

ELEVENTH DIVISION

[CA-G.R. CR-HC NO. 05537, April 07, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
ARLENE D. MENDOZA AND GERARDO L. MENDOZA, ACCUSED-
APPELLANTS.**

D E C I S I O N

ANTONIO-VALENZUELA, J.:

This is the appeal assailing the Decision^[1] dated 13 March 2012 ("assailed Decision") of the Regional Trial Court, Branch 165, Marikina City ("RTC") in Criminal Case No. 2007-9586-MK, entitled "*People of the Philippines v. Arlene D. Mendoza and Gerardo L. Mendoza*," which found Arlene D. Mendoza ("accused-appellant Arlene") and Gerardo L. Mendoza ("accused-appellant Gerardo") guilty beyond reasonable doubt of the crime of Estafa.

THE FACTS

In the Information,^[2] the two accused-appellants were charged for the crime of Estafa under Article 315, paragraph 2 (d) of the Revised Penal Code for defrauding Angelita L. Baltazar ("private complainant Angelita") in the amount of P100,000.00. The Information read:

The undersigned Assistant City Prosecutor accuses Spouses ARLENE D. MENDOZA and GERARDO L. MENDOZA, of the crime of ESTAFA (under Art. 315, par. 2 (D) of the Revised Penal Code, as amended by P.D. 818, committed as follows:

That on or about the 2nd day of February 2005, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping and assisting one another, with deliberate intent to defraud one Angelita L. Baltazar, and by means of deceit, false pretenses and fraudulent acts executed prior to or simultaneously with the commission of fraud, did then and there willfully, unlawfully and feloniously make, draw and issue to ANGELITA L. BALTAZAR the following check, to wit:

BANK/CHECK NO.	DATE	AMOUNT
PB Com 2000083501	6-20- 05	Php50,000.00
PB Com 2000083502	6-27- 05	Php50,000.00

in the total amount of P100,000.00, simultaneously in exchange for cash to herein complainant ANGELITA L. BALTAZAR said accused well knowing

at the time of issue they did not have sufficient funds in or credit with the drawee bank for payment in full of the face amount of said checks upon its presentment which checks when presented for payment was subsequently dishonored by the drawee bank for the reason "ACCOUNT CLOSED" and despite repeated demands to make good the said checks, failed and refused to deposit the amount necessary to cover the aforesaid checks or pay the value thereof, within three (3) banking days after receiving notice, to the damage and prejudice of, ANGELITA L. BALTAZAR in the aforementioned amount of P100,000.00.

CONTRARY TO LAW.

Marikina City, August 8, 2007.

At the arraignment, the two accused-appellants, assisted by counsel, pleaded not guilty to the crime as charged in the Information.^[3]

On 17 November 2008, the RTC terminated pre-trial.^[4]

Thereafter, the RTC conducted trial.

The Prosecution presented as witnesses the following persons: private complainant Angelita; Fernando San Diego ("San Diego"); and Relina S. Taberna ("Taberna").

The evidence of the Prosecution is summarized thus: on 2 February 2005, the two accused-appellants who are husband and wife, went to the house of private complainant Angelita to rediscount two checks (PBCOM Check No. 2000083501 dated 20 June 2005, and PBCOM Check No. 200083502 dated 27 June 2005), issued by accused-appellant Arlene (only), both payable to the order of private complainant Angelita, with value of P50,000.00 each; upon assurance by the two accused-appellants that the two subject checks would be sufficiently funded upon their maturity, private complainant in exchange gave the two accused-appellants the check dated 2 February 2005, payable to cash, in the amount of P100,000.00, and accused-appellants encashed this check at Angelita's depository bank; on 15 July 2005, private complainant Angelita deposited the two checks to her bank account at Banco Filipino, however, when the checks were presented to PBCOM for payment, they were dishonored because the account was already closed; private complainant Angelita, through her lawyer, sent the accused-appellants the letter dated 13 September 2005,^[5] making a demand to pay the value of the two subject checks; accused-appellants did not pay; private complainant Angelita filed the case for estafa against the two accused-appellants.

The Defense presented accused-appellant Arlene as witness.

The evidence of the Defense is summarized thus: accused-appellants, who are husband and wife, approached the private complainant Angelita to borrow money, and not to rediscount any checks; accused-appellants have no checking account, and in compliance with private complainant Angelita's requirement, accused-appellant Arlene opened a checking account in her name at PBCOM Marikina Branch; private complainant Angelita released the loan amount to accused-appellants by issuing a check, and then private complainant Angelita required accused-appellants to issue the two subject checks in exchange for her check representing the loan; while the signatures appearing on the two checks are the signatures of accused-appellant Arlene, the dates inscribed on the face of the two subject checks, are not

in accused-appellant Arlene's handwriting; when private complainant Angelita deposited the two subject checks, the bank dishonored them; when accused-appellants received the letter of private complainant Angelita making a demand to pay, accused-appellants asked that private complainant Angelita give them two months within which to pay the value of the dishonored checks.

On 13 March 2012, the RTC rendered the assailed Decision,^[6] which found accused-appellants Arlene and Gerardo guilty beyond reasonable doubt of the crime of Estafa. The dispositive portion of the Decision read:

WHEREFORE, in view of the foregoing, the Court finds both accused ARLENE D. MENDOZA and GERARDO L. MENDOZA guilty beyond reasonable doubt of the crime charged and are hereby sentenced each to suffer an indeterminate penalty of imprisonment from eight (8) years and one (1) day of prision mayor as minimum to twenty-seven (27) years of reclusion perpetua as maximum, with all the accessory penalties provided for under the Revised Penal Code. The surety bonds posted by both accused in this case are hereby cancelled and forfeited in favor of the government.

Both accused are likewise ordered to pay complainant Angelita L. Baltazar the amount of Php100,000.00 corresponding to value of the subject checks, with interest thereon at the legal rate from the time they were drawn, until fully paid.

SO ORDERED.^[7]

On 14 March 2012, the two accused-appellants filed Urgent Motion for Reconsideration.^[8]

In the Order dated 17 April 2012, the RTC partially granted the Urgent Motion for Reconsideration.^[9] The dispositive portion of the Order read:

WHEREFORE, the Urgent Motion for Reconsideration is PARTIALLY GRANTED. The award of P100,000.00 corresponding to the value of the subject checks including its interests, the same having been previously awarded to the private complainant in the BP 22 cases before MTC 76, Marikina City is hereby DELETED from the Decision dated March 13, 2012. The rest of the dispositive portion in the same Decision however, STAY and MAINTAIN (sic).

On 23 April 2012, the two accused-appellants filed the Notice of Appeal.^[10] In the Order^[11] dated 24 April 2012, the RTC gave due course to the Notice of Appeal, and ordered the elevation of the Records to this Court.

On 3 October 2012, the two accused-appellants filed Accused-Appellants' Brief,^[12] assigning a lone error, thus:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANTS OF THE CRIME OF ESTAFA UNDER ARTICLE 315, PAR. 2 (D) OF THE REVISED PENAL CODE, AS AMENDED BY PRESIDENTIAL DECREE NO. 818 BY FINDING THAT FRAUD AND/OR DECEIT ATTENDED THE ISSUANCE OF THE POSTDATED CHECKS.

The issue is whether there is proof beyond reasonable doubt to convict the two accused-appellants of the crime of Estafa.

The Accused-Appellants' Brief answers in the negative. There is no proof beyond reasonable doubt that the two accused-appellants are guilty of the crime of estafa. The Brief thrusts: the two accused-appellants do not deny having issued the two subject checks; the evidence shows that accused-appellant Arlene opened the bank account in her name, and issued the subject checks, on the same date that she went to the private complainant Angelita to avail of the loan; at the time accused-appellants issued subject checks, private complainant Angelita knew that the checks were not funded; there was no rediscounting of the checks, but rather, the accused-appellants issued the subject checks to comply with a requirement for the release of the loan, and to guarantee future payment of the loan; the transaction between the parties was a loan because there was an interest of 3.5% per month; the dates written on the face of the subject checks were not written in accused-appellant Arlene's handwriting; the Prosecution failed to prove the first and third elements of the crime as charged (i.e., it was the private complainant Angelita who required the accused-appellants to open the bank account, thus the checks were issued only as evidence of indebtedness or proof of an obligation; there was no deceit on the part of the accused-appellants, because they agreed with the private complainant Angelita at the time of the issuance and postdating of the checks, that the same shall not be encashed or presented to the bank).

On 4 February 2013, the People filed Appellee's Brief.^[13] It answers in the affirmative. The Prosecution proved the element of fraud or deceit, beyond reasonable doubt. The Brief parries: all the elements of estafa are present in this case (i.e., accused-appellants issued to private complainant Angelita the subject checks, each one with the face value of P50,000.00, or a total of P100,000.00, at private complainant Angelita's house, in exchange for the cash equivalent of the two checks; when private complainant Angelita attempted to encash the two subject checks, the drawee bank dishonored both checks for the reason "account closed;" accused-appellants did not comply with the letters sent to them by private complainant Angelita, requiring payment of the face value of the checks, nor did they deposit the amount necessary to cover the subject checks); the fact that it was private complainant Angelita who instructed accused-appellants to open the checking account with PBCOM on the same date that accused-appellants availed of the loan, and the fact that the subject checks were undated, do not sufficiently disprove that there was no rediscounting of the checks.

On 6 March 2013, the accused-appellants filed the Appellants' Reply Brief,^[14] reiterating the arguments in the Accused-Appellants' Brief.

On 10 September 2013, the accused-appellants filed Motion for Bail. In the Resolution^[15] dated 28 January 2014, this Court granted the Motion for Bail, and allowed the two accused-appellants to post cash bail.

COURT'S RULING

The Court rules in the affirmative with respect to accused-appellant Arlene. There is proof beyond reasonable doubt that she is guilty of the crime of Estafa. However, we acquit accused-appellant Gerardo, absent proof of guilt beyond reasonable doubt.

Article 315, paragraph 2 (d) of the Revised Penal Code is relevant. It provides: