579 Phil. 242

SECOND DIVISION

[G.R. No. 176795, June 30, 2008]

SPS. CAROLINA AND REYNALDO JOSE, PETITIONERS, VS. SPS. LAUREANO AND PURITA SUAREZ, RESPONDENTS.

D E C I S I O N

TINGA, J,:

Petitioners filed this case assailing the Decision[1] of the Court of Appeals in CA-G.R. CEB SP No. 00397 dated 17 August 2006 which affirmed the Orders[2] of the Regional Trial Court (RTC) of Cebu City, Branch 19 restraining Branches 2 and 5 of the Municipal Trial Court in Cities (MTCC) of Cebu City from proceeding with the criminal cases for violation of Batas Pambansa Bilang 22 (B.P. Blg. 22) filed against respondent Purita Suarez.

The facts of the case follow.

Respondents, spouses Laureano and Purita Suarez, had availed of petitioner Carolina Jose's (Carolina) offer to lend money at the daily interest rate of 1% to 2%. However, Carolina and her husband, petitioner Reynaldo Jose, later on increased the interest to 5% per day, which respondents were forced to accept because they allegedly had no other option left. It then became a practice that petitioners would give the loaned money to Purita and the latter would deposit the same in her and her husband's account to cover the maturing postdated checks they had previously issued in payment of their other loans. Purita would then issue checks in favor of petitioners in payment of the amount borrowed from them with the agreed 5% daily interest.

On 7 May 2004, respondents filed a Complaint[3] against petitioners seeking the declaration of "nullity of interest of 5% per day, fixing of interest, recovery of interest payments"[4] and the issuance of a writ of preliminary injunction, alleging that the interest rate of 5% a day is iniquitous, contrary to morals, done under vitiated consent and imposed using undue influence by taking improper advantage of their financial distress. They claimed that due to serious liquidity problems, they were forced to rely on borrowings from banks and individual lenders, including petitioners, and that they had to scramble for funds to cover the maturing postdated checks they issued to cover their other borrowings. In their prayer, respondents stated:

> WHEREFORE, it is prayed that upon the filing of the instant case and in accordance with the 1997 Rules on Civil Procedure[,] a writ of preliminary injunction or at least a temporary restraining order be issued restraining defendant from enforcing the checks as listed in Annex "E" including the filing of criminal cases for violation of B.P. [Blg.] 22 and restraining defendants from entering plaintiffs' store and premises to get

> cash sales and other items against plaintiffs will [sic] under such terms and conditions as this Court may affix.[5]

Thereafter, at the instance of Carolina, several cases for violation of B.P. Blg. 22[6] were filed against respondent Purita before the MTCC of Cebu City, Branches 2 and 5. Purita, in turn filed motions to suspend the criminal proceedings on the ground of prejudicial question, on the theory that the checks subject of the B.P. Blg. 22 cases are void for being *contra bonos mores* or for having been issued in payment of the iniquitous and unconscionable interest imposed by petitioners. The motions were denied.[7]

Respondents thereafter filed before the RTC a "Motion for Writ of Preliminary Injunction with Temporary Restraining Order"[8] seeking to restrain the MTCCs from further proceeding with the B.P. Blg. 22 cases on the ground of prejudicial question. Petitioners opposed the motion. Nevertheless, the RTC through its 20 December 2004 Order[9] issued a writ of preliminary injunction, thereby enjoining the MTCCs from proceeding with the cases against Purita. Petitioners sought reconsideration of the order but their motion was denied due course in the RTC's 3 February 2005 Order.[10]

Petitioners elevated the case to the Court of Appeals[11] and questioned the propriety of the RTC's issuance of a preliminary injunction based on a prejudicial question. The appellate court stated that respondents had sought to annul the checks for being void pursuant to Article 1422 of the Civil Code which provides that "a contract which is the direct result of a previous illegal contract, is also void and inexistent." Accordingly, the appellate court concluded that if the checks subject of the criminal cases were later on declared null and void, then said checks could not be made the bases of criminal prosecutions under B.P. Blg. 22. In other words, the outcome of the determination of the validity of the said checks is determinative of guilt or innocence of Purita in the criminal case.[12]

The appellate court also observed that respondents' resort to an application for preliminary injunction could not be considered as forum shopping since it is the only remedy available to them considering the express proscription of filing a petition for certiorari against interlocutory orders issued in cases under B.P. Blg. 22 which are governed by the rules on summary procedure.[13]

Before us, petitioners submit that because under Section 6, Rule 111 of the Rules on Criminal Procedure a petition to suspend proceedings on the ground of prejudicial question should be filed in the same criminal action, the RTC has no jurisdiction to issue the writ of preliminary injunction as it is not the court where the B.P. Blg. 22 cases were filed. Moreover, they argue that respondents are guilty of forum shopping because after the denial of their motion to suspend the proceedings before Branches 2 and 5 of the MTCC, they resorted to the filing of a motion for preliminary injunction before the RTC also on the ground of prejudicial question; therefore, they succeeded in getting the relief in one forum (RTC) which they had failed to obtain in the first forum (MTCCs). Likewise, petitioners claim that the Court of Appeals erred in holding that the civil case poses a prejudicial question to the B.P. Blg. 22 cases, thus resulting in the erroneous suspension of the proceedings the latter cases. Finally, petitioners posit that the RTC erred in issuing the

preliminary injunction because respondents have no clear and unmistakable right to its issuance.[14]

Respondents, for their part, state that the possibility of a ruling in the civil case to the effect that the subject checks are *contra bonos mores* and hence null and void constitutes a prejudicial question in the B.P. Blg. 22 cases. Thus, proceeding with the trial in the criminal cases without awaiting the outcome of the civil case is fraught with mischievous consequences.[15] They cite the case of *Medel v. Court of Appeals,*[16] wherein the Court nullified the interest rate of 5.5% per month for being *contra bonos mores* under Article 1306 of the Civil Code, and recomputed the interest due at the rate of 1% per month.[17] Thus, if their loans are computed at 1% per month, it would mean that the checks subject of the B.P. Blg. 22 cases are not only fully paid but are also in fact overpaid. They also invoke the case of *Danao v. Court of Appeals*[18] wherein the Court allegedly ruled that there is no violation of B.P. Blg. 22 if the dishonored checks have been paid.[19] They claim that since the 5% interest per day was not contained in any written agreement, per Article 1956[20] of the Civil Code, petitioners are bound to return the total interest they collected from respondents. Respondents point out that they incorporated in their complaint an application for preliminary injunction and temporary restraining order to restrain Carolina from enforcing the interest and from filing criminal cases for violation of B.P. Blg. 22. Quoting the RTC, respondents explain:

> Since there was no proof at that time that plaintiff sustain or are about to sustain damages or prejudice if the acts complained of are not enjoined, the application was not acted upon by the Court. When the attention of the Court was invited by the plaintiffs of the refusal of the MTC, Branches 2 and 5, to suspend the criminal proceedings despite being appraised of the pendency of this case, the Court has to act accordingly.[21]

Respondents maintain that they are not guilty of forum shopping because after the denial by the MTCCs of their motion to suspend proceedings, their only available remedy was the filing of an application for preliminary injunction in the existing civil case filed earlier than the B.P. Blg. 22 cases. In any case, respondents argue that the rule on forum shopping is not intended to deprive a party to a case of a legitimate remedy.[22] Finally, they claim that the case falls under the exceptions to the rule that the prosecution of criminal cases may not be enjoined by a writ of injunction, considering that in this case there is a prejudicial question which is *sub judice,* and that there is persecution rather than prosecution.[23]

The case hinges on the determination of whether there exists a prejudicial question which necessitates the suspension of the proceedings in the MTCCs.

We find that there is none and thus we resolve to grant the petition.

A prejudicial question generally comes into play in a situation where a civil action and a criminal action are both pending and there exists in the former an issue which must be preemptively resolved before the latter may proceed, because howsoever the issue raised in the civil action is resolved would be determinative *juris et de jure* of the guilt or innocence of the accused in the criminal case. The rationale behind the principle of prejudicial question is to avoid two conflicting decisions. It has two

essential elements: (i) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (ii) the resolution of such issue determines whether or not the criminal action may proceed.[24]

Now the prejudicial question posed by respondents is simply this: whether the daily interest rate of 5% is void, such that the checks issued by respondents to cover said interest are likewise void for being *contra bonos mores*, and thus the cases for B.P. Blg. 22 will no longer prosper.

The prejudicial question theory advanced by respondents must fail.

In the first place, the validity or invalidity of the interest rate is not determinative of the guilt of respondents in the criminal cases. The Court has consistently declared that the cause or reason for the issuance of a check is inconsequential in determining criminal culpability under B.P. Blg. 22.[25] In several instances, we have held that what the law punishes is the issuance of a bouncing check and not the purpose for which it was issued or the terms and conditions relating to its issuance; and that the mere act of issuing a worthless check is *malum prohibitum* provided the other elements of the offense are properly proved.[26]

The nature and policy of B.P. Blg. 22 were aptly enunciated by the Court in *Meriz v. People*,[27] when it stated:

> x x x. [B.P. Blg.] 22 does not appear to concern itself with what might actually be envisioned by the parties, its primordial intention being to instead ensure the stability and commercial value of checks as being virtual substitutes for currency. It is a policy that can easily be eroded if one has yet to determine the reason for which checks are issued, or the terms and conditions for their issuance, before an appropriate application of the legislative enactment can be made. The gravamen of the offense under [B.P. Blg.] 22 is the act of making or issuing a worthless check or a check that is dishonored upon presentment for payment. The act effectively declares the offense to be one of *malum prohibitum.* The only valid query then is whether the law has been breached, *i.e.*, by the mere act of issuing a bad check, without so much regard as to the criminal intent of the issuer.[28]

Thus, whether or not the interest rate imposed by petitioners is eventually declared void for being *contra bonos mores* will not affect the outcome of the B.P. Blg. 22 cases because what will ultimately be penalized is the mere issuance of bouncing checks. In fact, the primordial question posed before the court hearing the B.P. Blg. 22 cases is whether the law has been breached, that is, if a bouncing check has been issued.

The issue has in fact been correctly addressed by the MTCCs when respondents' motion to suspend the criminal proceedings was denied upon the finding that there exists no prejudicial question which could be the basis for the suspension of the proceedings. The reason for the denial of the motion is that the "cases can very well proceed for the prosecution of the accused in order to determine her criminal propensity ... as a consequence of the issuance of several checks which subsequently ... bounced" for "what the law punishes is the issuance and/or drawing