

RIZZA LAO @ NERISSA LAPING, PETITIONER, VS. PEOPLE OF THE PHILIPPINES RESPONDENT.

G.R. No. 159404. June 27, 2008

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Before the Court is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, seeking a reversal of the Decision[1] of the Court of Appeals (CA), Third Division dated January 24, 2003 affirming in toto the Decision of the Regional Trial Court (RTC) of Pasig City convicting petitioner in Criminal Case No. 112683 of the crime of Estafa and the CA Resolution[2] dated August 5, 2003 denying petitioner's Motion for Reconsideration.

The following are the factual antecedents:

On July 9, 1997, an Information[3] was filed against Rizza Lao a.k.a. Nerissa B. Laping (petitioner) and Ester Acapulco (Acapulco), accusing them of the crime of Estafa as defined in Article 315, paragraph 2(a) of the Revised Penal Code, committed as follows:

On or about and sometime in 1996, in Pasig City, and within the jurisdiction of this Honorable Court, the accused, by means of false pretenses and fraudulent acts committed prior to and/or simultaneously with the commission of the fraud, with intent to gain and to defraud the herein complainant, Elmer A. Juinio, did then and there, willfully, unlawfully and feloniously defraud said complainant, as follows: accused represented to the complainant that they have the capability, power and influence to lobby with the Office of the President, Fidel V. Ramos, for the appointment of complainant as General Manager of the Laguna Lake Development Authority (LLDA) and that they are engaged in the business of brokerage and motor vehicle importation, thereby convincing the complainant to contribute the sums of P86,000.00 and [US]\$20,000.00 as investment, but when the accused has received the said amounts of P86,000.00 and [US]\$20,000.00, in defraudation of the complainant, the accused absconded and swindled the same to the damage, loss and prejudice of the complainant, and despite several demands made for the accused to return the aforesaid sums, the accused failed and refused to do so, to the damage, loss and prejudice of complainant in the said amounts of money.

Contrary to law.[4]

On November 21, 1997, petitioner was arraigned and pleaded not guilty.[5] Her co-accused Acapulco was not arrested and remains at large.

After trial, petitioner was convicted by the RTC of Pasig City, Branch 158, in a Decision[6] rendered on December 8, 2000, the dispositive portion of which reads:

WHEREFORE, accused Rizza Lao alias Nerissa Laping is found guilty of Estafa under Article 315 paragraph 2(a) of the Revised Penal Code and is sentenced to suffer in prison the penalty of 14 years, 8 months and one (1) day to 20 years of reclusion temporal together [with] all the accessory penalties as provided by law. She is also directed to indemnify Lily Juinio[7] the amount of P86,000.00 and another [US]\$19,970.00 or its

equivalent in pesos based on the Bangko [S]entral ng Pilipinas guiding rate at the time of payment plus costs within ten (10) days from the promulgation of this Decision.

Since this Court did [not] acquire jurisdiction over the person of the other accused, Ester Acapulco, the case against her is in the meantime archived. It will be revived upon her arrest. Let a warrant of arrest be then issued against this accused.

SO ORDERED.[8]

The trial court made the following findings of facts in convicting petitioner.

It appears from the evidence that Lao and Juinio were introduced to each other in Parc Chateau Condominium by a mutual acquaintance. In one of their conversations, Juinio mentioned that he is applying for the position of the G.M. of the L.L.D.A. Lao mentioned to Juinio that she knew somebody who can help him get appointed to the position and that somebody is Mrs. Alfoncita Ramos (Mrs. Ramos) the stepmother of then President Fidel V. Ramos. Lao met Mrs. Ramos in the United States when she went there on vacation. Juinio expressed interest so that Lao asked him his resume, credentials and other papers to be sent to Mrs. Ramos through Lao's friend, Acapulco, who was residing in the United States. Lao later asked Juinio to make an application letter to President Ramos to be sent also to Mrs. Ramos through Acapulco. A few days later, Lao called him and asked Juinio to invest in a customs brokerage business that Lao and Acapulco will put up with Mrs. Ramos as one of the partners. Juinio readily agreed. Lao asked him P36,000.00 as his contribution and Juinio gave a check (Exhibit "A") for this amount.

On August 2, 1996, Lao again called Juinio and told him that Mrs. Ramos and Acapulco will be coming to the Philippines to discuss further their intended customs brokerage business and to follow up his application in Malacañang. Lao then asked him to invest in a motor vehicle importation business of Mrs. Ramos and Acapulco. Lao told Juinio that Mrs. Ramos and Acapulco need additional capitalization. Lao further told him that Mrs. Ramos and Acapulco needed US\$20,000.00 as additional capital. Minutes later, Acapulco called Juinio in an overseas call and confirmed to him that she and Mrs. Ramos are coming to the Philippines to discuss their customs brokerage business and to follow up his application in Malacañang. Juinio agreed to contribute US\$20,000.00 to the motor vehicle importation business and gave the amount to Lao. The latter together with Lao sent US\$19,970.00 to Acapulco through the Western Union Money Transfer facility (Exhibit "B"). The remaining [US]\$30.00 was returned to Juinio.

On August 13, 1996, Mrs. Ramos, Acapulco and Alfred Nebres arrived in the Philippines from the United States. Lao and Juinio fetched Mrs. Ramos and company from the airport and brought them to Parc Chateau Condominium. Lao proposed to Juinio that they buy the condominium unit where Mrs. Ramos will be staying. Juinio agreed. On that day he issued a check in the amount of P50,000.00 as his share of the earnest money to be paid to the owner of Unit 1713, Parc Chateau Condominium (Exhibits "C" and "D"; TSN, June 25, 1998, pp. 9-25).

When Juinio had the opportunity to talk with Mrs. Ramos, he asked her about the progress of his application with the LLDA. Mrs. Ramos expressed surprise and told him that she did not know anything about his application. As to his resume, credentials and other papers together with the application letter to then President Fidel V. Ramos, Mrs. Ramos repeated and told him that she did not know anything about them. As regard[s] the customs brokerage and the motor vehicle importation businesses, Mrs. Ramos denied that she is a partner in these business ventures and she knew nothing about them (TSN, July 16, 1998, pp. 11-12). Mrs. Ramos then directed Lao and Acapulco to return the money that Juinio invested in these business ventures. Lao and Acapulco promised to return Juinio's money within two weeks but failed and refused to return the amounts. Juinio then asked them something that he can rely on, a sort of a guarantee. The two executed a promissory note for the US\$20,000.00 (Exhibit "E," inclusive).

Meanwhile, while Juinio is waiting for the return of his money on business ventures Mrs. Ramos knew nothing

about, he investigated the alleged customs brokerage and car importation business and the purchase of Unit 1713 of the Parc Chateau [C]ondominium. He found out that the customs brokerage business and the car importation business were fictitious and non-existent. The office space supposed to be used for the customs brokerage business was rented under the name of the realty firm of and used by Lao. Juinio also discovered that Lao used the P50,000.00 he contributed in the purchase under her name of another unit other than that which they had agreed upon. Juinio also found out that the accused uses the names Rizza Lao and Nerissa B. Laping and uses different signatures strokes for each name.

Juinio demanded from the two accused to return his money but despite the written demands sent by his lawyers (Exhibits "K" and "L") the accused failed and refused to return it.[9]

The trial court found proof beyond reasonable doubt that petitioner defrauded private complainant Elmer Juinio (Juinio) by fraudulently and falsely representing herself together with her co-accused, having the influence and capacity to get him appointed as General Manager of either the Laguna Lake Development Authority (LLDA) or the Public Estates Authority (PEA).[10] The RTC found that because of these fraudulent and false representations, Juinio was induced to contribute to or invest in imaginary, false and inexistent business ventures and transactions, causing him actual damage and prejudice in the amounts of P86,000.00 and US\$19,970.00.[11]

Aggrieved by the decision of the trial court, petitioner appealed to the CA. In its Decision promulgated on January 24, 2003, the CA affirmed the RTC's decision in toto.[12] The motion for reconsideration filed by the petitioner was denied in a Resolution of the CA dated August 5, 2003.[13]

Hence, herein Petition anchored on the following ground:

The appealed Decision of the Court of Appeals was a "memorandum decision" which was not done in accordance with the rules. It should be struck down as a nullity and the case remanded back to the Court of Appeals so that it can be decided properly.[14]

The petition has no merit.

Petitioner seeks the nullification of the CA's decision based on the sole ground that it was a "memorandum decision which was not done in accordance with the rules." [15] Herein petition makes no assignment of specific errors in the CA decision; instead, in its statement of facts, petitioner refers to defense evidence that contradicts the factual findings of the trial court. Petitioner claims that the CA's decision merely echoed or copied the trial court's findings, and the CA never made its own determination or examination of the case records.[16]

Although petitioner failed to allege the specific errors in the decision of the CA, the issues are readily discussed from the entirety of the petition. The petition's counter-narration of the facts disputes certain factual findings of the trial court.[17] Petitioner presents the same disputed points in her memorandum.[18] Also attached to the petition was the appellant's brief of petitioner, filed with the CA, which assigns the specific errors in the trial court's decision.[19] The Court holds that such is enough to discern the issues it must decide in the present petition, as this also follows the principle that an appeal in a criminal case throws the whole case wide open for review; and that the reviewing court can correct errors, though unassigned, that may be found in the appealed judgment.[20]

The Court does not agree that the CA decision must necessarily be annulled and the case remanded back to the CA on the ground that the CA decision was mostly a reiteration of the trial court's decision which cites no evidence on record to support its findings.

Jurisprudence dictates that remand of a case to a lower court does not follow if, in the interest of justice, the Supreme Court itself can resolve the dispute based on the records before it.[21] As a rule, remand is avoided in

the following instances: (a) where the ends of justice would not be subserved by a remand; or (b) where public interest demands an early disposition of the case; or (c) where the trial court had already received all the evidence presented by both parties, and the Supreme Court is in a position, based upon said evidence, to decide the case on its merits.[22]

Considering that the instant controversy has already taken years to reach this Court, remand of the case to the CA is no longer the more expeditious and practical route to follow. Hence, the Court will decide the case based on the evidentiary record before it.

After a thorough review of the evidence, the Court finds that the lower courts did not commit any error in convicting petitioner of the crime of Estafa as charged.

To be convicted of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code, the following elements must be present:

(1)

that the accused made false pretenses or fraudulent representations as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions;

(2)

that such false pretenses or fraudulent representations were made prior to or simultaneous with the commission of the fraud;

(3)

that such false pretenses or fraudulent representations constitute the very cause which induced the offended party to part with his money or property; and

(4)

that as a result thereof, the offended party suffered damage.[23]

Records show that the above elements were established beyond reasonable doubt by the prosecution in the instant case.

Private complainant Juinio testified as follows:

"x x x she [Rizza Lao] told me she knows someone in the government who could possibly help me and even suggested to seek the position of General Manager for Public Estate[s] Authority instead." [24]

"x x x that person is Mrs. Alfonsita [sic] Lucero Ramos, stepmother of Pres. Ramos who is a best friend of her friend Estrellita Acapulco whom she met in the United States." [25]

"x x x Rizza again called me over the phone and asked me if I want to invest in a brokerage business with Mrs. Ramos and Ester Acapulco and herself." [26]

"x x x I agreed. I have no choice because she promised she is going to help me get a government position." [27]

"x x x I gave her the P36,000.00 when she asked for it on June 25, 1996." [28]

"x x x That is a rental for an office space for our intended brokerage business." [29]

"x x x She asked me if I want to invest on a vehicle importation business and she asked me for [US]\$20,000.00 because according to her they need more capitalization and I'll get the money back within two weeks." [30]

"x x x I gave Rizza the [US]\$20,000.00 as stated by Ester over the phone. x x x Rizza, after she sent it to Ester, she gave me a copy of the receipt from the mail box and receipt of my [US]\$20,000.00."[31]

"x x x Rizza told me that she is [sic] planning to buy that Unit 1713 and asked me if I want to invest. x x x I agreed considering that Mrs. Ramos came all the way from the United States to Manila to discuss our brokerage business and the promise that my papers are already in Malacañang."[32]

"x x x I gave a check of P50,000.00. x x x. Normally, we put something over there to note what the expenditure is. It says right here at the left bottom of the check, advance payment for condominium unit Park [sic] Chateau of the unit 1713."[33]

"x x x I asked Mrs. Ramos what is the status of my application to the position I am trying to get from the government. x x x. She told me she doesn't know anything about my application. x x x. I asked her about the investment I did in her behalf. x x x. Well, she told me she doesn't know anything about the investment nor the appointment."[34]

"x x x She (Mrs. Ramos) directed Rizza and Ester to return my money."[35]

"x x x Rizza and Ester told Mrs. Ramos that they are going to return my money within two weeks. x x x. I confronted them two weeks after and they couldn't pay me."[36]

In addition, it was also proven that petitioner asked Juinio to give her all his credentials, his application letter and letters of recommendation to be sent to Mrs. Alfonsita Ramos (Mrs. Ramos) in the United States.[37] Petitioner also was the one who informed Juinio that Acapulco and Mrs. Ramos were arriving from the United States to discuss the brokerage business and to follow up his appointment in Malacañang.[38] As regards the US\$20,000.00, it was established that Juinio handed over the money to petitioner[39] after he was informed by the latter that Acapulco will call to confirm the request for the money and to talk about the brokerage and his application for a government position (application).[40] Minutes later, Acapulco indeed called and discussed those matters with Juinio.[41] After talking with Acapulco, Juinio handed the money to petitioner and accompanied her to the remittance center[42] where petitioner filled up the remittance form and sent the money to Acapulco.[43]

Juinio also testified about Rodolfo Lucero (Lucero), Mrs. Ramos's brother, who suspected petitioner and Acapulco of using his sister's name.[44] It was Lucero who advised him to verify with Mrs. Ramos the businesses that petitioner and Acapulco were supposed to be putting up, since Mrs. Ramos was being presented as a partner in these ventures.[45] When Juinio made the verification, Mrs. Ramos denied knowledge of his application or of any investment.[46] Mrs. Ramos then ordered petitioner and Acapulco to return his money.[47]

In his testimony, Lucero corroborated Juinio. Being the brother of Mrs. Ramos,[48] he confirmed that Mrs. Ramos was "irritated" by both petitioner and Acapulco because they were using her name, and because they got money from Juinio.[49]

Another prosecution witness, Alfred Nebres, who arrived with Mrs. Ramos from the United States,[50] testified that Juinio did inquire about the status of his application with Mrs. Ramos;[51] that upon Juinio's inquiry, however, Mrs. Ramos was surprised since she did not know of any application and her visit was for another business, and not for any government appointment;[52] that as a result, Juinio was embarrassed and disgusted;[53] that when he told Mrs. Ramos that he invested money in some businesses which Mrs. Ramos was supposed to be a part of, in order to enhance his chances over his application,[54] Mrs. Ramos reacted by turning to petitioner and Acapulco and asking them why they did things without her knowledge;[55] and that the reply of petitioner and Acapulco was to admit that they were "planning on putting up a business." [56]

Petitioner cites her sole testimony and various documentary exhibits which the lower courts allegedly failed to consider.

Petitioner testified that she first met Juinio in Parc Chateau Condominium, Ortigas, Pasig City in 1995.[57] Then, she met Estrellita a.k.a. Ester Acapulco for the first time in Las Vegas, U.S.A. in May 1996.[58] Shortly thereafter, she met Acapulco again in Los Angeles, U.S.A., while the latter was in the company of Mrs. Ramos, the stepmother of then President Ramos.[59] When she told Juinio, who was then applying as General Manager of the LLDA, that she met Mrs. Ramos in the United States, Juinio got enthusiastic and asked her how he could contact either Acapulco or Mrs. Ramos.[60] So petitioner gave him the telephone number of Acapulco.[61] Juinio then proceeded to call Acapulco and sent his application letter to her, the copies of which she provided petitioner.[62]

Petitioner denies that the amounts of P36,000.00, US\$20,000.00 and P50,000.00 that were shelled out by Juinio were in consideration for his appointment to the LLDA.[63]

Anent the amount of P36,000.00 - petitioner testified that the P36,000.00 that Juinio gave her was for the lease of a unit at Pelbel Building.[64] She was the one who signed the lease because Juinio himself could not sign due to "conflict of interest." [65] The office was supposed to be for the "planning and dealing" that Juinio needed to do to get appointed to another position, that of General Manager of PEA.[66] In leasing the space, petitioner claims she spent P36,000.00 of her own money, in addition to Juinio's P36,000.00, to pay the total amount of P72,000.00 in advance rental for six months.[67]

An examination of the lease contract[68] reveals that contrary to the testimony of petitioner, only P36,000.00, and not P72,000.00, was paid when the contract was signed. Petitioner presented no receipts or other proof that another P36,000.00 was indeed paid as she claims. The fact remains, though, that the lease was executed only between the lessor Pelbel Manufacturing Corporation and the lessee Goldline Realty, the company of petitioner, a clear indication that petitioner executed the lease only for her own purposes. Her explanation that Juinio did not participate in the lease because of "conflict of interest" also fails to persuade. At that time, Juinio was not even a government official. Also, there is incredulity in her testimony that an actual physical office is needed just to lobby for a government appointment. Petitioner's own evidence shows that at that time, Juinio could not have even needed an office, as he had an existing office in Quezon City.[69]

As to the amount of US\$20,000.00, petitioner claims that the money was sent to Acapulco in the United States in relation to a "brokerage business dealing with imported cars" that Juinio and Acapulco were setting up.[70] She maintains that it was Juinio who sent the money to Acapulco.[71] She alleges that she merely aided Juinio in sending the money via Western Union Money Transfer, through which a total of US\$19,970.00 was sent.[72] Later, Acapulco acknowledged receipt of the money through a Promissory Note she signed in August 1996.[73] Petitioner claims that she merely helped Juinio remit the money to Acapulco, and that she never benefited from it. This was belied, however, by Juinio's testimony that petitioner was herself the one who asked him to invest the money, to which he agreed and for which he gave the money to petitioner.[74]

Juinio's testimony prevails over that of petitioner. The fact that petitioner herself sent the money to the United States after getting it from Juinio is proven by the remittance application form[75] that she herself filled up. Human nature dictates that an educated and intelligent man like Juinio could not have just simply parted with a large sum of money and given it to a complete stranger like Acapulco, whom he had not even met, and with whom he had spoken only briefly by phone, without the coaxing of a more trusted acquaintance like petitioner. Juinio himself testified that he only spoke with Acapulco on petitioner's instructions,[76] and only on few occasions.[77]

Petitioner's claim that she did not benefit from the US\$20,000.00 she received from Juinio will not exonerate her. As this Court has previously held in cases of estafa falling under paragraph 2(a) of Article 315 of the Revised Penal Code, inability to benefit from the money obtained from the private complainant does not relieve the accused of criminal responsibility.[78] As early as 1910, it has been held that estafa committed by the accused for the purpose of benefiting a third party rather than himself does not relieve him of criminal responsibility.[79] For these reasons, the fact that only Acapulco and not petitioner signed the promissory note for the US\$20,000.00 will not exculpate petitioner. Petitioner failed to demonstrate why credence should not be given to the prosecution's explanation that petitioner did not sign the promissory note because she had already left the premises when the signing was done.[80]

Anent the amount of P50,000.00 - petitioner maintains that the money was Juinio's share in the rental of Unit 1713 of Parc Chateau Condominium, which served as accommodations for Mrs. Ramos and company during their stay in the country.[81] She herself signed the lease with the lessor.[82] The lease called for P105,000.00 or three months of advance rental.[83] She claims that the P50,000.00 given to her by Juinio was part of this rental, and was not for the purchase of a unit at Parc Chateau Condominium.[84]

Petitioner's explanation that the money was spent to rent the condominium unit where Mrs. Ramos stayed during her visit, and not to buy one, as Juinio alleged,[85] led to her own perdition. Her explanation only validates Juinio's allegation that he parted with his money to gain Mrs. Ramos's favor, in the hope that he would get a government appointment, as represented by petitioner and Acapulco. Whether or not the purpose of the money was for the lease or purchase of a condominium unit is immaterial, as the inducement on Juinio was the same, which was the depiction by petitioner that Mrs. Ramos would help him get appointed in government.

Thus, the Court sees no cogent reason to depart from the findings of facts of the lower courts. The principal prosecution witness, Juinio, gave a consistent, categorical, straightforward, spontaneous and frank testimony, which made him a credible witness.[86] Portions of his testimony were also corroborated by other witnesses who were likewise spontaneous and straightforward in their narration.

The Court has held that where the testimony of a witness is in conformity with knowledge and consistent with the experience of mankind, it deserves great evidentiary value.[87]

On the whole, the prosecution version of the events is more believable and more in accord with human experience, as opposed to the defense which relies on uncorroborated denials and explanations that are highly implausible.

Based on law and jurisprudence, the penalty imposed on petitioner by the trial court should be modified, based on previous rulings of the Court. Under the Revised Penal Code, the penalty for the estafa charged against petitioner is prision correccional maximum to prision mayor minimum; hence, the penalty next lower would be prision correccional minimum to medium. Applying the Indeterminate Sentence Law,[88] 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;[89] and because the amounts involved exceeded P22,000.00, an additional one (1) year imprisonment should be imposed for each additional P10,000.00, but the total should not exceed 20 years.

Hence, on petitioner should be imposed the penalty of imprisonment for four (4) years and two (2) months of prision correccional, as minimum, to 20 years of reclusion temporal as maximum, together with all the accessory penalties as provided by law.

WHEREFORE, the petition is DENIED. The Decision dated January 24, 2003 and Resolution dated August 5,

2003 of the Court of Appeals in CA-G.R. No. 24908 are AFFIRMED, with the sole modification that petitioner is sentenced to indeterminate penalty of imprisonment for four (4) years and two (2) months of prision correccional, as minimum, to 20 years of reclusion temporal, as maximum. All other aspects of the dispositive portion of the decision of the trial court stand.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, Nachura, and Reyes, JJ., concur.

[1] Penned by Associate Justice Amelita G. Tolentino with the concurrence of Associate Justices Eubulo G. Verzola and Candido V. Rivera, rollo, pp. 19-27.

[2] Penned by Associate Justice Eubulo G. Verzola with the concurrence of Associate Justices Conrado M. Vasquez, Jr. and Eliezer R. de los Santos, id. at 28-29.

[3] Rollo, pp. 30-31.

[4] Id. at 30.

[5] Records, p. 143.

[6] Rollo, pp. 32-37.

[7] According to the trial court's decision, Elmer Juinio died in the crash of Air Philippines Flight No. 2P-541 on April 19, 2000. Thus, he was substituted in the civil aspect of the case by his heirs, represented by his spouse Lily Juinio. Id. at 36.

[8] Rollo, pp. 36-37.

[9] Rollo, pp. 33-34.

[10] Id. at 36.

[11] Id.

[12] Id. at 26.

[13] Rollo, pp. 28-29.

[14] Id. at 9-10.

[15] Id. at 10.

[16] Id. at 10-11.

[17] Id. at 7-9.

[18] Id. at 123-128.

[19] Id. at 38-76.

[20] *People of the Philippines v. Court of Appeals*, 368 Phil. 169, 184-185 (1999); *People of the Philippines v. Feliciano*, 418 Phil. 88, 106 (2001); *People of the Philippines v. Lucero*, 407 Phil. 377, 388 (2001); *Ferrer v. People of the Philippines*, G.R. No. 143487, February 22, 2006, 483 SCRA 31, 54.

[21] *Republic of the Philippines v. Central Surety and Insurance Company*, 134 Phil. 631, 640 (1968); *Regalario*

v. Northwest Finance Corporation, 202 Phil. 366, 371 (1982); *Castro v. Court of Appeals*, 208 Phil. 691, 696 (1983); *Siguenza v. Court of Appeals*, G..R. No. L-44050, July 16, 1985, 137 SCRA 570, 576-577; *First Asian Transport and Shipping Agency Inc. v. Ople*, 226 Phil. 446, 453-454 (1986); *Segovia v. Republic of the Philippines*, G..R. No. L-46102, April 15, 1988, 160 SCRA 296, 300; *Ong Chiu Kwan v. Court of Appeals*, 399 Phil. 336, 340 (2000).

[22] *Gokongwei, Jr. v. Securities and Exchange Commission*, 178 Phil. 266, 292 (1979).

[23] *Gonzaludo v. People of the Philippines*, G.R. No. 150910, February 6, 2006, 481 SCRA 569, 577; *Fernandez v. People of the Philippines*, 395 Phil. 478, 489 (2000).

[24] TSN, June 25, 1998, p. 13.

[25] *Id.* at 13-14.

[26] *Id.* at 16.

[27] *Id.*

[28] *Id.*

[29] *Id.* at 18.

[30] *Id.* at 19.

[31] *Id.* at 20.

[32] *Id.* at 23-24.

[33] TSN, July 8, 1998, p. 4.

[34] TSN, July 16, 1998, p. 11.

[35] *Id.* at 12.

[36] *Id.*

[37] TSN, June 25, 1998, p. 15.

[38] *Id.* at 18-19.

[39] *Id.* at 21.

[40] *Id.* at 19.

[41] *Id.* at 19-20.

[42] The facility is called Mail Boxes Etc. which hosts a local branch of Western Union Money Transfer. See Exhibit "B," records, vol. 2, p. 143.

[43] TSN, June 25, 1998, pp. 21-22.

[44] TSN, July 16, 1998, p. 3.

[45] *Id.* at 5.

[46] *Id.* at 11.

[47] *Id.* at 12.

[48] TSN, October 14, 1999, p. 6.

[49] Id. at 12.

[50] TSN, August 19, 1999, p. 9.

[51] Id. at 19.

[52] Id.

[53] Id. at 19-20.

[54] Id. at 20.

[55] Id.

[56] Id.

[57] TSN, March 8, 2000, p. 7.

[58] Id. at 8.

[59] Id. at 9.

[60] Id. at 12, 21.

[61] Id. at 22.

[62] Id.

[63] Id. at 52.

[64] Id. at 28.

[65] Id. at 31.

[66] Exhibit "26" (Petitioner's Counter-Affidavit dated March 10, 1997), records, vol. 2, pp. 263-266.

[67] TSN, March 8, 2000, p. 32.

[68] Exhibit "5", records, vol. 2, pp. 226-228.

[69] Exhibit "14", Elmer Juinio's resume, id. at 248.

[70] TSN, March 8, 2000, pp. 33, 36.

[71] Id. at 36.

[72] Id. at 37.

[73] Id. at 42; Exhibits "E" or "17", records, vol. 2, p. 267.

[74] TSN, June 25, 1998, pp. 19-20.

[75] Exhibit "B", records, vol. 2, pp. 143-144.

[76] TSN, March 11, 1999, p. 12.

[77] Id. at 7.

[78] *People of the Philippines v. Fajardo*, 399 Phil. 109, 127 (2000); *People of the Philippines v. Buli-e*, 452 Phi.

129, 152 (2003).

[79] *United States v. Umali*, 15 Phil. 33, 38 (1910).

[80] TSN, July 16, 1998, p. 15.

[81] TSN, March 8, 2000, p. 44.

[82] *Id.* at 45.

[83] *Id.* at 46.

[84] *Id.* at 50.

[85] *Id.* at 44.

[86] *People of the Philippines v. Noay*, 357 Phil. 295, 309 (1998).

[87] *People of the Philippines v. Delmo*, 439 Phil. 212, 247 (2002).

[88] Act No. 4103, as amended.

[89] *People of the Philippines v. Gabres*, 335 Phil. 242, 257 (1997); *People of the Philippines v. Fajardo*, 399 Phil. 109, 128-129 (2000); *Jose v. People of the Philippines*, 479 Phil. 969, 986 (2004).

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