

SECOND DIVISION

[G.R. No. 147782, June 25, 2008]

**JUANITA A. AQUINO, PETITIONER, TERESITA B. PAISTE,
RESPONDENT.**

DECISION

VELASCO JR., J.:

Conspiracy may be deduced from the mode, method, and manner by which the offense was perpetuated, or inferred from the acts of the accused persons themselves when such acts point to a joint purpose and design, concerted action, and community of interests. In this case before us, a series of overt acts of a co-conspirator and her earlier admission of participation documented in an amicable settlement she signed in the presence of counsel, all lead to the conclusion that the co-accused conspired to commit *estafa*.

The Court of Appeals (CA) culled the facts this way, as established by the prosecution:

At about 9:00 o'clock in the morning of March 14, 1991, petitioner Juanita Aquino, Elizabeth Garganta, and another woman identified only as "Adeling," went to the house of respondent Teresita Paiste at 611 Peñalosa St., Tondo, Manila. The children of respondent and petitioner were grade school classmates. After the usual pleasantries, petitioner started to convince respondent to buy a gold bar owned by a certain Arnold, an Igorot. After respondent was shown a sample of the gold bar, she agreed to go with them to a pawnshop in Tondo to have it tested. She was told that it was genuine. However, she told the three that she had no money.

Regardless, petitioner and Garganta went back to the house of respondent the following day. The two convinced her to go with them to Angeles City, Pampanga to meet Arnold and see the gold bar. They reached Angeles City around 2:30 p.m. and met Arnold who showed them the gold bar. Arnold informed her that it was worth PhP 60,000. After respondent informed them again she had no money, petitioner continued to press her that buying the gold bar would be good investment. The three left and went home.

On March 16, 1991, petitioner, Garganta, and Adeling returned to the house of respondent. Again, they failed to convince her to buy the gold bar.

On the next day, the three returned, this time they told respondent that the price was reduced to PhP 10,000. She agreed to go with them to Angeles City to meet Arnold once more. Arnold pretended to refuse the PhP 10,000 offer and insisted on PhP 50,000.

On petitioner's insistence, on March 18, 1991, the two went to Angeles City and

bought the gold bar for PhP 50,000.^[1]

On March 19, 1991, respondent had the gold bar tested and she was informed that it was fake.^[2] Respondent then proceeded to petitioner's house to inform the latter that the gold bar was fake. Petitioner replied that they had to see Garganta, and that she had nothing to do with the transaction.^[3]

On March 27, 1991, respondent brought petitioner to the National Bureau of Investigation (NBI)-NCR in the presence of a certain Atty. Tolentino where petitioner amicably promised respondent they would locate Garganta, and the document they both signed would be disregarded should they locate Garganta. The amicable settlement reads:

In view of the acceptance of fault by MRS. JUANITA ASIO-AQUINO of the case/complaint filed by MRS. TERESITA PAISTE before the NBI-National Capital Region for Swindling, Mrs. J. Aquino agreed to pay the complainant half the amount swindled from the latter. Said P25,000.00 offered by Mrs. J. Aquino as settlement for the case of Estafa will be paid by her through installment scheme in the amount of P1,000.00 per month beginning from the month of March, 1991 until fully paid.

In witness whereof, the parties hereunto set their hands this 27th day of March 1991 at NBI-NCR, Taft Avenue, Manila.

(Sgd.) MRS. JUANITA ASIO-AQUINO
Respondent

(Sgd.) MRS. TERESITA PAISTE
Complainant

Witnesses:

1. Signed (Illegible)

WAIVER OF RIGHT TO COUNSEL

The undersigned accused/respondent hereby waives her right to counsel despite the recital of her constitutional rights made by NBI agent Ely Tolentino in the presence of a lawyer Gordon S. Uy.

(Sgd.) MRS. JUANITA ASIO-AQUINO

(Sgd.) MRS. TERESITA PAISTE^[4]

On April 6, 1991, petitioner brought Garganta to the house of respondent. In the presence of *Barangay* Chairperson Pablo Atayde and a police officer, respondent pointed to Garganta as the person who sold the fake gold bar. Garganta was brought to the police station where there was a demand against Garganta alone.

Subsequently, respondent filed a criminal complaint from which an Information

against Garganta, petitioner, and three others for the crime of *estafa* in Criminal Case No. 92-99911 was filed before the Manila Regional Trial Court (RTC). The Information reads:

That on or about March 18, 1991, in the City of Manila, Philippines, the said accused conspiring and confederating together with three others, whose true names, real identities and present whereabouts are still unknown and helping one another, did then and there willfully, unlawfully and feloniously defraud Teresita B. Paiste in the following manner to wit: the said accused, by means of false manifestations and fraudulent representations which they made to the said Teresita B. Paiste to the effect that a certain Arnold, an Igorot is selling a gold bar for P50,000.00, and by means of other similar deceits, induced and succeeded in inducing the said Teresita B. Paiste to buy the said gold bar and to give and deliver to said accused the total amount of P50,000.00, the herein accused well knowing that their manifestations and representations were all false and untrue and were made only for the purpose of obtaining, as in fact they did obtain the said amount of P50,000.00, which once in their possession, they thereafter willfully, unlawfully and feloniously, with intent to defraud, misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of the said Teresita B. Paiste in the aforesaid amount of P50,000.00, Philippine Currency.^[5]

Accused Garganta and the others remained at large; only petitioner was arraigned and entered a plea of not guilty.

Trial ensued with the prosecution presenting the testimonial evidence of private complainant, herein respondent, Yolanda Pomer, and Ely Tolentino. For her defense, petitioner testified along with *Barangay* Chairperson Atayde, Jose Aquino, and SPO1 Roberto Cailan. The prosecution presented as documentary evidence three (3) documents, one of which is the amicable settlement signed in the NBI, while the defense relied solely on its testimonial evidence.

The Ruling of the Regional Trial Court

On July 16, 1998, the trial court rendered a Decision convicting petitioner of the crime charged, the dispositive portion of which reads:

WHEREFORE, the Court finds the accused Juanita Aquino guilty beyond reasonable doubt of the crime of *estafa* and hereby sentences her to suffer the indeterminate penalty of FIVE (5) YEARS OF PRISION CORRECCIONAL as minimum to NINE (9) YEARS OF PRISION MAYOR as maximum, and to indemnify the complainant, Teresita B. Paiste the sum of P50,000.00 with 12% interest per annum counted from the filing of the Information until fully paid, and to pay the costs of suit.

SO ORDERED.^[6]

The RTC found that petitioner conspired with Garganta, Adeling, and Arnold in committing the crime of *estafa*. The trial court likewise gave credence to the amicable settlement as additional proof of petitioner's guilt as an amicable settlement in criminal cases is an implied admission of guilt.

The Ruling of the Court of Appeals

Aggrieved, petitioner brought on appeal the above RTC decision before the CA, which was docketed as CA-G.R. CR No. 22511.

After the parties filed their respective briefs, on November 10, 2000, the appellate court rendered the assailed Decision which affirmed *in toto*^[7] the July 16, 1998 RTC Decision.

In affirming the trial court's findings and conclusions of law, the CA found that from the tenor of the amicable settlement, the investigation before the NBI did not push through as both parties came to settle the matter amicably. Nonetheless, the CA pointed out that petitioner was assisted, although unnecessarily, by an independent counsel, a certain Atty. Gordon S. Uy, during the proceedings. The CA held that petitioner's mere bare allegation that she signed it under threat was insufficient for she presented no convincing evidence to bolster her claim. Consequently, the amicable settlement was admitted and appreciated as evidence against petitioner.

Nevertheless, the CA ruled that even if the amicable settlement was not admissible or was totally disregarded, the RTC still did not err in convicting petitioner as it was indubitably shown by the prosecution through convincing evidence replete in the records that respondent conspired with the other accused through active participation in the commission of the crime of *estafa*. *In fine*, the CA found that the prosecution had indeed established the guilt of petitioner beyond reasonable doubt.

Through the assailed April 6, 2001 Resolution, the appellate court denied petitioner's motion for reconsideration.

The Issues

Hence, we have the instant petition under Rule 45 of the 1997 Rules of Civil Procedure, ascribing the following errors, which are essentially the same ones raised before the CA:

I

THE COURT A QUO ERRED IN NOT DECLARING AS UNCONSTITUTIONAL AND LACKING IN CERTAIN PRESCRIBED REQUIREMENTS THE INVESTIGATION CONDUCTED BY THE INVESTIGATOR OF THE NATIONAL BUREAU OF INVESTIGATION (NBI), OF ACCUSED-APPELLANT AND COROLLARY THERETO, TO CONSIDER ANY AND ALL EVIDENCE PROCURED THEREBY TO BE INADMISSIBLE AS AGAINST ACCUSED-APPELLANT.

II

THE COURT A QUO ERRED IN NOT DECLARING AS UNCONSTITUTIONAL AND LACKING IN CERTAIN POSITIVE PARTICULARS AND STRICT COMPLIANCE THE MANNER IN WHICH THE WAIVER OF RIGHT TO COUNSEL HAD BEEN ASKED TO BE EXECUTED AND SUBSCRIBED BY

ACCUSED-APPELLANT.

III

THE COURT A QUO ERRED IN FINDING THAT THE ACCUSED-APPELLANT TOOK AN ACTIVE PART IN THE COMMISSION OF THE FELONY IMPUTED TO HER AND IN DECLARING HER GUILTY THEREFOR BEYOND REASONABLE DOUBT.

IV

THE COURT A QUO ERRED IN FINDING THAT CONSPIRACY EXISTED BETWEEN HEREIN ACCUSED-APPELLANT AND HER CO-ACCUSED, ELIZABETH GARGANTA DELA CRUZ.^[8]

The Court's Ruling

In gist, the instant petition proffers the twin issues on (1) whether the amicable settlement executed in the NBI is admissible as evidence, and (2) whether conspiracy has indeed been proven to convict petitioner of the crime of *estafa*.

The instant petition hinges on the issue of the assessment of evidence and their admissibility. As consistently ruled in innumerable cases, this Court is not a trier of facts. The trial court is best equipped to make the assessment on said issues and, therefore, its factual findings are generally not disturbed on appeal unless the courts *a quo* are perceived to have overlooked, misunderstood, or misinterpreted certain facts or circumstances of weight, which, if properly considered, would affect the result of the case and warrant a reversal of the decision involved. We do not find in the instant case any such reason to depart from this general principle. However, in the interest of substantial justice, we shall deal with the issues raised by petitioner.

First Core Issue: Admissibility of amicable instrument

Petitioner ascribes error to the CA when it gave due weight and consideration to the amicable settlement with waiver of right to counsel that she signed in the NBI during the custodial investigation. She claims she executed the agreement under threat and not freely and voluntarily, in violation of Sec. 12(1)^[9] of the Constitution which guarantees her rights under the Miranda Rule.

We are not convinced.

Custodial investigation involves any questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, the suspect is taken into custody, and the police carries out a process of interrogations that lend itself to eliciting incriminating statements, that the rule begins to operate. ^[10] Republic Act No. (RA) 7438^[11] has extended this constitutional guarantee to situations in which an individual has not been formally arrested but has merely been "invited" for questioning.^[12] Specifically, Sec. 2 of RA 7438 provides that "*custodial investigation* shall include the practice of issuing an *invitation* to a person who is