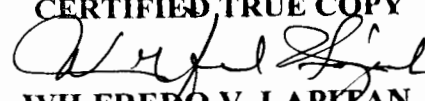




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**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division  
 SEP 07 2016

Republic of the Philippines  
 Supreme Court  
 Manila

**THIRD DIVISION**

**ELIZABETH ALBURO,**  
 Petitioner,

**G.R. No. 196289**

**Present:**

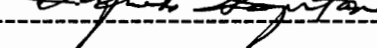
VELASCO, JR., J., *Chairperson,*  
 PERALTA,  
 PEREZ,  
 REYES, and  
 LEONEN,\* JJ.

- versus -

**Promulgated:**

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

August 15, 2016

X----------X

**DECISION**

**PERALTA, J.:**

For resolution of this Court is the Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, dated May 16, 2011, of petitioner Elizabeth Alburo assailing the Resolutions<sup>1</sup> dated October 26, 2010 and March 24, 2011 of the Court of Appeals (CA) dismissing, based on technicality, her appeal of the cases filed against her for violation of *Batas Pambansa Bilang 22 (B.P. 22)* that she was eventually convicted by the Municipal Trial Court in Cities (MTCC), Branch 2, Angeles City and affirmed by the Regional Trial Court (RTC), Branch 58, Angeles City.

The following are the antecedent facts:

\* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated February 15, 2016.

<sup>1</sup> Penned by Associate Justice Amy C. Lazaro-Javier, with Associate Justices Rebecca De Guia-Salvador and Sesonando E. Villon, concurring.



Petitioner and her husband bought a house and lot from petitioner's sister-in-law, Elsa Alburo-Walter, who is married to James Walter, through Aurelio Tapang in his capacity as attorney-in-fact of Elsa and James Walter. The subject property is located at Villasol Subdivision, Brgy. Santol, Angeles City, covered by TCT No. 71458. The agreed consideration is Fifty Thousand U.S. Dollars (\$50,000.00) or its peso equivalent. Petitioner and her husband made a partial payment of Twenty-One Thousand U.S. Dollars (\$21,000.00) and the remaining balance has been paid through four (4) postdated checks issued by petitioner, now the subjects of this case. The checks eventually bounced, thus, four (4) separate Informations for violation of B.P. 22 were filed with the MTCC, Branch 2, Angeles City against petitioner, that read as follows:

CRIMINAL CASE NO. 01-777

That sometime in the first week of July 2000, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully, and feloniously draw and issue to the complainant, AURELIO TAPANG of Tapang Realty Company, a Land Bank, Dau Branch Check, bearing Check No. 0048902 post-dated/dated August 5, 2000 in the amount of ₱300,000.00, well-knowing that she has no sufficient funds in the bank, which check when presented for payment was dishonored for reason of "DRAWN AGAINST INSUFFICIENT FUNDS," and demands notwithstanding for more than five (5) days from notice of dishonor, the accused failed and refused, and still fails and refuses to redeem the said check, to the damage and prejudice of said complainant, AURELIO TAPANG, in the afore-mentioned amount of THREE HUNDRED THOUSAND PESOS (₱300,000.00), Philippine Currency.

ALL CONTRARY TO LAW.

CRIMINAL CASE NO. 01-778

That sometime in the first week of July 2000, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully, and feloniously draw and issue to the complainant, AURELIO TAPANG of Tapang Realty Company, a Land Bank, Dau Branch Check, bearing Check No. 0048902 post-dated/dated September 5, 2000 in the amount of ₱300,000.00, well-knowing that she has no sufficient funds in the bank, which check when presented for payment was dishonored for reason of "DRAWN AGAINST INSUFFICIENT FUNDS," and demands notwithstanding for more than five (5) days from notice of dishonor, the accused failed and refused, and still fails and refuses to redeem the said check, to the damage and prejudice of said complainant, AURELIO TAPANG, in the afore-mentioned amount of THREE HUNDRED THOUSAND PESOS (₱300,000.00), Philippine Currency.

ALL CONTRARY TO LAW.



## CRIMINAL CASE NO. 01-779

That sometime in the first week of July 2000, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully, and feloniously draw and issue to the complainant, AURELIO TAPANG of Tapang Realty Company, a Land Bank, Dau Branch Check, bearing Check No. 0048903 post-dated/dated August 5, 2000 in the amount of ₱300,000.00, well-knowing that she has no sufficient funds in the bank, which check when presented for payment was dishonored for reason of "DRAWN AGAINST INSUFFICIENT FUNDS," and demands notwithstanding for more than five (5) days from notice of dishonor, the accused failed and refused, and still fails and refuses to redeem the said check, to the damage and prejudice of said complainant, AURELIO TAPANG, in the afore-mentioned amount of THREE HUNDRED THOUSAND PESOS (₱300,000.00), Philippine Currency.

ALL CONTRARY TO LAW.

## CRIMINAL CASE NO. 01-780

That sometime in the first week of July 2000, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused did then and there willfully, unlawfully, and feloniously draw and issue to the complainant, AURELIO TAPANG of Tapang Realty Company, a Land Bank, Dau Branch Check, bearing Check No. 0048906 post-dated/dated November 5, 2000 in the amount of ₱363,460.00, well-knowing that she has no sufficient funds in the bank, which check when presented for payment was dishonored for reason of "DRAWN AGAINST INSUFFICIENT FUNDS," and demands notwithstanding for more than five (5) days from notice of dishonor, the accused failed and refused, and still fails and refuses to redeem the said check, to the damage and prejudice of said complainant, AURELIO TAPANG, in the afore-mentioned amount of THREE HUNDRED-SIXTY THREE THOUSAND FOUR HUNDRED SIXTY PESOS (₱363,460.00), Philippine Currency.

ALL CONTRARY TO LAW.

After trial on the merits, the MTCC,<sup>2</sup> on January 7, 2008, found the petitioner guilty beyond reasonable doubt of the offense charged and sentenced her to the following:

WHEREFORE, in view of the foregoing facts and circumstances, accused Elizabeth Albuero is hereby adjudged GUILTY beyond reasonable doubt [of] violation of Batas Pambansa Bilang 22 and she is, hereby, sentenced to suffer penalty as follows:

a. Criminal Case No. 01-777 – one year imprisonment and to pay the amount of Three hundred thousand pesos (₱300,000.00) Philippine currency face value of the check, as civil indemnity plus legal interest of six percent (6%) per annum from the filing of the information on May 25, 2001 until the finality of herein decision. Then after the judgment becomes

<sup>2</sup> Penned by Presiding Judge Katrina Nora S. Buan-Factora; *rollo*, pp. 56-62.

final and executory until the obligation is satisfied the amount due shall earn an interest of 12% per year;

b. Criminal Case No. 01-778 – one year imprisonment and to pay the amount of Three hundred thousand pesos (₱300,000.00) Philippine currency face value of the check, as civil indemnity plus legal interest of six percent (6%) per annum from the filing of the information on May 25, 2001 until the finality of herein decision. Then after the judgment becomes final and executory until the obligation is satisfied the amount due shall earn an interest of 12% per year,

c. Criminal Case No. 01-779 – one year imprisonment and to pay the amount of Three hundred thousand pesos (₱300,000.00) Philippine currency face value of the check, as civil indemnity plus legal interest of six percent (6%) per annum from the filing of the information on May 25, 2001 until the finality of herein decision. Then after the judgment becomes final and executory until the obligation is satisfied the amount due shall earn an interest of 12% per year, and

d. Criminal Case No. 01-780 – one year imprisonment and to pay the amount of Three hundred sixty-three thousand four hundred sixty pesos (₱363,460.00) Philippine currency face value of the check, as civil indemnity plus legal interest of six percent (6%) per annum from the filing of the information on May 25, 2001 until the finality of herein decision. Then after the judgment becomes final and executory until the obligation is satisfied the amount due shall earn an interest of 12% per year;

Finally, accused Elizabeth is ordered to pay Sixty thousand pesos (₱60,000.00) as reasonable attorney's fees and cost of the suit amounting to ₱19,056.00.

SO ORDERED.<sup>3</sup>

On appeal, the RTC affirmed the MTCC, the dispositive portion of its Resolution<sup>4</sup> reading as follows:

WHEREFORE, finding no justifiable reason to warrant the reversal of the assailed Decision dated January 7, 2008 of the Municipal Trial Court in Cities, Branch II, Angeles City, the same is hereby AFFIRMED IN TOTO. Consequently, the appeal is hereby dismissed.

Costs against accused/appellant.

Upon finality of this Resolution, let the entire original records of these cases be remanded to its court of origin for its disposition.

SO ORDERED.<sup>5</sup>



<sup>3</sup> *Id.* at 62. (Emphases omitted)

<sup>4</sup> Penned by Presiding Judge Philbert I. Iturralbe; *id.* at 51-55.

<sup>5</sup> *Rollo*, p. 55. (Emphasis omitted)

Petitioner filed a petition for review with the CA that was dismissed by the latter in its Resolution dated October 26, 2010. The said Resolution reads, in part, as follows:

This Court resolves to dismiss the petition in view of the following infirmities:

1. There is no allegation of material dates as to when the questioned Order dated March 5, 2009 was received and the motion for reconsideration was filed;
2. The Office of the Solicitor General was not furnished [a] copy of the petition;
3. There are no copies of pleadings attached; and
4. The case is erroneously captioned "People of the Philippines, Respondent vs. Elizabeth Alburo, Accused-Petitioner."

SO ORDERED.<sup>6</sup>

Petitioner's motion for reconsideration was denied in the CA's Resolution<sup>7</sup> dated March 24, 2011; hence, the present petition.

On June 13, 2011, this Court's Second Division resolved<sup>8</sup> to deny the petition for failure of the petitioner to sufficiently show any reversible error in the assailed Resolutions to warrant the exercise of this Court's discretionary appellate jurisdiction in this case, and to strictly comply with the requirements specified under Rule 45 and other related provisions of the 1997 Rules of Civil Procedure, as the petition lacks a valid affidavit of service in accordance with Sections 3 and 5, Rule 45 and Section 5 (d), Rule 56, in relation to Section 13, Rule 13 of the 1997 Rules of Civil Procedure, as amended, there being no properly accomplished *jurat* showing that the affiant exhibited before the notary public at least one current identification document issued by an official agency bearing the photograph and signature of the affiant as required under Sections 6 and 12, Rule II of the 2004 Rules on Notarial Practice, as amended by Court En Banc Resolution dated February 19, 2008 in A.M. No. 02-8-13-SC.

This case was then transferred to the Third Division on July 4, 2011.<sup>9</sup>

Petitioner filed her Motion for Reconsideration<sup>10</sup> dated August 17, 2011 arguing that she would be denied due process to appeal her conviction by the lower court based merely on technicality.

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<sup>6</sup> *Id.* at 33.

<sup>7</sup> *Id.* at 34-35.

<sup>8</sup> *Id.* at 257-258.

<sup>9</sup> *Id.* at 259.

<sup>10</sup> *Id.* at 260-270.

On September 14, 2011, this Court required the Office of the Solicitor General (OSG) to file its Comment on the Motion for Reconsideration. Eventually, the OSG filed its Comment<sup>11</sup> dated December 2, 2011. Petitioner, likewise filed her Reply to Comment<sup>12</sup> dated January 9, 2012.

This Court, in its Resolution<sup>13</sup> dated February 1, 2012, granted petitioner's Motion for Reconsideration dated August 17, 2011 and reinstated the petition. It also ordered the OSG to file its comment on the petition. In time, the OSG filed its Comment<sup>14</sup> dated May 21, 2012. Thereafter, petitioner filed her Reply<sup>15</sup> dated October 22, 2012.

The issues submitted for this Court's consideration are the following:

I.

THE HONORABLE COURT OF APPEALS ERRED IN OUTRIGHTLY DENYING THE PETITIONER'S AMENDED PETITION FOR REVIEW FOR STILL NOT BEARING COPIES OF THE PLEADINGS FILED BELOW DESPITE ATTACHMENT OF THE REQUIRED DOCUMENTS UNDER THE LAW, THEREBY SACRIFICING SUBSTANTIAL JUSTICE.

II.

THE HONORABLE COURT OF APPEALS LIKEWISE GRAVELY ERRED IN DENYING PETITIONER'S MOTION FOR RECONSIDERATION WITH MOTION FOR LEAVE TO ADMIT ATTACHED AMENDED PETITION FOR REVIEW SINCE ITS DENIAL WOULD RESULT TO DENIAL OF RIGHT TO SUBSTANTIAL JUSTICE.

III.

THE HONORABLE COURT OF APPEALS ERRED IN NOT CONSIDERING THE MERITORIOUS GROUND RAISED BY THE PETITIONER IN HER AMENDED PETITION FOR REVIEW.

In substance, petitioner argues that the prosecution failed to prove: (1) the second element of the crime charged; (2) she had knowledge when she issued the subject checks; and (3) she does not have sufficient funds for payment thereof. She adds that the only evidence presented is a demand letter which was allegedly sent to petitioner through registered mail and received by petitioner's housemaid.

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<sup>11</sup> *Id.* at 287-299.

<sup>12</sup> *Id.* at 302-304.

<sup>13</sup> *Id.* at 305-306. On February 17, 2016, this Court in a Resolution denied the same motion, however, this Court recalled the latter resolution, and herein proceeded with the resolution of the petition for review.

<sup>14</sup> *Rollo*, pp. 330-344.

<sup>15</sup> *Id.* at 352-364.

Petitioner further insists that the demand letter is defective since Aurelio Tapang has no authority to collect the balance of the subject property. She also claims that nowhere in the alleged registry return receipt of the demand letter does it indicate that the signature appearing thereon is that of petitioner.

Petitioner also asserts that she never received any notice of dishonor and that the lower courts merely relied on the testimony made by Jerry S. Bognot, the representative of Landbank, who testified that for each of the unfunded checks, she was given notices of dishonor.

The OSG, on the other hand, points out that only questions of law can be raised in a petition for review on *certiorari* under Rule 45 and that the issues on whether petitioner has knowledge that she does not have sufficient funds when she issued the subject checks and whether there was proper service upon petitioner of the notice of dishonor are questions of fact.

The petition has merit.

Under Rule 45, Section 1 of the Rules of Court, only questions of law may be raised in a petition for review on *certiorari*:

Section 1. Filing of petition with Supreme Court. — A party desiring to appeal by *certiorari* from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on *certiorari*. The petition may include an application for a writ of preliminary injunction or other provisional remedies and shall raise only questions of law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency.

As an exception to the rule, questions of fact may be raised in a Rule 45 petition if any of the following is present:

(1) when there is grave abuse of discretion; (2) when the findings are grounded on speculations; (3) when the inference made is manifestly mistaken; (4) when the judgment of the Court of Appeals is based on a misapprehension of facts; (5) when the factual findings are conflicting; (6) when the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of the parties; (7) when the Court of Appeals overlooked undisputed facts which, if properly considered, would justify a different conclusion; (8) when the findings of the Court of Appeals are contrary to those of the trial court; (9) when the facts set forth



by the petitioner are not disputed by the respondent; and (10) when the findings of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.<sup>16</sup>

A question of fact exists "when the doubt or difference arises as to the truth or the falsehood of alleged facts."<sup>17</sup> On the other hand, a question of law exists "when the doubt or difference arises as to what the law is on a certain state of facts."<sup>18</sup>

It is true that petitioner raises a question of fact in the present petition by insisting that she has no knowledge that she does not have sufficient funds when she issued the checks and that there was no proper service upon her of the notice of dishonor, however, this Court still deems it proper to consider the said issue because the MTCC and the RTC misapprehended the facts.

For violation of Batas Pambansa Blg. 22, the prosecution must prove the following essential elements, namely:

- (1) The making, drawing, and issuance of any check to apply for account or for value;
- (2) The knowledge of the maker, drawer, or issuer that at the time of issue there were no sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment; and
- (3) The dishonor of the check by the drawee bank for insufficiency of funds or credit or the dishonor for the same reason had not the drawer, without any valid cause, ordered the drawee bank to stop payment.<sup>19</sup>

There is no dispute that the first and the third elements are present in this case. It was proven that petitioner issued the subject Landbank checks in favor of Aurelio Tapang as payment for the balance of the purchase of the house and lot owned by Elsa Alburo-Walter and when presented for payment, the same checks were dishonored for the reason of being drawn against insufficient funds.

The remaining issue is whether or not the second element is present. To establish the existence of the second element, the State should present the giving of a written notice of the dishonor to the drawer, maker or issuer of

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<sup>16</sup> *Pagsibigan v. People, et al.*, 606 Phil. 233, 241-242 (2009) [Per J. Carpio, First Division]. See *Medina v. Asistio, Jr.*, G.R. No. 75450, November 8, 1990, 191 SCRA 218, 223 [Per J. Bidin, Third Division] where this court enumerated for the first time the instances when the findings of fact by the trial courts and the Court of Appeals were passed upon and reviewed in a Rule 45 Petition.

<sup>17</sup> *Benito v. People*, G.R. No. 204644, February 11, 2015, 750 SCRA 450, 460, citing *Sesbreno v. Honorable Court of Appeals*, 310 Phil. 671, 679 (1995) [Per J. Quason, First Division], *Bernardo v. Court of Appeals*, G.R. No. 101680, December 7, 1992, 216 SCRA 224, 232 (1992) [Per J. Campos, Jr., Second Division].

<sup>18</sup> *Id.*

<sup>19</sup> *Ting v. Court of Appeals*, 398 Phil. 481, 458 (2000).



the dishonored check. The rationale for this requirement is rendered in *Dico v. Court of Appeals*,<sup>20</sup> to wit:

To hold a person liable under B.P. Blg. 22, the prosecution must not only establish that a check was issued and that the same was subsequently dishonored, it must further be shown that accused knew at the time of the issuance of the check that he did not have sufficient funds or credit with the drawee bank for the payment of such check in full upon its presentment.

This knowledge of insufficiency of funds or credit at the time of the issuance of the check is the second element of the offense. Inasmuch as this element involves a state of mind of the person making, drawing or issuing the check which is difficult to prove, Section 2 of B.P. Blg. 22 creates a *prima facie* presumption of such knowledge. Said section reads:

SEC. 2. *Evidence of knowledge of insufficient funds.* — The making, drawing and issuance of a check payment of which is refused by the drawee because of insufficient funds in or credit with such bank, when presented within ninety (90) days from the date of the check, shall be prima facie evidence of knowledge of such insufficiency of funds or credit unless such maker or drawer pays the holder thereof the amount due thereon, or makes arrangements for payment in full by the drawee of such check within five (5) banking days after receiving notice that such check has not been paid by the drawee.

For this presumption to arise, the prosecution must prove the following: (a) the check is presented within ninety (90) days from the date of the check; (b) the drawer or maker of the check receives notice that such check has not been paid by the drawee; and (c) the drawer or maker of the check fails to pay the holder of the check the amount due thereon, or make arrangements for payment in full within five (5) banking days after receiving notice that such check has not been paid by the drawee. In other words, the presumption is brought into existence only after it is proved that the issuer had received a notice of dishonor and that within five days from receipt thereof, he failed to pay the amount of the check or to make arrangements for its payment. The presumption or *prima facie* evidence as provided in this section cannot arise, if such notice of nonpayment by the drawee bank is not sent to the maker or drawer, or if there is no proof as to when such notice was received by the drawer, since there would simply be no way of reckoning the crucial 5-day period.

A notice of dishonor received by the maker or drawer of the check is thus indispensable before a conviction can ensue. The notice of dishonor may be sent by the offended party or the drawee bank. The notice must be in writing. A mere oral notice to pay a dishonored check will not suffice. The lack of a written notice is fatal for the prosecution.<sup>21</sup>

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<sup>20</sup> 492 Phil. 534 (2005).

<sup>21</sup> *Dico v. Court of Appeals*, *supra*, at 547-548. (Citations omitted)

The MTCC, as affirmed by the RTC, found the existence of the second element. The RTC ruled:

Accused also claims that the prosecution failed to prove that she received the demand letter (Exhibit B) sent to her, while the prosecution offered in evidence the Registry Receipt No. 3363 dated February 19, 2001 (Exhibit B-2) for the said letter and the Registry Return Card (Exhibit B-3) showing that the letter was received and signed for by a Jennifer Mendoza, who identified herself as a housemaid of the accused. Moreover, the representative of the Landbank, Dau, Mabalacat, Pampanga Branch testified that for each of the unfunded checks issued in these cases, they were given notices of dishonor (Exhibits P, P-1, P-2 and P-3).<sup>22</sup>

A close reading of the above findings, however, would show that the RTC failed to mention that petitioner received any notice of dishonor and simply stated that a representative of Landbank, Dau, Mabalacat, Pampanga Branch testified that notices of dishonor were issued. It is necessary in cases for violation of *Batas Pambansa Blg. 22*, that the prosecution prove that the issuer had received a notice of dishonor.<sup>23</sup> It is a general rule that when service of notice is an issue, the person alleging that the notice was served must prove the fact of service.<sup>24</sup> The burden of proving notice rests upon the party asserting its existence.<sup>25</sup>

Now, ordinarily, preponderance of evidence is sufficient to prove notice. In criminal cases, however, the quantum of proof required is proof beyond reasonable doubt. Hence, for B.P. 22 cases, there should be clear proof of notice. Moreover, it is a general rule that, when service of a notice is sought to be made by mail, it should appear that the conditions on which the validity of such service depends had existed, otherwise the evidence is insufficient to establish the fact of service.<sup>26</sup>

A perusal of the records of the case, likewise shows the absence of any indication that petitioner received the notices of dishonor allegedly sent by Landbank. The absence of proof that petitioner received any notice informing her of the fact that her checks were dishonored and giving her five banking days within which to make arrangements for payment of the said checks prevents the application of the disputable presumption that she had knowledge of the insufficiency of her funds at the time she issued the checks.<sup>27</sup> Absent such presumption, the burden shifts to the prosecution to prove that petitioner had knowledge of the insufficiency of her funds when

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<sup>22</sup> Rollo, p. 54.

<sup>23</sup> *Resterio v. People*, 695 Phil. 693, 707 (2012), citing *Ting v. Court of Appeals*, *supra* note 19, at 492-493.

<sup>24</sup> *Id.* (Citation omitted)

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

<sup>27</sup> *Caras v. Court of Appeals*, 418 Phil. 655, 667 (2001).

she issued the said checks, otherwise, she cannot be held liable under the law.<sup>28</sup>

The giving of the written notice of dishonor does not only supply proof for the second element arising from the presumption of knowledge the law puts up, but also affords the offender due process.<sup>29</sup> The law thereby allows the offender to avoid prosecution if she pays the holder of the check the amount due thereon, or makes arrangements for the payment in full of the check by the drawee within five banking days from receipt of the written notice that the check had not been paid.<sup>30</sup> Thus, the absence of a notice of dishonor is a deprivation of petitioner's statutory right.

Anent the demand letter sent through registered mail, the same was not proven beyond reasonable doubt that petitioner received the same. Although the Registry Return Card shows that the letter was received and signed for by a Jennifer Mendoza who identified herself as a househelper of petitioner, it was not proven that the same person is a duly authorized agent of the addressee or the petitioner. For notice by mail, it must appear that the same was served on the addressee or a duly authorized agent of the addressee.<sup>31</sup> To establish beyond reasonable doubt that the issuer of the check indeed received the demand letter is highly important because it creates the presumption that the same issuer knew of the insufficiency of the funds. It is [also] essential for the maker or drawer to be notified of the dishonor of her check, so she could pay the value thereof or make arrangements for its payment within the period prescribed by law.<sup>32</sup> To assume that because the Registry Receipt Card appears to have the signature of a person other than the addressee and that same person had given the letter to the addressee, is utterly erroneous and is not proof beyond reasonable doubt as required in criminal cases.

Thus, there being no clear showing that petitioner actually knew of the dishonor of her checks, this Court cannot with moral certainty convict her of violation of B.P. 22. The failure of the prosecution to prove that petitioner was given the requisite notice of dishonor is a clear ground for her acquittal.<sup>33</sup>

Having ruled on the substantial issues raised, there is no longer a need to discuss the other issues that delve on the technicalities of the case because they can be passed upon in the interest of justice. Cases should be determined on the merits after full opportunity to all parties for ventilation of their causes and defenses, rather than on technicality or some procedural

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<sup>28</sup> *Idos vs. Court of Appeals*, 357 Phil. 198, 214 (1998).

<sup>29</sup> *Resterio v. People*, *supra* note 23, at 705.

<sup>30</sup> *Idos v. Court of Appeals*, note 28, at 207.

<sup>31</sup> *Resterio v. People*, *supra* note 23, at 708.

<sup>32</sup> *Caras v. Court of Appeals*, *supra* note 27, at 666.

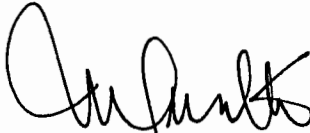
<sup>33</sup> See *King v. People*, 377 Phil. 692, 710 (1999).

imperfections.<sup>34</sup> In that way, the ends of justice would be served better.<sup>35</sup> Necessarily, the need to remand the case to the CA, as prayed for by the petitioner, no longer arises.

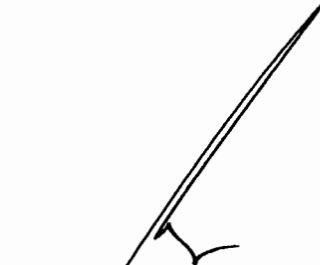
This decision, however, does not prejudice the civil obligations, if any, that petitioner might have incurred by reason of her transaction with private complainant. And while no criminal liability could be imposed in this case for lack of sufficient proof of the offense charged, a fair distinction should be made as to the civil aspects of the transaction between the parties.<sup>36</sup>

**WHEREFORE**, the Petition for Review on *Certiorari* under Rule 45 of the 1997 Rules of Civil Procedure, dated May 16, 2011, of petitioner Elizabeth Alburo is **GRANTED**; hence, the Resolutions dated October 26, 2010 and March 24, 2011 of the Court of Appeals are **SET ASIDE**. Consequently, the Decision dated January 7, 2008 of the Municipal Trial Court in Cities, Branch 2, Angeles City and the Resolution dated March 5, 2009 of the Regional Trial Court, Branch 58, Angeles City, convicting the petitioner of four (4) counts of violation of *Batas Pambansa Bilang 22*, are **REVERSED** and **SET ASIDE**. Petitioner Elizabeth Alburo is, therefore, **ACQUITTED**.


**SO ORDERED.**

  
**DIOSDADO M. PERALTA**  
Associate Justice

**WE CONCUR:**

  
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson

  
**JOSE PORTUGAL PEREZ**  
Associate Justice

  
**BIENVENIDO L. REYES**  
Associate Justice

<sup>34</sup> *Garcia v. Philippine Airlines, Inc.*, 498 Phil. 808, 821 (2005).


<sup>35</sup> *Id.*

<sup>36</sup> *Caras v. Court of Appeals*, *supra* note 27, at 668.

  
**MARVIC M. V. LEONEN**  
 Associate Justice


**ATTESTATION**

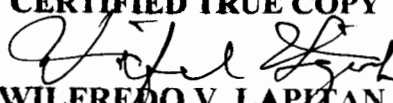
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

  
**PRESBITERO J. VELASCO, JR.**  
 Associate Justice  
 Chairperson, Third Division

**CERTIFICATION**

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

**CERTIFIED TRUE COPY**  
  
**WILFREDO V. LAPITAN**  
 Division Clerk of Court  
 Third Division

SEP 07 2016