

## SECOND DIVISION

[ G.R. No. 179448, June 26, 2013 ]

**CARLOS L. TANENGGEE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**DEL CASTILLO, J.:**

Assailed in this Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Rules of Court is the December 12, 2006 Decision<sup>[2]</sup> of the Court of Appeals (CA) in CA-G.R. CR No. 23653 affirming with modification the June 25, 1999 Decision<sup>[3]</sup> of the Regional Trial Court (RTC) of Manila, Branch 30, in Criminal Case Nos. 98-163806-10 finding Carlos L. Tanenggee (petitioner) guilty beyond reasonable doubt of five counts of estafa through falsification of commercial documents. Likewise questioned is the CA's September 6, 2007 Resolution<sup>[4]</sup> denying petitioner's Motion for Reconsideration<sup>[5]</sup> and Supplemental Motion for Reconsideration.<sup>[6]</sup>

#### ***Factual Antecedents***

On March 27, 1998, five separate Informations<sup>[7]</sup> for estafa through falsification of commercial documents were filed against petitioner. The said Informations portray the same mode of commission of the crime as in Criminal Case No. 98-163806 but differ with respect to the numbers of the checks and promissory notes involved and the dates and amounts thereof, *viz*:

That on or about July 24, 1997, in the City of Manila, Philippines, the said accused, being then a private individual, did then and there wilfully, unlawfully and feloniously defraud, thru falsification of commercial document, the METROPOLITAN BANK & TRUST CO. (METROBANK), represented by its Legal officer, Atty. Ferdinand R. Aguirre, in the following manner: herein accused, being then the Manager of the COMMERCIO BRANCH OF METROBANK located at the New Divisoria Market Bldg., Divisoria, Manila, and taking advantage of his position as such, prepared and filled up or caused to be prepared and filled up METROBANK Promissory Note Form No. 366857 with letters and figures reading "BD#083/97" after the letters reading "PN", with figures reading "07.24.97" after the word "DATE", with the amount of P16,000,000.00 in words and in figures, and with other words and figures now appearing thereon, typing or causing to be typed at the right bottom thereof the name reading "ROMEO TAN", feigning and forging or causing to be feigned and forged on top of said name the signature of Romeo Tan, affixing his own signature at the left bottom thereof purportedly to show that he witnessed the alleged signing of the said note by Romeo Tan,

thereafter preparing and filling up or causing to be prepared and filled up METROBANK CASHIER'S CHECK NO. CC 0000001531, a commercial document, with date reading "July 24, 1997", with the name reading "Romeo Tan" as payee, and with the sum of P15,362,666.67 in words and in figures, which purports to be the proceeds of the loan being obtained, thereafter affixing his own signature thereon, and [directing] the unsuspecting bank cashier to also affix his signature on the said check, as authorized signatories, and finally affixing, feigning and forging or causing to be affixed, feigned and forged four (4) times at the back thereof the signature of said Romeo Tan, thereby making it appear, as it did appear that Romeo Tan had participated in the [preparation], execution and signing of the said Promissory Note and the signing and endorsement of the said METROBANK CASHIER'S CHECK and that he obtained a loan of P16,000,000.00 from METROBANK, when in truth and in fact, as the said accused well knew, such was not the case in that said Romeo Tan did not obtain such loan from METROBANK, neither did he participate in the preparation, execution and signing of the said promissory note and signing and endorsement of said METROBANK CASHIER'S CHECK, much less authorize herein accused to prepare, execute and affix his signature in the said documents; that once the said documents were forged and falsified in the manner above set forth, the said accused released, obtained and received from the METROBANK the sum of P15,363,666.67 purportedly representing the proceeds of the said loan, which amount, once in his possession, with intent to defraud, he misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of the said METROBANK in the same sum of P15,363,666.67, Philippine currency.

CONTRARY TO LAW.<sup>[8]</sup>

On May 27, 1998, the RTC entered a plea of not guilty for the petitioner after he refused to enter a plea.<sup>[9]</sup> The cases were then consolidated and jointly tried.

The proceedings before the RTC as aptly summarized by the CA are as follows:

During the pre-trial, except for the identity of the accused, the jurisdiction of the court, and that accused was the branch manager of Metrobank Comercio Branch from July 1997 to December 1997, no other stipulations were entered into. Prosecution marked its exhibits "A" to "L" and sub-markings.

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The prosecution alleged that on different occasions, appellant caused to be prepared promissory notes and cashier's checks in the name of Romeo Tan, a valued client of the bank since he has substantial deposits in his account, in connection with the purported loans obtained by the latter from the bank. Appellant approved and signed the cashier's check as branch manager of Metrobank Comercio Branch. Appellant affixed, forged or caused to be signed the signature of Tan as endorser and payee

of the proceeds of the checks at the back of the same to show that the latter had indeed endorsed the same for payment. He handed the checks to the Loans clerk, Maria Dolores Miranda, for encashment. Once said documents were forged and falsified, appellant released and obtained from Metrobank the proceeds of the alleged loan and misappropriated the same to his use and benefit. After the discovery of the irregular loans, an internal audit was conducted and an administrative investigation was held in the Head Office of Metrobank, during which appellant signed a written statement (marked as Exhibit "N") in the form of questions and answers.

The prosecution presented the following witnesses:

Valentino Elevado, a member of the Internal Affairs [D]epartment of Metrobank[,] testified that he conducted and interviewed the appellant in January 1998; that in said interview, appellant admitted having committed the allegations in the Informations, specifically forging the promissory notes; that the proceeds of the loan were secured or personally received by the appellant although it should be the client of the bank who should receive the same; and that all the answers of the appellant were contained in a typewritten document voluntarily executed, thumbmarked, and signed by him (Exhibit "N").

Rosemarie Tan Apostol, assistant branch manager, testified that the signatures appearing on the promissory notes were not the signatures of Romeo Tan; that the promissory notes did not bear her signature although it is required, due to the fact that Romeo Tan is a valued client and her manager accommodated valued clients; that she signed the corresponding checks upon instruction of appellant; and that after signing the checks, appellant took the same [which] remained in his custody.

Eliodoro M. Constantino, NBI Supervisor and a handwriting expert, testified that the signatures appearing on the promissory notes and specimen signatures on the signature card of Romeo Tan were not written by one and the same person.

Maria Dolores Miranda, a Loans Clerk at Metrobank Comercio Branch, testified that several cashier's checks were issued in favor of Romeo Tan; that appellant instructed her to encash the same; and that it was appellant who received the proceeds of the loan.

For his defense, appellant Carlos Lo Tanenggee testified that he is a holder of a Masters degree from the Asian Institute of Management, and was the Branch Manager of Metrobank Comercio Branch from 1994 until he was charged in 1998 [with] the above-named offense. He was with Metrobank for nine (9) years starting as assistant manager of Metrobank Dasmariñas Branch, Binondo, Manila. As manager, he oversaw the day to day operations of the [branch], solicited accounts and processed loans, among others.

Appellant claimed that he was able to solicit Romeo Tan as a client-

depositor when he was the branch manager of Metrobank Comercio. As a valued client, Romeo Tan was granted a credit line for forty million pesos ([P]40,000,000.00) by Metrobank. Tan was also allowed to open a fictitious account for his personal use and was assisted personally by appellant in his dealings with the bank. In the middle of 1997, Tan allegedly opened a fictitious account and used the name Jose Tan. Such practice for valued clients was allowed by and known to the bank to hide their finances due to rampant kidnappings or from the Bureau of Internal Revenue (BIR) or from their spouses.

According to appellant, Tan availed of his standing credit line (through promissory notes) for five (5) times on the following dates: 1) 24 July 1997 for sixteen million pesos ([P]16,000,000.00), 2) 27 October 1997 for six million pesos ([P]6,000,000.00), 3) 12 November 1997 for three million pesos ([P]3,000,000.00), 4) 21 November 1997 for sixteen million pesos ([P]16,000,000.00), 5) 22 December 1997 for two million pesos ([P]2,000,000.00). On all these occasions except the loan on 24 July 1997 when Tan personally went to the bank, Tan allegedly gave his instructions regarding the loan through the telephone. Upon receiving the instructions, appellant would order the Loans clerk to prepare the promissory note and send the same through the bank's messenger to Tan's office, which was located across the [street]. The latter would then return to the bank, through his own messenger, the promissory notes already signed by him. Upon receipt of the promissory note, appellant would order the preparation of the corresponding cashier's check representing the proceeds of the particular loan, send the same through the bank's messenger to the office of Tan, and the latter would return the same through his own messenger already endorsed together with a deposit slip under Current Account No. 258-250133-7 of Jose Tan. Only Cashier's Check dated 21 November 1997 for sixteen million pesos ([P]16,000,000.00) was not endorsed and deposited for, allegedly, it was used to pay the loan obtained on 24 July 1997. Appellant claimed that all the signatures of Tan appearing on the promissory notes and the cashier's checks were the genuine signatures of Tan although he never saw the latter affix them thereon.

In the middle of January 1998, two (2) Metrobank auditors conducted an audit of the Comercio Branch for more than a week. Thereafter or on 26 January 1998, appellant was asked by Elvira Ong-Chan, senior vice president of Metrobank, to report to the Head Office on the following day. When appellant arrived at the said office, he was surprised that there were seven (7) other people present: two (2) senior branch officers, two (2) bank lawyers, two (2) policemen (one in uniform and the other in plain clothes), and a representative of the Internal Affairs unit of the bank, Valentino Elevado.

Appellant claimed that Elevado asked him to sign a paper (Exhibit "N") in connection with the audit investigation; that he inquired what he was made to sign but was not offered any explanation; that he was intimidated to sign and was threatened by the police that he will be brought to the precinct if he will not sign; that he was not able to consult a lawyer since he was not apprised of the purpose of the meeting; [and]

that "just to get it over with" he signed the paper which turned out to be a confession. After the said meeting, appellant went to see Tan at his office but was unable to find the latter. He also tried to phone him but to no avail.<sup>[10]</sup>

### ***Ruling of the Regional Trial Court***

After the joint trial, the RTC rendered a consolidated Decision<sup>[11]</sup> dated June 25, 1999 finding petitioner guilty of the crimes charged, the decretal portion of which states:

WHEREFORE, the Court finds the accused, Carlos Lo Tanenggee, guilty beyond reasonable doubt of the offense of estafa thru falsification of commercial document[s] charged in each of the five (5) Informations filed and hereby sentences him to suffer the following penalties:

1. In Criminal Case No. 98-163806[,] to suffer the indeterminate penalty of imprisonment from eight (8) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum including the accessory penalties provided by law.

2. In Criminal Case No. 98-163807[,] to suffer the indeterminate penalty of imprisonment from eight (8) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum including the accessory penalties provided by law, and to indemnify Metrobank the sum of P16 Million with interest [at] 18% per annum counted from 27 November 1997 until fully paid.

3. In Criminal Case No. 98-163808[,] to suffer the indeterminate penalty of imprisonment from eight (8) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum including the accessory penalties provided by law, and to indemnify Metrobank the sum of P6 Million with interest [at] 18% per annum counted from 27 October 1997 until fully paid.

4. In Criminal Case No. 98-163809[,] to suffer the indeterminate penalty of imprisonment from eight (8) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum including the accessory penalties provided by law, and to indemnify Metrobank the sum of P2 Million with interest [at] 18% per annum counted from 22 December 1997 until fully paid.

5. In Criminal Case No. 98-163810[,] to suffer the indeterminate penalty of imprisonment from eight (8) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum including the accessory penalties provided by law, and to indemnify Metrobank the sum of P3 Million with interest [at] 18% per annum [counted] from 12 November 1997 until fully paid.

Accused shall serve the said penalties imposed successively.