

EN BANC

[G.R. No. 130038, September 18, 2000]

**ROSA LIM, PETITIONER, VS., PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

DECISION

PARDO, J.:

The case is an appeal from the decision^[1] of the Court of Appeals affirming *in toto* that of the Regional Trial Court, Cebu City.^[2] Both courts found petitioner Rosa Lim guilty of twice violating Batas Pambansa Bilang 22^[3] and imposing on her two one-year imprisonment for each of the two violations and ordered her to pay two fines, each amounting to two hundred thousand pesos (P200,000.00). The trial court also ordered petitioner to return to Maria Antonia Seguan, the jewelry received or its value with interest, to pay moral damages, attorney's fees and costs.^[4]

We state the relevant facts.^[5]

On August 25, 1990, petitioner called Maria Antonia Seguan by phone. Petitioner thereafter went to Seguan's store. She bought various kinds of jewelry -- Singaporean necklaces, bracelets and rings worth P300,000.00. She wrote out a check dated August 25, 1990, payable to "cash" drawn on Metrobank in the amount of P300,000.00^[6] and gave the check to Seguan.

On August 26, 1990, petitioner again went to Seguan's store and purchased jewelry valued at P241,668.00. Petitioner issued another check payable to "cash" dated August 16, 1990 drawn on Metrobank in the amount of P241,668.00^[7] and sent the check to Seguan through a certain Aurelia Nadera.

Seguan deposited the two checks with her bank. The checks were returned with a notice of dishonor. Petitioner's account in the bank from which the checks were drawn was closed.

Upon demand, petitioner promised to pay Seguan the amounts of the two dishonored checks. She never did.

On June 5, 1991,^[8] an Assistant City Prosecutor of Cebu filed with the Regional Trial Court, Cebu City, Branch 23 two informations against petitioner. Both informations were similarly worded. The difference is that in Criminal Case No. 22128, the bouncing checks is Metro Bank Check No. CLN 094244392 dated August 26, 1990 in the amount of P241,668.00. The informations read:^[9]

Criminal Case No. 22127-

"The undersigned Prosecutor I of the City of Cebu, accuses ROSA LIM for VIOLATION OF BATAS PAMBANSA BILANG 22 committed as follows:

"That on or about the 20th day of August, 1990, 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 does not have sufficient funds in 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 Metro Bank Check NO. 1 CLN 094244391 dated August 25, 1990 in the amount of P300,000.00 payable to Maria Antonia Seguan which check was issued in payment of an obligation of said accused, but when the said check was presented with the 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 Maria Antonia Seguan in the amount of P300,000.00, Philippine Currency.

"CONTRARY TO LAW."

Criminal Case No. 22128-

"The undersigned Prosecutor I of the City of Cebu, accuses ROSA LIM for VIOLATION OF BATAS PAMBANSA BILANG 22, COMMITTED AS FOLLOWS:

"That on or about the 20th day of August, 1990, and for sometime subsequent thereto, in this 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 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 Metro Bank Check No. CLN-094244392 dated August 26, 1990 in the amount of P241,668.00 payable to Maria Antonia Seguan which check was issued in payment of an obligation of said accused, but when the said check was presented with the 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 Maria Antonia Seguan in the amount of P241,668.00, Philippine Currency.

"CONTRARY TO LAW.

"Cebu City, Philippines, 30 May 1991."^[10]

Upon arraignment, petitioner pleaded "not guilty" in both cases.

After due trial, on December 29, 1992, the trial court rendered a decision in the two cases convicting petitioner, to wit:^[11]

"WHEREFORE, prosecution having established the guilt of the accused beyond reasonable doubt, judgment is hereby rendered convicting the accused, Rosa Lim and sentencing her in Criminal Case No. CBU-22127, to suffer the penalty of imprisonment for a period of ONE (1) YEAR and a fine of TWO HUNDRED THOUSAND (P200,000.00) PESOS and in Criminal Case No. CBO-22128, the same penalty of imprisonment for ONE YEAR and fine of TWO HUNDRED THOUSAND (P200,000.00) is likewise imposed.

"The accused is hereby ordered to pay private complainant Maria Antonia Seguan, the sum of P541,668.00 which is the value of the jewelries bought by the accused from the latter with interest based on the legal rate to be counted from June 5, 1991, the date of the filing of the informations, or return the subject jewelries; and further to pay private complainant:

"(a) The sum of P50,000.00 as moral damages in compensation for the latter's worries with the freezing of her business capital involved in these litigated transactions;

"(b) The sum of P10,000.00 for attorney's fees, plus costs.

"SO ORDERED."^[12]

In due time, petitioner appealed to the Court of Appeals.^[13]

On October 15, 1996, the Court of Appeals rendered a decision, dismissing the appeal in this wise:

"WHEREFORE, premises considered, the appeal is DISMISSED. The decision appealed from is AFFIRMED in toto.

"SO ORDERED."^[14]

Hence, this appeal.^[15]

In this appeal, petitioner argues that she never knew Seguan and much more, had any "transaction" with her. According to petitioner, she issued the two checks and gave them to Aurelia Nadera, not to Seguan. She gave the two checks to Aurelia Nadera from whom she got two sets of jewelry, as a "security arrangement" or "guarantee" that she would return the jewelry received if she would not be able to sell them.^[16]

The appeal has no merit.

The elements of B.P. Blg. 22 are:^[17]

"(1) The making, drawing and issuance of any check to apply for account or for value;

"(2) The knowledge of the maker, drawer, or issuer that at the time of issue he does not have sufficient funds in or credit with the drawee bank