

TERESA AJUSAN AND NIER TRINIDAD, PETITIONERS, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 108252. March 18, 1994

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

This is an appeal by way of a petition for review to set aside and reverse the decision dated October 27, 1992 of the 15th Division of the Court of Appeals[1] in CA-G.R. No. 08608 affirming with modification the decision dated December 22, 1989 of the Regional Trial Court of Mambusao, Capiz, Branch 20[2] in Criminal Case No. 1167.

On June 15, 1982, an Information charging herein defendants with the crime of estafa through false pretenses was filed before the Regional Trial Court of Mambusao, Capiz, Branch 20. The indictment reads:

"The undersigned Assistant Provincial Fiscal accuses TERESITA AJUSAN, and NIER TRINIDAD of the crime of ESTAFA through false pretenses committed as follows:

'That on or about the periods of 20 January 1982 and 5 February 1982 at Brgy. Burias, Mambusao, Capiz, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously defraud one VIRGINIA BAUTISTA through false pretenses, to wit:

'That on January 1982 accused TERESITA AJUSAN and NIER TRINIDAD called on Virginia Bautista at her residence in Brgy. Burias, Mambusao, Capiz, Philippines, under the pretext that they could ward off the evil spirit causing bodily ill to her son and guarding the gold bars buried under her house by posting to them P15,000.00 cash as bond, which she did on 5 February 1982, to guarantee clean bill of health to the members of the family and an assurance to retrieve the buried treasures of gold bars; but such supernatural and mystic powers they claim to have duping the innocent and poor VIRGINIA BAUTISTA, they never had; they never accomplished, thus causing damage to her to the sum of P15,000.00.'

"CONTRARY TO Article 315, No. 2, (a), Revised Penal Code."[3]

On arraignment, the defendants pleaded "not guilty" to the charge.

Thereafter, trial on the merits ensued. On December 22, 1989, the trial court rendered judgment, the decretal portion of which reads:

"WHEREFORE, in the light of the above foregoing and finding the guilt of the accused beyond reasonable doubt, this Court imposes upon the accused, Teresita Ajusan and Nier Trinidad an INDETERMINATE SENTENCE OF SIX (6) YEARS OF PRISION CORRECCIONAL IN THE MAXIMUM PERIOD AS MINIMUM to EIGHT (8) YEARS OF PRISION MAYOR MINIMUM AS ITS MAXIMUM and to pay the offended party, Virginia Bautista the amount of P15,000.00 as actual and compensatory damages plus 12% interest from February 5, 1982 until the amount is fully paid and the litigation expenses of P5,000.00 and to

pay the cost of this suit, without subsidiary imprisonment in case of insolvency.

"SO ORDERED."[4]

On appeal to the Court of Appeals, the above-quoted judgment was affirmed but modified with respect to the penalty imposed. Consequently, defendants were each sentenced to an indeterminate penalty of six (6) months and one (1) day as minimum to six (6) years, eight (8) months and twenty (20) days as maximum, there being neither mitigating nor aggravating circumstances attending the commission of the crime.

Aggrieved by the ruling, defendants interposed the present petition and assigned the following grounds for review, to wit:

"A. RESPONDENT COURT OF APPEALS ERRED IN NOT DECLARING THAT THE PROCEEDINGS WHICH LED TO THE CONVICTION OF THE PETITIONERS BY THE LOWER COURT WAS IN VIOLATION OF THE CONSTITUTIONAL RIGHTS OF THE PETITIONERS TO DUE PROCESS, AND FOR A FAIR, AND IMPARTIAL TRIAL;

"B. RESPONDENT COURT OF APPEALS ERRED IN UPHOLDING THE DECISION OF THE LOWER COURT NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO ESTABLISH THE GUILT OF THE PETITIONERS BEYOND REASONABLE DOUBT."[5]

The relevant antecedents, as correctly narrated in the decision of the Court of Appeals, are as follows:

"The prosecution's evidence tend to establish that sometime in January, 1982, while private complainant Virginia Bautista was at the Roxas Memorial General Hospital at Roxas City attending to her sick son Mamerto, she was approached by a certain woman named Caning who, in the ensuing conversation, induced Virginia to see a quack doctor who could allegedly cure Virginia's son and husband Jaime Bautista who was then likewise sick and confined at the Mambusao District Hospital. Thereafter, Caning accompanied Virginia to the house of appellant Teresita Ajusan at Punta Tabuc, Roxas City. Thereat, Virginia was introduced to Teresita and appellant Nier Trinidad. After being invited inside the house, Caning told Teresita the purpose of their visit. Teresita then went to an adjoining room and looked at her crystal ball after which she told Virginia that her husband and son have only three (3) days to live. Emotionally depressed, Virginia wanted to leave but was prevailed upon to stay a little longer because, according to Teresita, a spirit called 'Auntie Nene' will arrive to help them. Afterwards, Teresita put up curtains in the room and went behind the curtains where she could not be seen. Moments later, Nier informed Virginia that 'Auntie Nene' has arrived and that they have to go near Teresita. Thus, Virginia sat near the curtains covering Teresita, with Nier and Caning at Virginia's left and right sides, respectively. Suddenly, a high-pitched voice emanated from behind the curtains asking for grace money in the amount of P67.50. The voice also asked Virginia to pay for three (3) pieces of diamond worth P6,000.00 each to be embedded in the body of Virginia's husband and son in order to cure them. Virginia told Nier that she could not raise P18,000.00, hence the amount was reduced to P15,000.00. In addition, the voice told Virginia that the P15,000.00 will serve as bond for the excavation of sixteen (16) gold bars buried under their old house at Barangay Burias, Mambusao, Capiz.

"On January 20, 1982, Virginia's son was released from the Roxas Memorial General Hospital and was brought by Virginia to their house at Barangay Burias. At around 11:30 o'clock in the morning of the same day, Virginia accompanied Teresita and Nier to the house of Virginia's daughter Rosela Olmo at Agsilab, Sapián, Capiz. Thereat, Teresita asked for a room whereat she placed a mat curtain by nailing mats together in such a way that she could not be seen while behind it. Later in the evening, Virginia was awakened by Nier who told her that 'Auntie Nene' has arrived. Immediately thereafter, Virginia heard a high-pitched voice telling her to hurry in securing the aforementioned P15,000.00 even if she has to mortgage her land, carabao and other properties because the health of her family would be endangered if the 16 gold bars under Virginia's house in a Barangay Burias are not recovered. Afraid of what might happen should she fail to raise the

P15,000.00 demanded by the spirit, Virginia gave P7,000.00 of her own savings to appellants and persuaded her daughter Rosela to come up with P18,000.00 balance.

"On February 5, 1982, Rosela, in her house, gave to her mother Virginia the said P8,000.00 which they counted in the presence of Nier and a certain Libertad Bautista while Teresita was behind the mat curtain. After the money was counted, Teresita asked that the same be handed to her on the pretext that 'Auntie Nene' wanted to check the serial numbers. Hence, the money which was contained in an envelope was handed by Virginia to Teresita who was still behind the mat curtain. Then, Virginia heard the sound of something being stapled. Afterwards, Teresita went outside of the mat curtain carrying a stapled envelope, which, according to her, contained the money. She placed the envelope inside a black cloth belt and tied it around Virginia's waist, warning the latter not to open the belt otherwise a fire-blowing snake will come out of the same and kill them. After a while, Teresita asked Virginia and Rosela to put up another P8,000.00 allegedly because the spirits under the house where the gold bars were buried were complaining that the amount already given was inadequate. In addition, Teresita told Virginia and Rosela that she needed a black pig worth P500.00 and a black cloth which will both be used for the ceremonial offering to the spirits. Apprehensively, Rosela raised an additional P8,000.00 which she subsequently showed to appellants. However, instead of handing the money to appellants, Rosela personally placed the money, then contained in an envelope, in a black cloth belt and tied it around her waist.

"On February 12, 1982, while appellants were still at Rosela's house, a black pig was slaughtered for the purpose of getting its blood which appellants said must be brought and sprinkled on Virginia's old house in Barangay Burias. At that time, Teresita wanted to see Rosela because, according to Teresita, the spirit 'Auntie Nene' also wanted to check the serial numbers of the money contained in the belt tied around the waist of Rosela. It so happened, however, that Rosela was not around. Thus, Teresita proceeded to the national road allegedly on her way to the house of Virginia. Upon seeing that appellants were also carrying their traveling bags containing their personal belongings, Virginia requested them to leave their luggage behind and come back later after the ceremonial offering. Appellants refused.

"Alarmed by such refusal, Virginia told Rosela's husband to go to Sapián, Capiz to get policemen. Then, arming herself with a bolo just in case a fire-breathing snake might really come out of the black belt earlier tied around her waist, Virginia cautiously opened the belt. To her surprise, the envelope inside contained nothing but newspapers cut in the size of money bills. Without losing any time, Virginia summoned her relatives within the vicinity and pursued the appellants whom they brought to the Mambusao Police Station whereat the incident was entered in the police blotter (Exh. 'A', Records, p. 292). Two days later or on February 14, 1982, Virginia and Rosela executed their respective sworn statements relative to what had happened. The next day, a criminal complaint for estafa was filed against appellants.

"Appellants have their own version of the incident. Denying that they swindled Virginia Bautista of the amount of P15,000.00, appellants sought to establish that sometime in January, 1982, Teresita Ajusan met Virginia at the public market of Roxas City. At that time, Teresita was buying orchids while Virginia was buying medicines for her son who was confined in the hospital. Noticing that Teresita was interested in orchids, Virginia approached Teresita and told the latter that she knows a place in Barangay Burias, Mambusao, Capiz where there are plenty of orchids, adding that in the said place, there are also shiny stones which might be of value. Teresita replied that she was only interested in orchids but added that she has a relative by the name of Nier Trinidad who has some experience in mining and might be able to give opinion regarding the shiny stones. Interested to meet Nier, Virginia took down the address of Teresita.

"Several days later, Virginia went to Teresita's residence at Punta Tabuc, Roxas City where she met Nier. That very day, Virginia invited appellants to visit her place at Barangay Burias. At about past 2:00 o'clock in the afternoon of February 12, 1982, both appellants arrived at the house of Virginia in Barangay Burias. Early the following morning, appellants together with Virginia proceeded to the mountains area of the said barangay. Along the way, they passed the house of Virginia's relative where a celebration was apparently going on as the

place was filled with people and a pig slaughtered for the occasion. After walking a short distance therefrom, appellants and Virginia reached an area in the mountain where the latter showed to appellants the orchids and shiny stones. Teresita took a few samples of the orchids while Nier reserved giving his opinion regarding the value of the shiny stones, albeit he then thought that the stones may be a variety of black gold. Thereafter, the trio proceeded back to the house of Virginia, where, to appellants' surprise, they saw several persons armed with pointed bamboo poles who, for unexplained reasons, prevented appellants from leaving Virginia's house. A short while later, Virginia's daughter Rosela Olmo arrived and demanded appellants to sign a blank sheet of yellow paper. At first, appellants refused but after being threatened with decapitation, the two placed their respective signatures on the piece of paper, after which they asked for the barangay captain who, upon arriving, tried to pacify the crowd by explaining that the appellants were not bad persons. Shortly thereafter, five policemen from Sapián, Capiz arrived and were subsequently joined by several other police officers from Mambusao, Capiz. Afterwards, the Mambusao policemen brought appellants to the Mambusao police headquarters whereat they were detained for two (2) days. When released, they were not apprised of the case against them but were merely told to answer the same in court."^[6]

Petitioners contend that the actuations of the trial judge during the trial of the instant case showed his apparent bias in favor of the prosecution and prejudice against them. Petitioners claim that the judge "practically took the cudgels for the prosecution" and "actively asked questions during the direct examination and cross-examination" of prosecution witnesses Rosela Olmo and Virginia Bautista, thereby strengthening the case of the prosecution. They further contend that the actuations of the judge "rendered inutile the rights of the petitioners for cross-examination." Thus, it is claimed, that by arrogating unto himself the role of the prosecutor, the trial judge who established the case for the prosecution violated petitioners' constitutional right to a fair and impartial trial.

These arguments deserve scant consideration.

Records bear out that the trial judge did not commit the improprieties alleged by petitioners. There is nothing on record to indicate that the judge attempted to help the prosecution. The questions propounded by the judge, though numerous they may be, did not intend to prejudice petitioners' substantial rights nor did they amount to an interference for or in behalf of the private respondents. The questions, reproduced in petitioners' brief, were intended to elicit relevant facts relating to the motive of complainant in giving money to petitioners, as well as to test the credibility of complainant and her witnesses. The questions were never intended to build up the case for the prosecution, as petitioners speciously assert. We reiterate the dictum that the trial judge should be accorded reasonable leeway in putting questions to witnesses as may be essential to elicit relevant facts and to make the record speak the truth. In such effort, the judge may examine and cross-examine a witness to draw out relevant and material testimony though that testimony may tend to support or rebut the position taken by one or the other party.^[7] In the recent case of *People vs. Hattan*,^[8] this Court citing *People vs. Ibasan, Sr.*,^[9] and *Ventura vs. Yatco*,^[10] had the occasion to state:

"x x x. It is not denied that the court had at certain points conducted its own questioning during the proceedings. The records, however, show that the court's questions did not amount to interference as to make the case for the prosecution and deprive the accused of their defense. The questions of the judge addressed to the witnesses and the accused were merely to clarify certain points and confirm certain statements. The number of times that a judge intervenes is not necessarily an indication of bias. It cannot be taken against a judge if the clarificatory questions he propounds happen to reveal certain truths which tend to destroy the theory of one party.

"As held in the case of *Ventura v. Yatco* (105 Phil. 287) 'Judges are not mere referees like those of a boxing bout, only to watch and decide the results of a game; they should have as much interest as counsel in the orderly and expeditious presentation of evidence, calling attention of counsel to points at issue that are overlooked, directing them to ask questions that would elicit the facts on the issues involved, clarifying

ambiguous remarks by witnesses, etc.'

"A judge may properly intervene in the trial of a case to promote expedition and avoid unnecessary waste of time or to clear up some obscurity (People v. Catindihan, 97 SCRA 196; Par. 14 Canons of Judicial Ethics; Administrative Order No. 162 dated August 1, 1946, 42 O.G. 1803). In this respect, the record shows no irregularity in the conduct of the trial judge." [11]

The version of petitioners, on the other hand, strains human credulity. If we are to believe petitioners, Virginia approached Teresita Ajusan offering to sell orchids and shiny stones. Sometime later, Virginia allegedly went to Teresita's house where she met Nier Trinidad. Upon the invitation of Virginia, petitioners supposedly went to the residence of Virginia in Barangay Burias from where they all proceeded to the mountains to see the orchids and shiny stones. However, according to petitioners, they were prevented from leaving the place by a crowd armed with bamboo sticks and who threatened to cut off their heads. Soon after, Rosela Olmo allegedly arrived and demanded that petitioners sign a blank sheet of paper. Next to arrive at the scene were the Barangay Captain, some Barangay Councilmen and several policemen. It was at this juncture that, as petitioners relate, they were forced by Rosela and policemen to sign the paper. It was after they were brought to the municipal hall when, according to petitioners, they were informed that the paper they signed was an acknowledgment that they owed Virginia the sum of P150,000.00. [12]

Perusing petitioners' story, we find it exceedingly strange why the barangay and police authorities and armed local people would suddenly gather at Virginia's place when their presence was not called for as nothing untoward had taken place there.

Moreover, if it is true, as petitioners claim, that they escaped injury from the angry crowd because the local Barangay Captain was sympathetic to them and even pleaded with the unruly crowd to let petitioners go because they are not bad characters, why would petitioners sign under duress the piece of paper acknowledging their indebtedness to Virginia, when they could have complained to the barangay officials and asked for their protection? At the very least, petitioners should have placed on the witness stand to testify in their behalf the local barangay captain, who was their relative and who was supposedly present at Virginia's house when they were allegedly discussing the orchids and shiny stones. [13]

Again, if petitioners were made to sign against their will the paper acknowledging their debt, why did they not complain about this after they were brought to the police station?

Going carefully over the established facts, we cannot give credence to petitioners' stance that it was Virginia and her daughter Rosela who tried to swindle them by forcing them to affix their signatures on the piece of paper; more so when we come to consider that, as brought out during the trial, petitioner Teresita Ajusan had a previous record of conviction for estafa. [14]

Lastly, as correctly pointed out by the Court of Appeals, the main issue raised by petitioners centers on the credibility of the prosecution witnesses. Well-entrenched is the rule that the findings of trial courts on the issue of credibility of witnesses and appreciation of their testimonies are entitled to great weight and respect and are accorded the highest consideration by appellate courts, [15] and should not be disturbed except for strong and cogent reasons because the trial court is in a better position to examine real evidence, as well as observe the demeanor of witnesses while testifying. [16] In the case at bar, we find no reason to depart from the said rule.

WHEREFORE, premises considered, the judgment appealed from is hereby **AFFIRMED** and the instant petition **DISMISSED**. Costs against the petitioner.

SO ORDERED.

Cruz, (Chairman), Davide, Jr., Bellosillo, and Quiason, JJ., concur.

[1] Per Associate Justice Cancio C. Garcia, concurred in by Associate Justices Serafin E. Camilon and Jorge S. Imperial.

[2] Penned by Judge Ramon B. Berjamin.

[3] Original Records, p. 37; Rollo, p. 63.

[4] Ibid., p. 457; Rollo, p. 70.

[5] Petition for Review, p. 9, Rollo, p. 17.

[6] Decision of the Court of Appeals, pp. 1-5; Rollo, pp. 53-57.

[7] People vs. Manalo, 148 SCRA 98.

[8] 210 SCRA 7.

[9] 129 SCRA 695.

[10] 105 Phil. 287.

[11] Ibid., pp. 7-8.

[12] TSN, August 25, 1989, pp. 6-14.

[13] Ibid., p. 9.

[14] Ibid., p. 18.

[15] Gelos vs. Court of Appeals, 208 SCRA 608; People vs. Honrada, 304 SCRA 858.

[16] People vs. Sarino, G.R. Nos. 94992, April 7, 1993.

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