

## SECOND DIVISION

[ G.R. No. 117857, February 02, 2001 ]

**LUIS S. WONG, PETITIONER, VS. COURT OF APPEALS AND  
PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

### DECISION

**QUISUMBING, J.:**

For review on *certiorari* is the decision dated October 28, 1994 of the Court of Appeals in C.A. G.R. CR 11856<sup>[1]</sup> which affirmed the decision of the Regional Trial Court of Cebu City, Branch 17, convicting petitioner on three (3) counts of Batas Pambansa Blg. 22 (the Bouncing Checks Law) violations, and sentencing him to imprisonment of four (4) months for each count, and to pay private respondent the amounts of P5,500.00, P6,410.00 and P3,375.00, respectively, corresponding to the value of the checks involved, with the legal rate of interest from the time of filing of the criminal charges, as well as to pay the costs.

The factual antecedents of the case are as follows:

Petitioner Wong was an agent of Limtong Press Inc. (LPI), a manufacturer of calendars. LPI would print sample calendars, then give them to agents to present to customers. The agents would get the purchase orders of customers and forward them to LPI. After printing the calendars, LPI would ship the calendars directly to the customers. Thereafter, the agents would come around to collect the payments. Petitioner, however, had a history of unremitted collections, which he duly acknowledged in a confirmation receipt he co-signed with his wife.<sup>[2]</sup> Hence, petitioner's customers were required to issue postdated checks before LPI would accept their purchase orders.

In early December 1985, Wong issued six (6) postdated checks totaling P18,025.00, all dated December 30, 1985 and drawn payable to the order of LPI, as follows:

- (1) Allied Banking Corporation (ABC) Check No. 660143464-C for P6,410.00 (Exh. "B");
- (2) ABC Check No. 660143460-C for P 540.00 (Exh. "C");
- (3) ABC Check No. PA660143451-C for P5,500.00 (Exh. "D");
- (4) ABC Check No. PA660143465-C for P1,100.00 (Exh. "E");
- (5) ABC Check No. PA660143463-C for P3,375.00 (Exh. "F");
- (6) ABC Check No. PA660143452-C for P1,100.00 (Exh. "G").

These checks were initially intended to guarantee the calendar orders of customers who failed to issue post-dated checks. However, following company policy, LPI refused to accept the checks as guarantees. Instead, the parties agreed to apply the checks to the payment of petitioner's unremitted collections for 1984 amounting to P18,077.07.<sup>[3]</sup> LPI waived the P52.07 difference.

Before the maturity of the checks, petitioner prevailed upon LPI not to deposit the checks and promised to replace them within 30 days. However, petitioner reneged on his promise. Hence, on June 5, 1986, LPI deposited the checks with Rizal Commercial Banking Corporation (RCBC). The checks were returned for the reason "account closed." The dishonor of the checks was evidenced by the RCBC return slip.

On June 20, 1986, complainant through counsel notified the petitioner of the dishonor. Petitioner failed to make arrangements for payment within five (5) banking days.

On November 6, 1987, petitioner was charged with three (3) counts of violation of B.P. Blg. 22<sup>[4]</sup> under three separate Informations for the three checks amounting to P5,500.00, P3,375.00, and P6,410.00.<sup>[5]</sup>

The Information in Criminal Case No. CBU-12055 reads as follows:<sup>[6]</sup>

That on or about the 30th day of December, 1985 and for sometime subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, knowing at the time of issue of the check she/he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment, with deliberate intent, with intent of gain and of causing damage, did then and there issue, make or draw Allied Banking Corporation Check No. 660143451 dated 12-30-85 in the amount of P5,500.00 payable to Manuel T. Limtong which check was issued in payment of an obligation of said accused, but when the said check was presented with said bank, the same was dishonored for reason 'ACCOUNT CLOSED' and despite notice and demands made to redeem or make good said check, said accused failed and refused, and up to the present time still fails and refuses to do so, to the damage and prejudice of said Manuel T. Limtong in the amount of P5,500.00 Philippine Currency.

Contrary to law.

Petitioner was similarly charged in Criminal Case No. 12057 for ABC Check No. 660143463 in the amount of P3,375.00, and in Criminal Case No. 12058 for ABC Check No. 660143464 for P6,410.00. Both cases were raffled to the same trial court.

Upon arraignment, Wong pleaded not guilty. Trial ensued.

Manuel T. Limtong, general manager of LPI, testified on behalf of the company. Limtong averred that he refused to accept the personal checks of petitioner since it was against company policy to accept personal checks from agents. Hence, he and petitioner simply agreed to use the checks to pay petitioner's unremitted collections

to LPI. According to Limtong, a few days before maturity of the checks, Wong requested him to defer the deposit of said checks for lack of funds. Wong promised to replace them within thirty days, but failed to do so. Hence, upon advice of counsel, he deposited the checks which were subsequently returned on the ground of "account closed."

The version of the defense is that petitioner issued the six (6) checks to guarantee the 1985 calendar bookings of his customers. According to petitioner, he issued the checks not as payment for any obligation, but to guarantee the orders of his customers. In fact, the face value of the six (6) postdated checks tallied with the total amount of the calendar orders of the six (6) customers of the accused, namely, Golden Friendship Supermarket, Inc. (P6,410.00), New Society Rice and Corn Mill (P5,500.00), Cuesta Enterprises (P540.00), Pelrico Marketing (P1,100.00), New Asia Restaurant (P3,375.00), and New China Restaurant (P1,100.00). Although these customers had already paid their respective orders, petitioner claimed LPI did not return the said checks to him.

On August 30, 1990, the trial court issued its decision, disposing as follows:[7]

"Wherefore, premises considered, this Court finds the accused Luis S. Wong GUILTY beyond reasonable doubt of the offense of Violations of Section 1 of Batas Pambansa Bilang 22 in THREE (3) Counts and is hereby sentenced to serve an imprisonment of FOUR (4) MONTHS for each count; to pay Private Complainant Manuel T. Limtong the sums of Five Thousand Five Hundred (P5,500.00) Pesos, Six Thousand Four Hundred Ten (P6,410.00) Pesos and Three Thousand Three Hundred Seventy-Five (P3,375.00) Pesos corresponding to the amounts indicated in Allied Banking Checks Nos. 660143451, 66[0]143464 and 660143463 all issued on December 30, 1985 together with the legal rate of interest from the time of the filing of the criminal charges in Court and pay the costs." [8]

Petitioner appealed his conviction to the Court of Appeals. On October 28, 1994, it affirmed the trial court's decision *in toto*. [9]

Hence, the present petition. [10] Petitioner raises the following questions of law - [11]

May a complainant successfully prosecute a case under BP 22 --- if there is no more consideration or price or value -- ever the binding tie that it is in contracts in general and in negotiable instruments in particular -- behind the checks? -- if even before he deposits the checks, he has ceased to be a holder for value because the purchase orders (PO's) guaranteed by the checks were already paid?

Given the fact that the checks lost their reason for being, as above stated, is it not then the duty of complainant -- knowing he is no longer a holder for value -- to return the checks and not to deposit them ever? Upon what legal basis then may such a holder deposit them and get paid twice?

Is petitioner, as the drawer of the guarantee checks which lost their reason for being, still bound under BP 22 to maintain his account long

after 90 days from maturity of the checks?

May the prosecution apply the *prima facie* **presumption** of "*knowledge of lack of funds*" against the drawer if the checks were belatedly deposited by the complainant 157 days after maturity, or will it be then necessary for the prosecution to show **actual proof** of "*lack of funds*" during the 90-day term?

Petitioner insists that the checks were issued as guarantees for the 1985 purchase orders (PO's) of his customers. He contends that private respondent is not a "holder for value" considering that the checks were deposited by private respondent *after* the customers already paid their orders. Instead of depositing the checks, private respondent should have returned the checks to him. Petitioner further assails the credibility of complainant considering that his answers to cross-examination questions included: "I cannot recall, anymore" and "We have no more record."

In his Comment,<sup>[12]</sup> the Solicitor General concedes that the checks might have been initially intended by petitioner to guarantee payments due from customers, but upon the refusal of LPI to accept said personal checks per company policy, the parties had agreed that the checks would be used to pay off petitioner's unremitted collections. Petitioner's contention that he did not demand the return of the checks because he trusted LPI's good faith is contrary to human nature and sound business practice, according to the Solicitor General.

The issue as to whether the checks were issued merely as guarantee or for payment of petitioner's unremitted collections is a factual issue involving as it does the credibility of witnesses. Said factual issue has been settled by the trial court and Court of Appeals. Although initially intended to be used as guarantee for the purchase orders of customers, they found the checks were eventually used to settle the remaining obligations of petitioner with LPI. Although Manuel Limtong was the sole witness for the prosecution, his testimony was found sufficient to prove all the elements of the offense charged.<sup>[13]</sup> We find no cogent reason to depart from findings of both the trial and appellate courts. In cases elevated from the Court of Appeals, our review is confined to alleged errors of law. Its findings of fact are generally conclusive. Absent any showing that the findings by the respondent court are entirely devoid of any substantiation on record, the same must stand.<sup>[14]</sup> The lack of accounting between the parties is not the issue in this case. As repeatedly held, this Court is not a trier of facts.<sup>[15]</sup> Moreover, in *Llamado v. Court of Appeals*,<sup>[16]</sup> we held that "[t]o determine the reason for which checks are issued, or the terms and conditions for their issuance, will greatly erode the faith the public reposes in the stability and commercial value of checks as currency substitutes, and bring about havoc in trade and in banking communities. So what the law punishes is the issuance of a bouncing check and not the purpose for which it was issued nor the terms and conditions relating to its issuance. The mere act of issuing a worthless check is *malum prohibitum*." Nothing herein persuades us to hold otherwise.

The only issue for our resolution now is whether or not the prosecution was able to establish beyond reasonable doubt all the elements of the offense penalized under B.P. Blg. 22.