

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. ARLENE D. MENDOZA AND GERARDO L. MENDOZA, ACCUSED-APPELLANTS.

Ponente: ANTONIO-VALENZUELA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/aad2960cac32/>

ANTONIO-VALENZUELA, J.:

This is the appeal assailing the Decision[1] dated 13 March 2012 (“assailed Decision”) of the Regional Trial Court, Branch 165, Marikina City (“RTC”) in Criminal Case No. 2007-9586-MK, entitled “People of the Philippines v. Arlene D. Mendoza and Gerardo L. Mendoza,” which found Arlene D. Mendoza (“accused-appellant Arlene”) and Gerardo L. Mendoza (“accused-appellant Gerardo”) guilty beyond reasonable doubt of the crime of Estafa.

THE FACTS

In the Information,[2] the two accused-appellants were charged for the crime of Estafa under Article 315, paragraph 2 (d) of the Revised Penal Code for defrauding Angelita L. Baltazar (“private complainant Angelita”) in the amount of P100,000.00. The Information read:

The undersigned Assistant City Prosecutor accuses Spouses ARLENE D. MENDOZA and GERARDO L. MENDOZA, of the crime of ESTAFA (under Art. 315, par. 2 (D) of the Revised Penal Code, as amended by P.D. 818, committed as follows:

That on or about the 2[nd] day of February 2005, in the City of Marikina, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping and assisting one another, with deliberate intent to defraud one Angelita L. Baltazar, and by means of deceit, false pretenses and fraudulent acts executed prior to or simultaneously with the commission of fraud, did then and there willfully, unlawfully and feloniously make, draw and issue to ANGELITA L. BALTAZAR the following check, to wit:

BANK/CHECK NO. DATE AMOUNT

PB Com 2000083501 6-20-05 Php50,000.00

PB Com 2000083502 6-27-05 Php50,000.00

in the total amount of P100,000.00, simultaneously in exchange for cash to herein complainant ANGELITA L. BALTAZAR said accused well knowing at the time of issue they did not have sufficient funds in or credit with the drawee bank for payment in full of the face amount of said checks upon its presentment which checks when presented for payment was subsequently dishonored by the drawee bank for the reason "ACCOUNT CLOSED" and despite repeated demands to make good the said checks, failed and refused to deposit the amount necessary to cover the aforesaid checks or pay the value thereof, within three (3) banking days after receiving notice, to the damage and prejudice of, ANGELITA L. BALTAZAR in the aforementioned amount of P100,000.00.

CONTRARY TO LAW.

Marikina City, August 8, 2007.

At the arraignment, the two accused-appellants, assisted by counsel, pleaded not guilty to the crime as charged in the Information.[3]

On 17 November 2008, the RTC terminated pre-trial.[4]

Thereafter, the RTC conducted trial.

The Prosecution presented as witnesses the following persons: private complainant Angelita; Fernando San Diego ("San Diego"); and Relina S. Taberna ("Taberna").

The evidence of the Prosecution is summarized thus: on 2 February 2005, the two accused-appellants who are husband and wife, went to the house of private complainant Angelita to rediscount two checks (PBCOM Check No. 2000083501 dated 20 June 2005, and PBCOM Check No. 200083502 dated 27 June 2005), issued by accused-appellant Arlene (only), both payable to the order of private complainant Angelita, with value of P50,000.00 each; upon assurance by the two accused-appellants that the two subject checks would be sufficiently funded upon their maturity, private complainant in exchange gave the two accused-appellants the check dated 2 February 2005, payable to cash, in the amount of P100,000.00, and accused-appellants encashed this check at Angelita's depository bank; on 15 July 2005, private complainant Angelita deposited the two checks to her bank account at Banco Filipino, however, when the checks were presented to PBCOM for payment, they were dishonored because the account was already closed; private complainant Angelita, through her lawyer, sent the accused-appellants the letter dated 13 September 2005,[5] making a demand to pay the value of the two subject checks; accused-appellants did not pay; private complainant Angelita filed the case for estafa against the two accused-appellants.

The Defense presented accused-appellant Arlene as witness.

The evidence of the Defense is summarized thus: accused-appellants, who are husband and wife, approached the private complainant Angelita to borrow money, and not to rediscount any checks; accused-appellants have no checking account, and in compliance with private complainant Angelita's requirement, accused-appellant Arlene opened a checking account in her name at PBCOM Marikina Branch; private complainant Angelita released the loan amount to accused-appellants by issuing a check, and then private complainant Angelita required accused-appellants to issue the two subject checks in exchange for her check representing the loan; while the signatures appearing on the two checks are the signatures of accused-appellant Arlene, the dates inscribed on the face of the two subject checks, are not in accused-appellant Arlene's handwriting; when private complainant Angelita deposited the two subject checks, the bank dishonored them; when accused-appellants received the letter of private complainant Angelita making a demand to pay, accused-appellants asked that private complainant Angelita give them two months within which to pay the value of the dishonored checks.

On 13 March 2012, the RTC rendered the assailed Decision,[6] which found accused-appellants Arlene and Gerardo guilty beyond reasonable doubt of the crime of Estafa. The dispositive portion of the Decision read:

WHEREFORE, in view of the foregoing, the Court finds both accused ARLENE D. MENDOZA and GERARDO L. MENDOZA guilty beyond reasonable doubt of the crime charged and are hereby sentenced each to suffer an indeterminate penalty of imprisonment from eight (8) years and one (1) day of prision mayor as minimum to twenty-seven (27) years of reclusion perpetua as maximum, with all the accessory penalties provided for under the Revised Penal Code. The surety bonds posted by both accused in this case are hereby cancelled and forfeited in favor of the government.

Both accused are likewise ordered to pay complainant Angelita L. Baltazar the amount of Php100,000.00 corresponding to value of the subject checks, with interest thereon at the legal rate from the time they were drawn, until fully paid.

SO ORDERED.[7]

On 14 March 2012, the two accused-appellants filed Urgent Motion for Reconsideration.[8]

In the Order dated 17 April 2012, the RTC partially granted the Urgent Motion for Reconsideration.[9] The dispositive portion of the Order read:

WHEREFORE, the Urgent Motion for Reconsideration is PARTIALLY GRANTED. The award of P100,000.00 corresponding to the value of the subject checks including its interests, the same having been previously awarded to the private complainant in the BP 22 cases before MTC 76, Marikina City is hereby DELETED from the Decision dated March 13, 2012. The rest of the dispositive portion in the same Decision however, STAY and MAINTAIN (sic).

On 23 April 2012, the two accused-appellants filed the Notice of Appeal.[10] In the Order[11] dated 24 April 2012, the RTC gave due course to the Notice of Appeal, and ordered the elevation of the Records to this Court.

On 3 October 2012, the two accused-appellants filed Accused-Appellants' Brief,[12] assigning a lone error, thus:

THE TRIAL COURT GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANTS OF THE CRIME OF ESTAFA UNDER ARTICLE 315, PAR. 2 (D) OF THE REVISED PENAL CODE, AS AMENDED BY PRESIDENTIAL DECREE NO. 818 BY FINDING THAT FRAUD AND/OR DECEIT ATTENDED THE ISSUANCE OF THE POSTDATED CHECKS.

The issue is whether there is proof beyond reasonable doubt to convict the two accused-appellants of the crime of Estafa.

The Accused-Appellants' Brief answers in the negative. There is no proof beyond reasonable doubt that the two accused-appellants are guilty of the crime of estafa. The Brief thrusts: the two accused-appellants do not deny having issued the two subject checks; the evidence shows that accused-appellant Arlene opened the bank account in her name, and issued the subject checks, on the same date that she went to the private complainant Angelita to avail of the loan; at the time accused-appellants issued subject checks, private complainant Angelita knew that the checks were not funded; there was no rediscounting of the checks, but rather, the accused-appellants issued the subject checks to comply with a requirement for the release of the loan, and to guarantee future payment of the loan; the transaction between the parties was a loan because there was an interest of 3.5% per month; the dates written on the face of the subject checks were not written in accused-appellant Arlene's handwriting; the Prosecution failed to prove the first and third elements of the crime as charged (i.e., it was the private complainant Angelita who required the accused-appellants to open the bank account, thus the checks were issued only as evidence of indebtedness or proof of an obligation; there was no deceit on the part of the accused-appellants, because they agreed with the private complainant Angelita at the time of the issuance and postdating of the checks, that the same shall not be encashed or presented to the bank).

On 4 February 2013, the People filed Appellee's Brief.[13] It answers in the affirmative. The Prosecution proved the element of fraud or deceit, beyond reasonable doubt. The Brief parries: all the elements of estafa are present in this case (i.e., accused-appellants issued to private complainant Angelita the subject checks, each one with the face value of P50,000.00, or a total of P100,000.00, at private complainant Angelita's house, in exchange for the cash equivalent of the two checks; when private complainant Angelita attempted to encash the two subject checks, the drawee bank dishonored both checks for the reason "account closed;" accused-appellants did not comply with the letters sent to them by private complainant Angelita, requiring payment of the face value of the checks, nor did they deposit the amount necessary to cover the subject checks); the fact that it was private complainant Angelita who instructed accused-appellants to open the checking account with PBCOM on the same date that accused-appellants availed of the loan, and the fact that the subject checks were undated, do not sufficiently

disprove that there was no rediscounting of the checks.

On 6 March 2013, the accused-appellants filed the Appellants' Reply Brief,[14] reiterating the arguments in the Accused-Appellants' Brief.

On 10 September 2013, the accused-appellants filed Motion for Bail. In the Resolution[15] dated 28 January 2014, this Court granted the Motion for Bail, and allowed the two accused-appellants to post cash bail.

COURT'S RULING

The Court rules in the affirmative with respect to accused-appellant Arlene. There is proof beyond reasonable doubt that she is guilty of the crime of Estafa. However, we acquit accused-appellant Gerardo, absent proof of guilt beyond reasonable doubt.

Article 315, paragraph 2 (d) of the Revised Penal Code is relevant. It provides:

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

x x x

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

x x x

d) By postdating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack or insufficiency of funds shall be prima facie evidence of deceit constituting false pretenses or fraudulent act.

x x x

The elements constituting the crime of Estafa as defined in Article 315, paragraph 2 (d), above quoted, are: (1) The offender has postdated or issued a check in payment of an obligation contracted at the time of the postdating or issuance; (2) at the time of postdating or issuance of said check, the offender has no funds in the bank or the funds deposited were not sufficient to cover the amount of the check; (3) the payee has been defrauded. Damage and deceit are essential elements of the offense and must be established with satisfactory proof to warrant conviction, while the false pretense or fraudulent act must be committed prior to, or simultaneous with, the issuance of the bad check. The drawer of the dishonored check is given three days from receipt of the notice of dishonor to cover the amount of the check, otherwise, a prima facie presumption of deceit arises.[16]

As against accused-appellant Arlene, the Prosecution proved all the above-quoted elements of estafa beyond reasonable doubt.

The first element was present. Accused-appellant Arlene issued the two subject checks to private complainant Angelita to pay an obligation existing on the date of the issuance of the two subject checks. While the accused-appellants consistently admit (before the RTC, and before this Court on appeal as apparent in the Accused-Appellant's Brief[17]) that the two of them issued the subject checks,[18] only accused-appellant Arlene's signatures appear as drawer of the subject checks. On 2 February 2005, accused-appellants received P100,000.00 from private complainant Angelita, and thereafter accused-appellant Arlene issued the two subject checks, both postdated (i.e., PBCOM Check No. 2000083501 dated 20 June 2005, and PBCOM Check No.

2000083502 dated 27 June 2005), with total value of P100,000.00. Private complainant Angelita would not have given the two accused-appellants the P100,000.00, which was equivalent to the face value of the two subject checks, if accused-appellant Arlene did not issue and deliver to her the two subject checks.

The second element was present. On the date accused-appellant Arlene issued the checks, she had no funds in the bank.

The drawee bank dishonored the two subject checks for the reason of “account closed,” as evidenced by the rubber marking appearing on the dorsal portion of the subject checks[19] and per the Certification dated 28 September 2005 issued by PBCOM. Jurisprudence has it that the dishonor of checks on the ground of “account closed,” is indicative of the element of lack or insufficiency of funds.[20] In this case, accused-appellant Arlene did not adduce evidence to prove that on the dates she issued the checks, they had funds in the drawee bank.

The third element was present. The accused-appellant Arlene had defrauded the private complainant Angelita, and private complainant Angelita suffered damage. Private complainant Angelita parted with her money because she relied on the fraudulent representations of accused-appellant Arlene when she issued the subject checks. As a result of fraudulent representation by accused-appellant Arlene, private complainant Angelita suffered damage in the amount of P100,000.00.

Accused-appellants argue that there was no deceit employed when accused-appellant Arlene issued the subject checks to private complainant Angelita, allegedly because private complainant Angelita knew all along that the checks were merely evidence of indebtedness, and that private complainant Angelita was aware that at the time of the issuance of the checks, they were not funded, and that accused-appellant Arlene issued the subject checks only to guarantee future payment.

We do not agree.

In this case, it was evident that private complainant Angelita would not have given her personal check with face value of P100,000.00 to accused-appellants if accused-appellant Arlene did not issue and deliver to her the two subject checks. Accused-appellant Arlene issued the subject checks to private complainant Angelita, to induce private complainant Angelita to part with her P100,000.00. When private complainant Angelita attempted to encash the subject checks, the drawee bank dishonored them because the account was already closed. Private complainant Angelita wrote accused-appellants the letter dated 13 September 2005 (which accused-appellant Arlene received) informing the accused-appellants that the drawee bank had dishonored the two checks, and requiring them to settle their obligation. Accused-appellants did not pay the face value of the checks, and did not deposit in the bank the amount necessary to cover the checks. This gave rise to a prima facie evidence of deceit, which is an element of the crime of estafa, constituting false pretense or fraudulent act as stated in the second sentence of paragraph 2(d), Article 315 of the Revised Penal Code. Notably, the Defense did not rebut the prima facie presumption of deceit. Consequently, the presumption stands.

Accused-appellants also assert that it was private complainant Angelita who instructed accused-appellants to open the checking account with PBCOM, and that accused-appellant Arlene was not the one who wrote the date of subject checks, because the dates were not in accused-appellant Arlene's handwriting.

We do not agree.

Since accused-appellants assert that the accused-appellant Arlene did not write the dates on the subject checks, it was incumbent upon them to prove such fact. It is a basic principle in our rules on evidence that he who alleges a fact has the burden of proving the truth thereof. It must also be stressed that the evidence to prove this fact must be clear, positive, and convincing.[21] However, aside from the bare allegation, no proof was adduced in this

regard. Consequently, it remains that accused-appellant Arlene wrote the entirety of the subject checks, including the dates appearing on them.

The accused-appellant Gerardo must be acquitted. Accused-appellant Gerardo did not issue the subject checks. While the Information charged conspiracy between the two accused-appellants in the commission of the crimes, and there was proof beyond reasonable doubt to convict accused-appellant Arlene for issuing the two subject checks, we cannot convict accused-appellant Gerardo as conspirator to the crime. The prosecution failed to discharge its burden of establishing conspiracy between accused-appellant Arlene and accused-appellant Gerardo.

The Decision of the RTC convicted accused-appellant Gerardo because of the fact that his signatures appear on the back of the subject checks. However nothing else was shown to indicate any overt act on the part of accused-appellant Gerardo that would even suggest that he had a hand in dealing with private complainant Angelita. It was accused-appellant Arlene alone, who issued and negotiated the subject checks as payment for the obligation, and the subject checks were all drawn against accused-appellant Arlene's personal bank account. Accused-appellant Gerardo's signatures appearing at the back of the subject checks, and his presence when his wife accused-appellant Arlene issued the subject checks, did not establish conspiracy, absent any evidence that he, by an act or series of acts, participated in the commission of fraud to the damage of the private complainant Angelita.

In the case of *Timbal v. People*[22] with the same facts (where the two accused were also husband and wife), the Supreme Court ruled that the mere presence of the accused husband when the accused wife issued the check, would not by itself establish conspiracy, absent any evidence that he, by an act or series of acts, participated in the commission of fraud to the damage of the complainant. While conspiracy need not be established by direct evidence, it is, nonetheless, required that it be proved by clear and convincing evidence[23] by showing a series of acts done by each of the accused in concert and in pursuance of the common unlawful purpose.[24] The degree of proof required to establish conspiracy, like the crime itself, is nothing less than proof beyond reasonable doubt.[25] Thus, absent proof beyond reasonable doubt of conspiracy between the co-accused husband and wife, only the accused wife who was the lone issuer of the check, was convicted.

In criminal cases, conviction must rest on a moral certainty of guilt.[26] The burden of proof is upon the prosecution to establish each and every element of the crime and that it is the accused who has been responsible for its commission or that he has conspired with the malefactor.

As to the penalty: under Article 315 of the Revised Penal Code, as amended by Presidential Decree No. 818, if the amount of the fraud exceeds P22,000.00, the penalty shall be as follows:

Ist. The penalty of reclusion temporal 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 thirty years. In such cases, and in connection with the accessory penalties which may be imposed under the Revised Penal Code, the penalty shall be termed reclusion perpetua.

The amount misappropriated in this case is P100,000.00. The minimum term of accused-appellant Arlene's indeterminate sentence, being next lower in degree to that prescribed in the statute, is prision mayor. The maximum term of accused-appellant Arlene's indeterminate sentence, on the other hand, should be within the maximum period of reclusion perpetua, which is 17 years, 4 months and 1 day to 20 years, plus 1 year for each additional P10,000.[27] Thus, the proper penalty to be imposed on accused-appellant Arlene is 6 years and 1 day of prision mayor, to 24 years 4 months and 1 day of reclusion perpetua.

We MODIFY the Decision dated 13 March 2012 of the Regional Trial Court, Branch 165, Marikina City, in

Criminal Case No. 2007-9586-MK, thus: 1) we find the accused-appellant Arlene Mendoza GUILTY beyond reasonable doubt of the crime of Estafa, and sentence her to imprisonment of 6 years and 1 day of prision mayor, to 24 years 4 months and 1 day of reclusion perpetua; 2) we ACQUIT accused-appellant Gerardo Mendoza absent proof beyond reasonable doubt, and ORDER his immediate release, provided there are no other causes for his further detention.

IT IS SO ORDERED.

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

[1] Records, p. 262.

[2] Records, p. 1.

[3] Records, p. 64.

[4] Records, p. 93.

[5] Exhibits D, Records, p. 201.

[6] Records, p. 262.

[7] Records, pp. 276-277.

[8] Records, p. 286.

[9] Records, p. 344.

[10] Records, p. 345.

[11] Records, p. 348.

[12] CA, Rollo, p. 42.

[13] CA, Rollo, p. 119.

[14] C.A. Rollo, p. 135.

[15] C.A. Rollo, p. 164.

[16] Lopez v. People, G.R. No. 166810, 26 June 2008, citing People v. Juliano, G.R. No. 134120, 17 January 2005; People v. Holzer, G.R. No. 132323, 20 July 2000; People v. Chua, G.R. No. 130632, 28 September 1999; and People v. Ojeda, G.R. Nos. 104238-58, 3 June 2004.

[17] CA Rollo, p. 42, at p. 49.

[18] Exhibits B and C, Records, p. 199-200.

[19] Exhibits B-2 and C-2, Records, p. 199-200.

[20] People v. Booc, G.R. No. 143959, 19 February 2009; People v. Montaner, G.R. No. 184053, 31 August 2011.

[21] Tamayo v. People, G.R. No. 174698, 28 July 2008, citing Apex Mining Co., Inc. v. Southeast Mindanao Gold Mining Corp., G.R. No. 152613 No. 152628, 23 June 2006; Bejoc v. Cabreros, G.R. No. 145849, 22 July 2005; Joson v. Mendoza, G.R. No. 144071, 25 August 2005.

[22] *Timbal v. People*, G.R. No. 136487, 14 December 2001.

[23] *Id.*, citing *Bayan vs. Court of Appeals*, 181 SCRA 844.

[24] *Id.*, citing *People vs. Quiñones*, 183 SCRA 747.

[25] *Id.*, citing *People vs. Camaddo*, 217 SCRA 162.

[26] *Id.*, citing *People vs. Quindipan*, 253 SCRA 421.

[27] *People v. Booc*, *supra* at Note 20, citing *Firaza v. People*, G.R. No. 154721, 22 March 2007; *Perez v. People*, G.R. No. 150443, 20 January 2006; *People v. Gabres*, G.R. Nos. 118950-54, 6 February 1997; *People v. Saley*, 353 Phil. 897 (1998); *Ong v. Court of Appeals*, 449 Phil. 691 (2003).

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.