

FIRST DIVISION

[G. R. No. 124498, October 05, 2001]

**EDDIE B. SABANDAL, PETITIONER, VS. HON. FELIPE S. TONGCO,
PRESIDING JUDGE, REGIONAL TRIAL COURT, MANILA, BRANCH
42, AND PHILIPPINES TODAY, RESPONDENTS.**

DECISION

PARDO, J.:

The Case

The case is a petition to suspend the criminal proceedings in the Regional Trial Court, Manila, Branch 42,^[1] where petitioner Eddie B. Sabandal is charged with eleven counts of violation of Batas Pambansa Bilang 22.^[2]

The Facts

On February 18, 1989, Eddie B. Sabandal entered into a memorandum of agreement on dealership with respondent Philippines Today, Inc. for the distribution of the newspaper Philippines Today, (now Philippine Star) in Bacolod City and in designated towns in Negros Occidental.^[3]

Under the agreement, petitioner shall pay for an equivalent amount of one month of deliveries in advance within the first seven days of the succeeding month. Petitioner's allowable percentage of return shall be 10% and be entitled to a rebate of P0.15 per copy sold.

After execution of the agreement, respondent Philippines Today, Inc. made regular deliveries of the agreed copies of the newspaper to petitioner.

In order to make partial payments for the deliveries, on December 18, 1990 to April 15, 1991, petitioner issued to respondent several checks amounting to ninety thousand (P90,000.00) pesos.

When respondent presented petitioner's checks to the drawee banks for payment, the bank dishonored the checks for insufficiency of funds and/or account closed. Consequently, respondent made oral and written demands for petitioner to make good the checks. However, petitioner failed to pay despite demands.

In December 1992, on the basis of a complaint-affidavit filed by respondent Philippines Today, Inc., assistant city prosecutor of Manila Jacinto A. de los Reyes, Jr. filed with the Regional Trial Court, Manila eleven informations for violation of Batas Pambansa Bilang 22 against petitioner.^[4]

Three years later, or on October 11, 1995, petitioner filed with the Regional Trial

Court, Negros Occidental at Himamaylan, a complaint against Philippines Today, Inc. for specific performance, recovery of overpayment and damages.^[5]

On October 11, 1995, petitioner also filed with the Regional Trial Court, Manila, Branch 42, a motion to suspend trial in the criminal cases against him based on a prejudicial question.^[6]

On November 27, 1995, the trial court denied petitioner's motion to suspend trial based on a prejudicial question.^[7]

On December 20, 1995, petitioner filed with the trial court a motion for reconsideration of the denial.^[8]

On January 9, 1996, the trial court denied the motion for reconsideration.^[9]

Hence, this petition.^[10]

The Issue

The issue raised is whether a prejudicial question exists to warrant the suspension of the trial of the criminal cases for violation of Batas Pambansa Bilang 22 against petitioner until after the resolution of the civil action for specific performance, recovery of overpayment, and damages.

The Court's Ruling

The petition has no merit.

The two (2) essential elements of a prejudicial question are: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue determines whether or not the criminal action may proceed.^[11]

"A prejudicial question is defined as that which arises in a case the resolution of which is a logical antecedent of the issue involved therein, and the cognizance of which pertains to another tribunal. The prejudicial question must be determinative of the case before the court but the jurisdiction to try and resolve the question must be lodged in another court or tribunal. It is a question based on a fact distinct and separate from the crime but so intimately connected with it that it determines the guilt or innocence of the accused."^[12]

"For a civil action to be considered prejudicial to a criminal case as to cause the suspension of the criminal proceedings until the final resolution of the civil, the following requisites must be present: (1) the civil case involves facts intimately related to those upon which the criminal prosecution would be based; (2) in the resolution of the issue or issues raised in the civil action, the guilt or innocence of the accused would necessarily be determined; and (3) jurisdiction to try said question must be lodged in another tribunal."^[13]

If both civil and criminal cases have similar issues or the issue in one is intimately