

SPECIAL TWELFTH DIVISION

[CA GR CR HC NO. 02046, October 04, 2006]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
LAURENCE QUIMSON "ALIAS" LALAINÉ, ACCUSED-APPELLANT.**

D E C I S I O N

SABIO, J.L., JR., J.:

Under review is the September 14, 1999 Decision^[1] of the Regional Trial Court (RTC) of Lingayen, Pangasinan, Branch 37 in Criminal Case No. L-5864, finding accused-appellant LAURENCE QUIMSON alias "LALAINÉ" guilty beyond reasonable doubt of violation of estafa defined and penalized under Article 315, paragraph 2 (d) of the Revised Penal Code and sentencing her to suffer the penalty of thirty (30) years of reclusion perpetua, with the accessory penalties of civil interdiction for life and perpetual absolute disqualification, and to indemnify private respondent the amount of P127,000.00 plus interest thereon at the legal rate from April 20, 1998, until fully paid, and costs.

The accusatory portion of the Information^[2] under which the accused-appellant Laurence Quimson alias "Lalaine" was tried and convicted, reads as follows:

"That on or about the 3rd day of November, 1997 in Barangay Baay, municipality of Lingayen, province of Pangasinan and within the jurisdiction of this Honorable Court, the above-named accused purchased from the complainant Emmanuel Austria 55,000 pieces of bangus fingerlines (sic) worth P132,000.00 and in payment thereof and with intent to defraud, did then and there willfully, unlawfully and feloniously paid P5,000.00 cash and a PNB Republic Bank Check No. 1393766 post-dated February 6, 1998 in the amount of P127,000.00 knowing fully well that at the time of issuance thereof the said check is without funds such that when the check was presented for encashment with the drawee bank the same was dishonored for having been drawn against Insufficient Funds and despite repeated demands for her to pay the face value of the check, she failed to do so up to the present, to his damage and prejudice.

CONTRARY to Art. 315, par. 2(d), Revised Penal Code."

Upon her arraignment on January 24, 1996, the accused pleaded not guilty to the charge. Trial on the merits thereafter ensued.

The trial court summarized the evidence for the prosecution as follows:

Emmanuel Austria is a 25-year old businessman engaged in raising and selling bangus fingerlings in his fishpond in Barangay Malimpec, Lingayen, Pangasinan. On October 25, 1997, he met the accused, Laurence "Lalaine" Quimson at the house of

his cousin in Brgy. Domalandan, Lingayen, Pangasinan. She needed 55,000 pieces of bangus fingerlings to be cultured and raised in her fishpond in Brgy. Baay, Lingayen, Pangasinan. She went to his fishpond and she liked the fingerlings that she saw, so she ordered 55,000 pieces of bangus fries to be delivered to her fishpond in Baay, for which the agreed price was P2.40 per piece or a total of P132,000.00.

As agreed upon by Emmanuel Austria and accused, "Lalaine" Quimson, on November 3, 1997, he brought the bangus fingerlings to her fishpond in Sitio Singit, Baay, Lingayen on his truck driven by Leolarte Yar-Santos. Accused "Lalaine" Quimson paid Emmanuel Austria P5,000.00 cash and a PNB Republic Check for the amount of P127,000.00, postdated February 5, 1998.

When the check matured and the payee, Emmanuel Austria, tried to encash it with the bank, it was returned to him on the ground of "DAIF" (drawn against insufficient fund). He immediately went to the house of Lalaine Quimson, and she requested for a 30-day extension as she had no money. Thereafter, she requested for an additional 15-day extension, and then, another 15-day extension. She having failed to pay any amount on the check, he referred the matter to Atty. Rafael Campos of the Public Attorney's Office (PAO) who prepared a demand letter which he signed and sent by mail to and received by "Lalaine" Quimson. Despite the demand letter, she still failed to pay on the check. So, Emmanuel Austria filed with the PAO his Affidavit-Complaint, dated May 28, 1998, and Atty. Campos conducted a pre-litigation conference in his office at the PAO, wherein Emmanuel and Lalaine attended. Despite effort of Atty. Castro to have them settle their differences, nothing came out of the conference. Hence, the filing of the complaint for estafa.

On the other hand, the accused Laurence "Lalaine" Quimson and her husband, Peter Quimson, do not deny that she issued the postdated PNB Republic Bank Check, but she issued the check to comply with the condition imposed by Emmanuel Austria merely to guarantee the payment by her husband of the unpaid balance of the purchase price of the bangus fingerlings that Austria sold and delivered to her husband at their fishpond and upon the assurance of Austria to her that he would not encash the same. The husband and wife claim that the transaction was between Emmanuel Austria and the husband, Peter Quimson alone; and the wife, accused Laurence "Lalaine" Quimson, had nothing to do with it and did not know anything about it, except as a guarantor, because she is employed as a public school nurse in Domalandan, Lingayen, Pangasinan, and the fishpond business is exclusively the business of her husband.

On September 14, 1999, the court *a quo* rendered its now assailed decision finding the accused guilty beyond reasonable doubt of the crime charged. The dispositive portion^[3] of the assailed decision reads:

"WHEREFORE, the accused, LAURENCE QUIMSON, alias "Lalaine", is hereby found guilty beyond reasonable doubt of the crime of ESTAFA, defined and penalized under paragraph 2 (d), Article 315 of the Revised Penal Code, as amended by RA No. 4885, and she is hereby sentenced to suffer the penalty of imprisonment of Thirty (30) years of reclusion perpetua, with the accessory penalties of civil interdiction for life and perpetual absolute disqualification, and to indemnify Emmanuel Austria in the amount of P127,000.00 plus interest thereon at the legal rate from April 20, 1998, until fully paid, and costs.

SO ORDERED.”

Accused-appellant filed a notice of appeal from the decision above-quoted, raising the following assignment of error^[4]:

I

THE TRIAL COURT ERRED IN CONVICTING APPELLANT OF THE OFFENSE OF ESTAFA DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND REASONABLE DOUBT

II

THE TRIAL COURT ERRED IN CONVICTING APPELLANT, AS THERE IS ABSENT THAT QUANTUM OF PROOF NECESSARY OR SUFFICIENT TO OVERTHROW THE CONSTITUTIONAL PRESUMPTION OF GUILT

III

THE TRIAL COURT ERRED IN DISREGARDING THE TESTIMONY OF PETER QUIMSON THAT HE PARTIALLY PAID COMPLAINANT THROUGH HIS FATHER AND WIFE MONTHS BEFORE THE MATURITY OF THE CHECK

IV

THE TRIAL COURT ERRED IN NOT RULING THAT THE FAILURE OF THE PROSECUTION TO PRESENT COMPLAINANT’S FATHER AND WIFE AS WITNESSES IS FATAL TO THE CASE AGAINST THE APPELLANT

V

THE TRIAL COURT ERRED IN CONVICTING THE APPELLANT NOT ON THE BASIS OF THE STRENGTH OF THE EVIDENCE FOR THE PROSECUTION BUT RATHER ON THE WEAKNESS OF THE EVIDENCE FOR THE DEFENSE

VI

THE TRIAL COURT ERRED IN ORDERING THE APPELLANT TO SUFFER THE PENALTY OF THIRTY (30) YEARS IMPRISONMENT

In support thereof, accused-appellant believes that she should have been acquitted of the offense charged as the evidence presented by the prosecution is insufficient to sustain her conviction.

According to accused-appellant, it was her husband, Peter Quimson, who contracted with Emmanuel Austria for the purchase of the bangus fingerlings and that the check she issued was merely to guarantee the obligation of her husband. Complainant was informed that the check was not funded and was requested not to encash it.

Accused-appellant maintains that she cannot be held liable for estafa because when the postdated check was issued, she informed the complainant that there was no sufficient fund in the bank to cover the value of the check. The fact that appellant repeatedly informed complainant of the insufficiency of the funds with the bank militates strongly against the trial court’s decision that appellant is liable for estafa.

We find the appeal meritorious.