

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. REX INGLES Y DE OCAMPO, ACCUSED-APPELLANT.

Ponente: ANTONIO-VALENZUELA, J.

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ANTONIO-VALENZUELA, J.:

This is the appeal filed by Rex Ingles y De Ocampo (“accused-appellant Ingles”), assailing the Decision dated 28 October 2010[1] (“assailed Decision”) issued by the Regional Trial Court, Branch 3, Baguio City (“RTC”), in Criminal Case Nos. 22938-R and 22939-R, which found accused-appellant Ingles guilty beyond reasonable doubt of the crime of estafa.

THE FACTS

On 16 February 2004, two Informations for estafa punished under Article 315 of the Revised Penal Code were filed against accused-appellant Ingles.

The Information in Criminal Case No. 22938-R read:

That sometime in the months of March 2003 to October 20, 2003, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, by means of false pretenses and fraudulent misrepresentations executed prior to or simultaneously with the commission of the fraud, did then and there wilfully, unlawfully and feloniously defraud GLADYS D. GOROSPE in the following manner, to wit: the said accused pretending and falsely representing themselves to be engaged in the sale of pre-paid cell phone cards, and that they possess power, influence, qualifications, property and business to supply cell cards at a price of Php 250.00 per card, induced the offended party to advance the payment of the cell cards with the promise by the accused to deliver the cell cards on a regular schedule but after gaining the trust and confidence of the offended party, and once the offended party has advanced the total amount of Php 500,000.00 for the cell cards because of the representation and assurance of the accused, the accused once in possession of the said amount and far from complying with their obligation to deliver the cell cards to the offended party, misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of the offended party in the total amount of FIVE HUNDRED THOUSAND PESOS (PHP 500,000.00), Philippine Currency.

CONTRARY TO LAW.[2]

The Information in Criminal Case No. 22939-R read:

That sometime in the months of January 2003 to October 30, 2003, in the City of Baguio, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually aiding one another, by means of false pretenses and fraudulent misrepresentations executed prior to or simultaneously with the commission of the fraud, did then and there wilfully, unlawfully and feloniously defraud CECEALE P. VILLAMIL in the following manner, to wit: the said accused pretending and falsely representing themselves to be engaged in the sale of pre-paid cell phone cards, and that they possess power, influence, qualifications, property and business to supply cell cards at a price of Php 250.00 per card, induced the offended party to advance the payment of the cell cards with the promise by the accused to deliver the cell

cards on a regular schedule but after gaining the trust and confidence of the offended party, and once the offended party has advanced the total amount of Php 500,000.00 for the cell cards because of the representation and assurance of the accused, the accused once in possession of the said amount and far from complying with their obligation to deliver the cell cards to the offended party, misappropriated, misapplied and converted to their own personal use and benefit, to the damage and prejudice of the offended party in the total amount of FIVE HUNDRED THOUSAND PESOS (PHP 500,000.00), Philippine Currency.

CONTRARY TO LAW.[3]

At the arraignment on 3 August 2005, accused-appellant Ingles pleaded not guilty to the two Informations.[4]

Pre-trial was terminated on 16 November 2005.[5]

Joint trial was conducted.

EVIDENCE FOR PROSECUTION

The following persons testified for the Prosecution: Ceceale Villamil (“private complainant Villamil”);[6] Reggie Robles (“witness Robles”);[7] and Gladys Gorospe (“private complainant Gorospe”).[8]

The evidence for the Prosecution is summarized thus: accused-appellant Ingles fraudulently represented to private complainants Gorospe and Villamil that he and his family were one of the stockholders of SMART Telecommunications Corporation (“SMART”); accused-appellant Ingles, through his misrepresentations, convinced private complainants Gorospe and Villamil to engage in the business of buying and selling cellphone load cards (“cell cards”) , and private complainants Gorospe and Villamil paid accused-appellant Ingles Php 500,000.00 representing the purchase price of the cell cards; accused-appellant Ingles failed to deliver the cell cards on the agreed date, and instead went into hiding; despite demands, accused-appellant Ingles failed to deliver the cell cards, or to return the money of private complainants Gorospe and Villamil.

Private complainant Villamil testified in Criminal Case No. 22939-R, that she met accused-appellant Ingles and his wife, Angelica Dialola (“Dialola”) at the house of Vicky Jaraba (“Jaraba,” aunt of Dialola), in December 2002; accused-appellant Ingles and private complainant Villamil met again in Dagupan City in January 2003; accused-appellant Ingles represented to private complainant Villamil that his family was one of the stockholders of SMART, and accused-appellant Ingles offered private complainant Villamil the business of buying cell cards at a low price, to be sold for profit; accused-appellant Ingles and private complainant Villamil agreed that the cell cards would be delivered within 10 days from payment, and they had several successful transactions (i.e., first transaction, 100 cell cards for Php 255 each, in January 2003; second transaction, 500 cell cards for Php 250 each, in February 2003; third transaction, 1,000 cell cards for Php 250 each, in March 2003; fourth transaction, 1,000 cell cards for Php 250, in April 2003); for the fifth transaction on 18 June 2003, private complainant Villamil ordered 2,115 cell cards, and made a bank transfer of Php 528,000.00 to Dialola's Bank of the Philippine Island (“BPI”) account, but despite payment of the Php 528,000.00, accused-appellant Ingles failed to deliver the cell cards within 10 days; private complainant Villamil called accused-appellant Ingles several times to follow-up the delivery, to no avail; on 18 August 2003, private complainant Villamil learned that accused-appellant Ingles was at the Manor Hotel in Baguio City, thus private complainant Villamil went there; at the Manor Hotel, accused-appellant Ingles executed the written compromise agreement,[9] and gave private complainant Villamil, a post-dated check for Php 500,000.00;[10] private complainant Villamil was unable to encash the check, because it was drawn on a closed account; private complainant Villamil tried calling accused-appellant Ingles several times, however accused-appellant Ingles did not respond; private complainant Villamil learned that accused-appellant Ingles transferred residence to the Wakat-Suello Subdivision, thus private complainant Villamil went there; during the meeting on 8 October 2003 at the Wakat-Suello residence, accused-appellant Ingles promised to return

the money, however, accused-appellant Ingles reneged, thus private complainant Villamil sought assistance from the National Bureau of Investigation (“NBI”), and executed the sworn statement[11] against accused-appellant Ingles; private complainant Villamil sent a letter to accused-appellant Ingles requiring him to pay, however the letter was returned to private complainant Villamil with the notation “RTS, moved out.”[12]

Witness Robles testified that: accused-appellant Ingles opened a checking account with BPI, Abanao Branch, in July 2003; on 6 August 2003, the checking account of accused-appellant Ingles was closed, because the total amount of his account was used for a manager's check he had procured.

Private complainant Gorospe testified in Criminal Case No. 22938-R, that he met accused-appellant Ingles in March 2003, through private complainant Villamil; accused-appellant Ingles was able to convince private complainant Gorospe to join the business of buying and selling cell cards, upon the false representation of accused-appellant Ingles that his family was one of the stockholders of SMART, and could supply cell cards, at a lower price; on 5 June 2003, private complainant Gorospe ordered 2,000 cell cards at Php 250.00 each, and paid Php 500,000.00, but after 10 days, accused-appellant Ingles failed to deliver the cell cards; private complainant Gorospe called accused-appellant Ingles, to no avail, thus private complainant Gorospe went to Solibao to meet accused-appellant Ingles, but the latter did not show up; on 8 August 2003, private complainant Gorospe found accused-appellant Ingles in Loakan, and there private complainant Gorospe made a demand on accused-appellant Ingles to return the money and in turn, accused-appellant Ingles gave private complainant Gorospe the post-dated check worth Php 500,000.00;[13] attempts to encash the check were futile because it was drawn on a closed account; after failed attempts to find accused-appellant Ingles, private complainant Gorospe also sought assistance from the NBI, and executed the sworn statement[14] against accused-appellant Ingles.

EVIDENCE FOR ACCUSED-APPELLANT

Only accused-appellant Ingles[15] testified for the Defense.

The evidence for the Defense is summarized as follows: in Criminal Case No. 22938-R, private complainant Gorospe requested accused-appellant Ingles if she (Gorospe) could purchase cell cards directly from him (accused-appellant Ingles), instead of purchasing from private complainant Villamil, and thereafter private complainant Gorospe and accused-appellant Ingles had several successful transactions of buying and selling cell cards; accused-appellant Ingles issued the check for Php 500,000.00 to private complainant Gorospe, in payment of her cash commissions, and not as payment for the cell cards ordered; in Criminal Case No. 22939-R, it was Jaraba who convinced private complainant Villamil to join the business of buying and selling cell cards; accused-appellant Ingles, upon discovering that there was shortage of cell cards, declined to accept orders from private complainant Villamil, however, Jaraba made accused-appellant Ingles believe that Jaraba was the one who placed the orders and not private complainant Villamil; accused-appellant Ingles informed Jaraba that the orders would be delayed because of lack of supply; accused-appellant Ingles signed the compromise agreement and issued the check for Php 500,000.00, as a favor to Jaraba.

Accused-appellant Ingles testified in relation to Criminal Case No. 22938-R, that he met private complainant Gorospe in January 2002 at the house of Jaraba; during the last week of February 2003, private complainant Gorospe called accused-appellant Ingles and asked for a meeting, which happened on 28 February 2003, and at the meeting, private complainant Gorospe asked accused-appellant Ingles if she could purchase cell cards directly from accused-appellant Ingles (because at that time private complainant Gorospe purchased cell cards only through private complainant Villamil); on 1 March 2003, accused-appellant Ingles delivered 1,000 pieces of cell cards, for Php 250.00 each, and private complainant Gorospe asked for a commission of Php 10.00 per cell card, and accused-appellant Ingles agreed, and gave private complainant Gorospe Php 10,000.00; thereafter,

accused-appellant Ingles and private complainant Gorospe had several transactions (i.e., 8 March 2003 transaction for 1,000 cell cards; and 15 March 2003 transaction for 2,000 cell cards); on 15 March 2003, private complainant Gorospe ordered 3,000 cell cards, and asked accused-appellant Ingles for a bigger commission, and accused-appellant Ingles agreed to give private complainant Gorospe 50 cell cards for every 1,000 cell cards ordered, as commission; on 22 March 2003, accused-appellant Ingles delivered 3,150 cell cards (which were already inclusive of private complainant Gorospe's commission), and private complainant Gorospe paid Php 750,000.00 for the order of 3,000 cell cards; on 29 March 2003, accused-appellant Ingles delivered 3,000 cell cards, but was not able to give private complainant Gorospe her commission (in the form of cell cards), and instead of cell cards, accused-appellant Ingles gave private complainant Gorospe Php 10,000.00 cash as commission; on 4 April 2003, accused-appellant Ingles delivered 3,000 cell cards to private complainant Gorospe, and gave Php 10,000.00 to private complainant Gorospe representing cash commission; private complainant Gorospe ordered 3,000 cell cards and on 12 April 2003, accused-appellant Ingles delivered 3,000 cell cards, then private complainant Gorospe ordered 3,000 cell cards, and paid Php 750,000.00, however accused-appellant Ingles was not able to give cash commission; on 19 April 2003, accused-appellant Ingles delivered 3,000 cell cards to private complainant Gorospe, and gave Php 10,000.00 as cash commission, and private complainant Gorospe re-ordered 3,000 cell cards and paid Php 750,000.00; on 26 April 2003, accused-appellant Ingles delivered 3,000 cell cards, and private complainant Gorospe re-ordered 3,000 cell cards, and paid Php 750,000.00, however accused-appellant Ingles was also not able to give cash commission; on 3, 10, 17, 24 and 31 May 2003, and 7, 14 June 2003, accused-appellant Ingles delivered 3,000 cell cards, however accused-appellant Ingles was not able to give cell card commission to private complainant Gorospe because there were no available cell cards; thus, accused-appellant Ingles, all in all, was not able to deliver the total of 1,800 cell cards to private complainant Gorospe, valued at Php 495,000.00; accused-appellant Ingles delivered the check worth Php 500,000.00 sometime in August 2003 which represented the cash commission of private complainant Gorospe.

Accused-appellant Ingles testified in relation to Criminal Case No. 22939-R, that he met private complainant Villamil in December 2002 at the house of Jaraba; in January 2003, Jaraba invited accused-appellant Ingles to go to private complainant Villamil's house at Bunoan, Dagupan where Jaraba convinced private complainant Villamil to engage in the business of buying and selling cell cards; during the first week of January 2003, private complainant Villamil ordered 100 cell cards and paid to Jaraba Php 25,500.00 with Jaraba giving accused-appellant Ingles Php 25,000.00 for the purchase of cell cards, and Jaraba keeping Php 500.00 as her commission; within 10 days from payment, accused-appellant Ingles delivered the cell cards to private complainant Villamil; in March 2003, private complainant Villamil, through Jaraba, ordered 500 cell cards for Php 250 each, and accused-appellant Ingles delivered the cell cards within the agreed 2-week period; on the third week of May, Jaraba paid Php 375,000.00 to accused-appellant Ingles, for private complainant Villamil's purchase of 1,500 cell cards, and accused-appellant Ingles delivered the cell cards to private complainant Villamil in Dagupan; on the second week of June, private complainant Villamil through Jaraba paid Php 375,000.00, however, prior to the delivery, private complainant Villamil called and asked accused-appellant Ingles if she could order another batch of cell cards which should be delivered together with the prior order in June, but accused-appellant Ingles declined because he might not be able to deliver the cell cards on time and instead only delivered the cell cards ordered in June; when accused-appellant Ingles got home in Baguio, Dialola told accused-appellant Ingles that Jaraba had deposited Php 528,750.00 to Dialola's account for 2,115 cell cards, but accused-appellant Ingles had warned Dialola because at that time he was not anymore receiving orders from clients, but Dialola replied that it was Jaraba's money, and that Jaraba was willing to wait for the orders; sometime in July, Jaraba went to accused-appellant Ingles' residence, and asked from accused-appellant Ingles the advance of 115 cell cards, so Jaraba could already sell them in retail; accused-appellant Ingles gave Jaraba 115 cell cards with an understanding that Jaraba would wait for the balance of 2,000 cell cards; on 15 July 2003,

accused-appellant Ingles gave Jaraba Php 40,000.00 representing Jaraba's earnings from the agreement that accused-appellant Ingles would sell the cell cards and give the profit to Jaraba; accused-appellant Ingles gave Jaraba another Php 40,000.00; in August 2003, Jaraba admitted to accused-appellant Ingles that the money used was not really hers, but that it came from private complainant Villamil; upon learning this, accused-appellant Ingles was confused because he had already told private complainant Villamil that he would no longer be accepting money from her; during the meeting in the Manor Hotel, Jaraba asked accused-appellant Ingles to sign the compromise agreement, to appease private complainant Villamil, so accused-appellant Ingles signed the compromise agreement only to buy peace, and to help Jaraba because private complainant Villamil was harrasing Jaraba to return the money.

On 28 October 2010, RTC rendered the assailed Decision. Its dispositive portion read:

WHEREFORE, accused REX INGLES y DE OCAMPO is hereby found GUILTY beyond reasonable doubt for the crime of Estafa in Criminal Case No. 22938-R and he is hereby sentenced to suffer the penalty of Imprisonment at the National Bilibid Prisons, Muntinlupa City, Metro Manila, from TWELVE (12) YEARS of Prision Mayor as Minimum to THIRTY (30) YEARS of Reclusion Perpetua as Maximum and to indemnify private complainant Ceceale Villamil the amount of FIVE HUNDRED THOUSAND (P500,000.00) PESOS, as Actual Damages with legal interest from January, 2003, until the amount is fully paid, and Exemplary Damages of FIFTY THOUSAND (P50,000.00) PESOS, plus costs of suit.

Also, in Criminal Case No. 22939-R, accused REX INGLES y DE OCAMPO is hereby found GUILTY beyond reasonable doubt for the crime of ESTAFA and he is hereby sentenced to suffer the penalty of Imprisonment at the National Bilibid Prisons, Muntinlupa City, Metro Manila from TWELVE (12) YEARS of Prision Mayor as Minimum to THIRTY (30) YEARS of Reclusion Perpetua as Maximum and to indemnify private complainant GLADYS GOROSPE the amount of FIVE HUNDRED THOUSAND (P500,000.00) PESOS, as Actual Damages with legal interest from March, 2003, until the amount is fully paid, and Exemplary Damages of FIFTY THOUSAND (P50,000.00) PESOS, plus costs of suit. Hence, said accused shall suffer the Total Maximum Penalty of Imprisonment of SIXTY (60) YEARS.

IT IS SO ORDERED.[16]

The accused-appellant Ingles appealed.

On 16 August 2012, accused-appellant Ingles filed his Appellant's Brief,[17] with the following assignment of errors:

I. THE TRIAL COURT ERRED IN TAKING COGNIZANCE OF THE CASE ON THE GROUND OF IMPROPER VENUE.

II. THE TRIAL COURT ERRED IN FINDING THE ACCUSED GUILTY BEYOND REASONABLE DOUBT OF THE TWO CRIMES OF ESTAFA, DESPITE THE APPLICABILITY OF NOVATION AND EQUIPOISE PRINCIPLE;

III. THE TRIAL COURT ERRED IN IMPOSING A PENALTY OF TWELVE (12) YEARS OF PRISION MAYOR AS MINIMUM TO THIRTY (30) YEARS RECLUSION TEMPORAL AS MAXIMUM PENALTY FOR EACH COUNT OF ESTAFA.

IV. THE TRIAL COURT IN STATING THAT THE ACCUSED SHALL SUFFER THE TOTAL MAXIMUM OF PENALTY OF IMPRISONMENT OF SIXTY (60) YEARS.

The issues are: (1) whether the RTC had jurisdiction over the case; (2) whether there was proof beyond reasonable doubt to convict accused-appellant Ingles of the crime of estafa as charged in the two Informations; and (3) assuming there is proof beyond reasonable doubt to convict accused-appellant Ingles, whether the RTC erred in

imposing the maximum penalty of imprisonment of 60 years.

BRIEF FOR THE ACCUSED-APPELLANT

Anent the first issue, accused-appellant Ingles answers in the negative. The RTC had no jurisdiction over the case.

The Appellant's Brief thrusts: private complainants Gorospe and Villamil admitted that all transactions happened in Dagupan City, which is outside the territorial jurisdiction of the RTC, Branch 3, Baguio City.

With respect to the second issue, accused-appellant Ingles answers in the negative. There was no proof beyond reasonable doubt to convict accused-appellant Ingles of estafa.

The Appellant's Brief thrusts: not all the elements of the crime of estafa were present; in Criminal Case No. 22939-R, private complainant Villamil testified that it was Jaraba who convinced her to engage in the business of buying and selling cell cards, and that private complainant Villamil herself, determined the profitability of the business; the first four transactions between accused-appellant Ingles and private complainant Villamil, which were paid through cash, were successful; accused-appellant Ingles did not know that the fifth transaction, consisting of 2,115 cell cards, came from private complainant Villamil, because Jaraba made him believe that it was Jaraba and not private complainant Villamil who deposited the money; accused-appellant Ingles testified that he advanced 115 cell cards to Jaraba with the understanding that Jaraba would wait for the 2,000 remaining cell cards; accused-appellant Ingles was pressured into signing the compromise agreement, and into issuing the check for Php 500,000.00; the RTC failed to consider that there was novation by the execution of the compromise agreement, and the subsequent issuance of the check; in Criminal Case No. 22938-R, private complainant Gorospe admitted that she had no evidence that she gave accused-appellant Ingles Php 500,000.00; it was incredible that private complainant Gorospe would part with Php 500,000.00, and give the amount to accused-appellant Ingles, whom she knew only through private complainant Villamil; the Php 500,000.00 check represented the commissions of private complainant Gorospe, and was not the cash equivalent of the cell cards ordered; faced with two conflicting versions, the court should be guided by the equipoise rule, which states that where the evidence on an issue of fact is in equipoise, the party having the burden of proof loses.

Regarding the final issue, accused-appellant Ingles answers in the affirmative. Assuming that accused-appellant Ingles is guilty, the RTC erred in imposing the penalty of imprisonment of 12 years of prision mayor as minimum penalty to 30 years of reclusion temporal as maximum penalty for each count of estafa.

The Appellant's Brief thrusts: the RTC misapplied the Indeterminate Sentence Law; the minimum term of the indeterminate sentence should be anywhere from 6 months and 1 day to 4 years and 2 months, while the maximum term of the indeterminate sentence should not exceed 20 years of reclusion temporal; Article 315 provides that in no case shall the total penalty exceed 20 years; the RTC erroneously applied the penalty provided under Article 315, paragraph 2(d) of the Revised Penal Code ("RPC") because accused-appellant Ingles was charged under Article 315, paragraph 2(a) of the RPC; to impose the penalty under Article 315, paragraph 2(d) against accused-appellant Ingles would violate his constitutional right to be informed of the nature and cause of the accusation against him.

BRIEF FOR THE PROSECUTION

Anent the first issue, the Prosecution answers in the affirmative. The RTC had jurisdiction over the case.

The Brief for the Appellee[18] parries: the crime of estafa is a continuing or transitory offense which may be prosecuted at the place where any of the essential elements of the crime occurred; evidence show that some of the elements of estafa under Article 315, paragraph 2(a) took place in Baguio City; private complainants Gorospe and

Villamil testified that they found accused-appellant Ingles in various places in Baguio City (i.e., the Manor Hotel, Wakat Suello Village, Loakan Road), after accused-appellant Ingles went into hiding; accused-appellant Ingles issued the bad check to private complainant Villamil at the Manor Hotel in Camp John Hay while accused-appellant Ingles issued the bad check to private complainant Gorospe at Loakan Road, Baguio City.

With respect to the second issue, the Prosecution answers in the affirmative. There was proof beyond reasonable doubt to convict accused-appellant Ingles of estafa.

The Brief for the Appellee parries: private complainants Gorospe and Villamil invested money in accused-appellant Ingles' business because of the accused-appellant Ingles' misrepresentation that he and his family were stockholders of SMART; accused-appellant Ingles issued two checks which were both dishonored for being drawn against closed account; accused-appellant Ingles repeatedly re-assured private complainants Gorospe and Villamil that he (accused-appellant Ingles) would immediately return the duo's money, however accused-appellant Ingles failed to comply with his promises and instead hid in different places to evade his obligation; there is no merit in accused-appellant Ingles' defenses of denial and novation; accused-appellant Ingles (and not Jaraba), induced private complainants Gorospe and Villamil; partial payments or the novation of the agreement is not a valid defense, because the gravamen of estafa is the deceit of the accused-appellant Ingles, and the resulting damage to private complainants Gorospe and Villamil; the findings of the RTC on the credibility of the prosecution's witnesses should be upheld.

Regarding the final issue, the Prosecution also answers in the affirmative. The RTC erred in imposing the proper penalty to accused-appellant Ingles.

The Brief for the Appellee parries: the RTC erroneously held accused-appellant Ingles liable for Article 315, paragraph 2(d), while on the contrary, accused-appellant Ingles was indicted under Article 315, paragraph 2(a) which is fraud through false pretenses and misrepresentations; the minimum term of the indeterminate sentence should be anywhere from 6 months and 1 day to 4 years and 2 months, while the maximum term of the indeterminate sentence should not exceed 20 years of reclusion temporal.

THE COURT'S RULING

Anent the first issue, we rule in the affirmative. The RTC had jurisdiction over the case.

Applicable is Rule 110, Section 15, paragraph (a) of the Rules of Court. It reads:

Section 15. Place where action is to be instituted. — (a) Subject to existing laws, the criminal action shall be instituted and tried in the court of the municipality or territory where the offense was committed or any one of the essential ingredients occurred.

xxx xxx xxx

As above-quoted, the court that has jurisdiction over the criminal action is the court in the place where the offense was committed, or where any one of the essential ingredients of the crime occurred.

Accused-appellant Ingles was charged of two counts of estafa under Article 315, paragraph 2(a) of the RPC. The elements of this crime are as follows: (1) that there is a false pretense, fraudulent act or fraudulent means; (2) that the false pretense, fraudulent act or fraudulent means is made or executed prior to, or simultaneously with the commission of the fraud; (3) that the offended party relies on the false pretense, fraudulent act, or fraudulent means, that is, he is induced to part with his money or property because of the false pretense, fraudulent act, or fraudulent means and (4) that as a result thereof, the offended party suffered damage.[19]

The fourth element of the crime i.e., that as a result of the false pretense, the offended party suffered damage, occurred in Baguio City, which is within the RTC Branch 3, Baguio's jurisdiction. Notably, accused-appellant Ingles issued the check[20] to private complainant Villamil at the Manor Hotel in Camp John Hay, Baguio City, while accused-appellant Ingles issued the check to private complainant Gorospe at Loakan Road, Baguio City.[21] However, upon encashment, these two checks were dishonored for being drawn on a closed account. The issuance of these checks which occurred in Baguio City caused damage to private complainants Gorospe and Villamil. Thus, the RTC Branch 3, Baguio had jurisdiction to hear and try the case.

With respect to the second issue, we rule in the negative. There was no proof beyond reasonable doubt to convict accused-appellant Ingles of the crime of estafa as charged in the two Informations.

In all criminal prosecutions, the Prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the Prosecution's duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein.[22]

The Prosecution failed to discharge its burden to establish the guilt of accused-appellant Ingles beyond reasonable doubt. Thus we acquit accused-appellant Ingles.

The Information charged accused-appellant Ingles of the crime of estafa under Article 315, paragraph 2(a) of the RPC. Article 315, paragraph 2(a) reads:

Article 315.

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.

As above-quoted, the following are the elements of estafa defined under Article 315, paragraph 2(a): (a) The accused used fictitious name or false pretense that he possesses (1) power, (2) influence, (3) qualifications, (4) property, (5) credit, (6) agency, (7) business or (8) imaginary transaction, or other similar deceits; (b) The accused used such deceitful means prior to or simultaneous with the execution of the fraud; (c) The offended party relied on such deceitful means to part with his money or property; and (d) The offended party suffered damage.[23]

The first element is absent. The prosecution failed to prove accused-appellant Ingles' use of false pretense. Aside from the testimonial evidence of private complainants Gorospe and Villamil that accused-appellant Ingles made false pretense that he and his family were stockholders of SMART, there is no other evidence to prove this element. Assuming that accused-appellant Ingles indeed represented that he was connected with SMART, the Prosecution failed to establish that the representation was false.

The third element is absent. The evidence do not show that the private complainants Gorospe and Villamil relied on the alleged misrepresentations of accused-appellant Ingles, that he and his family were stockholders of SMART, and upon their (Ingles and family's) misrepresentation, private complainants Gorospe and Villamil parted with their money. Instead, the evidence shows that private complainants Gorospe and Villamil parted with their money, not upon the alleged misrepresentation, but only after they had determined that the business venture was profitable.

As testified by private complainant Villamil, she entered the business on the basis of her own determination of the

profitability of the business:

Q:

I will rephrase my question. Of course before you decided to go into this business, you determined and computed how much you were going to make as profit?

A:

Yes, Ma'am.

xxx xxx xxx

Q:

It was acceptable to you that's why you decided to enter into that business?

A:

Yes, Ma'am.

Q:

And after you have computed and estimated how much you were going to make as profit, you decided to meet with the accused, and that was the time that you ordered from the accused 100 cell cards?

A:

Yes, Ma'am.

xxx xxx xxx

Q:

And it turned out to be profitable that you continued to order from the accused, is that correct?

A:

Yes, Ma'am.[24]

Clearly, private complainant Villamil did not rely on the alleged misrepresentation of accused-appellant Ingles that he and his family were stockholders of SMART. It was only after private complainant Villamil had estimated her profits and had decided to join the business, that she met with the accused-appellant Ingles. Private complainants Gorospe and Villamil did not rely on accused-appellant Ingles' alleged misrepresentations when they parted with their money and gave it to accused-appellant Ingles. This is also affirmed by the fact that private complainants Gorospe and Villamil had several successful transactions with accused-appellant Ingles, prior to the alleged defraudation.

Since the first and third elements of the crime punished under Article 315, paragraph 2(a) are absent,

accused-appellant Ingles cannot be convicted as charged.

However, an acquittal based on lack of proof beyond reasonable doubt does not preclude the award of civil damages.[25]

The evidence of the prosecution in Criminal Case No. 22939-R shows that private complainant Villamil deposited Php 528,000.00 to the bank account of accused-appellant Ingles' wife (Dialola), per the Deposit Slip dated 18 June 2003.[26] Accused-appellant Ingles did not contest the fact of receipt of private complainant Villamil's money. Thus, accused-appellant Ingles is under obligation to return the money of private complainant Villamil when accused-appellant Ingles failed to deliver the equivalent number of cell cards.

However, in Criminal Case No. 22938-R, apart from private complainant Gorospe's testimony, no other evidence (i.e., receipts, deposit slip) were adduced to prove that private complainant Gorospe gave money to accused-appellant Ingles. Thus, there is no basis to award civil damages in favor of private complainant Gorospe.

Thus, we rule as follows: 1) absent proof beyond reasonable doubt, we REVERSE and SET ASIDE the Decision dated 28 October 2010 in Criminal Case Numbers 22938-R and 22939-R, and instead, ACQUIT Rex Ingles y De Ocampo; 2) ORDER Rex Ingles y De Ocampo to pay private complainant Ceceale P. Villamil Php 500,000.00 (representing civil damages), plus legal interest at the rate of six percent (6%) per annum,[27] computed from the finality of the judgment until full satisfaction.

IT IS SO ORDERED.

Veloso, (Chairperson) and Lantion, JJ., concur.

[1]C.A. Rollo, pp. 68-85.

[2] Records, p. 1; Information for Criminal Case No. 22938-R.

[3] Records, p. 1; Information for Criminal Case No. 22939-R.

[4] Records, p. 56.

[5] Records, pp. 78-79.

[6] TSN, 21 March 2006; TSN 17 April 2006; TSN, 21 April 2006.

[7] TSN, 6 June 2006.

[8] TSN, 6 June 2007; TSN, 27 July 2007.

[9] Records, p. 100.

[10]Exhibit "B" in Criminal Case No. 22939-R, Records, p. 97.

[11] Exhibit "A" in Criminal Case No. 22939-R, Records, pp. 4-5.

[12] Exhibit "F" in Criminal Case No. 22939-R, Records, p. 102.

[13] Exhibit "A" in Criminal Case No. 22938-R, Records, p. 315.

[14] Exhibit "B" in Criminal Case No. 22938-R, Records, p. 316.

[15] TSN, 26 August 2008; TSN, 25 September 2008; TSN, 15 April 2009; TSN, 25 June 2009; TSN, 18 February 2010; TSN, 27 July 2010; TSN, 28 July 2010.

[16] C.A. Rollo, pp. 84-85.

[17] C.A. Rollo, pp. 48-85.

[18] C.A. Rollo, pp. 111-136.

[19] *Espino v. People of the Philippines*, G.R. No. 188217, 3 July 2013 citing *R.R. Paredes v. Calilung*, G.R. No. 156055, 5 March 2007, 517 SCRA 369, 393.

[20] *Supra* note 10.

[21] *Supra* note 13.

[22] *Patula v. People of the Philippines*, G.R. No. 164457, 11 April 2012 citing *Andaya v. People*, G.R. No. 168486, June 27, 2006, 493 SCRA 539, 556-557.

[23] *Lopez v. People of the Philippines*, G.R. No. 199294, 31 July 2013.

[24] TSN, 21 April 2006, pp. 4-6.

[25] *San Mateo v. People of the Philippines*, G.R. No. 200090, 6 March 2013 citing *Bax v. People*, G.R. No. 149858, September 5, 2007, 532 SCRA 284, 289.

[26] Exhibit C in Criminal Case No. 22939-R, Records, p. 98.

[27] Pursuant to *Nacar v. Gallery Frames and/or Felipe Bordey Jr.*, G.R. No. 189871, 13 August 2013 which cites Circular No. 799, Series of 2013 of the Bangko Sentral ng Pilipinas, effective on 1 July 2013 and the Resolution No. 796, of the Monetary Board, dated 16 May 2013.

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