Supreme Court E-Library

SECOND DIVISION

[A.M. No. MTJ-00-1274. June 8, 2000]

JEPSON DICHAVES, *complainant, vs.* **JUDGE BILLY M. APALIT,** *respondent.*

SYNOPSIS

This is a complaint filed by Jepson Dichaves against Judge Billy M. Apalit for partiality and ignorance of the law in connection with the latter's handling of five (5) criminal cases. Complainant filed the criminal cases against Ramon Navarro for violation of Batas Pambansa Blg. 22 for having issued five checks which were dishonored for insufficiency of funds. Navarro, on the other hand, filed a complaint for recovery of a sum of money against Ernesto Uyboco and Gaikoku Construction and Development Corporation (GCDC) alleging that the latter were able to obtain loans from the complainant upon his intercession, which caused him to issue checks as guarantee and later became the subject of the criminal cases filed against him. Based on the filing of the civil case, Navarro moved for the suspension of the proceedings of the criminal cases on the ground of prejudicial question. Respondent judge granted Navarro's motion. On *certiorari,* complainant was upheld by the appellate court and respondent's order was set aside. On the resumption of the criminal cases, Navarro next sought the disqualification of Dichaves' counsel as private prosecutor for having no right to intervene in the criminal cases. Respondent again granted the motion. Later, the respondent judge rendered a decision acquitting Navarro in all the criminal cases against him on the ground that he merely issued the checks to guarantee Uyboco's obligation to complainant. Complainant thus filed this complaint. The Office of the Court Administrator found the complaint meritorious and recommended that Judge Apalit be held administratively liable.

The Supreme Court agreed with the recommendation of the Court Administrator. According to the Court, an isolated error of judgment would normally not make a judge susceptible to administrative liability. But, here, respondent's partiality for a party to a case before him is evident in his several orders favoring

Supreme Court E-Library

the accused in the criminal case before him, even going to the extent of disregarding settled rulings. Accused was found guilty of partiality and grave abuse of discretion and was suspended for a period of six months without pay, with a warning that commission of a similar offense will be dealt with more severely.

SYLLABUS

1. **CIVIL LAW; ACTIONS; PREJUDICIAL QUESTION; DEFINED AND CONSTRUED; NOT PRESENT IN CASE AT BAR.**— A prejudicial question is a question which arises in a case the resolution of which is a logical antecedent of the issue involved in said case and the cognizance of which pertains to another tribunal. As provided in Rule 111, §5, a civil case constitutes a prejudicial question only if: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue is determinative of whether or not the criminal action may proceed. In the case at bar, even if Navarro prevailed in the civil case filed by him against Uyboco and GCDC, this result would not be determinative of his guilt in the criminal prosecution for violation of B.P. Blg. 22 for it is now settled that the mere issuance of worthless checks is punishable under B.P. Blg. 22, and it is immaterial whether the checks have been issued merely to guarantee another person's obligation.

2. **REMEDIAL LAW; CRIMINAL PROCEDURE; INSTANCES WHEN THE OFFENDED PARTY CANNOT TAKE PART IN A CRIMINAL PROSECUTION.**— There are thus three instances when the offended party in a criminal case cannot take part in the criminal prosecution, to wit: (1) if the civil action has been waived; (2) if the right to institute a separate civil action has been reserved; and (3) if the civil action was filed prior to the criminal action.

3. **CRIMINAL LAW; B.P. BLG. 22; PUNISHES THE ISSUANCE OF A BOUNCING CHECK.**— What B.P. Blg. 22 punishes is the issuance of a bouncing check and not the purpose for which it was issued nor the terms and conditions relating to its issuance. The mere act of issuing a worthless check is *malum prohibitum*. The Court has repeatedly held that B.P. Blg. 22 applies even in cases where dishonored checks are issued merely in the form of a guarantee.

Supreme Court E-Library

DECISION

MENDOZA, *J.*:

This is a complaint filed by Jepson Dichaves against Judge Billy M. Apalit of Branch 43, Metropolitan Trial Court, Quezon City for partiality and gross ignorance of the law in connection with the latter's handling of Criminal Case Nos. 27874-78, entitled "*People v. Navarro*," for violation of Batas Pambansa Blg. 22.

The facts are as follows:

On July 29, 1994, complainant caused the filing of the five (5) criminal cases against Ramon Navarro for violation of B.P. Blg. 22 on the ground that five checks in the total amount of ₱6,180,000.00, issued by Navarro against the United Coconut Planters Bank, had all been dishonored for insufficiency of funds.

It appears that, on August 11, 1994, Ramon Navarro filed with the Regional Trial Court in Quezon City a complaint, docketed as Civil Case No. Q-94-21343, for recovery of a sum of money against Ernesto Uyboco and Gaikoku Construction and Development Corporation (GCDC). In his complaint, Navarro alleged that, upon his intercession, Uyboco and GCDC were able to obtain loans from complainant, to guarantee which he (Navarro) issued the checks which became the subject of the criminal cases filed against him. In return, Uyboco and GCDC allegedly issued postdated checks to Navarro in the total amount of ₱8,140,000.00.

Based on the filing of this case, Navarro moved, on September 9, 1994, for the suspension of the proceedings in the criminal cases, alleging that the issue in the civil case was a prejudicial question, the resolution of which would determine the result of the criminal cases. In his order, dated October 5, 1994, respondent granted Navarro's motion.

Complainant moved for a reconsideration of the order. Pending resolution of the motion, Navarro amended his complaint in Civil Case No. Q-94-21343 by impleading complainant as a

Supreme Court E-Library

defendant or an unwilling co-plaintiff. Navarro contended Uyboco and GCDC — not he — were liable to complainant for the amount of the checks.

On June 19, 1995, respondent denied complainant's motion, prompting complainant to bring an action for *certiorari* in the Court of Appeals. Complainant was upheld and the appellate court set aside respondent's order. It held that the issue in Civil Case No. Q-94-21343 did not constitute a prejudicial question.

Upon resumption of the trial of the criminal cases, Navarro next sought the disqualification of Dichaves' counsel as private prosecutor on the ground that complainant had no right to intervene in the criminal cases. Respondent again granted the motion, holding that the civil action arising from crime was being tried in Civil Case No. Q-94-21343. Complainant moved for reconsideration, arguing that he is merely an unwilling co-plaintiff in Civil Case No. Q-94-21343 and that the obligation owed him by Uyboco to Navarro was different from that owed by the latter to complainant. Complainant pointed out that Uyboco's letters to him never mentioned anything about a guarantee agreement to which Navarro was a party and that the amount of Navarro's checks (₱6,180,000.00) was in fact different from the amount owed by Uyboco to Navarro (₱8,140,000.00).

On October 28, 1997, respondent rendered a decision in the criminal cases acquitting Navarro of violations of B.P. Blg. 22 on the ground that the checks had been issued by Navarro merely to guarantee Uyboco's obligation to complainant.

Complainant points out the following instances as showing respondent's gross ignorance of the law and manifest partiality: (1) the suspension of the hearing in the criminal cases; (2) the disqualification of complainant's counsel on the ground that the civil aspect of the cases was already being litigated in Civil Case No. Q-94-21343; and (3) the acquittal of accused Navarro on the ground that the checks he issued had been issued merely to guarantee the obligation of other parties. The Office of the Court Administrator, to which this case was referred, found

Supreme Court E-Library

the complaint meritorious and recommended that Judge Apalit be held administratively liable.

After due consideration of this case, we find the recommendation well taken.

First. Judge Apalit justifies his suspension of the hearing in the criminal cases on the ground that the issues in that case and those in Civil Case No. Q-94-21343 are intertwined.

The contention has no merit. A prejudicial question is a question which arises in a case the resolution of which is a logical antecedent of the issue involved in said case and the cognizance of which pertains to another tribunal.[1] As provided in Rule 111, §5, a civil case constitutes a prejudicial question only if: (a) the civil action involves an issue similar or intimately related to the issue raised in the criminal action; and (b) the resolution of such issue is determinative of whether or not the criminal action may proceed.

In the case at bar, even if Navarro prevailed in the civil case filed by him against Uyboco and GCDC, this result would not be determinative of his guilt in the criminal prosecution for violation of B.P. Blg. 22 for it is now settled that the mere issuance of worthless checks is punishable under B.P. Blg. 22, and it is immaterial whether the checks have been issued merely to guarantee another person's obligation.[2]

Indeed, at the time respondent ordered the suspension of the proceeding in the criminal case, complainant was not a party to the civil case. It is difficult to imagine how such case could affect Navarro's criminal liability for issuing to complainant the checks which had been dishonored. Respondent ordered the suspension of proceedings in the criminal cases without even explaining how the resolution of the issues in the Civil Case No. Q-94-21343 would determine the issues in the criminal

---

[1] *People vs. Aragon*, 94 Phil. 357 (1954); *Berbari v. Concepcion*, 40 Phil. 837 (1919).

[2] *Que vs. People*, 154 SCRA 160 (1987); *Lazaro v. Court of Appeals*, 227 SCRA 273 (1993); *Cruz v. Court of Appeals*, 233 SCRA 301 (1994).

Supreme Court E-Library

cases. Respondent's order suspending the proceedings in the criminal cases simply stated:

ORDER

A "Motion to Suspend Proceedings" was filed by the Accused, thru counsel, praying that the proceedings of the case be temporarily suspended pending the resolution of Civil Case No. Q-94-21343 entitled *Ramon Navarro vs. Ernesto Uyboco and Gaikoku Construction and Development Corp.*, pending before the Regional Trial Court, Branch 215, Quezon City which is a prejudicial question to the case at bar. Copy of the aforesaid motion was furnished the Public Prosecutor, however, up to this date, no comment and/or opposition has been filed.

Finding the aforesaid motion to be well-taken, the case is granted.

There was simply no basis for considering the issues in the civil action as determinative of the issues in the criminal cases so as to warrant the suspension of proceedings in the latter cases.

Second. Judge Apalit contends there was no longer any justification for the participation of complainant's counsel in the criminal cases because the civil aspect of those cases was already being litigated in Civil Case No. Q-94-21343.

This stance is based on a wrong assumption. Rule 111 of the Rules of Criminal Procedure provides:

SECTION 1. *Institution of criminal and civil actions*. When a criminal action is instituted, the civil action for the recovery of civil liability is impliedly instituted with the criminal action, unless the offended party waives the civil action, reserves his right to institute it separately, or institutes the civil action prior to the criminal action.

There are thus three instances when the offended party in a criminal case cannot take part in the criminal prosecution, to wit: (1) if the civil action has been waived; (2) if the right to institute a separate civil action has been reserved; and (3) if the civil action was filed prior to the criminal action.

None of these actions was done by complainant so as to bar him or his counsel from taking part in the criminal prosecution.

Supreme Court E-Library

Complainant did not bring Civil Case No. Q-94-21343. It was Navarro who did, and he simply dragged complainant into the case by impleading him as a defendant or an unwilling co-plaintiff. What is more, Civil Case No. Q-94-21343 was not the civil action arising from the crime, the subject of Criminal Case Nos. 27874-78.

As in his order suspending the trial of the criminal cases on the ground of prejudicial question, respondent's order barring complainant and the latter's counsel from participating in the criminal prosecution was laconic and did not state the basis, if any, thereof:

ORDER

Acting on the "Motion to Disqualify Private Prosecutor" filed by the accused, thru counsel, and the "Opposition" thereto, the Court after a careful evaluation of the same, finds the former impressed with merit, hence, is hereby GRANTED.

Third. Respondent acquitted the accused in the criminal cases on the ground that the checks were not issued "on account or for value," because the checks had been issued merely to guarantee the loan of another party. Respondent reasoned out that his court was "not only a court of justice but also of equity and fairness," and that "to apply the full harshness of the special law using the *'mala prohibita'* doctrine would be tantamount to punishing the accused for the aforementioned checks when it was not issued on account or for value as the consideration of the loan was on account of Ernesto Uybuco."

This ruling goes against a long line of cases in which this Court held that what B.P. Blg. 22 punishes is the issuance of a bouncing check and not the purpose for which it was issued nor the terms and conditions relating to its issuance. As already stated, the mere act of issuing a worthless check is *malum prohibitum*.[3] We have repeatedly held that B.P. Blg. 22 applies even in cases where dishonored checks are issued merely in

[3] *Lozano v. Martinez*, 146 SCRA 323 (1986); *People vs. Gorospe*, 157 SCRA 154 (1988); *Ada v. Virola*, 172 SCRA 336 (1989); *Nieras v. Dacuycuy*, 181 SCRA 1 (1990); *People v. Nitafan*, 215 SCRA 79 (1992).

Supreme Court E-Library

the form of a guarantee.[4] Respondent disregarded not only complainant's citation of these cases but also the decision of the Court of Appeals which, in reversing respondent's prior order suspending the trial of the criminal cases, stated:

> The civil case filed by private respondent is for collection of sum of money with damages and involves an issue different from the issue involved in the criminal cases filed by the petitioner against private respondent. The issue involved in the civil case is whether or not the defendants Uybuco and GCDC can be held liable to therein plaintiff-herein private respondent for the amounts stated in the checks they issued in his favor; whereas the issue involved in all the criminal cases is whether or not private respondent could be found guilty under B.P. Blg. 22 for the dishonor of the checks he issued in favor of petitioner.
>
> As correctly pointed out by petitioner and the Solicitor General, the resolution of the issue raised in the civil action would not in any way determine the guilt or innocence of private respondent in the criminal cases. For even granting that the civil case is resolved in favor of private respondent resulting in the satisfaction of the amounts covered by the dishonored checks subject of that case, it would not as a matter of consequence dissolve or obliterate private respondent's culpability under B.P. 22.
>
> Private respondent's assertion that he issued the checks subject of the criminal cases to petitioner merely to serve as guarantee to Uyboco and GCDC's loan, even if true, would not be material and determinative of his innocence in light of the well settled rule that what B.P. Blg. 22 punishes is the issuance itself of a bouncing check and not the purpose for which it was issued nor the terms and conditions relating to its issuance (*People v. Nitafan,* 215 SCRA 79, 84 [1992]). For to require that the agreement surrounding the issuance of checks be first locked into and thereafter exempt such issuance from the punitive provisions of B.P. Blg. 22 on the basis of such agreement or understanding would frustrate the very purpose for which the law was enacted — to curb the proliferation of unfunded checks (*People v. Nitafan, supra; Lazaro v. Court of Appeals*, 277 SCRA 723, 726-727 [1993]).

---

[4] *Supra* note 2.

Supreme Court E-Library

An isolated error of judgment would normally not make a judge susceptible to administrative liability. But, here, respondent's partiality for a party to a case before him is evident in his several orders favoring the accused in the criminal case before him, even going to the extent of disregarding settled rulings. Respondent cannot be acquitted of the charge that he acted from improper motives which must be repressed.

WHEREFORE, as recommended by the Office of the Court Administrator, Judge Billy M. Apalit, Presiding Judge of Branch 43, Metropolitan Trial Court, Quezon City, is declared *GUILTY* of partiality and grave abuse of discretion and is hereby *SUSPENDED* for a period of SIX (6) MONTHS without pay, with a *WARNING* that commission of a similar offense will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[A.M. No. MTJ-00-1275. June 8, 2000]

CARLITO C. AGUILAR, *complainant, vs.* **JUDGE VICTOR A. DALANAO,** *respondent.*

SYNOPSIS

Carlito Aguilar filed a complaint against Judge Victor A. Dalanao for abuse of authority committed while he was acting judge of the Municipal Trial Court in Tabuk, Kalinga. Complainant cited several instances to support his claim. The case was referred to the Office of the Court Administrator. While it found the charge of abuse of authority to be without merit,