

ROLAND V. VELOSO, PETIONER, vs. PEOPLE OF THE PHILIPPINES, RESPONDENT.*G.R. No. 149354. January 18, 2008*

Ponente: SANDOVAL-GUTIERREZ, J.

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Challenged in this Petition for Review on Certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, are the Decision[1] dated March 2, 2001 and Resolution[2] dated August 10, 2001 of the Court of Appeals in CA G.R. SP No. 59239.

Shangri-la Finest Chinese Cuisine, at No. 4 Times Street, West Triangle, Quezon City, is a restaurant owned and operated by the Developers Group of Companies, Inc. Ramon Sy Hunliong (Ramon) was its president and general manager. Roland Veloso, petitioner, claiming to be a consultant of then Congressman Antonio V. Cuenco, was an occasional guest at the restaurant.

Before the May 1995 elections, petitioner and then Congressman Cuenco, while at the said restaurant having dinner, had a conversation with Ramon. This led to a friendly bet between petitioner and Ramon on whether or not Ferdinand Marcos, Jr. would win as a Senator. Ramon assured that Marcos, Jr. is a sure winner, but petitioner claimed otherwise. They both agreed that the loser will host a dinner for ten (10) persons. After the elections, official results showed that Marcos, Jr. lost in his senatorial bid. Hence, petitioner won in the bet.

On August 22, 1995, Congressman Cuenco's secretary called Eva Anne Nanette Sto. Domingo (Eva), the restaurant's assistant dining manager, to reserve a dinner for one table corresponding to ten persons on behalf of petitioner. Ramon, the loser, informed Eva that he would pay for one table, his commitment to petitioner.

However, when petitioner arrived at the restaurant on August 23, 1995, he asked that four (4) additional tables be set, promising he would pay for the same. Hence, Eva had four additional tables prepared in addition to the one under Ramon's account. The Sales Invoice for the additional four tables amounted to P11,391.00.

When the Sales Invoice was presented to petitioner, he refused to pay, explaining he was a guest of Ramon. Due to petitioner's stubborn refusal to pay, Eva asked him where she should send the bill. Petitioner instructed her to send it to Congressman Cuenco's office as he was always present there. It turned out, however, that he was no longer reporting at that office. Hence, the bill was sent to his address at 63 Benefit Street, GSIS Village, Quezon City, but still, he refused to pay.

The lawyer for the restaurant sent a demand letter to petitioner, but to no avail.

Consequently, petitioner was charged with estafa before the Metropolitan Trial Court (MeTC), Branch 31, Quezon City. The Information reads:

That on or about the 23[rd] day of August, 1995, in Quezon City, Philippines, the above-named accused, by means of deceit, false pretenses and/or fraudulent acts executed prior to or simultaneously with the commission of the fraud, did then and there, willfully, unlawfully and feloniously defraud the SHANGRI-LA

RESTAURANT, located at No. 4 Times Street, West Triangle, this City, represented by Eva Anne Nanette Sto. Domingo, in the following manner, to wit: on the date and in the place aforementioned, said accused, pretending that he has the money to pay, ordered that five (5) tables be prepared for his guests with the total costs of P11,391.00, Philippine currency, but said accused and his guests after consuming the foods, with intent to defraud, refused to pay for the bills despite demand, to the damage and prejudice of the said offended party.

After trial on the merits, the MeTC rendered a Decision dated July 6, 1999 finding petitioner guilty of the crime charged and imposing upon him the corresponding penalty, thus:

WHEREFORE, judgment is hereby rendered finding accused Roland V. Veloso guilty beyond reasonable doubt of the crime of estafa, as defined and penalized in Article 315, paragraph 2nd, sub-paragraph 2-(e), of the Revised Penal Code, and, in default of any modifying circumstance in attendance, hereby sentences him to an indeterminate penalty ranging from Four (4) Months of Arresto Mayor as minimum, to One (1) Year and Eight (8) Months and Twenty-One (21) Days of Prision Correccional as maximum, with the accessories provided by law; to indemnify the offended party, Developers Group of Companies, Inc., owner and operator of the Shangri-La Finest Chinese Cuisine Restaurant, in the amounts of P11,391.00, with interests thereon at the legal rate per annum from August 23, 1995 until fully paid, and P10,000.00, as and for attorney's fees and expenses of litigation; and to pay the costs."

SO ORDERED.[3]

On appeal by petitioner, the Regional Trial Court (RTC), Branch 218, Quezon City, in its Decision dated April 7, 2000, affirmed the MeTC judgment, holding that all the issues being raised by petitioner have been thoroughly considered and passed upon by the MeTC. His motion for reconsideration was likewise denied by the RTC.

Petitioner then filed with the Court of Appeals a petition for review. On March 2, 2001, the appellate court rendered its Decision affirming the judgment of the RTC, ratiocinating as follows:

x x x To quote the trial court, "having observed the demeanor of the witnesses who paraded before the Court, we are of the considered view that, between the affirmations of the witness for the prosecution and the denials of the accused, the choice is not difficult to make" – and gave credence to the prosecution's evidence. The RTC sustained the MTC's assessment, and so must We. The credibility of witnesses is a matter best assessed by the trial court because of its unique opportunity to observe the witnesses firsthand and to note their demeanor, conduct and attitude.

The inconsistencies and contradictions cited by petitioner in the testimony of Sto. Domingo are on minor details which do not impair her trustworthiness. If any, they indicate that she is not a tutored witness. Truthful witnesses are seldom perfect witnesses.

Petitioner's argument that he was not prevented from leaving the Shangrila Restaurant even after he refused to pay the bill for four tables, does not serve him any. Compelling him to stay because of his failure to pay for his food would have exposed the person enforcing it to possible criminal charge of coercion. The victim would then become the villain.

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In sum, as aptly defined by the MTC and RTC – the issue boils down to credibility. The case law is that the assessment of the trial court on this matter is entitled great weight and persuasion and at times conclusive to the appellate courts.

The sole issue for our resolution is whether the Court of Appeals erred in affirming the RTC Decision finding petitioner guilty of estafa under Article 315 (2)(e) of the Revised Penal Code.

The issue involves the correctness of the MeTC's findings of fact, which findings were affirmed by both the RTC and the Court of Appeals.

An appeal in a criminal case throws the whole case open for review and it becomes the duty of this Court to correct any error in the appealed judgment whether or not it is an assigned error.[4]

Appellant insists that he is only civilly liable for an unpaid debt.

We reviewed the records very closely and found that petitioner and his guests, occupying four tables, ate the food he ordered. When asked to pay, he refused and insisted he was a mere guest of Ramon. It bears emphasis that the understanding between petitioner and Ramon was that the latter would pay for only one table.

We agree with the Solicitor General in his brief for the People that petitioner employed fraud in ordering four additional tables, partaking of the food ordered and then illegally refusing to pay, which makes him liable for estafa under Article 315 (2)(e) of the Revised Penal Code.[5]

After a careful review of the records of the case, we found no reversible error in the assailed Decision of the Court of Appeals. The Court thus adopts its findings of fact and conclusion of law.

WHEREFORE, we DENY the petition. The assailed Decision and Resolution of the Court of Appeals in CA G.R. SP No. 59239 finding petitioner Roland V. Veloso guilty beyond reasonable doubt of the crime of estafa are AFFIRMED. Costs against petitioner.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

[1] Penned by Associate Justice Buenaventura J. Guerrero and concurred in by Associate Justice Eriberto U. Rosario, Jr. and Associate Justice Alicia L. Santos (all retired); rollo, pp. 20-29.

[2] Id., p. 41.

[3] Id., pp.114-115.

[4] People v. Buban, G.R. No. 170471, May 11, 2007, 523 SCRA 118, citing People v. Lab-eo, 373 SCRA 461, 480 (2002).

[5] Article 315. Swindling (estafa). – Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

x x x

2nd. The penalty of prision correccional in its minimum and medium periods, if the amount of the fraud is over 6,000 pesos but does not exceed P12,000.00.

x x x

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

x x x

(e) By obtaining any food, refreshment or accommodation at a hotel, inn, restaurant x x x without paying therefor, with intent to defraud the proprietor or manager thereof x x x.

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