

## EN BANC

[ G.R. No. 149276, September 27, 2002 ]

**JOVENCIO LIM AND TERESITA LIM, PETITIONERS, VS. THE PEOPLE OF THE PHILIPPINES, THE REGIONAL TRIAL COURT OF QUEZON CITY, BRANCH 217, THE CITY PROSECUTOR OF QUEZON CITY, AND WILSON CHAM, RESPONDENTS.**

### DECISION

**CORONA, J.:**

The constitutionality of PD 818, a decree which amended Article 315 of the Revised Penal Code by increasing the penalties for estafa committed by means of bouncing checks, is being challenged in this petition for certiorari, for being violative of the due process clause, the right to bail and the provision against cruel, degrading or inhuman punishment enshrined under the Constitution.

The antecedents of this case, as gathered from the parties' pleadings and documentary proofs, follow.

In December 1991, petitioner spouses issued to private respondent two postdated checks, namely, Metrobank check no. 464728 dated January 15, 1992 in the amount of P365,750 and Metrobank check no. 464743 dated January 22, 1992 in the amount of P429,000. Check no. 464728 was dishonored upon presentment for having been drawn against insufficient funds while check no. 464743 was not presented for payment upon request of petitioners who promised to replace the dishonored check.

When petitioners reneged on their promise to cover the amount of check no. 464728, the private respondent filed a complaint-affidavit before the Office of the City Prosecutor of Quezon City charging petitioner spouses with the crime of estafa under Article 315, par. 2 (d) of the Revised Penal Code, as amended by PD 818.

On February 16, 2001, the City Prosecutor issued a resolution finding probable cause against petitioners and recommending the filing of an information for estafa with no bail recommended. On the same day, an information for the crime of estafa was filed with Branch 217 of the Regional Trial Court of Quezon City against petitioners. The case was docketed as Criminal Case No. Q-01-101574. Thereafter, the trial court issued a warrant for the arrest of herein petitioners, thus:

It appearing on the face of the information and from supporting affidavit of the complaining witness and its annexes that probable cause exists, that the crime charged was committed and accused is probably guilty thereof, let a warrant for the arrest of the accused be issued.

*No Bail Recommended.*

SO ORDERED.<sup>[1]</sup>

On July 18, 2001, petitioners filed an "Urgent Motion to Quash Information and Warrant of Arrest" which was denied by the trial court. Likewise, petitioners' motion for bail filed on July 24, 2001 was denied by the trial court on the same day. Petitioner Jovencio Lim was arrested by virtue of the warrant of arrest issued by the trial court and was detained at the Quezon City Jail. However, petitioner Teresita Lim remained at large.

On August 22, 2001, petitioners filed the instant petition for certiorari imputing grave abuse of discretion on the part of the lower court and the Office of the City Prosecutor of Quezon City, arguing that PD 818 violates the constitutional provisions on due process, bail and imposition of cruel, degrading or inhuman punishment.

In a resolution dated February 26, 2002, this Court granted the petition of Jovencio Lim to post bail pursuant to Department of Justice Circular No. 74 dated November 6, 2001 which amended the 2000 Bail Bond Guide involving estafa under Article 315, par. 2 (d), and qualified theft. Said Circular specifically provides as follows:

xxx      xxx      xxx

*3) Where the amount of fraud is P32,000.00 or over in which the imposable penalty is reclusion temporal to reclusion perpetua, bail shall be based on reclusion temporal maximum, pursuant to Par. 2 (a) of the 2000 Bail Bond Guide, multiplied by P2,000.00, plus an additional of P2,000.00 for every P10,000.00 in excess of P22,000.00; Provided, however, that the total amount of bail shall not exceed P60,000.00.*

In view of the aforementioned resolution, the matter concerning bail shall no longer be discussed. Thus, this decision will focus on whether or not PD 818 violates Sections 1 and 19 of Article III of the Constitution, which respectively provide:

Section 1. No person shall be deprived of life, liberty or property without due process of law, nor shall any person be denied the equal protection of the laws.

x x x

Section 19 (1) Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. x x x.

We shall deal first with the issue of whether PD 818 was enacted in contravention of Section 19 of Article III of the Constitution. In this regard, the impugned provision of PD 818 reads as follows:

SECTION 1. Any person who shall defraud another by means of false pretenses or fraudulent acts as defined in paragraph 2(d) of Article 315 of the Revised Penal Code, as amended by Republic Act No. 4885, shall be punished by:

1st. The penalty of reclusion temporal if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos, and if such amount exceeds the later sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos but the total penalty which may be imposed shall in no case exceed thirty years. In such cases, and in connection with the accessory penalties which may be imposed under the Revised Penal Code, the penalty shall be termed reclusion perpetua;