

## **FORMER SIXTEENTH DIVISION**

**[ CA-G.R. CR No. 34824, March 25, 2014 ]**

**YEK BEN KOO, PETITIONER, VS. THE PEOPLE OF THE  
PHILIPPINES AND BENJAMIN LEE, RESPONDENTS.**

### **AMENDED DECISION**

**GALAPATE-LAGUILLES, J:**

For Our consideration is petitioner Yek Ben Koo's Motion for Reconsideration and Supplement to Motion for Reconsideration of the Decision dated May 24, 2013, which affirmed his conviction for violation of Batas Pambansa Blg. 22 and sentenced him to a penalty of imprisonment of one (1) month and one (1) day, in addition to fine.

In his Motion, Koo raises the following issues for reconsideration:

I.

THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT IN FINDING THE PETITIONER PERSONALLY LIABLE FOR THE CORPORATE CHECKS SUBJECT OF THIS CASE.

II.

THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT IN FINDING THE PETITIONER LIABLE FOR A CRIMINAL ACTION THAT HAS PRESCRIBED.

III.

THE HONORABLE COURT OF APPEAL ERRED IN IMPOSING AN ADDITIONAL PENALTY OF IMPRISONMENT OF ONE (1) MONTH AND ONE (1) DAY.<sup>[1]</sup>

As regards, the first issue, Koo insists that he is not liable for the issuance of the bum checks to Golden Dragon Metal Products by Importex Philippines, where he

acted as President and General Manager. According to him, he issued the said checks in his capacity as corporate officer, hence, he is not personally liable thereof.

We are not swayed by his asseverations as We emphatically ruled that a corporate officer who actually signed the bum checks is liable for its issuance. We reiterate, thus:

The liability of the said corporate officer or employee under BP 22 attaches from the moment he committed the wrongful act of signing or issuing a check despite the knowledge of the insufficiency of funds in the account of the drawer corporation.<sup>[2]</sup> Meaning, he is personally liable for violating a penal statute and he cannot hide behind the doctrine that "a corporate officer is not liable for a corporate act." Thus, the payee Golden Dragon can exact payment of money for which the worthless checks were issued. This precedes from the fact that the offender's liability under BP 22 is distinct from the obligation of the company that arises from a contract, i.e. loan or a sale transaction, as was in this case.

The case of *Gosiaco v. Ching, et al.*<sup>[3]</sup> is apropos, thus:

**When a corporate officer issues a worthless check in the corporate name he may be held personally liable for violating a penal statute. The statute imposes criminal penalties on anyone who with intent to defraud another of money or property, draws or issues a check on any bank with knowledge that he has no sufficient funds in such bank to meet the check on presentment. Moreover, the personal liability of the corporate officer is predicated on the principle that he cannot shield himself from liability from his own acts on the ground that it was a corporate act and not his personal act. As we held in *Llamado v. Court of Appeals*:**

Petitioner's argument that he should not be held personally liable for the amount of the check because it was a check of the Pan Asia Finance Corporation and he signed the same in his capacity as Treasurer of the corporation, is also untenable. The third paragraph of Section 1 of BP Blg. 22 states: "Where the check is drawn by a corporation, company or entity, the person or persons who actually signed the check in behalf of such drawer shall be liable under this Act."

Anent the second issue, Koo argues yet again that the criminal action had already prescribed due to non-payment of docket fees within the reglementary period for filing the action, which is four years from the date of commission thereof. This is a mere rehash of the arguments in his appellant's Brief which We have extensively discussed in Our assailed Decision, viz: