MARISSA CENIZA-MANANTAN, PETITIONER, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 156248. August 28, 2007

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

In this Petition for Review on Certiorari[1] under Rule 45 of the Revised Rules of Court, petitioner Marissa Ceniza-Manantan prays for the reversal of the Decision,[2] dated 29 August 2001, and Resolution,[3] dated 26 November 2002, of the Court of Appeals in CA-G.R. CR No. 23676, affirming with modification the Decision,[4] dated 30 July 1999, of the Quezon City Regional Trial Court (RTC), Branch 78, in Criminal Case No. Q-97-72787, finding petitioner guilty of the crime of Estafa as defined and penalized under paragraph 1(b), Article 315 of the Revised Penal Code.

On 1 August 1997, petitioner Marissa Ceniza-Manantan (Manantan) and her sister-in-law, Regina Manantan-Vizconde (Vizconde), were indicted in an Information[5] for estafa under paragraph 1(b), Article 315 of the Revised Penal Code allegedly committed as follows:

> That on or about the period comprised from July 15, 1994 to September 3, 1994, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, did, then and there, willfully, unlawfully and feloniously defraud one ALBERTO CARILLA, in the following manner to wit: the said accused, pursuant to their conspiracy, received in trust from said complainant several pieces of jewelry worth P1,079,000.00, Philippine Currency, for the purpose of selling the same on commission basis under the express obligation on the part of the said accused of turning over the proceeds of the sale to said Alberto Carilla, if sold, or of returning the same if unsold to said complainant, but the said accused, once in possession of the said items, far from complying with their obligations as aforesaid, with intent to defraud, unfaithfulness and grave abuse of confidence, failed and refused and still fails and refuses to fulfill their aforesaid obligation despite repeated demands made upon them to do so, and instead misapplied, misappropriated and converted the same or the value thereof, to their own personal use and benefit, to the damage and prejudice of said Alberto Carilla, in the aforesaid amount of P1,079,000.00, Philippine Currency.

On 2 December 1998, Manantan was arrested whereas Vizconde remained at large. When arraigned on 5 March 1999, Manantan pleaded "Not Guilty" to the charge.[6] Thereafter, trial on the merits ensued.

The facts, according to the prosecution, are summarized in the Comment dated 4 July 2003 of the Office of the Solicitor General (OSG), to wit:

> Herein private complainant, Alberto Carilla, is a jeweler whose office is located at Aurora Blvd., Cubao, Quezon City. Sisters-in-law Regina Manantan-Vizconde and Marissa Ceniza-Manantan entered into an agreement with Carilla that they would act as the latter's agent in selling the pieces of jewelry worth P1,079,000.00. They received the jewelry in trust with the obligation to sell them within two (2) weeks and remit the proceeds to private complainant within another two (2) weeks or to return them within the same period if they were unable to sell. The sisters-in-law would earn any amount that they would add to the selling

> price.
>
> After the lapse of the above-mentioned period, accused sisters-in-law failed to remit the purchase price or return the pieces of jewelry. As such, Carilla made verbal demands for their return or the proceeds of the sale. After several verbal demands, the sisters-in-law issued several checks. Regina Manantan-Vizconde issued thirteen (13) postdated checks, while Marissa Ceniza-Manantan issued four (4) postdated checks.
>
> Upon maturity of the checks, Carilla deposited the checks to his bank account. But to his dismay, the checks were dishonored for the reason that the account from which the checks were drawn had been closed. The checks that were still to fall due were stamped on their face "account closed."
>
> Carilla thus sought the help of a lawyer who made out a written demand upon the accused through their counsel. But despite this, the two accused still refused to pay. Hence, Carilla was constrained to file a criminal complaint.[7]

Manantan denied the foregoing accusations. In her Counter-Affidavit with Motion to Dismiss dated July 1996,[8] Manantan alleged that Carilla's filing of estafa case against her was a mere harassment suit as Carilla desperately tried but failed to recover from her the jewelries allegedly entrusted to her and to Vizconde; that Vizconde borrowed several checks from her after Vizconde ran out of her own checks; that Vizconde told her that the borrowed checks will only be shown to the former's customers or other persons from whom she received jewelries so as to convince them that she had collections; and that Vizconde promised to return the checks. During her direct examination before the RTC,[9] Manantan denied that she had any business transaction with Carilla. Manantan also disclaimed any knowledge as to how the four dishonored checks in her name came into the possession of Carilla.

On 30 July 1999, the RTC rendered a Decision convicting Manantan of estafa under paragraph 1(b), Article 315 of the Revised Penal Code. Thus:

> WHEREFORE, this Court finds accused MARISSA CENIZA-MANANTAN, GUILTY of the crime of Estafa, defined and penalized under par.1 (b) of Article 315 of the Revised Penal Code, and is hereby sentenced to suffer imprisonment of, there being no mitigating and aggravating circumstances, and applying the Indeterminate Sentence Law, TWELVE (12) YEARS, and one (1) DAY, as minimum, to FOURTEEN (14) YEARS, and EIGHT (8) MONTHS, as maximum, of Reclusion Temporal in its minimum period.
>
> Further, the award of civil liability is appropriate as the preponderance of evidence sanctioned by the Rules has been satisfied, the accused Marissa Ceniza-Manantan is ordered to pay P1,079,000.00 as actual damages.[10]

Aggrieved, Manantan filed an appeal with the Court of Appeals. On 29 August 2001, the appellate court promulgated its Decision affirming with modification the assailed RTC Decision. The modification pertains to Manantan's period of imprisonment as provided under the Indeterminate Sentence Law. The decretal portion of the appellate court's decision reads:

> WHEREFORE, in view of the foregoing, the instant appeal is DENIED and the assailed decision of the court a quo in Criminal Case No. Q-97-72787 is hereby AFFIRMED with modification that accused is hereby sentenced to suffer an indeterminate penalty of Four (4) years and two (2) months of prision correccional as minimum to Twenty (20) years of reclusion temporal as maximum.[11]

Manantan filed a motion for reconsideration but this was denied for lack of merit by the appellate court in its Resolution dated 26 November 2002.

Hence, Manantan filed the instant Petition. In our Resolution dated 10 March 2003,[12] we denied the Petition due to Manantan's (a) failure to state the material dates showing when the notice of the assailed decision and

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resolution were received and when the motion for reconsideration was filed thereby violating Sections 4(b) and 5 of Rule 45, in relation to Sec. 5(d) of Rule 56; and (b) failure to indicate in the Petition the counsel's roll number as required in Bar Matter 1132. Manantan filed a Motion for Reconsideration which we subsequently granted in our Resolution dated 7 May 2003.[13] The petition was then reinstated.

Manantan proffered the following issues[14] for our consideration:

I.

CONTRARY TO THE FINDINGS OF THE TRIAL COURT, WHICH FINDINGS THE COURT OF APPEALS AFFIRMED, THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT, CONSIDERING INTER ALIA THAT NOT ALL THE ELEMENTS CONSTITUTING THE OFFENSE CHARGED, SPECIFICALLY CONSPIRACY AND THE ALLEGED CONTRACTUAL RELATION (i.e., THE RECEIPT IN TRUST BY PETITIONER OF CERTAIN PIECES OF JEWELRY FROM PRIVATE COMPLAINANT), WERE ESTABLISHED.

II.

MORE IMPORTANTLY, THE COUNSEL FOR PETITIONER IN THE TRIAL COURT MISERABLY FAILED AND/OR REFUSED TO DISCHARGE HIS BOUNDEN DUTY TO HIS CLIENT. STATED DIFFERENTLY, SAID COUNSEL'S INCOMPETENCE WAS SO GREAT AND SO EXECRABLE THAT, IN THE INTEREST OF SUBSTANTIAL JUSTICE, AT LEAST A NEW TRIAL SHOULD BE ORDERED BY THIS HONORABLE COURT IF ONLY TO AFFORD PETITIONER THE CONSTITUTIONALLY MANDATED OPPORTUNITY TO DEFEND HERSELF WITH THE ASSISTANCE OF AN EFFECTIVE AND VIGILANT COUNSEL OF HER OWN CHOICE. THE AFORESAID FAILURE AND/OR REFUSAL OF HER COUNSEL WERE A VIRTUAL GIVEAWAY TO THE PROSECUTION TO SEND HER TO THE GALLOWS. THE CONSEQUENCE WAS A MISCARRIAGE OF JUSTICE.

Anent the first issue, Manantan alleged that the RTC conducted only one hearing where the prosecution presented only one witness, which was Carilla himself, and thereafter rested its case; that the said lone hearing was abbreviated at the expense of the rights and liberty of Manantan; that the direct testimony of Carilla, upon which the RTC based its conviction of Manantan, consisted only of five double-spaced pages as shown in the transcript of stenographic notes (TSN); and that Manantan's guilt cannot be proven on the basis of the few questions propounded by the private prosecutor on Carilla and Manantan.[15]

EVIDENCE FOR THE PROSECUTION

The prosecution presented the lone court testimony of Carilla as its testimonial evidence. Carilla testified that Manantan and Vizconde agreed to be his agents in selling jewelries; that Manantan and Vizconde received from him in trust jewelries with the obligation to sell them within two weeks from receipt thereof, and to remit the proceeds to him within two weeks after the sale or to return the jewelries in case they were not sold; that Manantan and Vizconde would earn from any amount that they would add to the original sale price of the jewelries fixed by him; that after the expiration of the stipulated period, Manantan and Vizconde failed to remit to him the proceeds of the sale of the jewelries or return the unsold jewelries themselves; that he made several verbal demands on Manantan and Vizconde to remit the proceeds of the sale of the jewelries or return the unsold jewelries; that Manantan and Vizconde issued to him postdated checks as supposed payment of the sales proceeds of the jewelries; that these checks were dishonored by reason of "Account Closed"; that Manantan and Vizconde failed to make good the value of the dishonored checks despite his repeated demands for them to do so; and that by reason of the foregoing, he instituted the instant case against Manantan and Vizconde.

The prosecution also offered documentary evidence to buttress Carilla's court testimony. It introduced Carilla's

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Complaint-Affidavit dated 11 March 1996 which recounts how Manantan and Vizconde had swindled Carilla of the jewelries.[16] This Complaint-Affidavit was admitted as part of Carilla's direct testimony.[17] It also submitted the dishonored checks issued by Manantan[18] to prove that the jewelries were still unpaid for, and the demand-letters[19] sent by Carilla to Manantan, to substantiate the latter's persistent failure to comply therewith.

EVIDENCE FOR THE DEFENSE

On the other hand, the defense presented Manantan as its sole witness. No documentary evidence was utilized.[20]

Manantan conjured denials and alibi in support of her contentions. Manantan denied having any transaction with Carilla. She claims that she lent the dishonored checks to Vizconde as the latter was running out of checks; that she had no idea as to how the dishonored checks came into the possession of Carilla; and that Carilla had an ill motive to accuse her of a crime since Carilla failed to recover from her the alleged entrusted jewelries.

The threshold issue is, whose evidence is credible?

It is axiomatic that truth is established not by the number of witnesses but by the quality of their testimonies.[21] In the determination of the sufficiency of evidence, what matters is not the number of witnesses but their credibility and the nature and quality of their testimonies.[22] The testimony of a lone witness, if found positive and credible by the trial court, is sufficient to support a conviction especially when the testimony bears the earmarks of truth and sincerity. While the number of witnesses may be considered a factor in the appreciation of evidence, proof beyond reasonable doubt is not necessarily with the greatest number.[23]

Witnesses are to be weighed, not numbered; hence, it is not at all uncommon to reach a conclusion of guilt on the basis of the testimony of a single witness. Conviction of the accused may still be had on the basis of the positive and credible testimony of a single witness.[24]

Verily, the prosecution presented only one witness, who was Carilla himself as the complainant. However, we find the latter's testimony consistent with his Complaint-Affidavit dated 11 March 1996, which was positive and categorical. The RTC and the Court of Appeals both found Carilla's testimony credible and truthful.[25]

More telling are the documentary evidences consisting of various checks issued by Manantan which later bounced and the demand letters of Carilla addressed to Manantan. Although the admissibility of these checks was objected to by Manantan during the trial, the RTC, nevertheless, admitted them as part of the testimony of Carilla.

The rule is that the findings of fact of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect.[26] This is more true if such findings were affirmed by the appellate court. When the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon this Court.[27]

In stark contrast, the evidence for the defense consists mainly of denials. Manantan denied having transacted with Carilla. Beyond her bare denials, however, she has not presented any plausible proof to successfully rebut the evidence for the prosecution.

It is jurisprudentially settled that as between bare denials and positive testimony on affirmative matters, the latter is accorded greater evidentiary weight.[28]

The next question now crops up - were the elements of estafa for which Manantan is charged proven beyond reasonable doubt?

Article 315, paragraph 1(b) of the Revised Penal Code, provides:

> ART. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:
>
> x x x x
>
> 1. With unfaithfulness or abuse of confidence, namely:
>
> x x x x
>
> (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.

The elements[29]of estafa in the above provision are as follows:

a) 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;

b) That there be misappropriation or conversion of such money or property by the offender or denial on his part of such receipt; and

c) That such misappropriation or conversion or denial is to the prejudice of another.

The essence of estafa under this paragraph is the appropriation or conversion of money or property received, to the prejudice of the owner thereof. It takes place when a person actually appropriates the property of another for his own benefit, use and enjoyment.[30] In a prosecution for estafa, demand is not necessary where there is evidence of misappropriation or conversion; and failure to account, upon demand for funds or property held in trust, is circumstantial evidence of misappropriation.[31]

All of the foregoing enumerated elements of estafa under paragraph 1(b), Article 315 of the Revised Penal Code, are duly established herein.

First, Manantan received in trust the jewelries from Carilla for the purpose of selling them within two weeks from receipt thereof; and to remit the proceeds to Carilla within two weeks after the sale or to return the jewelries in case they were not sold. It was also agreed that Manantan will earn from any amount that she would add to the original sale price of the jewelries fixed by Carilla. This, in effect, created a fiduciary relationship between Carilla and Manantan.

The absence of a written document showing receipt of jewelries or other property in trust does not necessarily mean that no such contract exists between the parties. Contracts can be made verbally for as long as there is a meeting of the minds of the parties thereto.[32] Carilla positively and categorically testified on the transaction that transpired between him and Manantan.

Second, there is misappropriation or conversion by Manantan of the jewelries or the proceeds of the sale thereof, as well as a denial on her part of receipt of the jewelries.

The words "misappropriate" and "convert" as used in the said provision of law connote an act of using or disposing of another's property as if it were one's own or of devoting it to a purpose or use different from that agreed upon. Misappropriation or conversion may be proved by the prosecution by direct evidence or by circumstantial evidence.[33]

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In an agency for the sale of jewelries, as in the present case, it is the agent's duty to return the jewelry upon demand of the owner and failure to do so is evidence of conversion of the property by the agent. In other words, the demand for the return of the thing delivered in trust and the failure of the accused to account for it are circumstantial evidence of misappropriation. However, this presumption is rebuttable. If the accused is able to satisfactorily explain his failure to produce the thing delivered in trust or to account for the money, he may not be held liable for estafa.[34]

Manantan misappropriated Carilla's properties, which she held in trust, by failing to remit the sale price of the jewelries or return the same to Carilla upon the expiration of the stipulated period, despite repeated demands by the latter. Manantan issued checks to Carilla as supposed payment of the sales proceeds of the jewelries but these checks were dishonored. Carilla hired a lawyer and sent a demand-letter to Manantan but the latter still failed to turn over the jewelries or the sale prices thereof.[35]

As already heretofore pointed out, failure to account upon demand for the return of the thing delivered in trust raises a presumption of misappropriation. Manantan's bare denials are not sufficient to overcome such presumption.

Estafa may also be committed by denying untruthfully that the thing was received.[36] Manantan denied having received jewelries from Carilla. However, as we have already determined, such denial is unsubstantiated and therefore cannot prevail over the categorical declarations of Carilla that the jewelries were turned over in trust to Manantan. Hence, Manantan's denial of the receipt of jewelries also constitutes estafa.

Finally, Manantan's failure or refusal to account for or return the jewelries to Carilla had evidently prejudiced the rights and interests of the latter. Not only did Carilla fail to recover his investment, but he also lost the opportunity to realize profits from the sales of the jewelries. Carilla further incurred expenses in hiring a lawyer and in litigating the present case.[37]

Apropos the second assignment of error, Manantan seeks a new trial because her former counsel, Atty. Donato A. Mallabo (Atty. Mallabo) of the Public Attorneys Office (PAO), was incompetent and had failed to discharge his duty as her defense counsel resulting in a denial of due process to her. She claims that Atty. Mallabo asked Carilla only a few questions during the latter's cross-examination and did not conduct a re-cross examination; that after the prosecution had rested its case, the RTC Presiding Judge inquired from Atty. Mallabo if he would file a motion to dismiss on demurrer to evidence, which was already a hint of the weakness of the prosecution's evidence, but Atty. Mallabo ignored the question and presented, instead, Manantan as sole witness for the defense; and after a few perfunctory questions to Manantan, already rested the case for the defense.[38]

Settled is the rule that mistake and negligence of a counsel bind his client. The basis is the tenet that an act performed by a counsel within the scope of his general or implied authority is regarded as an act of his client. Consequently, the mistake or negligence of a counsel may result in the rendition of an unfavorable judgment against his client.[39]

A contrary view would be inimical to the greater interest of dispensing justice. For all that a losing party will do is to invoke the mistake or negligence of his counsel as a ground for reversing or setting aside a judgment adverse to him, thereby putting no end to litigation.[40] To allow this obnoxious practice would be to put a premium on the willful and intentional commission of errors by accused persons and their counsel, with a view to securing new trials in the event of conviction.[41]

Mistakes of attorneys as to the competency of a witness; the sufficiency, relevancy or irrelevancy of certain evidence, the proper defense, or the burden of proof; and failure to introduce certain evidence, to summon witness

and to argue the case are not proper grounds for a new trial.[42] Error of the defense counsel in the conduct of the trial is neither an error of law nor an irregularity upon which a motion for new trial may be presented.[43]

Concededly, the foregoing rule admits of exceptions. Hence, in cases where (1) the counsel's mistake is so great and serious that the client is prejudiced and denied his day in court, or (2) the counsel is guilty of gross negligence resulting in the client's deprivation of liberty or property without due process of law, the client is not bound by his counsel's mistakes, and a new trial may be conducted.[44]

Tested against these guidelines, we find that Manantan's case falls within the general rule rather than the exceptions.

It is true that Atty. Mallabo asked only few questions during the cross-examination of Carilla. Quoted hereunder is Atty. Mallabo's cross-examination of Carilla:

> Court:
>
> Cross.
>
> Atty. Mallabo:
>
> With the permission of this Honorable Court.
>
> Court:
>
> Proceed.
>
> Atty. Mallabo:
>
> Q: You are a jeweler, sir?
>
> A: Yes, sir.
>
> Q: Where is your office?
>
> A: 876-C Aurora Blvd., sir.
>
> Q: Is it a single proprietor or a corporation?
>
> A: I am only an agent, sir.
>
> Q: You are only an agent, you do not actually own it?
>
> A: Yes, sir.
>
> Q: And therefore, you do not own that jewelry and you are not the owner of those jewelry, is that correct?
>
> A: Yes, sir.
>
> Atty. Mallabo: That will be all for the witness, Your Honor.[45]

It appears from the foregoing that Atty. Mallabo's questions were aimed at proving that Carilla was not the owner of the subject jewelries. It can be reasonably deduced from the questions that Atty. Mallabo's strategy in securing petitioner's acquittal was to display the absence of the element of prejudice or damage on the part of Carilla. Notably, however, the questions were confined to the issue of the ownership of jewelries.

Despite the preceding, Atty. Mallabo cross-examined Carilla and conducted a direct examination of Manantan. Atty. Mallabo also interposed several objections during the re-direct examination of Carilla and challenged the admissibility of the dishonored checks as evidence for the prosecution.[46] Atty. Mallabo even moved for the

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dismissal of the charge against Manantan.[47]

Admittedly, Atty. Mallabo committed mistakes and shortcomings in conducting examinations on Carilla and Manantan and in assessing the proper and sufficient evidence for the defense. Nonetheless, such cannot be considered as recklessness or gross negligence on his part, because there was neither a total abandonment nor a disregard of Manantan's cause or a showing of conscious indifference to or disregard of consequences.[48] If at all, the mistakes and omissions of Atty. Mallabo may only be considered as simple negligence or a slight want of care that circumstances reasonably impose.

As regards the prison term of Manantan, a perusal of the pertinent provision of Article 315 of the Revised Penal Code is in order:

> ART. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:
>
> 1st. 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.

The penalty prescribed by Article 315 is composed of two, not three, periods, in which case, Article 65 of the same Code requires the division of the time included in the penalty into three equal portions of time included in the penalty imposed forming one period of each of the three portions.[49] Applying the latter provisions, the maximum, medium and minimum periods of the penalty given are:

> Maximum - 6 years, 8 months, 21 days to 8 years
>
> Medium - 5 years, 5 months, 11 days, to 6 years, 8 months, 20 days
>
> Minimum - 4 years, 2 months, 1 day to 5 years, 5 months, 10 days

In the present case, since the amount involved is P1,079,000.00, which exceeds P22,000.00, the penalty imposable should be the maximum period of 6 years, 8 months and 21 days to 8 years of prision mayor. Article 315 further states that a period of one year shall be added to the penalty for every additional P10,000.00 defrauded in excess of P22,000.00, but in no case shall the total penalty which may be imposed exceed 20 years. The amount swindled from Carilla greatly exceeds the amount of P22,000.00 which, when translated to the additional penalty of one year for every P10,000.00 defrauded, goes beyond 20 years. Under the law, the maximum penalty to be imposed in the present case should be 20 years of reclusion temporal.[50]

We now apply the Indeterminate Sentence Law in computing the proper penalty. Since the penalty prescribed by law for the estafa charge against Manantan is prision correcional maximum to prision mayor minimum, the penalty next lower would then be prision correccional in its minimum to medium periods. Thus, the minimum term of the indeterminate sentence should be anywhere from 6 months and 1 day to 4 years and 2 months, while the maximum term of the indeterminate sentence should be 20 years.[51]

Thus, the Court of Appeals was correct in imposing a prison term of 4 years and 2 months of prision correccional as minimum to 20 years of reclusion temporal as maximum.

We also sustain the indemnification of actual damages in favor of Carilla in the sum of P1,079,000.00 made by

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the RTC and affirmed by the Court of Appeals as this is supported by the records[52] of the instant case.

WHEREFORE, the petition is hereby DENIED. The Decision dated 29 August 2001 and Resolution dated 26 November 2002 of the Court of Appeals in CA-G.R. CR No. 23676 are hereby AFFIRMED in toto. No costs.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, Nachura, and Reyes, JJ., concur.

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[1] Rollo, pp. 9-32.

[2] Penned by Associate Justice Perlita J. Tria Tirona with Associate Justices Eugenio S. Labitoria and Eloy R. Bello, Jr., concurring; rollo, pp. 33-40.

[3] Id. at 42.

[4] Penned by Judge Percival Mandap Lopez; rollo, pp. 44-47.

[5] Records, p. 1.

[6] Id. at 74.

[7] Rollo, pp. 80-82.

[8] Records, pp. 37-41.

[9] TSN, 12 May 1999, pp. 9-11.

[10] Rollo, p. 47.

[11] Id. at 39-40.

[12] Id. at 66.

[13] Id. at 74.

[14] Id. at 14, 21-22.

[15] Id. at 14-21.

[16] Records, Exhibit A.

[17] TSN, 12 May 1999, p. 8.

[18] Records, Exhibits B-E.

[19] Id., Exhibit F.

[20] TSN, 12 May 1999, p. 11.

[21] People v. Ramos, G.R. No. 135204, 14 April 2004, 427 SCRA 299, 308.

[22] Cariaga v. Court of Appeals, 411 Phil. 214, 229 (2001).

[23] People v. Mallari, 369 Phil. 872, 881-882 (1999).

[24] Id.

[25] CA rollo, pp. 179-180; People v. Genosa, 464 Phil. 680, 710 (2004); People v. Ahmad, 464 Phil. 848, 857 (2004); People v. Torres, 464 Phil. 971, 978 (2004); People v. Cajurao, 465 Phil. 98, 107 (2004).

[26] People v. Aguila, G.R. No. 171017, 6 December 2006, pp. 17-18.

[27] Id. at 18.

[28] People v. Comiling, G.R. No. 140405, 4 March 2004, 424 SCRA 698, 716; Olivarez v. Court of Appeals, G.R. No. 163866, 29 July 2005, 465 SCRA 465, 483; People v. Gusmo, 467 Phil. 199, 219 (2004); People v. Dimacuha, 467 Phil. 342, 351 (2004); People v. Tagana, G.R. No. 133027, 4 March 2004, 424 SCRA 620, 640.

[29] Lee v. People, G.R. No. 157781, 11 April 2005, 455 SCRA 256, 266-267.

[30] Filadams Pharma, Inc. v. Court of Appeals, G.R. No. 132422, 30 March 2004, 426 SCRA 460, 468.

[31] Lee v. People, supra note 29 at 267.

[32] Article 1356 of the New Civil Code; Delos Santos v. Jebsen Maritime, Inc., G.R. No. 154185, 22 November 2005, 475 SCRA 656, 669.

[33] Lee v. People, supra note 29 at 267.

[34] Filadams Pharma, Inc. v. Court of Appeals, supra note 30 at 468.

[35] Lee v. People, supra notes 29 at 266-267; Filadams Pharma, Inc. v. Court of Appeals, id.

[36] II Reyes, The Revised Penal Code, Criminal Law (14th Ed.), pp. 745-746; United States v. Yap Tian Jong, 34 Phil. 10, 12-13 (1916).

[37] Prosecution's Evidence, Exh. A.

[38] Rollo, pp. 21-28.

[39] Air Philippines Corporation v. International Business Aviation Services Phils., Inc, G.R. No. 151963, 9 September 2004, 438 SCRA 51, 61.

[40] Ragudo v. Fabella Estate Tenants Association, Inc., G.R. No. 146823, 9 August 2005, 466 SCRA 136, 146.

[41] People v. Villanueva, 393 Phil. 898, 911 (2000).

[42] Air Philippines Corporation v. International Business Aviation Services Phils., Inc, supra note 39.

[43] Ragudo v. Fabella Estate Tenants Association, Inc., supra note 40.

[44] People v. Aguila, supra note 26.

[45] TSN, 12 May 1999, pp. 4-5.

[46] Id. at 6-8.

[47] Id. at 8.

[48] Rollo, pp. 21-28.

[49] Cosme, Jr. v. People, G.R. No. 149753, 27 November 2006, 508 SCRA 190, 212.

[50] Id.

[51] People v. Gabres, 335 Phil. 242, 257 (1997).

[52] Records, pp. 1-36; Exhibits A-F of the prosecution's evidence.

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