MANUEL S. ISIP, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 170298. June 26, 2007

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 Rules of Court, which seeks to set aside the Decision[1] of the Court of Appeals dated 26 October 2004 in CA-G.R. CR No. 21275 entitled, "People of the Philippines v. Manuel S. Isip and Marietta M. Isip" to the extent that it affirmed with modifications petitioner Manuel S. Isip's conviction for Estafa in Criminal Case No. 136-84 of the Regional Trial Court (RTC), Branch XVII, Cavite City, and its Amended Decision[2] dated 26 October 2005 denying his Partial Motion for Reconsideration.

The antecedents are the following:

Petitioner was charged with Estafa in Criminal Case No. 136-84 before Branch XVII of the RTC of Cavite City, under the following information:

> That on or about March 7, 1984, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, received from Leonardo A. Jose one (1) seven carat diamond (men's ring), valued at P200,000.00, for the purpose of selling the same on commission basis and to deliver the proceeds of the sale thereof or return the jewelry if not sold, on or before March 15, 1984, but the herein accused once in possession of the above-described articles, with intent to defraud and with grave abuse of confidence, did, then and there, willfully, unlawfully and feloniously misappropriate, misapply and convert the same to his own personal use and benefit and notwithstanding repeated demands made by Leonardo A. Jose for the return of the jewelry or the delivery of the proceeds of the sale thereof, failed to do so, to the damage and prejudice of the aforesaid Leonardo A. Jose in the abovestated amount of P200,000.00, Philippine Currency.[3]

Petitioner's wife, Marietta M. Isip, was indicted before the same court for seven counts of Violation of Batas Pambansa Blg. 22, otherwise known as the Bouncing Checks Law. The cases were docketed as Criminal Cases No. 146-84, 147-84, 148-84, 149-84, 155-84, 156-84 and 157-84. The accusatory portion of the information in Criminal Case No. 146-84 reads:

> That on or about March 27, 1984, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that her account with the bank is insufficient, did, then and there, willfully, unlawfully, feloniously and knowingly issue Pacific Banking Corporation Check No. 518672 in the amount of P562,000.00, in payment for assorted pieces of jewelry, received from Leonardo A. Jose, which check upon presentation with the drawee bank for payment was dishonored for insufficiency of funds and notwithstanding repeated demands made by Leonardo A. Jose for the redemption of the said check, accused refused and still refuses to do so, to the damage and prejudice of the aforesaid Leonardo A. Jose in the above-stated amount of P562,000.00, Philippine Currency.[4]

The six other Informations are similarly worded except for the date when the offense was committed, the number and amount of the check. The pertinent data in the other informations are as follows:

Crim. Case No.	Date of Commission	No. of Check	Amount of Check
147-84	17 March 1984	518644	**P50,000.00**
148-84	30 March 1984	518645	**P50,000.00**
149-84	12 March 1984	030086[5]	**P150,000.00**
155-84	25 March 1984	518674	**P95,000.00**
156-84	29 March 1984	518646	
157-84	1 April 1984	518669	

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P90,000.00

P25,000.00

The spouses Isip were likewise charged before the same court with five (5) counts of Estafa. The cases were docketed as Criminal Cases No. 256-84, 257-84, 260-84, 261-84 and 378-84. The Estafa charged in Crim. Case No. 256-84 was allegedly committed as follows:

> That on or about March 20, 1984, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating together and mutually helping one another, received from one Leonardo A. Jose the following pieces of jewelry, to wit: one (1) set dome shape ring and earrings valued at P120,000.00, with the obligation of selling the same on commission basis and deliver the proceeds of the sale thereof or return them if not sold, on or before March 21, 1984, but the herein accused, once in possession of the said jewelry by means of false pretenses, with intent to defraud and with grave abuse of confidence, did, then and there, willfully, unlawfully and feloniously misappropriate, misapply and convert them to their own personal use and benefit and paid the same with Check Nos. 518646 and 518669, dated March 29, 1984 and April 1, 1984, respectively, in the amount of P90,000 and P25,000, respectively, which upon presentation with the bank was dishonored for insufficiency of funds and notwithstanding repeated demands made by Leonardo A. Jose for the redemption of the said check, failed to do so, to his damage and prejudice in the abovestated amount of P120,000.00, Philippine Currency.[6]

Except for the description and value of the pieces of jewelry involved, date of receipt and agreed date of return, and the number, date and amount of the checks issued in payment thereof, the four other informations are similarly worded. The specifics thereof are as follows:

Crim. Case No.

Value of Jewelry

Date of Receipt

Agreed Date of Return

Check No./Date

Amount

257-84

260-84

261-84

378-84

P150,000

P95,000

P562,000

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P200,000

03-07-84

03-20-84

03-20-84

02-03-84

03-30-84

03-27-84

03-27-84

-

030086/03-12-84

518647/03-25-84

518672/03-27-84

518644/03-17-84

518645/03-30-84

P150,000

P95,000

P562,000

P50,000

P50,000

When arraigned on the charges, petitioner and Marietta Isip pleaded not guilty. There being only one complainant in all the cases, joint trial of the cases followed.

The versions of the prosecution and the defense, as taken by the Court of Appeals in the parties' respective briefs, are the following:

> i) Prosecution Version. –
>
> Sometime in 1982, appellant spouses Manuel and Marietta Isip were introduced to complainant Atty. Leonardo Jose. The introduction was made by complainant's father, Nemesio, business associate of the Isips. Nemesio and the Isips were then engaged in the buy and sell of pledged and unredeemed jewelry pawned by gambling habitu's (pp. 8-16, tsn, June 8, 1993).
>
> Needing a bigger capital to finance the growing operation, the Isips convinced complainant to be their capitalist, a proposition to which complainant acceded to (p. 14, ibid).
>
> Thus, the operation went smoothly – that was before February, 1984 (pp. 14-18, tsn, ibid).
>
> On February 3, 1984, at complainant's residence in Caridad, Cavite City, appellant spouses received from

complainant a 6 carat men's ring valued at P200,000.00 with the condition that they are going to sell said jewelry x x x on commission basis for P200,000.00 and if they are not able to sell the same, they have to return the ring if sold on or before March 3, 1984 (p. 8, tsn, October 15, 1993).

On March 3, 1984, the Isips did not return the ring or the proceeds thereof. Instead, Marietta Isip issued two (2) personal checks dated March 17 and 30, 1984, respectively, for P50,000.00 each as partial payment for the jewelry. The receipt of the jewelry was acknowledged by Marietta Isip with Manuel acting as a witness (pp. 9-11, tsn, ibid).

This particular men's ring is the subject of Criminal Case No. 378-84 for Estafa while Check Nos. 518644 and 518645 (Pacific Banking Corp.) dated March 17 and 30, respectively, are the subject of Criminal Case Nos. 147-84 and 148-84.

In the morning of March 7, 1984, the Isip couple went again to complainant's residence in Caridad, Cavite City where complainant delivered one (1) Choker Pearl with 35 pieces of south sea pearls with diamond worth P150,000.00. The condition was that the proceeds be turned over to complainant on or before March 30, 1984 (pp. 27-29, tsn, ibid). March 30, 1984 came, but instead of turning over the proceeds or return the Choker Pearl, Mrs. Isip issued a check dated March 12, 1984 for P150,000.00 (RCBC check No. 030086) as payment (p. 34, ibid).

This is the subject of Criminal Case No. 254-84 for Estafa against the spouses and Criminal Case No. 149-84 for violation of BP 22 against Marietta Isip.

In the afternoon of the same day, Mr. Manuel Isip went to complainant's residence in Cavite City and got from the latter a men's ring (7 carats) worth P200,000.00. Mr. Isip signed a receipt with the condition that he return the ring or deliver the proceeds, if sold, on or before March 15, 1984. March 15, 1984 came, but Mr. Isip sought an extension which fell due on April 7, 1984. April 7, 1984 came and went by, but Mr. Isip defaulted (pp. 41-46, tsn, ibid). The above is the subject matter of Criminal Case No. 136-84 for Estafa against Manuel Isip.

On March 20, 1984, the Isips went again to Cavite City and got from complainant one (1) Dome shaped ring with matching earring with diamonds valued at P120,000.00. As with their previous agreement, the item was to be returned or the proceeds of the sale be delivered on March 21, 1984 (pp. 48-52, tsn, ibid). The following morning, however, Mrs. Isip issued two (2) personal checks (Check Nos. 518646 and 518669 dated March 29, 1984 for P90,000.00 and P25,000.00, respectively) in payment for the Dome shaped ring (p. 53, tsn, ibid).

This is the subject of Criminal Case No. 256084 for Estafa against the spouses Isip and Criminal Case Nos. 156-84 and and (sic) 157-84 for Violation of BP 22 against Marietta Isip.

At noontime on the same day, the Isip couple went back to the residence of complainant and got from him one (1) collar heart shaped necklace and one (1) baguette necklace worth P95,000.00 (p. 60, tsn, ibid). As agreed upon, Marietta Isip signed a receipt with the condition that the jewelry or the proceeds thereof be delivered to complainant on March 27, 1984. The Isips defaulted and instead, Mrs. Isip issued a check (Check No. 518647) dated March 27, 1984 in the amount of P90,000.00 (pp. 3-5, tsn, October 22, 1993).

The subject pieces of jewelry are the subject of Criminal Case No. 260-84 for Estafa against the Isip couple and Criminal Case No. 155-84 for Violation of BP 22 against Marietta Isip.

Again, in the early evening of March 20, 1984, the Isips went to complainant informing him that Balikbayan doctors are having a convention in Vigan, Ilocos Sur saying that, that was the most opportune time to sell jewelries. Assorted pieces of jewelry were delivered to Mrs. Isip as reflected in a receipt duly signed by her (Exhibit "O") acknowledging the value thereof to the tune of P562,000.00.

Exhibit "O" contained the promise that the jewelry or proceeds thereof will be delivered on March 27, 1984.

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Inspite of the promise contained in Exhibit "O", Mrs. Isip issued a postdated check (Check No. 51867) dated March 27, 1984 in the amount of P562,000.00 as payment for the assorted pieces of jewelry (pp. 8-12, tsn, October 22, 1993).

This is the subject matter of Criminal Case No. 261-84 for Estafa against the couple and Criminal Case No. 146-84 against Marietta Isip for Violation of BP 22.

All of the checks covered by the above transactions were deposited on April 6, 1984 (p. 14, tsn, ibid), but all of them bounced for being drawn against insufficient funds. Demand letters sent to the couple proved futile (pp. 15-20, ibid).

ii) Defense Version.

During all the times material to these cases, complainant Leonardo Jose, who had his residence at Room 411, 4th Floor, Plaza Towers Condominium on (sic) 3375 Guerrero Street, Ermita, Manila, but claims he had his ancestral home at 506 P. Burgos Street, Caridad, Cavite, was an employee of the Bureau of Customs, having been so since 1964 (Tr., 6/8/93, 7). Upon the other hand, appellants Manuel S. Isip (Manuel hereafter) and Marietta M. Isip (Marietta hereafter) are spouses, residents at 3635 M. Arellano Street, Bacood, Sta. Mesa, Manila (Tr., 8/29/93, 4) and engaged in various business undertakings in Pampanga, Nueva Ecija, Baguio City, Olongapo City and Bataan (Tr., Idem, 9; Tr., 10/2/95, 13) – appellant Manuel, in the brokerage and trucking business; while appellant Marietta, in that of selling jewelry and financing, as well as in PX goods, real estate and cars, which she started when she was still single (Tr., Idem, 9-10; Tr., 10/2/95, 12). In 1982, at the casino in Olongapo City, appellant Marietta started obtaining jewelry from losing or financially-strapped players which she repledged as security for financing she obtained from one Nemesio Jose, father of complainant Leonardo Jose (Tr., Idem, 11-12; Tr., Idem, 14). After about a year, when Nemesio Jose ran short of capital, he referred appellants to his son, complainant Leonardo Jose, with address at the Plaza Towers Condominium aforesaid for needed financing (Tr., Idem, 13-14; Tr., Idem, 17-19). Beginning early 1983, at complainant's residence at Plaza Tower Condominium in Manila, appellant Marietta, accompanied by her husband who participated only as a witness, started having transactions with complainant who, on different dates in February, March and April, 1984, extended various amounts to her for which appellant Marietta pledged jewelry which, in turn, were agreed between her and complainant to be sold on commission and to turn over the proceeds thereof or return the jewelry to complainant (Tr., Idem, 16-18). In the course of the transactions, appellant Marietta had issued several checks to complainant as guarantee for the payment of the subject jewelry which have either been paid or redeemed, had returned the unsold jewelry to complainant and had conveyed, by way of payment for other jewelry, some personal properties, like brass and antics, and real properties in Balanga, Bataan and Mabalacat, Pampanga, to complainant who caused the same to be registered in the names of his son, Christian Jose, and his wife, Zenaida Jose (Exhibits 1, 2, 2-A, 3, 4, 5, 6, 6-A, 7, 7-A), with the result that all the obligations of appellants to complainant have already been paid for or offset (Tr., Idem, 23; Tr., Idem, 24, 34-36, 37-39; Tr., 3/4/96, 7-8). Also, all the checks that appellant Marietta issued which were initially dishonored have already been (sic) (Tr., 10/2/95, 25-30; Tr., 3/4/96, 8-9). In fact, complainant caused the dismissal of some cases he filed against appellants. Complainant however failed to return some of the redeemed and/or paid checks issued to him by appellant Marietta on the pretext that he did not bring them (Tr., 3/4/96, 20). Inasmuch as appellant Marietta incurred some default in payment and complainant suspected that she would not be able to redeem the checks or pay for the pledged jewelry, complainant demanded that appellants sign certain documents to avoid any misunderstanding, with threat of prosecution before the Cavite courts if they do not comply (Tr., Idem, 19-20; Tr., 3/4/96, 5-6). So, in order to maintain good relations with complainant, appellant Marietta signed the document acknowledging obligations to him in one sitting, which appellant Manuel witnessed (Tr., Idem, 21-22). Later, appellants learned that, although all the transactions were entered into in Manila, complainant filed the cases herein before the Cavite Regional Trial Court (Tr., Idem, 23-24).[7]

On November 25, 1996, the trial court rendered its decision, the dispositive portion thereof reading:

> WHEREFORE, in view of the foregoing, the Court finds the accused Dra. Marietta M. Isip guilty beyond reasonable doubt of a (sic) violation of B.P. 22 in Crim. Cases Nos. 146-84, 147-84, 148-84, 149-84, 155-84, 156-84 and 157-84 and she is hereby sentenced to undergo imprisonment of One (1) year of prision correctional (sic) in each case; and of Estafa in the following Crim. Cases: No. 256-84 where she is sentenced to undergo imprisonment of, from Twelve (12) years of prision mayor, as minimum, to Twenty (20) years of reclusion temporal, as maximum, and to indemnify the complainant Atty. Leonardo Jose the amount of P120,000.00 for the value of the articles misappropriated; Crim. Case No. 257-84 where she is sentenced to undergo imprisonment of, from Twelve (12) years of prision mayor, as minimum, to Twenty (20) years of reclusion temporal, as maximum, and to indemnify the complainant Atty. Leonardo Jose the amount of P150,000.00; Crim. Case No. 260-84 where she is sentenced to undergo imprisonment of, from Eight (8) years and One (1) day of prision mayor, as minimum, to Seventeen (17) years of reclusion temporal, as maximum, and to indemnify the complainant Atty. Leonardo Jose the amount of P95,000.00; Crim. Case No. 261-84 where she is sentenced to undergo imprisonment of, from Twelve (12) years and One (1) day of reclusion temporal, as minimum, to Twenty (20) years of reclusion temporal, as maximum, and to indemnify the complainant Atty. Leonardo Jose the amount of P562,000.00; Crim. Case No. 378-84 where she is sentenced to undergo imprisonment of, from Twelve (12) years and One (1) day of reclusion temporal, as minimum, to Twenty (20) years of reclusion temporal, as maximum, and to indemnify the complainant Atty. Leonardo Jose the amount of P200,000.00 and to pay the costs.
>
> Likewise, accused Manuel Isip is acquitted in Crim. Cases Nos. 256-84, 257-84, 260-84, 261-84 and 378-84. However, in Crim. Case No. 136-84, he is hereby found guilty of Estafa and he is hereby sentenced to undergo imprisonment of, from Twelve (12) years and One (1) day of reclusion temporal, as minimum, to Twenty (20) years of reclusion temporal, as maximum, to indemnify the complainant Atty. Leonardo Jose in the amount of P200,000.00 value of the jewelry misappropriated, and to pay the costs.[8]

In ruling the way it did, the RTC found that the transactions involved in these cases were sufficiently shown to have taken place at complainant Atty. Leonardo Jose's ancestral house in Cavite City when the latter was on leave of absence from the Bureau of Customs where he was connected. It said the defense failed to substantially prove its allegations that the transactions occurred in Manila, particularly in the Towers Condominium, and that complainant is a resident of Bigasan, Makati. It added that the testimony of Marietta Isip that the money with which the complainant initially agreed to finance their transactions was withdrawn from the Sandigan Finance in Cavite City further refuted the defense's claim that the transactions happened in Manila. The trial court likewise found the defense's contention, that the obligations were already paid and set-off with the turnover to complainant of personal and real properties, to be untenable for it is contrary to human nature to demand payment when the same had already been made and the alleged set-offs were for other cases which were settled amicably and subsequently dismissed upon motion of the City Prosecutor's Office at the instance of the complainant.

The trial court was convinced that accused Marietta Isip misappropriated the pieces of jewelry involved in Criminal Cases No. 256-84, 257-84, 260-84, 261-84 and 378-84 and violated Batas Pambansa Blg. 22 when she issued the checks mentioned in Criminal Cases No. 146-84, 147-84, 148-84, 149-84, 155-84, 156-84 and 157-84. As to petitioner, the trial court acquitted him in Criminal Cases No. 256-84, 257-84, 260-84, 261-84 and 378-84 finding him to have acted as a mere witness when he signed the receipts involved in said cases, but found him liable in Criminal Case No. 136-84 for misappropriating a 7-carat diamond men's ring which he secured from the complainant.

Aggrieved, petitioner and spouse appealed to the Court of Appeals assigning the following as errors:

> - I -
>
> THE TRIAL COURT ERRED IN TAKING COGNIZANCE OF AND DECIDING THE CASES AGAINST APPELLANTS AND IN NOT DISMISSING THE SAME UPON THE GROUND THAT NONE OF THE

> ESSENTIAL INGREDIENTS OF THE OFFENSES CHARGED THEREIN WAS COMMITTED WITH (SIC) ITS TERRITORIAL JURISDICTION.
>
> - II -
>
> THE TRIAL COURT, ASSUMING IT HAD JURISDICTION OVER THE CASES BELOW, ERRD IN NOT HOLDING THAT NO CRIMINAL LIABILITY UNDER BATAS PAMBANSA BLG. 22 WAS INCURRED BY APPELLANT MARIETTA M. ISIP FOR THE ISSUANCE OF THE SUBJECT CHECKS INASMUCH AS SAID CHECKS WERE ISSUED AS MERE GUARANTY FOR OBLIGATIONS INCURRED.
>
> - III -
>
> THE TRIAL COURT, ASSUMING ANY INCIPIENT LIABILITY FOR THE CRIME OF ESTAFA HAD BEEN INCURRED BY APPELLANTS IN THE PREMISES, ERRED IN NOT HOLDING THAT SUCH INCIPIENT LIABILITY HAD BEEN EXTINGUISHED BY PAYMENTS/REDEMPTIONS MADE AND/OR NOVATION ENTERED INTO BETWEEN COMPLAINANT AND SAID APPELLANTS.
>
> - IV -
>
> THE TRIAL COURT ERRED IN FINDING APPELLANTS MANUEL S. ISIP AND MARIETTA M. ISIP GUILTY BEYOND REASONABLE DOUBT OF THE CRIMES OF ESTAFA AND VIOLATION OF BATAS PAMBANSA BLG. 22 RESPECTFULLY IMPUTED UPON THEM AND IN NOT ACQUITTING THEM UPON THE GROUND THAT THEIR GUILT THEREOF, OR OF ANY CRIME FOR THAT MATTER, HAD NOT BEEN ESTABLISHED BEYOND REASONABLE DOUBT AND/OR THAT THE LIABILITY INCURRED BY THEM, IF ANY, IS MERELY CIVIL.[9]

Before the Court of Appeals could have decided the case, Marietta Isip died thereby extinguishing her criminal and civil liability, if any.

In a decision promulgated 26 October 2004, the Court of Appeals disposed of the case as follows:

> WHEREFORE, the appealed decision of the Regional Trial Court of Cavite City (Branch XVII) –
>
> - In Crim. Case No. 136-84 is AFFIRMED with the MODIFICATIONS that the sentence imposed on accused-appellant Manuel S. Isip shall be two (2) years of prision correccional, as minimum, to twenty (20) years of reclusion temporal, as maximum, and that the sum of P200,000.00 he was ordered to pay to Leonardo A. Jose shall bear interest at the legal rate from filing of the information until fully paid;
>
> - In Crim. Cases Nos. 146-84, 147-84, 148-84, 149-84, 155-84, 156-84 and 157-84 is REVERSED and accused-appellant Marietta M. Isip ACQUITTED of the crimes charged; and
>
> - In Crim. Cases Nos. 256-84, 257-84, 260-84, 261-84 and 378-84 is REVERSED and accused-appellants Manuel S. Isip and Marietta M. Isip ACQUITTED of the crimes charged, but ordering them to pay to Leonardo A. Jose, jointly and severally, the sums of P120,000.00, P150,000.00, P95,000.00, P562,000.00 and P200,000.00 representing the amounts involved in said cases, plus interest thereon at the legal rate from filing of the information until fully paid.[10]

The Court of Appeals upheld the lower court's finding that the venue was properly laid and that the checks were delivered by the two accused and/or that the transactions transpired at complainant's ancestral home in Cavite City, and that, consequently, the offenses charged took place within its territorial jurisdiction. With respect to the seven counts of violation of Batas Pambansa Blg. 22, the appellate court acquitted Marietta Isip of the charges on the ground that since the checks involved were issued prior to 8 August 1984, the dishonor thereof did not give rise to a criminal liability pursuant to Ministry Circular No. 4 of the Ministry of Justice.

As to the Estafa cases (Criminal Cases No. 256-84, 257-84, 260-84, 261-84 and 378-84), the Court of Appeals

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ruled that since the checks issued by Marietta Isip as payment for the pieces of jewelry were dishonored, there was no payment to speak of. It also found the defense's claim of redemption/dacion en pago – that real and personal properties were conveyed to complainant who executed affidavits of desistance and caused the dismissal of some of the cases – to be unmeritorious. However, the appellate court ruled that though novation does not extinguish criminal liability, it may prevent the rise of such liability as long at it occurs prior to the filing of the criminal information in court. In these five cases, it ruled that there was novation because complainant accepted the checks issued by Marietta Isip as payment for the pieces of jewelry involved in said cases. Consequently, the Court of Appeals acquitted Marietta and petitioner,[11] but held them liable to complainant for the value of the jewelry involved.

As regards Criminal Case No. 136-84 for estafa against petitioner, the appellate court affirmed the trial court's ruling of conviction. It found petitioner's claims that he did not receive the jewelry worth P200,000.00 mentioned in the information; that the receipt he issued for said jewelry was among those documents which were forced upon him to sign under threat of criminal prosecution; and that he signed the same to preserve his friendship with complainant, to be not persuasive.

On 17 November 2004, petitioner, for himself and in representation of his deceased wife, Marietta Isip, filed a Partial Motion for Reconsideration insofar as it affirmed his conviction in Criminal Case No. 136-84 and adjudged him civilly liable, jointly and severally, with Marietta Isip in Criminal Cases No. 256-84, 257-84, 260-84, 261-84 and 378-84.[12]

On 26 October 2005, the Court of Appeals, taking into account the death of Marietta M. Isip prior to the promulgation of its decision, rendered an Amended Decision with the following dispositive portion:

> WHEREFORE, the decision dated October 26, 2004 is AMENDED in respect to par. 3 of the dispositive portion thereof which shall now read as follows:
> "3. In Crim. Cases Nos. 256-84, 257-84, 260-84, 261-84 and 378-84 is REVERSED, accused-appellants Manuel S. Isip and Marietta M. Isip ACQUITTED of the crimes charged and the civil aspect of those cases DISMISSED."[13]

Petitioner is now before us appealing his conviction in Criminal Case No. 136-84. He raises the following issues:

> First – WHETHER OR NOT THE TRIAL COURT HAD JURISDICTION OVER THE OFFENSE IMPUTED TO PETITIONER AND FOR WHICH HE WAS CONVICTED;
>
> Second – WHETHER THE EVIDENCE SUFFICIENTLY SHOWS THAT PETITIONER RECEIVED THE SUBJECT OF SAID OFFENSE OR THAT HE RECEIVED IT IN CAVITE CITY; and
>
> Third, WHETHER THE INCIPIENT CRIMINAL LIABILITY ARISING FROM SAID OFFENSE, IS (sic) ANY, WAS EXTINGUISHED BY NOVATION.

On the first issue, petitioner maintains that the RTC had no jurisdiction over the estafa charge in Criminal Case No. 136-84 and it is pure speculation and conjectural, if not altogether improbable or manifestly absurd, to suppose that any of the essential elements of the Estafa charged in Criminal Case No. 136-84 took place in Cavite City. First, he states that the residence of the parties is immaterial and that it is the situs of the transaction that counts. He argues that it is non sequitur that simply because complainant had an alleged ancestral house in Caridad, Cavite, complainant actually lived there and had the transactions there with him when he and his late wife were actual residents of Manila. Mere convenience suggests that their transaction was entered into in Manila. He adds that the source of the fund used to finance the transactions is likewise inconsequential because it is where the subject item was delivered and received by petitioner and/or where it was to be accounted for that determines venue where Estafa, if any, may be charged and tried. Second, he further argues that it does not follow that

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because complainant may have been on leave from the Bureau of Customs, the transactions were necessarily entered into during that leave and in Cavite City. He asserts that there is no competent proof showing that during his leave of absence, he stayed in Cavite City; and that the transactions involved, including the subject of Criminal Case 136-84 covering roughly the period from February to April 1984, coincided with his alleged leave.

The concept of venue of actions in criminal cases, unlike in civil cases, is jurisdictional.[14] The place where the crime was committed determines not only the venue of the action but is an essential element of jurisdiction.[15] It is a fundamental rule that for jurisdiction to be acquired by courts in criminal cases, the offense should have been committed or any one of its essential ingredients should have taken place within the territorial jurisdiction of the court. Territorial jurisdiction in criminal cases is the territory where the court has jurisdiction to take cognizance or to try the offense allegedly committed therein by the accused. Thus, it cannot take jurisdiction over a person charged with an offense allegedly committed outside of that limited territory. Furthermore, the jurisdiction of a court over the criminal case is determined by the allegations in the complaint or information. And once it is so shown, the court may validly take cognizance of the case. However, if the evidence adduced during the trial shows that the offense was committed somewhere else, the court should dismiss the action for want of jurisdiction.[16]

In the case at bar, we, like the RTC and the Court of Appeals, are convinced that the venue was properly laid in the RTC of Cavite City. The complainant had sufficiently shown that the transaction covered by Criminal Case No. 136-84 took place in his ancestral home in Cavite City when he was on approved leave of absence[17] from the Bureau of Customs. Since it has been shown that venue was properly laid, it is now petitioner's task to prove otherwise, for it is his claim that the transaction involved was entered into in Manila. The age-old but familiar rule that he who alleges must prove his allegations applies.[18]

In the instant case, petitioner failed to establish by sufficient and competent evidence that the transaction happened in Manila. Petitioner argues that since he and his late wife actually resided in Manila, convenience alone unerringly suggests that the transaction was entered into in Manila. We are not persuaded. The fact that Cavite City is a bit far from Manila does not necessarily mean that the transaction cannot or did not happen there. Distance will not prevent any person from going to a distant place where he can procure goods that he can sell so that he can earn a living. This is true in the case at bar. It is not improbable or impossible for petitioner and his wife to have gone, not once, but twice in one day, to Cavite City if that is the number of times they received pieces of jewelry from complainant. Moreover, the fact that the checks issued by petitioner's late wife in all the transactions with complainant were drawn against accounts with banks in Manila or Makati likewise cannot lead to the conclusion that the transactions were not entered into in Cavite City.

It is axiomatic that when it comes to credibility, the trial court's assessment deserves great weight, and is even conclusive and binding, if not tainted with arbitrariness or oversight of some fact or circumstance of weight and influence. The reason is obvious. Having the full opportunity to observe directly the witnesses' deportment and manner of testifying, the trial court is in a better position than the appellate court to evaluate properly testimonial evidence.[19] It is to be pointed out that the findings of fact of the trial court have been affirmed by the Court of Appeals. It is settled that when the trial court's findings have been affirmed by the appellate court, said findings are generally conclusive and binding upon this Court.[20] In the case at bar, we find no compelling reason to reverse the findings of the trial court, as affirmed by the Court of Appeals, and to apply the exception. We so hold that there is sufficient evidence to show that the particular transaction took place in Cavite City.

On the second issue, petitioner contends that the Court of Appeals' holding that the ring subject of Crim. Case No. 136-84 was delivered to and received by petitioner is seriously flawed. He argues that assuming he signed the receipt evidencing delivery of the ring, not due to the threat of prosecution but merely to preserve his friendship

with complainant, the fact remains that there is no showing that the ring was actually delivered to him. Petitioner insists there is no competent evidence that the ring subject of Criminal Case No. 136-84 was ever actually received by, or delivered to, him.

We find his contentions untenable. The finding of the Court of Appeals that petitioner received the ring subject of Criminal Case No. 136-84 is supported by the evidence on record. The acknowledgment receipt[21] executed by petitioner is very clear evidence that he received the ring in question. Petitioner's claim that he did not receive any ring and merely executed said receipt in order to preserve his friendship with the complainant deserves scant consideration.

Petitioner, an astute businessman as he is, knows the significance, import and obligation of what he executed and signed. The following disputable presumptions weigh heavily against petitioner, namely: (a) That a person intends the ordinary consequences of his voluntary act; (b) That a person takes ordinary care of his concerns; (c) That private transactions have been fair and regular; and (d) That the ordinary course of business has been followed [22] Thus, it is presumed that one does not sign a document without first informing himself of its contents and consequences. We know that petitioner understood fully well the ramification of the acknowledgment receipt he executed. It devolves upon him then to overcome these presumptions. We, however, find that he failed to do so. Aside from his self-serving allegation that he signed the receipt to preserve his friendship with complainant, there is no competent evidence that would rebut said presumptions. It is clear from the evidence that petitioner signed the acknowledgment receipt when he received the ring from complainant in Cavite City.

Petitioner's argument that he did not receive the subject ring[23] is further belied by the testimony of his wife when the latter testified that said ring was borrowed by him on 7 March 1984.[24] In all, the delivery of the ring and the transaction regarding the same occurred in Cavite City.

Anent the third issue, petitioner argues that, assuming gratia argumenti that any criminal liability was incurred by petitioner respecting the ring subject of Criminal Case No. 136-84, the same was incipient, at best, and was effectively extinguished by novation. The personal and real properties delivered/conveyed to complainant were more than sufficient to cover or offset whatever balance remained of the obligations incurred as shown by the fact that complainant executed Affidavits of Desistance and caused the dismissal of some of the cases filed. He maintains that the Court of Appeals did not apply the rule of novation as regards the ring subject of Criminal Case No. 136-84 because it rejected his denial of receipt of said ring and his claim that he signed the receipt supposedly covering the same under threat of prosecution and merely to preserve their good relations. He claims the Court should not have denied the application of the rule of novation on said case because the rejected initial claim (that he did not receive the ring and that he signed the receipt to preserve their good relations) was but an alternative defense and its rejection is not a reason to deny the application of the novation rule in said case.

We agree with the Court of Appeals that novation[25] cannot be applied in Criminal Case No. 136-84. The claim of petitioner that the personal and real properties conveyed to complainant and/or to his family were more than sufficient to cover or offset whatever balance remained of the obligations incurred has no basis. If it were true that the properties delivered to complainant were sufficient, the latter would have caused the dismissal of all, not some as in this instance, the cases against petitioner and his late wife. This, complainant did not do for the simple reason that the properties conveyed to him were not enough to cover all the obligations incurred by petitioner and his deceased wife. Complainant testified that the properties he received were in settlement of cases other than the cases being tried herein.[26] In particular, he said that petitioner and his spouse settled eight cases which were subsequently dismissed when they delivered properties as payment.[27] It follows then that the obligations incurred by petitioner and his spouse were not yet settled when the criminal cases herein tried were filed.

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His contention, that the Court of Appeals did not apply the rule of novation in Criminal Case No. 136-84 because it rejected or did not believe his (alternative) defense of denial, is untenable. The main reason why the Court of Appeals did not apply novation in said case was that not all the elements of novation are present. For novation to take place, four essential requisites have to be met, namely, (1) a previous valid obligation; (2) an agreement of all parties concerned to a new contract; (3) the extinguishment of the old obligation; and (4) the birth of a valid new obligation. In Criminal Case No. 136-84, only the first element is extant. What distinguishes this case from Criminal Cases No. 256-84, 257-84, 260-84, 261-84 and 378-84, where the Court of Appeals applied the rule of novation, was that there were checks issued as payment, though subsequently dishonored, for the pieces of jewelry involved. In Criminal Case No. 136-84, it is very clear that neither petitioner nor his wife issued any check as payment for the subject ring that could have extinguished his old obligation and brought to life a new obligation.

From the allegations of the information in Criminal Case No. 136-84, it is clear that petitioner was charged with Estafa under Article 315, paragraph 1(b), of the Revised Penal Code. The elements of estafa with abuse of confidence are: (1) the offender receives the money, goods or other personal property in trust, or on commission, or for administration, or under any other obligation involving the duty to deliver, or to return, the same; (2) the offender misappropriates or converts such money or property or denies receiving such money or property; (3) the misappropriation or conversion or denial is to the prejudice of another; and (4) the offended party demands that the offender return the money or property.[28] All these are present in this case. Petitioner received from complainant a seven-carat diamond (men's ring), valued at P200,000.00, for the purpose of selling the same on commission basis and to deliver the proceeds of the sale thereof or return the jewelry if not sold. Petitioner misappropriated or converted said ring for his own benefit and even denied receiving the same. Despite repeated demands from complainant, petitioner failed to return the ring or the proceeds of the sale thereof causing damage and prejudice to complainant in the amount of P200,000.00.

As to the penalty imposed by the Court of Appeals on petitioner, we find the same to be in order.

WHEREFORE, the decision and amended decision of the Court of Appeals in CA-G.R. No. 21275 dated 26 October 2004 dated 26 October 2005, respectively, are AFFIRMED.

SO ORDERED.

Ynares-Santiago, (Chairperson), and Austria-Martinez, JJ., concur.
Nachura, J., no part. Filed pleading as Sol Gen.

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[1] Penned by Associate Justice Edgardo P. Cruz with Associate Justices Godardo A. Jacinto and Jose C. Mendoza, concurring. CA rollo, pp. 174-194.

[2] Id. at 286-289.

[3] Records, Vol. 11, p. 1.

[4] Id., Vol. 3, p. 1.

[5] All checks were drawn against Pacific Banking Corporation, except for Check No. 030086 which was drawn against Rizal Commercial Banking Corporation.

[6] Records, Vol. 7, p. 1.

[7] CA rollo, pp. 245-251.

[8] Id. at 50-51.

[9] Id. at 73-75.

[10] Id. at 261.

[11] Petitioner was already acquitted by the RTC in said five cases.

[12] CA rollo, pp. 264-276.

[13] Id. at 288-289.

[14] People v. Amadore, G.R. Nos. 140669-75 & 140691, 20 April 2001, 357 SCRA 316, 324.

[15] Macasaet v. People, G.R. No. 156747, 23 February 2005, 452 SCRA 255, 271.

[16] Uy v. Court of Appeals, 342 Phil. 329, 337 (1997).

[17] Exhs. S & S-1; Records, Vol. 2, pp. 148-149.

[18] Samson v. Daway, G.R. Nos. 160054-55, 21 July 2004, 434 SCRA 612.

[19] People v. Audine, G.R. No. 168649, 6 December 2006.

[20] People v. Beltran, Jr., G.R. No. 168051, 27 September 2006, 503 SCRA 715, 730.

[21] Exh. I; Records, Vol. 2, p. 134.

[22] Section 3(c), (d), (p) and (q), Rule 131, Rules of Court.

[23] TSN, 6 September 1995, p. 13.

[24] TSN, 2 October 1995, pp. 26 & 33.

[25] Novation has been defined as the extinguishment of an obligation by the substitution or change of the obligation by a subsequent one which terminates the first, either by changing the object or principal conditions, or by substituting the person of the debtor, or subrogating a third person in the rights of the creditor.

Novation, in its broad concept, may either be extinctive or modificatory. It is extinctive when an old obligation is terminated by the creation of a new obligation that takes the place of the former; it is merely modificatory when the old obligation subsists to the extent it remains compatible with the amendatory agreement. An extinctive novation results either by changing the object or principal conditions (objective or real), or by substituting the person of the debtor or subrogating a third person in the rights of the creditor (subjective or personal). Novation has two functions: one to extinguish an existing obligation, the other to substitute a new one in its place. For novation to take place, four essential requisites have to be met, namely, (1) a previous valid obligation; (2) an agreement of all parties concerned to a new contract; (3) the extinguishment of the old obligation; and (4) the birth of a valid new obligation. (California Bus Lines, Inc. v. State Investment House, Inc., 463 Phil. 689, 702 [2003].)

[26] TSN, 26 August 1994, pp. 43-46.

[27] TSN, 16 May 1996, pp. 4-5.

[28] Perez v. People, G.R. No. 150443, 20 January 2006, 479 SCRA 209, 218-219.

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