

THIRD DIVISION

[G.R. No. 122353, June 06, 2001]

EVANGELINE DANAÓ, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS

DECISION

SANDOVAL-GUTIERREZ, J.:

Before this Court is a Petition for Review on *Certiorari* assailing the Decision of the Court of Appeals in CA-G.R. CR No. 15031, "The People of the Philippines vs. Evangeline Claire Danao," for violation of Batas Pambansa Blg. 22, and its Resolution denying her motion for reconsideration.

On December 18, 1992, Evangeline Danao was charged in Criminal Case Nos. 92-8385 and 92-8386 for violation of Batas Pambansa Blg. 22 (the Bouncing Checks Law) before the Regional Trial Court, Branch 60, Makati City. Except as to the numbers, amounts and dates of the two (2) checks issued by Evangeline, the two (2) Informations in said criminal cases are similarly worded, thus:

"That on or about the 23rd day of December 1991, 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 or draw and issue to Luviminda Macasieb, to apply on account or for value, the checks described below:

	Crim. Case No. 92-8385	Crim. Case No. 92-8386
Check No.	128796	130851
Drawn Against	PCI Bank	PCI Bank
In the Amount of	P14,500.00	P15,000.00
Dated/Postdated	Jan. 23, 1992	Jan. 24, 1992
Payable to	Cash	Cash

said accused well knowing that at the time of issue thereof, accused 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 said accused failed to pay said payee the face amount of said check or to make arrangement for full payment thereof within five (5) banking days after receiving notice.

"Contrary to law."^[1]

Upon arraignment on January 27, 1993, Evangeline pleaded "not guilty" to both charges. Trial ensued thereafter.

The respective versions of the prosecution and the defense are summarized by the Court of Appeals in its assailed Decision as follows:

"Private complainant Luviminda Macasieb is in the business of rediscounting checks. Arturo Estrada, the branch manager of the Monte de Piedad bank at Pasay City was one of her agents, authorized to transact rediscounting business with any person for and in behalf of the private complainant.

"Sometime in December 1991, appellant (Evangeline Danao) went to see Arturo Estrada at his office to seek an additional loan, being a depositor and borrower of the bank. Estrada had to refuse appellant's request, considering that her existing loan had not yet been fully liquidated.

"Appellant then asked Estrada if he knew a private lender. Estrada informed appellant that he knew one who lends money with postdated checks as security. Appellant agreed to the arrangement, Estrada phoned private complainant Luviminda Macasieb and told her of appellant's desire to get a loan with postdated checks as security. Macasieb talked with appellant over the phone and explained that the checks would be subject to a 10% interest every month. After the telephone conversation with appellant, Macasieb instructed Estrada to release the amount of P29,750.00 (Exh. "A") from the petty cash fund entrusted by her to Estrada. After appellant received the said amount from Estrada, she issued two postdated checks in the total amount of P29,750.00. The checks were Monte de Piedad Check No. 128796 dated 25 January 1992 in the amount of P14,750.00 (Exh. B); and the other check No. 130851 dated 24 January 1992 in the amount of P15,000.00 (Exh. C).

"On the maturity dates of the two checks, private complainant deposited the same at the PCIB Branch at Heroes Hill, Quezon City. However, the checks were dishonored for the reason that the account of appellant had already been closed. Macasieb later received check slips (Exhs. D and E) together with the returned checks. The returned checks bear the stamped words "ACCOUNT CLOSED". Estrada informed appellant of the dishonor of the checks and asked her to redeem the same but to no avail. A letter was sent by Atty. Jose S. Padolina, counsel for private complainant, demanding that appellant settle her obligation (Exh. F, p. 62, rec.). Appellant, however, failed to heed the demand letter.

"The appellant does not deny that she issued the two postdated checks. She claims, however, that she has fully paid private complainant."^[2]

The trial court did not give credence to Evangeline's defense.

On August 3, 1993, the trial court convicted her as charged, thus:

"V

"ADJUDICATION

"26. The PROSECUTION has proven beyond reasonable doubt, the guilt of DANA O of the crime charged in each of the INFORMATIONS. Her constitutionally-presumed innocence has been overcome.

"27. WHEREFORE, the Court hereby renders judgment as follows:

"27.1. The accused EVANGELINE CLAIRE DANA O is found guilty to violation of Section 2, B.P. 22 in each of the above-entitled cases:

"27.2. *Accordingly, the accused is sentenced in:*

CRIM. CASE NO. 92-8385

"27.2.1. To suffer the penalty of imprisonment of FOUR (4) MONTHS and ONE (1) day and a fine of FOURTEEN THOUSAND SEVEN HUNDRED FIFTY PESOS (P14,750.00) with subsidiary imprisonment in case of insolvency.

"27.2.2. To indemnify the private offended party, LUVIMINDA MACASIEB, the sum of FOURTEEN THOUSAND SEVEN HUNDRED FIFTY PESOS (P14,750.00).

"27.2.3. To pay the said offended party damages at the rate of six (6) percent per annum on the P14,750.00 from December 18, 1991 until the said amount is fully paid.

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"27.2.4. To suffer the penalty of imprisonment of FOUR (4) MONTHS and ONE (1) day and a fine of FIFTEEN THOUSAND PESOS (P15,000.00) with subsidiary imprisonment in case of insolvency.

"27.2.5. To indemnify the private offended party, LUVIMINDA MACASIEB, the sum of FIFTEEN THOUSAND PESOS (P15,000.00).

"27.2.6. To pay the said offended party damages at the rate of six (6) percent per annum on the (P15,000.00) from December 18, 1991 until the said amount is fully paid.

x x x

x x x

x x x"^[3]

On appeal, the Court of Appeals, in CA-G.R. CR No. 15031, rendered its Decision^[4]

on April 19, 1995 affirming *in toto* the trial court's Decision. Evangeline filed a motion for reconsideration but was denied by the Court of Appeals in a Resolution dated August 28, 1995.

Hence the instant petition wherein Evangeline contends that the respondent Court of Appeals erred -

"A.

x x x IN NOT HOLDING THAT AN ESSENTIAL ELEMENT OF BOUNCING CHECK LAW VIOLATION IS ABSENT, BECAUSE THE PRESUMPTION OR PRIMA FACIE EVIDENCE OF KNOWLEDGE OF INSUFFICIENCY OF FUNDS DID NOT ARISE, SINCE THE PROSECUTION FAILED TO PROVE EVANGELINE'S RECEIPT OF, AS WELL AS THE DATE WHEN SHE RECEIVED, THE COMPLAINANT'S LETTER OF DEMAND.

"B.

x x x IN NOT HOLDING THAT THE ACCUSED EVANGELINE HAD ALREADY PAID THE SUBJECT ACCOUNT EVEN BEFORE THE COMPLAINANT'S LETTER OF DEMAND, AS SHOWN BY COMPLAINANT'S STATEMENT OF ACCOUNT, EXH. "1".

"C.

x x x IN REJECTING AS EVIDENCE THE STATEMENT OF ACCOUNT, EXH. "1", ON THE GROUND THAT IT IS INCOMPETENT, THAT IT DID NOT COMPLY WITH THE REQUIREMENTS FOR PROOF OF PRIVATE DOCUMENT AND OF SECONDARY EVIDENCE, DESPITE AND IN SPITE OF THE COMPLAINANT'S ADMISSION, IN OPEN COURT UNDER OATH, THAT SHE WROTE IT IN HER OWN HANDWRITING AND THAT ITS CONTENTS ARE TRUE.

"D.

x x x IN HOLDING THAT, EVEN IF THE STATEMENT OF ACCOUNT, EXH. "1", WERE COMPETENT AND ADMISSIBLE, IT APPLIED TO OTHER ACCOUNTS, DESPITE AND IN SPITE OF THE COMPLAINANT'S ADMISSION, IN OPEN COURT UNDER OATH, THAT THE SUBJECT CHECKS WERE THE ONLY LOAN TRANSACTION BETWEEN THE COMPLAINANT AND THE ACCUSED EVANGELINE, AND NOTWITHSTANDING THAT UNDER THE LAW THE APPLICATION OF PAYMENT SHOULD BE TO THE SUBJECT ACCOUNT.

"E.

x x x IN FURTHER ANCHORING THE CONVICTION OF THE ACCUSED EVANGELINE TO PATENT CONJECTURES, UNWARRANTED INFERENCES AND PALPABLE NON-SEQUITURS THAT CANNOT CURE THE PROSECUTION'S FAILURE TO PROVE KNOWLEDGE OF INSUFFICIENCY OF FUNDS AS AN ESSENTIAL ELEMENT OF THE OFFENSE, NOR NEGATE THE