

EVELYN PANAHON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 134342. August 11, 2005

Ponente: GARCIA, J.

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GARCIA, J.:

Convicted by the Regional Trial Court at Makati City of the crime of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code, which conviction was affirmed by the Court of Appeals in its Decision of February 27, 1998, as reiterated in its Resolution of June 15, 1998 denying her motion for reconsideration, petitioner Evelyn Panahon is now with this Court via the instant petition for review on certiorari under Rule 45 of the Rules of Court to seek an acquittal.

The facts:

At the trial court, four (4) separate Informations, all for Estafa but involving different offended parties, were filed against petitioner, thereat docketed as Criminal Cases No. 91-4834, 91-4835, 91-4836 and 91-4837.

To all the cases, petitioner entered a plea of "Not Guilty". Thereafter, trial ensued.

Eventually, in a decision dated August 17, 1994, the trial court acquitted petitioner in three (3) of the cases but convicted her in Crim. Case No. 91-4835, thus:

WHEREFORE, premises considered:

xxx xxx xxx

2. In Criminal Case No. 91-4835, the prosecution having established the guilt of the accused beyond reasonable doubt of having committed the crime of Estafa defined and penalized under paragraph 2 letter (a) of Article 315 of the Revised Penal Code, she is hereby sentenced to suffer an imprisonment of from six (6) months, as minimum to six (6) years and one (1) day as maximum, and the (accused) is hereby ordered to pay the private complainant Susan Jocson the amount of P21,163.25 plus legal rate of interest of 24% per annum from August 1990 until the full amount is paid and to pay the costs.

Therefrom, petitioner went on appeal to the Court of Appeals (CA) in CA-G.R. CV No. 17050.

As stated at the outset hereof, the appellate court, in its Decision of February 27, 1998,[1] affirmed petitioner's conviction, to wit:

WHEREFORE, foregoing considered, the appealed decision in Criminal Case No. 91-4835 is hereby AFFIRMED in all respect.

SO ORDERED.

In time, petitioner moved for a reconsideration but her motion was denied by the same court in its Resolution of June 15, 1998.[2]

Hence, petitioner's present recourse on her single submission that the lone testimony of complainant Susan Jocson cannot suffice to sustain her conviction. She thus prayed for the reversal and setting aside of the assailed decision and resolution of the Court of Appeals.

We DENY.

The record shows that on the dates material to this case, petitioner was engaged in the business of selling ready-to-wear (RTW) clothes from Hongkong. In the latter part of July or early August, 1990, she enticed Susan Jocson, her townmate and neighbor, to invest the latter's money in her business. Having won Susan's trust, petitioner obtained from her the amount of P21,163.25 on the pretext of buying RTW clothes abroad for sale in the Philippines. As it turned out, however, petitioner never left the country and was not seen by Susan anymore, except during their meetings at the courthouse when Susan demanded for the return of her money, about which she only received empty promises from petitioner.

Distraught by the loss of her sweat money, Susan then filed a complaint against petitioner, who was accordingly indicted for Estafa under the following Information:

In Criminal Case No. 91-4835

That on or about the 15[th] day of August, 1990 in the Municipality of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, received in trust from Susan Pulido Jocson the amount of P21,163.25, for the purpose of buying Ready to Wear (RTW) dresses, with the agreement to sell the RTW bought and remit the proceeds of the sale thereof, or to return the RTW if unsold, but the accused far from complying with her obligation aforesaid, with unfaithfulness and abuse of confidence and to defraud complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to her own personal use and benefit the said RTW dresses and/or the proceeds of the sale in the total of P21,163.25, and the accused despite repeated demands failed and refused and still fails and refuses to pay the value and/or return the same, to the damage and prejudice of the complainant in the aforementioned amount of P21,163.25.

CONTRARY TO LAW.

In the ensuing trial, only Susan Jocson testified. Nonetheless, the trial court, finding Susan's testimony credible, convicted petitioner, which conviction was affirmed by the Court of Appeals in the decision herein assailed, saying, *inter alia*, as follows:

It is an undisputed facts (sic) that prior to this case private complaint and [petitioner] were friends. They knew each other since 1970 when they became friends. They were townmates. They were also neighbors. [Petitioner] is also the "comadre" of the sister of private complainant. Private respondent and [petitioner] were not complete strangers to each other.

These circumstances are sufficient reasons why private complainant reposed trust in [petitioner].

xxx xxx xxx

The evidence presented in this case conclusively shows that [petitioner] led private-complainant to believe that [petitioner] will go abroad to buy RTW dresses to be sold here in the Philippines; that to obtain the RTW dresses, it was necessary for the private complainant to give [petitioner] money amounting to P21,163.25; that after receipt of the money, [petitioner] never bothered to show her face again to private complainant until the filing of this criminal case. (Words in brackets ours).

The provision of law[3] under which petitioner was indicted for and convicted of Estafa, reads:

Art. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned

hereinbelow shall be punished by:

xxx xxx xxx

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

a)

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

Petitioner made much of the fact that the only witness presented by the prosecution in Criminal Case No. 91-4835, is the private offended party, Susan Jocson, whose testimony stands uncorroborated, hence cannot be the basis for her conviction, what with the requirement of proof beyond reasonable doubt. If ever, so petitioner contends, Susan's testimony only amounts to a mere allegation or accusation, adding that although she (petitioner) "was not able to rebut in (sic) her testimony", still the presumption of innocence works in her favor since "it is incumbent upon the prosecution to present proof beyond reasonable doubt to obtain a judgment of conviction".[4]

We are not persuaded.

Settled is the rule in this jurisdiction that the testimony of a single witness, if credible, positive and satisfies the court beyond reasonable doubt, is sufficient to convict. The absence of corroborating testimony cannot affect credibility. After all, witnesses are weighed, not numbered.[5]

Here, the two courts below are one in finding Susan's testimony credible and trustworthy. For sure, we have ourselves reviewed Susan's declarations in court, as contained in the pertinent transcripts of stenographic notes no less attached as Annex "C" to the petition filed in this case, and found nothing therein to doubt Susan's credibility. Indeed, given the circumstances, never refuted by the petitioner, that she and Susan were friends, townmates and neighbors, let alone the fact that petitioner is even a "comadre" of Susan's sister, and, on top of all, no evil motive whatsoever was ever ascribed by petitioner to Susan, it strains our credulity to believe that the latter falsified the truth.

In any event, considerable weight is given to the factual findings of trial courts. Being in the vantage position to observe the demeanor of witnesses and their deportment while on the witness box, their factual assessments and conclusions deserve utmost respect, more so where, as here, such assessments and conclusions were never disturbed by the appellate court.[6]

In this connection, it bears emphasis that in petitions for review on certiorari as a mode of appeal under Rule 45 of the Rules of Court, a petitioner can raise only questions of law, this Court not being a trier of facts and therefore the improper venue to consider factual issues.[7]

In the matter of penalty meted upon the petitioner, the Solicitor General, in his Comment[8] to the petition, submits that the proper imposable penalty is imprisonment ranging from "four (4) years and two (2) months, as minimum, to five (5) years, five (5) months and eleven (11) days as maximum", and accordingly prayed that the penalty imposed be modified.

We disagree.

The amount involved in this case is P21,163.25. As provided in the first paragraph of Article 315 of the Revised Penal Code, the penalty is as follows:

Art. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned

hereinbelow shall be punished by:

1[st]. The penalty of prision correccional in its maximum period to prision mayor in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos; and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed prision mayor or reclusion temporal, as the case may be;

Applying the Indeterminate Sentence Law, the correct penalty is arresto mayor in its maximum period, as minimum, to prision mayor in its minimum period, as maximum. The trial court thus correctly imposed the indeterminate penalty of imprisonment ranging from six (6) months, as minimum, to six (6) years and one (1) day, as maximum.

WHEREFORE, the petition is DENIED and the impugned decision and resolution of the Court of Appeals AFFIRMED.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, and Carpio Morales, JJ., concur.
Corona, J., on leave.

[1] Penned by Associate Justice Eugenio S. Labitoria with Associate Justices Jainal B. Rasul (now ret.) and Marina L. Buzon, concurring; Rollo, pp. 21-27.

[2] Rollo, p. 29.

[3] Article 315, paragraph 2(a), Revised Penal Code.

[4] Petition, pp. 10-11; Rollo, pp. 16-17.

[5] *People vs. Marvin Torres, et al.*, 165 SCRA 702 [1988].

[6] *Spouses Jaime C. Uy & Evelyn Uy vs. Court of Appeals, et al.*, 359 SCRA 262 [2002]; *Chiao Liong Tan vs. The Honorable Court of Appeals, et al.*, 228 SCRA 75 [1993].

[7] *Montecillo vs. Reyes*, 385 SCRA 244 [2002].

[8] Rollo, pp. 43-47.

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