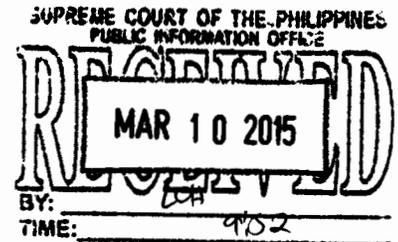




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **January 21, 2015** which reads as follows:*

“G.R. No. 175519 – ROSANELLE MAY DEATO, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.

In its decision rendered on September 4, 2006,¹ the Regional Trial Court (RTC) in Malolos, Bulacan affirmed the petitioner’s conviction for 13 counts of violation of Batas Pambansa Blg. 22 by the Municipal Trial Court (MTC) of Meycauayan, Bulacan.²

The petitioner was charged with 22 counts of violation of Batas Pambansa Blg. 22 in separate complaints, all dated August 21, 2003, filed in the MTC. On February 7, 2006, the MTC rendered judgment after a joint trial,³ finding her guilty beyond reasonable doubt of 13 counts of violation of Batas Pambansa Blg. 22, and penalizing her with fines in the following amounts, to wit: Criminal Case No. 03-811 – ₱72,800.00; Criminal Case No. 03-812 – ₱25,000.00; Criminal Case No. 03-813– ₱26,000.00; Criminal Case No. 03-815– ₱36,400.00; Criminal Case No. 03-816– ₱50,629.00; Criminal Case No. 03-817– ₱46,646.00; Criminal Case No. 03-818– ₱52,000.00; Criminal Case No. 03-819– ₱20,200.00; Criminal Case No. 03-820– ₱44,598.00; Criminal Case No. 03-821– ₱75,600.00;

- over - six (6) pages

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¹ Rollo, pp. 73-80; penned by Presiding Judge Jaime V. Samonte.
² Id. at 68-72; penned by Presiding Judge Cecilia Santoyo-Talapian.
³ Id.

Criminal Case No. 03-822– ₱78,400.00; Criminal Case No. 03-823–~~₱41,500.00~~; and Criminal Case No. 03-824– ₱54,000.00, with subsidiary imprisonment in case of insolvency to pay the fine and to pay the costs; and further ordering her to pay to complainant Rosalinda Ignacio the total sum of ~~₱623,773.00~~ representing the aggregate value of the 13 dishonored checks, plus interest of 12% *per annum* computed from September 10, 2003 until the obligation would be fully paid.⁴

However, the MTC acquitted the petitioner on the remaining nine counts (*i.e.*, Criminal Cases Nos. 03-803, 03-804, 03-805, 03-806 03-807, 03-808, 03-809, 03-810 and 03-814) on the ground that the amounts of the checks involved therein had already been paid by her.

Upon the denial by the RTC of her motion for reconsideration on November 9, 2006,⁵ the petitioner came directly to the Court via petition for review on *certiorari*, asserting that the RTC thereby decided a question of substance in a way not in accord with law and with the applicable decisions of the Supreme Court, specifically positing:

I

THAT THE COURT A QUO ERRONEOUSLY RULED THAT THE TIME OF ISSUE OF THE SUBJECT CHECKS IS IMMATERIAL AND CONSEQUENTLY NOT AN ELEMENT OF THE OFFENSE OF VIOLATION OF B.P. 22 CONTRARY TO THE APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT.

II

THAT THE PROSECUTION'S FAILURE TO ALLEGE AND PROVE THE ELEMENT OF TIME OF ISSUE OF THE SUBJECT CHECKS IS CONTRARY TO RULE 110, SECTION 11 OF THE 2000 REVISED RULES ON CRIMINAL PROCEDURE AND IS VIOLATIVE OF THE ACCUSED'S CONSTITUTIONAL RIGHT TO BE INFORMED OF THE CAUSE AND NATURE OF ACCUSATION AGAINST HER.⁶

The appeal is devoid of merit and should be denied.

The recourse of the petitioner from the adverse decision of the RTC rendered *in the exercise of appellate jurisdiction* is not to appeal directly to the Court by petition for review on *certiorari* under Rule 45, *Rules of*

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⁴ Id. at 71-72.

⁵ Id. at 86.

⁶ Id. at 15-16.

Court, but to appeal to the Court of Appeals (CA) through a petition for review under Rule 42, *Rules of Court*. The appellate jurisdiction of the CA over the petitioner's appeal from the RTC is exclusive, considering the express language of Section 22 of Batas Pambansa Blg. 129, to wit:

Sec. 22. Appellate jurisdiction. - Regional Trial Courts shall exercise appellate jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. **The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Intermediate Appellate Court which may give it due course only when the petition shows *prima facie* that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed.** (Emphasis supplied)

To implement Section 22 of Batas Pambansa Blg. 129, the Court promulgated Section 1 of Rule 42, *Rules of Court*, which is expressly made applicable to appeals of judgments or final orders rendered by the Regional Trial Court in the exercise of appellate jurisdiction in criminal cases,⁷ which provide as follows:

Section 1. How appeal taken; time for filing.— **A party desiring to appeal from a decision of the Regional Trial Court rendered in the exercise of its appellate jurisdiction may file a verified petition for review with the Court of Appeals**, paying at the same time to the clerk of said court the corresponding docket and other lawful fees, depositing the amount of ₱500.00 for costs, and furnishing the Regional Trial Court and the adverse party with a copy of the petition. The petition shall be filed and served within fifteen (15) days from notice of the decision sought to be reviewed or of the denial of petitioner's motion for new trial or reconsideration filed in due time after judgment. Upon proper motion and the payment of the full amount of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Court of Appeals may grant an additional period of fifteen (15) days only within which to file the petition for review. No further extension shall be granted except for the most compelling reason and in no case to exceed fifteen (15) days. (Emphasis supplied)

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⁷ Section 3, Rule 122 of the *Rules of Court* states:
Section 3. *How appeal taken.* - x x x x
x x x x

(b) The appeal to the Court of Appeals in cases decided by the Regional Trial Court in the exercise of its appellate jurisdiction shall be by petition for review under Rule 42.
x x x x (Emphasis supplied)

It did not matter that the appeal of the petitioner, as represented in her petition for review on *certiorari*, seemingly involved only a question of law. The appellate jurisdiction of the Supreme Court over appeals involving pure questions of law as expressly set forth under Section 5,⁸ Article VIII of the 1987 Constitution is restricted to such questions arising in the first instance in the lower courts. In contrast, her appeal of the ruling of the RTC in the exercise of the latter's appellate jurisdiction should be brought to the CA by petition for review, and could also focus on a question of law only. Section 2, Rule 42 of the *Rules of Court* precisely states that the petition for review shall set forth concisely therein a statement of the matters involved, the issues raised, the specification of errors of **fact or law, or both**, allegedly committed by the RTC, and the reasons or arguments relied upon for the allowance of the appeal.⁹ Her advantage under that mode of appeal is to give her the benefit of an intermediate review by the CA.

Under the circumstances, the petitioner's appeal is denied because of her disregard of the law and the *Rules of Court*. Considering that appeal is a mere statutory right, her appeal of the affirmance of her convictions by the RTC should comply with the rules prescribed by the law or rules of procedure establishing her right to appeal; otherwise, the right is waived.

But even if the Court were to deal with and now adjudicate her recourse, the petitioner would still not be entitled to reversal of her convictions. The records clearly indicate that she did not deny having issued for value the 13 checks that are the focus of her appeal; and having known at the time of issue that she did not have sufficient funds or credit with the drawee banks for the payment of such checks in full upon their

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⁸ Sec. 5. The Supreme Court shall have the following powers:

x x x x

2. Review, revise, reverse, modify, or affirm on appeal or *certiorari*, **as the law or the *Rules of Court* may provide**, final judgments and orders of lower courts in:

x x x x

e. All cases in which only an error or question of law is involved.

x x x x (Emphasis supplied)

⁹ Section 2, Rule 42, *Rules of Court*, reads:

Sec. 2. *Form and contents.* — The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) **set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal;** (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition. (Emphasis supplied)

presentment, having actually admitted that such checks were dishonored by the drawee banks. Verily, she did not refute or rebut the Prosecution's showing of her knowledge of the insufficiency of funds to pay the checks, rendering her guilty of the offenses charged. Batas Pambansa Blg. 22 is a law that seeks to prevent the making and issuing of a check with the maker or issuer knowing that at the time of issue he or she does not have sufficient funds in or credit with the bank for the purpose of paying the check, and the check is subsequently dishonored upon its presentment. What is being punished is the issuance of a worthless check. The purpose for the issuance of the check as well as the terms and conditions relating thereto are not essential in the successful prosecution of the offense.¹⁰ Plainly, she violated the language and spirit of Batas Pambansa Blg. 22.

Moreover, the petitioner's contention, that the specific dates of the *issuance* of the checks were material ingredients of the offenses charged, and should thus be averred in the informations, cannot stand serious scrutiny. As previously stated, what were essential to constitute the offenses charged were, firstly, her knowledge that at the time of issue she did not have sufficient funds in or credit with the bank for the purpose of paying the checks, and secondly, the checks were subsequently dishonored upon their presentment. In short, the dates of issuance were not material ingredients of the offenses charged. It serves well to emphasize that the phrase *at the time of issue* is only descriptive of the word *knowledge*, meaning that the State must establish that the accused had knowledge at the time of the check's issuance that he or she would not be able to pay the check in full when it falls due on the date of the check.

Yet, even assuming that the specific dates of issuance of the checks were material ingredients of the offenses charged, and thus should have been stated in the informations, the petitioner had effectively waived such defects by her failure either to ask for a bill of particulars or to move to quash on the ground that the informations did not charge any offense. Indeed, in the occasions where the issues centered on the informations being vague on account of the indefiniteness of the dates of the commission of the crime as to deprive the accused of the right to be informed of the

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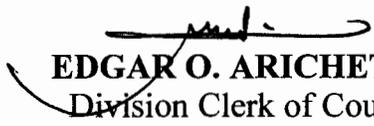
¹⁰ Section 1, Batas Pambansa Blg. 22; *Lagman v. People*, G.R. No. 146238, December 7, 2001, 371 SCRA 686, 693-694; *Ibasco v. Court of Appeals*, G.R. No. 117488, September 5, 1996, 261 SCRA 449, 463; *Cruz v. Court of Appeals*, G.R. No. 108738, June 17, 1994, 233 SCRA 301, 307.

natures and causes of the accusations, the Court has uniformly held that the accused could have actively sought bills of particulars or moved to quash the informations before submitting themselves to arraignment.¹¹ In similar fashion, the petitioner could not now complain because she had not timely asserted her right to so assail the informations prior to being arraigned.

WHEREFORE, the Court **DENIES** the petition for review on *certiorari*; and **ORDERS** the petitioner to pay the costs of suit.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA

Division Clerk of Court *gls*

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¹¹ *People v. Santos*, G.R. Nos. 131103 & 143472, June 29, 2000, 334 SCRA 655, 664; *People v. Garcia*, G.R. No. 120093, November 6, 1997, 281 SCRA 463, 475; *People v. Lim*, G.R. Nos. 131861-63, April 17, 1999, 312 SCRA 550, 569; *People v. Alba*, G.R. No. 131858-59, April 14, 1999, 305 SCRA 811, 828-829; *People v. Dimapilis*, G.R. Nos. 128619-21, December 17, 1998, 300 SCRA 279, 291.