

PEDRO CAMUS, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. L-4560. September 30, 1952

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PER CURIAM:

This is a review of the Court of Appeals' decision convicting the petitioner Pedro Camus of the crime of estafa, upon the following facts:

"Two or three days before April 18, 1947, Madki Al. Alonto who used to assist Moros in applying for loans under the Veterans Act, or Republic Act No. 65, from the Philippine Veterans Board, met Pedro Camus in said office where the latter was the chief of the Investigation Division. Talking about buying jeeps, Camus informed Alonto that he could purchase them from the Foreign Liquidation Commission for veterans or guerrilla members at the price of P380 each. Alonto requested Camus to buy one for him.

On April 18, Alonto went back to the Philippine Veterans Board and handed to Camus the sum of P380, the price of a jeep, which the latter promised to purchase for him from the Foreign Liquidation Commission and for which Camus issued the receipt, Exhibit A. A few days later Alonto went to see Camus to find out if he had already bought the jeep. The latter told him that he could not buy one jeep but had to acquire a lot consisting of a 6 x 6 truck and six jeeps, and although he had already a buyer for the 6x6 truck, he did not have any for the remaining five jeeps. Alonto promised Camus to look for buyers of the five jeeps at the agreed price of P450 each in order to leave a margin for Camus. On April 21, Alonto handed the sum of P430 to Camus as the price of a jeep less P20 which Alonto promised to pay upon the receipt of the jeep. Camus again issued a receipt for the sum of P430 in favor of Alonto which has been marked Exhibit B. Alonto later on found four other buyers through the help of Deputy Governor Lucman from whom he received the sum of P1,740 which he delivered to Camus on May 19, 1947 as the price of the four jeeps less P80, promising to pay the balance upon delivery of the jeeps, which, according to Camus, would be about the end of May, but when Alonto asked Camus at the end of said period for the jeeps the latter again promised to deliver them on June 2, 1947. Since then Alonto had been asking Camus either for the delivery of the jeeps or the return of the money. Camus made several promises to secure them until finally on September 25 when he was pressed by Alonto who was in turn being pressed by those who furnished him the money, executed a note which he handed to Alonto promising to return the money on September 30, but failed on that day and subsequent days until Alonto filed his complaint in the office of the City Fiscal where Camus failed to appear on the dates he was subpoenaed for investigation."

There is no doubt that the money was received by Camus for the purchase of jeeps and that no jeep was delivered, nor even purchased.

Explaining his side, Camus declared that, "on September 25 he told Alonto that all his efforts were useless and his patience exhausted and offered to return the sum of P2,550 which he took out of his pocket and handed it over to Alonto saying "here it is, count it." On that occasion one Alejandro Espere was present at the office of Camus in connection with a loan of P2,000 he was applying' for as a member of the guerrilla, but Camus upon learning that he was not processed and therefore not a recognized member of the guerrilla, told him outright that he had no right to secure a loan. Espere pleaded again and again to Camus for the loan which he said he badly needed just

for a short time to be invested in a good business which was sure to bring good returns. Alonto who overheard the conversation whispered to Camus "that he was willing to lend the money to Mr. Espere if there was a good profit on a few days investment." Right then and there Espere explained the nature of the transaction consisting in the buying and selling of a certain amount of morphine sulphate. Alonto, upon learning the nature of the business, offered to give the P2,000 provided Camus would act as a guarantor because he did not know Espere at all. When asked what guaranty Alonto wanted, he said that he only wanted Camus to sign a promissory note for P2,550 instead of P2,000, the difference of P550 being the profit which should be paid to him. At first blush Camus was not willing to act as a guarantor but because of Espere's repeated pleas and assurances that the money was sure to be returned with profits, Camus agreed finally. Right then and there the sum of P2,000 was delivered to Espere and Camus signed the note, Exhibit 1, in which he promised to pay to Madki Al. Alonto the sum of P2,550 on or before September 30, 1947 and handed a duplicate thereof, Exhibit 2, to Alonto for signature showing his conformity, and, according to Camus, Espere in turn executed a pagare for the same amount in his favor right then and there which pagare was marked Exhibit 3. Espere did not only fail to return the money but could not even be located anywhere."

The above exculpation was not believed by the Court of Appeals. This Court does not review the facts; but the petition was given due course to determine the validity of petitioner's contention that his liability was purely civil in nature in view of the complete novation of the contract, by the execution of the promissory note in favor of the complainant Madki Al. Alonto for the amount of the money received from the latter. It was clear to our mind from the beginning that having received money to buy jeeps and having failed to purchase jeeps or return the money, the defendant Camus was guilty of estafa. (U.S. vs. Ramirez, 9 Phil., 67). But has that criminal liability been substituted with a civil obligation? Of course in discussing this aspect of the case it must be assumed that the promissory note was written as acknowledgment of the monetary liability of Camus to Alonto—not under the circumstances related by Camus, i.e. the giving of the money to Espere etc. In other words, the question is: when the offended party in a estafa accepts the promissory note of the accused for the repayment of the money already converted is the offense thereby obliterated? This Court has held the negative in U.S. vs. Guzman, 1 Phil., 138; U.S. vs. Rodriguez, 9 Phil., 153 and People vs. Velazco, 42 Phil., 75 and Javier vs. People, 70 Phil., 550.

In this connection, the argument of the petitioner that he had sold the jeeps to Alonto and that the money was merely advance payment or partial payment cannot be sustained because it contradicts the findings of the Court of Appeals. As the appellate court declared, and the proofs showed, that Camus was the agent of Alonto to purchase the jeeps, Camus could not have "sold" the jeeps to Alonto.

The petitioner invokes the cases of People vs. Villapando, 56 Phil., 31 and People vs. Lilius, 59 Phil., 339. But upon careful consideration, we are of opinion that said cases did not modify the doctrine in the decisions first cited, which still represent the true principle in the matter.

The judgment of the Court of Appeals is hereby affirmed, with costs.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

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