

THIRD DIVISION

[G.R. No. 207711, July 02, 2018]

MARIA C. OSORIO PETITIONER, VS. PEOPLE OF THE PHILIPPINES RESPONDENT.

DECISION

LEONEN, J.:

Persons who receive money for investment in a particular company but divert the same to another without the investor's consent may be held criminally liable for other deceits under Article 318 of the Revised Penal Code. Article 318 of the Revised Penal Code is broad in scope intended to cover all other kinds of deceit not falling under Articles 315, 316, and 317 of the Revised Penal Code.

For resolution is a Petition for Review on Certiorari^[1] challenging the January 30, 2013 Decision^[2] and June 14, 2013 Resolution^[3] of the Court of Appeals in CA-G.R. CR No. 34274. The assailed judgments affirmed Maria C. Osorio's (Osorio) conviction for the crime of estafa.

In an Information, Osorio was charged with estafa, punished under Article 315, paragraph 2(a) of the Revised Penal Code, committed as follows:

That in or about and sometime during the period comprised from November 19, 2001 to January 11, 2002, in the City of Manila[,], Philippines, the said accused, did then and there willfully, unlawfully and feloniously defraud JOSEFINA O. GABRIEL, in the following manner, to wit: the said accused, by means of false manifestations and fraudulent representations which she made to said JOSEFINA O. GABRIEL, prior to and even simultaneous with the commission of the fraud, to the effect that her money, if invested with Philamlife Fund Management will earn 20% interest per annum, and by means of other similar deceits, induced and succeeded in inducing the said JOSEFINA O. GABRIEL to give and deliver, as in fact, she gave and delivered to the said accused the total amount of Php200,000.00, on the strength of the manifestations and representations of said accused well knowing that the said manifestation and representation were false and fraudulent and were made solely for the purpose of obtaining, as in fact she did obtain the total amount of Php200,000.00, which amount once in her possession, with intent to defraud, willfully, unlawfully and feloniously misappropriated, misapplied and converted the same to her own personal use and benefit, to the damage and prejudice of said JOSEFINA O. GABRIEL in the aforesaid amount Php200,000.00, Philippine Currency.

Contrary to law.^[4]

Osorio pleaded not guilty upon arraignment. After pre-trial, trial on the merits ensued.^[5]

The prosecution presented as witnesses private complainant, Josefina O. Gabriel (Gabriel), and Alberto G. Fernandez (Fernandez), head of Philam Life's Business Values and Compliance Department. Their collective testimonies produced the prosecution's version of the incident.^[6]

Gabriel was a proprietor of a stall in Paco Market, Manila. Sometime in December 2000, Osorio visited Gabriel's store and introduced herself as an agent of the Philippine American Life and General Insurance Company (Philam Life). As proof, Osorio presented her company ID and calling card. During their meeting, Osorio offered insurance coverage to Gabriel. Gabriel told Osorio to come back at a later date as she needed more time to think about the offer.^[7]

When Osorio returned, Gabriel availed Philam Life's Tri-Life Plan and Excelife Gold Package.^[8] Gabriel consistently paid the quarterly premiums from February 2001 to November 2001.^[9]

On November 19, 2001, Osorio offered Gabriel an investment opportunity with Philam Life Fund Management.^[10] The proposed investment would be placed under a time deposit scheme^[11] and would earn 20% annually. Osorio informed Gabriel that the proceeds of her investment may be channeled to pay for her insurance premiums. Enticed by the offer, Gabriel tendered P200,000.00 to Osorio, who in turn issued Philam Life receipts.^[12]

A few months later, Gabriel discovered that her insurance policies had lapsed due to non-payment of premiums. When Gabriel confronted Osorio about the matter, Osorio assured Gabriel that she would take responsibility.^[13]

Meanwhile, in May 2002, Gabriel received a letter from Philippine Money Investment Asset Management (PMIAM), thanking her for investing in the company. In the same letter, PMIAM informed Gabriel that her investment would earn interest on a semi-annual basis starting June 20, 2002.^[14] Gabriel confronted Osorio on why her investment was diverted to PMIAM. Osorio explained that PMIAM investments would yield a higher rate of return. Displeased with what had happened, Gabriel asked for a refund of her initial investment.^[15]

On August 2, 2002, Gabriel received P13,000.00 from PMIAM as evidenced by PMIAM Voucher No. 001854.^[16] In spite of this, Gabriel insisted on the refund.^[17]

Later, PMIAM informed Gabriel that her initial investment and unpaid interest income would be released to her on May 14, 2004. Unfortunately, she was unable to recover it. She then visited the Philam Life office to see Osorio but she was nowhere to be found. Philam Life referred Gabriel to a certain Atty. Cabugoy^[18] who sent a demand letter to Osorio.^[19]

Fernandez testified that Osorio was a Philam Life agent and that she was allowed to engage in other lines of work. He stated that Osorio should not have issued Philam Life receipts for Gabriel's P200,000.00 investment.^[20] Although the receipts were genuine, Fernandez claimed that they should only be issued for insurance premium payments.^[21]

The defense presented Osorio as its sole witness. Osorio admitted that aside from being a Philam Life agent, she was also a referral agent of PMIAM. She received P4,000.00 from the company as commission for Gabriel's investment.^[22] She asserted that she initially planned to place Gabriel's investment in Philam Life but decided later on to divert it to PMIAM since the latter offered a higher rate of return.^[23] When Osorio informed Gabriel of her decision, Gabriel allegedly gave her consent.^[24] Osorio claimed that her husband also failed to recover his P300,000.00 investment in PMIAM^[25] due to internal problems with its mother company in the United States.^[26]

On April 19, 2011, the Regional Trial Court rendered judgment finding Osorio guilty beyond reasonable doubt of estafa.^[27] It ruled that Gabriel was induced to part with her money through Osorio's misrepresentation that it would be invested in Philam Life, a company with an established reputation. It rejected Osorio's defense that Gabriel later on consented to the placement. When she was informed of the placement with PMIAM, Gabriel had no other choice but to agree.^[28]

The dispositive portion of the Regional Trial Court April 19, 2011 Decision stated:

WHEREFORE, the court finds the accused MARIA C. OSORIO GUILTY beyond reasonable doubt of Estafa punishable under Article 315 par. 2 (a) of the Revised Penal Code and hereby sentences her to an indeterminate penalty of imprisonment ranging from four (4) years and two (2) months of prision correccional as minimum to twenty (20) years of reclusion temporal as maximum.

Accused MARIA C. OSORIO is also directed to reimburse the private complainant, Josefina Gabriel the sum of Php200,000.00, with legal rate of interest fixed at 6% per annum from the date of filing of the complaint until the same is fully settled, which the accused received from the offended party.

With costs against the accused.

SO ORDERED.^[29]

Osorio was sentenced to suffer an indeterminate penalty of imprisonment of four (4) years and two (2) months of *prisión correccional* as minimum to 20 years of *reclusión temporal* as maximum. She was also directed to pay P200,000.00 plus six percent (6%) legal interest per annum from the date of the filing of the complaint until satisfaction.^[30]

Osorio appealed the Decision of the Regional Trial Court, arguing that her act of investing Gabriel's money with PMIAM was done in good faith.^[31]

On January 30, 2013, the Court of Appeals rendered judgment affirming Osorio's conviction.^[32] Osorio moved for reconsideration but her motion was denied.^[33]

On August 8, 2013, Osorio filed a Petition for Review before this Court^[34] to which the People of the Philippines, through the Office of the Solicitor General, filed a Comment.^[35]

In its February 10, 2014 Resolution, this Court required petitioner to file a reply to the comment on the petition.^[36] On April 24, 2014, petitioner manifested that she would no longer file a reply.^[37]

On June 18, 2014, this Court gave due course to the petition and required both parties to submit their respective memoranda.^[38] However, both parties manifested that they would no longer file their memoranda.^[39]

In praying for her acquittal,^[40] petitioner asserts that not all the elements of estafa under Article 315(2)(a) of the Revised Penal Code were established by the prosecution. Only damage on the part of the private complainant was proven. Petitioner argues that she did not employ any deceit in soliciting private complainant's investment as nothing in the records shows that she used a fictitious name or that she pretended to possess power, agency, or certain qualifications. Fernandez, one of the prosecution's witnesses, even admitted that she was a Philam Life agent.^[41]

Furthermore, petitioner claims that she acted in good faith when she decided to place private complainant's investment in PMIAM. She adds that she did not conceal this from private complainant, who later on agreed to the placement.^[42]

In its Comment,^[43] respondent claims that the main issue raised by petitioner is factual in nature. Thus, it is beyond the scope of review in a Rule 45 petition. Respondent argues that even if this Court undertakes a factual review in this case, the lower courts did not err in convicting petitioner of estafa.^[44] Petitioner misrepresented to private complainant that the latter's investment would be placed in Philam Life and that its proceeds would be channeled to pay for her insurance premiums. This misrepresentation caused private complainant to part with her money.^[45]

The principal issue presented by this case is whether or not petitioner's acts constitute estafa as defined and punished under Article 315(2)(a) of the Revised Penal Code.

The rule with respect to petitions for review brought under Rule 45 of the Rules of Court is that only questions of law may be raised.^[46] The factual findings of the trial court, as affirmed by the Court of Appeals, are binding on this Court and will not be disturbed on appeal.^[47]

There is a question of law when "doubt or difference arises as to what the law is on a certain set of facts or circumstances."^[48] On the other hand, there is a question of fact when "the issue raised on appeal pertains to the truth or falsity of the alleged facts."^[49] This includes an assessment of the probative value of evidence presented during trial.^[50] If the principal issue may be resolved without reviewing the evidence, then the question before the appellate court is one of law.

Petitioner claims that the prosecution failed to prove her guilt beyond reasonable doubt on the ground that she did not employ deceit in soliciting private complainant's funds. The determination of whether the element of deceit or fraud is present in a charge for estafa is a question of fact as it involves a review of the lower court's appreciation of the evidence.^[51]

Petitioner concedes that the case involves mixed questions of fact and law. However, she claims that this Court is authorized to undertake a factual review if the findings of the lower courts do not conform to the evidence on record.^[52] Her contention is well-taken.

Petitioner was charged with estafa by means of deceit under Article 315(2)(a) of the Revised Penal Code:

Article 315. *Swindling (Estafa)*. — Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

. . . .

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 fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceptions.

In sustaining a conviction under this provision, the following elements must concur:

(a) [T]hat there must be a false pretense or fraudulent representation as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions; (b) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud; (c) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (d) that, as a result thereof, the offended party suffered damage.^[53]