

THIRD DIVISION

[G.R. No. 220458, July 26, 2017]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ROSARIO BALADJAY, ACCUSED-APPELLANT.**

DECISION

VELASCO JR., J.:

"... the only people who get rich from "get rich quick" books are those who write them."

-Richard M. Nixon

Nature of the Case

Before this Court is an appeal from the November 13, 2014 Decision^[1] of the Court of Appeals (CA) in CA-G.R. CR HC No. 06308 finding the accused-appellant, Rosario Baladjay (Baladjay), guilty beyond reasonable doubt of the crime of Syndicated *Estafa* defined and penalized under Article 315 (2) (a) of the Revised Penal Code (RPC) in relation to Section 1 of Presidential Decree No. (PD) 1689.^[2]

The Facts

In an *Information* dated August 6, 2003, accused-appellant Baladjay and her co-accused were indicted with the crime of Syndicated *Estafa*. The accusatory portion of the *Information* reads:

The undersigned Prosecutor accuses ROSARIO BALADJAY, SATURNINO BALADJAY, LITO NATIVIDAD, RANDY RUBIO, TESS VILLEGAS, OLIVE MARASIGAN, LORNA PANGAN, CARMEN CHAN, STELLA ILAGAN and JOHN MUNOZ of the crime of SYNDICATED ESTAFA under Article 315, par. 2(a) of the Revised Penal Code in relation to [PD] 1689, committed as follows:

That on or about and sometime during the months covering the period from May 2001 to October 2002, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being officers, employees, and/or agents of Multinational Telecom Investors Corporation (Multitel), an association operating on funds solicited from the public, conspiring or confederating with and mutually helping one another, and confederating as a syndicate, did then and

there, willfully, unlawfully and feloniously defraud complainants JOSE SAMALA, HENRY CHUA CO, ROLANDO T. CUSTODIO, KATHERINE T. HEBRON AND STELLA P. LEE by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of fraud to the effect that they have the business, property and power to solicit and accept investments and deposits from the general public and capacity to pay the complainants guaranteed monthly interest on investment from 5% to 6% and lucrative commissions, and by means of other deceits of similar import, induced and succeeded in inducing the complainants to invest, deposit, give and deliver as in fact the latter gave the accused the total amount of [Php]7,810,000.00 as investment or deposit, accused knowing fully well that said pretenses and representations are fraudulent scheme to enable them to obtain said amount, and thereafter, having in their possession said amount, with intent to gain and to defraud, misappropriated and converted the same to their own personal benefits to the damage and prejudice of said complainants in the aforementioned amount.

CONTRARY TO LAW.^[3]

Upon motion of the public prosecutor, the charge against Carmen Chan was dismissed for lack of probable cause; while the other accused, aside from Baladjay, remained at large. On arraignment, Baladjay pleaded not guilty to the offense charged. Thereafter, trial on the merits ensued.

The prosecution presented Rolando T. Custodio (Rolando), Estella Pozon Lee (Estella), Henry M. Chua Co (Henry), and Yolanda Baladjay (Yolanda) to testify against accused-appellant Baladjay.

When Rolando took to the stand, he narrated that sometime in February 2001, his neighbor told him about Multitel, a company which allegedly pays its investors an interest income of at least five percent (5%) per month. Enticed with the prospective returns, Rolando invested the amount of Php100,000.00 in Multitel and received monthly interest payments, as promised.^[4]

Thereafter, Rolando met Gladina Baligad (Gladina), a counselor of Multitel, who explained to him that the company was engaged in the telecommunications business. Convinced of Gladina's representations regarding Multitel's legitimacy and her assurances as to its profitability, Rolando increased his investment in the company to Php2,000,000.00. Gladina then made a more attractive offer, promising an increased monthly earning of eight to twelve percent (8%-12%) of the investments, luring Rolando to invest a total of Php3,200,000.00 in Multitel. A receipt was issued for every placement that Rolando made, together with checks personally signed by Baladjay, representing his principal investment.^[5]

However, sometime in October 2002, when he had yet to receive his interest income for the month, Rolando learned that Baladjay was under investigation. Knowledge of this prompted him to call Gladina, who assured him that Multitel would still be able to deliver on its promised returns. Nevertheless, despite Gladina's assurance,

Multitel defaulted. Rolando then conducted his own investigation on the matter and found out that Multitel was not issued a secondary license by the Securities and Exchange Commission (SEC) to deal in securities and solicit investments from the general public. In fact, per an SEC Advisory, the company and its conduits were not duly registered and had no juridical personality and authority to engage in any activity, let alone investment-taking.^[6]

Rolando exerted all effort to recover his investments after his discovery. He even attended the meetings conducted by Multitel, the last one of which was held on November 5, 2002. During the final meeting, Baladjay's co-accused Randy Rubio, Olive Marasigan, and Tess Villegas, all officers of Multitel, met with the investors and repeatedly assured the latter that Multitel was a legitimate company and that it was merely organizing its books so as to meet the monthly withdrawals. Multitel, however, was unable to deliver on the promised returns, prompting Rolando to file a criminal complaint.^[7]

In her account of the events, Estella claimed that she was advised by Carmencita Chan (Carmencita), a Multitel counselor, to invest in the company through the One Heart Multi-Purpose Cooperative (One Heart).^[8] As Carmencita explained to her, One Heart was an agent of Multitel, which could receive investments in the latter's behalf. Carmencita also informed Estella in one of their meetings at One Heart's office at the Enterprise Building in Makati City that Multitel is a local subsidiary of a New York-based telecommunications company.^[9]

Carmencita later introduced Estella and her husband to accused Manolito Natividad (Manolito), who confirmed the information about Multitel. With the promised yield of six percent (6%) monthly interest, Estella's total investment with Multitel amounted to Php3,280,000.00 and US\$7,520.00. Estella initially received the promised interest yields. However, in October 2002, no interest income was deposited to Estella's account. This impelled Estella to call Carmencita, who told her that she had to wait before she could get her income for the month.^[10]

Subsequently, Estella constantly called and followed up with Carmencita and even Multitel's advertised hotline only to be repeatedly told that she would be informed of the status of her investments. However, no information ever reached her, and her investments were never returned by Multitel.^[11]

In his testimony, Henry claimed that he knew the accused Baladjay, Satumino Baladjay, Randy Rubio, Lito Natividad, and Tess Villegas. According to him, he was also persuaded by Gladina to invest in Multitel because of the promise of a five percent (5%) monthly interest income. His total investments amounted to Php1,050,000.00, for which he received interest payment only once.^[12] When the guaranteed return never arrived, Henry called Gladina who relayed to him that Baladjay was having difficulty with respect to the Multitel funds. Henry then became suspicious, prompting him to consult with the SEC where he was informed that Multitel is a scam, and that a Cease and Desist Order had already been issued against it for soliciting funds from the public without a valid license.^[13]

Henry then confronted Gladina, only to be redirected to Baladjay's then counsel. He then attempted to settle with Baladjay, but the latter can no longer be contacted.

And in his last-ditch effort to recover his investment, he attended the investors meeting organized by Multitel counselors, including Randy Rubio, Olive Marasigan, and Tess Villegas, among others.^[14]

Lastly, Yolanda testified that her and Baladjay's husbands are brothers.^[15] Baladjay offered her a job as a Multitel counselor, promising her commissions equivalent to seven percent (7%) of the capital infused by the investors that she would convince. Accepting the offer, Yolanda ushered in clients to Baladjay's office at the Enterprise Building in Ayala, Makati City until 2001. Thereafter, Yolanda and the other Multitel counselors were assigned to different groups or cooperatives, which Baladjay herself had established. According to her, the investments were placed in the cooperatives, which, in turn, placed them in Multitel.^[16]

By September 2002, Multitel started to have problems with the SEC. Consequently, the investors demanded from Yolanda that she return their money placements. However, she could not address their demands as she could no longer contact Baladjay, who, by then, was already nowhere to be found.^[17]

For its part, the defense presented accused-appellant Baladjay as its sole witness. Baladjay, in her testimony, denied knowing, meeting, or transacting with the private complainants. She insisted on her innocence and decried the allegations that she took the private complainants' money in the aggregate amount of Php7,810,000.00.^[18]

Baladjay added that while she is the President and Chairman of the Board of Multitel International Holdings, Inc. (MIHI), it is a company totally distinct and separate from Multinational Telecom Investors Corporation or Multitel. She claimed that her company, which was registered with the SEC, was only engaged in the selling of cell phones and did not solicit any investment from the public. However, Baladjay admitted that she was also known as the president of Multitel.^[19]

The Ruling of the RTC

On December 3, 2012, the Regional Trial Court (RTC), Makati City, Branch 58, rendered judgment in Criminal Case No. 03-3261 finding Baladjay guilty of Syndicated *Estafa*, disposing as follows:

WHEREFORE, premises considered, JUDGMENT is hereby rendered as follows:

1. Convicting the accused Rosario Baladjay of the crime of syndicated estafa and is hereby ordered to suffer life imprisonment.

By way of civil liability

2. To pay Dr. Rolando T. Custodio the sum of Php3,200,000.00 as actual damages and Php500,000.00 as moral damages;

3. To pay Estella Ponce Lee the sum of Php3,280,000.00 and US\$

7,520.00 the rate to be computed from the time of its investment and Php500,000.00 as moral damages;

4. To pay Henry M. Chua Co the sum of Php1,050,000.00 and Php500,000.00 as moral damages;

Considering that the Court has yet to acquire jurisdiction over the other accused, let alias warrants of arrest be issued against them.

SO ORDERED.

An Amended Decision^[20] was later issued on April 26, 2013 to correct the middle name of one of the private complainants, Estella Pozon Lee.

Baladjay interposed an appeal from the above-quoted RTC ruling, arguing that the trial court gravely erred in convicting her when her guilt has not been proven beyond reasonable doubt.^[21]

The Ruling of the CA

In its November 13, 2014 Decision, the CA affirmed the guilty verdict meted by the RTC, but with modification with respect to the amount of moral damages awarded. The CA held that all the elements of *Estafa* under Article 315 (2) (a) of the RPC are present in the instant case, and that the crime was committed by Baladjay together with her counselors numbering more than five (5), thus, qualifying the felony to Syndicated *Estafa* in accordance with PD 1689. The dispositive portion of the CA Decision states:

ACCORDINGLY, the appeal is DENIED and the Decision dated December 3, 2012, AFFIRMED WITH MODIFICATION, reducing the award of moral damages to Php100,000.00 for each of the private complainant.

SO ORDERED.^[22]

Aggrieved, accused-appellant Baladjay elevated the case before Us, raising the same arguments she had at the CA.

The Issue

The sole issue in this case is whether or not the appellate court gravely erred in affirming the accused-appellant's conviction for Syndicated *Estafa*.

The Court's Ruling