

## PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ADELAIDA C. MELEGRITO, ACCUSED-APPELLANT.

Ponente: DICDICAN, J.

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### DICDICAN, J.:

rendered by the Regional Trial Court (RTC) of Las Pinas City, Branch 197, in Criminal Case No. 05-0183, finding accused-appellant Adelaida C. Melegrito guilty beyond reasonable doubt of the crime of estafa penalized under Article 315, par. 2 (a) of the Revised Penal Code.

Before this Court is an appeal seeking the reversal of the Decision dated November 26, 2012[1]

As culled from the records, the antecedent facts are as follows:

Arnulfo Borcelis and his uncle Jose Ceneta bought a parcel of land located in Las Pinas City, covered by TCT No. S-28368[2], from one Manuel Maglonzo, as evidenced by a Deed of Absolute Sale dated June 9, 1997.[3]

Sometime in June 2000,[4] accused-appellant Adelaida C. Melegrito, who is a real estate agent also involved in facilitating transfer of titles, and her co-accused in the court a quo, named Monina Andes, convinced Arnulfo Borcelis and his uncle to entrust to them the registration and transfer of the title of the property to reflect the sale of the property from Manuel Maglonzo to Arnulfo Borcelis and Jose Ceneta.

So that accused-appellant can facilitate the transfer of the title of the purchased property, Arnulfo Borcelis entrusted to the accused-appellant the owner's duplicate copy of TCT No. S-28368 and the Deed of Absolute Sale which he and his uncle Jose Ceneta executed with Manuel Maglonzo. The accused-appellant was also given money in the total amount of P123,300.00 from December of 2000 up to October of 2003 in order to defray the alleged expenses for the transfer of land title.

With the passage of time, Arnulfo Borcelis began to feel that the transfer of title was not being processed and effected. Hence, in the first week of July 2004, Arnulfo Borcelis insisted that accused-appellant return the title and other documents that he entrusted to her.[5] When accused-appellant failed to return the documents, Arnulfo Borcelis conducted a verification with the Register of Deeds and he discovered that the subject property was already mortgaged to a certain Agnes Pimentel in September of 2001 and that the said mortgage was annotated on the title.[6] When Arnulfo Borcelis went to the house of Manuel Maglonzo to inquire about the discovered mortgage, he was informed that Manuel Maglonzo died on January 19, 1999.[7] Hence, in a demand letter dated July 3, 2004,[8] Arnulfo Borcelis directed accused-appellant to return to him and the heirs of his uncle the amount of P123,300.00; to cause the cancellation of the mortgage; and to return to him the owner's duplicate copy of title. Accused-appellant failed to comply with Arnulfo Borcelis' demand.

On the belief that he has been swindled, Arnulfo Borcelis brought the matter to the barangay and to the Office of the Prosecutor. A preliminary investigation was conducted and an Information, dated October 25, 2004,[9] was filed against accused-appellant, charging her of estafa, committed as follows:

“That on or about and during comprising from June 2000 up to December 2003, in the City of Las Pinas,

Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together and both of them mutually helping and aiding one another, with intent to gain and by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of fraud, did then and there willfully, unlawfully and feloniously defraud one ARNULFO BORCELIS, in the following manner, to wit: accused convinced the complainant that they could facilitate the transfer of TCT No. 28368 in the name of spouses MAGLONZO to his name and JOSE CENETA claiming that they have connections with the office of the Register of Deeds of Las Pinas City and the Bureau of Internal Revenue which representations and manifestation were false and fraudulent and were made only to convince the complainant to entrust to them the Original copy of TCT No. 28368 and his money and the complainant relying on such representations made by the respondents, entrusted to them the Original owners duplicate copy of TCT No. 28368 and the amount of P123,300.00 allegedly to be used in transferring the title to his name and Jose Ceneta; But the accused, once in possession of the original copy of TCT No. 28368 then and there willfully, unlawfully and feloniously mortgage the property covered by TCT No. 28368, using it as a security to a loan with one Agnes Pimentel in the amount of P200,000.00 and misappropriated the amount of P123,300.00 to the damage and prejudice of the complainant in the aforementioned amount of PP123,300.00.

“CONTRARY TO LAW.”

During arraignment, accused-appellant Adelaida C. Melegrito and her then co-accused Monina Andes pleaded not guilty.[10] On June 20, 2005, pre-trial[11] was terminated and trial ensued.

The private prosecutor, acting under the direct supervision and control of the public prosecutor, presented in court the testimonies of Arnulfo Borcelis, Fe Ceneta and SPO1 Gil Atienza while the defense counsel adduced in evidence the testimonies of the accused-appellant Adelaida C. Melegrito and Monina Andes.

After sending a Notice of Promulgation dated August 28, 2012[12] to the parties, the Regional Trial Court issued the challenged Decision, dated November 26, 2012, acquitting Monina Andes and convicting Adelaida C. Melegrito of the crime of estafa. The decretal portion of the said Decision reads as follows:

“WHEREFORE, premises considered, this court finds accused Adelaida C. Melegrito GUILTY beyond reasonable doubt of the crime of estafa penalized under Article 315, par. 2 (a) of the Revised Penal Code, and, there being no aggravating nor any mitigating circumstances, hereby sentences her to suffer the indeterminate penalty of imprisonment of four (4) years and two (2) months of prision correccional as minimum, to eighteen (18) years of reclusion temporal as maximum.

“Accused Adelaida C. Melegrito is ordered to indemnify complainant Arnulfo Borcelis the amount of P123,300.00 as actual damage plus 12% interest per anum from the filing of the information in court on February 7, 2005 until its full payment, and P50,000.00 as attorney's fees.

“However, on the ground of reasonable doubts, this court ACQUITS accused Monina Andes of the crime charged against her.

“SO ORDERED.”[13]

On December 12, 2012, accused-appellant filed a Notice of Appeal[14] with the court a quo. On May 27, 2013, after filing two motions for extension to file brief,[15] accused-appellant Adelaida C. Melegrito finally filed her Brief,[16] submitting the following assignment of purported errors of the court a quo for resolution by this Court:

## I.

THE RTC GRAVELY ERRED WHEN IT CONVICTED THE ACCUSED-APPELLANT SIMPLY BECAUSE THE TITLE TO THE SUBJECT PROPERTY WAS NOT TRANSFERRED TO THE PRIVATE COMPLAINANT

**II.**

THE RTC GRAVELY ERRED WHEN IT RULED THAT THE ACCUSED-APPELLANT PARTICIPATED IN THE DEED OF MORTGAGE.

**III.**

THE RTC GRAVELY ERRED IN FINDING THE GUILT OF THE ACCUSED-APPELLANT AS THERE IS NO EVIDENCE WITH REGARD TO MISAPPROPRIATION AND FALSE PRETENSE AS ALLEGED IN THE INFORMATION.

**IV.**

THE RTC GRAVELY ERRED WHEN IT FOUND ACCUSED-APPELLANT GUILTY WHILE ACQUITTING HER CO-ACCUSED BASED ON THE SAME EVIDENCE PRESENTED IN COURT.

After a judicious study and scrutiny of the case, we find the appeal to be unmeritorious.

In her first, second and third assignment of purported errors, accused-appellant contends that when she promised that she would facilitate the transfer of title, such promise was not equivalent to a guarantee of transfer of title. Accused-appellant argues that Arnulfo Borcelis and his uncle are to be blamed for the failure to transfer the title of the property because the Deed of Absolute Sale that Arnulfo Borcelis gave to her suffers from too many infirmities, including the false signature of Arnulfo Borcelis and the wrong designation of the civil status of Arnulfo Borcelis and of his co-buyer. Information on the tax identification numbers and community tax certificates of the buyers were also missing in the deed of sale. Meanwhile, as to the Deed of Mortgage, accused-appellant denied having signed as a witness therein, there being no one who saw her sign such document.

We are not persuaded.

The elements of estafa or swindling under paragraph 2 (a) of Article 315 of the Revised Penal Code are the following:

1. That there must be a false pretense, fraudulent act or fraudulent means.
2. That such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud.
3. That the offended party must have relied on the false pretense, fraudulent act, or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act, or fraudulent means.
4. That as a result thereof, the offended party suffered damage.[17]

The evidence on record indubitably shows that the elements of the crime charged are present in the case. Accused-appellant fraudulently offered to transfer the title of the subject property to the names of Arnulfo Borcelis and his uncle Jose Ceneta, while claiming that she had influences in the Office of the Register of Deeds of Las Pinas City and the Bureau of Internal Revenue. Relying on accused-appellant's misrepresentations, Arnulfo Borcelis gave her the owner's duplicate copy of the title of the property and handed her a total amount of P123,300.00 from December of 2000 up to October of 2003 but the title to the property was never transferred and, instead, said property was mortgaged without the knowledge and consent of Arnulfo Borcelis and his uncle. Upon demand, accused-appellant failed to surrender the owner's duplicate of land title certificate and the P123,300.00 and further failed to cancel the annotated mortgage.

Accused-appellant's claim that Arnulfo Borcelis and his uncle are to be blamed for the failure to transfer the title of the property because of the alleged infirmities in the Deed of Absolute Sale fails to support her defense that she did not commit estafa, considering that records show that accused-appellant failed to address the alleged infirmities in the documents from the year 2000 when she offered to facilitate the transfer of the title up to the year 2004 when Arnulfo Borcelis discovered that the subject property had already been mortgaged, with accused-appellant signing as one of the witnesses in the Deed of Mortgage thereof dated September 10, 2001 in Las Pinas City[18]. That accused-appellant is a participant in the registration of the mortgage of the property may be safely inferred, not only from the fact that Manuel Maglonzo was already deceased at the time of the execution of the alleged mortgage, having died on January 19, 1999 as reflected in his Death Certificate, but also from the fact that accused-appellant was in possession of the owner's duplicate of the title. In order to be able to register a mortgage, Section 61 of Presidential Decree No. 1529 (otherwise known as the Property Registration Decree) requires the presentation of the deed of mortgage and owner's duplicate of title to the Register of Deeds. Upon presentation of the said documents, a memorandum of the mortgage will be entered in the owner's duplicate copy. Section 61 of Presidential Decree No. 1529 reads as follows:

“Section 61. Registration. Upon presentation for registration of the deed of mortgage or lease together with the owner's duplicate, the Register of Deeds shall enter upon the original of the certificate of title and also upon the owner's duplicate certificate a memorandum thereof, the date and time of filing and the file number assigned to the deed, and shall sign the said memorandum. He shall also note on the deed the date and time of filing and a reference to the volume and page of the registration book in which it is registered.”

In the prosecution for the crime of estafa committed under Article 315, paragraph 2(a) of the Revised Penal Code, there must be evidence of false representation or false pretense on the part of the accused to prove reasonable doubt.[19] From the foregoing discussed acts of accused-appellant, it is clear that she committed the crime of estafa under Article 315, par. 2 (a) of the Revised Penal Code.[20]

In her last assignment of error, accused-appellant explains that the only difference between her and her co-accused who was acquitted before the court a quo is that the latter's name did not appear in the Deed of Mortgage but the prosecution presented one and the same evidence against them. Hence, considering that accused-appellant's signature is allegedly false, she should be acquitted similar to her co-accused.

We find no basis to apply the same leniency to accused-appellant as she is not in the same boat as her co-accused in the court a quo, Monina Andes. Thus, the Regional Trial Court appreciated the facts and evidence as follows:

“xxx There is no direct evidence to show that accused Andes received sum amount of money from complainant. Similarly, no evidence was ever presented showing that she received any document from complainant. Only accused Melegrito acknowledged to have received the total amount of P123,300.00 and the four documents as stated in the list of payments and its dorsal portion. The name of the accused Andes was never mentioned there, neither her signature appear thereon.”[21]

The above findings of fact of the trial court must be accorded respect. It is a hornbook doctrine that the findings of fact of the trial court are entitled to great weight on appeal and should not be disturbed except for strong and valid reasons, because the trial court is in a better position to examine the demeanor of the witnesses while testifying.[22] The weight of evidence against Monina Andes and accused-appellant Adelaida C. Melegrito being nonidentical, we find accused-appellant guilty beyond reasonable doubt of the crime of estafa.

WHEREFORE, in view of the foregoing premises, the appeal filed in the instant case is DENIED and the Regional Trial Court's Decision dated November 26, 2012, finding the accused-appellant Adelaida C. Melegrito GUILTY beyond reasonable doubt of the crime of estafa, penalized under Article 315, par. 2 (a) of the Revised Penal Code, and thus ordering accused-appellant to indemnify Arnulfo Borcelis actual damages plus interests and

attorney's fees, is hereby AFFIRMED.

**SO ORDERED.**

Elbinias and Paredes, JJ., concur.

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[1] Rollo, pp. 17-29

[2] Records, page 19

[3] Ibid., pp. 77-78

[4] Ibid., Complaint-Affidavit, page 14, third paragraph

[5] TSN, October 19, 2005, page 48

[6] Records, mortgage annotation page 23; Deed of Mortgage pp. 24-25

[7] Records, Certificate of Death, page 60

[8] Ibid., page 26

[9] Ibid., Information, pp. 1-2

[10] Records, Order dated February 28, 2005, page 129

[11] Ibid., Order dated June 20, 2005, page 139

[12] Ibid., page 347

[13] Rollo, page 29

[14] Ibid., pp. 30-32

[15] Ibid., pp.39-40 and 41-42

[16] Ibid., pp. 43-60

[17] Erquiaga vs Court of Appeals G.R. No. 124513, October 17, 2001

[18] Records, Deed of Mortgage, pp. 24-25

[19] Franco vs People, G.R. No. 171328, February 16, 2011; Besario vs People, G.R. No. 171335, February 16, 2011

[20] "Art. 315. Swindling (estafa). — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

1st. The penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed under the provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be.

xxx xxx xxx

4th. By arresto mayor in its maximum period, if such amount does not exceed 200 pesos, provided that in the four cases mentioned, the fraud be committed by any of the following means:

xxx xxx xxx

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

xxx xxx xxx”

[21] Rollo, page 27

[22] Tayco vs. Heirs of Tayco-Flores, G.R. No. 168692, December 13, 2010

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