

801 Phil. 187

THIRD DIVISION

[G.R. No. 223506. November 28, 2016]

**GARRY V. INACAY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

RESOLUTION

REYES, J.:

This is a Petition for Review on *Certiorari*^[1] under Rule 45 of the Rules of Court seeking to annul and set aside the Decision^[2] dated March 15, 2016 issued by the Court of Appeals (CA) in CA-G.R. CR No. 35652.

Facts

Garry V. Inacay (Inacay) was a former sales agent of Mega Star Commercial (MSC), a business enterprise engaged in the wholesale of electrical and construction materials. As part of his duties, Inacay was tasked to find clients in Pangasinan, solicit orders, collect payments, and issue receipts. Inacay was able to collect a check payment from Gamboa Lumber and Hardware (GLH), one of MSC's clients, in the amount of P53,170.00.^[3]

Fernando Tan (Tan), the proprietor of MSC, claimed that he demanded Inacay to remit the said amount paid by GLH, but he failed to do so.^[4] Tan then filed a criminal complaint for estafa with the Office of the Prosecutor in Quezon City against Inacay. Consequently, an Information for the crime of estafa was filed with the Regional Trial Court (RTC) of Quezon City against Inacay.^[5]

In the proceedings before the RTC, Inacay was represented by a certain Eulogia B. Manila (Manila), who represented herself as a lawyer. During arraignment, Inacay pleaded not guilty to the crime charged.^[6]

Inacay admitted that he received the payment made by GLH, but claimed that he remitted

the same to Melinda Castro, the accounting officer of MSC. However, on cross-examination, Inacay claimed that he previously executed an Affidavit dated November 3, 2006, stating that he was held up by robbers and among the things taken from him were several checks issued by the customers of MSC.^[7]

On February 21, 2013, the RTC of Quezon City, Branch 80 rendered a Decision^[8] finding Inacay guilty beyond reasonable doubt of the crime of Estafa punishable under Article 315(1)(b) of the Revised Penal Code and sentencing him to suffer the indeterminate penalty of one (1) year, eight (8) months and twenty-one (21) days of *prision correccional*, as minimum, to nine (9) years, eight (8) months and twenty-one (21) days of *prision mayor*, as maximum. The RTC likewise directed Inacay to pay MSC the amount of P53,170.00.^[9]

Unperturbed, Inacay appealed the RTC decision to the CA; he was still represented by Manila in the proceedings before the appellate court.^[10]

On March 15, 2016, the CA rendered a Decision,^[11] affirming the RTC's disposition *in toto*. When Inacay learned of the CA's decision, he requested Manila to file the appropriate petition with this Court, but the latter refused and told him to find another lawyer.^[12]

Subsequently, Inacay found out, after talking to a lawyer, that Manila is not a member of the Bar. Thus, Inacay obtained a Certification^[13] from the Office of the Bar Confidant (OBC) showing that Manila is indeed not a member of the Philippine Bar.^[14]

In this petition, Inacay claims that he was denied due process since he was not represented by a lawyer. He, likewise, avers that the lower courts erred in convicting him of the offense charged since there was no evidence presented showing that he actually encashed the check paid by GLH and misappropriated the proceeds thereof.

Issue

Essentially, the issue for the Court's resolution is whether Inacay's guilt of the crime charged had been proven beyond reasonable doubt.

Ruling of the Court

The petition is granted.

Section 1, Article III of the Constitution provides that no person shall be deprived of life, liberty, or property without due process of law. Section 14(2), Article III of the Constitution further mandates that in all criminal prosecutions, the accused shall enjoy the right to be heard by himself and counsel.

In criminal cases, the right of the accused to be assisted by counsel is immutable. Otherwise, there will be a grave denial of due process. The right to counsel proceeds from the fundamental principle of due process which basically means that a person must be heard before being condemned.^[15] “Thus, even if the judgment had become final and executory, it may still be recalled, and the accused afforded the opportunity to be heard by himself and counsel.”^[16]

“The right to counsel is absolute and may be invoked at all times. More so, in the case of an on-going litigation, it is a right that must be exercised at every step of the way, with the lawyer faithfully keeping his client company.”^[17] Unless the accused is represented by a lawyer, there is great danger that any defense presented in his behalf will be inadequate considering the legal perquisites and skills needed in the court proceedings. This would certainly be a denial of due process.^[18]

In this case, Inacay, during the proceedings before the trial court and the appellate court, was represented by Manila who, based on the Certification issued by the OBC, is not a lawyer. At that time, Inacay had no inkling that he was being represented by a sham lawyer. It was only when his conviction of the offense charged was upheld by the appellate court did Inacay learn that Manila is not a lawyer. Clearly, Inacay was not assisted by counsel in the proceedings before the lower courts and, hence, was denied of due process.

In *People v. Santocildes, Jr.*,^[19] the Court held that:

The presence and participation of counsel in criminal proceedings should never be taken lightly. Even the most intelligent or educated man may have no skill in the science of the law, particularly in the rules of procedure, and, without counsel, he may be convicted not because he is guilty but because he does not know how to establish his innocence. The right of an accused to counsel is guaranteed to minimize the imbalance in the adversarial system where the accused is pitted against the awesome prosecutory machinery of the State. Such a right proceeds from the fundamental principle of due process which basically means that a person must be heard before being condemned. The due process

requirement is a part of a person's basic rights; it is not a mere formality that may be dispensed with or performed perfunctorily.^[20] (Citations omitted)

Considering that there was a denial of due process, there is a need to set aside the judgment of conviction against Inacay and remand the case to the trial court for new trial. Further, Manila, for representing herself as a lawyer, should be held liable for indirect contempt of court.

WHEREFORE, in consideration of the foregoing disquisitions, the petition is **GRANTED**. The Decision dated March 15, 2016 issued by the Court of Appeals in CA-G.R. CR No. 35652 is hereby **SET ASIDE**. The case is **REMANDED** to the Regional Trial Court of Quezon City, Branch 80, for new trial.

With respect to the unauthorized practice of law by the person named Eulogia B. Manila in connection with this case, the local chapter of the Integrated Bar of the Philippines of Quezon City is **DIRECTED** to conduct a prompt and thorough investigation regarding this matter and to report its recommendations to the Court within ninety (90) days from notice of this Resolution. Let all concerned parties, including the Office of the Bar Confidant, be each furnished a copy of this Resolution for their appropriate action.

SO ORDERED.

*Velasco, Jr., (Chairperson), Perez, and Caguioa,** JJ., concur.*
Peralta, J., on official leave.

****** Additional Member per Raffle dated November 18, 2016 *vice* Associate Justice Francis H. Jardeleza.

^[1] *Rollo*, pp. 25-37.

^[2] Penned by Associate Justice Noel G. Tijam, with Associate Justices Francisco P. Acosta and Eduardo B. Peralta, Jr. concurring; *id.* at 39-47.

^[3] *Id.* at 27.

^[4] *Id.* at 41.

^[5] Id. at 27.

^[6] Id. at 28.

^[7] Id. at 41.

^[8] Rendered by Presiding Judge Charito B. Gonzales; id. at 48-53.

^[9] Id. at 53.

^[10] Id. at 28.

^[11] Id. at 39-47.

^[12] Id. at 30.

^[13] Id. at 55.

^[14] Id. at 30.

^[15] *Callangan v. People*, 526 Phil. 239, 245-246 (2006).

^[16] *Spouses Telan v. Court of Appeals*, 279 Phil. 587, 594-595 (1991).

^[17] Id. at 595.

^[18] *See People v. Santocildes, Jr.*, 378 Phil. 943, 948 (1999), citing *Delgado v. CA*, 229 Phil. 362, 366 (1986).

^[19] 378 Phil. 943 (1999).

^[20] Id. at 949.