

## THIRD DIVISION

[ G.R. No. 223506, November 28, 2016 ]

**GARRY V. INACAY, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### RESOLUTION

**REYES, J.:**

This is a Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court seeking to annul and set aside the Decision<sup>[2]</sup> dated March 15, 2016 issued by the Court of Appeals (CA) in CA-G.R. CR No. 35652.

#### Facts

Garry V. Inacay (Inacay) was a former sales agent of Mega Star Commercial (MSC), a business enterprise engaged in the wholesale of electrical and construction materials. As part of his duties, Inacay was tasked to find clients in Pangasinan, solicit orders, collect payments, and issue receipts. Inacay was able to collect a check payment from Gamboa Lumber and Hardware (GLH), one of MSC's clients, in the amount of P53,170.00.<sup>[3]</sup>

Fernando Tan (Tan), the proprietor of MSC, claimed that he demanded Inacay to remit the said amount paid by GLH, but he failed to do so.<sup>[4]</sup> Tan then filed a criminal complaint for estafa with the Office of the Prosecutor in Quezon City against Inacay. Consequently, an Information for the crime of estafa was filed with the Regional Trial Court (RTC) of Quezon City against Inacay.<sup>[5]</sup>

In the proceedings before the RTC, Inacay was represented by a certain Eulogia B. Manila (Manila), who represented herself as a lawyer. During arraignment, Inacay pleaded not guilty to the crime charged.<sup>[6]</sup>

Inacay admitted that he received the payment made by GLH, but claimed that he remitted the same to Melinda Castro, the accounting officer of MSC. However, on cross-examination, Inacay claimed that he previously executed an Affidavit dated November 3, 2006, stating that he was held up by robbers and among the things taken from him were several checks issued by the customers of MSC.<sup>[7]</sup>

On February 21, 2013, the RTC of Quezon City, Branch 80 rendered a Decision<sup>[8]</sup> finding Inacay guilty beyond reasonable doubt of the crime of Estafa punishable under Article 315(1)(b) of the Revised Penal Code and sentencing him to suffer the indeterminate penalty of one (1) year, eight (8) months and twenty-one (21) days of *prision correccional*, as minimum, to nine (9) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum. The RTC likewise directed Inacay to pay MSC the amount of P53,170.00.<sup>[9]</sup>

Unperturbed, Inacay appealed the RTC decision to the CA; he was still represented by Manila in the proceedings before the appellate court.<sup>[10]</sup>

On March 15, 2016, the CA rendered a Decision,<sup>[11]</sup> affirming the RTC's disposition *in toto*. When Inacay learned of the CA's decision, he requested Manila to file the appropriate petition with this Court, but the latter refused and told him to find another lawyer.<sup>[12]</sup>

Subsequently, Inacay found out, after talking to a lawyer, that Manila is not a member of the Bar. Thus, Inacay obtained a Certification<sup>[13]</sup> from the Office of the Bar Confidant (OBC) showing that Manila is indeed not a member of the Philippine Bar.<sup>[14]</sup>

In this petition, Inacay claims that he was denied due process since he was not represented by a lawyer. He, likewise, avers that the lower courts erred in convicting him of the offense charged since there was no evidence presented showing that he actually encashed the check paid by GLH and misappropriated the proceeds thereof.

### **Issue**

Essentially, the issue for the Court's resolution is whether Inacay's guilt of the crime charged had been proven beyond reasonable doubt.

### **Ruling of the Court**

The petition is granted.

Section 1, Article III of the Constitution provides that no person shall be deprived of life, liberty, or property without due process of law. Section 14(2), Article III of the Constitution further mandates that in all criminal prosecutions, the accused shall enjoy the right to be heard by himself and counsel.

In criminal cases, the right of the accused to be assisted by counsel is immutable. Otherwise, there will be a grave denial of due process. The right to counsel proceeds from the fundamental principle of due process which basically means that a person must be heard before being condemned.<sup>[15]</sup> "Thus, even if the judgment had become final and executory, it may still be recalled, and the accused afforded the opportunity to be heard by himself and counsel."<sup>[16]</sup>

"The right to counsel is absolute and may be invoked at all times. More so, in the case of an on-going litigation, it is a right that must be exercised at every step of the way, with the lawyer faithfully keeping his client company."<sup>[17]</sup> Unless the accused is represented by a lawyer, there is great danger that any defense presented in his behalf will be inadequate considering the legal perquisites and skills needed in the court proceedings. This would certainly be a denial of due process.<sup>[18]</sup>

In this case, Inacay, during the proceedings before the trial court and the appellate court, was represented by Manila who, based on the Certification issued by the OBC, is not a lawyer. At that time, Inacay had no inkling that he was being represented by