

FIRST DIVISION

[G.R. No. 140078, December 09, 2004]

**ANGELINA ZABALA ALONTO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

AZCUNA, J.:

This is a petition for review on *certiorari* of the decision^[1] of the Court of Appeals, dated March 11, 1999, which affirmed in toto the consolidated decision^[2] of the Regional Trial Court of Quezon City, Branch 85, dated October 2, 1994, finding petitioner Angelina Zabala Alonto guilty of three (3) counts of violation of Batas Pambansa Bilang 22 (B.P. 22) or the "Bouncing Checks Law," and its resolution, dated September 9, 1999, denying petitioner's motion for reconsideration. The trial court sentenced petitioner to suffer the penalty of imprisonment of one (1) year for each of the three (3) counts, or the equivalent of three (3) years imprisonment, to indemnify the private complainant, Violeta E. Tizon, in the total amount of P75,000, and to pay the fine of P25,000.

Petitioner was charged with three (3) counts of violation of B.P. 22 in three (3) separate informations, all dated February 22, 1993, to wit:

In Criminal Case No. Q-93-41749, the information alleged:

That on or about the 5th day of January, 1992, in Quezon City, Philippines, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to VIOLETA E. TIZON to apply on account or for value a Bank of Philippine Islands Check No. 831256 dated February 5, 1992, payable to CASH in the amount of P25,000.00, Philippine Currency, said accused well knowing that at the time of issue she/he/they did not have sufficient funds in or credit with the drawee bank for payment of such check in full upon its presentment, which check when presented for payment was subsequently dishonored by the drawee bank for insufficiency of funds/Account Closed and despite receipt of notice of such dishonor, said accused failed to pay said Violeta E. Tizon the amount of the said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

CONTRARY TO LAW.^[3]

In Criminal Case No. Q-93-41750, the information averred:

That on or about the 5th day of January, 1992, in Quezon City, Philippines, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to VIOLETA E. TIZON to apply on

account or for value a Bank of Philippine Islands Check No. 831257 dated March 5, 1992, payable to CASH in the amount of P25,000.00, Philippine Currency, said accused well knowing that at the time of issue she/he/they did not have sufficient funds in or credit with the drawee bank for payment of such check in full upon its presentment, which check when presented for payment, was subsequently dishonored by the drawee bank for insufficiency of funds/Account Closed and despite receipt of notice of such dishonor, said accused failed to pay said Violeta E. Tizon the amount of the said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

CONTRARY TO LAW.^[4]

In Criminal Case No. Q-93-41751, the information stated:

That on or about the 5th day of January, 1992, in Quezon City, Philippines, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to VIOLETA E. TIZON to apply on account or for value a Bank of Philippine Islands Check No. 831258 dated May 14, 1992, payable to CASH in the amount of P25,000.00, Philippine Currency, said accused well knowing that at the time of issue she/he they did not have sufficient funds in or credit with the drawee bank for payment of such check in full upon its presentment, which check when presented for payment was subsequently dishonored by the drawee bank for insufficiency of funds/Account Closed and despite receipt of notice of such dishonor, said accused failed to pay said Violeta E. Tizon the amount of said check or to make arrangement for full payment of the same within five (5) banking days after receiving said notice.

CONTRARY TO LAW.^[5]

Petitioner pleaded not guilty to the charges,^[6] whereupon trial on the merits ensued.

The prosecution presented two witnesses: private complainant Violeta E. Tizon and Fernando Sardes, an employee of the Bank of the Philippine Islands (BPI), Araneta Avenue Branch, Quezon City who handled the collection, accounting, and bookkeeping of the bank.

Private complainant Violeta E. Tizon testified that she was engaged in the business of buying and selling jewelry. Sometime in September 1990, private complainant's aunt, Flordeliz Bernardo, introduced petitioner to her. From December 5-15, 1990, petitioner purchased several pieces of Singaporean jewelry worth P100,000, to wit:

(a) On December 5, 1990:^[7]

| | | |
|-----------------|---|----------|
| 1 pc. bracelet | = | 5,250.00 |
| 1 pc. chain #18 | = | 3,580.00 |
| 1 pc. chain #20 | = | 3,500.00 |

(Signed: Angelina Alonto) Dec. 5, 1990

| | | |
|--------|---|-----|
| 1 ring | = | 950 |
|--------|---|-----|

| | | |
|----------|---|---------------|
| 1 ring | = | 800 |
| 1 bangle | = | 7,000 |
| 1 chain | = | <u>13,000</u> |
| | | [P34,080.00] |

(b) On December 11, 1990:[8]

| | | |
|-------|----------------|-----------------|
| | Dec. 11 | Tita Vangie |
| 1 pc. | earring | P 5,800 |
| 1 pc. | round earring | 3,600 |
| | bangle | 10,500 |
| | bracelet | 3,950 |
| | men's chain | 8,300 |
| | bead's chain | 7,500 |
| | chain w/ heart | 3,600 |
| | chain w/ balls | 4,000 |
| | chain w/ balls | |
| | chain w/ balls | <u>P 47,250</u> |

Received (Signed: Angelina Alonto)

As partial payment for the jewelry purchased in the first two transactions (December 5 and 11, 1990), petitioner issued Bank of the Philippines Islands (BPI) Check No. 874716,[9] (Timog Circle Branch, Timog Avenue, Quezon City) dated December 13, 1990, in the amount of P12,980, under Account No. 0271-0244-44 which, when presented for payment on December 14, 1990 at The International Corporate Bank (Interbank), Caloocan Branch, was dishonored by reason of "account closed." Thereafter, on December 15, 1990, petitioner again took assorted pieces of jewelry, thus:

(c) On December 15, 1990:[10]

| | | |
|-------------|---|--------------|
| Tita Vangie | | 12/15/90 |
| earring | = | P 3,450 |
| chain | = | 4,950 |
| chain | = | 3,500 |
| chain | = | 7,000 |
| bracelet | = | 7,700 |
| | | 10,800 |
| | | <u>4,500</u> |

(Signed: Angelina Alonto) [P41,900]

(d) Undated:[11]

| | | |
|-------|-----------------|---------------|
| 1 pc. | pendant & chain | P 2,800 |
| 1 set | panda | 29,500 |
| 1 set | pearl | 9,000 |
| 1 set | diamond | <u>22,000</u> |

When BPI Check No. 874716 was dishonored, private respondent, through her counsel, sent a demand letter to petitioner to make good the amount of the check and to pay the outstanding amount of P120,000. Petitioner merely returned a chain and a pair of earrings for a total amount of about P25,000, leaving an outstanding amount of P75,000. Private respondent then filed a criminal complaint against petitioner in the Caloocan City Prosecutor's Office. Thereafter, petitioner was charged with estafa under paragraph 2(d), Article 315 of the Revised Penal Code, as amended by R.A. No. 4885 and later by P.D. No. 818, and violation of B.P. 22 in the Regional Trial Court of Caloocan City, Branch 126 (Criminal Cases Nos. 38680-81), entitled "*People of the Philippines v. Angelina Alonto*." [12] Relying on petitioner's promise that she would settle her obligations, private respondent executed an "Affidavit of Desistance," [13] dated January 8, 1992, for the dismissal of Criminal Cases Nos. 38680-81 pending in the Regional Trial Court of Caloocan City, Branch 126. Thus,

Republic of the Philippines)
Kalookan City, MM) S.s.

AFFIDAVIT OF DESISTANCE

I, VIOLETA E. TIZON, of legal age, and residing at 26 B. Asistio St., Biglang Awa, Kalookan City, under oath, solemnly depose and say:

1. That I am the private complainant in Criminal Case Nos. 38680-81, entitled: "*People of the Philippines versus Angelina Alonto*" now pending before the Regional Trial Court, National Capital Judicial Region, Branch 126, Kalookan City, which case has been set for hearing on January 8, 1992, at 8:30 o'clock in the morning, for the arraignment of the aforementioned accused;
2. That I am no longer interested in the prosecution of said case, and
3. Further sayeth none.

IN WITNESS WHEREOF, I have hereunto signed my name this 8th day of January, 1992, in Kalookan City.

(Sgd.) VIOLETA E. TIZON

Affiant

SUBSCRIBED AND SWORN to before me this 8th day of January, 1992, at Kalookan City, Metro Manila, Philippines.

(Sgd.) _____
Asst. Prosecutor

I, HEREBY CERTIFY that I have personally examined the affiant and I am satisfied that she voluntarily executed and understood her statements.

(Sgd.)_____

Asst. Prosecutor

Thereafter, in the presence of their respective lawyers, petitioner issued three BPI checks (Araneta Avenue Branch, G. Araneta Avenue, Quezon City), under Account No. 3275-0292-02, to wit: Check No. 831256 dated February 5, 1992,^[14] Check No. 831257 dated March 5, 1992,^[15] and Check No. 831258 dated April 5, 1992,^[16] each in the amount of P25,000, corresponding to the balance of P75,000. When the BPI checks were presented for payment at Interbank (Caloocan Branch) on their respective due dates, all checks were dishonored by reason of "account closed."^[17] Since petitioner failed to pay the outstanding amount despite the demand letters,^[18] three informations were filed with the Regional Trial Court of Quezon City, Branch 85, charging petitioner with three counts of violation of B.P. 22.

Fernando Sardes testified that on December 27, 1991, petitioner opened an account (Account No. 3275-0292-02) with the BPI having an initial deposit of P2,000. Thereafter, petitioner did not make any other deposit nor did she open any other account with the said bank. He confirmed that petitioner issued three BPI checks (Check Nos. 831256, 831257, and 831258), worth P25,000 each, on February 5, 1992, March 5, 1992, and May 14, 1992^[19] which were the subject of Criminal Cases Nos. Q-93-41749 to 51, respectively. He disclosed that as early as February 1992, petitioner had closed her account with the BPI and by reason thereof, when the three checks were presented for payment, the same were dishonored by reason of "account closed."^[20]

On the other hand, petitioner Angelina Zabala Alonto testified that she was engaged in the real estate business, not in buying and selling jewelry. She said she met private complainant Violeta Tizon through the latter's aunt, Flordeliz Bernardo, and that it was private complainant and her aunt who entered into a transaction involving the sale of jewelry. She also declared that one piece of jewelry worth P23,000 was handed to her by Bernardo, for which reason she signed an acknowledgment receipt, and that Bernardo got the other jewelry items. The following day, petitioner returned to private complainant a piece of jewelry. She insisted that she had issued the three (3) checks upon the advise of her lawyer and after being assured by Flordeliz Bernardo that she (Bernardo) would fund them as these fall due. She claimed that she issued the checks to guarantee the obligation of Bernardo.

On October 2, 1994, the Regional Trial Court of Quezon City, Branch 85, rendered a decision finding petitioner guilty of three (3) counts of violation of B.P. 22. The dispositive portion of the decision reads:

WHEREFORE, foregoing considered, the court finds accused GUILTY beyond reasonable doubt and hereby sentences the accused to suffer in