

THIRD DIVISION

[G.R. No. 133036, January 22, 2003]

**JOY LEE RECUERDO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND THE COURT OF APPEALS, RESPONDENTS.**

DECISION

CARPIO MORALES, J.:

Before us for review is the July 16, 1997 decision of the Court of Appeals in CA-G.R. No. 20577 affirming that rendered by the Regional Trial Court (RTC), Branch 150, Makati City which in turn affirmed that of the Metropolitan Trial Court (MeTC) of Makati City, Branch 67 convicting Joy Lee Recuerdo (petitioner) for violation of Batas Pambansa Blg. 22 (The Bouncing Checks Law) on 5 counts.

From the evidence of the prosecution, the following facts are established:

Sometime in the first week of December 1993, Yolanda Floro (Yolanda) who is engaged in jewelry business sold a 3-karat loose diamond stone valued at P420,000.00 to petitioner who gave a downpayment of P40,000.00. In settlement of the balance of the purchase price, petitioner issued 9 postdated checks, 8 of which in the amount of P40,000.00, and 1 in the amount of P20,000.00, all drawn against her account at the Prudential Bank.^[1]

When Yolanda deposited 8 of the 10 checks to her depository bank, Liberty Savings and Loan Association, only 3, those dated December 25, 1993, January 25, 1994, and February 25, 1994, were cleared. The remaining 5 were dishonored due to the closure of petitioner's account.^[2]

Yolanda thus went to petitioner's dental clinic and advised her to change the dishonored checks to cash. Petitioner promised alright but she welshed on it.^[3]

A demand letter^[4] was thereupon sent to petitioner for her to settle her obligation but she failed to heed the same,^[5] hence, the filing of 5 informations^[6] against her for violation of B. P. 22 at the Makati MeTC, the accusatory portion of the first of which reads:

That sometime in the first week of December, 1993, in the Municipality of Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously make out, drawn (sic) and issue to YOLANDA G. FLORO to apply on account or for value the check described below:

Check No.	- 008789
Drawn Against	- Prudential Bank
In the Amount of	- P40,000.00

Postdated/dated
Payable to

- July 25, 1994
- Cash

said accused well knowing that at the time of issue thereof, said account did not have sufficient funds in or credit with the drawee bank for the payment in full of the face amount of such check upon its presentment, which check when presented for payment within ninety (90) days from the date thereof was subsequently dishonored by the drawee bank for the reason "ACCOUNT CLOSED" and despite receipt of notice of such dishonor, the accused failed to pay said payee the face amount of said check or to make arrangement for full payment within five (5) banking days after receiving said notice."

Except for the check numbers and dates of maturity, the four other informations are similarly worded.

After trial, Branch 67 of the Makati MeTC convicted petitioner in a Joint Decision^[7] the dispositive portion of which reads:

Wherefore, in view of the foregoing, the court finds the accused guilty beyond reasonable doubt of Violation of Batas Pambansa Bilang 22 on five (5) counts and therefore sentences the accused to suffer an imprisonment of 30 days for each count and to restitute the amount of P 200,000.00 to Miss Yolanda G. Floro, which is the total amount of the five (5) checks, and to pay her also the amount of P20,000.00 as damages to compensate the payment of attorney's fees.

SO ORDERED.^[8]

As stated early on, the RTC, on appeal, affirmed the decision of the MeTC.^[9] And the Court of Appeals^[10] affirmed that of the RTC.

In the petition for review on certiorari at bar, petitioner proffers as follows:

- "1. Petitioner was convicted by an invalid law which is Batas Pambansa Blg. 22 for being an unconstitutional law.
2. Petitioner was denied her constitutional right to due process for failure of the courts a quo to uphold her presumption of innocence and for convicting her even if the prosecution evidence does not prove her guilt beyond reasonable doubt.
3. The findings of fact of the courts a quo, primarily the Court of Appeals, are based on surmises, conjectures and speculations.
4. The Court of Appeals was biased against petitioner when it denied the petition *moto proprio* (sic) without the comment of the Office of the Solicitor General."^[11]

Petitioner contends that since banks are not damaged by the presentment of dishonored checks as they impose a penalty for each, only creditors/payees are

unduly favored by the law; that the law "is in essence a resurrected form of 19th century 'imprisonment for debt'" since the drawer is coerced to pay his debt on threat of imprisonment even if his failure to pay does not arise from malice or fraud or from any criminal intent to cause damage;^[12] and that the law is a bill of attainder^[13] as it does not leave much room for judicial determination, the guilt of the accused having already been decided by the legislature.^[14]

These matters subject of petitioner's contention have long been settled in the landmark case of *Lozano v. Martinez*^[15] where this Court upheld the constitutionality of B. P. 22:

The gravamen of the offense punished by BP 22 is the act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment. **It is not the non-payment of an obligation which the law punishes.** The law is not intended or designed to coerce a debtor to pay his debt. The thrust of the law is to prohibit, under pain of penal sanctions, the making of worthless checks and putting them in circulation. Because of its deleterious effects on the public interest, the practice is proscribed by law. **The law punishes the act not as an offense against property, but an offense against public order.**^[16]
(Emphasis supplied)

The contention that B. P. 22 is a bill of attainder, one which inflicts punishment without trial and the essence of which is the substitution of a legislative for a judicial determination of guilt,^[17] fails. For under B. P. 22, every element of the crime is still to be proven before the trial court to warrant a conviction for violation thereof.

Reinforcing her thesis, petitioner cites the speech made by now Vice-President Teofisto Guingona delivered before the Philippine Bar Association wherein he stressed the need to review the law since it has not prevented the proliferation of bouncing checks.^[18]

As correctly argued by the Solicitor General, however, while due deference is given to the opinion of the Vice-President, the same should properly be addressed to the legislature which is in a better position to review the effectiveness and usefulness of the law.^[19] As held in the case of *Lozano*,^[20] it is not for the Court to question the wisdom or policy of the statute. It is sufficient that a reasonable nexus exists between the means and the end.

Petitioner further claims that the dishonored checks were not issued for deposit and encashment,^[21] nor was there consideration therefor, in support of which she cites her alleged agreement with Yolanda – that she could have the stone appraised to determine the purchase price,^[22] and since she found out that it is only worth P160,000.00,^[23] there was no longer any need to fund the remaining checks which should be returned to her.^[24] Yolanda, however, so petitioner adds, could no longer be reached.^[25] Petitioner thus concludes that she had already paid in full the purchase price of the stone, she having paid P40,000.00 cash plus the P120,000.00 proceeds of the three cleared checks.^[26]