

JOSE O. SIA, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. L-30896. April 28, 1983

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Petition for review of the decision of the Court of Appeals affirming the decision of the Court of First Instance of Manila convicting the appellant of estafa, under an information which reads:

"That in, about or during the period comprised between July 24, 1963 and December 31, 1963, both dates inclusive, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud the Continental Bank, a banking institution duly organized and doing business in the City of Manila, in the following manner, to wit: the said accused, in his capacity as president and general manager of the Metal Manufacturing of the Philippines, Inc. (MEMAP) and on behalf of said company, obtained delivery of 150 M/T Cold Rolled Steel Sheets valued at P71,023.60 under a trust receipt agreement under L/C No. 63/109, which cold rolled steel sheets were consigned to the Continental Bank, under the express obligation on the part of said accused of holding the said steel sheets in trust and selling them and turning over the proceeds of the sale to the Continental Bank; but the said accused, once in possession of the said goods, far from complying with his aforesaid obligation and despite demands made upon him to do so, with intent to defraud, failed and refused to return the said cold rolled sheets or account for the proceeds thereof, if sold, which the said accused willfully, unlawfully and feloniously misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of the said Continental Bank in the total amount of P46,818.68, that is the balance including the interest after deducting the sum of P28,736.47 deposited by the said accused with the aforementioned bank as marginal deposit and forfeited by the said bank from the value of the said goods, in the said sum of P71,023.60." (Original Records, p. 1).

In reviewing the evidence, the Court of Appeals came up with the following findings of facts which the Solicitor General alleges should be conclusive upon this Court:

"There is no debate on certain antecedents: Accused Jose O. Sia sometime prior to 24 May, 1963, was General Manager of the Metal Manufacturing Company of the Philippines, Inc. engaged in the manufacture of steel office equipment; on 31 May, 1963, because his company was in need of raw materials to be imported from abroad, he applied for a letter of credit to import steel sheets from Mitsui Bussan Kaisha, Ltd. of Tokyo, Japan, the application being directed to the Continental Bank, herein complainant, Exhibit B and his application having been approved, the letter of credit was opened on 5 June, 1963 in the amount of \$18,300, Exhibit D; and the goods arrived sometime in July, 1963 according to accused himself, tsn. II:7; now from here on there is some debate on the evidence; according to Complainant Bank, there was permitted delivery of the steel sheets only upon execution of a trust receipt, Exhibit A; while according to the accused, the goods were delivered to him sometime before he executed that trust receipt in fact they had already been converted into steel office equipment by the time he signed said trust receipt, tsn. II:8 but there is no question - and this is not debated - that the bill of exchange issued for the purpose of collecting the unpaid account thereon having fallen due (see Exh. B) neither accused nor his company having made payment thereon notwithstanding demands, Exh. C and

C-1, dated 17 and 27 December, 1963, and the accounts having reached the sum in pesos of P46,818.68 after deducting his deposit valued at P28,736.47; that was the reason why upon complaint by Continental Bank, the Fiscal filed the information after preliminary investigation as has been said on 22 October, 1964." (Rollo [CA], pp. 103-104).

The first issue raised, which in effect combines the first three errors assigned, is whether petitioner Jose O. Sia, having only acted for and in behalf of the Metal Manufacturing Company of the Philippines (Metal Company, for short) as President thereof in dealing with the complainant, the Continental Bank, (Bank for short) he may be liable for the crime charged.

In discussing this question, petitioner proceeds, in the meantime, on the assumption that the acts imputed to him would constitute the crime of estafa, which he also disputes, but seeks to avoid liability on his theory that the Bank knew all along that petitioner was dealing with him only as an officer of the Metal Company which was the true and actual applicant for the letter of credit (Exhibit B) and which, accordingly, assumed sole obligation under the trust receipt (Exhibit A). In disputing the theory of petitioner, the Solicitor General relies on the general principle that when a corporation commits an act which would constitute a punishable offense under the law, it is the responsible officers thereof, acting for the corporation, who would be punished for the crime. The Court of Appeals has subscribed to this view when it quoted approvingly from the decision of the trial court the following:

"A corporation is an artificial person, an abstract being. If the defense theory is followed unscrupulously legions would form corporations to commit swindle right and left where nobody could be convicted, for it would be futile and ridiculous to convict an abstract being that can not be pinched and confined in jail like a natural, living person, hence the result of the defense theory would be hopeless chose in business and finance. It is completely untenable." (Rollo [CA], p. 108.)

The above-quoted observation of the trial court would seem to be merely restating a general principle that for crimes committed by a corporation, the responsible officers thereof would personally bear the criminal liability. (People vs. Tan Boon Kong, 54 Phil. 607. See also Tolentino, Commercial Laws of the Philippines, p. 625, citing cases.)

The case cited by the Court of Appeals in support of its stand—Tan Boon Kong case, *supra*—may however not be squarely applicable to the instant case in that the corporation was directly required by law to do an act in a given manner, and the same law makes the person who fails to perform the act in the prescribed manner expressly liable criminally. The performance of the act is an obligation directly imposed by the law on the corporation. Since it is a responsible officer or officers of the corporation who actually perform the act for the corporation, they must of necessity be the ones to assume the criminal liability; otherwise this liability as created by the law would be illusory, and the deterrent effect of the law, negated.

In the present case, a distinction is to be found with the Tan Boon Kong case in that the act alleged to be a crime is not in the performance of an act directly ordained by law to be performed by the corporation. The act is imposed by agreement of parties, as a practice observed in the usual pursuit of a business or a commercial transaction. The offense may arise, if at all, from the peculiar terms and condition agreed upon by the parties to the transaction, not by direct provision of the law. The intention of the parties, therefore, is a factor determinant of whether a crime was committed or whether a civil obligation alone was intended by the parties. With this explanation, the distinction adverted to between the Tan Boon Kong case and the case at bar should come out clear and meaningful. In the absence of an express provision of law making the petitioner liable for the criminal offense committed by the corporation of which he is a president as in fact there is no such provisions in the Revised Penal Code under which petitioner is being prosecuted, the existence of a criminal liability on his part may not be said to be beyond any doubt. In all criminal prosecutions, the existence of criminal liability for which

the accused is made answerable must be clear and certain. The maxim that all doubts must be resolved in favor of the accused is always of compelling force in the prosecution of offenses. This Court has thus far not ruled on the criminal liability of an officer of a corporation signing in behalf of said corporation a trust receipt of the same nature as that involved herein. In the case of *Samo vs. People*, L-17603-04, May 31, 1962, the accused was not clearly shown to be acting other than in his own behalf, not in behalf of a corporation.

The next question is whether the violation of a trust receipt constitutes estafa under Art. 315 (1-[2]) of the Revised Penal Code, as also raised by the petitioner. We now entertain grave doubts, in the light of the promulgation of P. D. 115 providing for the regulation of trust receipts transaction, which is a very comprehensive piece of legislation, and includes an express provision that if the violation or offense is committed by a corporation, partnership, association or other juridical entities the penalty provided for in this Decree shall be imposed upon the directors, officers, employees or other officials or persons therein responsible for the offense, without prejudice to civil liabilities arising from the criminal offense. The question that suggests itself is, therefore, whether the provisions of the Revised Penal Code, Article 315, par. 1(b) are not adequate to justify the punishment of the act made punishable by P.D. 115, that the necessity was felt for the promulgation of the decree. To answer this question, it is imperative to make an in-depth analysis of the conditions usually embodied in a trust receipt to test their legal sufficiency to constitute the basis for holding the violation of said conditions as estafa under Article 315 of the Revised Penal Code which P.D. 115 now seeks to punish expressly.

As executed, the trust receipt in question reads:

"I/WE HEREBY AGREE TO HOLD SAID GOODS IN TRUST FOR THE SAID BANK as its property with liberty to sell the same for its account but without authority to make any other disposition whatsoever of the said goods or any part thereof (or the proceeds thereof) either way of conditional sale, pledge or otherwise;

"In case of sale I/we further agree to hand the proceeds as soon as received to the BANK to apply against the relative acceptance (as described above) and for the payment of any other indebtedness of mine/ours to CONTINENTAL BANK." (Original Records, p. 108)

One view is to consider the transaction as merely that of a security of a loan, and that the trust element is but an inherent feature of the security aspect of the arrangement where the goods are placed in the possession of the "entrustee," to use the term used in P.D. 115, violation of the element of trust not being intended to be in the same concept as how it is understood in the criminal sense. The other view is that the bank as the owner and "entrustor" delivers the goods to the "entrustee," with the authority to sell the goods, but with the obligation to give the proceeds to the "entrustor" or return the goods themselves if not sold, a trust being thus created in the full sense as contemplated by Art. 315, par. 1(b).

We consider the view that the trust receipt arrangement gives rise only to civil liability as the more feasible, before the promulgation of P.D. 115. The transaction being contractual, the intent of the parties should govern. Since the trust receipt has, by its nature, to be executed upon the arrival of the goods imported, and acquires legal standing as such receipt only upon acceptance by the "entrustee," the trust receipt transaction itself, the antecedent acts consisting of the application of the L/C, the approval of the L/C and the making of the marginal deposit and the effective importation of the goods, all through the efforts of the importer who has to find his supplier, arrange for the payment and shipment of the imported goods—all these circumstances would negate any intent of subjecting the importer to criminal prosecution, which could possibly give rise to a case of imprisonment for non-payment of a debt. The parties, therefore, are deemed to have consciously entered into a purely commercial transaction that could give rise only to civil liability, never to subject the "entrustee" to criminal prosecution. Unlike, for instance, when several pieces of jewelry are received by a person from the owner for sale on commission, and the former misappropriates for his personal use and benefit, either the jewelries or the proceeds

of the sale, instead of returning them to the owner as is his obligation, the bank is not in the same concept as the jewelry owner with full power of disposition of the goods, which the bank does not have, for the bank has previously extended a loan which the L/C represents to the importer, and by that loan, the importer should be the real owner of the goods. If under the trust receipt, the bank is made to appear as the owner, it was but an artificial expedient, more of a legal fiction than fact, for if it were really so, it could dispose of the goods in any manner it wants, which it cannot do, just to give consistency with the purpose of the trust receipt of giving a stronger security for the loan obtained by the importer. To consider the bank as the true owner from the inception of the transaction would be to disregard the loan feature thereof, a feature totally absent in the case of the transaction between the jewel-owner and his agent.

Consequently, if only from the fact that the trust receipt transaction is susceptible to two reasonable interpretation, one as giving rise only to civil liability for the violation of the condition thereof, and the other, as generating also criminal liability, the former should be adopted as more favorable to the supposed offender. (Duran vs. CA, L-39758, May 7, 1976, 71 SCRA 68; People vs. Parayno, L-24804, July 5, 1968, 24 SCRA 3; People vs. Abendan, L-1481, January 28, 1949, 82 Phil. 711; People vs. Bautista, L-1502, May 24, 1948, 81 Phil. 78; People vs. Abana, L-39, February 1, 1946, 76 Phil. 1.)

There is, moreover, one circumstance appearing on record, the significance of which should be properly evaluated. As stated in petitioner's brief (page 2), not denied by the People, "before the Continental Bank approved the application for a letter of credit (Exhibit 'D'), subsequently covered by the trust receipt, the Continental Bank examined the financial capabilities of the applicant, Metal Manufacturing Company of the Philippines because that was the bank's standard procedure (Testimony of Mr. Ernesto Garlit, Asst. Manager of the Foreign Department, Continental Bank, t.s.n., August 30, 1965). The Continental Bank did not examine the financial capabilities of herein petitioner, Jose O. Sia, in connection with the same letter of credit. (Ibid)." From this fact, it would appear as positively established that the intention of the parties in entering into the "trust receipt" agreement is merely to afford a stronger security for the loan evidenced by the letter of credit, may be not as an ordinary pledge as observed in *P.N.B. vs. Viuda e Hijos de Angel Jose, et al.*, 63 Phil. 814, citing *In re Dunlap C* (206 Fed. 726) but neither as a transaction falling under Article 315-1(b) of the Revised Penal Code giving rise to criminal liability, as previously explained and demonstrated.

It is worthy of note that the civil liability imposed by the trust receipt is exclusively on the Metal Company. Speaking of such liability alone, as one arising from the contract, as distinguished from the civil liability arising out of a crime, the petitioner was never intended to be equally liable as the corporation. Without being made so liable personally as the corporation is, there would then be no basis for holding him criminally liable, for any violation of the trust receipt. This is made clearly so upon consideration of the fact that in the violation of the trust agreement and in the absence of positive evidence to the contrary, only the corporation benefited, not the petitioner personally, yet, the allegation of the information is to the effect that the misappropriation or conversion was for the personal use and benefit of the petitioner, with respect to which there is variance between the allegation and the evidence.

It is also worthy of note that while the trust receipt speaks of authority to sell, the fact is undisputed that the imported goods were to be manufactured into finished products first before they could be sold, as the Bank had full knowledge of. This fact is, however, not embodied in the trust agreement, thus impressing on the trust receipt vagueness and ambiguity which should not be the basis for criminal prosecution, in the event of a violation of the terms of the trust receipt. Again, P. D. 115 has express provision relative to the "manufacture or process of the good with the purpose of ultimate sale," as a distinct condition from that of "to sell the goods or procure their sale" (Section 4, (1). Note that what is embodied in the receipt in question is the sale of imported goods, the

manufacture thereof not having been mentioned. The requirement in criminal prosecution, that there must be strict harmony, not variance, between the allegation and the evidence, may therefore, not be said to have been satisfied in the instant case.

FOR ALL THE FOREGOING, We reverse the decision of the Court of Appeals and hereby acquit the petitioner, with costs de oficio.

SO ORDERED.

Concepcion Jr., Guerrero, Vasquez, Relova and Gutierrez, Jr., JJ., concur.

Fernando, Abad Santos, Plana and Escolin, JJ., in the result.

Teehankee, J., see concurring opinion.

Makasiar, J., I dissent. The C.A. decision should be affirmed.

Aquino, J., I dissent. I vote for the affirmance of the judgment of the CA.

Melencio-Herrera, J., see partial dissent.

CONCURRING OPINION

TEEHANKEE, J.:

I concur. Petitioner personally cannot be charged and convicted for the crime of estafa for failure of the corporation (MEMAP) represented by him as president and general manager to pay "the balance of P46,818.68 . . . including the interest after deducting the sum of P28,736.47" which sum, according to the very information, was "deposited by the said accused with the [Continental] bank as marginal deposit and forfeited by the said bank from the value of said goods, in the said sum of P71,023.60" representing the value of the cold rolled steel sheets imported by the corporation with the bank's financing under its letter of credit and released to the importer corporation under trust receipt in favor of the bank.

All these acts were corporate acts with the accused duly representing the corporation as its president and general manager: the application for bank financing, the deposit (which was from corporate funds, and not a deposit made by the petitioner, as wrongly alleged in the information), the receipt of the steel sheets, then manufactured into finished products (which could not technically be done under the terms of the trust receipt required by the bank, under which the very sheets were supposed to be sold by the corporation) and the non-payment of the credit extended by the bank. There is not the slightest evidence nor intimation that these corporate acts were unauthorized or that petitioner personally had committed any fraud or deceit in connection therewith or that he had personally been responsible for or benefited from the corporation's failure to pay the bank the balance due under the trust receipt.

In the recent case of *People vs. Cuevo*, G.R. No. L-27607, decided by the Court on May 7, 1981, the Court, for lack of necessary votes, affirmed the dismissal of the same charge of estafa, for non-payment of the debt evidenced by the trust receipt, by the trial court presided by Judge Ruperto Kapunan, Jr. who ruled that "the holder of a trust receipt who disposed of the goods covered thereby and in violation of its terms, failed to deliver to the bank the proceeds of the sale as payment of the debt secured by the trust receipt" incurs only civil, and not criminal, liability for non-payment of the debt thus incurred. I reiterate my separate opinion therein supporting the more liberal interpretation that the trust receipt transaction "gives rise only to civil liability on the part of the offender" and holding that the very definition of a trust receipt, to wit, "(A) trust receipt is considered as a security transaction intended to aid in financing importers and retail dealers who do not have sufficient funds or

resources to finance the importation or purchase of merchandise, and who may not be able to acquire credit except through utilization, as collateral, of the merchandise imported or purchased' (53 Am. Jr. 961, cited in *Samo vs. People*, 115 Phil. 346, 349), sustains the lower court's rationale in dismissing the information that the contract covered by a trust receipt is merely a secured loan. The goods imported by the small importer and retail dealer through the bank's financing remain of their own property and risk and the old capitalist orientation of putting them in jail for estafa for non-payment of the secured loan (granted after they had been fully investigated by the bank as good credit risks) through the fiction of the trust receipt device should no longer be permitted in this day and age."[*]

The charge in the case at bar against petitioner-accused must accordingly be dismissed.

[*] Italics supplied.

CONCURRING AND DISSENTING OPINION IN PART

MELENCIO-HERRERA, J.:

I dissent in so far as the Decision states that violation of the terms of a trust receipt does not constitute Estafa under Art. 315, par. 1(b) of the Revised Penal Code, for being contrary to the rulings in *People vs. Yu Chai Ho*, 53 Phil. 874 (1928); *PNB vs. Arrozal*, 103 Phil. 213 (1958), and *Samo vs. People*, 5 SCRA 355 (1962).

I concur in so far as the Decision holds that petitioner should not be held liable for the crime of Estafa considering that in the cases above enumerated, the persons who executed the trust receipts acted in their own individual capacities unlike in this case where petitioner acted for and on behalf of the Metal Manufacturing Company, as its General Manager, and was presumably authorized to do so. This Court has not as yet laid down a ruling on the criminal liability of a corporation officer signing a trust receipt on behalf of the corporation, a trust receipt being essentially a financing transaction. It was only upon the promulgation of PD 115 on January 29, 1973 that responsible directors, officers, employees or other officials of a corporation, partnership, association, or other juridical entities are made expressly responsible for violation of the terms of a trust receipt agreement committed by said corporation, partnership, association or other juridical entities.

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