

SECOND DIVISION

[G.R. No. 164051, October 03, 2012]

PHILIPPINE NATIONAL BANK, PETITIONER, VS. LILIAN S. SORIANO, RESPONDENT

DECISION.

PEREZ, J.:

We are urged in this petition for review on *certiorari* to reverse and set aside the Decision of the Court of Appeals in CA-G.R. SP No. 76243^[1] finding no grave abuse of discretion in the ruling of the Secretary of the Department of Justice (DOJ) which, in turn, dismissed the criminal complaint for *Estafa*, i.e., violation of Section 13 of Presidential Decree No. 115 (Trust Receipts Law), in relation to Article 315, paragraph 1(b) of the Revised Penal Code, filed by petitioner Philippine National Bank (PNB) against respondent Lilian S. Soriano (Soriano).^[2]

First, the ostensibly simple facts as found by the Court of Appeals and adopted by PNB in its petition and memorandum:

On March 20, 1997, [PNB] extended a credit facility in the form of [a] Floor Stock Line (FSL) in the increased amount of Thirty Million Pesos (? 30 Million) to Lisam Enterprises, Inc. [LISAM], a family-owned and controlled corporation that maintains Current Account No. 445830099-8 with petitioner PNB.

x x x. Soriano is the chairman and president of LISAM, she is also the authorized signatory in all LISAM's Transactions with [PNB].

On various dates, LISAM made several availments of the FSL in the total amount of Twenty Nine Million Six Hundred Forty Five Thousand Nine Hundred Forty Four Pesos and Fifty Five Centavos (P29,645,944.55), the proceeds of which were credited to its current account with [PNB]. For each availment, LISAM through [Soriano], executed 52 Trust Receipts (TRs). In addition to the promissory notes, showing its receipt of the items in trust with the duty to turn-over the proceeds of the sale thereof to [PNB].

Sometime on January 21-22, 1998, [PNB's] authorized personnel conducted an actual physical inventory of LISAM's motor vehicles and motorcycles and found that only four (4) units covered by the TRs amounting to One Hundred Forty Thousand Eight Hundred Pesos (? 158,100.00) (*sic*) remained unsold.

Out of the Twenty Nine Million Six Hundred Forty Four Thousand Nine

Hundred Forty Four Pesos and Fifty Five Centavos (₱29,644,944.55) as the outstanding principal balance [of] the total availments on the line covered by TRs, [LISAM] should have remitted to [PNB], Twenty Nine Million Four Hundred Eighty Seven Thousand Eight Hundred Forty Four Pesos and Fifty Five Centavos (₱29,487,844.55). Despite several formal demands, respondent Soriano failed and refused to turn over the said [amount to] the prejudice of [PNB].^[3]

Given the terms of the TRs which read, in pertinent part:

RECEIVED in Trust from the [PNB], Naga Branch, Naga City, Philippines, the motor vehicles ("Motor Vehicles") specified and described in the Invoice/s issued by HONDA PHILIPPINES, INC. (HPI) to Lisam Enterprises, Inc., (the "Trustee") hereto attached as Annex "A" hereof, and in consideration thereof, the trustee hereby agrees to hold the Motor Vehicles in storage as the property of PNB, with the liberty to sell the same for cash for the Trustee's account and to deliver the proceeds thereof to PNB to be applied against its acceptance on the Trustee's account. Under the terms of the Invoices and (sic) the Trustee further agrees to hold the said vehicles and proceeds of the sale thereof in Trust for the payment of said acceptance and of any [of] its other indebtedness to PNB.

x x x x

For the purpose of effectively carrying out all the terms and conditions of the Trust herein created and to insure that the Trustee will comply strictly and faithfully with all undertakings hereunder, the Trustee hereby agrees and consents to allow and permit PNB or its representatives to inspect all of the Trustee's books, especially those pertaining to its disposition of the Motor Vehicles and/or the proceeds of the sale hereof, at any time and whenever PNB, at its discretion, may find it necessary to do so.

The Trustee's failure to account to PNB for the Motor Vehicles received in Trust and/or for the proceeds of the sale thereof within thirty (30) days from demand made by PNB shall constitute *prima facie* evidence that the Trustee has converted or misappropriated said vehicles and/or proceeds thereof for its benefit to the detriment and prejudice of PNB.^[4]

and Soriano's failure to account for the proceeds of the sale of the motor vehicles, PNB, as previously adverted to, filed a complaint-affidavit before the Office of the City Prosecutor of Naga City charging Soriano with fifty two (52) counts of violation of the Trust Receipts Law, in relation to Article 315, paragraph 1(b) of the Revised Penal Code.

In refutation, Soriano filed a counter-affidavit asserting that:

1. The obligation of [LISAM] which I represent, and consequently[,] my obligation, if any, is purely civil in nature. All of the alleged trust receipt

agreements were availments made by the corporation [LISAM] on the PNB credit facility known as "Floor Stock Line" (FSL), which is just one of the several credit facilities granted to [LISAM] by PNB. When my husband Leandro A. Soriano, Jr. was still alive, [LISAM] submitted proposals to PNB for the restructuring of all of [LISAM's] credit facilities. After exchanges of several letters and telephone calls, Mr. Josefino Gamboa, Senior Vice President of PNB on 12 May 1998 wrote [LISAM] informing PNB's lack of objection to [LISAM's] proposal of restructuring all its obligations. x x x.

2. On September 22, 1998 Mr. Avengoza sent a letter to [LISAM], complete with attached copy of PNB Board's minutes of meeting, with the happy information that the Board of Directors of PNB has approved the conversion of [LISAM's] existing credit facilities at PNB, which includes the FSL on which the Trust receipts are availments, to [an] Omnibus Line (OL) available by way of Revolving Credit Line (RCL), Discounting Line Against Post-Dated Checks (DLAPC), and Domestic Bills Purchased Line (DBPL) and with a "Full waiver of penalty charges on RCL, FSL (which is the Floor Stock Line on which the trust receipts are availments) and Time Loan. x x x.

3. The [FSL] and the availments thereon allegedly secured by Trust Receipts, therefore, was (sic) already converted into[,] and included in[,] an Omnibus Line (OL) of ₱106 million on September 22, 1998, which was actually a Revolving Credit Line (RCL)[.]^[5]

PNB filed a reply-affidavit maintaining Soriano's criminal liability under the TRs:

2. x x x. While it is true that said restructuring was approved, the same was never implemented because [LISAM] failed to comply with the conditions of approval stated in B/R No. 6, such as the payment of the interest and other charges and the submission of the title of the 283 sq. m. of vacant residential lot, x x x Tandang Sora, Quezon City, as among the common conditions stated in paragraph V, of B/R 6. The non-implementation of the approved restructuring of the account of [LISAM] has the effect of reverting the account to its original status prior to the said approval. Consequently, her claim that her liability for violation of the Trust Receipt Agreement is purely civil does not hold water.^[6]

In a Resolution,^[7] the City Prosecutor of Naga City found, thus:

WHEREFORE, the undersigned finds prima facie evidence that respondent LILIAN SORIANO is probably guilty of violation of [the] Trust Receipt Law[,] in relation to Article 315 par. 1 (b) of the Revised Penal Code, let therefore 52 counts of ESTAFA be filed against the respondent.^[8]

Consequently, on 1 August 2001, the same office filed Informations against Soriano for fifty two (52) counts of *Estafa* (violation of the Trust Receipts Law), docketed as

Criminal Case Nos. 2001-0641 to 2001-0693, which were raffled to the Regional Trial Court (RTC), Branch 21, Naga City.

Meanwhile, PNB filed a petition for review of the Naga City Prosecutor's Resolution before the Secretary of the DOJ.

In January 2002, the RTC ordered the dismissal of one of the criminal cases against Soriano, docketed as Criminal Case No. 2001-0671. In March of the same year, Soriano was arraigned in, and pled not guilty to, the rest of the criminal cases. Thereafter, on 16 October 2002, the RTC issued an Order resetting the continuation of the pre-trial on 27 November 2002.

On the other litigation front, the DOJ, in a Resolution^[9] dated 25 June 2002, reversed and set aside the earlier resolution of the Naga City Prosecutor:

WHEREFORE, the questioned resolution is **REVERSED** and **SET ASIDE** and the City Prosecutor of Naga City is hereby directed to move, with leave of court, for the withdrawal of the informations for estafa against Lilian S. Soriano in Criminal Case Nos. 2001-0641 to 0693 and to report the action taken thereon within ten (10) days from receipt thereof.^[10]

On various dates the RTC, through Pairing Judge Novelita Villegas-Llaguno, issued the following Orders:

1. 27 November 2002^[11]

When this case was called for continuation of pre-trial[,], [Soriano's] counsel appeared[.] [H]owever, Prosecutor Edgar Imperial failed to appear.

Records show that a copy of the Resolution from the Department of Justice promulgated on October 28, 2002 was received by this Court, (sic) denying the Motion for Reconsideration of the Resolution No. 320, series of 2002 reversing that of the City Prosecutor of Naga City and at the same time directing the latter to move with leave of court for the withdrawal of the information[s] for Estafa against Lilian Soriano.

Accordingly, the prosecution is hereby given fifteen (15) days from receipt hereof within which to comply with the directive of the Department of Justice.

2. 21 February 2003^[12]

Finding the Motion to Withdraw Informations filed by Pros. Edgar Imperial duly approved by the City Prosecutor of Naga City to be meritorious the same is hereby granted. As prayed for, the Informations in Crim. Cases Nos. RTC 2001-0641 to 2001-0693 entitled, People of the Philippines vs. Lilian S. Soriano, consisting of fifty-two (52) cases except for Crim. Case No. RTC 2001-0671 which had been previously dismissed, are hereby

ordered WITHDRAWN.

3. 15 July 2003^[13]

The prosecution of the criminal cases herein filed being under the control of the City Prosecutor, the withdrawal of the said cases by the Prosecution leaves this Court without authority to re-instate, revive or re-file the same.

Wherefore, the Motion for Reconsideration filed by the private complainant is hereby DENIED.

With the denial of its Motion for Reconsideration of the 25 June 2002 Resolution of the Secretary of the DOJ, PNB filed a petition for certiorari before the Court of Appeals alleging that:

A. [THE SECRETARY OF THE DOJ] COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO WANT OR EXCESS OF JURISDICTION IN REVERSING AND SETTING ASIDE THE RESOLUTION OF THE CITY PROSECUTOR OF NAGA CITY FINDING A PRIMA FACIE CASE AGAINST PRIVATE RESPONDENT [SORIANO], FOR THE SAME HAS NO LEGAL BASES AND IS NOT IN ACCORD WITH THE JURISPRUDENTIAL RULINGS ON THE MATTER.^[14]

As stated at the outset, the appellate court did not find grave abuse of discretion in the questioned resolution of the DOJ, and dismissed PNB's petition for *certiorari*.

Hence, this appeal by certiorari.

Before anything else, we note that respondent Soriano, despite several opportunities to do so, failed to file a Memorandum as required in our Resolution dated 16 January 2008. Thus, on 8 July 2009, we resolved to dispense with the filing of Soriano's Memorandum.

In its Memorandum, PNB posits the following issues:

- a. Whether or not the Court of Appeals gravely erred in concurring with the finding of the DOJ that the approval by PNB of [LISAM's] restructuring proposal of its account with PNB had changed the status of [LISAM's] obligations secured by Trust Receipts to one of an ordinary loan, non-payment of which does not give rise to a criminal liability.
- b. Whether or not the Court of Appeals gravely erred in concluding and concurring with the June 25, 2002 Resolution of the DOJ directing the withdrawal of the Information for Estafa against the accused in Criminal Case Nos. 2001-0641 up to 0693 considering the well-established rule that once jurisdiction is vested in court, it is