

## FIRST DIVISION

[ G.R. NO. 154363, September 13, 2005 ]

**JOEL P. LIBUIT, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,  
RESPONDENT.**

### D E C I S I O N

**QUISUMBING, J.**

Before us is the petition for review on certiorari filed by Joel P. Libuit, seeking to reverse and set aside the **Decision**<sup>[1]</sup> dated March 11, 2002, of the Court of Appeals in CA-G.R. CR No. 22766. The assailed decision affirmed the petitioner's conviction by the Regional Trial Court of Lipa City, Branch 85, for estafa as defined and penalized under Article 315 1(b) of the Revised Penal Code.<sup>[2]</sup>

The Amended Information filed against the petitioner reads as follows:

That during the period from May 1993 to August 31, 1994, at Lipa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused wilfully, unlawfully and feloniously committed the crime of estafa in the manner, to wit: sometime in May 1993, Domingo del Mundo delivered and brought his car, described as follows: Make & Type – Chevy 2dr. HT: Plate No. EDD-725, Motor No. 18R-9597750, Chassis No. 1Y17H4W151340 valued at P60,000.00, to the motor shop located at Brgy. Sico, Lipa City, and owned and/or operated by Joel Libuit and Julius Libuit for repair of its damaged parts, which car was received by Jose Bautista, then mechanic in the said motor shop, but accused Joel Libuit, once in possession of the said car, and far from complying with his obl[i]gation or duty to make the appropriate repairs and to return or deliver the said car as properly repaired to Domingo del Mundo, with intent to defraud and with abuse of confidence, wilfully, unlawfully and feloniously misappropriated, converted and/or misapplied the said car to his own personal use and benefit and despite repeated demands to return the said car to the owner thereof, accused refused and failed to do so, to the damage and prejudice of Domingo del Mundo, owner of the said car, in the amount of P60,000.00, Philippine Currency.

Contrary to law.<sup>[3]</sup>

On arraignment, the petitioner, assisted by counsel, pleaded not guilty.

It appears from the prosecution evidence that sometime in May 1993, the private complainant, Domingo del Mundo, brought his car for repair at the Paeng Motorworks operated by the petitioner. The car was received by Jose Bautista, a mechanic, in the presence of the petitioner who assured the private complainant that it would be safe in his motor shop.

When private complainant del Mundo returned to the motor shop in January 1994, he saw his car by the roadside while the engine was inside the shop. Bautista explained that the engine was pulled out because it also needed repairs. Nevertheless, the petitioner and Bautista assured him that they would finish the repair work and deliver the car to del Mundo's house after two weeks. However, the petitioner failed to deliver the car to the owner. Private complainant gave him another two weeks to finish the repairs. Thereafter, the private complainant returned to the motor shop and found that his car was already missing. He reported the matter to the police, who discovered that the petitioner had sold the car's differential and cylinder head, while the engine could no longer be found.

The petitioner (Libuit) testified on direct examination. However, his defense counsel, Atty. Glenn P. Mendoza of De Jesus Linatoc and Associates, withdrew from the case after his initial cross-examination.<sup>[4]</sup> On motion of the petitioner, the continuation of his cross-examination was reset to give him time to engage the services of another counsel.<sup>[5]</sup> The petitioner eventually secured the services of Atty. Jose Dimayuga.

At the subsequent hearings on October 13, 1997, and November 26, 1997, Atty. Dimayuga failed to appear despite notices. On motion of the prosecution, the trial court issued an Order dated November 26, 1997,<sup>[6]</sup> striking from the records the petitioner's direct testimony and declaring the case submitted for decision on the basis of the evidence already on record.

After further proceedings, the trial court rendered judgment on January 27, 1999, finding herein petitioner guilty beyond reasonable doubt of the crime of estafa. The dispositive portion of the RTC decision reads:

WHEREFORE, the foregoing premises considered, judgment is hereby rendered finding the accused JOEL LIBUIT guilty beyond reasonable doubt of the crime of Estafa, as the same is defined and penalized under Article 315 1(b) of the Revised Penal Code, and, with the application of the Indeterminate Sentence Law, the Court sentences him to suffer the penalty of imprisonment ranging from Eight (8) years and Eight (8) months of Prison Mayor as minimum to Fourteen (14) years and Ten (10) months of Reclusion Temporal as maximum. The accused is moreover ordered to pay Domingo del Mundo the amount of P60,000.00 representing the value of the car, plus costs of suit.

SO ORDERED.<sup>[7]</sup>

On appeal, the Court of Appeals affirmed *in toto* the decision of the trial court. The appellate court gave credence to the trial court's findings that the elements of the crime of estafa with abuse of confidence were present. The private complainant's car was received at the motor shop operated by the petitioner who was under the obligation to repair and deliver it to the private complainant's house. Although it was Bautista, the petitioner's mechanic, who personally received the car, the fact remained that the petitioner was then present and even assured the private complainant that the car would be safe in his motor shop. Like the trial court, the Court of Appeals ruled that the private complainant would not have returned to the

petitioner's motor shop after the two-week extension were it not precisely to demand for the return of his car.

The Court of Appeals likewise held that the trial court never *deprived* the petitioner of his right to counsel as he was represented by a counsel de parte, Atty. Glenn P. Mendoza. When said counsel withdrew, the trial court allowed the resetting of the petitioner's cross-examination to give him time to engage the services of another counsel. It ordered the striking of his testimony from the records only after his new counsel failed to appear at the subsequent hearings.

Before us, the petitioner raises now the following issues:

I

WHETHER THE COURT OF APPEALS GRAVELY ERRED WHEN IT DID NOT CONSIDER THAT THE PROSECUTION FAILED TO PROVE THAT THE SUBJECT VEHICLE WAS ENTRUSTED TO THE PETITIONER-ACCUSED.

II

WHETHER THE COURT OF APPEALS GRAVELY ERRED WHEN IT AFFIRMED THE TRIAL COURT'S FINDING OF GUILT AGAINST THE PETITIONER-ACCUSED DESPITE THE ABSENCE OF FORMAL DEMAND FOR THE PETITIONER-ACCUSED TO FULFILL THE TRUST OR TO RETURN THE THING RECEIVED.

III

WHETHER THE COURT OF APPEALS GRAVELY ERRED WHEN IT RULED THAT THE TRIAL COURT NEVER DEPRIVED THE PETITIONER-ACCUSED OF HIS CONSTITUTIONAL RIGHT TO COUNSEL.<sup>[8]</sup>

Simply put: the issues for our resolution are: (1) Was there sufficient evidence to sustain the petitioner's conviction? (2) Was petitioner deprived of his right to counsel?

Petitioner argues on the first issue, that the Court of Appeals committed a reversible error in convicting him without sufficient evidence of his guilt. He contends that the trial court gravely misapprehended the facts in finding that the elements of estafa with abuse of confidence, under Article 315 1(b) of the Revised Penal Code, were present. He stresses that the car was not entrusted to him and that he had no duty to deliver it to the private complainant. He adds that the private complainant did not demand for the return of his car.

The elements of estafa under Article 315 1(b) of the Revised Penal Code are as follows: (1) that money, goods, or other personal properties are received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return, the same; (2) that there is a misappropriation or conversion of such money or property by the offender or denial on his part of such receipt; (3) that such misappropriation or conversion or denial is to the prejudice of another; and, (4) that there is a demand made by the offended party on the offender.<sup>[9]</sup>

Based on the evidence, we entertain no doubt that petitioner operated the Paeng