

**PEOPLE OF THE PHILIPPINES, AND MA. MILAGROS G. WILSON,
PETITIONERS, VS. HON. COURT OF APPEALS, MA. LOURDES
DEUTSCH, NERCY DEMETERIO AND EXCEL MANGUBAT,
RESPONDENTS.**

G.R. No. 132396. September 23, 2002

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us are consolidated petitions for review on certiorari under Rule 45, assailing the decision[1] dated November 17, 1997 of the Court of Appeals in CA-G.R. CR No. 18139.

The antecedent facts of these petitions are as follows:

Nercy M. Demeterio, Excel Mangubat, Ma. Lourdes Deutsch alias “Lyn,” and the spouses Numeriano Rabadon and Leonila Burlaos were charged with Estafa under Article 315, par. 2 (a) of the Revised Penal Code in an Information which reads as follows:

That, on or about the 11th day of October, 1991 and for sometimes prior thereto at Barangay Anapog, Municipality of San Remegio, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused by means of false pretenses or fraudulent acts executed prior to or simultaneous with the commission of the fraud and by falsely pretending to possess power, influence and property or by means of other similar deceits, conspiring, confederating and mutually helping with one another did then and there wilfully, unlawfully and feloniously induce, offer and convince Milagros (Lala) G. Wilson to buy a portion of beach property for a price of TWO HUNDRED FIFTY THOUSAND PESOS (P250,000.00), Philippine Currency, knowing that said portion offered for sale was under the coverage of CARP Law and assuring upon the vendee that said property is free from all liens, encumbrances and the documents or papers thereto were all in order, and for reasons of their assurances, the offended party decided to buy the same, making a downpayment to the accused in the amount of ONE HUNDRED SIXTY FOUR THOUSAND PESOS (P164,000.00), Philippine Currency, and when the victim finally learned of the deception made by the accused she demanded to return unto her the downpayment, but the accused without justifiable cause, refused and still refuse to return the aforestated amount, making themselves scarce, to the damage and prejudice of the complainant in the latter amount aforestated.

CONTRARY TO LAW.[2]

Demeterio and Mangubat were arraigned on October 7, 1992. They pleaded not guilty to the charge. Deutsch and spouses Rabadon and Burlaos were arraigned on November 19, 1992 and likewise pleaded not guilty.[3]

On January 19, 1993, the prosecution filed a motion to discharge Mangubat, Demeterio and the spouses Rabadon and Burlaos, to become state witnesses. The trial court granted the said motion but only with respect to the spouses Rabadon and Burlaos. The Order was dated July 7, 1993.[4]

On August 4, 1994, the trial court rendered a decision finding Deutsch, Demeterio and Mangubat to have

conspired with one another to deceive complainant, and convicted them of Estafa. The dispositive portion of the trial court's decision reads:

WHEREFORE, in view of all the foregoing evidences, arguments and considerations, this court hereby finds, and so holds the accused Ma. Lourdes Deutsch, Nercy Demeterio and Excel Mangubat acted in conspiracy with one another to deceive Milagros (Lala) Wilson, as they are hereby found guilty of the crime of Estafa beyond reasonable doubt, through false pretenses according to Article 315, 1st paragraph No. 2 of the Revised Penal Code as they are hereby sentenced to serve an indeterminate penalty of Fourteen (14) Years as minimum to Twenty (20) Years of reclusion temporal as maximum, together with all accessory penalties provided for by law, as they are hereby required to pay Milagros "Lala" Wilson, jointly and solidarily, the sum of P200,000.00 as moral damages, P100,000.00 as exemplary damages and to refund or reimburse the complainant, Milagros Wilson, the amount of P164,000.00 representing the amount paid by her with interest at 10% per month from September 1991, until fully paid. To reimburse the complainant, jointly and solidarily, the amount of P26,023.00 for plane fares from Manila to Cebu and vice-versa, P9,430.00 for hotel accommodation and meals, taxi fares of P5,000.00, rent-a-car of P20,483.00, attorney's fees of P80,000.00 and litigation expenses of P20,000.00.

IT IS SO ORDERED.[5]

Deutsch, Demeterio and Mangubat interposed a timely appeal to the Court of Appeals.

On November 17, 1997, the Court of Appeals modified the trial court's judgment. The dispositive portion of the CA decision reads:

WHEREFORE, in view of all the foregoing evidence, arguments and considerations, the dispositive portion of the decision appealed for is hereby AMENDED to read as follows:

This Court hereby finds, and so holds that the accused Nercy Demeterio and Excel Mangubat acted in conspiracy with one another to deceive Milagros (Lala) Wilson as they are hereby found GUILTY of the crime of ESTAFA, through false pretenses according to Article 315, first paragraph, No. 2 of the Revised Penal Code, and are hereby sentenced to each serve an indeterminate penalty of FOUR (4) YEARS and TWO (2) MONTHS of prision mayor, as minimum, to TWENTY (20) YEARS of reclusion temporal, as maximum, together with all accessories necessary provided for by law. Furthermore, they are hereby sentenced to pay Milagros (Lala) Wilson, jointly and severally, the sum of TWENTY THOUSAND PESOS (P20,000.00) as moral damages, TEN THOUSAND PESOS (P10,000.00) as exemplary damages and to refund or reimburse the complainant Milagros Wilson the amount of P164,000.00 representing the amount paid by her, with interest at twelve percent (12%) per annum from September 1991 until fully paid plus one-third (1/3) of the costs, each.

Accused Ma. Lourdes Deutsch whose crime has not been proven beyond reasonable doubt, is hereby ACQUITTED.

SO ORDERED.[6]

On December 10, 1997, Wilson filed a Motion for Reconsideration which was denied by the Court of Appeals in a resolution issued on January 20, 1998.[7] On the other hand, Demeterio and Mangubat filed their Motion for Reconsideration on March 26, 1998, which was denied by the Court of Appeals on June 19, 1998.[8]

Hence, these consolidated petitions.

In G.R. No. 132396, petitioner Ma. Milagros Wilson assigns the following errors:

I. THE COURT OF APPEALS COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ACQUITTING ACCUSED MA. LOURDES DEUTSCH.

II. IN ACQUITTING THE ACCUSED MA. LOURDES DEUTSCH OF THE CRIME CHARGED, THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN NOT EVEN HOLDING THAT SAID ACCUSED MA. LOURDES DEUTSCH IS STILL CIVILLY LIABLE TO THE PRIVATE COMPLAINANT, MA. MILAGROS G. WILSON.

III. THE HONORABLE COURT OF APPEALS ERRED IN REDUCING THE DAMAGES AWARDED IN FAVOR OF PRIVATE COMPLAINANT MILAGROS G. WILSON AND THE RATE OF INTEREST THEREON DESPITE THE FACT THAT THE SAME WERE PROVED BY A PREPONDERANCE OF EVIDENCE.

IV. THE COURT OF APPEALS SERIOUSLY ERRED IN DELETING THE AWARD OF ATTORNEY'S FEES, LITIGATION EXPENSES, AND OTHER EXPENSES DESPITE SUBSTANTIAL EVIDENCE TO PROVE THE SAID FEES AND EXPENSES.[9]

Petitioner Wilson alleges that the acquittal of Deutsch was “unfounded, arbitrary, unjust, and constituted grave abuse of discretion amounting to lack or excess of jurisdiction.”[10] She avers that the CA decision discriminates against Demeterio and Mangubat. She contends that: (1) It was the Court of Appeals that supplied the crucial details and appreciated the evidence in favor of the accused Deutsch to justify her exculpation from the crime charged, despite the paucity thereof. (2) The finding of conspiracy cannot apply merely to Demeterio and Mangubat without including Deutsch, in gross violation of the basic jurisprudence that, in conspiracy, the act of one is the act of all.[11] (3) It was accused Deutsch who was an active participant in the conspiracy if not the most guilty of the crime charged, for without her, the petitioner would not have been defrauded of a substantial amount of money and would not have suffered irreparable damage such that the crime of estafa would not have arisen at all.[12]

Petitioner rationalizes that between the decision of the Court of Appeals and that of the trial court, it is the latter's decision that should prevail since it had the opportunity to observe the demeanor and behavior of the witnesses and was in a better position to weigh their credibility and properly appreciate the relative weight of evidence.[13]

Petitioner also argues that Deutsch should not have been acquitted since the evidence shows that the latter was an active participant in the conspiracy perpetrated to defraud her. She claims that conspiracy was more than sufficiently established by the following circumstances: (1) It was Deutsch who enticed and convinced private complainant to buy a beach lot in Cebu. (2) It was Deutsch who made a telephone call the next day from Cebu and who dealt with the Rabadons regarding the beach lot. (3) Deutsch made the deal appear too hard to resist. (4) Deutsch offered to advance the reservation fee of P20,000 and the amount of P4,500 for expenses and received P24,500 from petitioner as reimbursement thereof. (5) Deutsch convinced private complainant to go to Cebu City, then fetched her and her son from the airport and gave them free accommodations. (6) Deutsch repeatedly assured petitioner that she would personally undertake the transfer of the property to complainant's name. (7) Deutsch summoned the other accused to her house and introduced them to petitioner as her friends. (8) Deutsch, with the other accused, accompanied petitioner to meet the spouses Rabadon and made repeated and firm assurances that the subject property was free from any liens and encumbrances. (9) Deutsch convinced petitioner to pay an additional P80,000 to complete the required P100,000 downpayment for the property. (10) Deutsch, with Demeterio and Mangubat, gave petitioner the Deed of Absolute Sale signed by the lot owners, the spouses Rabadon. And (11) Upon being informed of petitioner's knowledge that the sale had defects, Deutsch referred to her co-accused Demeterio and Mangubat as her partners in the transaction.[14] Petitioner maintains that the above enumerated circumstances showed Deutsch was part of the conspiracy. Acquitting her was tantamount to discriminating against the other accused, for in conspiracy, the act of one is the act of all.[15]

Petitioner likewise denies that Deutsch would suffer double jeopardy should this petition be granted. Relying on

People vs. Castañeda, Jr., 165 SCRA 327,[16] she explains that since this petition is merely a continuation of the case before the trial court and not a new one, no jeopardy has yet attached.

Petitioner further argues that even if the acquittal is assumed to be valid, this does not necessarily mean that Deutsch was no longer civilly liable. Contrary to Deutsch's claim, she adds, there is nothing in the decision that would support the conclusion that Deutsch was not civilly liable and that the facts from which the civil liability might arise did not exist.[17] Further, she says the civil liability of Deutsch is supported by the facts and law. First, according to her, Deutsch actively participated in the conspiracy to defraud petitioner; second, under Article 29 of the Civil Code[18] and in Manahan, Jr. vs. Court of Appeals and People of the Philippines, 255 SCRA 202 (1996), we held that a person accused of estafa and later acquitted can still be held civilly liable.[19]

Petitioner also assails the reduction of the damages awarded to her by the trial court. She says the amounts of her claims were supported by the evidence, both testimonial and documentary.[20]

Finally, petitioner attacks the apathy of the Office of the Solicitor General (OSG) towards her case. She states that contrary to the OSG's opinion, this case cannot be considered as involving only a mere private interest since the crime involved is estafa, a public crime. She opines that the silence of the OSG regarding the issues she raised in her petition can be taken as an implied concurrence with her, so much so, that it can be considered that it was the OSG itself who filed the petition.[21]

The OSG, in turn, avers that in case of acquittal, the appeal on the criminal aspect should be taken solely by the state and the private complainant is limited only to the appeal of the civil aspect. The OSG argues that Deutsch stands to suffer from double jeopardy in the event that this petition is given due course.[22]

Private respondent Deutsch, through counsel, argues that the Court of Appeals did not commit grave abuse of discretion in acquitting her since its decision was based on testimonial and documentary evidence.[23] She says that the allegation that it was the Court of Appeals that provided the details to justify her exculpation from the crime charged, despite the paucity of her evidence, is not supported by the record. On the contrary, according to her, the Court of Appeals merely considered the crucial details of her defense which the trial court ignored.[24]

Private respondent Deutsch also opines that among the accused, she had the least interest in the deal and had the least involvement with Demeterio, Mangubat and the Rabadons. Further, of all of the accused, she had known the three for the shortest time. She also points out that during trial, the three curiously were represented by a common lawyer. These, according to her, strengthen her theory that it was they who conspired to con Wilson and pin the blame on her.[25]

Deutsch also questions the standing of petitioner to appeal her acquittal. Citing Tan vs. Gallardo, 73 SCRA 306, she contends that petitioner cannot adopt a position contrary to the appellate court's decision on the criminal aspect since the Solicitor General alone is authorized in criminal appeals to represent the State.

Deutsch likewise argues that a review of her acquittal would place her in double jeopardy under Section 2, Rule 122 of the Rules of Court.[26] She claims petitioner erred in relying on People vs. Castañeda, Jr. since in said case the facts completely differ[27] from those in the present case.

She underscores that her civil liability, aside from being extinguished by her acquittal, may no longer be reviewed since what is involved is a factual question, not proper for review by this Court.[28]

In G.R. No. 134553, petitioners Nercy Demeterio and Excel Mangubat raise the following errors:

I. THE COURT OF APPEALS RESOLVED THE ISSUES IN A MANNER CONTRARY TO LAW AND APPLICABLE DECISIONS OF THE HONORABLE SUPREME COURT WHEN IT RULED THAT

ACCUSED-APPELLANTS NERCY DEMETERIO AND EXCEL MANGUBAT COMMITTED ESTAFA BY MEANS OF FALSE PRETENSES OR FRAUDULENT ACTS.

II. THE COURT OF APPEALS ERRED IN MAKING A CONCLUSION OF FACT NOT SUPPORTED BY EVIDENCE BUT BASED ONLY ON SPECULATIONS, SURMISES AND CONJECTURES WHEN IT RULED THAT ACCUSED NERCY DEMETERIO AND EXCEL MANGUBAT CONSPIRED AND CONFEDERATED TOGETHER WITH SPOUSES NUMERIANO RABADON AND LEONILA BURLAOS IN DEFRAUDING MILAGROS WILSON AND CONTINUED TO CONSPIRE AND CONFEDERATE TOGETHER DURING THE TRIAL TO PUT THE BLAME ON CO-ACCUSED MA. LOURDES DEUTSCH IN ORDER TO EXTRICATE THEMSELVES FROM LIABILITY AND IN HOLDING THAT MA. LOURDES DEUTSCH DID NOT PLAY ACTIVE ROLE IN THE TRANSACTION. FURTHERMORE, THE COURT OF APPEALS MANIFESTLY OVERLOOKED AN IMPORTANT FACT, NOT DISPUTED BY PARTIES, WHICH IF PROPERLY CONSIDERED, WOULD JUSTIFY A DIFFERENT LEGAL CONCLUSION.

III. THE COURT OF APPEALS ERRED IN HOLDING ACCUSED NERCY DEMETERIO AND EXCEL MANGUBAT JOINTLY AND SEVERALLY LIABLE FOR DAMAGES AND OTHER EXPENSES.[29]

Petitioners Demeterio and Mangubat allege that they had no active participation in the transaction between Wilson and Deutsch.[30] They deny that they employed false pretenses and/or fraudulent acts, nor did they pretend to possess property. They likewise point out that there was no evidence showing that they offered, assured, induced or unduly influenced Wilson to buy the beach property in San Remigio.[31] They point to Deutsch as the person solely responsible in enticing Wilson to purchase the said property.[32]

They likewise point out that the real estate mortgage and the subsequent adjudication of the property to the Bantayan Rural Bank, Inc., was duly registered with the Register of Deeds; that there was sufficient notice, not only to the buyer but to the whole world, of the infirmities extant in the said property;[33] that they even accompanied Wilson to Anapog, San Remigio, Cebu to check the property, something they would not have done if their intention was to defraud and misrepresent; and that Wilson could have easily checked on any defects in the title of the said property. They posit that under the principle of caveat emptor, Wilson has had sufficient warning.[34]

On their alleged promise that they would personally take care of transferring the title of the land to Wilson's name, they explain that their failure to carry out said promise was not meant to deceive. A promise to perform something is not deceit and a failure to comply with the promise does not change its character.[35]

Petitioners Demeterio and Mangubat also deny they were involved in a conspiracy to defraud Wilson. They claim they did not know Wilson. It was Deutsch who knew her and who directly transacted with her. Their only participation in the entire transaction was to accompany Wilson and Deutsch and to run an errand for the latter in processing pertinent papers.[36] The fact that they were the ones who prepared the receipts and the deed of sale is not proof of complicity. What is important, according to them, is that Wilson and they were united in stating that it was Deutsch, alone, who convinced Wilson to buy the property and it was Deutsch alone who made assurances that the land was free from any liens and encumbrances. Thus, both maintain that conspiracy was never established.[37]

Petitioners Demeterio and Mangubat also aver that the alleged contradictions and inconsistencies in Wilson's testimony and their own regarding Exhibit "A" and the amount given to the spouses are only minor details which do not affect their credibility, but rather, work to enhance it.[38] They insist that they should not be held solidarily liable with Deutsch since they did not profit from the transaction. It was Deutsch who gained the most from the said transaction.[39]

For its part, the Office of the Solicitor General (OSG) contends that petitioners clearly misled private respondent to thinking that they had the authority to sell the beach property, despite knowing that the property was no longer owned by the Rabadons. They offered it for sale and collected P164,000 as down payment. They are clearly liable under Article 315 (2a)[40] of the Revised Penal Code.

According to the OSG, petitioners employed false pretenses as shown by the following: (1) Petitioners admitted that they knew all along that the land had already been foreclosed by the Rural Bank of Bantayan before they offered and sold the property to private complainant. (2) Despite this knowledge, they instructed the former owners, the spouses Rabadon, to admit that they owned the property and sign the Deed of Sale, offering them a share in the proceeds of the sale. (3) Petitioners continually assured Wilson that the title of the property would be transferred in her name although this was legally impossible. And (4) After discovery of the fraud, and after petitioners received the money, they were confronted by Wilson, who demanded the return of her money but to no avail.[41]

Finally, the OSG points out that as a matter of general policy, the factual findings of the trial court and the Court of Appeals are accorded great respect and finality.[42]

For her part, private respondent Ma. Milagros Wilson, reiterated her allegations and arguments in her memorandum as petitioner in G.R. No. 132396. Aside from these, she added that the petition by Demeterio and Mangubat was filed out of time.[43]

In our view, the issues properly for resolution are: (1) In G.R. No. 132396, whether or not the petitioner availed of the appropriate remedy of petition for review on certiorari; and whether or not the Court of Appeals acted with grave abuse of discretion when it acquitted Ma. Lourdes Deutsch. (2) In G.R. No. 134553, the issue is whether or not the petition was filed on time; and whether or not petitioners Nercy Demeterio and Excel Mangubat were properly convicted of estafa, sentenced accordingly, and held liable for damages including expenses and costs proportionately.

In G.R. No. 132396 petitioner Wilson alleges abuse of discretion by the Court of Appeals under Rule 45 of the Rules of Court when it acquitted Ma. Lourdes Deutsch. At the outset, it should be recalled that petition for review on certiorari under Rule 45 and the special civil action of certiorari under Rule 65 are two separate and distinct remedies. Under Rule 45, a petition brings up for review errors of judgment while a petition for certiorari under Rule 65 concerns errors of jurisdiction or grave abuse of discretion amounting to lack or excess of jurisdiction.[44] Grave abuse of discretion is not an allowable ground under Rule 45.[45] However, a petition for review on certiorari under Rule 45 may be considered as one for certiorari under Rule 65 of the Rules of Court, where it is alleged that the respondents have abused their discretion in their questioned actions,[46] as in this case.

Generally, it is the Office of the Solicitor General who can bring actions on behalf of the state in criminal proceedings, before the Supreme Court and/or the Court of Appeals.[47] In *People vs. Santiago*, 174 SCRA 143 (1989), however, we said the action must be filed in the name of the private complainant and not of the People of the Philippines. For the purpose of expeditious but inexpensive disposition of the case,[48] and granting that Wilson has sufficient interest as a “person aggrieved” to file the special civil action of certiorari under Rule 65, we shall consider the allegations in her petition, pursuant to the underlying spirit of liberal construction of the rules. Brushing technicalities aside, however, even if we treat this petition as one under Rule 65 of the Rules of Court, the conclusion in our view is the same: the petition is without merit.

Nevertheless, the allegation of petitioner Wilson that no double jeopardy will arise should respondent Deutsch’s acquittal be reversed now deserves further consideration. Legal jeopardy attaches only: (a) upon a valid indictment; (b) before a competent court; (c) after arraignment; (d) when a valid plea has been entered; and (e) the

case was dismissed or otherwise terminated without the express consent of the accused.[49] While it is true that double jeopardy will attach in case the prosecution appeals a decision acquitting the accused,[50] it is likewise true that an acquittal rendered in grave abuse of discretion amounting to lack or excess of jurisdiction does not really “acquit” and therefore does not terminate the case.[51] There can be no double jeopardy if the said acquittal is based on a void indictment.[52] Crucial therefore is our determination of whether grave abuse of discretion, amounting to lack or excess of jurisdiction, was committed by respondent Court of Appeals when it acquitted Deutsch.

A tribunal, board or officer is said to have acted with grave abuse of discretion when it exercised its power in an arbitrary or despotic manner by reason of passion or personal hostility, and it must be so patent and gross as to amount to an erosion or a virtual refusal to perform the duty enjoined or to act in contemplation of law.[53] In acquitting Deutsch, the Court of Appeals merely interpreted the evidence presented before the trial court, as it deemed fit. Note, however, that the acquittal of Deutsch is based only on lack of proof beyond reasonable doubt. Hence, considering the circumstances, it is without prejudice to whatever civil action might be appropriately taken by petitioner Wilson in regard to respondent Deutsch.

The documentary evidence presented before the trial court shows that Mangubat and Demeterio prepared the receipt dated September 24, 1991, acknowledging payment of P100,000;[54] the Deed of Sale;[55] and the receipt dated October 11, 1991, acknowledging the payment of P160,000.[56] In all these documents, only the signatures of the Rabadons, Mangubat and Demeterio appear. Deutsch had no signature in the document. Faced with this evidence, it is clear why the Court of Appeals chose to disregard the self-serving and sometimes inconsistent testimonies of Mangubat and Demeterio. Further, there is no showing that the CA was motivated by anything other than the desire to arrive at the truth in accordance with the evidence on record. Hence, we find that no grave abuse of discretion could be imputed on the part of the appellate court in rendering its decision on November 17, 1997, which acquitted respondent Deutsch of estafa for lack of proof beyond reasonable doubt.

Further, as pointed out by the OSG, whatever error might have been committed by the Court of Appeals in said decision, it could only be an error of judgment and not of jurisdiction. It could not affect the intrinsic validity of its decision.[57] Consequently, the acquittal of Deutsch may no longer be reviewed, for to do so would place her in double jeopardy in violation of the basic tenets of our fundamental law and current jurisprudence. This, however, is without prejudice to any appropriate civil action that might be taken against her by the aggrieved party.

Coming now to G.R. No. 134553, Wilson this time as private respondent manifests that the petition by Demeterio and Mangubat was filed late and should therefore be dismissed. A perusal of the statement of material dates in the said petition indicates that the petitioners received a copy of the Court of Appeals decision as early as November 25, 1997.[58] However, they filed their Motion for Reconsideration only on March 26, 1998, or four (4) months from the receipt of the decision, way beyond fifteen (15) days’ period within which to file a motion for reconsideration[59] or an appeal by certiorari under Rule 45.[60] Comparatively, a party is given sixty (60) days to petition for certiorari under Rule 65.[61] It is clear, therefore, that the decision of the Court of Appeals has long become final and executory as against Demeterio and Mangubat. For they allowed one hundred and twenty (120) days to lapse before they filed their motion for reconsideration. Thus, denial of their petition is in order. Clearly, they have lost their remedy of appeal. Moreover, after going over the records of the case carefully, we find no error in the decision by the appellate court which ruled that Mangubat and Demeterio are guilty of Estafa, sentenced both accordingly, and held them liable for damages including reimbursement for expenses, and costs proportionately. Their present petition is utterly without merit.

WHEREFORE, the petition in G.R. No. 132396 is hereby DENIED for lack of merit. The petition in G.R. No.

134553 is likewise DENIED for lack of merit and for being filed out of time. The assailed decision of the Court of Appeals dated November 17, 1997, is AFFIRMED.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Rollo, G.R. No. 132396, pp. 48-64.

[2] Id. at 48-49.

[3] Id. at 13-14.

[4] Id. at 14.

[5] Id. at 81.

[6] CA Rollo, pp. 327-328.

[7] Rollo, G.R. No. 132396, p. 21.

[8] Rollo, G.R. No. 134553, p. 43.

[9] Rollo, G.R. No. 132396, pp. 21-22.

[10] Rollo, G.R. No. 132396, p. 138.

[11] People vs. Enriquez, G.R. No. 99838, 281 SCRA 103, 121 (1997).

[12] Rollo, G.R. No. 132396, pp. 140-141.

[13] People vs. Calegan, G.R. No. 93846, 233 SCRA 537, 548 (1994); People vs. Nuestro, G.R. No. 111288, 240 SCRA 221, 227 (1995); People vs. Tañedo, G.R. No. 110405, 266 SCRA 34, 39 (1997); People vs. Sumalpong, G.R. No. 124705, 284 SCRA 464, 477 (1998); People vs. Alvarado, G.R. No. 117402, 275 SCRA 727, 734 (1997).

[14] Rollo, G.R. No. 132396, pp. 146-148.

[15] Id. at 154-155.

[16] Id. at 157-158.

[17] Id. at 161-162.

[18] ART. 29. When the accused in a criminal prosecution is acquitted on the ground that his guilt has not been proved beyond reasonable doubt, a civil action for damages for the same act or omission may be instituted. Such action requires only a preponderance of evidence. Upon motion of the defendant, the court may require the plaintiff to file a bond to answer for damages in case the complaint should be found to be malicious.

If in a criminal case the judgment of acquittal is based upon reasonable doubt, the court shall so declare. In the absence of any declaration to that effect, it may be inferred from the text of the decision whether or not the acquittal is due to that ground.

[19] Rollo, G.R. No. 132396, pp. 167-168.

[20] Id. at 169-177.

[21] Id. at 177-183.

[22] Id. at 202-208.

[23] Id. at 225.

[24] Id. at 226.

[25] Id. at 236-238.

[26] Sec. 2. Who may appeal.—Any party may appeal from a final judgment or order, except if the accused would be placed thereby in double jeopardy.

[27] Rollo, G.R. No. 132396, pp. 257-258.

[28] Id. at 259-260.

[29] Rollo, G.R. No. 134553, pp. 43-44.

[30] Id. at 264-268.

[31] Id. at 270-271.

[32] Id. at 274.

[33] Id. at 275.

[34] Id. at 276-277.

[35] Id. at 277.

[36] Id. at 280-281.

[37] Id. at 282.

[38] Id. at 282-283.

[39] Id. at 284-289.

[40] ART. 315. Swindling (estafa) x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to simultaneously with the commission of the fraud:

(a) By using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, and agency business or imaginary transactions, or by means of other similar deceits.

[41] Rollo, G.R. No. 134553, p. 177.

[42] Id. at 179.

[43] Id. at 183 –254.

[44] Silverio vs. CA, L-39861, 141 SCRA 527, 538-539 (1986).

[45] Martires vs. CA, G.R. Nos. 78036-37, 188 SCRA 306, 309 (1990).

[46] See Triste vs. Leyte State College Board of Trustees, G.R. No. 78623, 192 SCRA 326, 334 (1990).

[47] Republic vs. Partisala, L-61997, 118 SCRA 370, 373 (1982).

[48] See *People vs. Calo, Jr.*, G.R. No. 88531, 186 SCRA 620, 624 (1990), citing *Francisco, Criminal Procedure*, 2nd ed. (1994), pp. 498-499.

In the case of *Calo*, the petitioner was allowed to question the orders of the trial judge granting bail to the murderers of his (petitioner) father.

[49] *Cuison vs. Court of Appeals*, G.R. No. 128540, 289 SCRA 159, 175 (1998).

[50] *Kepner vs. US*, No. 244, 11 Phil 669, 694 (1904), as cited in *Bernas, The Constitution of the Republic of the Philippines*, Vol. I, 1987, p. 485.

[51] *Galman vs. Sandiganbayan*, L-72670, 144 SCRA 43, 86-87 (1986).

[52] *People vs. CA*, L-54641, 101 SCRA 450, 467 (1980).

[53] *Solidum vs. Hernandez*, L-16570, 7 SCRA 320, 325 (1963).

[54] Exhibit "A", Folder of Exhibits.

[55] Exhibit "B", Folder of Exhibits.

[56] Exhibit "C", Folder of Exhibits.

[57] *Rollo*, G.R. No. 132396, pp. 207-208.

[58] *Rollo*, G.R. No. 134553, p. 35.

[59] Sec. 1, Rule 52 of the Rules of Court.

SEC. 1. Period for filing.-A party may file a motion for reconsideration of a judgment or final resolution within fifteen (15) days from notice thereof, with proof of service on the adverse party.

[60] Sec. 2, Rule 45 of the Rules of Court.

SEC. 2. Time for filing; extension.- The petition shall be filed within fifteen (15) days from notice of the judgment or final order or resolution appealed from, or of the denial of the petitioner's motion for new trial or reconsideration filed in due time after notice of the judgment. On motion duly filed and served, with full payment of the docket and other lawful fees and the deposit for costs before the expiration of the reglementary period, the Supreme Court may for justifiable reasons grant an extension of thirty (30) days only within which to file the petition.

[61] Sec. 4, Rule 65 of the Rules of Court.

SEC. 4. When and where petition filed.-the petition shall be filed not later than sixty (60) days from notice of the judgment, order or resolution. In case a motion for reconsideration or new trial is timely filed, whether such motion is required or not, the sixty (60) day period shall be counted from notice of the denial of said motion.

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