Republic of the Philippines
Supreme Court
Manila

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JUL 15 2015

THIRD DIVISION

JULIE S. SUMBILLA,
Petitioner,

- versus -

MATRIX FINANCE CORPORATION,
Respondent.

G.R. No. 197582

Present:

PERALTA,* *J.*,
Acting Chairperson,
DEL CASTILLO,**
VILLARAMA, JR.,
MENDOZA,*** and
JARDELEZA, *JJ.*

Promulgated:

June 29, 2015

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DECISION

VILLARAMA, JR., *J.*:

In this petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, petitioner Julie S. Sumbilla seeks the liberal application of procedural rules to correct the penalty imposed in the Decision[1] dated January 14, 2009 of the Metropolitan Trial Court (MeTC) of Makati City, Branch 67, in Criminal Case Nos. 321169 to 321174 which had already attained finality in view of petitioner's failure to timely file an appeal.

The antecedent facts are not disputed.

Petitioner obtained a cash loan from respondent Matrix Finance Corporation. As partial payment for her loan, petitioner issued Philippine Business Bank Check Nos. 0032863 to 0032868. The six checks have a uniform face value of ₱6,667.00 each.

Upon maturity, the six checks were presented by respondent to the drawee bank for payment. However, all the checks were dishonored on the

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* Designated Acting Chairperson per Special Order No. 2071 dated June 23, 2015.
** Designated additional Member per Raffle dated May 13, 2015.
*** Designated Acting Member per Special Order No. 2072-C dated June 23, 2015.
1 *Rollo*, pp. 70-71. Penned by Judge Rico Sebastian D. Liwanag.

ground that they were drawn against a closed account.

Petitioner's refusal to heed the demand letter of respondent for the payment of the face value of the dishonored checks culminated in her indictment for six counts of violation of Batas Pambansa Blg. 22 (BP 22). The cases were docketed as Criminal Case Nos. 321169 to 321174, and were raffled off to Branch 67, MeTC of Makati.

In a Decision dated January 14, 2009, the MeTC found petitioner criminally and civilly liable for the issuance of the six rubber checks. For **each count** of violation of BP 22 involving a check with a face value of ₱6,667.00, the MeTC meted petitioner a penalty of fine amounting to **₱80,000.00**, with subsidiary imprisonment. Her civil liability for the six consolidated cases was computed in the total amount of ₱40,002.00. The *fallo* of the decision provides:

> WHEREFORE, the Court renders judgment finding accused Julie S. Sumbilla GUILTY beyond reasonable doubt of six counts of violation of Batas Pambansa Blg. 22. **For each count**, she is sentenced to pay **a fine of P80,000.00**, with subsidiary imprisonment in case of non-payment.
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> She is likewise ORDERED to indemnify private complainant Matrix Finance Corporation the total amount of P40,002.00 plus 12% annual legal interest from September 21, 2002 until full payment.
>
> No costs.
>
> SO ORDERED.[2] (Emphasis and underscoring added.)

Instead of filing a Notice of Appeal, petitioner opted to file a Motion for Reconsideration[3] before the MeTC. The Motion was denied in the Order[4] dated April 17, 2009 being a pleading barred under the Revised Rules on Summary Procedure. The MeTC further noted that the prohibited motion for reconsideration filed by the petitioner will not suspend the running of the period to perfect an appeal.

Subsequently, the Notice of Appeal filed by petitioner was also denied for having been filed beyond the 15-day reglementary period.

With the denial[5] of her Motion for Reconsideration of the Order denying her appeal, petitioner filed a petition for certiorari[6] under Rule 65 of the Rules which was docketed as SCA No. 09-1125 and raffled off to Branch 61, Regional Trial Court (RTC) of Makati City.

Ruling that the MeTC did not act with grave abuse of discretion in

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2 Id. at 71.
3 Id. at 72-76.
4 Id. at 82.
5 Id. at 89.
6 Id. at 90-101.

denying the Notice of Appeal filed by petitioner, the RTC dismissed[7] the petition for certiorari. The Motion for Reconsideration[8] filed by petitioner met the same fate of dismissal.[9]

Petitioner elevated the case to the Court of Appeals (CA) *via* a petition for review[10] under Rule 42 of the Rules of Court. The CA, however, ruled that an ordinary appeal under Section 2(a), Rule 41 of the Rules of Court is the correct remedy under the circumstances because the RTC rendered the decision in the petition for certiorari under Rule 65 of the Rules of Court in the exercise of its original jurisdiction.[11]

On July 27, 2011, after she received a copy of the June 28, 2011 Resolution[12] of the CA denying her Motion for Reconsideration,[13] petitioner filed a motion for extension of time to file the instant petition.[14]

On August 11, 2011, petitioner filed her Petition for Review on Certiorari[15] within the period of extension granted in our Resolution[16] dated September 7, 2011. She ascribed to the CA a sole error:

> THE HONORABLE COURT OF APPEALS ERRED IN DENYING THE PETITION FOR CERTIORARI ON TECHNICALITY AND NOT EXERCISING ITS POSITIVE DUTY OF GIVING DUE IMPORTANCE ON THE SUBSTANTIVE AND CONSTITUTIONAL RIGHTS OF THE PETITIONER DESPITE A CLEAR PRESENCE OF SUCH VIOLATION OF LAW AS DEFINED BY PETITIONER IN HER PETITION WHICH COULD HAVE MERIT A FULL DECISION BY A HIGHER COURT.[17]

Petitioner acknowledged[18] the procedural lapse of filing a petition for certiorari under Rule 65 of the Rules of Court instead of an ordinary appeal before the CA. She also fully grasped[19] the effects of her erroneous filing of the Motion for Reconsideration to challenge the MeTC Decision finding her guilty of six counts of violation of BP 22. Knowing that her conviction had already attained finality, petitioner seeks the relaxation of the rules of procedure so that the alleged erroneous penalty imposed by the MeTC can be modified to make it in accord with existing law and jurisprudence.

Respondent countered that the right to appeal being a mere statutory privilege can only be exercised in accordance with the rules, and the lost

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7 Id. at 103-108. Penned by Presiding Judge J. Cedrick O. Ruiz.
8 CA *rollo*, pp. 28-31.
9 *Rollo*, p. 114.
10 CA *rollo*, pp. 7-18.
11 *Rollo*, p. 49-A. The Resolution was penned by Associate Justice Bienvenido L. Reyes (now a Member of this Court) with Associate Justices Estela M. Perlas-Bernabe (now also a Member of this Court) and Elihu A. Ybañez concurring.
12 Id. at 64-66.
13 Id. at 50-57.
14 Id. at 3-4.
15 Id. at 7-24.
16 Id. at 115-116.
17 Id. at 14.
18 Id. at 17-18. Paragraphs 35 and 36 of the Petition.
19 Id. at 20. Paragraph 39 of the Petition.

appeal cannot be resurrected through the present remedial recourse of a petition for review on certiorari.

The main issue to be resolved is whether the penalty imposed in the MeTC Decision dated January 14, 2009, which is already final and executory, may still be modified.

The petition is meritorious.

Petitioner does not dispute the finality of the Decision dated January 14, 2009 in Criminal Case Nos. 321169 to 321174 rendered by the MeTC, finding her guilty beyond reasonable doubt of six counts of violation of BP 22. For every count of violation of BP 22 involving a check with a face value of ₱6,667.00, petitioner was meted a penalty of fine of ₱80,000.00, with subsidiary imprisonment in case of non-payment. She assails the penalty for being out of the range of the penalty prescribed in Section 1 of BP 22, and the subsidiary imprisonment to be violative of Administrative Circular Nos. 12-2000 and 13-2001, and the holdings in *Vaca v. Court of Appeals*.[20] Petitioner asserted that the maximum penalty of fine that can be imposed against her in each count of violation of BP 22 is double the amount of the face value of the dishonored check only or ₱13,334.00. The fine of ₱80,000.00 for each count is thus excessive. She further implied that the imposition of subsidiary imprisonment contravened Section 20 of Article III of the Constitution which proscribes imprisonment as a punishment for not paying a debt.

Section 1 of BP 22 provides:

> SECTION 1. *Checks without sufficient funds.* - Any person who makes or draws and issues any check to apply on account or for value, knowing at the time of issue that he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment, which check is subsequently dishonored by the drawee bank for insufficiency of funds or credit or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment, shall be punished by imprisonment of not less than thirty days but not more than one (1) year or **by a fine of not less than but not more than double the amount of the check** which fine shall in no case exceed Two hundred thousand pesos, or both such fine and imprisonment at the discretion of the court.
>
> x x x x (Emphasis supplied)

The court may thus impose any of the following alternative penalties against an accused found criminally liable for violating BP 22: (1) imprisonment of not less than 30 days, but not more than one year; or (2) a fine of not less or more than double the amount of the check, and shall in no case exceed ₱200,000.00; or (3) both such fine and imprisonment. The discretion to impose a single (imprisonment or fine) or conjunctive (fine and

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[20] 359 Phil. 187 (1998).

imprisonment) penalty pertains to the court.

If fine alone is the penalty imposed, the maximum shall be double the amount of the face value of the rubber check which in no case should exceed ₱200,000.00.

Here, the face value of **each** of the six checks that bounced is ₱6,667.00. Under Section 1 of BP 22, the **maximum penalty** of fine that can be imposed on petitioner is only **₱13,334.00**, or the amount double the face value of each check. Indubitably, the MeTC meted the petitioner a penalty of fine way beyond the maximum limits prescribed under Section 1 of BP 22. The fine of ₱80,000.00 is more than 11 times the amount of the face value of each check that was dishonored.

Instead of using as basis the face value of each check (₱6,667.00), the MeTC incorrectly computed the amount of fine using the total face value of the six checks (₱40,002.00). The same error occurred in *Abarquez v. Court of Appeals*,[21] where we modified the penalty of fine imposed in one of the consolidated cases therein (Criminal Case No. D-8137) to only double the amount of the face value of the subject check.

Unfortunately, in the present case, the MeTC Decision is already final and executory after petitioner failed to timely file a Notice of Appeal. Under the doctrine of finality and immutability of judgments, a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect, even if the modification is meant to correct erroneous conclusions of fact or law, and whether it will be made by the court that rendered it or by the highest court of the land.[22] Upon finality of the judgment, the Court loses its jurisdiction to amend, modify or alter the same.[23]

Nonetheless, the immutability of final judgments is not a hard and fast rule. The Court has the power and prerogative to suspend its own rules and to exempt a case from their operation if and when justice requires it.[24] After all, procedural rules were conceived to aid the attainment of justice. If a stringent application of the rules would hinder rather than serve the demands of substantial justice, the former must yield to the latter,[25] as specifically mandated under Section 2, Rule 1 of the Rules of Court:

> SEC. 2. *Construction.* – These rules shall be liberally construed in order to promote their object and to assist the parties in obtaining just, speedy, and inexpensive determination of every action and proceeding.

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21 455 Phil. 964, 978 (2003).

22 *Delfino, Sr. v. Anasao*, G.R. No. 197486, September 10, 2014, p. 9; *Escalante v. People*, G.R. No. 192727, January 9, 2013, 688 SCRA 362, 375, citing *FGU Insurance Corporation v. RTC of Makati City, Branch 66, et al.*, 659 Phil. 117, 123 (2011).

23 *City Government of Makati v. Odeña*, G.R. No. 191661, August 13, 2013, 703 SCRA 460, 495, citing *Bongcac v. Sandiganbayan, et al.*, 606 Phil. 48, 55 (2009).

24 *Lu v. Lu Ym, Sr., et al.*, 658 Phil. 156, 178 (2011), citing *Destileria Limtuaco & Co. Inc. v. Intermediate Appellate Court*, 241 Phil. 753, 764 (1988).

25 *Hilario v. People*, 574 Phil. 348, 362 (2008), citing *Basco v. Court of Appeals*, 392 Phil. 251, 266 (2000).

Consequently final and executory judgments were reversed when the interest of substantial justice is at stake and where special and compelling reasons called for such actions.[26] In *Barnes v. Judge Padilla*,[27] we declared as follows:

> x x x a final and executory judgment can no longer be attacked by any of the parties or be modified, directly or indirectly, even by the highest court of the land.
>
> However, this Court has relaxed this rule in order to serve substantial justice considering (a) matters of life, liberty, honor or property, (b) the existence of special or compelling circumstances, (c) the merits of the case, (d) a cause not entirely attributable to the fault or negligence of the party favored by the suspension of the rules, (e) a lack of any showing that the review sought is merely frivolous and dilatory, and (f) the other party will not be unjustly prejudiced thereby.
>
> Invariably, rules of procedure should be viewed as mere tools designed to facilitate the attainment of justice. Their strict and rigid application, which would result in technicalities that tend to frustrate rather than promote substantial justice, must always be eschewed. Even the Rules of Court reflects this principle. The power to suspend or even disregard rules can be so pervasive and compelling as to alter even that which this Court itself had already declared to be final.

The judgment of conviction was already final in *Rigor v. The Superintendent, New Bilibid Prison*[28] when the Court corrected the minimum and maximum periods of the indeterminate sentence imposed on the accused which exceeded the period of the imposable penalty. The correction was made in the interest of justice and only for the penalty imposed against petitioner to be in accordance with law and nothing else.[29]

Both *People v. Gatward*,[30] and *People v. Barro*[31] cited the duty and inherent power of the Court to correct the erroneous penalties meted on the accused in a final and executory judgments, and make it conform to the penalty prescribed by law.

The interest of justice and the duty and inherent power of the Court were the reasons anchored upon in *Estrada v. People*[32] in ruling that it is befitting to modify the penalty imposed on petitioner even though the notice of appeal was belatedly filed.

In *Almuete v. People*,[33] the penalty imposed upon the petitioner which is outside the range of the penalty prescribed by law was duly corrected even if it was already final on the ground of substantial justice, thus:

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26 See *Apo Fruits Corporation, et al. v. Land Bank of the Philippines*, 647 Phil. 251, 288 (2010).
27 482 Phil. 903, 915 (2004). Citations omitted.
28 458 Phil. 561 (2003).
29 Id. at 568.
30 335 Phil. 440, 460 (1997).
31 392 Phil. 857, 876 (2000).
32 505 Phil. 339, 357-360 (2005).
33 G.R. No. 179611, March 12, 2013, 693 SCRA 167.

> In this case, it cannot be gainsaid that what is involved is the life and liberty of petitioner. If his penalty of imprisonment remains uncorrected, it would be not conformable with law and he would be made to suffer the penalty of imprisonment of 18 years, 2 months and 21 days of *reclusion temporal* as minimum, to 40 years of *reclusion perpetua*, as maximum, which is outside the range of the penalty prescribed by law. Contrast this to the proper imposable penalty the minimum of which should only be within the range of 2 years, 4 months and 1 day to 6 years of *prision correccional*, while the maximum should only be anywhere between 11 years, 8 months and 1 day of *prision mayor* to 13 years of *reclusion temporal*. Substantial justice demands that we suspend our Rules in this case. "It is always within the power of the court to suspend its own [R]ules or except a particular case from its operation, whenever the purposes of justice require. x x x Indeed, when there is a strong showing that a grave miscarriage of justice would result from the strict application of the Rules, this Court will not hesitate to relax the same in the interest of substantial justice." Suspending the Rules is justified "where there exist strong compelling reasons, such as serving the ends of justice and preventing a miscarriage thereof." After all, the Court's "primordial and most important duty is to render justice x x x."[34]

All the accused in *Almuete v. People*,[35] *People v. Barro*,[36] *Estrada v. People*,[37] and *Rigor v. The Superintendent, New Bilibid Prison*,[38] failed to perfect their appeal on their respective judgments of conviction, but the Court corrected the penalties imposed, notwithstanding the finality of the decisions because they were outside the range of penalty prescribed by law. There is, thus, no reason to deprive the petitioner in the present case of the relief afforded the accused in the cited cases. Verily, a sentence which imposes upon the defendant in a criminal prosecution a penalty in excess of the maximum which the court is authorized by law to impose for the offense for which the defendant was convicted, is void for want or excess of jurisdiction as to the excess.[39]

Here, the penalty imposed is obviously out of range of that prescribed in Section 1 of BP 22. Moreover, since the term of the subsidiary imprisonment is based on the total amount of the fine or one day for each amount equivalent to the highest minimum wage rate prevailing in the Philippines at the time of the rendition of judgment of conviction by the trial court,[40] if petitioner is insolvent, she will suffer a longer prison sentence.

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34 Id. at 185-186.

35 Supra note 33.

36 Supra note 31.

37 Supra note 32.

38 Supra note 28.

39 *Caluag v. Pecson*, 82 Phil. 8, 14-15 (1948). See also *Cruz v. Director of Prisons*, 17 Phil. 269, 272-273 (1910).

40 Article 39 of the Revised Penal Code, as amended by Republic Act No. 10159, provides:

> Art. 39. *Subsidiary Penalty.* – If the convict has no property with which to meet the fine mentioned in paragraph 3 of the next preceding article, he shall be subject to a subsidiary personal liability at the rate of one day for each amount equivalent to the highest minimum wage rate prevailing in the Philippines at the time of the rendition of judgment of conviction by the trial court, subject to the following rules:
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> x x x x
>
> 2. When the principal penalty imposed be only a fine, the subsidiary imprisonment shall not exceed six months, if the culprit shall have been prosecuted for a

Substantial justice dictates that the penalty of fine meted on the petitioner be accordingly corrected within the maximum limits prescribed under Section 1 of BP 22. Hence, the penalty of fine of ₱80,000.00 meted on petitioner in Criminal Case Nos. 321169 to 321174 for each count of violation of BP 22 is corrected to double the face value of each rubber check involved or ₱13,334.00 only.

Anent the alleged violation of *Vaca v. Court of Appeals*,[41] and Administrative Circular No. 12-2000[42] that supposedly limited to fine the imposable penalty for violation of BP 22, and without any subsidiary imprisonment, suffice it to quote the clarifications in Administrative Circular No. 13-2001, issued on February 14, 2001:

> *x x x queries have been made regarding the authority of Judges to*
>
> 1. Impose the penalty of imprisonment for violations of *Batas Pambansa Blg. 22*; and
>
> 2. *Impose subsidiary imprisonment in the event that the accused, who is found guilty of violating the provisions of B.P. Blg. 22, is unable to pay the fine which he is sentenced to pay*
>
> considering that Administrative Circular No. 12-2000 adopted the rulings in *Eduardo Vaca v. Court of Appeals* (G.R. No. 131714, 16 November 1998, 298 SCRA 656) and *Rosa Lim v. People of the Philippines* (G.R. No. 130038, 18 September 2000) as a policy of the Supreme Court on the matter of the imposition of penalties for violations of *B.P. Blg.* 22, without mentioning whether subsidiary imprisonment could be resorted to in case of the accused's inability to pay the fine.
>
> The clear tenor and intention of Administrative Circular No. 12-2000 is not to remove imprisonment as an alternative penalty, but to lay down a rule of preference in the application of the penalties provided for in B.P. *Blg.* 22.
>
> The pursuit of this purpose clearly does not foreclose the possibility of imprisonment for violators of B.P. *Blg.* 22. Neither does it defeat the legislative intent behind the law.
>
> Thus, Administrative Circular No. 12-2000 establishes a rule of preference in the application of the penal provisions of B.P. *Blg.* 22 such that where the circumstances of both the offense and the offender clearly indicate good faith or a clear mistake of fact without taint of negligence, the imposition of a fine alone should be considered as the more appropriate penalty. *Needless to say, the determination of whether the circumstances warrant the imposition of a fine alone rests solely upon the Judge*. Should the Judge decide that imprisonment is the more appropriate penalty, Administrative Circular No. 12-2000 ought not be deemed a hindrance.
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> *It is, therefore, understood that*

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grave or less grave felony, and shall not exceed fifteen days, if for a light felony.

x x x x

41 Supra note 20.

42 This Circular was issued to implement the policy espoused in the case of *Vaca v. Court of Appeals*, supra note 20.

1. **Administrative Circular 12-2000 does not remove imprisonment as an alternative penalty** for violations of *B.P. Blg. 22;*

x x x x

3. ***Should only a fine be imposed and the accused be unable to pay the fine, there is no legal obstacle to the application of the Revised Penal Code provisions on subsidiary imprisonment.***

x x x x[43] (Italics in the original; emphasis added)

In like manner, the issue of whether BP 22 violates Section 20 of Article III of the Constitution which proscribes imprisonment as a punishment for not paying a debt was already settled in the negative in *Lozano v. Martinez.*[44] Pertinent portions of the Decision in the *Lozano* case read:

> Has BP 22 transgressed the constitutional inhibition against imprisonment for debt? x x x
>
> The gravamen of the offense punished by BP 22 is the act of making and issuing a worthless check or a check that is dishonored upon its presentation for payment. It is not the non-payment of an obligation which the law punishes. **The law is not intended or designed to coerce a debtor to pay his debt. The thrust of the law is to prohibit, under pain of penal sanctions, the making of worthless checks and putting them in circulation.** Because of its deleterious effects on the public interest, the practice is proscribed by the law. The law punishes the act not as an offense against property, but an offense against public order.
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> x x x x
>
> In sum, **we find the enactment of BP 22** a valid exercise of the police power and is **not repugnant to the constitutional inhibition against imprisonment for debt.**[45] (Emphasis added)

WHEREFORE, the petition is **GRANTED.** In the interest of justice, the Decision dated January 14, 2009 of Branch 67, Metropolitan Trial Court of Makati City in Criminal Case Nos. 321169 to 321174 is **MODIFIED.**

Accused Julie S. Sumbilla is hereby found **GUILTY** beyond reasonable doubt of six counts of violation of Batas Pambansa Blg. 22, and is sentenced to pay a **FINE** of **THIRTEEN THOUSAND AND THREE HUNDRED THIRTY-FOUR PESOS (₱13,334.00)** for **each count**, and to indemnify private complainant Matrix Finance Corporation the total amount of ₱40,002.00 plus 6% interest per annum from September 21, 2002 until full payment.

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43 Quoted in *Jao Yu v. People,* 481 Phil. 780, 788-789 (2004).
44 230 Phil. 406 (1986).
45 Id. at 421, 424.

No pronouncement as to costs.

SO ORDERED.

MARTIN S. VILLARAMA, JR.
Associate Justice

WE CONCUR:

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson

MARIANO C. DEL CASTILLO
Associate Justice

JOSE CATRAL MENDOZA
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.

DIOSDADO M. PERALTA
Associate Justice
Acting Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the 1987 Constitution and the Division Acting 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

WILLIAM V. LAPITAN
Division Clerk of Court
Third Division

JUL 15 2015