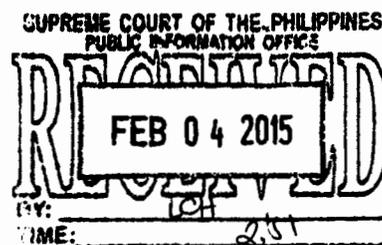




Republic of the Philippines
Supreme Court
Manila
FIRST DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **December 1, 2014** which reads as follows:*

“G.R. No. 213470 (ELVIRA I. ALIVIO, petitioner versus PEOPLE OF THE PHILIPPINES, respondent). - The motion of the Public Attorney’s Office to withdraw its appearance, with conformity, praying that pending appearance of petitioner’s counsel, all writs, notices, resolutions and decisions of the Court be sent directly to petitioner at Blk 40 A/B, Lot 20, Phase 2, Area 4, Longos, Malabon City, is **NOTED** and **GRANTED**.

This is a petition for review on *certiorari* via Rule 45 of the 1997 Rules of Civil Procedure which assails the Decision¹ and Resolution² of the Court of Appeals dated 23 January 2013 and 9 July 2014, respectively, affirming the rulings of the Regional Trial Court³ (RTC) and Metropolitan Trial Court⁴ (MeTC) which convicted petitioner Elvira I. Alivio (Alivio) for two (2) counts of violation of Batas Pambansa Bilang 22 (B.P. Blg. 22) for issuing two (2) bounced checks.

Two sets of Information for two counts of violation of B.P. Blg. 22 were filed against Alivio for the issuance of two checks, namely: (1) Banco Filipino Check No. 0153254 in the amount of ₱1,321,500.00 and (2) Real Bank Check No. 0051621 in the amount of ₱10,600.00.

- over – four (4) pages

2

¹ Penned by Associate Justice Jane Aurora C. Lantion with Associate Justices Vicente S.E. Veloso, and Eduardo B. Peralta, Jr., concurring; *rollo*, pp. 39-47.

² Id. at 49-50.

³ Penned by Presiding Judge Francisco G. Mendiola; id. at 88-91.

⁴ Penned by Presiding Judge Catherine P. Manodon; id. at 64-74.

As found by the lower courts, the checks represented the total amount of Alivio's loan from complainant Leticia Magboo (Magboo) and several other borrowers whom Alivio referred to Magboo. As the number of borrowers grew and Magboo could not possibly collect from all the borrowers, Alivio issued the Banco Filipino check as security, which bears only the signature of Alivio. It was a blank check. As agreed upon, the blank Banco Filipino check was to cover whatever balance the other borrowers would not pay.

When the 2 checks fell due, upon presentment, the banks dishonored the checks due to "CLOSED ACCOUNTS".

During arraignment, Alivio pleaded not guilty. After trial, the MeTC found Alivio guilty of two counts of violation of B.P. Blg. 22, which was affirmed by the RTC and the Court of Appeals. The lower courts found that all the elements of violation of B.P. Blg. 22 are present.

Alivio alleged that because the checks given to Magboo were in blank, the same were incomplete instruments under the Negotiable Instruments Law and thus, were nonnegotiable.

Hence, this petition.

OUR RULING

As uniformly found by the lower courts, all the elements of violation of B.P. Blg. 22 are present:

1. a person makes or draws and issues a check to apply on account or for value;
2. the person who makes or draws and issues the check knows at the time of issue that he does not have sufficient funds in or credit with the drawee bank for the full payment of the check upon its presentment; and
3. the 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.⁵

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⁵ *Tan v. Mendez, Jr.*, 432 Phil. 760, 769 (2002).

In the case at bar, the prosecution has duly established that (1) Alivio issued and delivered the checks in favor of Magboo; (2) Alivio has knowledge that at the time of issue of the checks, she does not have sufficient funds in or credit with the drawee bank for the full payment of the checks upon its presentment based on her receipt of the notice of dishonor and demand letter from Magboo, which she failed to make good even after receipt thereof; (3) and receipt of dishonor from the drawee banks for insufficiency of funds.

With regard to the negotiability of blank checks, the Court of Appeals correctly held that “when blank checks were delivered to private complainant [Magboo], she became a holder with *prima facie* authority to fill the blanks”. This is based on Section 14 of the Negotiable Instruments Law:

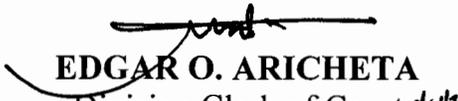
Where the instrument is wanting in any material particular, the person in possession thereof has a prima facie authority to complete it by filling up the blanks therein. And a signature on a blank paper delivered by the person making the signature in order that the paper may be converted into a negotiable instrument operates as a prima facie authority to fill it up as such for any amount x x x. [Emphasis supplied]

Therefore, as the checks were delivered by Alivio to Magboo, making Magboo the lawful possessor of the checks having *prima facie* authority to fill up the checks, it is upon Alivio to discharge the burden of proof of Magboo’s want of authority or his having exceeded such authority,⁶ which Alivio failed to prove.

WHEREFORE, the petition is **DENIED**.

SO ORDERED.” **BERSAMIN, J.**, on official leave; **REYES, J.**, acting member per S.O. No. 1892 dated November 28, 2014.

Very truly yours,


EDGAR O. ARICHETA
Division Clerk of Court *sk*

2

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⁶ *Ching v. Nicdao*, 550 Phil. 477, 519 (2007).

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Manila
(CA-G.R. CR No. 34166)

The Solicitor General (x)
Makati City

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The Hon. Presiding Judge
Regional Trial Court, Br. 115
1300 Pasay City
(Crim. Case Nos. 05-1652-CFM-R00-00
& 05-1653-CFM-R00-00)

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2

*For this Resolution only.
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