

## **SPECIAL SEVENTH DIVISION**

**[ CA-G.R. CR No. 34979, June 30, 2014 ]**

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V.  
CONCEPCION CUYA, ACCUSED-APPELLANT.**

### **D E C I S I O N**

**REYES-CARPIO, A., J.:**

Accused-appellant, Concepcion Cuya,<sup>[1]</sup> appeals from the Decision<sup>[2]</sup> dated November 8, 2011 rendered by the Regional Trial Court, Branch 47, City of Puerto Princesa, in Criminal Case No. 13825, for the crime of Estafa, committed as follows:

"That on or about the 3rd day of January 1997 and subsequently thereafter until February 17, 1997 and a series of transactions at Dimalanta Building, Rizal Avenue, Puerto Princesa City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with unfaithfulness and with grave abuse of confidence and with intent to defraud, after having received from Ma. Socorro D. Nieto various jewelries all valued at TWENTY SEVEN THOUSAND SEVEN HUNDRED FORTY EIGHT PESOS (P27,748.00), Philippine Currency with previous agreement that the same will be sold on commission the proceeds to be turned over to the complainant and if unsold, to return the items thereto, but accused, once in possession of said articles, did then and there willfully, unlawfully and feloniously convert the same to her own personal use and benefit, and despite repeated demands made upon her to return the items or deliver the proceeds, accused failed and refused and still fails and refuses to do so, to the damage and prejudice of said Ma. Socorro D. Nieto, in the amount aforestated.

CONTRARY TO LAW."<sup>[3]</sup>

### **FACTS OF THE CASE**

When arraigned on October 9, 1997, accused-appellant pleaded not guilty.<sup>[4]</sup> Thereafter, trial on the merits ensued. The facts, according to the plaintiff-appellee, are as follows:

"On 3 January 1997, appellant Cuya approached Ma. Socorro D. Nieto ('Mrs. Nieto' for brevity) to allow her (appellant) to sell sets of jewelry to third parties in order for the latter to earn extra income for her family. Appellant and Mrs. Nieto came to an agreement whereby the latter would give the appellant sets of jewelry in order for the appellant to sell within two (2) months, and if the appellant could not sell it within the agreed period, the items shall be returned to Mrs. Nieto, otherwise the same shall be considered sold. This agreement was reduced into writing and the parties referred to it as their 'Trust Receipt Agreement' dated 3

January 1997. For that particular agreement, appellant received from Mrs. Nieto one (1) set ring/earring blue sapphire worth five thousand pesos (P5,000) and one (1) 14k Ruby Bracelet worth eight thousand five hundred pesos (P8,500).

On 3 February 1997, another transaction was entered into by the parties, wherein appellant obtained one (1) set diamond jewelry valued at thirteen thousand five hundred pesos (P13,500) from Mrs. Nieto.

On 17 February 1997, the final transaction entered into between the parties, wherein appellant obtained from Mrs. Nieto one (1) set ring/earring with diamonds worth five thousand five hundred pesos (P5,500); one (1) 18k lady's ring with 2.3g topaz worth nine hundred twenty pesos (P920.00); one (1) men's ring 18k 4.2g worth one thousand six hundred eighty pesos (P1,680); and one (1) gold link bracelet Japan 18k 9.0g.

After the expiration of the period agreed upon by the parties, the appellant failed to fulfill her obligations to the private complainant. The amount of TWENTY SEVEN THOUSAND SEVEN HUNDRED FORTY EIGHT (Php 27,748.00) represents the remaining liability of the appellant to the private complainant as of the filing of the instant case.

On 2 June 1997 private complainant consulted a lawyer. On even date the appellant received a demand letter from the said lawyer. Despite such demand, the appellant still failed to fulfill her obligations, hence, on 7 June 1997, she executed an affidavit-complaint against the said appellant. The said affidavit-complaint is dated 18 June 1997."<sup>[5]</sup>

Accused-appellant, on the other hand, averred that:

"a) As testified by the complainant, the true agreement of the parties was that Concepcion Cuya would sell the jewelry on commission, and to return the same, or the value thereof, otherwise the jewelry would be considered sold to the accused.

b) The accused testified that she was able to return two (2) pieces of jewelry to the complainant. As a consequence of [the] aforementioned agreement, if the accused would not be able to sell the jewelry or would not be able to return the same to the complainant, it would be considered automatically sold to her. In effect, after the expiration of the period of agreement to sell, the accused automatically becomes the owner of the unsold jewelry by operation of law because the supposed trust receipt agreement had been converted into a sale. Anent thereto, the complainant agreed that the accused will pay the money obligation on daily installment. However, said agreement was revoked by the complainant when she executed a demand letter demanding immediate and full satisfaction of the said obligation. If [there is] any liability the accused has to the complainant, it is pure civil liability. The accused is liable to pay to the complainant the amount of jewelry considered by law as deemed sold to the accused."<sup>[6]</sup>

On November 8, 2011, the court *a quo* rendered its assailed Decision, the decretal portion of which states:

"WHEREFORE, premises considered, the Court finds the accused **CONCEPCION CUYA guilty beyond reasonable doubt of the crime of ESTAFA** as defined and penalized under Article 315 (1) (b) of the Revised Penal Code for misappropriating the amount of P27,748.00, to the damage and prejudice of Mrs. Socorro Nieto, and hereby sentences her to suffer the indeterminate penalty of imprisonment from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY, which is the medium of Prison Correccional, as MINIMUM, to EIGHT (8) YEARS, which is the minimum of Prison Mayor, as MAXIMUM, because Article 315 of the Revised Penal Code also provides that if the amount of the fraud exceeds P22,000.00, the penalty provided shall be imposed in the maximum; and to pay Mrs. Socorro D. Nieto the amount of TWENTY SEVEN THOUSAND SEVEN HUNDRED FORTY EIGHT PESOS (P27,748.00) as actual damages representing the amount of the fraud committed against the said private nominal complainant.

IT IS SO ORDERED."<sup>[7]</sup>

Hence, the instant appeal.

### **ASSIGNMENT OF ERRORS**

THE TRIAL COURT ERRED IN FINDING THAT THE PROSECUTION HAS BEEN ABLE TO PROVE THE GUILT OF THE ACCUSED-APPELLANT BEYOND REASONABLE DOUBT.

THE TRIAL COURT ERRED IN HOLDING THAT ALL THE ELEMENTS OF ESTAFA IN GENERAL ARE PRESENT IN THIS CASE.

### **DISCUSSION**

It is undisputed that accused-appellant received jewelry from the private complainant as evidenced by their contracts denominated as Trust Receipt Agreements. In describing the transactions involved herein, private complainant Ma. Socorro Nieto testified that: "*[o]ur agreement was that she will return these jewelries if she could not sell it for a period of two months, and after the period of two months [if] it will not be returned, it will be considered sold.*"<sup>[8]</sup> Pursuant to their agreement, accused-appellant exercised her option not to return the jewelry to the private complainant after a period of two months and opted instead to pay for the same by installments, viz:

"Q: And you said you have obligations, what obligations did you incur from this Mrs. Nieto?

A: I was able to obtain jewelries from her which I sell and earn additional interest.

Q: And what was your agreement with Mrs. Nieto with respect to the value of the jewelries?

A: I will just pay her on installment."<sup>[9]</sup>

The only problem was that accused-appellant was not able to fully pay the amount she owed to the private complainant within the agreed period of time. Hence, she was charged with the crime of Estafa under Art. 315 paragraph 1(b) of the Revised Penal Code, which reads as follows: