

**\*\*Title:\*\***

**\*People of the Philippines vs. Palmy Tibayan and Rico Z. Puerto\***

**\*750 Phil. 910\***

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**\*\*Facts:\*\***

Tibayan Group Investment Company, Inc. (TGICI), an open-end investment company, was registered with the Securities and Exchange Commission (SEC) on September 21, 2001. In 2002, the SEC investigated TGICI and discovered that it was selling securities without a registration statement, in violation of Republic Act No. 8799, also known as “The Securities Regulation Code.” TGICI also submitted a fraudulent Treasurer’s Affidavit to the SEC, leading to the revocation of its corporate registration on October 21, 2003.

Following these discoveries, multiple criminal cases for Syndicated Estafa were filed against TGICI’s incorporators and directors, including Jesus Tibayan, Ezekiel D. Martinez, Liborio E. Elacio, Jimmy C. Catigan, Nelda B. Baran, and the accused-appellants, Palmy Tibayan and Rico Z. Puerto. While arrest warrants were issued for all, only Tibayan and Puerto were apprehended; the others remained at large.

The prosecution, represented by private complainants, testified that they were enticed to invest in TGICI due to promises of high interest rates and assurances of investment recovery. The complainants received Certificates of Share and post-dated checks representing the principal investment and the interest earnings. Upon attempting to encash the checks, they found the accounts closed. When they then approached TGICI’s office, they were reassured verbally and with acknowledgment receipts that their investments would be returned, but the office eventually closed without repayment. Consequently, criminal complaints were filed against the TGICI incorporators/directors.

In their defense, Puerto claimed his signature on TGICI’s Articles of Incorporation was forged and that he was no longer with TGICI since January 2002. Tibayan also alleged forgery of her signature, denying her involvement as an incorporator or director.

**\*\*Procedural Posture:\*\***

The Regional Trial Court (RTC) of Las Piñas City, Branch 198, issued six separate decisions convicting Tibayan and Puerto of Estafa but ultimately failed to prove Syndicated Estafa due to procedural lapses in the allegations. The RTC rendered the decisions as follows:

- **\*\*December 4, 2009\*\***: Guilty of 3 counts of Estafa (imprisonment of 20 years per count).

- **June 24, 2010**: Tibayan guilty of 2 counts of Estafa (imprisonment of 20 years per count); Puerto acquitted.
- **August 2, 2010**: Guilty of 2 counts of Estafa (imprisonment of 20 years per count).
- **August 5, 2010**: Guilty of 1 count of Estafa (imprisonment of 20 years).
- **January 21, 2011**: Guilty of 1 count of Estafa each (imprisonment of 20 years).
- **August 18, 2011**: Guilty of 4 counts of Estafa, with varying terms based on the counts.

Both Tibayan and Puerto appealed these decisions, leading to the cases being consolidated by the Court of Appeals (CA). In a June 28, 2013 decision, the CA modified the convictions to Syndicated Estafa, increasing penalties to life imprisonment and the amount of damages awarded to Clarita P. Gacayan.

The accused-appellants then brought their appeal to the Supreme Court.

**Issues:**

1. Whether Tibayan and Puerto are guilty beyond a reasonable doubt of Syndicated Estafa under Item 2 (a), Paragraph 4, Article 315 of the Revised Penal Code (RPC) in relation to Presidential Decree No. 1689.
2. Whether the CA erred in upgrading the conviction from simple Estafa to Syndicated Estafa.

**Court's Decision:**

The Supreme Court affirmed the CA's decision, finding the elements of Syndicated Estafa present in the case.

1. **Syndicated Estafa Elements:**

- **Estafa by Deceit:** TGICI, represented by more than five incorporators/directors, including the accused-appellants, made false representations to the public regarding investment opportunities claiming high returns.
- **False Pretenses:** These misrepresentations were made prior to or simultaneously with the commission of fraud.
- **Reliance and Damage:** The private complainants relied on these false claims, invested their funds, and suffered damages when TGICI failed to fulfill its promises, eventually absconding with the investors' money.

2. **Ponzi Scheme Determination:** The Court highlighted TGICI's Ponzi scheme nature, an investment fraud where returns are paid from new investors' funds rather than legitimate profits, thus concluding the fraudulent scheme met the legal criteria for Syndicated Estafa.

**\*\*Doctrine:\*\***

The doctrine reiterated in the case is the legal definition of Syndicated Estafa under Section 1 of Presidential Decree No. 1689, which includes:

- An estafa committed by a syndicate consisting of five or more persons.
- The defraudation resulting in the misappropriation of money contributed by stockholders or solicited from the public.

**\*\*Class Notes:\*\***

- **\*\*Elements of Estafa by Means of Deceit:\*\*** False representation, reliance on such representation, inducement to part with money, and resultant damage.
- **\*\*Elements of Syndicated Estafa:\*\*** Estafa committed by five or more persons, defraudation, and misappropriation of funds solicited by corporations from the public.

**\*\*Historical Background:\*\***

The case underscores a significant issue in Philippine securities law enforcement related to Ponzi schemes. TGICI's fraudulent operations, exposed through the SEC's diligence, led to substantial legal actions against its directors and incorporators. This case serves as a precedent and a deterrent against similar fraudulent investment schemes, emphasizing the necessity of stringent regulatory oversight and legal provisions to protect investors.