

SECOND DIVISION

[G.R. NO. 140285, September 27, 2006]

**PEOPLE OF THE PHILIPPINES, PETITIONER, VS. COURT OF
APPEALS (15TH DIVISION) AND WILFRED N. CHIOK,
RESPONDENTS.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, assailing the Resolution^[1] dated September 20, 1999 of the Court of Appeals in CA-G.R. SP No. 53340, entitled "Wilfred N. Chiok, *petitioner*, v. Hon. Marietta Legazpi, People of the Philippines, and Rufina Chua, *respondents*."

The factual antecedents as borne by the records are:

Sometime in 1989, Rufina Chua met respondent Wilfred Chiok. He represented himself as a licensed stockbroker and an expert in the stock market. He then encouraged Rufina to invest her money in stocks, requesting her to designate him as her stockbroker. On respondent's prodding, she agreed.

For several years, respondent acted as Rufina's stockbroker. She made a profit out of their transactions, prompting her to trust respondent in handling her stock investments.

In 1995, respondent encouraged Rufina to purchase shares in bulk as this will increase her earning. Hence, in June 1995, she entrusted to him the amount of P9,563,900.00 for the purpose of buying shares of stocks in bulk. She deposited the amount of P7,100,000.00 in respondent's account. With respect to the remaining P2,463,900.00, she personally gave it to him. Thereupon, he told her to wait for one week. A week elapsed, but she did not hear from him. Upon her inquiry, he advised her to wait for another week, but still there was no news from him. Finally, when she was able to contact him, he admitted that he spent the money. At any rate, he issued two checks as payment but when she deposited them in the drawee bank, they were dishonored for insufficient funds.

In a letter dated October 25, 1995, Rufina demanded payment from respondent, but this remained unheeded.

Upon inquiry, Rufina came to know that respondent was not a licensed stockbroker but only a telephone clerk at Bernard Securities, Inc. Immediately, she caused the filing of an information for estafa against him with the Regional Trial Court, Branch 165, Pasig City, docketed therein as Criminal Case No. 109927.

During the arraignment, respondent, assisted by his counsel *de parte*, pleaded not guilty and posted bail. Trial ensued.

Respondent denied the charge against him. He testified that he was not an employee of Bernard Securities, Inc.; that he buys and sells U.S. dollars and that Rufina used to buy dollars from him; that what actually existed between them was an unregistered partnership; and that he received the amount of P9,563,900.00 as her investment in their partnership.

After the presentation of the parties' evidence, the trial court set the promulgation of judgment on January 26, 1999. However, respondent and his counsel failed to appear on said date. The promulgation was re-set to February 1, 1999.

On February 1, 1999, the trial court rendered a Decision convicting respondent of estafa and sentencing him to suffer twelve (12) years of *prision mayor*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum. **During the promulgation of the judgment, respondent and his counsel failed to appear despite notice.** Consequently, the prosecution filed a Motion for Cancellation of Bail on the ground that there is an indication that respondent might flee or commit another crime.

On May 28, 1999, the trial court issued an Omnibus Order granting the prosecution's motion, 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.

On June 18, 1999, respondent interposed an appeal from the Decision of the trial court to the Court of Appeals, docketed therein as CA-G.R. CR No. 23309.

The following day or on June 19, 1999, respondent filed with the Court of Appeals a Special Civil Action for Certiorari with Very Urgent Application for a Temporary Restraining Order (TRO) and/or Injunction assailing the trial court's May 28, 1999 Omnibus Order canceling his bail. The petition was docketed as CA-G.R. SP No. 53340.

Meanwhile, or on June 25, 1999, the trial court issued a **warrant of arrest against respondent for the reason that "he has not surrendered despite the lapse of the given period (five days) as provided in the Omnibus Order dated May 28, 1999." The said warrant was returned unserved because he could not be found at his given address.**

Going back to CA-G.R. SP No. 53340, the Court of Appeals issued a TRO enjoining the implementation of the trial court's Omnibus Order.

Subsequently, in a Resolution dated September 20, 1999, the appellate court issued a writ of preliminary injunction enjoining the arrest of respondent, holding that the latter should not be deprived of his liberty pending resolution of his appeal as the offense for which he was convicted is a non-capital offense; and that the probability