

## SECOND DIVISION

[ G.R. No. 204644, February 11, 2015 ]

**ANGELITA CRUZ BENITO, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**LEONEN, J.:**

Conspiracy must be proven with evidence that can convince a trial court of its existence beyond reasonable doubt. Moreover, there can be no conspiracy to commit a crime that has already been consummated.

This is a Petition for Review on Certiorari<sup>[1]</sup> of the Court of Appeals' Decision,<sup>[2]</sup> affirming *in toto* the November 17, 2009<sup>[3]</sup> Decision of the Regional Trial Court, Branch 80, Quezon City. The trial court convicted Angelita Cruz Benito of estafa, finding that she conspired with Rebecca Agbulos in misappropriating the pieces of jewelry the latter received in trust from Dorie Cruz-Abadilla.<sup>[4]</sup>

In the Information dated October 28, 1994, Rebecca Agbulos (Agbulos) and Angelita Cruz Benito<sup>[5]</sup> (Benito) were charged with estafa punished under Article 315, paragraph I(b) of the Revised Penal Code. The accusatory portion of the Information reads:

That in or about the period comprised from June 8, 1994 up to August 3, 1994, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping with each other, did then and there willfully, unlawfully and feloniously defraud DORIE CRUZ-ABADILLA in the following manner, to wit:

Assorted pieces of jewelry in the amount of P2,070,300.00, Philippine Currency, for the purpose of selling the same on commission basis, under the express obligation on the part of said accused of turning over the proceeds of the sale to said DORIS CRUZ-ABADILLA if sold, or of returning the same if unsold to said complainant, but the said accused, once in possession of the said items, far from complying with their obligation as aforesaid, with intent to defraud, unfaithfulness and grave abuse of confidence, failed and refused and still fails and refuses to fulfill their aforesaid obligation despite repeated demands made upon them to do so and instead misapplied, misappropriated and converted the same or the value thereof, to their own personal use and benefit, to the damage and prejudice of said DORIE CRUZ-ABADILLA in the aforesaid amount of P2,070,300.00, Philippine Currency.<sup>[6]</sup>

Agbulos and Benito were arraigned on July 10, 1995, pleading not guilty to the charge. Trial ensued.<sup>[7]</sup>

The prosecution presented as witnesses complainant, Dorie Cruz-Abadilla (Abadilla); her friend, Concepcion Quinonez Pamintuan (Pamintuan);<sup>[8]</sup> and Estela Dilorio (Dilorio),<sup>[9]</sup> a pawnshop appraiser of E. Ochoa Pawnshop.

### **The prosecution's version of the facts**

Abadilla knew Agbulos and Benito through Abadilla's friend, Pamintuan. Pamintuan introduced Agbulos to Abadilla as a jeweler.<sup>[10]</sup>

Abadilla and Agbulos entered into several transactions for the sale of jewelry, with Agbulos going to Abadilla's residence at 174 Maginhawa Street, Sikatuna Village, Quezon City. In all these transactions, Benito accompanied Agbulos.<sup>[11]</sup>

On June 9, 1994, Agbulos received pieces of jewelry from Abadilla. They agreed that Agbulos would return the pieces of jewelry in the afternoon should Agbulos fail to sell them. Agbulos then issued Abadilla a check for the value of the jewelry received.<sup>[12]</sup>

Agbulos received another batch of jewelry from Abadilla on June 14, 1994. She again issued Abadilla a check, this time for P828,000.00. They likewise agreed that Agbulos would return the jewelry in the afternoon should she fail to sell them.<sup>[13]</sup>

On June 16, 1994, Agbulos received the last batch of jewelry from Abadilla, issuing a check in the amount of P453,000.00.<sup>[14]</sup>

On June 21, 1994, Abadilla called Agbulos on the phone, asking for security for the pieces of jewelry she gave Agbulos. Agbulos then gave as security the owner's copy of Transfer Certificate of Title No. 438259.<sup>[15]</sup>

However, upon verification with the Land Registration Authority, the certificate of title turned out to be spurious.<sup>[16]</sup>

Abadilla deposited the checks Agbulos issued to her, and all were dishonored by reason of "closed account." Abadilla then tried to locate Agbulos, but Agbulos could no longer be found.<sup>[17]</sup>

After several months, Abadilla learned from Agbulos' sister-in-law that the latter received pawn tickets from a friend. Abadilla, through her friend Pamintuan, obtained from Agbulos' sister-in-law pawn tickets numbered 45227 and 45306 issued by E. Ochoa Pawnshop. Appearing on the pawn tickets was the name "Linda Chua."<sup>[18]</sup>

Abadilla went to E. Ochoa Pawnshop to verify the items described in the pawn tickets. She learned that the items pawned were among the pieces of jewelry she turned over to Agbulos, specifically, a men's diamond ring and a set of diamond ring and earrings. She also learned from Dilorio, the pawnshop appraiser, that the "Linda

Chua" who pawned her jewelry was Benito.<sup>[19]</sup>

### **The defense's version of the facts**

For the defense, Agbulos and Benito testified. Benito denied that she was the "Linda Chua" who pawned Abadilla's jewelry. According to her, on June 8, 1994, she was at the house of Agbulos' mother, working as a cook and taking care of Agbulos' children. She denied being with Agbulos when the latter transacted with Abadilla and that she only knew of Abadilla when the latter looked for Agbulos.<sup>[20]</sup>

Agbulos supported the testimony of her co-accused Benito, stating that the latter "had no participation [in her transactions with Abadilla]."<sup>[21]</sup> Agbulos likewise denied that Benito accompanied her to Abadilla's residence whenever she received jewelry from Abadilla.<sup>[22]</sup>

### **The Regional Trial Court's findings**

The Regional Trial Court found that the prosecution proved beyond reasonable doubt that Agbulos and Benito conspired to commit estafa. According to the trial court, Agbulos and Benito received the pieces of jewelry in trust for Abadilla. They undertook to sell the jewelry for Abadilla or return them in the afternoon should they fail to sell them. However, in violation of that trust, they failed to return the unsold jewelry. Worse, they had the jewelry pawned under a different name.<sup>[23]</sup>

Thus, in the Decision<sup>[24]</sup> dated November 17, 2009, the trial court sentenced Agbulos and Benito to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum to twenty (20) years of *reclusion temporal* as maximum. It also ordered Agbulos and Benito to pay Abadilla P2,070,300.00 by way of civil indemnity plus 12% interest from the filing of the Information until full payment.<sup>[25]</sup>

### **Disposition of the Court of Appeals**

Benito appealed before the Court of Appeals, maintaining that she had nothing to do with Agbulos' transaction with Abadilla.<sup>[26]</sup>

Nevertheless, the Court of Appeals sustained the finding that Benito was the "Linda Chua" who pawned Abadilla's jewelry as testified to by the pawnshop appraiser, Dilorio. Thus, even assuming that Agbulos alone transacted with Abadilla, "it was the action of [Benito] that paved the way [to the misappropriation or conversion of the jewelry, to the prejudice of Abadilla]."<sup>[27]</sup> The Court of Appeals upheld the finding that Agbulos and Benito conspired to commit estafa.

Affirming *in toto* the trial court's Decision, the Court of Appeals denied Benito's appeal in the Decision<sup>[28]</sup> dated June 30, 2011.

Benito filed a Motion for Reconsideration, which the Court of Appeals denied in the Resolution<sup>[29]</sup> dated November 13, 2012.

### **Proceedings in this court**

Benito filed a Petition for Review on Certiorari before this court. On behalf of the People of the Philippines, the Office of the Solicitor General commented on Benito's Petition,<sup>[30]</sup> after which, Benito replied to the Comment.<sup>[31]</sup>

In her Petition for Review on Certiorari and Reply, Benito insists that the prosecution failed to prove her alleged conspiracy with Agbulos to commit estafa. She maintains that Agbulos alone transacted with Abadilla, denying that she received any of the pieces of jewelry. That she allegedly accompanied Agbulos to Abadilla's residence does not prove that she likewise received some of the pieces of jewelry. Thus, the element of estafa consisting of the receipt in trust of personal property does not apply to her.<sup>[32]</sup>

Moreover, Benito vehemently denies that she was the "Linda Chua" who pawned Abadilla's jewelry. She points out that prosecution witness Dilorio did not personally transact with "Linda Chua." Dilorio allegedly testified that her co-worker entertained "Linda Chua" and appraised the jewelry being pawned. With "no extraordinary reason why [the Linda Chua transaction] stuck to [Dilorio's] mind,"<sup>[33]</sup> Benito argues that Dilorio was incompetent to testify as to the identity of "Linda Chua."<sup>[34]</sup>

Maintaining that the prosecution failed to prove her guilt beyond reasonable doubt, Benito prays for her acquittal.

In the Comment, the People of the Philippines argues that Benito raises questions of fact that is not allowed in a Petition for Review on Certiorari. In addition, the Regional Trial Court and the Court of Appeals agreed in their findings of fact. Thus, the findings that Benito received jewelry from Abadilla and that she was the "Linda Chua" who pawned some of the jewelry are entitled to great respect, if not finality, by this court.<sup>[35]</sup>

Considering that the arguments of Benito are a mere rehash of those she raised in her appeal before the Court of Appeals, the People of the Philippines prays that this court deny Benito's Petition for Review on Certiorari.

The issue for this court's resolution is whether Angelita Cruz Benito conspired with Rebecca Agbulos in committing estafa punished under Article 315, paragraph 1(b) of the Revised Penal Code.

We grant this Petition.

## I

### **The judgments of the Regional Trial Court and the Court of Appeals are based on a misapprehension of facts**

Under Rule 45, Section 1 of the Rules of Court, only questions of law may be raised in a Petition for Review on Certiorari:

Section 1. *Filing of petition with Supreme Court.* - A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and *shall raise only questions of law*, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency. (Emphasis supplied)

As an exception to the rule, questions of fact may be raised in a Rule 45 Petition if any of the following is present:

(1) when there is grave abuse of discretion; (2) when the findings are grounded on speculations; (3) when the inference made is manifestly mistaken; (4) when the judgment of the Court of Appeals is based on a misapprehension of facts; (5) when the factual findings are conflicting; (6) when the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of the parties; (7) when the Court of Appeals overlooked undisputed facts which, if properly considered, would justify a different conclusion; (8) when the findings of the Court of Appeals are contrary to those of the trial court; (9) when the facts set forth by the petitioner are not disputed by the respondent; and (10) when the findings of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.<sup>[36]</sup>

A question of fact exists "when the doubt or difference arises as to the truth or the falsehood of alleged facts."<sup>[37]</sup> On the other hand, a question of law exists "when the doubt or difference arises as to what the law is on a certain state of facts."<sup>[38]</sup>

Benito raises questions of fact in her Petition for Review on Certiorari. Specifically, she prays that this court examine the truth of the following findings: that she received jewelry from Abadilla and that she posed as "Linda Chua" and pawned the jewelry she received from Abadilla.

Despite Benito raising questions of fact in her Petition for Review on Certiorari, we nevertheless take cognizance of her Petition. The trial court and Court of Appeals misapprehended the facts of this case.

## II

### **The prosecution failed to prove beyond reasonable doubt Benito's conspiracy with Agbulos to commit estafa**

Under Article 8 of the Revised Penal Code, "a conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it." Proof of conspiracy may be direct or circumstantial.<sup>[39]</sup> So long as the