



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

ARIEL T. LIM,  
Petitioner,

G.R. No. 190834

Present:

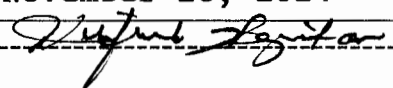
- versus -

VELASCO, JR., J., Chairperson,  
PERALTA,  
VILLARAMA, JR.,  
REYES, and  
JARDELEZA, JJ.

Promulgated:

PEOPLE OF THE PHILIPPINES,  
Respondent.

November 26, 2014

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DECISION

PERALTA, J.:

This is to resolve the petition for review on *certiorari* seeking the reversal of the Decision<sup>1</sup> of the Court of Appeals (CA) promulgated on June 30, 2009, and its Resolution<sup>2</sup> dated January 4, 2010. The CA affirmed the judgment of the Regional Trial Court of Manila (RTC), convicting petitioner of one (1) count of violation of Batas Pambansa (B.P.) Bilang 22 in Criminal Case No. 07-249932.

Records reveal that petitioner issued Bank of Commerce Check Nos. 0013813 and 0013814, dated June 30, 1998 and July 15, 1998, respectively, payable to CASH, in the amount of One Hundred Thousand Pesos (₱100,000.00) for each check. He gave the checks to Mr. Willie Castor (*Castor*) as his campaign donation to the latter's candidacy in the

<sup>1</sup> Penned by Associate Justice Pampio A. Abarintos, with Associate Justices Amelita G. Tolentino and Sixto C. Marella, Jr., concurring.

<sup>2</sup> *Id.*



elections of 1998. It was Castor who ordered the delivery of printing materials and used petitioner's checks to pay for the same. Claiming that the printing materials were delivered too late, Castor instructed petitioner to issue a "Stop Payment" order for the two checks. Thus, the checks were dishonored by the bank because of said order and during trial, when the bank officer was presented on the witness stand, he admitted that said checks were drawn against insufficient funds (DAIF). Private complainant Magna B. Badiie sent two demand letters to petitioner, dated July 20, 1998 and July 23, 1998 and, subsequently, private complainant filed a complaint against petitioner before the Office of the Prosecutor. After the lapse of more than one month from receipt of the demand letters, and after receiving the *subpoena* from the Office of the Prosecutor, petitioner issued a replacement check dated September 8, 1998 in the amount of Two Hundred Thousand Pesos (₱200,000.00). Private complainant Magna B. Badiie was able to encash said replacement check.

Nevertheless, on March 19, 1999, or six (6) months after petitioner had paid the amount of the bounced checks, two Informations were filed against him before the Metropolitan Trial Court of Manila (MeTC), to wit:

CRIMINAL CASE No. 327138-CR

INFORMATION

The undersigned accuses ARIEL LIM of violation of B.P. Blg. 22 committed as follows:

That sometime in the month of April, 1998 in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to MAGNA B. BADIEE to apply on account or for value BANK OF COMMERCE CHECK No. 0013814 dated July 15, 1998, payable to Cash in the amount of ₱100,000.00 said accused knowing fully well that at the time of issue he did not have sufficient funds in or credit with the drawee bank for payment of such check in full 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 "PAYMENT STOPPED," but the same would have been dishonored for insufficient funds had not the accused, without any valid reason, ordered the bank to stop payment, the said accused, despite receipt of notice of such dishonor failed to pay said Magna B. Badiie the amount of the said check or to make arrangement for payment in full of the same within five (5) banking days after receiving said notice.

CONTRARY TO LAW.<sup>3</sup>

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<sup>3</sup>

CA rollo, p. 40.

## CRIMINAL CASE No. 327139 – CR

## INFORMATION

The undersigned accuses ARIEL LIM of violation of B.P. Blg. 22 committed as follows:

That sometime in the month of April, 1998 in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously make or draw and issue to MAGNA B. BADIEE to apply on account or for value BANK OF COMMERCE CHECK No. 0013813 dated June 30, 1998 payable to Cash in the amount of ₱100,000.00 said accused knowing fully well that at the time of issue he did not have sufficient funds in or credit with the drawee bank for payment of such check in full 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 “PAYMENT STOPPED,” but the same would have been dishonored for insufficient funds had not the accused, without any valid reason, ordered the bank to stop payment, the said accused, despite receipt of notice of such dishonor failed to pay said Magna B. Badiee the amount of the said check or to make arrangement for payment in full of the same within five (5) banking days after receiving said notice.

CONTRARY TO LAW.<sup>4</sup>

On September 12, 2006, the MeTC promulgated its Decision finding petitioner guilty of two (2) counts of violation of B.P. Blg. 22. Petitioner appealed to the Regional Trial Court of Manila (*RTC*), and on July 20, 2007, the *RTC* issued a Decision, the dispositive portion of which reads as follows:

WHEREFORE, this court therefore modifies the lower court decision with respect to criminal case no. 327138 (07-249931), because the lower court of Manila has no jurisdiction to try and decide cases where the essential ingredients of the crime charged happened in Quezon City. The decision of the lower court with respect to criminal case no. 327138 (07-249931) is ordered vacated and set aside for lack of jurisdiction.

The lower court findings that accused is found guilty beyond reasonable doubt for Violation of BP 22 with respect to criminal case no. 07-24992 is affirmed and is ordered to pay a fine of ₱100,000.00 plus costs. No findings as to civil liability because the court agrees with the lower court that the check was paid, is affirmed and there is no cogent reason to disturb the same. In case of failure to pay fine, the accused shall undergo subsidiary imprisonment of not more than six (6) months.

SO ORDERED.<sup>5</sup>

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<sup>4</sup> *Id.* at 39.

<sup>5</sup> *Rollo*, pp. 40-41.

A petition for review was then filed with the Court of Appeals, and on June 30, 2009, the CA promulgated its Decision affirming *in toto* the RTC judgment. Petitioner's motion for reconsideration thereof was denied *per* Resolution dated January 4, 2010.

Thus, the present petition wherein petitioner posits that jurisprudence dictates the dismissal of the criminal case against him on the ground that he has fully paid the amount of the dishonored checks even before the Informations against him were filed in court. Petitioner mainly relies on *Griffith v. Court of Appeals*.<sup>6</sup> The Office of the Solicitor General (OSG) likewise recommends the acquittal of petitioner, opining that *Griffith*<sup>7</sup> is applicable to the present case.

The Court finds the petition meritorious.

In *Griffith*, the Court acquitted the accused therein due to the fact that two years before the filing of the Information for violation of B.P. No. 22, the accused had, in effect, paid the complainant an amount greater than the value of the bounced checks. The CA held that the factual circumstances in *Griffith* are dissimilar from those in the present case. The Court disagrees with such conclusion.

The CA found *Griffith* inapplicable to the present case, because the checks subject of this case are personal checks, while the check involved in *Griffith* was a corporate check and, hence, some confusion or miscommunication could easily occur between the signatories of the check and the corporate treasurer. Although the factual circumstances in the present case are not exactly the same as those in *Griffith*, it should be noted that the same kind of confusion giving rise to petitioner's mistake very well existed in the present case. Here, the check was issued by petitioner merely as a campaign contribution to Castor's candidacy. As found by the trial court, it was Castor who instructed petitioner to issue a "Stop Payment" order for the two checks because the campaign materials, for which the checks were used as payment, were not delivered on time. Petitioner relied on Castor's word and complied with his instructions, as it was Castor who was supposed to take delivery of said materials. Verily, it is easy to see how petitioner made the mistake of readily complying with the instruction to stop payment since he believed Castor's word that there is no longer any valid reason to pay complainant as delivery was not made as agreed upon. Nevertheless, two months after receiving the demand letter from private complainant and just several days after receiving the *subpoena* from the

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<sup>6</sup> 428 Phil. 878 (2002).

<sup>7</sup> *Supra*.

Office of the Prosecutor, accused issued a replacement check which was successfully encashed by private complainant.

The CA also took it against petitioner that he paid the amount of the checks only after receiving the *subpoena* from the Office of the Prosecutor, which supposedly shows that petitioner was motivated to pay not because he wanted to settle his obligation but because he wanted to avoid prosecution. This reasoning is tenuous, because in *Griffith*, the accused therein did not even voluntarily pay the value of the dishonored checks; rather, the complainant was paid from the proceeds of the invalid foreclosure of the accused's property. In said case, the Court did not differentiate as to whether payment was made before or after the complaint had been filed with the Office of the Prosecutor. It only mattered that the amount stated in the dishonored check had actually been paid before the Information against the accused was filed in court. In this case, petitioner even voluntarily paid value of the bounced checks. The Court, therefore, sees no justification for differentiating this case from that of *Griffith*. Records show that both in *Griffith* and in this case, petitioner had paid the amount of the dishonored checks before the filing of the Informations in court. Verily, there is no reason why the same liberality granted to the accused in *Griffith* should not likewise be extended to herein petitioner. The precept enunciated in *Griffith* is herein reiterated, to wit:

While we agree with the private respondent that the gravamen of violation of B.P. 22 is the issuance of worthless checks that are dishonored upon their presentment for payment, **we should not apply penal laws mechanically.** We must find if the application of the law is consistent with the purpose of and reason for the law. *Ratione cessat lex, et cessat lex.* (When the reason for the law ceases, the law ceases.) **It is not the letter alone but the spirit of the law also that gives it life. This is especially so in this case where a debtor's criminalization would not serve the ends of justice but in fact subvert it.** The creditor having collected already more than a sufficient amount to cover the value of the checks for payment of rentals, *via* auction sale, we find that holding the debtor's president to answer for a criminal offense under B.P. 22 two years after said collection is no longer tenable nor justified by law or equitable considerations.

In sum, **considering that the money value of the two checks issued by petitioner has already been effectively paid two years before the informations against him were filed,** we find merit in this petition. We hold that **petitioner herein could not be validly and justly convicted or sentenced for violation of B.P. 22.** x x x<sup>8</sup> (Emphasis supplied)

In the more recent case of *Tan v. Philippine Commercial International Bank*,<sup>9</sup> the foregoing principle articulated in *Griffith* was the precedent cited to justify the acquittal of the accused in said case. Therein, the Court

<sup>8</sup> *Griffith v. Court of Appeals*, *supra* note 6, at 892.

<sup>9</sup> 575 Phil. 485 (2008).

enumerated the elements for violation of B.P. Blg. 22 being “(1) The accused makes, draws or issues a check to apply to account or for value; (2) *The accused knows at the time of the issuance that he or she does not have sufficient funds in, or credit with the drawee bank for the payment of the check in full upon its presentment*; and (3) The check is subsequently dishonored by the drawee bank for insufficiency of funds or credit, or it would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment.”<sup>10</sup> To facilitate proving the second element, the law created a *prima facie* presumption of knowledge of insufficiency of funds or credit, which is established when it is shown that the drawer of the check was notified of its dishonor and, within five banking days thereafter, failed to fully pay the amount of the check or make arrangements for its full payment. If the check, however, is made good or the drawer pays the value of the check within the five-day period, then the presumption is rebutted. Evidently, one of the essential elements of the violation is no longer present and the drawer may no longer be indicted for B.P. Blg. 22. Said payment within the period prescribed by the law is a complete defense.

Generally, only the full payment of the value of the dishonored check during the five-day grace period would exculpate the accused from criminal liability under B.P. Blg. 22 but, as the Court further elaborated in *Tan*:

In *Griffith v. Court of Appeals*, the Court held that were the creditor had collected more than a sufficient amount to cover the value of the checks representing rental arrearages, holding the debtor's president to answer for a criminal offense under B.P. Blg. 22 two years after the said collection is **no longer tenable nor justified by law or equitable considerations**. In that case, the Court ruled that albeit made *beyond the grace period but two years prior to the institution of the criminal case*, the payment collected from the proceeds of the foreclosure and auction sale of the petitioner's impounded properties, with more than a million pesos to spare, justified the acquittal of the petitioner.

X X X X

In the present case, PCIB already extracted its proverbial pound of flesh by receiving and keeping in possession the four buses – trust properties surrendered by petitioner in about *mid 1991 and March 1992* pursuant to Section 7 of the Trust Receipts Law, the estimated value of which was “about P6.6 million.” It thus appears that the **total amount of the dishonored checks – P1,785,855.75 –**, x x x was more than fully satisfied ***prior to the transmittal and receipt of the July 9, 1992 letter of demand***. In keeping with jurisprudence, the Court then considers such payment of the dishonored checks to have obliterated the criminal liability of petitioner.

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<sup>10</sup>

*Id.* at 494.

It is consistent rule that penal statutes are construed strictly against the State and liberally in favor of the accused. And since penal laws should not be applied mechanically, the Court must determine whether the application of the penal law is consistent with the purpose and reason of the law. x x x <sup>11</sup> (Underscoring supplied)

Thus, although payment of the value of the bounced check, if made beyond the 5-day period provided for in B.P. Blg. 22, would normally not extinguish criminal liability, the aforementioned cases show that the Court acknowledges the existence of extraordinary cases where, even if all the elements of the crime or offense are present, the conviction of the accused would prove to be abhorrent to society's sense of justice. Just like in *Griffith* and in *Tan*,<sup>12</sup> petitioner should not be penalized although all the elements of violation of B.P. Blg. 22 are proven to be present. The fact that the issuer of the check had already paid the value of the dishonored check after having received the *subpoena* from the Office of the Prosecutor should have forestalled the filing of the Information in court. The spirit of the law which, for B.P. Blg. 22, is the protection of the credibility and stability of the banking system, would not be served by penalizing people who have evidently made amends for their mistakes and made restitution for damages even before charges have been filed against them. In effect, the payment of the checks before the filing of the informations has already attained the purpose of the law.

It should be emphasized as well that payment of the value of the bounced check **after the information has been filed in court** would no longer have the effect of exonerating the accused from possible conviction for violation of B.P. Blg. 22. Since from the commencement of the criminal proceedings in court, there is no circumstance whatsoever to show that the accused had every intention to mitigate or totally alleviate the ill effects of his issuance of the unfunded check, then there is no equitable and compelling reason to preclude his prosecution. In such a case, the letter of the law should be applied to its full extent.

Furthermore, to avoid any confusion, the Court's ruling in this case should be well differentiated from cases where the accused is charged with estafa under Article 315, par. 2(d) of the Revised Penal Code, where the fraud is perpetuated by postdating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. In said case of estafa, damage and deceit are the essential elements of the offense, and the check is merely the accused's tool in committing fraud. In such a case, paying the value of the dishonored check will not free the

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<sup>11</sup> *Id.* at 496-497. (Underscoring ours)

<sup>12</sup> *Supra.*

accused from criminal liability. It will merely satisfy the civil liability of the crime but not the criminal liability.

In fine, the Court holds that herein petitioner must be exonerated from the imposition of penalties for violation of B.P. Blg. 22 as he had already paid the amount of the dishonored checks six (6) months before the filing of Informations with the court. Such a course of action is more in keeping with justice and equity.


**WHEREFORE**, the Decision of the Court of Appeals, dated June 30, 2009, in CA-GR. CR No. 31725, is hereby **REVERSED** and **SET ASIDE**. Petitioner Ariel T. Lim is **ACQUITTED** in Criminal Case No. 07-249932.

**SO ORDERED.**




**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**



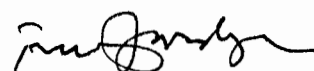
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**MARTIN S. VILLARAMA, JR.**  
Associate Justice



**BIENVENIDO L. REYES**  
Associate Justice



**FRANCIS H. JARDELEZA**  
Associate Justice



**ATTESTATION**

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**

Associate Justice  
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**

Chief Justice