

ELSA JOSE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES; REJIE RAMOS DEL ROSARIO; AND THE PRESIDING JUDGE, REGIONAL TRIAL COURT OF MAKATI, BRANCH 148, RESPONDENTS.

G.R. No. 148371. August 12, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Private respondent might have been too naive in believing the false pretense foisted by petitioner. Others more sensible might not have succumbed to the sweet talk. But the law protects not only the wary and the wily, but more so the gullible and the guileless.

The Case

Before us is a Petition for Review[1] under Rule 45 of the Rules of Court, seeking to annul the December 29, 2000 Decision[2] and the June 7, 2001 Resolution[3] of the Court of Appeals (CA) in CA-GR CR No. 21073. The decretal portion of the assailed Decision reads as follows:

“WHEREFORE, the assailed decision being in conformity with the law and evidence, the same is hereby AFFIRMED in toto. Costs against [petitioner].”[4]

The assailed Resolution denied petitioner’s Motion for Reconsideration.

The Facts

The CA narrated the facts of the case as follows:

“Appeal from the decision dated 19 March 1997 of the Regional Trial Court, National Capital Judicial Region, Branch 148, Makati City, in Criminal Case No. 96-901 entitled PEOPLE OF THE PHILIPPINES vs. ELSA JOSE for ESTAFA, the dispositive portion of which reads:

‘WHEREFORE, premises considered, and finding accused ELSA JOSE guilty beyond reasonable doubt of the crime of ESTAFA defined and penalized under Article 315, paragraph 4 No. 2, letter (a) of the Revised Penal Code, she is hereby sentenced to suffer an indeterminate sentence of from Nine (9) Years, Eight (8) Months and Twenty One (21) Days of Prison Mayor as minimum to Thirteen (13) Years, Five (5) Months and Eleven (11) Days of Reclusion Temporal as Maximum, with all the accessories of the law.

‘Accused is further ordered to pay unto the complainant Regie Ramos the sum of P104,000.00[,] the amount defrauded by accused plus six (6) [percent] per annum as interest from March 22, 1996, the date of the [I]nformation until the whole amount is fully paid.

‘With costs against the accused.

‘SO ORDERED.’

“The Information charged:

‘That [on] or about and sometime during the period comprised from November, 1994 to March, 1995, in the City of Makati, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud one REJIE RAMOS DEL ROSARIO in the following manner, to wit: The said accused by means of false pretenses and fraudulent representations which she made to the herein complainant to the effect that she is a travel agent, engaged in the business of facilitating the travel of interested persons to Japan for a fee and by means of other similar deceit and further representation that she could help herein complainant in securing visa, ticket and other travel documents for Japan, induced and succeeded in inducing complainant to give and deliver and in fact the latter gave and delivered to said accused the total amount of P104,000.00 on the strength of said manifestations and representations, the said accused knowing fully well that the same were false and fraudulent and were only made to obtain as in fact she obtained the total amount of P104,000.00, to the damage and prejudice of herein complainant in the aforementioned total amount of P104,000.00.

‘Contrary to law.’

“Accused-[petitioner] Elsa Jose entered a plea of not guilty. At the trial, private complainant Rejie Ramos del Rosario and Yolanda B. Bautista testified for the prosecution. x x x.

“The evidence of the prosecution tends to show that on 24 November 1994, private [respondent] Regie Ramos del Rosario x x x went with her aunt Yolanda B. Bautista to the office of [petitioner] located at 802 Cityland 10, Cityland Tower, Makati. Private [respondent] asked [petitioner] whether she was a travel agent. After answering affirmatively, [petitioner] asked about the nature of private [respondent’s] visit to Japan. The latter replied it was a graduation gift from her mother. [Petitioner] told private [respondent] that she [petitioner] was a ‘professional travel agent’ and would assist her in going to Japan, as the former had ‘several connection(s) at the Japanese Embassy.’ [Petitioner] specifically informed private [respondent] she could help in the processing of private [respondent’s] passport, visa and round trip [ticket].

“On 13 December 1994, private [respondent] again with her aunt went back to [petitioner’s] office. As agreed upon, private [respondent] gave [petitioner] P30,000.00 ‘as initial payment for her services.’ A document of even date was signed by [petitioner] and aunt of private [respondent]. [Petitioner] told private [respondent] that she could use the name Rejie Antonio Ramos in her passport.

“Responding to a phone call of [petitioner], private [respondent] and her aunt returned again to [petitioner’s] office on 29 December 1994 with P17,000.00 on hand. [Petitioner] assured them that the visa would be obtained soon and the P17,000.00 was in payment of the round trip [ticket]. [Petitioner] explained that ‘the airfare ticket is a pre-requisite in trying to secure visa at the Japanese Embassy.’ With that [statement], the P17,000.00 was handed to [petitioner]. Another document dated that same day, 29 December 1994, was signed by [petitioner] and Yolanda R. Bautista.

“On 30 March 1995, complying with another telephone call, private [respondent], her aunt and this time, with her mother Remedios A. Ramos-Nigarra[5] went to the office of [petitioner] with P57,000.00 on hand. The three were told that part of the money would be used to expedite the release of the private [respondent’s] visa. They were assured that she would be able to leave for Japan with her mother. Believing [petitioner], the P57,000.00 was given to [petitioner]. A receipt for said amount was signed by [petitioner]. Remedios Ramos, the mother of private [respondent], did not affix her signature because private [respondent’s] visa had not been handed to them.

“Thereafter, private [respondent] kept following up her papers with the [petitioner] who insisted on her prior assurances that the visa [would] soon be released. The delay prompted private [respondent’s] mother to leave for Japan without her private [respondent].

“Sometime in January 1985,[6] she and her aunt proceeded to the office of [petitioner,] and [were] given a VISA SLIP as proof that the visa had been obtained. Private [respondent] verified the visa with the Japanese Embassy. Unfortunately, she found it to be ‘not authentic because it (the visa slip) does not bear any [s]eal of the embassy.

“Private [respondent] informed [petitioner] about it and demanded that the visa, passport and ticket be produced or the money returned. For [petitioner’s] failure to do any, a formal demand letter dated 01 December 1995 was sent by the lawyer of private [respondent], but to no avail.

“A certification dated 23 February 1996 issued by the Office of the Municipality of Makati, states, inter alia, that:

‘This is to certify that based on records on file Ms. ELSA JOSE, and/or CALFARME ENTERPRISE, with business address at Suite 802 Cityland 10, Tower II, [c]orner H. dela Costa and corner Valero Street, City of Makati, has been verified[;] that the said person or business entity did not secure any permit to operate business in this City.

‘This certification has been issued upon the request of Atty. Melvyn S. Florencio, for verification and record purposes.’

“On the other hand, the version of the defense is that sometime in November to December 1994, a certain Riza Ramos told [petitioner] that private [respondent] wanted to seek her [petitioner’s] assistance in going to Japan. [Petitioner] replied she did not have the time.

“Thereafter, a Japanese supplier called up [petitioner;] that the mother of the private [respondent] requested her to help the private [respondent] get a visa. [Petitioner] answered, ‘I will see what I can do. It depends on the circumstances of what documents she has.’

“When private [respondent] and her aunt went to the office of [petitioner] in 805 Cityland 10, Tower II, HB Dela Costa corner Valerio Streets, Makati City, [petitioner] explained to them how busy she was but nevertheless told them she would just assist in getting the documents they needed. [At that] time, the mother of private [respondent] called up [petitioner] that the former was willing to pay ‘so much’ to the latter for her time. [Petitioner] quoted P90,000.00 or more because she had a lot of other business matters to attend to and her time was also ‘very precious.’

“The documents [petitioner] signed on December 13 x x x and 29 x x x, 1994 did not mean that she had misrepresented herself to be a travel or tourist agent. She explained that when she agreed to assist the private [respondent] in securing her passport, round trip ticket and visa, they were together in having those documents processed.

“For her passport, private [respondent] went to the office of [petitioner] bringing x x x her birth certificate and other requisite documents like private [respondent’s] affidavit of illegitimacy. [These were] given to [petitioner]. When the passport was issued, a photocopy thereof together with the guaranty letter of private [respondent’s] Japanese father[7] was filed with the Japanese Embassy.

“Also, the two went to get private [respondent’s] round trip ticket and [petitioner] gave it to private [respondent]. The two filed the visa application [at] the Japanese Embassy which sent a letter reply to private [respondent] instructing her to pick up in person the subject visa.

“The document dated 30 March 1996 was prepared and signed when the mother of private [respondent] went to [petitioner’s] office. The mother did not sign the document because the visa was not yet there.

“[Petitioner] emphasized that the visa receipt was not really a visa receipt; rather, it was a ‘positive response from the Japanese Embassy’ directing private [respondent] to present it together with the ‘original documents’ to the

embassy which in return would hand back a [pick-up] receipt. '[T]hat is the only time you can find out whether you are given a visa or not.'"[8]

Ruling of the Court of Appeals

In affirming the trial court, the CA held that the prosecution had established with moral certainty that petitioner was guilty of the crime charged. She had falsely pretended to possess the qualification and the influence of a travel agent. She did so by helping in the processing of private respondent's passport, round-trip ticket and visa -- where none was produced -- and by claiming to have several connections at the Japanese Embassy. The positive assertions of the prosecution witnesses were given greater evidentiary weight than her negative averments.

The appellate court held that the failure of private respondent to get the visa, in spite of having submitted all the required papers, was due to a fake visa slip given by petitioner. Finally, it declared that the document of receipt for the amount of P57,000 was *res ipsa loquitur*. The money should therefore be returned to private respondent.

Hence, this Petition.[9]

Issues

In her Memorandum, petitioner raises the following issues for our consideration:

"I.

"Respondent Court gravely erred in holding that petitioner-accused employed deceit through false pretense and fraudulent representation upon private respondent in obtaining the sum of P104,000.00 on promise to secure her travel papers but failed which is punishable under Article 315, par. 4(2)(a)[.]

"II.

"Respondent Court gravely erred in not acquitting petitioner-accused of the offense charged in the information despite [the] fact that the evidence of the prosecution is utterly insufficient to sustain conviction."[10]

The foregoing points raised by petitioner boil down to only one main issue: whether there was deceit.

The Court's Ruling

The Petition has no merit.

Main Issue: Presence of Deceit

Deceit refers to a "false representation of a matter of fact (whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed) which deceives or is intended to deceive another so that he shall act upon it to his legal injury."[11]

On record are, on the one hand, the pieces of evidence submitted by the People of the Philippines establishing how petitioner held herself out as a professional travel agent who could process and obtain for private respondent a passport, as well as a round-trip ticket to and a visa for Japan. This charade convinced the latter and her family to part with their P104,000. On the other hand is the testimony of petitioner denying she ever made such misrepresentation.

To begin with, this Court does not have the duty or function of weighing and sifting through the evidence presented. As a rule, only questions of law[12] may be raised in a petition for review on certiorari under Rule 45 of the Rules of Court. Questions of fact are not proper subjects in such mode of appeal.[13] Although the

exceptions to this rule are enumerated in *Fuentes v. CA*,^[14] none have been found in this case. Moreover, findings of fact^[15] of the Court of Appeals affirming those of the trial court are accorded great respect, even finality, by this Court.^[16]

We find no reason to disturb the trial court's findings and conclusions, affirmed by the CA, that petitioner misrepresented herself as a travel agent. These findings are amply supported by the records. Private respondent attested to this fact as follows:

“Q

Do you know the accused in this case?

A

Yes, sir.

Q

Will you please point to the accused if she is in the court room.

[A]

Yes that's her.

INTERPRETER:

Witness pointing to a woman inside the court room who stood up and answered as Elsa Jose.

Q

Why do you know her?

A

I transacted with her regarding my travel to Japan.

Q

Where did you meet her?

A

I met her in Makati last November 24.

Q

Where is her office located?

A

Her office as located at the Cityland Tower, at 802 Cityland 10.

Q

You said you met her. What transpired during the meeting if any?

A

I went to her office and I was with my Auntie and I asked her if she was a travel agent and she said yes and she asked about the nature of my visit to Japan and I told her it was a graduation gift from my mother.

COURT:

Will you speak louder Miss witness. I cannot hear you.

A

Yes Your Honor.

ATTY. FLORENCIO:

Q

What was her reply if any?

A

She told me that she was a professional travel agent and that if I acquired her services would assist me in going to Japan since she has a several connection at the Japanese Embassy.

Q

Was she able to help you Miss witness?

A

Yes, sir. She said could help processing my passport my visa and an airfare ticket to and from Japan.

Q

Was [s]he able to tell you how much x x x her services cost?

A

Yes sir, she said P90,000.00 exclusive of the airfare ticket.

Q

What transpired after that?

A

During said meeting we were able to pay her P30,000 as initial payment for the processing of my papers.

Q

And after you were able to pay the P30,000.00 as the price for the processing of your papers what transpired next if any?

A

She called me up in my house and she asked me if the money was ready and she need it for the processing of my papers since it could not be started without the money.

Q

What was you reply if any?

A

I told her that the money is ready and we were coming to her office about the second week of December to pay her.

Q

Were you able to see the accused on the second week of December?

A

Yes sir.

Q

Where?

A

At Makati City.

Q

What date specifically was that?

A

That was December 13, 1999.

Q

What transpired during said meeting?

A

The accused assured us that she can surely send me to Japan, because he as a travel connection with the Philippine Embassy and she also told me that the balance of P60,000.00 shall be payable upon the release of my visa.

Q

Was there any move made by the accused that she is going to reimburse you the aforesaid payment in case she cannot procure your visa?

ATTY. CAPILI:

Leading Your Honor.

COURT:

Answer.

A

Aside from assuring us that she can surely send me to Japan she also assured us that should she fail to send me to Japan we do not have any problem with getting back of our money since she was the Vice President and we can be assured that she would not run away with our money.”[17]

Both the trial and the appellate courts found the foregoing testimony to be trustworthy and credible. Despite the fact that private respondent appeared to have lied about her age,[18] we find no compelling reason to disbelieve her story about petitioner’s misrepresentation. The maxim “Falsus in uno falsus in omnibus”[19] is not absolute. Neither is it of universal application. Just because petitioner lied about a minor point in her testimony does not mean that such testimony can be disregarded entirely, if a part of it is found to be true. The testimony of a witness may be believed in some parts and disbelieved in other parts.[20]

“x x x. The rule falsus in uno falsus in omnibus is not a mandatory rule of evidence, but rather a permissible one which allows the jury or the court to draw the inference or not to draw it as circumstances may best warrant. (70 C.J., 783). The rule has its limitation, when the mistaken statement is consistent with good faith and is not conclusively indicative of a deliberate perversion, the believable portion of the testimony should be admitted. (III Wigmore secs. 1009-1015, pp. 674-683). There are, therefore, these requirements for the application of the rule, i.e., that the false testimony is as to a material point, and there should be a conscious and deliberate intention to falsify.

“x x x. The said rule should not apply where there is sufficient corroboration on many grounds of the testimony; where the mistakes are not on the very material points; where the errors do not arise from an apparent desire to pervert the truth x x x.”[21]

Time-tested is the doctrine that the trial court’s assessment of the credibility of a witness is entitled to great weight; sometimes it is even conclusive and binding upon appellate courts.[22] The Supreme Court will not interfere with that assessment, absent any indication that the lower court has overlooked some material facts or gravely abused its discretion.[23] Without any showing that the prosecution witnesses have not been impelled by any improper motive, their testimonies are entitled to full faith and credit.[24]

A recourse to the records shows that no reversible error was committed by the CA when it gave credence to the positive testimonies of the prosecution witnesses, as opposed to petitioner’s bare denials. Denial, like alibi, is a weak defense that becomes even weaker in the face of such positive testimonies.[25] Being a self-serving negative evidence, denial cannot be given greater weight than credible declarations on affirmative matters.[26] Well-established is the rule that between the negative averments of the accused and the positive assertions of the prosecution witnesses, the latter deserve more credence and are entitled to greater evidentiary weight.[27]

The prosecution has proven beyond reasonable doubt that the accused made false pretenses as to her qualifications and the transactions she had purportedly entered into as a professional travel agent, who could assist in processing private respondent’s travel papers. Undisputedly, she was not a travel agent. Neither was she licensed to engage in the business of travel agency.

Petitioner issued a receipt for “PROFESSIONAL FEES in assisting visa application and obtaining visa for [private respondent’s] pleasure/travel to Japan in 1995”[28] simultaneously with her actual receipt of the specified amount. This fact, in addition to her convincing oral statements, further underlined her misrepresentation of herself as a licensed travel agent. Because of this false pretense, private respondent was induced to part with her P104,000. We quote the relevant portion of her cross-examination as follows:

“Q.

And you were convinced that she was a professional travel agent just because she told you so?

A.

She was very convincing and her words [were] very convincing otherwise we [would] not part [with] our P104, thousand to her.”

We do not find any reason, either, to disturb the CA’s finding that petitioner did not obtain or deliver private respondent’s passport, round-trip ticket and Japan visa. Neither did she return the P104,000 despite the demand[29] therefor.

In estafa through false pretenses, these elements must concur:

“a. That the accused made false pretenses or fraudulent representations as to power, influence, qualifications, property, credit, agency, business or imaginary transactions;

- b. That such false pretenses or fraudulent representations were made prior to or simultaneous with the commission of the fraud;
- c. That such false pretenses or fraudulent representations constitute the very cause which induced the offended party to part with his money or property; and
- d. That as a result thereof, the offended party suffered damage.”[30]

The foregoing facts proved beyond reasonable doubt that all these elements were present in this case.

Indeed, private respondent has shown her gullibility and perhaps even foolishness in believing petitioner and in consequently parting with her P104,000; Others more sensible might not have done so in a similar situation. But such naivete cannot absolve petitioner of criminal liability. It has been established with moral certainty that she intentionally committed a crime in violation of the law enacted precisely to protect not only the wary and the wily, but more so the gullible and the guileless.

Penalty

However, there is a need to discuss the indeterminate penalty imposed on petitioner. In the leading case *People v. Gabres*[31] this Court ruled:

“Under the Indeterminate Sentence Law, the maximum term of the penalty shall be ‘that which, in view of the attending circumstances, could be properly imposed’ under the Revised Penal Code, and the minimum shall be ‘within the range of the penalty next lower to that prescribed’ for the offense. The penalty next lower should be based on the penalty prescribed by the Code for the offense, without first considering any modifying circumstance attendant to the commission of the crime. The determination of the minimum penalty is left by law to the sound discretion of the court and it can be anywhere within the range of the penalty next lower without any reference to the periods into which it might be subdivided. The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence.

“The fact that the amounts involved in the instant case exceed P22,000.00 should not be considered in the initial determination of the indeterminate penalty; instead, the matter should be so taken as analogous to modifying circumstances in the imposition of the maximum term of the full indeterminate sentence. This interpretation of the law accords with the rule that penal laws should be construed in favor of the accused. Since the penalty prescribed by law for the estafa charge against accused-appellant is prision correccional maximum to prision mayor minimum, the penalty next lower would then be prision correccional minimum to medium. Thus, the minimum term of the indeterminate sentence should be anywhere within six (6) months and one (1) day to four (4) years and two (2) months while the maximum term of the indeterminate sentence should at least be six (6) years and one (1) day because the amounts involved exceeded P22,000.00, plus an additional one (1) year for each additional P10,000.00.”

Additionally, *Marcelo v. Court of Appeals* held:

“When the amount involved in the offense exceeds P22,000.00, the penalty prescribed in Article 315 of the Revised Penal Code ‘shall be imposed in its maximum period,’ adding one year for each additional P10,000.00 although the total penalty which may be imposed shall not exceed 20 years. The maximum penalty should then be termed as prision mayor or reclusion temporal as the case may be. In fine, the one year period, whenever applicable, shall be added to the maximum period of the principal penalty of anywhere from 6 years, 8 months and 21 days to 8 years.”[32]

The penalty imposed by the trial court, affirmed by the appellate court, should accordingly be modified. The amount involved in the present case is P104,000, which is P82,000 in excess of P22,000. Hence to get the range from which the maximum penalty[33] to be imposed may be taken, a total of 8 years[34] should be added to the

period of 6 years, 8 months and 21 days to 8 years.[35] The minimum of the penalty, on the other hand, should be taken from prison correccional minimum to medium, or anywhere within six (6) months and one (1) day to four (4) years and two (2) months.

WHEREFORE, the Petition is DENIED, and the assailed Decision and Resolution AFFIRMED with the MODIFICATION that petitioner is sentenced to an indeterminate sentence of 4 years and 2 months of prison correccional to 14 years, 8 months and 21 days of reclusion temporal. The other parts of the trial court Decision are also AFFIRMED. Costs against petitioner.

SO ORDERED.

Corona, and Carpio-Morales, JJ., concur.

Sandoval-Gutierrez, J., on leave.

[1] Rollo, pp. 9-20; petitioner erroneously entitled her recourse as a “Petition for Certiorari.”

[2] Id., pp. 21-33. Special Seventh Division. Penned by Justice Buenaventura J. Guerrero (Division chairman) with the concurrence of Justices Alicia L. Santos and Eliezer R. de los Santos (members).

[3] Id., pp. 35-36.

[4] CA Decision, p. 12; rollo, p. 32.

[5] “Remedios A. Ramos-Nigarra” is referred to also as “Remedios Nigawa” and as “Remedios Sukigawa” in the Regional Trial Court (RTC) Decision dated March 19, 1997, pp. 2, 6-7; RTC records, pp. 8, 12-13.

[6] Rectified to “1995” in the assailed CA Resolution dated June 7, 2001.

[7] The invitation letter, the Affidavit of Support, and the April 10, 1995 letter came from the sponsor of Regie Ramos del Rosario, referred to as “Hidenobu Sukegawa” or “Hidenobu Sukigawa” in the RTC Decision dated March 19, 1997, pp. 2 & 8; RTC records, pp. 8, 14.

[8] CA Decision, pp. 2-6; rollo, pp. 22-26. Citations omitted.

[9] The case was deemed submitted for decision on August 14, 2002, upon receipt by this Court of petitioner’s Memorandum, signed by Atty. Rudy T. Muyco. Public respondent’s Memorandum, signed by Assistant Solicitor General Antonio L. Villamor and Solicitor Enrique Z. Trespeces, was received on June 21, 2002.

[10] Petitioner’s Memorandum, p. 5; rollo, p. 156. Original in upper case.

[11] Dissenting Opinion of Perfecto, J. in *People v. Castillo*, 76 Phil. 72, 95, February 1, 1946, per De Joya, J.

[12] *Metropolitan Bank and Trust Co. v. Wong*, 412 Phil. 207, 216, June 26, 2001.

[13] *Perez v. CA*, 374 Phil. 388, 409-410, October 1, 1999.

[14] *Philippine National Bank v. Andrada Electric & Engineering Co.*, 381 SCRA 244, 253, April 17, 2002; citing *Fuentes v. CA*, 335 Phil. 1163, 1167-1169, February 26, 1997, per Panganiban, J. In this cited case, the Court said that the findings of fact of the CA could admit of review:

“(1) when the factual findings of the Court of Appeals and the trial court are contradictory;

(2) when the findings are grounded entirely on speculation, surmises, or conjectures;

- (3) when the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd, or impossible;
- (4) when there is grave abuse of discretion in the appreciation of facts;
- (5) when the appellate court, in making its findings, goes beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- (6) when the judgment of the Court of Appeals is premised on a misapprehension of facts;
- (7) when the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion;
- (8) when the findings of fact are themselves conflicting;
- (9) when the findings of fact are conclusions without citation of the specific evidence on which they are based; and
- (10) when the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.”

[15] *Gobonseng Jr. v. CA*, 316 Phil. 570, 572, July 17, 1995.

[16] *De la Cruz v. CA*, 333 Phil. 126, 135, December 4, 1996. See also *Castillo v. CA*, 329 Phil. 150, 158-159, August 7, 1996; *Verdejo v. CA*, 238 SCRA 781, 784, December 5, 1994; *Navallo v. Sandiganbayan*, 234 SCRA 175, 185-186, July 18, 1994; *People v. Cabalhin*, 231 SCRA 486, 496, March 28, 1994; *Lim v. CA*, 229 SCRA 616, 621, February 3, 1994; and *Tay Chun Suy v. CA*, 229 SCRA 151, 156, January 7, 1994.

[17] TSN, July 3, 1996, pp. 5-10.

[18] The Certification dated May 25, 1994, issued by the Office of the Municipal Civil Registrar of Badoc, Ilocos Norte, and signed by Municipal Civil Registrar Pablo M. Reyes, stated that private respondent was born on April 4, 1970 (Exhibit 2; RTC records, p. 105). Although objected to by the private prosecutor (“Comment on Formal Offer of Evidence by the Accused” dated February 12, 1997; RTC records, pp. 68-69), this Certification was admitted in court (see Order dated February 17, 1997; RTC records, p. 70). However, in her testimony on July 3, 1996, private respondent declared that she was 22 years old (TSN, July 3, 1996, p. 3). She should have been 26 by then.

[19] “False in one thing, false in everything.” R.S. Vasan (ed.), *Latin Words and Phrases for Lawyers* (1980), p. 90.

[20] *People v. Costelo*, October 13, 1999; *People v. Pacis*, July 25, 1984; *People v. Surban*, 208 Phil. 203, June 29, 1983.

[21] *People v. De la Cruz*, 97 SCRA 385, 397, April 30, 1980 (quoting *Lyric Film Exchange, Inc. v. Cowper*, 36 OG 1642; and *People v. Dasig*, 93 Phil. 618, August 25, 1953).

[22] *People v. Villanueva*, 302 SCRA 380, January 29, 1999; *People v. Sagun*, 303 SCRA 382, February 19, 1999.

[23] *People v. Gado*, 358 Phil. 956, November 11, 1998.

[24] *Amper v. Sandiganbayan*, 344 Phil. 849, September 24, 1997.

[25] *People v. Lapay*, 358 Phil. 541, October 14, 1998.

[26] *People v. Carizo*, 233 SCRA 687, July 6, 1994.

[27] *Abadilla v. Tabiliran, Jr.* 249 SCRA 447, 319 Phil. 572, October 25, 1995.

[28] Exhibit A; records, p. 95.

[29] Exhibit E, demand letter; records, pp. 99-100.

[30] *Fernandez v. People*, 341 SCRA 277, 286, September 28, 2000, per Gonzaga-Reyes, J. (citing *People v. Juego*, 298 SCRA 22, 33, October 13, 1998). See also *Erquiaga v. CA*, 419 Phil. 641, 648-649, October 17, 2001; *People v. Sagaydo*, 341 Phil. 329, 338, September 29, 2000; *People v. Meris*, 385 Phil. 667, 686, March 28, 2000; *People v. Balasa*, 356 Phil. 362, 381-382, September 3, 1998; *De la Cruz v. CA*, *supra*, p. 138; and *People v. Bautista*, 311 Phil. 227, 236, February 9, 1995.

[31] 335 Phil. 242, 256-257, February 6, 1997, per Vitug, J.

[32] 348 SCRA 740, 751, December 27, 2000, per De Leon, J. citing *People v. Saley*, 291 SCRA 715, July 2, 1998, per Vitug, J.

[33] Applying the Indeterminate Sentence Law.

[34] 1 year for each P10,000.

[35] The maximum period of the penalty specified in the 1st paragraph of Art. 315 of the Revised Penal Code.

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