

THIRD DIVISION

[G.R. No. 117512, October 02, 2001]

REBECCA ALA-MARTIN, PETITIONER, VS. HON. JUSTO M. SULTAN, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 98, QUEZON CITY; MARILINE D. ALA, SPOUSES MANUEL AND SUSAN QUIMBO, RESPONDENTS.

DECISION

SANDOVAL-GUTIERREZ, J.:

Petition for certiorari^[1] seeking to annul and set aside the decision of the Regional Trial Court, Branch 98, Quezon City, in Criminal Case No. Q-92-30266, "People of the Philippines vs. Marilene D. Ala, et al." for estafa under Article 315, par. 1(b) of the Revised Penal Code.

The assailed decision acquitted Marilene Ala, Manuel Quimbo and Susan Ala-Quimbo, but found them civilly liable to private complainant Rebecca Ala-Martin in the amount of \$19,250.21 or its equivalent in Philippine peso.

The antecedent facts are:

Rebecca, Susan and Leticia, all surnamed Ala, are sisters. Atty. Oscar Ala is their brother.

Sometime in December, 1994, Rebecca Ala-Martin, petitioner, designated her brother Atty. Oscar Ala as her attorney-in-fact, authorizing him to withdraw from the Hongkong and Shanghai Banking Corporation certain amounts under her Dollar Savings Account No. 01-772300-20 for the purpose of paying the amortizations on her residential lot she purchased in 1985. Atty. Ala suggested to her to transfer her dollar deposit to the Prudential Bank in Quezon Avenue where his wife Marilene and his sister Susan Ala-Quimbo, worked. Rebecca agreed.

Sometime in February, 1987, upon inquiry with the Prudential Bank, she was informed that her money (\$19,245.20 or P500,500.00 at the then current rate of exchange) was not deposited there. What actually transpired was that Atty. Ala withdrew her dollars (in bank draft) from the Hongkong and Shanghai Banking Corporation, gave it to his wife Marilene, who, in turn delivered it to her sister Susan Ala-Quimbo for deposit with the Prudential Bank, Quezon Avenue Branch. Instead of complying with Oscar's instruction, Marilene and Susan entrusted the bank draft to Josefina Rey, an employee of the China Banking Corporation, for the purpose of earning higher rate of interest. But Josefina Rey absconded with the money. Forthwith, spouses Manuel and Susan Ala-Quimbo filed criminal and civil cases against her.

Believing that spouses Oscar and Marilene Ala and Susan Ala-Quimbo connived with

each other in appropriating her money for their own benefit, Rebecca, through her sister, Atty. Leticia Ala, demanded that they return the amount but to no avail. This prompted Rebecca to cause the filing with the court a quo Criminal Case No. Q-92-30266 for estafa against spouses Oscar and Marilene Ala and Susan Ala-Quimbo.

In due time, they were arraigned and trial ensued.

Upon motion of the prosecution, the lower court reversed the order of trial, directing the defense to first present its evidence, followed by the prosecution. This order was based on the finding of the trial judge that the charge of estafa was established by the Joint Counter Affidavit of spouses Manuel and Susan Ala-Quimbo and spouses Oscar and Marilene Ala. Spouses Manuel and Susan Ala-Quimbo admitted in their Joint Counter Affidavit that they received from Marilene Ala Rebecca's money for the purpose of depositing it with the China Banking Corporation in order to earn a higher rate of interest, but that Josefina Rey, an employee therein, misappropriated it. For their part, spouses Oscar and Marilene Ala alleged in their Joint Counter Affidavit that he (Oscar) withdrew Rebecca's money in the sum of \$19,245.20 from the Hongkong and Shanghai Bank and gave it to his wife Marilene. In turn, she delivered it to her sister Susan Ala-Quimbo for deposit with the Prudential Bank, Quezon Avenue Branch.

Subsequently, the defense filed a demurrer to evidence but was denied by the trial court.

During the hearing on March 3, 1993, instead of presenting its evidence in accordance with the reverse order of trial, the defense, through counsel, manifested that the accused are waiving their right to present their evidence. Thereupon, the private prosecutor manifested that he will present evidence to prove the accused's civil liability impliedly instituted with the criminal action, The defense objected vigorously. On April 12, 1993, the trial court issued an order allowing the prosecution to prove the civil liability of the accused.

On June 2, 1993, Rebecca testified mainly on the civil aspect of the case. She identified Exhibit "A" which is a Certification dated February 9, 1987 of Manuel A. Quimbo wherein he undertook to pay Rebecca \$19,245.20; Exhibit "B," the Joint Counter Affidavit of spouses Oscar and Marilene Ala; and Exhibit "C," the Joint Counter Affidavit of spouses Manuel and Susan Ala-Quimbo. On June 10, 1993, the prosecution rested its case and formally offered the foregoing documentary evidence which were admitted by the trial court.

The defense did not present any testimonial evidence but merely offered in evidence the prosecution's Exhibit "A" as its Exhibit "1," stressing that the accused's undertaking to pay Rebecca is conditioned upon their ability to collect the amounts involved in the criminal and civil cases they filed against Josefina Rey.

On September 27, 1994, the trial court rendered the assailed decision, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing consideration, the court hereby declares the three accused namely Susan Quimbo, Marilene D. Ala and Atty. Manuel S. Quimbo, **acquitted on reasonable doubt**. They are not