

AMELITA DELA CRUZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 150439. July 29, 2005

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before Us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking the reversal of the Decision[1] of the Court of Appeals dated 31 May 2001, in CA-G.R. CR No. 23302, and its Resolution[2] dated 29 October 2001, which affirmed in toto the Decision[3] of the Regional Trial Court, Branch 43, Manila, dated 07 April 1999, finding the accused, herein petitioner, guilty of the crime of estafa as defined by Article 315, paragraph 1(b) of the Revised Penal Code, in Criminal Case No. 95-142464.

The information[4] under which the accused-petitioner was charged reads:

That on or about and during the period comprised from the month of December 1994 to January 1995, inclusive, or thereabouts in the City of Manila, Philippines, the said accused did then and there willfully, unlawfully and feloniously defraud the Great Mandarin Villa Seafoods Village, Inc., and Hock Wan Restaurant Corporation, in the following manner, to wit: the said accused being then the payroll clerk of said Corporations, existing domestic corporations primarily engaged in the restaurant business, with principal places of business at 798 Ongpin St., Sta. Cruz, Manila, and 489 Nueva St., Binondo, Manila, respectively, and by virtue of her position as such, received from said corporations in trust, during the said period a total sum of P471,166.11 representing the excess amount paid to the employees of said corporations as salaries under the obligation of accounting and turning over the said excess to said corporations, but she did not do so in violation of the trust relationship existing between her and said corporations, which amount, once in her possession, far from complying with her obligation aforesaid, went into hiding and failed and refused, and still fails and refuses to return the same whereby misappropriating, misapplying and converting the said amount to her personal use and benefit to the damage and prejudice of the said corporation represented by their common personnel manager Manuel M. Matammu in the total amount of P471,166.11 Philippine Currency.

The accused-petitioner pleaded not guilty to the crime charged.[5]

As found by the trial court, the facts of the case are as follows:

The first witness presented by the prosecution was the personnel manager of the complaining corporations, Manuel M. Matammu, who testified that he is responsible for the hiring of employees, monitoring the rules and regulations, violations in the rules and also, enforcing the president's instruction from time to time; that the Great Mandarin Restaurant has two (2) branches, one in Ongpin, Sta. Cruz, Manila, and the other one in Greenhills, San Juan; the main office is located at Nueva St., Binondo, Manila; that the accused Amelita dela Cruz, whom he identified in open court, was their payroll clerk since 1989; that the accused was a college graduate working previously in an accounting firm as an accounting clerk from where they pirated her and has been with them for about six (6) years until she was first confronted in December of 1994. It was the duty of the accused to compute the payroll based on the time card, request the treasurer for the issuance and encashment of the corresponding checks, placed the money on the pay slip and afterwards distribute the same

to the employees. He further testified that the accused stopped working on the second week of January 1995, when she failed to comply with the instruction to submit a report on the computations she made. Considering that the payroll record were no longer in the office, he computed the total of the acknowledged pay slips and compared it with the total amount of the checks withdrawn for that particular period, he found out that there was an overdrawn amount of P352,427.31. He arrived at this amount of P352,427.31 after adding the amounts appearing in the acknowledged pay slips for the period, from December 1-15, 1994; December 16-31, 1994 and January 1-15, 1995 of the three companies, Hock Wan, Mandarin Villa Seafoods, Greenhills and Mandarin, Ongpin ... and deducted the same from the checks for the payroll issued and encashed for the same period. ... Witness also testified that after discovering the discrepancy he immediately reported this to the Administration and submitted a report therein as instructed. He recommended that the proper complaint be filed in court and in turn he was instructed to make further audit. Witness, further elaborated, that ... in the distribution of the pay slips the accused was assisted by the other secretary; that the employees go to the main office to get the pay envelope but, sometimes the payroll was sent to the Lady Captain at Greenhills and there is no possibility of tampering the pay envelope because it was sealed. As far as he knows there was no complaint of any discrepancy or insufficiency for the pay by any employee. He likewise stated that what triggered the audit was the information received by the president about the life style of the accused, she was able to buy a car and built her own house. On cross examination, witness stated that the president of the complaining corporations herein is Mr. Nelson Loa and witness reports at the residence of his boss at No. 918 Lever St., Binondo, Manila, where they have an office. Witness admitted that he has no actual and personal knowledge of all the disbursement at Mandarin Villa Restaurant and in this particular case, that of the payroll moneys from December 1 to 15 and 16 to 31, 1994 and January 1 to 15, 1995 and if ever they were actually received and distributed by the accused to the employees. ... Witness clarified that he knows for a fact that the accused was assigned to compute the payroll and distribute the money to the employees; that the treasurer is the one who withdrew the money based on the computation of accused which was never checked, if it was correct or not; when the money was turned over to the accused the treasurer does not require receipt of acknowledgment from the accused. No complaint was received of any shortage in the salary, the only complaint, which is very seldom, were regarding the overtime pay which was not paid or there is a wrong computation.

The second witness is King Eng Kiat the treasurer of the Great Mandarin Restaurant. He stated that he has been in the company for almost ten (10) years and his duties are to deposit and withdraw money from the bank intended for the payroll; that the accused has been with the company for five (5) or six (6) years as a payroll clerk or pay master; that the salaries are given every fifteenth (15th) and thirtieth (30th) of the month; that the computation was made and given to him by the accused. After withdrawing the money intended for salaries he hands it over to the accused at the Mandarin Villa office without receipt from the accused. He also remembered issuing, withdrawing and giving the following checks to the accused, they are: 1) check dated December 15, 1994 (should read December 29, 1994) in the amount of P200,000.00 (should read P300,000.00); check dated December 31, 1994 in the amount of P56,540.75 (should read P476,540.75); check dated January 12, 1995 in the amount of P500,000.00; check dated January 15, 1995 in the amount of P237,415.00; and check dated December 15, 1994 in the amount of P728,099.50, all these checks were issued for the salaries of the employees of the complaining corporations. The computation of the payroll was contained in a small piece of paper presented to him by the accused which he returned to her together with the money. They have in their computer the computation of the payroll but after the accused went to their office in the later part of December 1994 the diskette was no longer available. He also stated that the accused was audited because, as per information of the president, they came to know about the house and lot and the car acquired by the accused but he has no idea on the amount of salary received by the accused. After the accused was being audited he saw her again, she was then working with the computer and that was the last time he saw her. The accused did not resign from the company she just stopped reporting for work. According to him the audit revealed that there were excesses in the computation of the payroll made by the accused. On cross examination witness admitted that there were no evidence of the salary computation made by the accused as

the computation sheet was returned to the accused together with the money. There was also no evidence that the amount of the checks he turned over to the accused were actually given to the employees as their salaries but, there were people inside the office who saw him give said amounts. Besides there are no complaints of underpayment.

The third witness for the prosecution was Teresita Ng de Egano. She is a clerk at the Finance Division of the Mandarin Seafood Villa Restaurant, in charge of the accounts payable, paying the suppliers and also help in inserting the money in the pay envelope. Aside from this, she check Restaurant receipts and computations. She stated that the accused holds office with her in the same room. According to the witness, the accused is the one who computes the salaries of the employees, such computation will then be given to Mr. King Eng Kiat. The latter will then withdraw the total amount of the payroll, then afterwards give the encashed amount to the accused. She, together with two other persons, one for Hock Wan and another for Mandarin Villa assist the accused in inserting the money in the pay envelopes. The salaries for the employees of the two (2) corporations were not divided, but the corresponding amount, as indicated in the pay slips, were inserted in the envelope until all the names of the employees indicated in the pay slips were completed. The pay envelopes were then placed in a box. The witness, however, noticed that there were extra money left in the tray and she does not know if these money were returned to Mr. King Eng Kiat. After getting done with this task, the witness then proceeds with her other duty. She also testified that she is present when the salaries were distributed by the accused to the employees. She elaborated that there was no instance that she participated in the computation of the salaries of the employees. According to her, despite the instruction of Mr. Matammu to the accused that she teach them how to compute the payroll, the accused never did. She stated that there were several instances when employees complain about the salaries they received but these concerns insufficient payments between what has been inserted in the pay envelope and the amount indicated in the pay slip. If there was indeed an insufficiency management pays the difference but there is no rule in counter checking the amount placed in the envelope. This has been the practice in the company for a long time. She stated that there was a record of the computation of the salaries of the employees but the accused and the checks withdrawn by Mr. King Eng Kiat, kept by one of her companions, a certain Juanita, however, she is not aware if the accused kept a record of her own and nobody knows if she keeps a record. Witness saw the accused for the last time on January 27, 1995, the latter stayed in the office until eleven o'clock operating the computer. Witness stated that the accused erased the payroll entries in the computer because Mr. Matammu was able to trace that the entries were already erased from the diskettes; at the office the accused was the only computer literate. Witness further stated that, at that time, the accused was being audited by Mr. Matammu because of the news that has been circulating regarding the misappropriation of money and that she was able to buy a car, a house and lot. She stated that the salary received by the accused was about P5,000.00 plus. The accused never turned over the excess money of the payroll to the treasurer, Mr. King Eng Kiat; it was there at her (accused) table for the whole day but the following day it was no longer there. They leave the office at the same time with the accused. There was no occasion that no money was left in the tray after the corresponding salaries of the employees were inserted in their respective pay envelopes and the denominations that the witness usually saw were P100's, P500's and P50's but these were not in bundles only a few pieces. Despite this witness never called the attention of the treasurer nor her other companions. Witness, however admitted, that she has no personal knowledge if the accused returned this excess amount, she never saw the accused return the same or that the accused kept the said amount for herself. On re-direct examination witness explained that after the accused received the payroll money from the treasurer she placed this in a box. Then proceeded to her seat. In her seat, the accused sorts out the money and places the same on several trays according to denomination....[6] [Emphasis supplied.]

The version of the defense as testified to by the accused-petitioner is as follows:

For her defense the accused, as the lone witness, declared that she used to work at the Mandarin Seafood Village, Inc., as a secretary and payroll clerk since 1989; that the charge imputed to her were not true; that the amount given to her by the treasurer was the exact amount for the salary of the employees every 15th and 30th day of the month which she computed beforehand and submits the computation to the treasurer. After

the money was given to her she counts the same together with a co-employee by the name of Rosita and together with Teresita, another co-employee, place the money inside the envelopes for distribution to the employees. She likewise testified that this is the system of giving salaries to the employees, inclusive of the period from December 1, 1994 to January 15, 1995 and she is sure that after informing the treasurer, the exact amount was given to her but she does not know the amount actually withdrawn by the treasurer. Witness stated that after January 15, 1995 she stopped reporting for work because, the brother of her husband died. The statement of Teresita Ng de Egano that she (accused) has been regularly seen placing the excess amount in her bag is not true because there was no excess money. After the death of her assistant in 1994 she was solely responsible in the computation of the salaries of the employees which was usually done a day before the 15[th] and 30[th] of the month. There is a payroll sheet, the computation of which was made and entered into the computer. The same was then thereafter downloaded to the computer diskettes. According to the witness, it was Mr. King who asked her the amount required for a particular salary period and after informing him, the latter then withdraws the corresponding amount. This amount was then handed to the accused for distribution to the employees. The accused also stated that there were no complaint of short payments nor reports of overpayment, the only complaint was short payments of overtime. Witness however stated that she has no notebook nor other written record of the computation of the payroll except, for the computer printouts in the office. Witness clarified that the reason why she was not able to explain the mistake in the payroll computation to Mr. Matammu was the fact that her brother-in-law died and she was not able to return for work afterwards because she became ill. Despite this she never informed anyone in her office; that even with her educational attainment, she was not aware that she might be charged for not reporting for work for a long period of time; that she never sought medical treatment for her illness as she only rested. When witness changed address from Las Piñas to Bacoar, Cavite, and then to Sapphire Street she never informed nor get in touched with her former employer. Witness admitted that she was the one who was keeping the diskettes in the office but she never gave the same to Mr. Matammu when she went on vacation and even when a case was already filed against her, she never went to Mr. Matammu and explain because she was afraid that something bad might happen to her. When the witness was confronted with the discrepancy between her computation and the actual amount paid to the employees her response was that she could no longer remember the actual amount given to her but she remembered that what she received was distributed to the employees. After the testimony of he accused the defense rested its case without offering any documentary evidence.[7]

In holding the accused-petitioner guilty of the crime charged, the trial court relied on circumstantial evidence as proved by the prosecution. The trial court considered the following circumstances that point to the culpability of the accused-appellant and deemed them sufficient to convict the latter, pursuant to Rule 133, Section 4,[8] of the Revised Rules of Court:

1)

The fact that there was an over computation of the salary of the employees of the complainant corporation within the period of 1-15 December 1994, 16-31 December 1994, and 1-15 January 1995; and after deducting the salaries actually paid from the payroll computations made by the accused, it resulted with an excess or a difference of P352,427.31;

2)

That on her admission, accused was solely responsible in the computation of the payroll of the employees and the only person employed in such corporation knowledgeable in operating the computer regarding said payroll computations;

3)

That when the accused was directed to explain the over computation of the payroll by the General Manager, she was not able to do so, but instead she stopped reporting for work; and

4)

That it was substantially established that there was no other person in the corporation who could have misappropriated the amount involved, other than the accused herself, considering that the accused alone made the computation; had exclusive control of the payroll computations made in the computer and she is the person in charge in segregating and distributing the salaries of the employees.[9]

In refusing to give credence to the defense of the accused-petitioner, the trial court said the treasurer of the corporations as the culprit is improbable because any over disbursement made by such officer is supported by vouchers or some other similar documents like the payroll computation, without which, the funds could not be released. The trial court said there were no probabilities of excess withdrawals as the computation by the accused-petitioner is the basis of the amount to be withdrawn from the bank. Further, the fact that the accused-petitioner failed to report for work after 15 January 1995, or after an audit was ordered to explain the discrepancy in the payroll computation, points directly to her guilt. If indeed she got ill, the trial court is of the position that the accused-petitioner could have easily informed her employer or at the very least, her co-employees, as she was very much aware of the ongoing inquiries regarding her work. Moreover, she also successively changed her residence, that not even her parents knew where she was.

Thus, applying the provisions of Article 315, paragraph 1(b) of the Revised Penal Code, as amended, particularly, that with the trust given to her, she really defrauded her employer by over-computing the payroll and converting or misappropriating the excess (amount) to her own personal use to the prejudice and damage of the private complainants.[10]

On 07 April 1999, the trial court rendered a decision convicting accused-petitioner of the crime charged. The dispositive part of the decision decrees:

WHEREFORE, judgment is hereby rendered finding the accused guilty beyond reasonable doubt of the crime of estafa in the amount of P352,427.31. There being no mitigating or aggravating circumstances to appreciate for or against the accused and applying the Indeterminate Sentence Law, the court hereby sentences the accused to suffer four (4) years two (2) months of prision correccional as minimum to twenty (20) years as maximum which is maximum prision mayor or plus, one (1) year per additional P10,000.00 but not to exceed (20) years. (Art 3151, Revised Penal Code)

The accused shall indemnify the complainant the amount that was embezzled.[11]

Affirming in toto the aforequoted decision, the Sixteenth Division[12] of the Court of Appeals upheld the trial court finding the circumstances aforequoted were consistent with the hypothesis that the accused-petitioner is guilty of the crime charged and held that the fact of the shortage of funds was clearly established without opposition from the accused-petitioner, in addition to the following facts:[13]

1)

She alone was entrusted with the money for the payroll and she alone had complete access to it;

2)

She had to erase the data in the computer in order to destroy the evidence against her and to cover her guilt;

3)

At the time of the discovery of the anomaly, she conveniently disappeared from the scene and while investigation was on-going, she kept on changing her residence and without even informing her closest

relatives; and

4)

She maintained a lifestyle beyond her financial means, which created some doubts as to her honesty.

The appellate court promulgated its decision on 31 May 2001, the dispositive portion following which reads:

WHEREFORE, premises considered, the Decision appealed from is hereby AFFIRMED in toto.

The accused-petitioner filed a Motion for Reconsideration which was however denied on 29 October 2001.

Hence, the present petition for review on certiorari. The accused-petitioner claims the Court of Appeals erred when it affirmed in toto the decision of the trial court knowing the said decision is contrary to law and jurisprudence, and that the evidence presented is not sufficient to convict her beyond reasonable doubt. In support thereof, she raised the following issues:

I.

WHETHER OR NOT THE EVIDENCE PRESENTED AGAINST PETITIONER IS SUFFICIENT TO CONVICT HER GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ESTAFA WITH ABUSE OF CONFIDENCE AS CHARGED IN THE INFORMATION;

II.

WHETHER OR NOT FORMAL DEMAND IS AN ESSENTIAL REQUISITE IN THE CRIME OF ESTAFA WITH ABUSE OF CONFIDENCE TO SUSTAIN A JUDGMENT OF CONVICTION.

We find in favor of the accused-petitioner.

The accused-petitioner initially questions the sufficiency of the evidence of the prosecution which the trial court leaned on when it found her guilty of estafa beyond reasonable doubt. She alleges that the findings of the trial court, as affirmed by the appellate court, are "just mere erroneous conclusion(s) unsupported by evidence on record or if there is any, is too inadequate to support a finding of conviction on circumstantial evidence." [14] According to her, "there is absolutely no evidence on record that petitioner made an over computation of the salaries of employees for a given period ... and that she took the difference/excess from which an inference of over withdrawal and misappropriation could have been made." [15]

The contention of the accused-petitioner is well placed.

Accused-petitioner was charged with the crime of estafa through misappropriation or conversion as defined in and penalized under Article 315, paragraph 1(b), of the Revised Penal Code. [16] The elements of the said crime are: 1) that money, goods or other personal property is received by the offender in trust, or on 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 on the offender. [17]

The trial court, as well as the appellate court, relied heavily on circumstantial evidence to convict the accused-petitioner. Under the Rules of Court, the requirements for circumstantial facts to be able to withstand the tribulation of a conviction of guilt beyond reasonable doubt, are: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. [18] Decided cases expound that the circumstantial evidence

presented and proved must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.[19]

After thoroughly reviewing the records of this case and weighing the testimonial evidence on the scale of creditworthiness and materiality, however, this Court finds that the circumstantial evidence present in the case at bar are grossly insufficient to sustain a conviction.

It is a well-recognized principle that factual findings of trial courts are entitled to great weight and respect by this Court, more so when these are affirmed by the Court of Appeals. The rule, however, is not without exceptions, such as: (1) when the conclusion is a finding grounded entirely on speculations, surmises and conjectures; (2) the inferences made are manifestly mistaken; (3) there is grave abuse of discretion; and (4) the judgment is based on misapprehension of facts or premised on the absence of evidence on record.[20] Especially in criminal cases where the accused stands to lose his liberty by virtue of his conviction, the Court must be satisfied that the factual findings and conclusions of the lower courts leading to his conviction must satisfy the standard of proof beyond reasonable doubt.

Unfortunately, in the case at bar, the circumstances relied upon by the trial court do not lead to an inference exclusively consistent with the guilt of the accused-petitioner beyond reasonable doubt. The court a quo leaned immensely on circumstantial evidence, which, even if taken collectively, do nothing to engender a belief of guilt that can withstand the test of moral certainty.

The distinctiveness of this case rests on the fact that it is quite apparent that the payroll computation which was said to have been over-computed, prepared by the accused-petitioner, was never presented in evidence by either party. A closer look at the facts upon which the crime of estafa was said to have been committed exposes that the accused-petitioner was not the only one who had the opportunity to misappropriate the missing funds.

To begin with, the proposition that the accused-petitioner alone was entrusted with the money, thus, she alone had access to it, reeks out as being baseless and injudicious generalization when measured up to the testimonies of the witnesses. To wit:

TESTIMONY OF MR. MATAMMU[21]

Q - As personnel manager you know what are the duties of the payroll clerk who is the accused in this case?

A - Yes.

Q - Could you tell us her duties as payroll clerk?

A - I know for the (sic) fact that she is assigned to compute the payroll and place them in the payslip and distribute the money to the employees and in fact I myself receive my allowance from her.

Q - Before this money is distributed who gets it before it reach to (sic) her?

A - The treasurer is the one who withdraws the money and he gives the money to the accused.

Q - And then after he received that, what does the payroll clerk do?

A - She will distribute it to the employees.

TESTIMONY OF MR. KING ENG KIAT[22]

Q - As treasurer of Mandarin Villa Incorporated, what is (sic) your duties and functions as such?

A - I deposit and withdraw money from the bank intended for payroll.

...

Q - You mentioned earlier as one of your duties as treasurer of Mandarin Villa is to withdraw checks for the salaries for the employees, what is your basis for the amount withdrawn?

A - The computation for salary is given to me by Amy.

...

Q - After you withdraw the money intended for salaries, what do you usually do with the money?

A - I give it to Amy dela Cruz.

From the aforequoted, it is noteworthy that the accused-petitioner had no hand in the actual issuance of the checks, and, more importantly, with the withdrawal of the money from the bank. Her only participation revolved around the computation of the payroll and the actual distribution of the salaries to the employees of the restaurants. While it was the accused-petitioner who computed the payroll of the employees, nevertheless, she was not the only person who had access to the money.

Even if we accept as credible all the testimonies and documentary evidence of the prosecution to prove the alleged over-computation, it will do nothing to alleviate the disquieting notion in this Court's mind that the amount of money withdrawn by the treasurer may not have been what was exactly given to and received by the accused-petitioner, there being no tangible evidence thereof, in the same way that there is no concrete proof to show that the accused-petitioner over-computed the payroll. With the preceding disquisition, the issue now is whether the prosecution had ably proved that the accused-petitioner made an over-computation, with a view to misappropriate the excess funds, if any.

The guilt of the accused-petitioner becomes more apparent than real when this Court considers the fact that there has been no complaint emanating from the employees regarding the salaries they have been receiving. This was confirmed by Mr. Matammu when he testified in open court, that:

Q - Have you received any complaints by any of your employees of any discrepancy or insufficiency for the pay?

A - As far as I know there is no complaint yet.

Q - In other words, it only shows that these employees have been receiving the proper amounts of salary corresponding to the number of days worked?

A - Yes, mam.[23]

The reliance of the trial court on the testimony of prosecution witness Teresita Egano, a co-worker of the accused-petitioner, that there were times when there appeared to be extra money left after all the salary envelopes had been filled, is of no moment. No conclusion can be had from said statement as against the conduct of the accused-petitioner as said witness later on stated she does not know what happened to the money as she only saw the accused-petitioner place the extra money at the side of her table,[24] to wit:

Q - But what is clear, Ms. Egano, you have no personal knowledge whether this excess money is being returned to Mr. King Eng Kiat?

Already answered.

A - No Sir, I don't see her returning the money to Mr. King Eng Kiat.

Q - But you do not also, have no personal knowledge whether this money is being kept by Amelita for herself?

A - I don't know where she keeps the excess money.

Q - So in short, you do not also have personal knowledge if Amelita de la Cruz accused took the money for herself?

The same question which is already answered.

A - No Sir, I don't also know.[25]

Moreover, considering the enormity of the alleged excess amount involved, the testimony[26] of the same witness that she sees only a few pieces left on the tray after they placed the money inside the payroll envelopes:

Q - Do you estimate how much more or less the regular amount that is being left? P1.00, P3.00, or P1,000.00. Give us the estimate.

A - There was a whole amount.

Q - What denomination?

A - Sometimes P100.00, P1,000.00.

Q - What are the denominations that you usually see that are left remaining in the tray?

A - P100.00, P500.00, P50.00, P500.00s.

Q - If you speak of Five Hundreds, that means several pesos of Five Hundred?

A - Not so much of a bundle. Only a few, but not by a bundle.

strains credulity for, surely, P352,427.31, the amount alleged to have been misappropriated during the three payroll periods earlier identified, will comprise of more than just a few pieces.

A close scrutiny of the subject checks presented in evidence is warranted as they were made the bases for the deduction that there was an over-computation of the payroll of the employees for the periods 1-15 December 1994, 16-31 December 1994 and 1-15 January 1995. Interestingly, the checks raise more questions than they answer. All in all, there were five checks issued and used to be able to withdraw funds solely for the payroll of the employees. The corresponding dates and amounts of the said checks are as follows:

- 1) P728,099.50 for 15 December 1994;
- 2) P300,000.00 for 29 December 1994;
- 3) P476,560.75 for 31 December 1994;
- 4) P500,000.00 for 12 January 1995; and
- 5) P237,615.00 for 15 January 1995

Doubtless, the checks dated 15 December 1994, 31 December 1994 and 15 January 1995 all correspond with the dates when the payroll of the employees were due. But what about the checks issued on 29 December 1994 and 12 January 1995? Were the last two aforesaid checks intended for the payment of the payroll considering that the payroll period for which they were intended is not yet over? Is it the practice of the corporation to withdraw a certain amount of money even before the end of the payroll period, presumably even before the payroll has been computed? This Court is of the mind that they cast a shadow of doubt upon the veracity of the alleged over-computation done by the accused-petitioner. It should be noted that all the witnesses for the prosecution established that the accused-petitioner first showed to the treasurer, Mr. King Eng Kiat, the total computation of

the payroll for a specific period before the latter would issue the checks and use the same to withdraw the money from the bank.

Secondly, the submission that the accused-petitioner erased the payroll data in the computer, the only file the corporation had of the computation, as she alone was the only computer-literate person in the office is belied by the testimony of the prosecution witness. Witness Teresita Egano testified[27] that it was Mr. Matammu who verified the diskettes allegedly containing the payroll computation for the three subject payroll periods leads this court to assume that the accused-petitioner was not the only computer-literate in their office. She further testified that a certain Juanita was in custody of a copy of the payroll computation. The foregoing bares many weighty inconsistencies for this Court to just turn a blind eye to.

Thirdly, great significance was placed on the fact that the accused-petitioner stopped reporting for work after 14 January 1995, allegedly after an audit was ordered and she was asked to explain the discrepancy in the payroll computation concerning the three immediately preceding payroll periods. This Court feels that such emphasis was misplaced. From the testimony of Mr. Manuel M. Matammu, the personnel manager, it is quite apparent that the accused-petitioner knew she was going to be audited as early as 04 December 1994. The said witness categorically stated:

Q - When for the first time did you confront him about these shortages or deficiency in your restaurant?

A - Sometime on Dec. 4, 1994 when we asked to conduct an audit.

Q - What was her reply?

A - I asked her to submit the payroll report but she did not submit it.

Q - Did she submit a resignation after knowing that there is a discrepancy?

A - Actually, there was no order of dismissal or ask her to resign she just stop reporting.

Q - Since when was that?

A - Since January 14, 1995, sir.[28]

If, without a doubt, the accused-petitioner is guilty of the crime she has been charged with, why persist on reporting for work for two more payroll periods — 15-31 December 1994 and 1-15 January 1995? If, indeed, she was culpable, following the logic of the trial court, she should have left long before 14 January 1995.

At this juncture, it is important to note that the audit report, the result of the aforementioned audit that was supposed to have been conducted, was never presented before the trial court.

With respect to the fact that the accused-petitioner changed residence several times, allegedly to abort any detection of her whereabouts, the presumption that her flight is indicative of guilt is contradicted by the fact that she came to the office on 27 January 1995, as testified to by the witnesses of the prosecution. Moreover, she attended the hearings of the case on her own accord. She offered as explanations for her failure to report for work — the fact that her brother-in-law died, that she became ill, and most importantly, because she was afraid — for her life, of being framed, or of something else. The reason for such fear was never fully inquired into, fear being a state of mind and is necessarily subjective.[29] Addressed to the mind of the person, its presence cannot be tested by any hard and fast rule but must instead be viewed in the light of the perception and judgment of the one who feels it at a particular given time.

Lastly, the alleged fact that the accused-petitioner maintained a lifestyle beyond her financial means -- buying a brand new car and having a newly built house on a P5,000.00 monthly salary -- is bereft of any merit whatsoever.

The trial court and the appellate court gave absolute import to the testimonies of prosecution witnesses Matammu and King Eng Kiat when they stated that:

TESTIMONY OF MR. MATAMMU[30]

Q - What brought about or what triggered of (sic) your activity of totaling all the pay slips from checks issued?

A - I was instructed by the president because there was an information received about the lifestyle of Amelita dela Cruz, that she was able to buy a car and built of (sic) her own house.

TESTIMONY OF MR. KING ENG KIAT[31]

Q - You mentioned that Amelita dela Cruz was audited the last time you saw her, why was she audited, do you know why?

A - Because we have came (sic) to know that she bought house and lot and a car.

Q - From whom did you hear that?

A - From the president of Mandarin Villa Incorporated.

Ominously, such bait, though hearsay evidence, was acknowledged hook, line and sinker by the court a quo, and worse, affirmed by the appellate court. Not even one iota of documentary or object evidence was presented that would give a semblance of correctness to the actions of the said courts.

In sum, from the totality of evidence presented before the Court, it cannot, with propriety and due respect for the law, be held that there is sufficiency of competent evidence on which to base an affirmative finding of guilt in relation to the requisite degree of moral certainty. Only the checks and acknowledged payroll slips were presented to show the culpability of the accused-petitioner, and, sadly, said documentary evidence were the only basis for the theory that there was an over-computation of the payrolls. What the trial court used to convict the accused-petitioner are documents that had no direct relation to her. It would have been different had the accused-petitioner's computations been used as the basis for comparing the acknowledged payroll slips. That way, it would be clearly shown that she had over-computed the salaries due the employees to enable her to misappropriate said excess.

In other words, the trial court failed to prove beyond reasonable doubt that the accused-petitioner over-computed the payroll and pocketed the excess money. The Court finds the testimonies and documents for the prosecution rather weak. While there may be inherent weaknesses for the defense, at most, the proofs in this case only cast suspicion on accused-petitioner. The principle has been dinned into the ears of the bench and the bar that in this jurisdiction, accusation is not synonymous with guilt. While the Court is not inclined to hold that the evidence is conclusive that she is not guilty, neither is it convinced that she is so, based on the circumstances of this case. The Court is, thus, under a long standing legal injunction to resolve the doubt in favor of herein accused-petitioner. So long as the acts of the accused-petitioner and the circumstances can be explained upon any other reasonable hypothesis inconsistent with her guilt, she must be acquitted.

The accused is protected by the constitutional presumption of innocence that the prosecution must overcome with contrary proof beyond reasonable doubt. This principle of universal acceptance has led us to the oft-quoted ruling that:

. . . Accusation is not, according to the fundamental law, synonymous with guilt, the prosecution must overthrow the presumption of innocence with proof of guilt beyond reasonable doubt. To meet this standard, there is need for the most careful scrutiny of the testimony of the State, both oral and documentary,

independently of whatever defense is offered by the accused. Only if the judge below and the appellate tribunal could arrive at a conclusion that the crime had been committed precisely by the person on trial under such an exacting test should the sentence be one of conviction. It is thus required that every circumstance favoring his innocence be duly taken into account. The proof against him must survive the test of reason; the strongest suspicion must not be permitted to sway judgment.[32] [Emphasis supplied.]

To emphasize, the foundation of the ruling of acquittal is reasonable doubt, which simply means that the prosecution's evidence was not sufficient to sustain the guilt of the accused-petitioner beyond the point of moral certainty - certainty that convinces and satisfies the reason and the conscience of those who are to act upon it.[33] It is such proof to the satisfaction of the court, keeping in mind the presumption of innocence, as precludes every reasonable hypothesis except that which it is given to support it. An acquittal based on reasonable doubt will prosper even though the accused's innocence may be doubted,[34] for a criminal conviction rests on the strength of the evidence of the prosecution and not on the weakness of the defense.[35] And, 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, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction,[36] and, thus, that which is favorable to the accused should be considered.[37]

For (a)ll experience has shown that a party may be wholly innocent to the offense of which he is accused, although appearances may be against him. The law, therefore, to guard against injustice, requires that the offense be established by evidence beyond reasonable doubt. It is a serious matter, not only to a party, but to the state as well to take a person from the ordinary avocations of life, brand him a felon, and deprive him of his liberty, appropriate his labor, and cast a cloud upon his future life, and humiliate his relatives and friends, and to authorize the state in doing this, there should be no reasonable doubt of his guilt.[38]

Undeniably, the convergence of the circumstances vis-à-vis the evidence established by the prosecution, especially the tenuous testimonies of the witnesses, must ineluctably result in a favorable verdict for the defense.

WHEREFORE, premises considered, the Decision of the Court of Appeals dated 31 May 2001 is RECONSIDERED and SET ASIDE. The questioned decision is hereby REVERSED. Accused-petitioner Amelita dela Cruz is ACQUITTED of the crime of estafa defined under Article 315, paragraph 1(b), of the Revised Penal Code on the ground of reasonable doubt. The cash bond for the accused-petitioner's provisional liberty is ordered returned to her, subject to the usual accounting and auditing procedures.

No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Penned by Associate Justice Romeo A. Brawner with Associate Justices Remedios Salazar-Fernando and Rebecca De Guia-Salvador, concurring; Rollo, pp. 16-26.

[2] Rollo, pp. 27-28.

[3] Penned by Hon. Manuel F. Lorenzo, RTC Judge, Branch 43, Manila; RTC Records, p. 419.

[4] Dated 24 April 1995; RTC Records, p. 1.

[5] RTC Decision, RTC Records, p. 419.

[6] RTC Records, pp. 420-425.

[7] Records, pp. 426-428.

[8] SEC. 4. Circumstantial evidence, when sufficient. - Circumstantial evidence is sufficient for conviction if:

(a) There is more than one circumstance;

(b) The facts from which the inferences are derived are proven; and

(c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

[9] RTC Records, pp. 428-429.

[10] RTC Records, p. 431.

[11] RTC Records, pp. 431-432.

[12] Court of Appeals Justices Romeo A. Brawner (Chairman), Remedios Salazar-Fernando and Rebecca De Guia-Salvador (Members).

[13] CA Rollo, p. 98.

[14] Petition, p. 4; Rollo, p. 11.

[15] Ibid.

[16] ART. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

...

1. With unfaithfulness or abuse of confidence, namely:

...

(b) By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

[17] Fontanilla v. People, G.R. No. 120949, 05 July 1996, 258 SCRA 460.

[18] Sec. 4, Rule 133, Revised Rules of Court.

[19] People v. Geron, G.R. No. 113788, 17 October 1997, 281 SCRA 36.

[20] Cosep v. People, G.R. No. 110353, 21 May 1998, 290 SCRA 378.

[21] TSN, 22 January 1996, pp. 5-6.

[22] TSN, 19 February 1996, pp. 3-4.

[23] TSN, 15 January 1996, p. 14.

[24] TSN, 19 March 1996, p. 8.

[25] Ibid., pp. 21-22.

[26] TSN, 19 March 1996, p. 20.

- [27] TSN, 19 March 1996, p. 13.
- [28] TSN, 15 January 1996, pp. 16-17.
- [29] People v. Servano, G.R. Nos. 143002-03, 17 July 2003, 406 SCRA 508.
- [30] TSN, 15 January 1996, p. 14.
- [31] TSN, 19 February 1996, p. 8.
- [32] People v. Dramayo, G.R. No. L-21325, 29 October 1971, 42 SCRA 59.
- [33] People v. Salquero, G.R. No. 89117, 19 June 1991, 198 SCRA 357.
- [34] People v. Fronda, G.R. No. 130602, 15 March 2000, 328 SCRA 185.
- [35] Ibid.
- [36] People v. Ale, G.R. No. L-70998, 14 October 1986, 145 SCRA 50.
- [37] People v. Bautista, 81 Phil. 78 (1948).
- [38] Binkley v. State, 52 N. W. Rep. 708.

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