MARIA TIN @ MARIA TY @ MARIA DY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 126480. August 10, 2001

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition assails the decision of the Court of Appeals dated July 24, 1996, affirming the decision of the Regional Trial Court of Manila, Branch 40, dated May 5, 1993, finding the accused (now petitioner) Maria Tin @ "Maria Ty" @ "Maria Dy" guilty of estafa and sentencing her to suffer imprisonment of six years and one day of prision mayor as minimum to 20 years of reclusion temporal as maximum and to pay the private complainant, Dr. Francisca M. Santiago, the amount of P280,000.00 plus 12 percent interest per annum from the filing of the information and P40,000.00 as attorney's fees.

Petitioner was charged in an Information which reads:

> That, on or about February 8, 1980, in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud one FRANCISCA M. SANTIAGO in the following manner, to wit: the accused received in trust from said Francisca M. Santiago several pieces of jewelry with an estimated value of more than P220,000.00 as collateral to the loan in the amount of P220,000.00 which the latter obtained from the accused, under the express obligation of returning the said pieces of jewelry to said Francisca M. Santiago immediately upon demand for redemption, but the said accused once in possession of the said pieces of jewelry far from complying with her aforesaid obligation, failed and refused, and still fails and refuses to do so despite repeated demands made upon her to that effect and with intent to defraud the said accused denied having received the said pieces of jewelry to the damage and prejudice of the said Francisca M. Santiago.
>
> CONTRARY TO LAW.[1]

On arraignment, petitioner pleaded not guilty.

At the trial, private complainant Dr. Francisca Santiago testified that on February 8, 1980, she and Aurora Jose went to Mady's Pawnshop owned by petitioner to pawn some pieces of jewelry. She initially asked for P250,000.00 but petitioner offered only P220,000.00, P200,000.00 first and then the P20,000.00 a week later. A list of the jewelries was typewritten by a helper of the petitioner. This list was signed by petitioner as evidence of her receipt of the said jewelries.[2] Dr. Santiago also averred that from 1980 to 1982, she made 19 payments of various amounts totaling P95,600.00.[3] She said that the loan was under a "white-paper" system where there is no maturity/expiration date and where the jewelry can be redeemed anytime provided the interests were paid.[4]

On February 1, 1984, Dr. Santiago said, she went to the pawnshop with a certain Mrs. Dava and a Mrs. Zuñiga to redeem her jewelry. She brought with her the amount of P450,000.00 to settle her loan. However, petitioner told her that the jewelries were already sold.[5] This prompted Dr. Santiago to consult Atty. German Abaya Sipin, who wrote to Maria Tin[6] asking her to allow Dr. Santiago to redeem the pieces of jewelry. On March 2, 1984,

petitioner replied through her counsel, Atty. Marcelo T. Dy, confirming that Dr. Santiago has an unsettled obligation of P220,000.00 and demanding payment. The letter also stated that no jewelries were received as collateral for the loan.[7] In a handwritten letter dated March 7, 1984, Dr. Santiago pleaded for the redemption of her jewelries.[8] Maria Tin, also in a handwritten letter dated March 16, 1984, replied that she merely acted as guarantor of the loan and since she was made to pay the loan she now was demanding payment therefor.[9] In said letter, Tin narrated the circumstances behind the loan, and alleged that it was another person who gave the loan and received the jewelry as collateral.

Petitioner testified that the real parties to the loan were Dr. Santiago and her daughter-in-law, Mia Chan. She merely introduced them to one another and it was Mia Chan who signed the acknowledgment receipt and who actually received the pieces of jewelry.[10]

Mia Chan, for her part, corroborated the testimony of petitioner, her mother-in-law. She stated that she was the one who extended the loan to Dr. Santiago and that she merely asked petitioner to appraise the pieces of jewelry for her. She also requested petitioner to collect payments from Dr. Santiago. According to Mia Chan, the loan was for a three-month term with 14 percent interest per annum. She stated she signed the receipt upon request of Dr. Santiago.[11]

On May 5, 1993, the trial court rendered a decision finding petitioner guilty. The dispositive portion of the said decision reads:

> From the foregoing, the court finds MARIA TIN, alias MARIA TY or MARIA DY, the accused, GUILTY beyond reasonable doubt of the crime of ESTAFA. Accused is hereby sentenced to suffer an imprisonment of six (6) years and one (1) day of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum.
>
> Accused is hereby ordered to pay Dr. Francisca M. Santiago the amount of P280,000.00 plus 12% interest per annum from the filing of the Information and P40,000.00 as Attorney's Fees.
>
> Dr. Francisca M. Santiago is required to pay the docket fees of the civil aspect of this case.
>
> SO ORDERED.[12]

Petitioner appealed with the Court of Appeals which affirmed the trial court's decision. Her Motion for Reconsideration was denied.

Hence, this petition. Petitioner avers that the appellate court erred in:

> I. ... NOT FINDING THAT THE PROSECUTION'S EVIDENCE IS FULL OF LOOPHOLES AND SELF-CONTRADICTIONS, APART FROM BEING INHERENTLY INCREDIBLE, AND HENCE GROSSLY INSUFFICIENT FOR CONVICTION.
>
> II. ... RELYING ON WHAT IT PERCEIVED TO BE WEAKNESSES OF THE DEFENSE RATHER ON THE STRENGTH OF THE PROSECUTION'S CASE.
>
> III. ... NOT UPHOLDING ACCUSED-APPELLANT'S CONTENTION (A) THAT SANTIAGO LIED WHEN SHE SAID THAT IT WAS ONLY WHEN SHE ARRIVED AT MADY'S PAWNSHOP THAT SHE CAME TO KNOW FROM WHOM SHE WAS GOING TO OBTAIN A LOAN AND THAT IT WAS SANTIAGO WHO TYPED AND PREPARED EXH. "A" AND (B) THAT DRA. SANTIAGO HERSELF PREPARED EXH. "A" AND WROTE THE NAME "MARIA TIN" AS THE LENDER.

Essentially, in our view, petitioner raises issues of fact by assailing the credibility of witnesses. As a general rule, this Court in a petition under Rule 45 of the Rules of Court will review only errors of law. It is not the function of

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this Court to weigh the evidence on factual issues all over again.[13] However, there are certain exceptions to this rule, one of which is when the judgment is based on misapprehension of facts.[14] In this case, the decisions of both the trial court and the Court of Appeals are allegedly based on misapprehensions of vital facts, making their review necessary.

A conviction in this case for estafa depends on three facts: (1) that accused was the one who extended the loan; (2) that accused was the one who received the pieces of jewelry as collateral for the loan she extended; and (3) that the loan was for an indefinite term. These factual circumstances must relate directly to the elements of the crime of estafa with abuse of confidence under Article 315 (1) (b) of the Revised Penal Code.[15]

Both trial and appellate courts held that it was petitioner who extended the loan and who actually received the jewelries from Dr. Santiago. Their conclusion stemmed from the following circumstances:

> (1) In a letter she wrote to Fiscal Jumino, one Aurora Jose who had allegedly introduced Dr. Santiago to Maria Tin and who was present when the transaction took place, corroborated Dr. Santiago's testimony;
>
> (2) The signature of appellant [petitioner] appears on the document[16] acknowledging receipt of the pieces of jewelry;
>
> (3) Receipts evidencing payments made by Dr. Santiago and which appeared to be signed by the petitioner were not denied by the latter;
>
> (4) Petitioner did not deny that she sent a note (Exh. "M-2") to Dr. Santiago reminding her to update her payments, or else she would auction the pieces of jewelry.

A careful review of the records, however, reveals that, first, it was erroneous for the Court of Appeals to consider in evidence the letter which a certain Aurora Jose sent to Fiscal Jumino.[17] Aurora Jose was never presented to testify on the veracity of said letter, much less its contents. A private certification is hearsay where the person who issued the same was never presented as a witness.[18] The same is true of letters. They are hearsay evidence. Here, Aurora Jose's alleged letter is obviously hearsay. While hearsay evidence may be admitted because of lack of objection by the adverse party's counsel, it is nonetheless without probative value.[19]

Second, the signature appearing in the receipt, Exhibit "A", apparently differs from the specimen signatures provided by petitioner Maria Tin in open court.[20] But it has striking and obvious similarities to Mia Chan's specimen signatures.[21] The differences and similarities are so obvious to the eye. They could not be casually disregarded. Expert handwriting analysis is probably useful here, but it is not indispensable.[22] As said in People vs. Pagpaguitan, 315 SCRA 226:

> When a writing in issue is claimed on the one hand and denied upon the other to be the writing of a particular person, any other writing of that person may be admitted in evidence for the purpose of comparison with the writing in dispute. It is also recognized that a comparison of writing is a rational method of investigation; similarities and dissimilarities thus disclosed have probative value in the search for truth. Thus, it has been held that, where a comparison is permissible, it may be made by the court, with or without the aid of expert witnesses. The court may, in the exercise of its sound discretion, order a party to write or sign his signature as a basis for comparison. For, the handwriting of a person is characteristic of the person himself. Once admitted, the genuineness of other offered writings alleged to be the work of the same writer becomes a question for the trier of fact who may, but need not, be assisted in this task by experts.[23]

In the present case, the prosecution bears the burden of proving that the signature in Exhibit "A" was the petitioner's, not Mia Chan's. This the prosecution did not do.

Third, petitioner did not deny that she received payments and made demands for payment from private

complainant. They do not show, however, that she was the one who extended the loan and accepted the jewelries. Note that even Mia Chan received certain payments from Dr. Santiago, as shown by Exhibits “8”, “8-A”, “10” and “10-A”. A certain “Viring” also received payment from Dr. Santiago.[24] These instances only prove that a person who received payments from another is not necessarily the person who extended the loan.

Fourth, Exhibit “M-2”[25] which the Court of Appeals considered proof that petitioner was in possession of the jewelry, deserves serious scrutiny. Said exhibit was not properly identified or introduced as evidence at the trial. It was marked as an exhibit upon mere manifestation of counsel.[26] It was not touched upon during the testimony of the private complainant nor listed in the list of exhibits for the prosecution,[27] hence deemed inadmissible in evidence.[28]

Fifth, Mia Chan’s admission, that she was the one who extended the loan and received the jewelries, deserves weighty consideration and could not be ignored. That admission is one against self-interest, amounting to an incriminatory statement, which the witness could not have volunteered if not the truth.

Petitioner claims that the loan was for a three-month period only. But private complainant averred that it was extended under a so-called “white-paper” system, or a loan with an indefinite term. Petitioner presented her daughter-in-law, Mia Chan, to establish that the loan was only for a three-month period. Private complainant did not present evidence to substantiate her claim, other than her self-serving testimony. Private complainant relied on the acknowledgment receipt allegedly signed by petitioner in the presence of two witnesses. However, the prosecution did not present Aurora Jose, who allegedly witnessed the transaction. Nor did it present Mrs. Dava and Mrs. Zuñiga who allegedly accompanied Dr. Santiago when the latter tried to redeem her jewelries. While non-presentation of certain witnesses is not a valid defense nor does it work against the prosecution’s cause,[29] this holds true only if the evidence of the prosecution is sufficiently strong to overcome the presumption of innocence of the accused. If the prosecution evidence is not strong, then it becomes mandatory for the prosecution to present evidence which can help further its case, or explain why such evidence is not presented. When the sole testimony of the complainant is met by an equally credible evidence of the defense, then the prosecution must present credible corroborative witnesses to buttress its case. Its failure to present corroborative witnesses, without any explanation why they were not produced, weakens the testimony of the witness who named those corroborating witnesses in her testimony.[30] In this case, the prosecution’s failure to present the corroborative witnesses, without any explanation for their non-appearance, makes private complainant’s testimony weak.

Further, since it was private complainant who asserted that the loan was for an indefinite term under the so-called “white-paper system” of the pawnshop, she had the burden of proving that fact as true. In this she failed, and her failure undermines the case for the prosecution.

Faced with two conflicting versions, we are guided by the equipoise rule. Under this rule, where the evidence on an issue of fact is in equipoise or there is doubt on which side the evidence preponderates, the party having the burden of proof loses.[31] The equipoise rule finds application if the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, for then the evidence does not fulfill the test of moral certainty, and does not suffice to produce a conviction.[32] Briefly stated, the needed quantum of proof to convict the accused of the crime charged is found lacking. And in this case, the petitioner must be declared innocent and set free.

WHEREFORE, the assailed decision of the Court of Appeals in CA-G.R. CR No. 14818, affirming that of the Regional Trial Court in Crim. Case No. 88-64598, is hereby REVERSED and SET ASIDE. Petitioner Maria Tin is ACQUITTED of the charge against her under Article 315 (1) (b) of the Revised Penal Code, for lack of evidence sufficient to sustain a finding of guilt beyond reasonable doubt.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Records, p. 1.

[2] TSN, September 3, 1990, pp. 5-16.

[3] Records, p. 243.

[4] TSN, January 22, 1992, p. 31.

[5] Id. at 31-32.

[6] Records, p. 259.

[7] Id. at 260.

[8] Id. at 261.

[9] Id. at 262.

[10] TSN, August 19, 1992, pp. 3-4.

[11] TSN, July 1, 1992, pp. 8-15.

[12] Records, pp. 474-475.

[13] Co vs. Court of Appeals, 247 SCRA 195, 200 (1995).

[14] Bautista vs. Mangaldan Rural Bank, Inc., 230 SCRA 16, 19 (1994).

[15] The elements of estafa with abuse of confidence under subdivision no. 1 (b), of Art. 315 are:

> (1) That money, goods, or other personal property be received by the offender in trust, or in commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return, the same;
>
> (2) That there be misappropriation or conversion of such money or property by the offender, or denial on his part of such receipt;
>
> (3) That such misappropriation or conversion or denial is to the prejudice of another; and
>
> (4) That there is a demand made by the offended party to the offender. (Reyes, Revised Penal Code, Book 2, 12th edition, pp. 716-717.)

[16] Records, p. 242.

[17] CA Decision, p. 5, CA Rollo, pp. 114-122.

[18] People vs. Narciso, 262 SCRA 1, 8 (1996).

[19] De la Torre vs. Court of Appeals, 294 SCRA 196, 204 (1998).

[20] Records, back of p. 240.

[21] Records, p. 241.

[22] People vs. Godoy, 250 SCRA 676, 721 (1995).

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[23] 315 SCRA 226, 241 (1999).

[24] Records, p. 306.

[25] Id. at 253.

[26] TSN, January 29, 1992, p. 2.

[27] Records, p. 197.

[28] General Enterprises, Inc. vs. Lianga Bay Logging Company, Inc., 11 SCRA 733, 746 (1964).

[29] People vs. Correa, 285 SCRA 679, 689 (1998).

[30] People vs. Taneo, 284 SCRA 251, 273 (1998).

[31] Rivera vs. Court of Appeals, 284 SCRA 673, 682 (1998).

[32] People vs. Cawaling, 293 SCRA 267, 307 (1998).

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