

## SECOND DIVISION

[ G.R. No. 199975, February 24, 2020 ]

**LUIS T. ARRIOLA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**HERNANDO, J.:**

This Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court assails the August 5, 2011 Decision<sup>[2]</sup> and the January 3, 2012 Resolution<sup>[3]</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 31338.

#### The Antecedents

Luis T. Arriola (Arriola) was charged with *Estafa* under Section 315, Paragraph 2(a) of the Revised Penal Code (RPC) before the Regional Trial Court (RTC), Branch 146 of Makati City. The February 11, 2003 Information<sup>[4]</sup> against him reads:

That on or about and during the period covering April up to June 2001, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did then and there, willfully, unlawfully and feloniously defraud one Ingeborg De Venecia Del Rosario, in the following manner, to wit: the said accused by means of false manifestation and fraudulent representations he made to the complainant to the effect that he was the authorized real estate broker of one Pasencia G. Candelaria, thus, had the authority to sell and [receive] payments in selling a parcel of land located in Tagaytay City owned by Pasencia G. Candelaria and could facilitate the issuance of a new Transfer Certificate of Title in the name [of] complainant Ingeborg De Venecia Del Rosario, and by means of other deceit of similar import, induced and succeeded in inducing complainant to give and deliver and in fact the latter gave and delivered to said accused the total amount of P437,000.00 representing full payment for the land of Pasencia Candelaria in Tagaytay City on the strength of said manifestation and representations, the accused knowing fully well that the same were false and fraudulent and were made only to obtain, as in fact he obtained the total amount of P437,000.00 which amount the accused applied and used for his own benefit, to the damage and prejudice of the said complainant, Ingeborg De Venecia Del Rosario.

CONTRARY TO LAW.

When arraigned, Arriola entered a plea of not guilty.<sup>[5]</sup> The trial court denied his Motion to Quash for lack of merit.<sup>[6]</sup> Trial ensued following pre-trial.<sup>[7]</sup> The prosecution presented private complainant Ingeborg De Venecia Del Rosario (Del Rosario) and Atty. Mary Ann B. Roa (Roa) as its witnesses.

The prosecution alleged that sometime in 2001, Del Rosario met Arriola, a real estate broker of real properties located in Tagaytay City. At that time, Del Rosario had already bought a lot in Tagaytay City owned by one Ernesto Marcelo (Marcelo). Arriola informed Del Rosario that the lot adjacent to Marcelo's land was also for sale. He showed her a letter purportedly from the subject lot owner, Paciencia<sup>[8]</sup> G. Candelaria (Candelaria), authorizing him to sell it in her stead. Del Rosario became interested in Candelaria's lot, as she planned to construct a therapy center thereon for women.

Del Rosario decided to buy Candelaria's lot and gave Arriola P100,000.00 as earnest money. Aside from the Authorization Letter, Arriola also showed Del Rosario a certified copy of Transfer Certificate of Title (TCT) No. 33184 proving that the lot was in Candelaria's name, and a fax transmittal from Candelaria, who allegedly was then in Australia, authorizing Arriola to transact and receive the purchase price in her behalf. Del Rosario paid the balance of the purchase price in the amount of P337,000.00, for which Arriola issued her a Receipt of Payment dated June 28, 2001.<sup>[9]</sup> Del Rosario signed a Deed of Absolute Sale (Deed)<sup>[10]</sup> prepared by Arriola and purportedly signed by Candelaria and one Sister Adela Arabia of the Order of St. Benedict as her witness.

Arriola told Del Rosario that since the contract still had to be notarized, he would give her only photocopies of the Deed and the TCT. After repeated requests to deliver the original documents, Del Rosario received only a notarized copy of the Deed and copies of tax receipts appended to Arriola's letter dated September 22, 2001. Exasperated, Del Rosario asked Arriola to return the money if he could not give her the copy of the TCT of Candelaria's lot. In a letter dated December 17, 2001, Arriola replied to and promised Del Rosario that he would return the total amount of P437,000.00 on January 7, 2002, plus interest at 16% per *annum* from July 1, 2001.

Arriola, however, reneged on his promise. On May 28, 2002, Arriola issued Del Rosario a check dated June 20, 2002 covering the purchase price of the lot plus interest. The check, however, was dishonored for having been drawn from a closed account. Del Rosario tried contacting Candelaria but discovered that the latter's number indicated in her purported fax transmittal was an invalid number. Undeterred, Del Rosario found Candelaria's number in the White Pages Telephone Directory of Brisbane, Australia. Candelaria told Del Rosario that she was not selling the subject property, nor had she authorized Arriola to sell it. On July 11, 2002, Arriola issued Del Rosario another check in the amount of P524,000.00 plus P5,000.00 cash. Again, the check was dishonored, this time due to insufficient funds. Del Rosario thus filed the *Estafa* case against Arriola.

Arriola's direct examination was stricken off the record and his right to present evidence was deemed waived after he consistently failed to appear for cross-examination.<sup>[11]</sup>

#### *Ruling of the Regional Trial Court*

The RTC issued its April 17, 2007 Decision<sup>[12]</sup> convicting Arriola of the crime charged. It found that the prosecution sufficiently discharged its burden of proving Arriola's guilt beyond reasonable doubt. The RTC concluded that through Arriola's fraudulent representations and false pretenses, Del Rosario parted with her hard-earned money and paid him the amount of P437,000.00 as the agreed consideration

for the purchase of Candelaria's lot, which Arriola represented to be for sale and that he was duly authorized by its owner to sell. Arriola also admitted having received Del Rosario's money. The evidence presented by the prosecution was undisputed, as Arriola failed to rebut the same despite several opportunities given to him to do so. The dispositive portion of the RTC Decision reads:

**WHEREFORE**, in view of the foregoing judgment is hereby rendered declaring the accused LUIS T. ARRIOLA, guilty beyond reasonable doubt of the Crime of Estafa defined and penalized under article 315, paragraph 2 (a) of the Revised Penal Code. Considering that the amount involved exceeds the amount of Php 22,0000.00, pursuant to Article 315 (1) of the Revised Penal Code, the penalty imposed should be x x x in its maximum period, adding one year for each additional Php 10,000.00, but the total penalty shall not exceed twenty years.

Accordingly the accused is hereby sentenced to suffer an indeterminate penalty of four (4) years and two (2) months and one (1) day of *prision correccional*, as minimum to twenty (20) years of *reclusion temporal* as maximum, and he is ordered to return the amount of Php437,000.00 that the accused received from the offended party, Ingeborg De Venecia del Rosario.

SO ORDERED.<sup>[13]</sup>

On October 15, 2007, Arriola paid Del Rosario the amount of P437,000.00.<sup>[14]</sup>

On June 11, 2008, Arriola filed his appeal before the CA. He claimed that the RTC convicted him solely on the basis of hearsay evidence. He argued that he was deprived of due process as the records were allegedly bereft of any showing that he fully participated in the proceedings, even at the time the complaint was filed before the prosecutor. Arriola maintained that there was no deceit and his guilt was not proven beyond reasonable doubt. He also asserted that there was no damage, since the money had already been returned to Del Rosario.

#### *Ruling of the Court of Appeals*

The CA denied Arriola's appeal. It found that the RTC correctly found that the elements of *Estafa* by means of deceit were all present and that the subsequent payment did not exculpate Arriola from criminal liability. It deemed the representations by Arriola to Del Rosario as fake, e.g., his authority to sell the subject property, his correspondences with Candelaria, the authorization letter, the faxed letter, and the Deed of Absolute Sale. It also declared that the prosecution's evidence anent the phone call to Candelaria was not pure hearsay, since it did not consider Del Rosario's testimony in isolation but in consonance with other proof, which consisted of telephone records,<sup>[15]</sup> Brisbane White Pages,<sup>[16]</sup> and the Statutory Declaration of one Cecilia Elicanal Villanueva<sup>[17]</sup> that the copy of the Brisbane White Pages came from the Brisbane White Pages issue of 2002-2003. Arriola also cannot decry lack of due process since the records showed that he had actively participated in the proceedings before the RTC and that he had been fairly notified and warned of the consequences of his continued non-appearance in court. Finding however that Arriola had already paid the subject amount owing to Del Rosario, the CA deleted the amount of P437,000.00 granted as indemnity to Arriola. It disposed of the appeal *via* its assailed August 5, 2011 Decision,<sup>[18]</sup> viz.:

**WHEREFORE**, premises considered, the instant appeal is **DENIED**. The assailed decision of the Regional Trial Court, Branch 146 of Makati City, dated April 17, 2007, is **AFFIRMED** with the **MODIFICATION** that the portion of the Decision ordering appellant to pay complainant the amount of P470,000.00 is deleted.

**SO ORDERED.**<sup>[19]</sup>

In its January 3, 2012 Resolution,<sup>[20]</sup> the CA denied Arriola's Motion for Reconsideration of its August 5, 2011 Decision. Thus, this present Petition for Review on *Certiorari*.

### **The Assignment of Errors**

Arriola raises the following errors for Our review:

#### **I**

THE COURT OF APPEALS X X X ERRED IN GIVING CREDENCE TO THE HEARSAY EVIDENCE OF THE PROSECUTION.

#### **II**

THE COURT OF APPEALS ERRED IN NOT FINDING GOOD FAITH ON THE PART OF THE PETITIONER WHEN HE ASSUMED TO RETURN THE PURCHASE PRICE PLUS INTEREST AND ACTUALLY PAID THE PRIVATE COMPLAINANT X X X THE AMOUNT DEMANDED TO HIM BY THE TRIAL COURT.

#### **III**

THE COURT OF APPEALS X X X ERRED IN FAILING TO GIVE CREDENCE TO THE DEFENSE OF THE PETITIONER UNDER THE EQUIPOISE DOCTRINE.<sup>[21]</sup>

### **The Court's Ruling**

We sustain Arriola's conviction with modifications on the penalty imposed.

The courts below held Arriola criminally liable for *Estafa* by false deceits under Article 315, Paragraph 2(a) of the RPC, which provides:

Article 315. *Swindling (estafa)*. -Any person who shall defraud another by any of the means mentioned hereinbelow x x x:

x x x x

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

(a) By using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or transactions, or by means of other similar deceits.

Ordinarily, this Court desists from trifling with the findings of facts by the courts below. Findings by trial courts are generally accorded with great respect by the

appellate courts, more so that the Supreme Court is not a trier of facts but of questions of law.

For this case, however, We defer to one of the prevailing exceptions listed by jurisprudence, that is, when the findings of fact by the trial court were conclusions without citation of specific evidence on which they are based.<sup>[22]</sup> The courts below correctly convicted Arriola, but not much substantial discussion was made on the falsity of his representations and the documentary evidence thereof, which We now address.

**The totality of circumstantial evidence sufficiently established Arriola's guilt for *Estafa* by means of deceit**

Aiming to be exonerated, Arriola asserts that the sole evidence presented by the prosecution showing his alleged deceit was only the phone conversation that transpired between Del Rosario and Candelaria, and thus, rested on mere hearsay evidence which should not have been admitted by the trial court.

Arriola's argument fails to convince.

Section 36, Rule 130 of the Rules of Court does declare hearsay as generally inadmissible testimonial evidence:

**Section 36.** *Testimony generally confined to personal knowledge; hearsay excluded.* — A witness can testify only to those facts which he knows of his personal knowledge; that is, which are derived from his own perception x x x

Evidence is called hearsay when its probative force depends, in whole or in part, on the competency and credibility of some persons other than the witness by whom it is sought to produce it.<sup>[23]</sup> A person who introduces a hearsay statement is not obliged to enter into any particular stipulation, to answer any question, to solve any difficulties, to reconcile any contradictions, to explain any obscurities, to remove any ambiguities; and that he/she entrenches himself/herself in the simple assertion that he/she was told so, and leaves the burden entirely upon the dead or absent author. For this reason, the rule against hearsay testimony rests mainly on the ground that there was no opportunity to cross-examine the declarant.<sup>[24]</sup>

The hearsay rule, however, does not apply to independently relevant statements. *People v. Umapas*<sup>[25]</sup> is instructive on the matter:

[W]hile the testimony of a witness regarding a statement made by another person given for the purpose of establishing the truth of the fact asserted in the statement is clearly hearsay evidence, it is otherwise if the purpose of placing the statement on the record is merely to establish the fact that the statement, or the tenor of such statement, was made. **Regardless of the truth or falsity of a statement, when what is relevant is the fact that such statement has been made, the hearsay rule does not apply and the statement may be shown. As a matter of fact, evidence as to the making of the statement is**