

Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ROSARIO M. APACIBLE,
Petitioner,

G.R. No. 233181

Present:

- versus -

LEONEN, J., *Chairperson*,
LAZARO-JAVIER,
INTING,*
LOPEZ, J., and
KHO, JR., *JJ.*

PEOPLE OF THE PHILIPPINES and
SAN MIGUEL CORPORATION,
represented by Attorney-in-Fact
LEON B. LIZA, JR.,

Respondents.

Promulgated:

AUG 22 2022

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DECISION

LOPEZ, J., J.:

Owing to the nature of Batas Pambansa Bilang 22 (*B.P. 22*) cases – where the civil action is deemed instituted in the criminal action and the reservation to file such civil action separately is no longer allowed – payment of docket fees is required upon the filing of the complaint. Generally, the payment of docket fees is essential for a court to acquire jurisdiction over a case. Yet, the peculiar circumstances here – the petitioner’s active participation in the lower court and her failure to raise the issue for over eleven years, among others – makes it clear that she has already been barred by laches to assail this Court’s jurisdiction.

* Designated additional member in lieu of Associate Justice Mario V. Lopez, per Raffle dated October 27, 2021.

This resolves the Petition for Review on *Certiorari*¹ under Rule 45 of the Revised Rules of Court seeking the reversal of the Decision² of the Court of Appeals (CA) dated November 23, 2016 and its Resolution³ dated July 6, 2017 in CA-G.R. SP No. 141630. The Decision of the CA dismissed the petition for review under Rule 42 filed by herein petitioner Rosario M. Apacible (*Apacible*) and affirmed with modifications the Decision⁴ dated June 9, 2015 rendered by the Regional Trial Court (*RTC*) of Calamba City, Laguna, Branch 36, which affirmed the Decision⁵ dated April 8, 2014 rendered by the Municipal Trial Court in Cities (*MTCC*), City of Calamba, Laguna. In the aforesaid Decision, the MTCC found Rosario M. Apacible liable to pay private respondent San Miguel Corporation (*SMC*) the following amounts, plus interest:

1. In Criminal Case No. 40657-03, ₱500,000.00;
2. In Criminal Case No. 40658-03, ₱500,000.00;
3. In Criminal Case No. 40659-03, ₱500,000.00; and
4. In Criminal Case No. 40660-03, ₱500,000.00.

Facts and Antecedent Proceedings

Sometime in 1999, Apacible and SMC entered into a dealership agreement, where SMC authorized Apacible to deliver San Miguel products in Nasugbu, Batangas and other outlying municipalities.⁶ Eventually, the management decided to terminate Apacible's contract because she became delinquent in paying her obligations.⁷ Thus, Apacible executed an Undertaking dated December 16, 1999, acknowledging her indebtedness to SMC in the amount of ₱3,957,173.60, representing the unpaid balance of returned checks.⁸ As payment of her outstanding obligation, Apacible issued eight Bank of the Philippine Islands (*BPI*) post-dated checks, four of which are the subject of the present Informations:⁹

Date	Check No.	Amount
Dec. 31, 1999	0000004535	₱500,000.00
Jan. 31, 2000	0000004538	₱500,000.00
Feb. 29, 2000	0000004537	₱500,000.00
Mar. 31, 2000	0000004539	₱500,000.00

¹ *Rollo*, pp. 8-23.

² Penned by Associate Justice Rosmari D. Carandang (retired member of this Court), with Associate Justices Mario V. Lopez (now a member of this Court) and Myra V. Garcia-Fernandez, concurring; *id.* at 26-32.

³ *Id.* at 39-40.

⁴ Penned by Acting Presiding Judge Louis P. Acosta, *CA rollo*, pp. 937-941.

⁵ Penned by Presiding Judge Leah Angeli B. Vasquez-Abad, *rollo*, pp. 60-63.

⁶ *Rollo*, p. 10.

⁷ TSN, June 22, 2009, records, vol. 2, p. 571.

⁸ Records, Vol. 2, p. 481.

⁹ *Id.* at 477.

When management deposited the foregoing checks upon maturity, they were dishonored due to insufficiency of funds and account closed.¹⁰ Notwithstanding several demand letters dated January 24, 2000,¹¹ May 5, 2000,¹² and November 15, 2000¹³ – notifying Apacible that her checks were dishonored and demanding her to make good the amount of the checks – Apacible failed to satisfy her outstanding obligations.¹⁴

SMC filed a complaint-affidavit with the Prosecutor's Office against Apacible.¹⁵ In four Informations filed on July 31, 2003 with the MTCC, the prosecutor charged Apacible with four counts of violation of B.P. 22 in connection with the above-mentioned checks.¹⁶

Apacible filed a Demurrer to Evidence¹⁷ on November 4, 2011, which the MTCC granted in an Order¹⁸ dated February 21, 2012. The MTCC reasoned that the prosecution failed to present sufficient evidence to support Apacible's conviction for the offense of violation of B.P. 22. It noted that the prosecution failed to show that Apacible received a notice of dishonor, while the prosecution presented three demand letters, the prosecution failed to prove that Apacible received these letters. As for the first letter dated January 24, 2000, it showed a signature that allegedly belonged to Apacible, but the prosecution did not present the testimony of the person who personally served the letter to her. The second letter dated May 5, 2000, on the other hand, showed that a certain Orestes N. Sison received the letter. The prosecution, however, failed to show that Mr. Sison duly notified Apacible of the dishonor. Finally, SMC sent the third letter dated November 15, 2000 by registered mail. Although a signature appeared on the registry return card attached to the demand letter, the prosecution did not attempt to authenticate or identify the said signature.

While the MTCC acquitted Apacible based on insufficiency of the prosecution's evidence to prove her guilt beyond reasonable doubt, it ruled that the case must continue to determine her civil liability. Thus, it set the initial presentation of defense evidence on the civil aspect of the case on May 28, 2012.

¹⁰ TSN, June 22, 2009, *id.* at 575.

¹¹ Records, Vol. 2, p. 486.

¹² *Id.* at 487.

¹³ *Id.* at 489.

¹⁴ TSN, March 2, 2010, *id.* at 575.

¹⁵ Records, Vol. 2, pp. 477-478.

¹⁶ *Id.* at 1, 73, 76, 77.

¹⁷ *Id.* at 513-523.

¹⁸ *Id.* at 561-565.

Apacible filed a Partial Motion for Reconsideration¹⁹ of the MTCC's Order dated February 21, 2012, arguing that the ₱2,000,000.00 being claimed by SMC is beyond the jurisdictional amount cognizable by the MTCC.²⁰ She contended that since the criminal aspect of this case was dismissed, the civil aspect thereof became a principal claim that should be threshed out before the court having jurisdiction over the said amount.²¹ Should the MTCC proceed to hear the civil aspect of the case, she asserted that her right to procedural and substantive due process would be violated since the MTCC had no jurisdiction over the subject matter of the case.²²

In an Order²³ dated June 15, 2012, the MTCC denied Apacible's Partial Motion for Reconsideration. It ruled that upon the filing of the B.P. 22 cases against Apacible, the corresponding civil action to collect the amount of the checks had been deemed instituted with the criminal action.

Instead of presenting her evidence as required by the MTCC, Apacible filed numerous other pleadings: (1) Omnibus Motion A-For Clarification and B-To Suspend Proceedings²⁴ dated September 11, 2012, which the MTCC denied in an Order²⁵ dated October 8, 2012; (2) Motion for Reconsideration with Motion to Re-Set,²⁶ which the MTCC denied in an Order²⁷ dated January 9, 2013; and (3) Second Motion with Leave of Court for Partial Reconsideration,²⁸ which the MTCC denied in an Order²⁹ dated July 16, 2013. The MTCC noted that in these motions, Apacible questioned the jurisdiction of the court to proceed with the civil aspect of the case, an issue that it had repeatedly passed upon and resolved. Thus, the MTCC cautioned Apacible not to obstinately reiterate the said issue as it would only prolong the proceedings of the case.

In its Order³⁰ dated July 16, 2013, the MTCC, obviously worn out by Apacible's propensity to file different pleadings, took the occasion to enumerate the various pleadings she filed that allowed the case to drag on from the day the Informations were filed in court on July 31, 2003 until 2013. Thus:

Finally, the Court notes that this is not the last time the accused filed numerous pleadings asking for postponements and questioning the

¹⁹ *Id.* at 639-643.
²⁰ *Id.* at 669.
²¹ *Id.*
²² *Id.*
²³ *Id.* at 669-671.
²⁴ *Id.* at 672-674.
²⁵ *Id.* at 687-688.
²⁶ *Id.* at 696-700.
²⁷ *Id.* at 718-719.
²⁸ *Id.* at 728-732.
²⁹ *Id.* at 741-745.
³⁰ *Id.*

jurisdiction of this Court. These cases were filed on July 31, 2003 but the accused was arraigned only on September 10, 2007 because of the several postponements filed by the accused. A careful perusal of the records would show that the accused and his counsel filed the following postponements and motions, to wit:

1. Motion for Postponement filed on January 26, 2004;
2. Motion to Quash Information and Omnibus Motion to Serve Notice to Accused to Her Counsel's Office Address, and to Postpone the Arraignment filed on March 1, 2004;
3. Urgent Omnibus Motion (For Reconsideration of the Order dated 31 March 2004 and to Cancel Arraignment set on April 2004);
4. Motion for Postponement filed on May 28, 2004;
5. Motion for Postponement of Arraignment filed on August 2, 2004;
6. Motion for Postponement filed on March 28, 2005;
7. Motion for Postponement filed on November 15, 2005;
8. Motion for Postponement filed on January 4, 2007;
9. Motion for Postponement filed on March 2, 2007;
10. Motion to Postpone and/or Suspend Proceedings;
11. Urgent Motion for Extension filed on April 25, 2011;
12. Very Urgent Motion to Reset Hearing filed on November 14, 2011;

On November 4, 2011, the accused filed her Demurrer to Evidence which was granted by this Court on February 21, 2012, thus, the criminal aspect of these cases was dismissed but the Court finds (sic) the accused civilly liable. Thus, the hearing of defense evidence on civil aspect of these cases was thereafter set.

Subsequently, the accused filed the following pleadings:

1. Partial Motion for Reconsideration (on the Order dated 21 February 2012) filed on March 30, 2012;
2. Omnibus Motion Proceedings (A-For Clarification and B-To [S]uspend Proceeding)
3. Motion for reconsideration with Motion to Re-Set filed on November 19, 2012;
4. Urgent Motion to Postpone filed on March 4, 2013; and
5. The present motion;

xxx. While the accused has the right to file the foregoing motions, the said right must not be abused. To the mind of this Court, some[,] if not all[,] of the foregoing motions were just filed by the accused to delay the proceedings of this Court. The perpetual dilatory tactics employed by a litigant makes a blatant mockery of justice.

x x x³¹

The MTCC closed with the admonition that it shall no longer entertain dilatory tactics from Apacible. During the 5th setting of the initial presentation of the defense's evidence on March 17, 2014, the MTCC deemed the case

³¹ *Id.* at 743-744. (Emphasis omitted)

submitted for decision for failure of Apacible to submit her judicial affidavit as directed by the MTCC per Order dated April 29, 2013.³²

On April 8, 2014, the MTCC rendered its Decision,³³ which found Apacible civilly liable to SMC, considering that the prosecution was able to establish the existence of Apacible's loan obligation to SMC. Apacible made an Undertaking where she acknowledged her indebtedness with SMC in the total amount of ₱3,957,173.60. As payment for the said indebtedness, she issued the subject checks – BPI Check Nos. 0000004535, 0000004538, 0000004537, and 0000004539. When these checks were presented for payment, they were dishonored for the reasons “Account Closed” and “DAIF.” The MTCC ruled that the entries in the checks proved a loan transaction and that the checks themselves are evidence of a debt against the drawer. It ordered Apacible to pay the value of each check, with 12% interest *per annum* from July 31, 2003 until fully satisfied.

Apacible filed a Motion for Reconsideration³⁴ dated April 23, 2014, reiterating that the MTCC lacked jurisdiction over the civil aspect of the case. She insisted that the ₱2,000,000.00 being claimed by SMC was beyond the jurisdictional amount cognizable by the MTCC, among others. The MTCC denied the motion in an Order³⁵ dated June 30, 2014.

Aggrieved, Apacible filed a Notice of Appeal.³⁶

In her Appeal Memorandum³⁷ dated October 5, 2014, Apacible once again raised the MTCC's lack of jurisdiction over the civil aspect of the case. In a Supplemental Appeal Memorandum³⁸ filed on December 9, 2014, she raised – for the first time – that the MTCC failed to acquire jurisdiction over the case for SMC's failure to pay the docket fees over the face value of the four checks subject of the Informations.

In a Decision³⁹ dated June 9, 2015, the RTC affirmed the MTCC's ruling. At the outset, it found that SMC cannot be held responsible for the nonpayment of docket fees. The records show that the notice for payment of filing fees was sent by the MTCC's Clerk of Court to SMC through its representative, Leon Liza, Jr. But as evidenced by Registry Receipt No. 0239A, mailed on July 2, 2003, there was no return of the said notice mailed to SMC. Citing *Calibre Traders, Inc. et al. v. Bayer Philippines, Inc.*,⁴⁰ the RTC declared that it was the responsibility of the clerk of court or their duly

³² *Id.* at 761-762.

³³ *Id.* at 768-771.

³⁴ *Id.* at 824-828.

³⁵ *Id.* at 839-840.

³⁶ *Id.* at 855-856.

³⁷ *Id.* at 871-882.

³⁸ *Id.* at 888-893.

³⁹ *Id.* at 937-941.

⁴⁰ 647 Phil. 350 (2010).

authorized deputy, to enforce said lien, and assess and collect the additional fee. Since SMC signified its willingness to pay the docket fees anytime, the RTC recognized this manifestation to remove any doubt regarding SMC's clear intention to pay the docket fees. Thus, the RTC agreed with SMC that the payment of the docket fees shall constitute a first lien on the judgment.⁴¹

Concerning the merits of the case, the RTC found no error in law and in fact that warranted a reversal of the MTCC's decision.

Apacible filed a Motion for Reconsideration,⁴² which the RTC denied in an Order⁴³ dated July 7, 2015. Subsequently, Apacible elevated the RTC Decision and Order before the CA.

On November 23, 2016, the CA rendered the assailed Decision, which affirmed the RTC Decision, the dispositive portion of which reads as follows:

WHEREFORE, the Decision dated June 9, 2015 Decision (*sic*) rendered by the Regional Trial Court, Branch 36 of Calamba City, Laguna in Criminal Case Nos. 23106-2014-C, 23107-2014-C, 23108-2014-C and 23109-2014-C is **AFFIRMED WITH MODIFICATION**, ordering petitioner Apacible to pay the private complainant SMC the following:

1. In Criminal Case No. 40657-03, the amount of P500,000.00 with 6% interest per annum from July 31, 2003 until fully satisfied;
2. In Criminal Case No. 40658-03, the amount of P500,000.00 with 6% interest per annum from July 31, 2003 until fully satisfied;
3. In Criminal Case No. 40659-03, the amount of P500,000.00 with 6% interest per annum from July 31, 2003 until fully satisfied; and
4. In Criminal Case No. 40660-03, the amount of P500,000.00 with 6% interest per annum from July 31, 2003 until fully satisfied.

SO ORDERED.⁴⁴

On the issue of docket fees, the CA noted that Apacible failed to raise the issue during the proceedings before the MTCC. Thereafter, it held that the RTC did not err in creating a lien for the docket fees against the civil liability incurred by Apacible in issuing the bouncing checks. The CA also sided with the RTC that it was the clerk of court's duty to assess and collect

⁴¹ *Rollo*, p. 940.

⁴² *Records*, pp. 942-950.

⁴³ *Id.* at 951.

⁴⁴ *Rollo*, pp. 26-32.

the corresponding docket fees, implying that this Court has allowed a relaxation of the rules on the nonpayment of docket fees in several instances. It opined that since in bouncing check cases, the civil liability is deemed instituted with the criminal aspect of the case, then this operates to confer jurisdiction on the court to decide the civil aspect of the case. Accordingly, the docket fees can be charged as lien against the monetary award. It would have reached a different conclusion had the case been civil in nature, in which case, the docket fees must be paid first before the court can acquire jurisdiction over the case.

Finally, the CA ruled that the prosecution had proven that the checks were issued for consideration, in payment of Apacible's obligation to SMC, which Apacible admitted. There being no agreement by the parties on the payment of interest, however, the CA modified the interest rate imposed by the lower court from 12% to 6%.

Undaunted, Apacible brought the instant petition for review on *certiorari* under Rule 45. On April 9, 2018, SMC filed its Comment/Opposition.⁴⁵

Issue

Whether the MTCC had acquired jurisdiction over the civil aspect of the case, considering that private respondent has not paid the docket fees.

Ruling

While We do not entirely agree with the reasoning behind the CA's Decision, the exceptional nature of this case warrants the petition's denial.

Docket fees must be paid for the court to acquire jurisdiction over a case.

At the heart of this controversy is the MTCC's jurisdiction – or alleged lack thereof – over the case. Petitioner insists that owing to private respondent's failure to pay the docket fees within the reglementary period, the MTCC never acquired jurisdiction over the civil aspect of the case and that all its proceedings and judgment are null and void. Consequently, petitioner implores this Court to dismiss the case.

Section 1(b), Rule 111 of the Revised Rules of Criminal Procedure⁴⁶ provides that the criminal action for violation of B.P. 22 shall be deemed to

⁴⁵ *Id.* at 137-148.

⁴⁶ Effective December 1, 2000, A.M. No. 00-5-03-SC.

include the corresponding civil action. As a result, the Rules require the offended party to pay in full the filing fees based on the amount of the check involved. Thus:

SECTION 1. *Institution of criminal and civil actions.* –

x x x x

(b) The criminal action for violation of Batas Pambansa Blg. 22 shall be deemed to include the corresponding civil action. No reservation to file such civil action separately shall be allowed.

Upon filing of the aforesaid joint criminal and civil actions, the offended party shall pay in full the filing fees based on the amount of the check involved, which shall be considered as the actual damages claimed. Where the complaint or information also seeks to recover liquidated, moral, nominal, temperate or exemplary damages, the offended party shall pay the filing fees based on the amounts alleged therein. If the amounts are not so alleged but any of these damages are subsequently awarded by the court, the filing fees based on the amount awarded shall constitute a first lien on the judgment. x x x

In *Hyatt Industrial Manufacturing Corp., v. Asia Dynamic Electrix Corp. et al.*,⁴⁷ this Court explained that because of the foregoing rule – that is, the inclusion of the civil action in complaints for violation of B.P. 22 cases, payment of docket fees is now required upon the filing of the complaint. Ordinarily though, docket fees are not charged in criminal cases. Thus:

The foregoing rule was adopted from Circular No. 57-97 of this Court. It specifically states that the criminal action for violation of B.P. 22 shall be deemed to include the corresponding civil action. ***It also requires the complainant to pay in full the filing fees based on the amount of the check involved. Generally, no filing fees are required for criminal cases, but because of the inclusion of the civil action in complaints for violation of B.P. 22, the Rules require the payment of docket fees upon the filing of the complaint.*** This rule was enacted to help declog court dockets which are filled with B.P. 22 cases as creditors actually use the courts as collectors. Because ordinarily no filing fee is charged in criminal cases for actual damages, the payee uses the intimidating effect of a criminal charge to collect his credit *gratis* and sometimes, upon being paid, the trial court is not even informed thereof. The inclusion of the civil action in the criminal case is expected to significantly lower the number of cases filed before the courts for collection based on dishonored checks. It is also expected to expedite the disposition of these cases. Instead of instituting two separate cases, one for criminal and another for civil, only a single suit shall be filed and tried. It should be stressed that the policy laid down by the Rules is to discourage the separate filing of the civil action. The Rules even prohibit the reservation of a separate civil action, which means that one can no longer file a separate civil case after the criminal complaint is filed in court. The only instance when separate proceedings are allowed is

⁴⁷ 503 Phil. 411 (2005).

when the civil action is filed ahead of the criminal case. Even then, the Rules encourage the consolidation of the civil and criminal cases. We have previously observed that a separate civil action for the purpose of recovering the amount of the dishonored checks would only prove to be costly, burdensome and time-consuming for both parties and would further delay the final disposition of the case. This multiplicity of suits must be avoided. Where petitioners' rights may be fully adjudicated in the proceedings before the trial court, resort to a separate action to recover civil liability is clearly unwarranted. In view of this special rule governing actions for violation of B.P. 22, Article 31 of the Civil Code cited by the trial court will not apply to the case at bar.⁴⁸

Well-settled is the rule that a court acquires jurisdiction over the action upon payment of the requisite fees.⁴⁹ Should the fees not be paid at the time of filing of the pleading, then the court acquires jurisdiction as of the time of full payment of the fees within such reasonable time as the court may grant, unless prescription has set in.⁵⁰

Granting that the payment of docket fees is essential for a court to acquire jurisdiction over a case, time and again, this Court has allowed a liberal interpretation of the rules depending on the circumstances of each case.⁵¹ Here, a perusal of the present set of facts justifies a departure from the general rule.

Laches has barred petitioner from raising the issue of jurisdiction.

Although the issue of jurisdiction may be raised at any stage of the proceedings, it is nonetheless equally settled that a party may be barred from raising it on the ground of laches or estoppel.⁵²

In *Ramones v. Spouses Guimoc*,⁵³ the respondents therein questioned the petitioner's alleged underpayment of docket fees for the first time on appeal before the RTC, or five years after the institution of the case. It cited *United Overseas Bank v. Hon. Ros, et al.*,⁵⁴ where the petitioner therein raised the issue of nonpayment of docket fees only five years after the institution of the case and after one of the private respondent's witnesses had already been directly examined in open court.⁵⁵ In both cases, this Court declared that the parties are already barred by laches to assail the court's jurisdiction for their failure to raise the issue seasonably. This Court, in *United Overseas Bank*, elucidated that:

⁴⁸ *Id.* at 417-418 (2005). (Emphasis supplied)

⁴⁹ *National Steel Corporation v. Court of Appeals, et al.*, 362 Phil. 150 (1999).

⁵⁰ *Id.*

⁵¹ *The Heirs of the Late Reinoso, Sr., v. Court of Appeals, et al.*, 669 Phil. 272 (2011).

⁵² *Pantranco North Express, Inc. v. Court of Appeals, et al.*, 296 Phil. 335 (1993).

⁵³ 838 Phil. 542 (2018).

⁵⁴ 556 Phil. 178 (2007).

⁵⁵ *Ramones v. Spouses Guimoc, supra* note 52, p. 553.



After carefully examining the aforequoted Order in light of the prevailing circumstances surrounding its issuance, we find nothing which would support petitioner's contention that the lower court abused its discretion in denying petitioner's Motion to Dismiss or that the assailed Order was patently erroneous. To the contrary, the Manila RTC Order dated 16 October 2003 was sufficiently supported by the evidence on record and jurisprudence.

In its Order, the lower court even recognized the validity of petitioner's claim of lack of jurisdiction had it timely raised the issue. It bears to stress that the non-payment of the docket fees by private respondent and the supposed lack of jurisdiction of the Manila RTC over Civil Case No. 98-90089 was raised by the petitioner only five years after institution of the instant case and after one of the private respondent's witnesses was directly examined in open court. Not only that, the petitioner even implored the court *a quo's* jurisdiction by filing an Answer with Counterclaim praying that the amount of P12,643,478.46 as deficiency claim of the credit granted to private respondent and the sum P6,411,786.19 as full payment of one of the Letters of Credit, be awarded in its favor. Petitioner likewise prayed for the award of exemplary damages in the amount of P1,000,000.00, attorney's fees and cost of the suit.

It should also be underscored that the petitioner interposed a second Motion to Dismiss after the private respondent filed its Second Amended Complaint but never questioned therein private respondent's non-payment of docket fees and the Manila RTC's lack of jurisdiction over the case by reason thereof.

The petitioner would like to sway this Court that the ripe time to raise the issue of lack of jurisdiction of the Manila RTC arose only after the testimony of one of the private respondent's witnesses when it became evident that the private respondent failed to make good its promise that it would eventually specify the amount of damages it was claiming.

This Court, however, is not persuaded. It is incumbent upon the petitioner to file a Motion to Dismiss at the earliest opportune time to raise the issue of the court's lack of jurisdiction, more so, that this issue is susceptible to laches. Petitioner's failure to seasonably raise the question of jurisdiction leads us to the inevitable conclusion that it is now barred by laches to assail the Manila RTC's jurisdiction over the case. As defined in the landmark case of *Tijam v. Sibonghanoy*:

Laches, in general sense, is failure or neglect, for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier; it is negligence or omission to assert a right within a reasonable length of time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.

It has been held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. By way of explaining the rule, it was further said that the question of whether or not the court had jurisdiction either over the subject matter of

the action or the parties is not important in such cases because the party is barred from such conduct, not because the judgment or the order of the court is valid and conclusive as an adjudication, but for the reason that such a practice cannot be tolerated by reason of public policy.”⁵⁶

Whereas *Ramones* was a case for *estafa*, and both *Ramones* and *United Overseas Bank* involved underpayment of docket fees, there is no reason why the doctrine of estoppel by laches cannot apply in the present case. In fact, events far more disconcerting than *Ramones* or *United Overseas Bank* transpired here.

Then again, in *Amoguis, et al. v. Ballado, et al.*,⁵⁷ this Court, through our esteemed colleague, Senior Associate Justice Marvic M.V.F. Leonen, discussed the concept of estoppel by laches in great detail:

However, this Court has discussed with great nuance the legal principle enunciated in *Tijam*. Estoppel by laches bars a party from invoking lack of jurisdiction in an unjustly belated manner especially when it actively participated during trial.

Estoppel by laches has its origins in equity. It prevents a party from presenting his or her claim “when, by reason of abandonment and negligence, he [or she] allowed a long time to elapse without presenting [it].” It is further elaborated by this Court in *Regalado v. Go*, thus:

Laches is defined as the “failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier, it is negligence or omission to assert a right within a reasonable length of time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it.” (Citation omitted)

In estoppel by laches, a claimant has a right that he or she could otherwise exercise if not for his or her delay in asserting it. This delay in the exercise of the right unjustly misleads the court and the opposing party of its waiver. Thus, to claim it belatedly given the specific circumstances of the case would be unjust.

In *Tijam*, the spouses Serafin Tijam and Felicitas Tagalog (the Tijam Spouses) filed a collection case against the spouses Magdaleno Sibonghanoy and Lucia Baguio (the Sibonghanoy Spouses). The Court of First Instance of Cebu issued a writ of attachment over the Sibonghanoy Spouses’ properties. It was dissolved afterwards as the Sibonghanoy Spouses and the Manila Surety and Fidelity Co., Inc. (Manila Surety), their surety, filed a counterbond. The decision on the collection case became final and executory. As collection could not be made against the Sibonghanoy Spouses, the Tijam Spouses tried to satisfy the judgment against the surety’s bond. Manila Surety opposed and argued that no demand was made on it.

⁵⁶ *United Overseas Bank v. Hon. Ros, et al.*, *supra* note 53, 192-194 (2007), citing *Tijam v. Sibonghanoy*, 131 Phil. 556, 563 (1968).

⁵⁷ G.R. No. 189626, August 20, 2018, 878 SCRA 1.

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The Court of First Instance ruled in the surety's favor. However, demand on the surety was eventually made, and the Court of First Instance issued a writ of execution. Again, Manila Surety opposed and tried to quash the writ of execution. It argued that a summary hearing was required before the writ should issue. Upon the Court of First Instance's denial to quash, Manila Surety appealed to the Court of Appeals. It assigned errors committed by the Court of First Instance in the issuance of the writ of execution but did not raise the issue of jurisdiction. The Court of Appeals affirmed the Court of First Instance's orders to execute. After Manila Surety received a copy of the Court of Appeals decision, it asked for additional time to file its motion for reconsideration. The Court of Appeals granted an extension. Instead of filing a motion for reconsideration, the surety filed a motion to dismiss raising, for the first time, the Court of First Instance's lack of jurisdiction over the subject matter of the case. As the amount involved was only P1,908.00, inferior courts, and not the Court of First Instance, had exclusive original jurisdiction over the collection case. This was mandated by Republic Act No. 296, the Judiciary Act of 1948, which came into effect a month after the Tijam Spouses filed their complaint before the Court of First Instance.

This Court ruled that the surety could no longer question the Court of First Instance's jurisdiction over the subject matter due to estoppel by laches. It premised that since Manila Surety actively participated during trial and prevailed, invoking the Court of First Instance's lack of jurisdiction was a last ditch effort to absolve itself from the effects of an unfavorable judgment on appeal. On the 15-year delay before the issue on jurisdiction was raised, this Court ruled that it could have and should have been raised earlier. The surety's failure to do so was negligence on its part, "warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it." *Tijam* set a precedent to stop legal machinations where jurisdiction was raised at the very last minute when the parties have already gone through long years of litigation. It was not so much an issue of time than it was an issue of fairness. Though conferred by law, fairness and equity must temper the parties' bravado to raise jurisdiction when they have participated in proceedings in the lower courts or when an unfavorable judgment against them has been rendered.

The following circumstances were present in *Tijam*: *first, there was a statutory right in favor of the claimant.* Manila Surety had the right to question the Court of First Instance's jurisdiction because it was the inferior courts that had authority to try cases that involved the amount claimed. *Second, the statutory right was not invoked.* Manila Surety participated in the trial and execution stages. It even sought relief from the Court of Appeals without questioning the Court of First Instance's jurisdiction. *Third, an unreasonable length of time had lapsed before the claimant raised the issue of jurisdiction.* It was only after the Court of Appeals affirmed the Court of First Instance's order of execution did Manila Surety pursue the issue of jurisdiction. Jurisdiction over collections for the amount involved was already determined by law a month before the case was filed. Fifteen years had lapsed before the surety pointed this out. *Fourth, the claimant actively participated in the case and sought affirmative relief from the court without jurisdiction.* The unreasonable length of time was, therefore, inexcusable as the claimant was apprised of the prevailing law, as well as all stages of the proceeding.

Calimlim v. Hon. Ramirez unequivocally ruled that it is only when the exceptional instances in *Tijam* are present should estoppel by laches apply over delayed claims:

A rule that had been settled by unquestioned acceptance and upheld in decisions so numerous to cite is that the jurisdiction of a court over the subject-matter of the action is a matter of law and may not be conferred by consent or agreement of the parties. The lack of jurisdiction of a court may be raised at any stage of the proceedings, even on appeal. This doctrine has been qualified by recent pronouncements which stemmed principally from the ruling in the cited case of *Sibonghanoy*. It is to be regretted, however, that the holding in said case had been applied to situations which were obviously not contemplated therein. The exceptional circumstance involved in *Sibonghanoy* which justified the departure from the accepted concept of non-waivability of objection to jurisdiction has been ignored and, instead a blanket doctrine had been repeatedly upheld that rendered the supposed ruling in *Sibonghanoy* not as the exception, but rather the general rule, virtually overthrowing altogether the time-honored principle that the issue of jurisdiction is not lost by waiver or by estoppel.

Calimlim clarified the additional requirement that for estoppel by laches to be appreciated against a claim for jurisdiction, there must be an ostensible showing that the claimant had "knowledge or consciousness of the facts upon which it is based."

Figueroa v. People of the Philippines framed the exceptional character of *Tijam*:

The Court, thus, wavered on when to apply the exceptional circumstance in *Sibonghanoy* and on when to apply the general rule enunciated as early as in *De La Santa* and expounded at length in *Calimlim*. The general rule should, however, be, as it has always been, that the *issue of jurisdiction may be raised at any stage of the proceedings, even on appeal, and is not lost by waiver or by estoppel. Estoppel by laches, to bar a litigant from asserting the court's absence or lack of jurisdiction, only supervenes in exceptional cases similar to the factual milieu of Tijam v. Sibonghanoy*. Indeed, the fact that a person attempts to invoke unauthorized jurisdiction of a court does not estop him from thereafter challenging its jurisdiction over the subject matter, since such jurisdiction must arise by law and not by mere consent of the parties. This is especially true where the person seeking to invoke unauthorized jurisdiction of the court does not thereby secure any advantage or the adverse party does not suffer any harm. (Emphasis in the original, citation omitted)

Thus, *Tijam* will only apply when given the circumstances of a case, allowing the belated objection to the jurisdiction of the court will additionally cause irreparable damages, and therefore, injustice to the other party that relied on the forum and the implicit waiver.

In *Tijam*, this Court ruled that long delay in raising lack of jurisdiction is unfair to the party pleading laches because he or she was misled into believing that this defense would no longer be pursued. A delay of 15 years in raising questions on subject matter jurisdiction was appreciated by this Court as estoppel by laches.

In *Metromedia Times Corporation v. Pastorin*, this Court recognized the unfairness in allowing a party who sought affirmative relief from a tribunal and invoked its jurisdiction to later disavow the same jurisdiction upon passage of an adverse ruling. It ruled that raising lack of jurisdiction over a subject matter a little under a year since a complaint is filed does not amount to laches.

In *Figueroa*, this Court observed the injustice caused to the party pleading laches. Restoration of and reparation towards the party may no longer be accomplished due to the changes in his or her circumstances. Laches, however, was not appreciated as it was a mere four (4) years since trial began that the petitioner in that case raised the issue of jurisdiction on appeal.

In *Bernardo v. Heirs of Villegas*, this Court identified the propensity of litigants who, to exhaust the time and resources of their opponents, will plead lack of jurisdiction only when an unfavorable decision is obtained in order to re-litigate the case. The delay of 10 years in raising jurisdictional issues in that case was appreciated as laches.

In summary, *Tijam* applies to a party claiming lack of subject matter jurisdiction when:

- (1) there was a statutory right in favor of the claimant;
- (2) the statutory right was not invoked;
- (3) an unreasonable length of time lapsed before the claimant raised the issue of jurisdiction;
- (4) the claimant actively participated in the case and sought affirmative relief from the court without jurisdiction;
- (5) the claimant knew or had constructive knowledge of which forum possesses subject matter jurisdiction;
- (6) irreparable damage will be caused to the other party who relied on the forum and the claimant's implicit waiver.

Tijam applies in this case. The allegations, determinative of subject matter jurisdiction, were apparent on the face of the Complaint. The law that determines jurisdiction of the National Housing Authority had been in place for more than a decade when the Complaint was filed. St. Joseph Realty raised lack of jurisdiction in its Answer. Petitioners sought affirmative relief from the Regional Trial Court and actively participated in all stages of the proceedings. Therefore, there was no valid reason for petitioners to raise the issue of jurisdiction only now before this Court.⁵⁸

⁵⁸ *Id.* at 29-35. (Citations omitted)

Just like *Amoguis*, *Tijam* applies in the present case. Petitioner had the statutory right to question the MTCC's jurisdiction because respondent failed to pay the docket fees within the reglementary period. Yet, she did not invoke this statutory right and an unreasonable length of time elapsed before petitioner raised the issue of jurisdiction. Petitioner actively participated in the case and sought affirmative relief from the court without jurisdiction. Likewise, petitioner knew and had every opportunity to raise the issue and irreparable damage would be caused to respondent who relied on petitioner's implicit waiver. We discuss.

Petitioner cannot, on one hand, reap the benefits of the MTCC's jurisdiction by having the criminal aspect of her case dismissed through the MTCC's grant of her demurrer to evidence, and, on the other hand, impugn the same jurisdiction after 11 years from the filing of the Informations for private respondent's non-payment of docket fees. By upholding the MTCC's jurisdiction over the criminal aspect of the case – because the MTCC granted her demurrer to evidence – and, later on, assailing the same court's jurisdiction over the civil aspect of the case, this Court cannot help but observe how petitioner has been selective about the MTCC's jurisdiction. This Court will not tolerate such an oscillating treatment of the MTCC's jurisdiction. To allow the same will make a mockery of judicial processes.

To be sure, petitioner has gone back and forth between filing pleadings attacking the MTCC's jurisdiction and invoking the same jurisdiction that has been the subject of her earlier attacks. She filed the following:

1. Motion to Quash Information⁵⁹ dated February 27, 2004, on the ground of lack of jurisdiction over the subject matter of the case, which the MTCC denied in an Order⁶⁰ dated March 31, 2004;
2. Urgent Omnibus Motion for Reconsideration of the Order dated March 31, 2004 and to Cancel Arraignment set on 21 April 2004;⁶¹
3. Partial Motion for Reconsideration⁶² (of the Order granting petitioner's demurrer) dated March 22, 2012, arguing that the ₱2,000,000.00 claim of private respondent was beyond the MTCC's jurisdiction. She reiterated the same ground in her:
 - a. Omnibus Motion [A- For Clarification and B- To Suspend Proceedings];⁶³
 - b. Motion for Reconsideration with Motion to Re-Set⁶⁴ dated November 13, 2012;

⁵⁹ Records, pp. 110-119.

⁶⁰ *Id.* at 128.

⁶¹ *Id.* at 137-139.

⁶² *Id.* at 639-643.

⁶³ *Id.* at 672-675.

⁶⁴ *Id.* at 696-700.

- c. Second Motion with Leave of Court for Partial Reconsideration⁶⁵ dated March 12, 2013;
- d. Motion for Reconsideration⁶⁶ dated April 23, 2014 of the MTCC's Decision dated April 8, 2014.

In other words, petitioner had all the opportunity to raise the issue of the court's alleged lack of jurisdiction for nonpayment of docket fees. Indeed, she has already raised the issue of the court's lack of jurisdiction twice – *first*, in her Motion to Quash, and *second*, in her Partial Motion for Reconsideration of the MTCC's Order granting her demurrer to evidence. Clearly, petitioner actively participated in the proceedings before the MTCC. She, through counsel, also extensively cross-examined private respondent's lone witness, which was one of the bases for the MTCC's grant of her demurrer to evidence.⁶⁷ Petitioner even stretched the lower court's benevolence, not only by asking at least 12 motions for postponement, but also by repeatedly relitigating issues which the MTCC had already passed upon. As it happened, petitioner raised the issue of the MTCC's lack of jurisdiction for nonpayment of docket fees for the first time on appeal before the RTC – 11 years after the Informations for violation of B.P. 22 had been filed in court, and in a Supplemental Appeal Memorandum filed two months after her original Appeal Memorandum.

Just like in *Ramones* and *United Overseas Bank*, petitioner has already been barred by laches to assail the court's jurisdiction for her failure to raise the issue seasonably.

This is not the first time that this Court has used the doctrine of estoppel by laches to foreclose a raising party's right to invoke lack of a court's jurisdiction for non-payment of docket fees. As early as 1993, in *Pantranco North Express, Inc. v. Court of Appeals, et al.*,⁶⁸ this Court ruled that the petitioner had been effectively barred by estoppel from challenging the trial court's jurisdiction. There, the petitioner vigorously participated in all stages of the case before the trial court, invoked the trial court's authority to ask for affirmative relief, and raised the issue regarding jurisdiction for the first time in its brief filed with the Court of Appeals. Albeit recognizing that the issue of jurisdiction may be raised at any stage of the proceedings, this Court still found that a party may be barred from raising the issue because of laches or estoppel.

This Court echoed *Pantranco* in *National Steel Corporation v. Court of Appeals, et al.*⁶⁹ and categorically declared that the trial court may allow the

⁶⁵ *Id.* at 728-732.

⁶⁶ *Id.* at 824-828.

⁶⁷ *Id.* at 563-563.

⁶⁸ 296 Phil. 335 (1993).

⁶⁹ 362 Phil. 150 (1999).

plaintiff in an action to pay the same within a reasonable time before the expiration of the applicable prescriptive or reglementary period.

In any event, payment of docket fees, while mandatory, does not automatically result in the dismissal of a case.

Inasmuch as petitioner contends that prescription has already set in, this Court finds that when petitioner brought the issue of non-payment of docket fees to the RTC's attention, it did require the Clerk of Court of the MTCC to assess and collect the proper docket and filing fees from private respondent.⁷⁰ The RTC, thereafter, simply allowed the docket fees to be a lien on the judgment. Private respondent was even willing to pay the docket fees anytime as required by the court. Indeed, as held in *La Salle College v. Pilotin*,⁷¹

Notwithstanding the mandatory nature of the requirement of payment of appellate docket fees, we also recognize that its strict application is qualified by the following: *first*, failure to pay those fees within the reglementary period allows only discretionary, not automatic, dismissal; *second*, such power should be used by the court in conjunction with its exercise of sound discretion in accordance with the tenets of justice and fair play, as well as with a great deal of circumspection in consideration of all attendant circumstances.

Herein, the RTC exercised its sound discretion when it proceeded with the case and allowed the docket fees to be a lien on the judgment.

Petitioner insists that a relaxation of the rules on the payment of docket fees is uncalled for. She argues that this case must be differentiated from *Sun Insurance Office, Ltd., et al. v. Hon. Asuncion, et al.*,⁷² where this Court allowed the docket fees to be paid within a reasonable period but not beyond that prescribed. In that case, there was an inadequate payment of docket fees. Here, private respondent has not paid "even a single centavo"⁷³ since July 31, 2003, when the Informations were filed and the civil action was deemed instituted with the criminal action.

True, *Sun Insurance Office* may have involved underpayment of docket fees, however, this Court then was faced with an entirely different set of circumstances. There, the private respondent initially paid only ₱210.00 as docket fees, despite the body of his complaint specifying damages amounting to ₱50,000,000.00. The private respondent filed an amended complaint, where he prayed to be awarded no less than ₱10,000,000.00 as actual and exemplary damages. The body of his complaint, though, stated a pecuniary claim of ₱44,601,623.70. The private respondent was reassessed additional

⁷⁰ Records, p. 941.

⁷¹ 463 Phil. 785 (2003).

⁷² 252 Phil. 280 (1989).

⁷³ Petition; *rollo*, p. 17.

docket fees based on the ₱10,000,000.00 prayer, which he paid. The private respondent filed a supplemental complaint alleging an additional claim, over which he paid the assessed docket fees. Eventually, the private respondent still paid additional docket fees, such that he paid a total of ₱182,824.90. The petitioner therein insisted that the docket fees have still been underpaid, considering the damages claimed by the private respondent amounted to ₱64,601,623.70. This Court applied a more liberal interpretation of the rules because private respondent demonstrated a willingness to abide by the rules by paying additional fees as required. By paying additional fees – instead of omitting any mention of damages in its prayer to evade payment of docket fees – this Court considered the absence of fraud-defining circumstances that had been present in *Manchester Development Corporation v. Court of Appeals*.⁷⁴

The case at bar is unlike *Sun Insurance Office*, as there is no discrepancy in the amount alleged as damages either in the body of the complaint or the prayer thereof. Here, the civil aspect of the case had been deemed instituted with the criminal aspect thereof, so there could have been no opportunity for private respondent to allege a different amount of damages to evade the payment of docket fees based thereon.

Petitioner also maintains that the CA's ruling would encourage the payment of "contingent fees," which would result in tremendous losses to the government, particularly to the Judiciary.⁷⁵ This Court does not appreciate petitioner's piecemeal interpretation of *De La Paz*. Contrary to petitioner's assertion, *De la Paz* allowed the petitioner therein to amend his complaint to accommodate his finances for payment of the prescribed docket fees. In any event, while this Court commiserates with petitioner's apprehension, the Judiciary will not be defrauded of considerable docket fees because the amount constitutes a judgment lien on private respondent's monetary award.

Besides, it would be unjust to hold private respondent entirely responsible for the nonpayment of docket fees given that it did not receive the clerk of court's assessment. The RTC found that "inasmuch as the records, page 72 thereof, shows that the notice for payment of filing fees was sent by the clerk of court to the plaintiff-appellee, through its representative Leon B. Lea (sic), Jr., as evidenced by a Registry Receipt with No. 0239A mailed on July 2, 2003, however, there was no return of the said notice mailed to the plaintiff-appellee. x x x"⁷⁶ Seeing as the Court is not a trier of facts,⁷⁷ this Court will no longer disturb the RTC's factual finding, which the CA affirmed.

⁷⁴ 233 Phil. 579 (1987).

⁷⁵ *Rollo*, p. 18, citing *De La Paz v. Court of Appeals*, 385 Phil. 441, 446 (2000).

⁷⁶ Records, p. 939.


⁷⁷ *Pantranco North Express, Inc. v. Court of Appeals, et al.*, *supra* note 68.



ACCORDINGLY, the instant petition is **DENIED**. The Decision dated November 23, 2016 and the Resolution dated July 6, 2017 of the Court of Appeals in CA-G.R. SP No. 141630 are **AFFIRMED**. Petitioner Rosario M. Apacible is **ORDERED** to **PAY** the private complainant San Miguel Corporation the following:

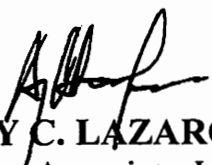
1. In Criminal Case No. 40657-03, the amount of ₱500,000.00 with 6% interest *per annum* from July 31, 2003 until fully satisfied;
2. In Criminal Case No. 40658-03, the amount of ₱500,000.00 with 6% interest *per annum* from July 31, 2003 until fully satisfied;
3. In Criminal Case No. 40659-03, the amount of ₱500,000.00 with 6% interest *per annum* from July 31, 2003 until fully satisfied; and
4. In Criminal Case No. 40660-03, the amount of ₱500,000.00 with 6% interest *per annum* from July 31, 2003 until fully satisfied.


SO ORDERED.



JHOSEPH V. LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice

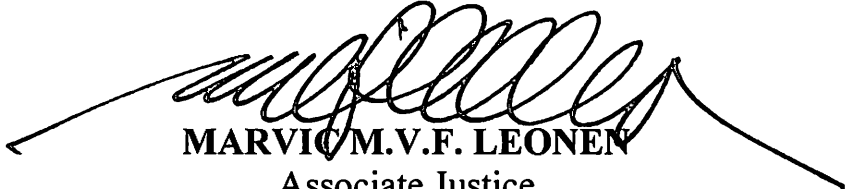

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

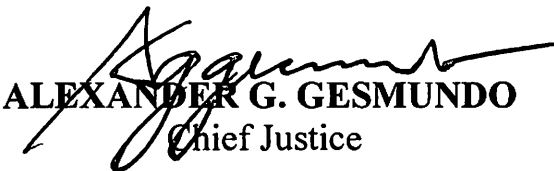
ATTESTATION

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.


MARVIC M.V.F. LEONEN
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.


ALEXANDER G. GESMUNDO
Chief Justice