

THIRD DIVISION

[G.R. NO. 166719, March 12, 2007]

**SILANGAN TEXTILE MANUFACTURING CORPORATION,
TRADEWORLD SYNERGY, INCORPORATED, AND CELLU
INDUSTRIES, INCORPORATED, PETITIONERS,* VS. HON.
AVELINO G. DEMETRIA, PRESIDING JUDGE, REGIONAL TRIAL
COURT, LIPA CITY, BRANCH 85, AND LUZON SPINNING MILLS,
INCORPORATED, RESPONDENTS.**

D E C I S I O N

CHICO-NAZARIO, J.:

Luzon Spinning Mills, Incorporated (LSMI) filed before the Regional Trial Court (RTC) of Lipa City, Branch 85, a Complaint dated 23 August 2000, for Collection of Sum of Money^[1] against Silangan Textile Manufacturing Corporation (STMC). In its Complaint, LSMI alleged that from 19 November 1998 to 14 June 1999, Anita, Jimmy and Benito, all surnamed Silangan, in their capacity as stockholders and officers of STMC ordered 111,161.60 kilograms of yarn, valued in the total amount of P9,999,845.00. The yarns were delivered at the office of STMC as evidenced by delivery receipts.^[2] In payment of the yarns, STMC issued 34 postdated checks in the total amount of P9,999,845.00. Among these postdated checks are the following:

Check No.	Date	Amount
0239973	5-12-99	P317,952.00
0239990	1-05-99	316,125.00
0239991	1-05-99	229,110.00
0239992	1-07-99	288,771.00
0239994	1-12-99	200,025.00
0239995	1-12-99	287,748.00
0296801	1-29-99	207,970.00
0296802	1-30-99	206,127.00
0296803	2-01-99	316,577.00
TOTAL		2,370,405.00^[3]

When presented for payment, the foregoing postdated checks were dishonored for the reason, "Drawn Against Insufficient Fund" (DAIF). LSMI demanded from STMC the immediate payment of the obligation.^[4] STMC failed and refused to heed the demand of LSMI; hence, the latter filed the Complaint before the RTC.

In accordance with the prayer of LSMI, and finding the same to be sufficient in form and substance, the RTC issued a writ of preliminary attachment against STMC's

properties.^[5] In this connection, a notice of attachment on the properties in the name of STMC covered by Transfer Certificates of Title No. 202686 and No. 202685 was issued.^[6]

Apparently, LSMI had already previously instituted before the Municipal Trial Court (MTC) of Lipa City, Branch 1, criminal cases against the Silangans for violation of Batas Pambansa Blg. 22. Thus, STMC was prompted to file a Motion, praying to dismiss the civil Complaint before the RTC, to cite STMC's lawyer for contempt for forum shopping, and to discharge the writ of preliminary attachment issued by the trial court.^[7] After LSMI filed its Comment/Opposition to the motion of STMC, the RTC resolved the said motion by denying it for lack of merit.^[8]

The RTC held that:

For forum-shopping to exist, both actions must involve the same transactions and same essential facts and circumstances. There must also be identical causes of action, subject matter and issues (PRC vs. CA, 292 SCRA 155). Forum-shopping also exists where the elements of *litis pendencia* are present or where a final judgment in one case will amount to *res judicata* in the other (Alejandro vs. CA, 295 SCRA 536).

In the case at bar, the two (2) cases, one for violation of BP 22 and the other for collection of sum of money although concerning the same amount of money are distinct litigations, neither involving exactly the same parties nor identical issues.

The accused in the criminal cases for violation of BP 22 are the persons who signed the worthless checks while the defendants in the instant case are the corporations which have outstanding obligations to the plaintiff. Hence, there is no identity of parties in the aforesaid cases.

As to whether or not the requisites prescribed by law for the issuance of a writ of preliminary attachment have been complied with, record show (sic) that the contents of the affidavit required for the issuance of a writ of preliminary attachment were incorporated in the complaint, verified and certified as correct by Mr. Vicente Africa, Jr. Thus, there was substantial compliance of Section 3, Rule 57 of the Rules of Court.^[9]

The Motion for Reconsideration and Motion to Discharge Attachment and Admit Counter-bond^[10] filed by STMC were denied by the RTC in its Order dated 9 April 2001.^[11]

STMC elevated the case to the Court of Appeals *via* a Petition for *Certiorari* under Rule 65 of the Rules of Court^[12] which was dismissed by the appellate court in a Decision^[13] dated 25 October 2004, holding that:

But it is also true that when the bounced check involved is issued by a corporation, B.P. Blg. 22 imposes the criminal liability only on the individual/s who signed the check, presumably in keeping with the principle that generally only natural persons may commit a crime. Thus:

"Where the check is drawn by a corporation, company or entity, the person or persons who actually signed the check in behalf of such drawer shall be liable under this Act."

We hold, at any rate, that with respect to the civil liability, the corporation concerned should bear the responsibility, the drawing of the check being a corporate act. And a corporation has a legal personality of its own different from that of its stockholders/officers who signed the check/s.

Accordingly, since the herein petitioners, as drawers of the checks in question, are not parties to the criminal cases for violation of B.P. Blg. 22, the private respondent was and is not prohibited from filing an independent civil action against them.

Moreover, the civil liability of the accused Silangan(s), the signatories of the checks in the criminal cases, is based on Article 20 of the Civil Code as declared in *Banal vs. Tadeo, Jr.*

On the other hand, the liability of petitioners corporations arose from contract. Under Article 31 of the Civil Code and also Section 1(a), Rule 111 of the 2000 Revised Rules on Criminal Procedure, the offended party has the right to institute a separate civil action when its nexus is liability not arising from the crime, like a liability arising from contract.

In fine, there is no violation of SC Administrative Circular No. 57-97, now Section 1(b) of the 2000 Revised Rules of Criminal Procedure. The civil actions for the liability of the Silangans as the signatories to the subject checks are deemed included in the criminal actions filed against them. The separate action filed against the petitioners corporations for the recovery of the purchase price of the yarn sold to them did not detract from it as this is an entirely different suit.

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WHEREFORE, for being deficient both in form and in substance, the instant petition is DISMISSED, with costs against the petitioners.

STMC filed a Motion for Reconsideration thereon which was denied by the Court of Appeals in a Resolution dated 24 January 2005.^[14]

Hence, the instant petition.

STMC submits the following issues for our resolution:

I. Whether or not the Honorable Court of Appeals erred in affirming the conclusion of public respondent Judge Demetria that the certification against forum-shopping is inapplicable in this case?

II. Whether or not the Honorable Court of Appeals erred in affirming the conclusion of the public respondent Judge Demetria when it failed to apply Section 1(b), Rule 111 of the 2000 Revised Rules of Criminal Procedure?

III. Whether or not the Honorable Court of Appeals erred in affirming the conclusion of the public respondent Judge Demetria when it issued the writ of preliminary attachment in favor of the private respondent.

In its first assigned error, STMC argues that LSMI through its Operation Manager, Mr. Vicente Africa, failed to certify under oath that he had earlier filed criminal cases for violation of Batas Pambansa Blg. 22 against the Silangans before the MTC. These cases are as follows:

Case Number Name of Accused

- (a) 00-0295 to 00- 0299 and Anita Silangan and Benito
00-305 Silangan
- b) 00-0294, 0300-04 and Anita Silangan and Jimmy
306-09 Silangan
- (c) 00-1246 Anita Silangan and Benito
Silangan
- (d) 99-2145 to 99-2154 Anita Silangan and Benito
99-2154 Silangan

The criminal cases for violation of Batas Pambansa Blg. 22 and the collection of sum of money have the same issues, i.e., the recovery of the subject checks. The subsequent filing of the civil case for sum of money constitutes forum shopping.

Forum shopping exists when the elements of *litis pendentia* are present, or when a final judgment in one case will amount to *res judicata* in another. There is forum shopping when the following elements concur: (1) identity of the parties or, at least, of the parties who represent the same interest in both actions; (2) identity of the rights asserted and relief prayed for, as the latter is founded on the same set of facts; and (3) identity of the two preceding particulars, such that any judgment rendered in the other action will amount to *res judicata* in the action under consideration or will constitute *litis pendentia*.^[15]

We grant the petition.

The case of *Hyatt Industrial Manufacturing Corporation v. Asia Dynamic Electrix Corporation*^[16] is instructive. In that case, Hyatt Industrial Manufacturing Corporation (HIMC) instituted before the Regional Trial Court of Mandaluyong City a complaint for recovery of sum of money against respondent *Asia Dynamic Electrix Corporation* (ADEC). The complaint alleged that ADEC purchased from HIMC various electrical conduits and fittings amounting to P1,622,467.14. ADEC issued several checks in favor of HIMC as payment. The checks, however, were dishonored by the drawee bank on the ground of insufficient funds/account closed. Before the filing of the case for recovery of sum of money before the RTC of Mandaluyong City, HIMC had already filed separate criminal complaints for violation of Batas Pambansa Blg. 22 against the officers of ADEC, Gil Santillan and Juanito Pamatmat. They were docketed as I.S. No. 00-01-00304 and I.S. No. 01-00300, respectively, and were both pending before the Metropolitan Trial Court (MeTC) of Pasig City. These cases involved the same checks which were the subjects of Civil Case No. MC-01-1493