

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENEL C. ABUEG A.K.A. JIMMY SEGOVIA, MCDONALD D. CALURACAN A.K.A. MACKY, RUBEN E. BARRIENTOS, BENNY MADRIGAL A.K.A. ROLANDO D....

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Brought to Us for review is the Decision[1] dated 24 April 2012 of the Regional Trial Court of Las Pinas City, Branch 275, in Criminal Case No. 10-0927 for Estafa, punishable under Paragraph 3(b), Article 315 of the Revised Penal Code, the fallo of which reads as follows:

“WHEREFORE, premises considered, judgment is hereby rendered finding the accused McDonald D. Caluracan @ Macky and Benny Madrigal @ Rolando de Guzman GUILTY beyond reasonable (doubt) of the crime charged and each of them is hereby sentenced to an indeterminate penalty of two (2) years, eleven (11) months and ten (10) days which is the medium term of prision correccional in its minimum and medium periods, as minimum, to twenty (20) years of reclusion temporal, as maximum. Both accused are further ordered to pay Roderick T. Linao, jointly and solidarily, the amount of Php1 million.

SO ORDERED.”[2]

The Information[3] charged accused-appellant McDonald Caluracan (MCDONALD) @ Macky, Benny Madrigal @ Rolando Guzman (Benny), Renel Abueg @ Jimmy Segovia (Jimmy), Ruben Barrientos (Ruben) and Renato Caluma (Renato) with the crime of Estafa punishable under Paragraph 3(b), Article 315 of the Revised Penal Code, committed as follows:

“That on April 9, 2010, in Las Piñas City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating toge-ther and all of them mutually helping and aiding one another, by means of deceit, false pretense and fraudulent acts, to ensure success in gambling, did then and there willfully, unlawfully and feloniously defraud Roderick T. Linao, in the following manner, to wit: the said accused by means of false pretense and fraudulent representation induced said Roderick T. Linao to bet and play in the game of “blackjack”, by assuring the latter that respondents are going to cheat to ensure his win, when in fact respondents defrauded him, causing him to lose ONE MILLION PESOS (Php1,000,000.00) in the said game, to the damage and prejudice of said Roderick T. Linao.

CONTRARY TO LAW.”

Arraigned, MCDONALD and Benny pled not guilty to the charge.[4] Co-accused Jimmy, Ruben and Renato remain at large. While the case was pending, Benny jumped bail. Thus, trial on the merits ensued against MCDONALD.

The prosecution endeavored to demonstrate the inculpatory averments in this wise:

On 7 April 2010, private complainant Roderick Linao (Roderick) was invited by MCDONALD to play a card

game of blackjack in a casino. MCDONALD assured Roderick that they could easily win Twenty Million Pesos (P20M) by just placing a bet of One Million Pesos (P1M). MCDONALD explained that his friend, Jimmy, would be the one to play the game and their only participation was to place the bet. In due course, Roderick was introduced to and met with Ruben and Renato, the other friends of MCDONALD. They talked about the process of winning the amount of P20M through cheating. On the strength of such representation, Roderick and his wife brought the money and met Benny first at the KFC restaurant. Afterwards, they proceeded to a designated house at No. 53, B.F. Resort Ave., BF Las Piñas City, before going to Heritage casino. Inside the house, Roderick saw Jimmy and Renato. The group decided to play blackjack therein. Roderick gave the money to Jimmy who placed the same as his bet. In a span of 30 minutes, Roderick lost the game with his P1M. On 13 April 2010, MCDONALD invited Roderick again to play. This time, having sensed the ploy to defraud him anew by MCDONALD, Roderick sought the help of the NBI to entrap MCDONALD and his friends. At the entrapment operation, the NBI seized from the house of MCDONALD several casino chips and bundles of money.[5]

Professing innocence, the defense proffered a divergent version—

MCDONALD neither conspired nor confederated with his co-accused in inducing Roderick to play blackjack through cheating with an assurance to win a huge amount.[6]

Weighing the divergent postures of the prosecution and the defense, the court a quo rendered the impugned judgment of conviction.

MCDONALD moved for reconsideration thereof but failed to obtain favorable relief as the court a quo denied his plea.[7]

Nonplussed, MCDONALD (now, appellant) commenced this Appeal asserting that the court a quo erred in—

I

FINDING THE ACCUSED-APPELLANTS GUILTY OF THE CRIME CHARGED DESPITE THE PROSECUTION'S FAILURE TO PROVE THEIR GUILT BEYOND REASONABLE DOUBT.

II

FINDING THE EXISTENCE OF CONSPIRACY IN THE CASE AT BAR.

III

NOT ACQUITTING THE ACCUSED.

The Appeal lacks merit.

We prudently scoured the records and discerned no compelling reason to doubt the guilt of appellant.

First. Under Paragraph 3(b), Article 315 of the Revised Penal Code, estafa is committed by any person who shall defraud another by resorting to some fraudulent practice to insure success in a gambling game.

Case law teaches Us that fraud in its general sense is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust, or confidence justly reposed, resulting in damage to another, or by which an undue and unconscientious advantage is taken of another. It is a generic term embracing all multifarious means which human ingenuity can device, and which are resorted to by one individual to secure an advantage over another by false suggestions or by suppression of truth and includes all surprise, trick, cunning, dissembling and any unfair way by which another is cheated. And deceit is the false representation of a matter of fact whether by words or conduct, by false or misleading allegations, or

by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury.[8]

Deceit is a specie of fraud. It is actual fraud, and consists in any false representation or contrivance whereby one person overreaches and misleads another, to his hurt. Deceit excludes the idea of mistake. There is deceit when one is misled, either by guide or trickery or by other means, to believe to be true what is really false.[9]

Here, records reflect that there was deception when appellant fraudulently represented to private complainant Roderick that his bet of P1M in the game of blackjack would have a humongous win of P20M. Enticed and assured by the false representation of quick financial gains, private complainant Roderick parted with his money in the amount of P1M. Manifestly, appellant employed fraud and deceit which inveigled private complainant Roderick to invest his money in the cardgame. As a result of this fraudulent scheme, private complainant Roderick suffered damages. Plain as a pikestaff, the essential elements of deceit and damage were established by the prosecution.

Second. The evidence of the prosecution convincingly demonstrated how appellant and his co-accused acted in a concerted effort to induce private complainant Roderick to part with his P1M with fraudulent assurance from the former that he would in return win the amount of P20M.

Along this grain, We echo with approbation the explication of the court a quo that appellant conspired with his co-accused to perpetuate their fraudulent scheme, viz:

"This is what happened to Roderick, Roderick relied on the enticement of accused Mcdonald that the latter and his cohorts will cheat to make certain that Roderick would win. Based on the testimony of Roderick, the accused herein conspired to deceive the complainant into believing that he could positively earn a whopping Php20 million. At one point, Roderick heard the other accused talking about the Php20 million which the court believes is a ruse to convince the complainant that the accused are capable of manipulating the game. x x xx . Undoubtedly, the promise of the accused that Roderick would win the game because accused would cheat is the efficient cause or primary consideration which lured the complainant to part with his money.

Conspiracy is made manifest when Roderick testified how each of the accused participated in accomplishing their criminal design. Jimmy Segovia handled the bet of Roderick; Ruben Barrientos and Renato Caluma backed up the invitation of Mcdonald; and Benny Madrigal was the player. It must be stressed that Roderick only knew the accused Mcdonald and it was the latter who introduced Roderick to the rest of the group."[10]

In light of the foregoing, We perceive no cogent reason to deviate from the court a quo's factual findings.

It is a hornbook doctrine that full weight and respect is accorded by appellate court to the findings of the trial court on the credibility of witnesses, since the trial judge had the opportunity to observe the demeanor of the witnesses.[11] In the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[12] It is the peculiar province of the trial court to determine the credibility of witnesses and related questions of fact because of its superior advantage in observing the conduct and demeanor of witnesses while testifying. Thus, it has become a well-settled rule that where the issue touches on the credibility of witnesses or factual findings, the appellate court will generally not disturb the findings of the trial court, unless some facts or circumstances that may affect the result of the case have been overlooked.[13]

Third. Appellant's denial cannot prevail over the positive declaration of private complainant Roderick. Jurisprudence dictates that the affirmative testimony of persons who are eyewitnesses of the fact asserted easily overrides negative testimony.[14] Besides, the record is devoid of any showing that private complainant Roderick was impelled by any ill motive to testify against appellant. The absence of evidence as to improper motive

actuating the principal witnesses of the prosecution strongly tends to sustain that no improper motive existed and that their testimony is worthy of full faith and credence.[15]

One final cadence. The case at bench is analogous to a case where the accused-appellant was convicted of Estafa by employing fraud in a gambling game (blackjack)—

"Appellant taught the card game of "blackjack" to the offended party and her husband. He let them believe that by cheating in the game they could earn a lot of money by victimizing appellants well-to-do companion. Appellant, with two conspirators, then invited the offended spouses to a game of blackjack. Appellant acted as the holder of the bet. In the beginning, the offended party won in accordance with prearranged signals between her and the card dealer. The other bettor, named De Guzman, supposedly a rich man, was losing, but in the final stage of the game, the offended party lost all her winnings to De Guzman. An attempt to recover her losses resulted in another loss. She lost all in all P1,560. De Guzman was a co-conspirator of the accused. Only the accused was arrested. His two confederates, De Guzman and the card dealer, were charged but not arrested." [16]

In epitome, We find that the prosecution tellingly and irreproachably established the culpability of the appellant for the crime charged. Perforce, his conviction must be upheld.

WHEREFORE, the Appeal is hereby DENIED. The Decision of the Regional Trial Court of Las Pinas City, Branch 275, in Criminal Case No. 10-0927, is AFFIRMED.

SO ORDERED.

Ybañez, and Paredes*, JJ.; concur.

* Vice Justice Carmelita S. Manahan, per Office Order No. 149-14-RSF dated 21 April 2014.

[1] Original Records, pp. 174-177.

[2] Original Records, p. 177.

[3] Id., pp 1-2.

[4] Id., pp. 75-76, 106-107.

[5] TSN, 6 September 2011, Exh. "D", Original Records, pp. 154-157.

[6] Id., 6 December 2011, pp. 8-9.

[7] Original Records, p. 192.

[8] See Lateo v. People, 651 SCRA 262, 275 (8 June 2011), citing Alcantara v. Court of Appeals, 416 SCRA 418, 430 (24 November 2003).

[9] See Dy v. People, 571 SCRA 59, 72 (14 November 2008).

[10] RTC Decision, Original Records, p. 176.

[11] See Sanchez v. People, 588 SCRA 747, 762 (5 June 2009).

[12] See People v. Desuyo, 625 SCRA 590, 605 (26 July 2010).

[13] See Barrameda v. Court of Appeals, 313 SCRA 477, 486 (2 September 1999); Soplente v. People, 465 SCRA 267, 277 (2005).

[14] See *People v. Bartolome*, 557 SCRA 20, 30 (4 July 2008).

[15] *People v. Dela Piedra*, 350 SCRA 163, 184 (2001); See *People v. Bartolome*, 557 SCRA 20, 29 (4 July 2008).

[16] Aquino, *The Revised Penal Code*, Vol III, 1988 ed., p. 308 citing the case of *Romero*, CA 53 O.G. 695.

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