

REYNALDO QUEZON, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND CLARITA RAMOS, RESPONDENTS.

G.R. NO. 169109. September 07, 2006

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

This is a petition for review on certiorari seeking the reversal of the Decision of the Court of Appeals dated July 28, 2005 in CA-G.R. No. 25649 affirming the judgment of the Regional Trial Court (RTC), Branch 2, Balanga, Bataan, in Criminal Case No. 6205.

Clarita Ramos, respondent, charged Reynaldo Quezon, petitioner, his daughter Teresita, and Arcadio Dumdum with estafa for defrauding her of the amount of P500,000.00 she paid for a gold bar which turned out to be fake.

The Information reads:

That sometime for on the first week of July 1995 at Balanga, Bataan, Philippines and within the jurisdiction of this Honorable Court, the said accused, conspiring, confederating together and mutually aiding one another, did then and there, willfully, unlawfully and feloniously defraud Clarita Ramos in the following manner, to wit: the said accused by means of false pretenses and fraudulent representations which were made to the said Clarita Ramos to the effect that they were selling a bar of gold and by means of other deceits of similar import induced and succeeded in inducing the said private offended party to give and deliver as in fact the latter gave and delivered to the said accused the sum of P500,000.00 on the strength of manifestations and representations, the said accused knowing fully well that the same were false and fraudulent and that were made only to obtain, as in fact they obtained the sum of P500,000.00 but this amount once in possession, with the intent to defraud, misapplied, misappropriated and converted the same to their own personal use or benefit, to the damage and prejudice of the said Clarita Ramos in the aforementioned amount of P500,000.00, Philippine Currency.

Accused Arcadio Dumdum was never arrested and has remained at large.

Upon arraignment, petitioner and Teresita, assisted by counsel, pleaded not guilty. Thereafter, trial ensued.

Evidence for the prosecution shows that sometime in the first week of July 1995, petitioner offered to sell gold bars and a Buddha to respondent Clarita Ramos, who is engaged in jewelry business. Clarita refused the offer as she was not interested and that she had no money to pay for the gold bars. Sometime later, petitioner introduced accused Arcadio Dumdum to Clarita as his relative and companion in selling gold bars. Petitioner and Dumdum were persistent in convincing Clarita to buy the gold bars, assuring her they were 100% genuine because they came from Mt. Pinatubo. Likewise, the Aetas who owned the gold bars were in a hurry to sell them because they needed money for food. Eventually, Clarita was persuaded to buy one gold bar. Initially, the price was P600,000.00, but after some haggling and bargaining, it was reduced to P500,000.00.

On January 15, 1999, the RTC rendered judgment convicting petitioner and his daughter Teresita of the crime of estafa, holding that the evidence adduced by the prosecution established beyond reasonable doubt that they were in conspiracy with Dumdum in defrauding Clarita.

Petitioner and Teresita filed a motion for reconsideration but it was denied.

Both petitioner and Teresita interposed an appeal to the Court of Appeals.

On July 28, 2005, the Court of Appeals affirmed the conviction of petitioner. Teresita, however, was acquitted. In affirming the conviction of petitioner, the Court of Appeals held:

In the case at bench, the record shows that the acts of accused-appellant Reynaldo Quezon were evidently aimed at achieving a common design and purpose, that is, to defraud the private complainant Clarita Ramos. Thus, he told her that he was engaged in the "bote at bakal" business (Accused-Appellant's Brief, p. 5); however, in his testimony, he introduced himself to private complainant as seller of forty (40) gold bars and a Buddha. In another time, Reynaldo said he was only a mere agent of gold bars. Thereafter, every time he would meet the private complainant, Reynaldo would persuade private complainant to buy the gold bars, notwithstanding the latter's repeated refusal to do so as she was not interested. He also assured the private complainant that the gold bars he was offering for sale were 100% genuine, for they came from Mt. Pinatubo, and that the Aetas were in a hurry looking for buyers because they badly needed money for their food. When private complainant was finally persuaded to buy the gold bars, Reynaldo, together with his daughter and Arcadio Dumdum, accompanied private complainant twice in going to Bamban, Tarlac where the gold bars were allegedly kept. When private complainant asked for the sawn gold bar and the Aetas refused, private complainant asked her companions that they better leave. Reynaldo and Dumdum convinced her to wait for little time and when private complainant asked for the sawn dust of the gold bar later, Reynaldo said that the same was thrown away by the Aetas but when private complainant persisted, Reynaldo gave her approximately 3 grams of sawn dust of gold. Reynaldo and Dumdum actively haggled with the private complainant on the purchase price of the gold bars. They initially offered to her the price of P600,000.00, but after some haggling and bargaining, they agreed at the price of P500,000.00. After the price money was handed to the Aetas who immediately left, both Reynaldo and Arcadio Dumdum ran after them to get their share.

From the chain of events above-narrated, it is evident that accused-appellant Reynaldo performed overt acts in furtherance of a common plan to commit a felony. His acts before, during and after the commission of the crime, taken together, clearly demonstrated a community of criminal design (*People v. Pacificador*, 376 SCRA 180). Verily, without Reynaldo's active participation and persistent persuasion for private complainant to buy the gold bars, which turned out to be counterfeit, she would not have thought of buying the same. Hence, relying also on his (mis)representations, she parted with her money and gave it to them. Once conspiracy is established, the act of one becomes the act of all regardless of the degree of individual participation (*People v. Sumalpong*, 284 SCRA 464). Consequently, accused-appellant Reynaldo Quezon should be meted the appropriate penalty.

In assailing the Court of Appeals' Decision, petitioner contends that the evidence for the prosecution failed to establish conspiracy. He maintains that his participation in the transaction is not sufficient to conclude that he and Dumdum have a common design. At most, he merely acted as an agent of Dumdum not knowing that the gold bars he was selling as agent were fake.

It is a well-established principle that in an appeal via petition for review on certiorari, only questions of law may be raised. The issues posed by petitioner undoubtedly require us to weigh anew the evidence already passed upon by the Court of Appeals. It is basic that this Court is not a trier of facts. The findings of fact of the Court of Appeals may not be reviewed by this Court, except (a) when its factual findings and those of the trial court are contradictory; (b) when its inference is manifestly mistaken or absurd; (c) when its judgment is premised on its misapprehension of the facts; and, (d) when it failed to resolve relevant facts which, if properly considered, would justify a modification or reversal of the decision of the appellate court.[1]

Petitioner failed to show that his petition falls under any of these exceptions.

WHEREFORE, we DENY the instant petition and AFFIRM the assailed Decision of the Court of Appeals in CA-G.R. No. 25649. With costs de oficio.

SO ORDERED.

Puno, C. J., (Chairperson), Corona, Azcuna and Garcia, JJ., concur.

[1] Fuentes v. Court of Appeals' G.R. No. 109849, February 26, 1997, 268 SCRA 703; Cordial v. Miranda, G.R. No. 135495, December 14, 2000, 348 SCRA 158; Cabataje v. Puduman, G.R. No. 134712, August 13, 2004, 436 SCRA 423.

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