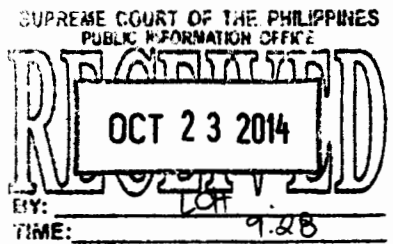




REPUBLIC OF THE PHILIPPINES  
 SUPREME COURT  
 Manila

SECOND DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **15 September 2014** which reads as follows:

**G.R. No. 213647 (BUILDING EXPONENT, INC., represented by ATTY. FERDINAND A. DURLAO v. REGIONAL TRIAL COURT OF MANDALUYONG, BRANCH 211, REGIONAL TRIAL COURT OF MANDALUYONG, BRANCH 213, and SPOUSES CESAR PAREJA and MARIVIC PAREJA).** - This is a petition for review on *certiorari*<sup>1</sup> under Rule 45 of the Rules of Court seeking to annul the orders dated June 27, 2013<sup>2</sup> and July 28, 2014<sup>3</sup> in SCA Case No. MC12-934A of the Regional Trial Court (RTC), Mandaluyong City. The RTC set aside the Metropolitan Trial Court (MeTC)'s decision<sup>4</sup> convicting spouses Cesar and Marivic Pareja (*accused-respondents*) of the offense of *Batas Pambansa (B.P.) Blg. 22* due to the court's lack of jurisdiction.

An Information<sup>5</sup> for violation of B.P. Blg. 22 was filed against the accused-respondents before the MeTC, Branch 60, Mandaluyong City. The accused-respondents moved to quash the information due to the court's lack of jurisdiction.<sup>6</sup> They contended that the check subject of the offense was issued at Racks Restaurant along Julia Vargas Avenue, which is within the territorial jurisdiction of Pasig City. The MeTC denied the motion to quash<sup>7</sup>

<sup>1</sup> *Rollo*, pp. 3-14.

<sup>2</sup> Penned by Judge Ofelia L. Calo, RTC, Branch 211, Mandaluyong City; *id.* at 20-27.

<sup>3</sup> Penned by Judge Carlos A. Valenzuela, RTC, Branch 213, Mandaluyong City; *id.* at 17-19.

<sup>4</sup> Dated April 4, 2001; *id.* at 29-32.

<sup>5</sup> The Information states:

That on or about the 30<sup>th</sup> day of November, 1995, in the City of Mandaluyong Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did, then and there wilfully, unlawfully and feloniously make or draw and issue to BUILDING EXPONENTS, INC. represented by Ferdinand A. Dumlao to apply on account or for value the check described below:

Check No.	:	073855
Drawn Against	:	Philippine National Bank
In the Amount of	:	P950,000.00
Dated	:	November 30, 1995
Payable to	:	Building Exponents, Inc.

Said accused well knowing that at the time of issue 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 dishonoured by the drawee bank for "DRAWN AGAINST INSUFFICIENT FUNDS (DAIF)" and despite receipt of notice of such dishonour, the accused failed to pay said payee the face amount of said check or make an arrangement for full payment thereof within five (5) banking days after receiving notice to the damage and prejudice of the said payee in the aforementioned amount.

CONTRARY TO LAW.

<sup>6</sup> In a motion to quash dated June 16, 1997; *rollo*, pp. 74-77.

<sup>7</sup> In an order dated August 20, 1997; *id.* at 69-70.

and later rendered a decision convicting the accused-respondents of the crime.<sup>8</sup>

On appeal to the RTC, the accused-respondents again questioned the court's jurisdiction by filing a demurrer to evidence, which the RTC subsequently denied in an order<sup>9</sup> dated January 25, 1999.

In a decision<sup>10</sup> dated August 13, 2012, the RTC, Branch 212, Mandaluyong City affirmed the accused-respondents' conviction. It took cognizance of the case because the subject check was assumed to have been delivered to the petitioner-company's address in Mandaluyong City. The accused-respondents moved to reconsider the RTC's decision.

In their motion for reconsideration<sup>11</sup> before the RTC, the accused-respondents argued that the RTC misappreciated the facts of the case because the subject check and promissory note were both issued at the Racks Restaurant in Pasig City, and there was no evidence to prove that Atty. Ferdinand A. Dumlao delivered the check to the petitioner's office address in Mandaluyong City.

In an order<sup>12</sup> dated June 27, 2013, the RTC granted the accused-respondents' motion for reconsideration and set aside the MeTC's decision convicting the accused-respondents due to the court's lack of jurisdiction. Through an internet search, the RTC took judicial notice of the territorial boundaries of the cities of Pasig and Mandaluyong, and confirmed that the Racks Restaurant was then situated within the jurisdiction of Pasig City.

The petitioner moved to reconsider the RTC's June 27, 2013 order. But the RTC denied the petitioner's motion in an order dated July 28, 2014.

The petitioner, through its representative Atty. Dumlao, then filed a petition for review on *certiorari* directly with this Court seeking to annul the June 27, 2013 and July 28, 2014 orders of the RTC, Mandaluyong City.

### OUR RULING

We **deny** the petition outright as it essentially raises factual questions. In any case, the RTC has not committed any reversible error in the assailed rulings.

*First* and foremost, the denial of the present petition is warranted because the petitioner has substantially raised an issue of fact not cognizable by this Court in a Rule 45 petition. Basically, the petitioner would want this

<sup>8</sup> *Supra* note 4.

<sup>9</sup> *Rollo*, pp. 80-81.

<sup>10</sup> *Id.* at 35-40.

<sup>11</sup> *Id.* at 41-50.

<sup>12</sup> *Supra* note 2.

*mlg*

Court to determine whether venue for the filing of the subject B.P. Blg. 22 case had been properly laid with the Mandaluyong courts.

The well-settled rule is that only questions of law may be raised in a petition under Rule 45 of the Rules of Court. It is not this Court's function to analyze or weigh all over again evidence already considered in the proceedings below, as our jurisdiction is limited to reviewing only errors of law that may have been committed by the lower court.<sup>13</sup>

**Second**, venue is an essential element of jurisdiction in criminal cases. It determines not only the place where the criminal action is to be instituted, but also the court that has the jurisdiction to try and hear the case.<sup>14</sup>


Cases for violation of B.P. Blg. 22, being a continuing or transitory offense,<sup>15</sup> may be filed in the first level-court<sup>16</sup> having jurisdiction over the place where any of the principal elements of the offense, such as the making, issuance and delivery of the check, was performed or committed.<sup>17</sup>

In the present case, the MeTC Mandaluyong City did not properly acquire jurisdiction over the subject B.P. Blg. 22 case because the Racks Restaurant, where the subject check was issued, was then located along Julia Vargas Avenue in Pasig City, not in Mandaluyong City.

**WHEREFORE**, we **DENY** the petition for review on *certiorari* for substantially raising an issue of fact and for lack of merit.

**SO ORDERED.**

Very truly yours,

  
MA. LOURDES PERFECTO  
Division Clerk of Court *Aug 27/24*

<sup>13</sup> *Heirs of Racaza v. Spouses Abay-abay*, G.R. No. 198402, June 13, 2012, 672 SCRA 622.

<sup>14</sup> *Union Bank of the Philippines and Desi Tomas v. People*, G.R. No. 192565, February 28, 2012, 667 SCRA 113.

<sup>15</sup> *Lim v. Court of Appeals*, G.R. No. 107898, December 19, 1995, 251 SCRA 408, 416.

<sup>16</sup> Pursuant to Republic Act No. 7691 which took effect on April 15, 1994 and amended B.P. Blg. 129, otherwise known as the Judiciary Reorganization Act of 1980.

<sup>17</sup> *People v. Gorospe*, G.R. Nos. 74053-54, January 20, 1988, 157 SCRA 154; *People v. Yabut*, G.R. No. L-42902, April 29, 1977, 76 SCRA 624.

\* Mendoza, J., on leave; Villarama, Jr., J., designated as acting member per S.O. No. 1767 dated August 27, 2014.

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HON. PRESIDING JUDGE (reg)  
Regional Trial Court, Branch 213  
Mandaluyong City  
SCA Case No. MC 12-934-A

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GR213647. 09/15/14 (8[b])SR *10/14/14*