

THIRD DIVISION

[G.R. No. 130742, July 18, 2000]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
PRIMITIVA DIZON, LIBERTY MARTINEZ, AND ANICETA AQUINO,
ALIAS "ANNIE" ACCUSED. ANICETA AQUINO, ACCUSED-
APPELLANT.**

D E C I S I O N

GONZAGA-REYES, J.:

This is an appeal from the decision^[1] of the Regional Trial Court (RTC) of Kalookan City, Branch 130 dated August 18, 1997 finding accused-appellant ANICETA ("ANNIE") AQUINO guilty beyond reasonable doubt as co-principal of the crime of Estafa in Criminal Case No. C-43198.

On May 6, 1993, accused-appellant Aniceta ("Annie") Aquino together with Primitiva S. Dizon and Liberty Martinez were charged with the crime of Estafa under Article 315 paragraph 2 (d) of the Revised Penal Code in an information^[2] that reads:

"That on or about the 22nd day of December, 1991 in Kalookan City, Metro Manila and within the jurisdiction of this Honorable Court, the above-named accused, conspiring together and mutually aiding one another, defrauded and deceived one MARIE ANTOINETTE DACUMA, in the following manner, to wit: the said accused received from complainant four hundred (400) sacks of rice valued at P200,000.00 and in payment thereof accused Primitiva S. Dizon issued in favor of said complainant the following checks, to wit:

Check No	Date	Bank	Amount
05410011	12/23/91	Pilipinas Bank	P50,000.00
05410013	1/07/92	- do -	P50,000.00
05410014	12/23/91	- do -	P50,000.00
05410015	01/07/92	-	P50,000.00

do -

when accused knew fully well at the time that they have no sufficient funds in the bank and would not have such funds even on the date stated on the face thereof and upon presentment of such checks to the drawee bank for payment, the same was (sic) dishonored for the reason "ACCOUNT CLOSED", that despite due notice as required by Republic Act No. 4885 and notwithstanding repeated demands, the herein accused, did then and there wilfully, unlawfully and feloniously refuse and fail to make good her checks in the total amount of P200,000.00 and still refuse and fail to do so, to the damage and prejudice of the said complainant in the total amount of P200,000.00.

Contrary to law."

Of the three accused, only Aniceta ("Annie") Aquino was arrested and brought to trial. Her co-accused Primitiva S. Dizon and Liberty Martinez remained at large. There was however unverified information that accused Liberty Martinez was shot to death on September 24, 1994. When arraigned, Aniceta Aquino entered a plea of not guilty. During the trial that ensued, the prosecution presented complainant Marie Antoinette Dacuma as its lone witness and submitted as evidence the four checks and other documents to establish its case. Accused Aniceta ("Annie") Aquino was the lone witness presented by the defense and her evidence consisted mainly of her testimony.

In a decision dated August 18, 1997, the Regional Trial Court of Kalookan City disposed the case as follows:

"WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, the Court finds the accused ANICETA ("ANNIE") AQUINO, guilty as co-principal of the crime of ESTAFA, defined and penalized under Article 315, paragraph 2 (d) of the Revised Penal Code, and there being no mitigating or aggravating circumstances that attended the commission of the crime, hereby sentences her to suffer an imprisonment of THIRTY (30) YEARS of reclusion perpetua, together with all the accessory penalties prescribed by law, to indemnify the private offended party, MARIE ANTOINETTE DACUMA jointly and severally with her co-accused Primitiva Dizon and Liberty Martinez, in the amount of TWO HUNDRED THOUSAND PESOS (P200,000.00), without subsidiary imprisonment in case of insolvency, and to pay 1/3 of the costs.

The bail bond of the accused is hereby cancelled pursuant to Sections 5 and 7, Rule 114 of the 1985 Rules on Criminal Procedure, as amended.

The case against accused PRIMITIVA DIZON and LIBERTY MARTINEZ is ARCHIVED, without prejudice to its revival and prosecution as soon as said accused shall have been apprehended. Let an alias Warrant of Arrest be issued which need not be returned until the accused are arrested.

With regard to accused LIBERTY MARTINEZ, the Trial Prosecutor is hereby ordered to inquire into the veracity of the report that said accused is already dead, and if found to be affirmative, to submit a certified copy of

the death certificate to be attached to the record.

SO ORDERED."^[3]

In meting out the judgment of conviction the trial court cited the following "uncontroverted evidence on record," to wit: (1) The complainant Marie Antoinette Dacuma delivered 400 sacks of rice valued at P200,000.00 (at P500.00 per sack) to the accused Primitiva Dizon, Liberty Martinez and Annie Aquino on December 22, 1991 as evidenced by the Delivery Receipt No. 001 (Exhibit A); (2) The rice was received by accused Liberty Martinez (Exhibit A-3); (3) Simultaneously with the delivery of the rice on December 22, 1991 accused Primitiva Dizon made and issued four (4) postdated checks (Exhibits B, C, D, E), drawn against Pilipinas Bank, as payment of (sic) the rice; (4) When the four (4) checks were presented for payment, they were dishonored by the drawee bank and returned unpaid together with the notice of dishonor (Exhibits B-1, C-1, D-1 and E-1) for the reason "Account Closed". Aside from the return slips, the words "Account Closed" are also stamped conspicuously across the face of each check; (5) The complainant notified the accused of the dishonor of the checks and made demands upon them to make good the checks or pay the rice, but they failed to redeem the checks or pay the rice, thereby causing damage and prejudice to the complainant in the amount of P200,000.00, representing the value of the 400 sacks of rice.^[4]

In justifying the conviction of accused Aniceta ("Annie") Aquino as co-principal in the commission of the crime of estafa, the trial court declared that the overwhelming evidence adduced by the prosecution show that the three accused conspired together to defraud complainant Marie Antoinette Dacuma.

Through counsel Public Attorney's Office (PAO), accused-appellant Aniceta ("Annie") Aquino interposed the present appeal contending that:

"THE TRIAL COURT GRAVELY ERRED IN CONVICTING THE ACCUSED-APPELLANT OF THE CRIME CHARGED DESPITE INSUFFICIENCY OF EVIDENCE."^[5]

The PAO avers that the trial court anchored its findings of conspiracy on the acts of accused-appellant of facilitating and initiating the meeting between the other two accused and the complainant and in convincing the latter to sell rice to the former and following it up till the delivery of the same, which acts are not sufficient *indicia* of conspiracy to defraud complainant.

Accused-appellant in her separate brief^[6] contends that the trial court committed a grave and serious reversible error in not acquitting the accused-appellant on the ground that the prosecution failed to establish her guilt beyond reasonable doubt. Accused-appellant avers that her only participation in the transaction was limited to her act of introducing the other accused to the complainant and her presence during the questioned transaction which acts do not sufficiently show that she, together with her co-accused, conspired to defraud private complainant invoking the settled rule that conspiracy must be proved as indubitably as the crime itself which is estafa, through clear and convincing evidence. She also claims that since criminal responsibility is only personal, accused-appellant may not be held criminally liable for the alleged fraudulent acts of the other accused.