MILA G. PANGILINAN, PETITIONER, VS. HON. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 117363. December 17, 1999

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

Is the conviction of the accused-appellant by the Regional Trial Court under an information falling with the jurisdiction of the Municipal Trial court valid?

On 20 September 1990, appellant Mila G. Pangilinan was charged with the crime of Estafa in an information[1] which reads:

> The undersigned Asst. Prov'l. Prosecutor accuses Mrs. Mila Pangilinan of the Crime of Estafa, committed as follows:
>
> That on or about the 15th day of June, 1984 in the municipality of Tanay, Rizal Philippines and within the jurisdiction of this Honorable Court the above-named accused, by means of false pretenses and misrepresentations introduced and misrepresented herself that she was instructed by Mr. Rodolfo Elnar, father of Miss Luzviminda SJ Elnar, a girl 15 years of age, to get one (1) stereo component, marked Fisher PH 430K valued at more or less P17,000.000, one (1) headphone, one (1) electrical jack and two (2) record tapes worth P450.00, or with total amount of P17, 450.00 form their house and falsely alleging that said father of the minor further instructed her that the stereo component be tested in a turntable somewhere in EDSA, Mandaluyong, Metro Manila did then and there willfully, unlawfully and feloniously and taking advantage of the inexperience and feelings of the said minor, induce the said minor Luzviminda SJ Elnar to give her said stereo component and electrical parts belonging to spouses Rolando Elnar and Soledad SJ Elnar when in truth and in fact said accused was not authorized by Mr. Rolando Elnar to have said stereo components be tested and once said accused had in her possession the said articles, she took them away to the damage and prejudice of such Mr. and Mrs. Rolando Elnar in the aforesaid amount of P17,450.00.
>
> CONTRARY TO LAW.

On 12 March 1991, appellant was arraigned before the Regional Trial Court of Morong, Rizal, where she entered a plea of "not guilty". After due trial, said court in a Decision dated 7 October 1992[2] convicted the appellant of the crime of ESTAFA under Article 315 of the Revised Penal Code.

This unfavorable verdict was appealed to the Court of Appeals which on 13 August 1993, affirmed the conviction but modified the sentence, to wit:

> xxx and that there being no proof of mitigating and or aggravating circumstances which attended the commission of the offense, the appellant should suffer the penalty of four (4) months of arresto mayor and a fine of P17,450.00 with subsidiary imprisonment in case of insolvency.[3]

A Motion for Reconsideration was denied by the respondent court on 11 November 1993.[4] On 3 December 1993, appellant filed a petition for New Trial in the Court of Appeals[5] which was denied by said Court on 10

January 1994.[6] Hence, the present petition for review on certiorari under Rule 45 of the Rules of Court premised on the following grounds:

> I
> THAT THE DECISION OF THE TRIAL COURT CONVICTING HEREIN ACCUSED IS NULL AND VOID FOR LACK OF JURISDICTION OVER THE CRIME CHARGED. BEING NULL AND VOID, THE DECISION OF THE COURT OF APPEALS ON APPEAL HEREIN CANNOT VALIDATE IT;
>
> II
> IN THE ALTERNATIVE, ASSUMING WITHOUT ADMITTING THAT THE TRIAL COURT HAD JURISDICTION OVER THE CASE, THE GUILT OF THE PETITIONER HAS NOT BEEN PROVEN BEYOND REASONABLE DOUBT.[7]

The Court has carefully reviewed the records of this case and finds the appeal to be impressed with merit.

The information uses the generic term Estafa as the classification of the crime appellant is charged with without citing the specific article of the Revised Penal Code violated.

The trial court, however, presumed that the petitioner was charged with the crime of estafa falling under Article 315 of the RPC. This is evidenced by the trial court's assumption of jurisdiction over the case and its subsequent conviction of the appellant for this form of estafa,[8] to wit:

> WHEREFORE, the court finds the accused MILA PANGILINAN, GUILTY of the Crime of Estafa, in violation of Article 315 of the Revised Penal Code, as amended and hereby sentences her to suffer imprisonment of One (1) year, Eight (8) months and Twenty (20) days of Prision Correccional, as minimum to Five (5) years, Five (5) months and Eleven (11) days of Prision Correccional as maximum, plus costs.
>
> Further to pay the complainant Soledad Elnar the amount of P17,000.00 the value of the unrecovered one stereo component.
>
> SO ORDERED.

In order to find estafa with abuse of confidence under subdivision No. 1, par. (b) of Art. 315, the following elements must be present:

> - That money, goods, or other personal property be received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same;
>
> - That there be misrepresentation or conversion of such money or property by the offender, or denial on his part of such receipt;
>
> - That such misappropriation or conversion or denial is to the prejudice of another; and
>
> - That there is a demand made by the offended party to the offender.[9]

A circumspect examination of the allegations in the information will disclose that the information under which the appellant is charged with does not contain all the elements of estafa falling under Article 315 (b). There was a failure to allege that demand was made upon the appellant by the offended party.

Thus, as correctly observed by the Court of Appeals in the questioned decision, to which the Solicitor General agrees, appellant was charged under an information alleging an offense falling under the blanket provision of paragraph 1(a) of Article 318 of the Revised Penal Code, which treat "other Deceits."[10]

As prescribed by law, a violation of Article 318 of the Revised Penal Code is punishable by imprisonment for a period ranging from one (1) month and one (1) day to six (6) months. At the time of the filing of the information

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in this case, the law in force was Batas Pambansa Blg. 129. Under the express provision of Section 32 of B.P. 129, the offense of which the petitioner was charged with falls within the exclusive original jurisdiction of the Municipal Trial Court:

> Section 32. Jurisdiction of Metropolitan Trial courts, Municipal Trial Courts and Municipal Circuit Trial Courts in criminal cases.
>
> xxx
> (2) Exclusive original jurisdiction over all offenses punishable with imprisonment of not exceeding four years and two months, or a fine of not more than four thousand pesos, or both such fine and imprisonment regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value, or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence they shall have exclusive jurisdiction where the imposable fine does not exceed twenty thousand pesos.

Settled is the rule that it is the averments in the information which characterize the crime to be prosecuted and the court before which it must be tried.[11] Without a doubt, it was the Municipal Trial Court who had jurisdiction over the case and not the Regional Trial Court.

However, the Office of the Solicitor General contends that the appellant is barred from raising the issue of jurisdiction, estoppel having already set in.

This contention is without merit. In our legal system, the question of jurisdiction may be raised at any stage of the proceedings. The Office of the Solicitor General relies on this Court's ruling in the landmark case of Tijam vs. Sibanghanoy[12] where the Court stated that:

> It has been held that a party cannot invoke the jurisdiction of a court to secure affirmative relief against his opponent and, after obtaining or failing to obtain such relief, repudiate or question that same jurisdiction. In this case just cited, by way of explaining the rule, it was further said that the question whether the court had jurisdiction either of the subject-matter of the action or of the parties was not important in such cases because the party is barred from such conduct not because the judgment or order of the court is valid and conclusive as an adjudication, but for the reason that such a practice can not be tolerated - obviously for reasons of public policy.

The Office of the Solicitor General's reliance on the said ruling is misplaced. The doctrine laid down in the Tijam case is an exception to and not the general rule. Estoppel attached to the party assailing the jurisdiction of the court as it was the same party who sought recourse in the said forum. In the case at bar, appellant cannot in anyway be said to have invoked the jurisdiction of the trial court.

Thus, we apply the general rule that jurisdiction is vested by law and cannot be conferred or waived by the parties. Even on appeal and even if the reviewing parties did not raise the issue of jurisdiction, the reviewing court is not precluded from ruling that the lower court had no jurisdiction over the case:

> The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court had jurisdiction or not. If it had nor jurisdiction, but the case was tried and decided upon the theory it had jurisdiction, the parties are not barred, on appeal, from assailing such jurisdiction, for the same "must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel."[13]

Estoppel in questioning the jurisdiction of the court is only brought to bear when not to do so will subvert the ends of justice. Jurisdiction of courts is the blueprint of our judicial system without which the road to justice would be a confusing maze. Whenever the question of jurisdiction is put to front, courts should not lightly brush aside errors in jurisdiction especially when it is the liberty of an individual which is at stake:

> "Where life or liberty is affected by its proceedings, the court must keep strictly within the limits of the law authorizing it to take jurisdiction and to try the case and to render judgment. It cannot pass beyond those limits in any essential requirement in either stage of these proceedings; and its authority in those particulars is not be enlarged by any mere inferences from the law or doubtful construction of its terms. There has been a great deal said and written, in may cases with embarrassing looseness of expression, as to the jurisdiction of the courts in criminal cases. From a somewhat extended examination of the authorities we will venture to state some rule applicable to all of them, by which the jurisdiction as to any particular judgment of the courts in such cases may be determined. It is plain that such court has jurisdiction to render a particular judgment only when the offense charged is within the class of offenses placed by the law under its jurisdiction; and when in taking custody of the accused, and its modes of procedure to the determination of the question of his guilt or innocence, and in rendering judgment, the court keeps within the limitations prescribed by the law, customary or statutory. When the court goes out of these limitations its action, to the extent of such excess, is void."[14]

The Office of the Solicitor General makes a final attempt to bolster its position by citing Section 4, Rule 120 of the Rules of Court which provides:

> Sec. 4. Judgment in case of variance between allegation and proof. When there is a variance between the offense charged in complaint or information, and that proved or established by the evidence, and the offense as charge is included in or necessarily includes the offense proved, the accused shall be convicted or of the offense charge included in that which is proved.

According to the OSG, since the offense proved (Article 318 of the Revised Penal Code) is necessarily included in the offense charged, then the decision of the respondent court modifying the court of origin's judgment is perfectly valid and the petitioner's claim that the trial court had no jurisdiction must necessarily fail.[15]

This argument is specious. Aforementioned section applies exclusively to cases where the offenses as charged is included in or necessarily the offense proved. It presupposes that the court rendering judgment has jurisdiction over the case based on the allegations in the information. However, in the case at bar, from the onset of the criminal proceedings, the lower court had no jurisdiction to hear and decide the case.

Having arrived at the conclusion that the Regional Trial Court did not have jurisdiction to try the case against the appellant, it is no longer necessary to consider the other issues raised as the decision of the Regional Trial Court is null and void.

WHEREFORE, the instant petition is GRANTED. The challenged decision of respondent Court of Appeals in CA-GR CR No. 12320 is set aside as the Regional Trial Court, whose decision was affirmed therein, had no jurisdiction over the Criminal Case No. 0867-M.

SO ORDERED.

Davide, Jr., C.J., Chairman, Puno, Pardo, and Santiago, JJ., concur.

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[1] Rollo, p. 67.

[2] Records, p. 24.

[3] Rollo, p. 87.

[4] Id., at 124.

[5] Id., at 126.

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[6] Id., at 134.

[7] Id., at 25.

[8] Id., at 67.

[9] Reyes, Revised Penal Code, Book II, 1993.

[10] Rollo, pp. 86; 173-174.

[11] People v. Polo, 169 SCRA 471 (1989).

[12] 23 SCRA 29 (1968).

[13] People vs. Casiano, 111 Phil. 73 (1961), citing 5 CJS, 861-863.

[14] People v. Pegarum, 58 Phil. 715 (1933).

[15] Rollo, p. 234.

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