

FIRST DIVISION

[G.R. No. 144785, September 11, 2003]

**YOLANDA GARCIA, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES RESPONDENT.**

DECISION

YNARES-SANTIAGO, J.:

This is an appeal from the decision^[1] dated August 30, 2000 of the Court of Appeals in CA-G.R. CR No. 22771 affirming *in toto* the decision of the Regional Trial Court, Branch 43 of Manila which found petitioner Yolanda Garcia guilty beyond reasonable doubt of the crime of estafa, and sentenced her to suffer the penalty of imprisonment ranging from six (6) years and one (1) day to ten (10) years and one (1) day of *prision mayor*, to indemnify the complainant in the amount of P87,000.00, and to pay the costs.

Petitioner Yolanda Garcia was charged with estafa in an information which reads:

That on or about and during the period comprised between June 20, 1995, and August 15, 1995, inclusive, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud one DOLORES S. APOLONIO in the following manner, to wit: the said accused by means of false manifestations and fraudulent representations which she made to said DOLORES S. APOLONIO to the effect that accused has three (3) checks which according to her have sufficient funds and if encashed, the same will not be dishonored; and by means of other deceits of similar import, induced and succeeded in inducing the said DOLORES S. APOLONIO to accept the following checks:

Name of Bank	Check No.	Amount	Date	Payable to
Phil Nat'l Bank	046884	P28,000.00	6-20-'95	Cash
-do-	047416	34,000.00	8-15-'95	-do-
Pilipinas Bank	60042087	25,000.00	7-25-'95	Garcia Vegetable Dealer

as payments of assorted vegetables which accused purchased and received from said DOLORES S. APOLONIO in the total amount of P87,000.00, said accused knowing fully well that the said manifestations and representations were all false and untrue as said checks when presented to the bank for payment were all dishonored for the reason "Drawn Against Insufficient Funds", and were made solely for the

purpose of obtaining, as in fact she did obtain assorted vegetables in the amount of P87,000.00; which once in her possession and with intent to defraud, she willfully, unlawfully and feloniously misappropriated, misapplied and converted the said assorted vegetables or the value thereof to her own personal use and benefit, to the damage and prejudice of the said owner in the aforesaid amount of P87,000.00, Philippine Currency.

CONTRARY TO LAW.^[2]

Petitioner pleaded "not guilty" when arraigned. Trial on the merits then ensued.

For more than a year, petitioner had been buying assorted vegetables from Dolores Apolonio in Divisoria, Manila. Petitioner always paid in cash. However, in May 1995, petitioner thrice bought vegetables from Apolonio using three checks: one postdated June 20, 1995 for P28,000.00, drawn by her husband, Manuel Garcia; the second postdated July 25, 1995 for P34,000.00, drawn by her daughter Gigi Garcia; and the third postdated August 15, 1995 for P25,000.00, drawn by her nephew Jose Nadongga Jr. When the three checks were presented for payment, they were all dishonored for insufficiency of funds.

Hence, Apolonio instituted the aforesaid criminal case against petitioner.

In her defense, petitioner claimed that the amounts of the checks were already paid and that the same did not belong to her as they were only paid to her by her customers. She also maintained she did not have any transaction with the complainant in May 1995.

On December 29, 1998, the trial court rendered a decision, the dispositive portion of which reads:

WHEREFORE, in view of all the foregoing considerations, the Court finds the accused guilty beyond reasonable doubt of the crime of Estafa under Art. 315, Sec. 2(2) (sic) of the Revised Penal Code, as amended and there being no mitigating or aggravating circumstances and taking into account the provisions of the Indeterminate Sentence Law, the Court hereby sentences the accused Yolanda Garcia to suffer the indeterminate penalty of SIX (6) YEARS and ONE (1) DAY to TEN YEARS and ONE (1) DAY of *prision mayor* as maximum.

She should also indemnify the complainant in the amount of P87,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs.^[3]

Petitioner appealed her conviction to the Court of Appeals, which, on August 30, 2000, rendered the assailed decision affirming the judgment of conviction rendered by the trial court.

In this petition for review, petitioner alleges that the Court of Appeals erred:

1. In affirming the trial court's decision finding her guilty of the crime of estafa under Article 315, Section 2[d] of the Revised Penal Code as amended for issuing postdated checks, when she was charged in

the information for the crime of estafa through false pretenses punishable under Art. 315, Section 2[a] of the Revised Penal Code.

2. In convicting her of estafa under Article 315, Section 2[d] of the Revised Penal Code which penalizes those who issue postdated checks when petitioner did not issue or draw the postdated checks.
3. In convicting her of estafa under Article 315, Section 2[d] of the Revised Penal Code when there is no evidence that she had knowledge that the postdated checks she allegedly delivered to complainant were without sufficient funds.
4. In not considering that she delivered said checks to complainant in payment of a pre-existing obligation so that her liability if at all is civil in nature.
5. In not reversing and setting aside the trial court's decision and in not acquitting her instead.^[4]

Petitioner basically claims that her constitutional right to be informed of the nature and cause of the accusation against her was violated because, although she was charged with estafa under Article 315, Section 2[a], as amended, which penalizes false manifestations or fraudulent representations in defraudation of another, she was instead convicted of estafa under Article 315, Section 2[d] which penalizes the issuance of postdated checks that were not funded or were insufficiently funded.

Petitioner further claims she was not the issuer or the drawer of said checks, and had no knowledge that they were unfunded or underfunded. In any case, assuming that she indeed issued or drew the checks, they were in payment of a pre-existing obligation. Consequently, she could not be held liable for estafa and her liability is only civil in nature.

Section 14(2) of Article III of the 1987 Constitution provides that an accused has the right to be informed of the nature and cause of the accusation against him. Indeed, Section 6, Rule 110 of the Revised Rules of Criminal Procedure requires that the acts and omissions complained of as constituting the offense must be alleged in the Information. Section 8 thereof provides that the Information shall state the designation of the offense given by the statute and aver the acts or omissions constituting the offense. The real nature of the crime charged is determined by the facts alleged in the Information and not by the title or designation of the offense contained in the caption of the Information. It is fundamental that every element of which the offense is comprised must be alleged in the Information. What facts and circumstances are necessary to be alleged in the Information must be determined by reference to the definition and essential elements of the specific crimes.^[5]

Article 315, paragraph 2(a) of the Revised Penal Code provides that swindling or estafa by false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud is committed by "using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by other similar deceits." The elements of estafa under this penal provision are: (1) the accused defrauded another by means of deceit; and (2) damage or prejudice capable of pecuniary estimation is caused to