

FIRST DIVISION

[G.R. No. 168163, March 26, 2008]

**LOLITA Y. EUGENIO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES RESPONDENT.**

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for review^[1] of the Decision^[2] dated 30 November 2004 and the Resolution dated 11 May 2005 of the Court of Appeals, affirming the conviction of petitioner Lolita Y. Eugenio (petitioner) for Estafa thru Falsification of Public Documents and denying reconsideration, respectively.

The Facts

The prosecution evidence showed that on 14 November 1995, petitioner went to the house of private complainant Alfredo Mangali (Mangali) in Tonsuya, Malabon, Metro Manila and introduced Mangali to Epifania Saquitan (Saquitan), Amalia Ablaza (Ablaza), and another individual.^[3] Petitioner persuaded Mangali to loan P100,000 to Saquitan with a parcel of land in Sta. Ana, Metro Manila (Sta. Ana lot) as security for the loan. Petitioner assured Mangali that the Sta. Ana lot was covered by Transfer Certificate of Title (TCT) No. 171602 issued in Saquitan's name. Mangali asked petitioner to confirm with the Register of Deeds of Manila the validity of TCT No. 171602. In the afternoon of that same day, petitioner informed Mangali that she saw the original of TCT No. 171602 on file with the Register of Deeds of Manila. With this assurance, Mangali agreed to extend the loan subject to Saquitan's execution of a "deed of sale" of the Sta. Ana lot in his favor. Saquitan agreed and after the "deed of sale" was signed, Mangali released the loan in two tranches to Saquitan which the latter promised to pay on 21 December 1995.

Subsequently, petitioner, on behalf of one Lourdes Ty (Ty), sought another P100,000 loan from Mangali, payable in January 1996 with a parcel of land in Quezon City (Quezon City lot) as security. Petitioner represented that the property was covered by TCT No. 92585 issued in Ty's name. Mangali agreed to extend the loan, again subject to the condition that Ty execute a "deed of sale" over the Quezon City lot in his favor. After Ty complied, Mangali released the partial amount of P75,000.

When the loans lapsed and remained unpaid, Mangali inquired from the Register of Deeds of Manila and Quezon City on the status of TCT No. 171602 and TCT No. 92585, respectively. Mangali discovered that TCT No. 171602 had been cancelled on 5 October 1995 while TCT No. 92585 is not registered with the Register of Deeds of Quezon City. Mangali filed a complaint with the National Bureau of Investigation (NBI) which arranged an entrapment operation on 26 February 1996 in Mangali's

house. Mangali expected to see petitioner that day as petitioner had asked for an additional P33,000 loan. At the appointed time, petitioner, Ablaza, and two other unidentified individuals arrived in Mangali's house. The NBI agents effected the arrest while petitioner was counting the money. The NBI agents brought petitioner and the other individuals arrested with her to the NBI office where petitioner gave a statement.

Upon investigation by the NBI, it was discovered that the "Epifania Saquitan" who owned the Sta. Ana lot was a 79-year old woman who denied mortgaging the Sta. Ana lot or knowing petitioner and her co-accused. This "Epifania Saquitan" executed an affidavit attesting to these facts.

Petitioner, Ablaza, and two other individuals identified only as Jane Does were charged with Estafa thru Falsification of Public Documents. The Information^[4] against them was filed with the Regional Trial Court of Malabon and raffled to Branch 73 (trial court).^[5] Petitioner and Ablaza pleaded "not guilty" to the charges and, upon their application, were admitted to bail. Ablaza soon went into hiding.

On the part of the defense, petitioner denied taking part in any conspiracy to swindle Mangali. Petitioner claimed that since 1993, Mangali had sought her services to run errands for him in the titling of lots and follow-up of a Social Security System claim. Afterwards, Mangali recruited her as his commissioned agent in Mangali's check re-discounting and lending businesses. Thus, even before 14 November 1995, petitioner had brokered check rediscounting and loan deals with Mangali.

On Saquitan's loan, petitioner claimed that she brokered this deal with Mangali through Ablaza, an acquaintance. Ablaza informed her that Saquitan wanted to borrow from Mangali with the Sta. Ana lot as security. Anticipating a commission from Mangali, petitioner brought Ablaza, Saquitan, and two other individuals to Mangali. Mangali and Saquitan agreed on the terms of the loan, that is, the loaned amount will be released in two tranches of P60,000 and P40,000, with the interest deducted from the amount first released and Saquitan will execute a "deed of sale" over the Sta. Ana lot in Mangali's favor. Mangali then instructed petitioner to confirm with the Register of Deeds of Manila if the photocopy of TCT No. 171602 Saquitan brought with her was genuine. On the same day, petitioner obtained from the Register of Deeds of Manila a certified true copy of TCT No. 171602 and gave it to Mangali. Thus, Mangali released to Saquitan P48,000 (P60,000 less interest). Saquitan acknowledged receipt of the amount and signed the "deed of sale" over the Sta. Ana lot, which petitioner prepared on Mangali's instruction. Two weeks later, Mangali released to Saquitan the second tranche of the loan which Saquitan promised to pay on 21 December 1995.

On Ty's loan, petitioner testified that it was also Ablaza who sought her help, claiming that Ty, whom petitioner did not know, was offering as security her property in Quezon City, covered by TCT No. 92585 issued in her name. Again anticipating a commission from Mangali, petitioner brought Ablaza and Ty to Mangali. Ty had with her what she alleged to be her owner's duplicate copy of TCT No. 92585. Mangali wanted to inspect the property covered by TCT No. 92585 so the group (Mangali, petitioner, Ablaza, and Ty) proceeded to Filinvest Subdivision in Quezon City. Satisfied with what he saw, Mangali agreed to loan P75,000 to Ty but not after requiring her to sign a "deed of sale" over the property in Mangali's favor

which petitioner again prepared on Mangali's instruction. Ty complied and received the amount for the loan.

In February 1996, Mangali informed petitioner that TCT No. 171602 and TCT No. 92585 were spurious and demanded to see Ablaza. Petitioner brought Ablaza to Mangali and the two discussed the validity of the titles. Ablaza insisted that the titles were genuine. In the course of their meeting, Ablaza disclosed that she has a property in Baguio City. Mangali offered to buy a portion of the property. Ablaza was amenable to the deal provided that Mangali take care of the expenses for the subdivision of the property which Ablaza placed at P35,000. Mangali gave Ablaza an initial amount for the subdivision and asked Ablaza to come back on 26 February 1996 for the balance. On the appointed day, petitioner and Ablaza returned to Mangali's house. Before giving the amount to Ablaza, Mangali asked petitioner to count it. It was while petitioner was in the act of counting the money that the NBI agents arrested petitioner, Ablaza, and their other companions.

The Ruling of the Trial Court

In its Decision dated 7 September 2001, the trial court (1) found petitioner guilty with one count of Estafa thru Falsification of Public Documents and sentenced her to 10 years and one day of *prision mayor* as minimum to 20 years of *reclusion temporal* as maximum and (2) ordered petitioner to pay Mangali P175,005 as actual damages.^[6] The trial court held:

Against the clear and convincing evidence that thru misrepresentations of Eugenio, among others, Mangali extended two loans, one for Saquitán and the other for Ty, with a cancelled title and a non-existent one being offered as collaterals, Eugenio's denial of any knowledge concerning the irregularity of the transactions of which she played a principal role and her further claim that in this case she was merely the victim of circumstances, cannot prevail.

Add to the foregoing the fact that an entrapment was effected which resulted in the arrest of Eugenio and Ablaza after they demanded for another additional loan, probably with the alleged Ty property as collateral, too, and the inevitable conclusion would be that Eugenio is liable as a co-conspirator of the others who are charged with her in this case.

Two spurious titles were made to appear to be genuine and valid ones although the same were no longer valid with respect to one and non-existent and spurious with respect to the other, and with both titles having no legal basis to exist at all and thus, can be presumed falsified with the possessor thereof being further presumed as the author of the falsification x x x x and it would also be concluded that falsification of public document was resorted to in order to defraud Mangali of the amounts she [sic] gave to the accused and her co-conspirators.

There was fraud resulting in swindling or estafa because misrepresentations with intent to defraud and to cause damage characterized the actuations of all the accused in this case, including the two designated only as Jane Does.

In this case, Eugenio was in conspiracy with the others because of the misrepresentations made by her to the effect that Saquitán's title was really registered and therefore genuine and because of other acts she did in connection with the negotiations with Mangali where she actively participated at every stage of the transactions and played an important and active role.

In fine, the Court is of the view and so holds that the offense charged in this case has been sufficiently established and that accused Eugenio is guilty as charged.^[7]

Petitioner appealed to the Court of Appeals.

The Ruling of the Court of Appeals

In its Decision of 30 November 2004, the Court of Appeals affirmed the trial court's ruling. In sustaining the trial court's finding on petitioner's vital role in the scheme to defraud Mangali, the Court of Appeals held:

[W]e are convinced that the accused-appellant defrauded the private complainant through her fraudulent misrepresentation. The records of the instant case show that the accused-appellant knew that her co-accused are not the real owners of the property mortgaged to the private complainant. However, knowing that she has gained the trust of the private complainant, she misrepresented to the latter that the persons she introduced to him are the real Epifania Saquitán and Lourdes Ty, the true owners of the mortgaged properties. Were it not for the misrepresentation of the accused-appellant, the private complainant would not have agreed to the mortgage and eventually part with his one hundred seventy five thousand pesos (P175,000.00), to his damage and prejudice.

We agree with the findings and conclusions of the trial court that the accused-appellant's fraudulent misrepresentation facilitated the commission of the crime.^[8]

Petitioner sought reconsideration which the Court of Appeals denied in the Resolution dated 11 May 2005.

Hence, this petition. Petitioner frames the issues as follows:

- A. WHETHER x x x THE COURT OF APPEALS ERRED IN FINDING THAT PETITIONER EMPLOYED DECEIT IN LEADING PRIVATE COMPLAINANT ALFREDO MANGALI TO BELIEVE THAT THE TITLES POSSESSED BY EPIFANIA SAQUITAN AND LOURDES TY, WHICH ARE MORTGAGED TO PRIVATE COMPLAINANT, WERE GENUINE.
- B. WHETHER x x x THE COURT OF APPEALS ERRED IN FINDING THAT THE PETITIONER EUGENIO MADE REPRESENTATIONS TO PRIVATE COMPLAINANT ALFREDO MANGALI IN BEHALF OF CO-ACCUSED ABLAZA, SAQUITAN AND TY, CONSTITUTIVE OF CONSPIRACY.

C. WHETHER x x x THE COURT OF APPEALS ERRED IN COMPLETELY GIVING WEIGHT AND CREDENCE TO SUBSTANTIAL PORTIONS OF THE UNCORROBORATED AND IMPROBABLE ALLEGATIONS OF PRIVATE COMPLAINANT MANGALI AND TOTALLY DISMISSING THE CONSISTENT TESTIMONY AND FACTUAL NARRATION OF PETITIONER EUGENIO.

D. WHETHER x x x THE COURTS A *QUO* ERRED IN NOT HOLDING THAT THE PROSECUTION FAILED TO PROVE THE GUILT OF THE PETITIONER BEYOND REASONABLE DOUBT OF THE CRIME OF ESTAFA THRU FALSIFICATION OF PUBLIC DOCUMENTS SPECIFICALLY UNDER ARTICLE 315 PAR 2(A) AND ARTICLE 172 IN RELATION TO ARTICLE 48 OF THE REVISED PENAL CODE.

E. WHETHER x x x THE COURTS A *QUO* ERRED IN DISREGARDING THE PATENT VIOLATIONS OF THE CONSTITUTIONAL RIGHTS OF THE PETITIONER.^[9]

The Issues

The petition raises the following issues:

1) Whether irregularities attended petitioner's arrest and investigation, nullifying her conviction; and

2) Whether petitioner is guilty of Estafa thru Falsification of Public Documents.

The Ruling of the Court

We set aside the Court of Appeals' ruling and acquit petitioner of the charges against her on the ground of reasonable doubt.

On the Alleged Irregularities Attending Petitioner's Arrest and Custodial Investigation

Before resolving the question of petitioner's liability, we first address petitioner's contentions on the irregularities attending her arrest and investigation and their effect on the judgment against her.

Petitioner contends that her arrest following the NBI entrapment operation was illegal because it was "conducted by a division of the NBI which does not deal with estafa or fraud" and without the participation of the police. Petitioner also alleges that after she was arrested, she was neither informed of her constitutional right to counsel nor afforded her right to a phone call. Petitioner concludes that these irregularities tainted the NBI's entrapment operation, rendering the same without any "probative value in determining whether or not a criminal act has been committed."^[10]

Respondent does not contest petitioner's claim on the alleged irregularities which attended her arrest. Nevertheless, such irregularities, assuming they did take place, do not work to nullify petitioner's conviction as this Court is neither the proper forum, nor this appeal the correct remedy, to raise this issue. Any irregularity attending the arrest of an accused, depriving the trial court of jurisdiction over her person, should be raised in a motion to quash at any time before entering her plea.