, 1998	February 28, 1999	2,500.00	0000046076
-do-	November 30, 1998	March 30, 1999	2,500.00	0000046077
-do-	November 30, 1998	March 30, 1999	100,000.00	0000046078

When Tarcelo presented these checks for payment, they were dishonored for the reason "account closed." Tarcelo made several oral demands on LNCC for the payment of these checks but he was frustrated. Constrained, in 2002, he caused the filing of seven informations for violation of Batas Pambansa Blg. 22 (BP 22) in the total amount of P925,000.00 with the MTCC in Batangas City.^[3]

After trial on the merits, the MTCC found Mitra and Cabrera guilty of the charges. The *fallo* of the May 21, 2007 MTCC Decision^[4] reads:

WHEREFORE, foregoing premises considered, the accused **FLORENCIO I. CABRERA, JR.,** and **EUMELIA R. MITRA** are hereby found guilty of the offense of violation of Batas Pambansa Bilang 22 and are hereby **ORDERED** to respectively pay the following fines for each violation *and with subsidiary imprisonment in all cases, in case of insolvency:*

- 1. Criminal Case No. 43637 - P200,000.00**
- 2. Criminal Case No. 43640 - P100,000.00**
- 3. Criminal Case No. 43648 - P100,000.00**
- 4. Criminal Case No. 43700 - P125,000.00**
- 5. Criminal Case No. 43702 - P200,000.00**
- 6. Criminal Case No. 43704 - P100,000.00**
- 7. Criminal Case No. 43706 - P100,000.00**

Said accused, nevertheless, are adjudged civilly liable and are ordered to pay, *in solidum*, private complainant Felicisimo S. Tarcelo the amount of **NINE HUNDRED TWENTY FIVE THOUSAND PESOS (P925,000.000).**

SO ORDERED.

Mitra and Cabrera appealed to the Batangas RTC contending that: they signed the seven checks in blank with no name of the payee, no amount stated and no date of maturity; they did not know when and to whom those checks would be issued; the seven checks were only among those in one or two booklets of checks they were made to sign at that time; and that they signed the checks so as not to delay the transactions of LNCC because they did not regularly hold office there.^[5]

The RTC affirmed the MTCC decision and later denied their motion for reconsideration. Meanwhile, Cabrera died. Mitra alone filed this petition for review^[6] claiming, among others, that there was no proper service of the notice of dishonor on her. The Court of Appeals dismissed her petition for lack of merit.

Mitra is now before this Court on a petition for review and submits these issues:

1. WHETHER OR NOT THE ELEMENTS OF VIOLATION OF BATAS PAMBANSA BILANG 22 MUST BE PROVED BEYOND REASONABLE DOUBT AS AGAINST THE CORPORATION WHO OWNS THE CURRENT ACCOUNT WHERE THE SUBJECT CHECKS WERE DRAWN BEFORE LIABILITY ATTACHES TO THE SIGNATORIES.

2. WHETHER OR NOT THERE IS PROPER SERVICE OF NOTICE OF DISHONOR AND DEMAND TO PAY TO THE PETITIONER AND THE LATE FLORENCIO CABRERA, JR.

The Court denies the petition.

A check is a negotiable instrument that serves as a substitute for money and as a convenient form of payment in financial transactions and obligations. The use of checks as payment allows commercial and banking transactions to proceed without the actual handling of money, thus, doing away with the need to physically count bills and coins whenever payment is made. It permits commercial and banking transactions to be carried out quickly and efficiently. But the convenience afforded by checks is damaged by unfunded checks that adversely affect confidence in our commercial and banking activities, and ultimately injure public interest.