REBECCA ALA-MARTIN, PETITIONER, VS. HON. JUSTO M. SULTAN, IN HIS CAPACITY AS PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 98, QUEZON CITY; MARILINE D. ALA, SPOUSES MANUEL...

G.R. No. 117512. October 02, 2001

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/g-r-no-117512/

SANDOVAL-GUTIERREZ, J.:

Petition for certiorari[1] seeking to annul and set aside the decision of the Regional Trial Court, Branch 98, Quezon City, in Criminal Case No. Q-92-30266, "People of the Philippines vs. Marilene D. Ala, et al." for estafa under Article 315, par. 1(b) of the Revised Penal Code.

The assailed decision acquitted Marilene Ala, Manuel Quimbo and Susan Ala-Quimbo, but found them civilly liable to private complainant Rebecca Ala-Martin in the amount of $19,250.21 or its equivalent in Philippine peso.

The antecedent facts are:

Rebecca, Susan and Leticia, all surnamed Ala, are sisters. Atty. Oscar Ala is their brother.

Sometime in December, 1994, Rebecca Ala-Martin, petitioner, designated her brother Atty. Oscar Ala as her attorney-in-fact, authorizing him to withdraw from the Hongkong and Shanghai Banking Corporation certain amounts under her Dollar Savings Account No. 01-772300-20 for the purpose of paying the amortizations on her residential lot she purchased in 1985. Atty. Ala suggested to her to transfer her dollar deposit to the Prudential Bank in Quezon Avenue where his wife Marilene and his sister Susan Ala-Quimbo, worked. Rebecca agreed.

Sometime in February, 1987, upon inquiry with the Prudential Bank, she was informed that her money ($19,245.20 or P500,500.00 at the then current rate of exchange) was not deposited there. What actually transpired was that Atty. Ala withdrew her dollars (in bank draft) from the Hongkong and Shanghai Banking Corporation, gave it to his wife Marilene, who, in turn delivered it to her sister Susan Ala-Quimbo for deposit with the Prudential Bank, Quezon Avenue Branch. Instead of complying with Oscar's instruction, Marilene and Susan entrusted the bank draft to Josefina Rey, an employee of the China Banking Corporation, for the purpose of earning higher rate of interest. But Josefina Rey absconded with the money. Forthwith, spouses Manuel and Susan Ala-Quimbo filed criminal and civil cases against her.

Believing that spouses Oscar and Marilene Ala and Susan Ala-Quimbo connived with each other in appropriating her money for their own benefit, Rebecca, through her sister, Atty. Leticia Ala, demanded that they return the amount but to no avail. This prompted Rebecca to cause the filing with the court a quo Criminal Case No. Q-92-30266 for estafa against spouses Oscar and Marilene Ala and Susan Ala-Quimbo.

In due time, they were arraigned and trial ensued.

Upon motion of the prosecution, the lower court reversed the order of trial, directing the defense to first present its evidence, followed by the prosecution. This order was based on the finding of the trial judge that the charge of estafa was established by the Joint Counter Affidavit of spouses Manuel and Susan Ala-Quimbo and spouses Oscar and Marilene Ala. Spouses Manuel and Susan Ala-Quimbo admitted in their Joint Counter Affidavit that they received from Marilene Ala Rebecca's money for the purpose of depositing it with the China Banking Corporation in order to earn a higher rate of interest, but that Josefina Rey, an employee therein, misappropriated it. For their part, spouses Oscar and Marilene Ala alleged in their Joint Counter Affidavit that he (Oscar) withdrew Rebecca's money in the sum of $19,245.20 from the Hongkong and Shanghai Bank and gave it to his wife Marilene. In turn, she delivered it to her sister Susan Ala-Quimbo for deposit with the Prudential Bank, Quezon Avenue Branch.

Subsequently, the defense filed a demurrer to evidence but was denied by the trial court.

During the hearing on March 3, 1993, instead of presenting its evidence in accordance with the reverse order of trial, the defense, through counsel, manifested that the accused are waiving their right to present their evidence. Thereupon, the private prosecutor manifested that he will present evidence to prove the accused's civil liability impliedly instituted with the criminal action, The defense objected vigorously. On April 12, 1993, the trial court issued an order allowing the prosecution to prove the civil liability of the accused.

On June 2, 1993, Rebecca testified mainly on the civil aspect of the case. She identified Exhibit "A" which is a Certification dated February 9, 1987 of Manuel A. Quimbo wherein he undertook to pay Rebecca $19,245.20; Exhibit "B," the Joint Counter Affidavit of spouses Oscar and Marilene Ala; and Exhibit "C," the Joint Counter Affidavit of spouses Manuel and Susan Ala-Quimbo. On June 10, 1993, the prosecution rested its case and formally offered the foregoing documentary evidence which were admitted by the trial court.

The defense did not present any testimonial evidence but merely offered in evidence the prosecution's Exhibit "A" as its Exhibit "1," stressing that the accused's undertaking to pay Rebecca is conditioned upon their ability to collect the amounts involved in the criminal and civil cases they filed against Josefina Rey.

On September 27, 1994, the trial court rendered the assailed decision, the dispositive portion of which reads:

> "WHEREFORE, in view of the foregoing consideration, the court hereby declares the three accused namely Susan Quimbo, Marilene D. Ala and Atty. Manuel S. Quimbo, acquitted on reasonable doubt. They are not however absolved of their civil liability to Mrs. Rebecca Ala-Martin with respect to the sum of $19,250.21 or its equivalent in Philippine Currency at the floating rate of exchange reckoned from the filing of the instant case, with interest at 12% per annum.
>
> Inasmuch as the real properties of Josephine Rey and family have already been adjudged in Civil Case No. Q-49886 in favor of the defendants Atty. Manuel S. Quimbo and Susan Quimbo, the latter are hereby directed to pay the aforesaid amount to Mrs. Rebecca Ala-Martin out of whatever proceed the former may derive therefrom.
>
> SO ORDERED."

Hence, this petition.

The main issue before us is whether or not the trial court committed grave abuse of discretion amounting to lack or excess of jurisdiction in acquitting the accused.

Petitioner contends that respondent judge gravely abused his discretion when he disregarded and did not give weight to the Joint Counter Affidavit of spouses Manuel and Susan Ala-Quimbo and Joint Counter Affidavit of spouses Oscar and Marilene Ala, marked as Exhibits "B" and "C," respectively. According to petitioner, these

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

documentary evidence, being judicial admissions, have proved the guilt of the accused beyond reasonable doubt.

For his part, the Solicitor General argues that respondent judge's refusal to consider Exhibits "B" and "C" in determining the guilt of the accused violates the fundamental right of the State to due process. These documents are "judicial admissions" and were formally offered by the prosecution during the hearing of the civil aspect of the instant case.

We are not persuaded.

In an action for certiorari, the inquiry should be limited only to question of jurisdiction.[2] As a rule, certiorari may be issued only where it is clearly shown that there is patent and gross abuse of discretion as to amount to an evasion of positive duty or a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion or personal hostility.[3] By grave abuse of discretion is such capricious and whimsical exercise of judgment as is equivalent to lack of jurisdiction, and mere abuse of discretion is not enough - it must be grave.[4] Where the court has jurisdiction over the case, even if its findings are not correct, its questioned acts would at most constitute errors of law and not abuse of discretion correctible by certiorari.[5]

We hold that respondent judge did not gravely abuse his discretion. The reason why he disregarded Exhibits "B" and "C" was because they were not formally offered in evidence by the prosecution.

Respondent judge held:

> "To repeat, the court has found nothing from the records to show that before and after the defense had waived the presentation of evidence, the prosecution made an offer in any form sufficient to show that it is ready and willing to submit its evidence to the court, specifically to prove the culpability of the accused herein. In the absence of such showing, this court has to rely mainly upon such fact, as his judgment must rest only and strictly upon the evidence offered by the parties at the trial."

In Ong vs. Court of Appeals,[6] this Court, through Justice Artemio V. Panganiban, ruled:

> "Evidence not formally offered during the trial can not be used for or against a party litigant. Neither may it be taken into account on appeal."
>
> x x x
>
> "Section 34, Rule 132 of the Rules of Court provides that the court shall consider no evidence which has not been formally offered." A formal offer is necessary since judges are required to base their findings of fact and their judgment solely and strictly upon the evidence offered by the parties at the trial. To allow parties to attach any document to their pleadings and then expect the court to consider is as evidence, even without formal offer and admission, may draw unwarranted consequences. Opposing parties will be deprived of their chance to examine the document and to object to its admissibility. On the other hand, the appellate court will have difficulty reviewing documents not previously scrutinized by the court below."

The burden of proof lies with the prosecution in establishing the guilt of the accused beyond reasonable doubt. This the prosecution failed to do. It did not formally offer its documentary evidence. It merely offered the same during that part of the hearing on the civil liability of the accused.

There is another reason why the trial court acquitted the accused. After they were arraigned on June 24, 1992, the prosecution moved that Atty. Oscar Ala be ordered to testify to prove the transaction between his wife Marilene and Rebecca. The trial court granted the motion. On October 1, 1992, Marilene moved to expunge from the records the testimony of her husband and to discharge him as witness pursuant to Section 22, Rule 138, Revised Rules of Court. She claimed that his testimony given was without her consent and violates "her marital privilege."

According to respondent judge, his order to expunge the testimony of Atty. Ala from the records carries with it the exclusion of the Joint Counter Affidavit (Exhibit "B") signed by him and his wife Marilene. Such exclusion lost much of the prosecution's "needed support such that the crucial link of the Quimbo spouses to the crime charged became obscure. Thus, the need for a clear and convincing proof against them, but which the prosecution failed to fill the gap."

It bears stressing that the challenged judgment acquitting the accused is a final verdict which cannot be reopened, assuming it is erroneous, because of the doctrine of double jeopardy.[7]

Indeed, we fail to discern grave abuse of discretion on the part of respondent judge.

WHEREFORE, the petition is hereby DISMISSED.

SO ORDERED.

Melo, (Chairman), Vitug, and Panganiban, JJ., concur.

---

* Per A.M. No. 00-9-03-SC dated February 27, 2001, this case which could have been acted upon earlier, was raffled to the undersigned ponente.

[1] Rule 65 of the Revised Rules of Court, now 1997 Rules of Civil Procedure, as amended.

[2] Azores vs. Securities and Exchange Commission, 252 SCRA 387 (1996).

[3] Lalican vs. Vergara, 276 SCRA 518 (1997).

[4] Tañada vs. Angara, 272 SCRA 18 (1997).

[5] Lalican vs. Vergara, supra.

[6] 301 SCRA 391 (1999), citing Candido vs. Court of Appeals, 253 SCRA 78, 82-83, February 1, 1996; Republic vs. Sandiganbayan, 255 SCRA 438, 456, March 29, 1996; Vda. De Alvarez vs. Court of Appeals, 231 SCRA 309, 317-318, March 16, 1994; Veran vs. Court Appeals, 157 SCRA 438; Peple vs. Cariño, et al, 165 SCRA 664, 671, September 26, 1988; People vs. Peralta, 237 SCRA 218, 226, September 28, 1994; Also see De los Reyes vs. Intermediate Appellate Court, 176 SCRA 394, 401-402, August 11, 1989 and People vs. Matte, 103 SCRA 484, 493, March 27, 1981.

[7] Tupaz vs. Ulep, 316 SCRA 118 (1999)

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

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.