

## THIRD DIVISION

**[ G.R. No. 191622, June 06, 2018 ]**

### ILUMINADA BATAAC, PETITIONER, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.

### R E S O L U T I O N

#### MARTIRES, J.:

Before this Court is a petition for review under Rule 45 of the Rules of Court, filed by petitioner Iluminada Bataac (*Bataac*) assailing the Decision<sup>[1]</sup> of the Court of Appeals (CA) dated 6 November 2009 in CA-G.R. CR No. 29462.

The CA affirmed the decision of the Regional Trial Court (RTC) in Criminal Case No. SCC-3026, finding Bataac guilty beyond reasonable doubt of Estafa defined under Article 315, paragraph 2(d) of the Revised Penal Code (RPC), as amended by Republic Act (R.A.) No. 4885, committed against private complainant Roger L. Frias (*Frias*).

Bataac was charged as follows:

That sometime on November 8, 1998, in the public market, municipality of Malasiqui, [P]rovince of Pangasinan, Philippine[s], and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that she had no funds in the bank to cover the amount of the checks, by means of false pretenses and deceit and with intent to defraud, did then and there willfully, unlawfully and feloniously make, issue and deliver to [Frias] several post-dated checks, to wit:

Check No.	Drawee Bank	Amount	Date
0050275	Prime Bank, Calasiao	P8,000.00	Nov. 18, 1998
0050278	-do-	8,500.00	-do-
0050263	-do-	8,000.00	-do-
0050265	-do-	7,500.00	-do-
0050277	-do-	8,000.00	-do-
0050262	-do-	8,000.00	-do-
0050260	-do-	8,500.00	Nov. 16, 1998
0050266	-do-	8,500.00	-do-
0050267	-do-	8,500.00	-do-
0050256	-do-	7,000.00	Nov. 12, 1998
0050257	-do-	5,000.00	-do-
0050255	-do-	8,000.00	-do-
0050258	-do-	5,000.00	Nov. 10,



21 days of arresto mayor as minimum and 12 years of prision mayor as maximum.

Illuminada Batac is ordered to reimburse private complainant Roger Frias the amount of PhP103,500.00 with interest computed from the date of this decision.<sup>[3]</sup>

On appeal, the CA affirmed Batac's conviction. According to the CA, the prosecution was able to establish all the elements of estafa under Article 315, paragraph 2(d) of the RPC. The CA ruled that it was Batac's representations that the checks were funded which induced Frias to buy them at a rediscounted rate, to his damage and prejudice; and that Batac's knowledge of the insufficiency of funds was clearly established by her express admission. The CA, however, modified the penalty imposed.

The dispositive portion of the CA decision reads:

**WHEREFORE**, premises considered, the assailed Decision of the First Judicial Region, Regional Trial Court, Branch 56, San Carlos City, Pangasinan, in Criminal Case No. SCC-3026 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Illuminada Batac is sentenced to an indeterminate penalty of imprisonment of 4 years and 2 months of *prision correccional* as minimum to 14 years, 8 months and 21 days of *reclusion temporal* as maximum.

By way of restitution, Illuminada Batac is **ORDERED** to **PAY** the offended party, Roger L. Frias, the amount of one hundred three thousand five hundred [pesos] (PhP103,500.00) plus six (6%) percent interest per annum, counting from the filing of this case, i.e., 25 March 1999 up to the time [o]ur Decision becomes final and executory. Thereafter, the amount due shall further earn interest at twelve (12%) percent per annum, until the obligation is satisfied. No pronouncement as to Costs.<sup>[4]</sup>

### THE COURT'S RULING

The Court finds no merit in the present petition.

At the outset, in contending that she should not be criminally liable for estafa because it was Erlinda, and not Batac, who issued and delivered the subject checks as well as defrauded Frias, Batac raised a factual issue.

It must be noted that only questions of law may be raised in a petition for review on certiorari. The resolution of the issue must rest solely on what the law provides on the given set of circumstances.<sup>[5]</sup> If the issue invites a review of the evidence presented, such as the one posed by Batac, the question posed is one of fact.<sup>[6]</sup> While the Court has admitted exceptions to this rule,<sup>[7]</sup> it does not appear that any of those exceptions was alleged, substantiated, and proven by Batac. Thus, the factual findings of the courts *a quo* is binding upon this Court.<sup>[8]</sup>

Both the RTC and the CA correctly gave credence to Frias' testimony that Batac, together with Erlinda, personally met with him at his store and represented to him that the checks were funded. This was corroborated by his sister Ivy Luna Frias (Ivy), who testified that she was present during the transaction in question and that

the exchange between Batac and Frias, as narrated by the latter, was consistent with Ivy's recollection.<sup>[9]</sup>

To controvert Frias' positive identification, Batac merely offered the defense of denial, as in fact in her petition she merely insists that it was Erlinda, not she, who committed the crime, without laying any basis for such conclusion. The Court has held that "positive identification destroys the defense of alibi and renders it impotent, especially where such identification is credible and categorical."<sup>[10]</sup> There is no reason to doubt the credibility of the identification made by Frias, as corroborated by Ivy.

Moreover, the finding by the RTC of such fact, especially since it has been affirmed by the CA, is binding upon this Court.

The identity of Batac as a party to the subject transaction having been established, the issue now is whether Batac's guilt for the crime of estafa under Article 315, paragraph 2(d) of the RPC has been proven beyond reasonable doubt, as provided as follows:

2. By means of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

x x x x

d) By postdating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or payee or holder that said check has been dishonored for lack or insufficiency of funds shall be *prima facie* evidence of deceit constituting false pretense or fraudulent act.

Jurisprudence has consistently held that such estafa consists of the following elements: (1) the offender has postdated or issued a check in payment of an obligation contracted at the time of the postdating or issuance; (2) at the time of postdating or issuance of said check, the offender has no funds in the bank or the funds deposited are not sufficient to cover the amount of the check; and (3) the payee has been defrauded.<sup>[11]</sup>

It has been settled in jurisprudence that in the above-defined form of estafa, it is not the nonpayment of a debt which is made punishable, but the criminal fraud or deceit in the issuance of a check.<sup>[12]</sup> Deceit has been defined as "the false representation of a matter of fact, whether by words or conduct by false or misleading allegations or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury."<sup>[13]</sup>

In *People v. Reyes*,<sup>[14]</sup> the Court ruled that for estafa under the above provision to prosper, the issuance of the check must have been the inducement for the other party to part with his money or property, viz: