

SECOND DIVISION

[G.R. No. 178064, February 10, 2009]

**PEOPLE OF THE PHILIPPINES, APPELLEE, VS. ELIZABETH
CARDENAS, APPELLANT.**

DECISION

CARPIO MORALES, J.:

On complaint of Nenette Musni (Nenit), four Informations each charging Elizabeth Cardenas (appellant) with estafa were filed before the Regional Trial Court (RTC) of Laoag City.

Criminal Case No. 8740-13 alleged:

x x x x

That on or about the 15th day of October, 1994, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused with deceit and intent to defraud, did then and there willfully, unlawfully and feloniously issue the following checks:

CHECK NO.	AMOUNT	POSTDATED
001247A	P401,000.00	November 15, 1994
001248A	P401,000.00	December 15, 1994

in favor of Nenette^[1] Musni, against the drawee Philippine Commercial and Industrial Bank [PCIB], Vigan Branch, affixing therein a signature different from her specimen signature on file with the drawee bank and representing that the checks will be paid when presented for payment, simultaneous to and as payment for jewelries purchased by the accused from Nenette Musni, which checks were subsequently dishonored by the drawee bank when presented for payment due to signature different on file and for having been drawn against insufficient funds, and despite notice to the accused of the dishonor of her checks and demands made upon her by Nenette Musni for the cash replacement of the checks, the accused had refused and failed to do so, to the damage and prejudice of Nenete Musni.^[2]

Criminal Case No. 8741-13 alleged:

That on or about the 15th day of November, 1994, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused with deceit and intent to defraud, did then and there willfully, unlawfully and feloniously issue the following checks:

CHECK NO.	AMOUNT	POSTDATED
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001226A	P250,000.00	December 30, 1994
001227A	P668,000.00	December 15, 1994

in favor of Nenette Musni, against the drawee Philippine Commercial and Industrial Bank Vigan Branch, affixing therein a signature different from her specimen signature on file with the drawee bank and representing that the checks will be paid when presented for payment, simultaneous to and as payment for jewelries purchased by the accused from Nenette Musni, which checks were subsequently dishonored by the drawee bank when presented for payment due to signature different on file and for having been drawn against insufficient funds, and despite notice to the accused of the dishonor of her checks and demands made upon her by Nenette Musni for the cash replacement of the checks, the accused had refused to do so, to the damage and prejudice of Nenette Musni.^[3]

x x x x

Criminal Case No. 8742-13 alleged:

x x x x

That on or about the 2nd day of November, 1994, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein accused with deceit and intent to defraud, did then and there willfully, unlawfully and feloniously issue the following checks:

CHECK NO.	AMOUNT	POSTDATED
001231A	P 318,000.00	February 20, 1995
001232A	P 779,000.00	December 25, 1994
001233A	P1,093,000.00	January 15, 1995

in favor of Nenette Musni, against the drawee Philippine Commercial and Industrial Bank Vigan Branch, affixing therein a signature different from her specimen signature on file with the drawee bank and representing that the checks will be paid when presented for payment, simultaneous to and as payment for jewelries purchased by the accused from Nenette Musni, which checks were subsequently dishonored by the drawee bank when presented for payment due to signature different on file and for having been drawn against a closed account for Check No. 001231A and against insufficient funds for Check Nos. 001232A and 001233A, and despite notice to the accused of the dishonor of her checks and demands made upon her by Nenette Musni for the cash replacement of the checks, the accused had refused to do so, to the damage and prejudice of Nenette Musni.^[4]

x x x x

Criminal Case No. 8743-13 alleged:

x x x x

That on or about the 15th day of December, 1994, in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the herein

accused with deceit and intent to defraud, did then and there willfully, unlawfully and feloniously issue the following checks:

CHECK NO.	AMOUNT	POSTDATED
001222A	P400,000.00	March 31, 1995
001260A	P458,000.00	March 15, 1995

in favor of Nenette Musni, against the drawee Philippine Commercial Industrial Bank Vigan Branch, affixing therein a signature different from her specimen signature on file with the drawee bank for Check No. 001222A and **representing that the checks will be paid when presented for payment, simultaneous to and as payment for jewelries purchased** by the accused from Nenette Musni, which checks were subsequently dishonored by the drawee bank when presented for payment due to signature different on file for Check 001222A and for having been drawn against a closed account for both checks, and despite notice to the accused of the dishonor of her checks and demands made upon her by Nenette Musni for the cash replacement of the checks, the accused had refused to do so, to the damage and prejudice of Nenette Musni.^[5] (Emphasis and underscoring supplied

x x x x

During pre-trial, the prosecution and the defense stipulated on the following, quoted *verbatim*:

IN CRIM. CASE NO. 8740-13

1. That on October 15, 1994, the accused received jewelries from the complaining witness at Laoag City;
2. That the accused has a checking account with the PCIB, Vigan Branch, Vigan, Ilocos Sur;
3. That due to such receipt of jewelries, the accused delivered to the complainant PCIB Vigan Branch Check No. 001247A covering the amount of P401,000.00 dated November 15, 1994 and Check No. 001248A in the amount of P401,000.00 dated December 15, 1994;
4. That the two (2) checks were delivered by the accused to the complaining witness on October 15, 1994 at Laoag City;
5. That the two (2) checks aforestated were presented for payment but dishonored.

IN CRIM. CASE NO. 8741-13

1. That on November 15, 1994, the accused received jewelries from the complaining witness at Laoag City;
2. That due to such receipt of jewelries, the accused delivered two (2) postdated checks, PCIB Vigan Branch Check No. 001226A dated December 30, 1994 covering the amount of P250,000.00 and Check No. 001227A dated December 15, 1994 in the amount of P668,000.00;
3. That the above-mentioned checks were presented for payment with the drawee bank on their respective due dates;

4. That said checks were dishonored by the drawee bank on the ground that the **signature of the drawer differs from the signature on file**. (Emphasis and underscoring supplied)

IN CRIM. CASE NO. 8742-13

1. That on November 2, 1994, the accused received jewelries from the complaining witness at Laoag City;
2. That due to the receipt of the jewelries, the accused delivered three (3) postdated checks to the complainant PCIB Vigan Branch Check No. 001231A dated February 20, 1995 in the amount of P318,000.00; Check No. 001232A dated December 25, 1994 in the amount of P779,000.00 and Check No. 001233A in the amount of P1,093,000.00 dated January 15, 1995;
3. That the said three (3) checks aforementioned were presented for payment but dishonored because the **signature[s] differ from the signature on file**. (Emphasis and underscoring supplied)

IN CRIM. CASE NO. 8743-13

1. That the accused on December 15, 1994 received jewelries from the complaining witness at Laoag City;
2. That out of the receipt of the jewelries by the accused from the complaining witness, the accused delivered two (2) postdated checks, PCIB Vigan Branch Check No. 001222A dated March 31, 1995 in the amount of P400,000.0 and Check No. 001260A dated March 15, 1995 in the amount of P458,000.00;
3. That said Check No. 001222A when presented for payment was **dishonored because the signature on file is different from the signature on the check**;
4. That Check No. 001260A in the amount of P458,000.00 was delivered to the complainant with the signature of the accused, the same being signed by her on the same date of the delivery of the jewelries.^[6] (Emphasis and underscoring supplied)

Culled from the evidence for the prosecution is its following version:^[7]

Nenit (erroneously spelled as "Nenette" in the Informations), who does business under the name *Bombom Jewelries*, buys pieces of jewelry from pawnshops for resale. In 1991, in the course of her business operation, she was introduced to appellant to whom she had since been selling gold. Their usual practice was to weigh the gold and agree on the price, after which appellant would issue checks covering the value thereof.

Nenit and appellant's transactions were regular until October 15, 1994 when appellant issued Check No. 001247A for P401,000 and Check No. 001248A for the same amount^[8] covering payment of gold, which checks were dishonored. Nenit informed appellant of the dishonor, but she denied owing anything to her.

On November 2, 1994, appellant again issued three checks drawn against PCIB Vigan Branch representing payment of gold: Check No. 001231A for P318,000,

Check No. 001232A for P779,000, and Check No. 001233A for P1,093,000.^[9] Again the checks were dishonored.

Still again on November 15, 1994, appellant issued two postdated checks drawn against PCIB Vigan Branch representing payment of gold purchased from Nenit: Check No. 001226A for P250,000 and Check No. 01227A for P668,000.^[10] Still again the checks were dishonored.

Finally, on December 15, 1994, appellant issued to Nenit two postdated checks, both drawn against PCIB Vigan Branch: Check No. 001222A for P400,000, and Check No. 001260A for P458,000 representing payment of gold^[11] Like the previous checks, these two were dishonored.

Nenit demanded the settlement of the dishonored checks, but appellant maintained not having any obligations to her.

In defense,^[12] appellant claimed that, except for Check No. 1260A, one of the two checks subject of the fourth case, Crim. Case No. 8743-13, all the checks subject of the cases were unsigned as they were issued as a "secondary collateral."

Explaining the circumstances under which the checks were issued, appellant stated that whenever Nenit entrusted to her jewelry for resale, she was required to and did sign receipts and did issue the unsigned checks; that failing to resell the jewelry, she would return them and ask Nenit to return to her the receipts she signed and the unsigned checks, but Nenit would merely claim that she would tear them; and that with respect to Check No. 1260A, for P458,000, she having sold the jewelry covered thereby, she affixed her signature thereon, but she did not cause the check to be honored because she and Nenit agreed to offset the amount thereof against the amount which Nenit and her son owed her for jewelry they had borrowed from her.^[13]

Appellant thus claimed that the signatures attributed to her on all the checks, except Check No. 1260A for P458,000, were forged, in support of which she presented National Bureau of Investigation (NBI) Senior Documents Examiner Adela Cruz-Demantillo (Adela) who examined the signatures on the questioned checks and concluded that the signature on Check No. 1260A and those on other checks were not made by one and the same person.^[14]

Branch 13 of the Laoag City RTC, by Decision of September 30, 2003, convicted appellant of the four counts of estafa, disposing as follows:

WHEREFORE, the Court renders judgment finding the accused GUILTY beyond reasonable doubt of the crime of Estafa on four (4) counts as charged and therefore sentences her to suffer for each of the charges the indeterminate penalty of imprisonment ranging from TWELVE YEARS of prison mayor as maximum to THIRTY YEARS of reclusion perpetua and to pay the private complainant the sum of P4,768,000.00 representing her total obligation and with legal interest thereon to be reckoned from the finality of this judgment, with costs against her.