

## THIRD DIVISION

[ G.R. No. 179814, December 07, 2015 ]

**WILFRED N. CHIOK, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES AND RUFINA CHUA, RESPONDENTS.**

[G.R. No. 180021]

**RUFINA CHUA, PETITIONER, VS. WILFRED N. CHIOK, AND THE  
PEOPLE OF THE PHILIPPINES (AS AN UNWILLING CO-PARTY  
PETITIONER), RESPONDENTS.**

### D E C I S I O N

**JARDELEZA, J.:**

These are consolidated petitions<sup>[1]</sup> seeking to nullify the Court of Appeals (CA) July 19, 2007 Decision<sup>[2]</sup> and October 3, 2007 Resolution<sup>[3]</sup> in CA-G.R. CR No. 23309. The CA reversed and set aside the December 3, 1998 Decision<sup>[4]</sup> of the Regional Trial Court (RTC) of Pasig-Branch 165, and acquitted petitioner Wilfred Chiok (Chiok) of the crime of *estafa* in Criminal Case No. 109927, but ordered him to pay civil liability to Rufina Chua in the total amount of P9,500,000.00, plus interests:

**WHEREFORE,** the **DECISION DATED DECEMBER 3, 1998** is **REVERSED AND SET ASIDE** and accused **WILFRED N. CHIOK** is **ACQUITTED** for failure of the Prosecution to prove his guilt beyond reasonable doubt, but he is **ORDERED** to pay complainant **RUFINA CHUA** the principal amount of [P]9,500,000.00, plus legal interest of 6% *per annum* reckoned from the filing of this case, which rate shall increase to 12% *per annum* from the finality of judgment.

No pronouncement on costs of suit.

**SO ORDERED.**<sup>[5]</sup> (Emphasis in original)

### STATEMENT OF FACTS

Chiok was charged with *estafa*, defined and penalized under Article 315, paragraph 1(b) of the Revised Penal Code, in an Information that reads:

That sometime in June, 1995 in the Municipality of San Juan, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, received in trust from Rufina Chua the amount of P9,563,900.00 for him to buy complainant shares of stocks, under the express obligation on the part of the accused to deliver the documents thereon or to return the whole amount if the purchase did not materialize, but the accused once in possession of the said amount, far

from complying with his obligation as aforesaid, with intent to defraud the complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit the said amount of P9,563,900.00, and despite repeated demands failed and refused and still fails and refuses to return the said amount or to account for the same, to the damage and prejudice of the complainant Rufina Chua in the aforementioned amount of P9,563,900.00.

CONTRARY TO LAW.<sup>[6]</sup>

Chiok pleaded not guilty to the crime charged. Thereafter, trial ensued, with both parties presenting their evidence in support of their respective claims and defenses.

According to the Prosecution, petitioner Rufina Chua (Chua) met Chiok in mid-1989, during which he offered to be her investment adviser. Convinced by Chiok's representations and the fact that he is Chinese, Chua made an initial investment of P200,000.00, allegedly to buy Meralco and PLDT shares. She rolled over the original investment and profits, and this went on until 1994. For each of their transactions, Chua claimed she was not given any document evidencing every stock transaction and that she only relied on the assurances of Chiok. In mid-1995, she accepted his proposal to buy shares in bulk in the amount of P9,563,900.00. Chua alleged that she deposited P7,100,000.00 to Chiok's Far East Bank, Annapolis account on June 9, 1995 and delivered to him P2,463,900.00 in cash later that same date at the Han Court Restaurant in Annapolis, Greenhills. As proof, she presented a deposit slip dated June 9, 1995 of Chiok's Far East Bank Annapolis account. There was no receipt or memorandum for the cash delivery.<sup>[7]</sup>

Chua narrated that she became suspicious when Chiok later on avoided her calls and when he failed to show any document of the sale. He reassured her by giving her two interbank checks, Check No. 02030693 dated July 11, 1995 for P7,963,900.00 and Check No. 02030694 dated August 15, 1995 in the amount of P1,600,000.00 (interbank checks). The interbank checks were given with the request to deposit the first check only after 60-75 days to enable him to generate funds from the sale of a property in Hong Kong. Both interbank checks were ultimately dishonored upon presentment for payment due to garnishment and insufficiency of funds. Despite Chua's pleas, Chiok did not return her money. Hence, she referred the matter to her counsel who wrote a demand letter dated October 25, 1995. Chiok sent her a letter-reply dated November 16, 1995 stating that the money was Chua's investment in their unregistered partnership, and was duly invested with Yu Que Ngo. In the end, Chua decided to file her complaint-affidavit against him in the Pasig Prosecutor's Office.<sup>[8]</sup>

In his defense, Chiok denied that he enticed Chua to invest in the stock market, or offered her the prospect of buying shares of stocks in bulk. Chiok maintained that from the time he met her in 1991 and until 1995, he previously only had dollar transactions with Chua. It was in 1995 when both of them decided to form an unregistered partnership. He admitted that the P7,963,900.00 she gave him before she left for the United States was her investment in this unregistered partnership. Chua allegedly instructed him to invest according to his best judgment and asked him to issue a check in her name for her peace of mind. Chiok denied having received the P2,463,900.00 in cash from her.<sup>[9]</sup>

On cross-examination, however, Chiok admitted receiving "P7.9" million in June 1995 and "P1.6" million earlier.<sup>[10]</sup> He testified that exercising his best judgment, he invested P8,000,000.00 with Yu Que Ngo, a businesswoman engaged in the manufacture of machine bolts and screws under the name and style of Capri Manufacturing Company.<sup>[11]</sup> Chiok narrated that Chua only panicked when she learned that he was swindled by one Gonzalo Nuguid, who supplied him with dollars.<sup>[12]</sup> It was then that she immediately demanded the return of her investment. To reassure Chua, Chiok informed her that he had invested the money with Yu Que Ngo and offered to give Yu Que Ngo's checks to replace his previously issued interbank checks.<sup>[13]</sup> Chua agreed, but instead of returning his checks, she retained them along with the checks of Yu Que Ngo. Chua rejected Yu Que Ngo's offer to settle her obligation with land and machineries, insisting on recovering the "whole amount plus interest, litigation expenses plus attorney's fees."<sup>[14]</sup> After the case was filed, Chiok and Yu Que Ngo met with Chua, accompanied by their lawyers, in an effort to amicably settle Chua's demand for the return of her funds. Chua demanded more than P30,000,000.00, but Chiok and Yu Que Ngo requested for a lower amount because the original claim was only P9,500,000.00. Chua did not grant their request.<sup>[15]</sup>

In a Decision<sup>[16]</sup> dated December 3, 1998, the RTC convicted Chiok of the crime of *estafa* (RTC conviction). Its dispositive portion reads:

In View Of All The Foregoing, the Court hereby finds the accused Wilfred N. Chiok guilty beyond reasonable doubt of the crime of *estafa* under Art. 315, paragraph 1(b) of the Revised Penal Code.

Applying the Indeterminate Sentence Law, the Court hereby sentences the accused to suffer imprisonment of twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum and to pay the costs.

The accused is ordered to pay the private complainant the amount of P9,563,900.00 with interest at the legal rate to be computed from the date of demand - October 25, 1995 until fully paid.

For want of evidence, the Court cannot award the alleged actual damages.

SO ORDERED.<sup>[17]</sup>

The prosecution filed a Motion for Cancellation of Bail<sup>[18]</sup> pursuant to Section 5, Rule 114 of the 1985 Rules on Criminal Procedure on February 1, 1999, the same day the judgment was promulgated.<sup>[19]</sup> On February 15, 1999, Chiok filed a Motion for Reconsideration<sup>[20]</sup> of the RTC conviction.

The RTC, in an omnibus order<sup>[21]</sup> dated May 28, 1999 (omnibus order), denied Chiok's motion for reconsideration, and also cancelled his bail pursuant to Section 5, Rule 114 of the 1985 Rules on Criminal Procedure. The RTC held that the circumstances of the accused indicated the probability of flight if released on bail

and/or that there is undue risk that during the pendency of the appeal, he may commit another crime. Thus:

WHEREFORE, the bail of the accused is cancelled. The accused is given five (5) days from receipt of this order within which to surrender before this Court otherwise, his arrest will be ordered.

SO ORDERED.<sup>[22]</sup>

On June 18, 1999, Chiok filed a Notice of Appeal<sup>[23]</sup> on the RTC conviction and omnibus order, docketed as CA-G.R. CR No. 23309 (the appeal case) and rallied to the CA Fifteenth Division. On June 19, 1999, Chiok also filed a Petition for Certiorari and Prohibition with a prayer for Temporary Restraining Order (TRO) and/or Injunction against the omnibus order,<sup>[24]</sup> which was docketed as CA-G.R. CR No. 53340 (bail case) and raffled to the CA Thirteenth Division.

Meanwhile, the RTC issued an order of arrest<sup>[25]</sup> on June 25, 1999 (order of arrest) pursuant to the omnibus order. The order of arrest was returned to the trial court by the Makati Police Station on July 25, 1999 on the ground that Chiok could not be located at his last given address.<sup>[26]</sup>

### ***The Bail Case***

On July 27, 1999, the CA issued a TRO on the implementation of the omnibus order until further orders.<sup>[27]</sup> On September 20, 1999, the CA issued a writ of preliminary injunction<sup>[28]</sup> enjoining the arrest of Chiok. The CA ruled that Chiok should not be deprived of liberty pending the resolution of his appeal because the offense for which he was convicted is a non-capital offense, and that the probability of flight during the pendency of his appeal is merely conjectural.<sup>[29]</sup> The Office of the Solicitor General (OSG) and Chua filed a motion for reconsideration but it was denied by the CA in a Resolution dated November 16, 1999.

On November 3, 1999, the OSG representing the People of the Philippines, and Chua, filed separate petitions for certiorari before us seeking review of the CA Resolutions dated September 20, 1999 and November 16, 1999.<sup>[30]</sup> We granted the OSG's and Chua's petitions and reversed the CA's injunction on the arrest of Chiok.<sup>[31]</sup> Our decisions (SC bail decisions) became final on December 6, 2006 and June 20, 2007, respectively.

### ***The Appeal Case***

On September 21, 1999, the CA Thirteenth Division dismissed the appeal of Chiok finding him to have jumped bail when the order of arrest was returned unserved.<sup>[32]</sup> The CA considered his appeal abandoned, dismissing it pursuant to Section 8, Rule 124 of the 1985 Rules on Criminal Procedure. However, on February 29, 2000, the CA reinstated Chiok's appeal when it learned of the issuance of the TRO and injunction in the bail case on September 20, 1999 or a day prior to the appeal's dismissal.<sup>[33]</sup>

Proceedings before the CA ensued. Chiok filed his Appellant's Brief<sup>[34]</sup> dated August

28, 2003 while the OSG filed its Appellee's Brief<sup>[35]</sup> dated December 23, 2003. Chiok submitted his Reply Brief<sup>[36]</sup> dated April 14, 2004 while the OSG and Chua replied through their Rejoinder Briefs<sup>[37]</sup> dated October 6, 2004.

On July 19, 2007, the CA in a Special Division of Five (Former-Fourth Division) rendered a Decision reversing and setting aside the Decision dated December 3, 1998 of the trial court, and acquitted Chiok for failure of the prosecution to prove his guilt beyond reasonable doubt (CA acquittal).

The CA found that the RTC conviction did not contain findings of fact on the prosecution's evidence but merely recited the evidence of the prosecution as if such evidence was already proof of the ultimate facts constituting *estafa*. Instead of relying on the strength of the prosecution's evidence, the trial court relied on the weakness of the defense. It found that Chua's testimony, which was the sole evidence of the prosecution, was inconsistent and improbable. Specifically, it was irregular that Chua was not able to produce any single receipt or documentary evidence of all the alleged stock dealings which spanned for a long period of six years with Chiok—the purpose of which was to prove that he misappropriated the amount contrary to her instructions of investing it to blue chip stocks. More importantly, the acceptance by Chua of the checks issued by Yu Que Ngo ratified his application of the funds based on the instructions to invest it. Simply put, the prosecution was not able to prove the element of misappropriation (*i.e.*, deviation from Chua's instructions). As to the civil aspect, the CA found Chiok liable to Chua for the amount of P9,500,000.00,<sup>[38]</sup> the amount he admitted on record.

The OSG did not file a motion for reconsideration on the ground of double jeopardy. Chua, on the other hand, filed a motion for reconsideration<sup>[39]</sup> on August 8, 2007. Chiok also filed his own motion for reconsideration,<sup>[40]</sup> on the civil liability imposed on him.

In a Resolution<sup>[41]</sup> dated October 3, 2007, the CA denied Chua's motion for reconsideration and its supplement on the ground that acquittal is immediately final and the re-examination of the record of the case would violate the guarantee against double jeopardy. It also denied the motions for reconsideration of both parties on the civil aspect of the case.

Hence, these consolidated petitions questioning the CA acquittal by way of a petition for certiorari and mandamus, and the civil aspect of the case by way of appeal by certiorari.

### **Issues**

The consolidated petitions raise the following issues:

- I. Whether or not Chua has a legal personality to file and prosecute this petition.
- II. Whether or not the case is an exception to the rule on finality of acquittal and the doctrine of double jeopardy.
- III. Whether or not Chiok is civilly liable to Chua.