

THIRD DIVISION

[G.R. No. 106357, September 03, 1998]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE VS.
PRISCILLA BALASA, NORMITA VISAYA, GUILLERMO
FRANCISCO, NORMA FRANCISCO AND ANALINA FRANCISCO,
ACCUSED. NORMA FRANCISCO, GUILLERMO FRANCISCO AND
ANALINA FRANCISCO, ACCUSED -APPELLANTS.**

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D E C I S I O N

ROMERO, J.:

Greed has always been one of man's failings. The hope of greater gain has lured many a man to throw caution, and his common sense, to the wind. This human foible, known to many, has been exploited throughout the ages by con men, charlatans and cheats to bilk the gullible public of their hard-earned money. History has thus seen the unraveling of various disingenuous stratagems which are at bottom nothing but scams. The case at hand once again proves that "a sucker is born every minute."

Totoong walang pagkaubos sa ating daigdig ang mga taong nanlilinlang. Hindi magkakagayon naman kung walang nagpapalinlang. Dahil sa kanilang malaking hangarin na magkamal ng kimpal kimpal na kayamanan, pinapasukan nila ang mga kaduda-dudang alok ng mga mapagsamantala na kung sila ay mamuhunan ng kaunting salapi, ito ay tutubo ng malaki sa ilang araw lamang. Kaya't napakaraming mga tao ang nagagantso. Hindi masasabing mga hangal o dili kaya'y mga maralita na walang gaanong pinag-aralan ang mga nabibiktima. Kahit ang mga maykaya at matataas sa ating lipunan ay napaglalaruan din. Milyun-milyong salapi ang nahuhuthot sa kanila, hindi ng mga masakim na magnanakaw, kundi ng kanila na ring mga kasamahan sa tinatawag na "alta sociedad." Mismong mga kaibigan at kapanatag ng loob ang naguudyok sa kanilang sumali sa mga pakana na magpapayaman sa kanila. Higit namang nakakaawa kapag ang naloloko ay iyong nangungutang lamang at nagbabakasakali na ang ilang daan nila ay magiging libo.

Itong kapasiyahang ito ng Mataas na Hukuman ay nagbababalang muli. Magpakaingat-ingat ang lahat. Ang naghahangad ng kagitna, isang salop ang nawawala.

Iyon namang nanlilinlang. Walang gawaing masama na hindi nabubunyag rin. Totoong mahigpit ang ating batas na pumaparusa sa mga ganyang hindi na natututo, lalo't higit kung ang mga salarin ay mga sindikato.

Tunghayan natin kung papaano naganap ang gawang panloloko sa mga taga Palawan ng mga dayo lamang.

On July 6, 1989, the Panata Foundation of the Philippines, Inc., a non-stock, non-profit corporation with principal address at San Miguel, Puerto Princesa, Palawan, was registered with the Securities and Exchange Commission, under S.E.C. Reg. No. 165565. Its ten incorporators were Priscilla Balasa, Normita Visaya, Analina Francisco, Lolita Gelilang, Cynthia Ang, Norma Francisco, Purabel Espidol, Melinda Mercado, Rodolfo Ang, Jr. and Teresa G. Carandang. Five incorporators, namely, Priscilla Balasa, Normita Visaya, Analina Francisco, Lolita Gelilang and Cynthia Ang were named first trustees.

In addition, the management of the foundation was entrusted to Priscilla Balasa, as president and general manager; Normita Visaya as corporate secretary and head comptroller; Norma Francisco as cashier; Guillermo Francisco as the disbursing officer; and Analina Francisco as treasurer. The latter also doubled as a typist of the Foundation.

On the other hand, the employees of the foundation were the tellers Rosemarie Balasa, Sylvia Magnaye, Judith Ponciano, Jessica Buaya, Rosario Arciaga, Paul Francisco, Enriquita Gabayan and Anita Macmac. The comptrollers, Ruth Jalover, Almarino Agayo, and Avelina Yan were under the supervision of Normita Visaya. Nelia Daco, one of the clerks assigned outside, was the one in direct contact with the depositors.

The Foundation's purposes, as stated in its by-laws, were as follows:

1. Uplift members' economic condition by way of financial or consultative basis (sic);
2. To encourage members in a self-help program;
3. To grant educational assistance;
4. To implement the program on the Anti-Drug campaign;
5. To acquire facilities either by or through purchase, lease, bequest of donations, equipments (sic), machineries (sic) and supplies for purposes of carrying out its business operation or hold such real or personal properties as may be convenient and proper in order to achieve the purpose of this corporation;
6. To cooperate with other organizations, institutions with similar activities for purposes of carrying out its business; and
7. To organize seminars or conferences specially in the rural areas and other selected cities."^[2]

After obtaining its SEC registration, the foundation immediately swung into operation. It sent out brochures soliciting deposits from the public, assuring would-be depositors that their money would either be doubled after 21 days or trebled after 30 days. Priscilla Balasa also went around convincing people to make deposits with the foundation at their office at the Diaz Apartment, Puerto Princesa.

The modus operandi for investing with the foundation was as follows:

When a person would deposit an amount, the amount would be taken by a clerk to be given to the teller. The teller would then fill up a printed form called a "slot." These "slots" were part of a booklet, with one booklet containing one hundred "slots." A "slot" which resembled a check, contained the following data:

PANATA FOUNDATION	Control No. <u> 33 </u>
(Logo) OF THE PHILIPPINES INC.	Date 12-5-87 / Dec. 26, 1987
PFOPI Puerto Princesa, Palawan	Amount P <u>500.00</u>

SEC Reg. No. 165565
M CHESTER MONREAL
Address RPC
Share FIVE
Amount in words FIVE HUNDRED PESOS Only

(Sgd.)	<u>(Sgd.)</u>
Signature of Member	PRISCILLA BALASA
President / Manager	

No. 30333^[3]

The control number indicated the number of the "slot" in a booklet, while the space after "date" would contain the date when the slot was acquired, as well as the date of its maturity. The amount deposited determined the number of shares, one share being equivalent to one hundred pesos. The depositor had the discretion when to affix his signature on the space provided therefor. Some would sign their slot only after payment on maturity, while others would sign as soon as they were given the slot. However, without the control number and the stamp of the teller, duly signed or initialed, no depositor could claim the proceeds of his deposit upon maturity.^[4]

After the slot had been filled up by the teller, he would give it to the clerk assigned outside. The clerk would then give the slot to the depositor. Hence, while it was the teller who prepared and issued the slot, he had no direct contact with the depositor. The slots handed to a depositor were signed beforehand by the president of the foundation.

Every afternoon, the comptrollers would take the list of depositors made by the tellers with the amounts deposited by each, and have these typed. Norma Francisco would then receive from the tellers the amounts deposited by the public. It was also her job to pay the salaries of the foundation's employees. For his part, Guillermo Francisco would release money whenever a deposit would mature as indicated in the slots.

According to the foundation's rules, an investor could deposit up to P5,000.00 only,

getting a slot corresponding thereto. Anyone who deposited more than that amount would, however, be given a slot but the slot had to be in the name of another person or several other persons, depending upon the amount invested.^[5] According to Sylvia Magnaye, a foundation teller, all deposits maturing in August 1989 were to be tripled. For such deposits, the slots issued were colored yellow to signify that the depositor would have his deposit tripled. Deposits that would mature subsequent to August were only given double the amount deposited.^[6] However, there were times when it was the depositor who would choose that his deposit be tripled, in which case, the deposit would mature later.^[7]

The amounts received by the foundation were deposited in banks. Thus, a foundation teller would, from time to time, go to PNB, PCI Bank, DBP and the Rural Bank of Coron to deposit the collections in a joint account in the names of Priscilla Balasa and Norma Francisco.

Initially, the operation started with a few depositors, with most depositors investing small amounts to see whether the foundation would make good on its promise. When the foundation paid double or triple the amounts of their investment at maturity, most not only reinvested their earnings but even added to their initial investments. As word got around that deposits could be doubled within 21 days, or tripled, if the period lasted for more than 30 days, more depositors were attracted. Blinded by the prospect of gaining substantial profits for nothing more than a minuscule investment, these investors, like previous ones, were lured to reinvest their earnings, if not to invest more.

Most would invest more than P5,000.00, the investment limit set by the foundation. Priscilla Balasa would, however, encourage depositors to invest more than P5,000.00, provided that the excess was deposited under the name of others. She assured the depositors that this was safe because as long as the depositor was holding the slots, he was the "owner" of the amount deposited. Most investors then deposited amounts in the names of their relatives.

At the outset, the foundation's operations proceeded smoothly, as satisfied investors collected their investments upon maturity. On November 29, 1989, however, the foundation did not open. Depositors whose investments were to mature on said date demanded payments but none was forthcoming. On December 2, 1989, Priscilla Balasa announced that since the foundation's money had been invested in the stock market, it would resume operations on December 4, 1989. On that date, the foundation remained closed. Depositors began to demand reimbursement of their deposits, but the foundation was unable to deliver.

Consequently, sixty-four informations, all charging the offense of estafa, as defined in Presidential Decree No. 1689, were filed against Priscilla Balasa, Normita Visaya, Norma Francisco, Guillermo Francisco, Analina Francisco and eight other persons, mostly incorporators and employees of the Panata Foundation, before the Regional Trial Court of Palawan. Fourteen cases, including Criminal Case Nos. 8429 and 8751, were raffled off to Branch 52. Two more cases, Criminal Case Nos. 8704 and 8749, were similarly assigned to it. Of the sixteen cases assigned to Branch 52, eight were, with the consent of the accused, provisionally dismissed for lack of evidence.

In Criminal Case No. 8429, the information charging the accused with the crime of

estafa "as amended by PD 1689" was filed on December 12, 1989. The accused in this case were: Priscilla Balasa, Almarino Agayo, Norma Francisco, Normita Visaya, Paul Francisco, Nelia Daco, Ruth Jalover,^[8] Guillermo Francisco, Candido Tolentino, Jr., Rosemarie Balasa,^[9] Ricardo del Rosario, Emelita Gabayan, Rosario Arciaga, Jessica Buaya, Avelina Yan, Anita Macmac, Gina Gabaldon, Ronaldo Belo, Fernando Cadauan, Lolita Gelilang, Cynthia Ang, Judith Ponciano, Sylvia Magnaye,^[10] Analina Francisco and Sulpio Nabayan. As amended on February 16, 1990, the information in this case reads as follows:

"That sometime on (sic) December, 1989, the above-named accused being the Manager and employees of the PANATA Foundation of the Philippines, Inc., with office at No. 20 Diaz Apartment, Manalo Extension, Puerto Princesa City, Philippines, and within the jurisdiction of this Honorable Court, the said accused conspiring and confederating with one another and operating as a syndicate, did then and there wilfully, unlawfully and feloniously defraud one Estrella San Gabriel y Lacao by means of false representation and fraudulent means which they made to said Estrella San Gabriel to the effect that as an investor/subscriber to the PANATA Foundation, Inc. which is a non-stock corporation allegedly registered with the SEC under Registration No. 165565 and by means of other similar deceit induce the said Estrella San Gabriel to give and deliver to the said accused the amount of P5,500.00 as her investment in said foundation, and by manifestation and misrepresentation by the said accused that the said invested amount will be doubled or tripled within a certain period of days said accused knowing fully well that their manifestation and representations were false and fraudulent as they are made only for the purpose of obtaining as in fact they obtained the amount with intent to defraud misapply, misappropriate and convert the said amount for their own personal use and benefit, to the damage and prejudice of said Estrella San Gabriel in the amount of P5,500.00, Philippine Currency.

CONTRARY TO LAW and penalized under Presidential Decree No. 1689."

Likewise, in Criminal Case No. 8704, the information, filed on May 23, 1990, charged Priscilla Balasa, Norma Francisco, Guillermo Francisco, Normita Visaya, Analina Francisco, Lolita Gelilang, Cynthia Ang, Rodolfo Ang, Jr., Purable Espidol, Melinda Mercado, Almarino Agayo, Candido Tolentino, Jr., Ricardo del Rosario, Fernando Caduan, Paul Francisco and Teresita Carandang with the crime of estafa "as amended by Presidential Decree No. 1689" as follows:

"That sometime in July, 1989 to December 1989, the above-named accused being then the Manager, incorporators, members of the board of trustees, officers and employees of the PANATA FOUNDATION OF THE PHIL., INC. with Office No. 20 Diaz Apartment, Manalo Extension, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the said accused conspiring, confederating together and mutually helping one another, and operating as a syndicate, did then and there wilfully, unlawfully and feloniously defraud, the complainant Conchita Bigornia, by means of false pretenses/representation and fraudulent means which they made to said Conchita Bigornia to the effect that as depositor/subscriber to the PANATA FOUNDATION OF THE PHIL., INC.,