

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. VIRGINIA BABY P. MONTANER, ACCUSED-APPELLANT.

G.R. No. 184053. August 31, 2011

Ponente: LEONARDO-DE CASTRO, J.

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LEONARDO-DE CASTRO, J.:

This is an appeal of the Decision[1] dated February 12, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01162, entitled People of the Philippines v. Virginia Baby P. Montaner, which affirmed the Decision[2] dated April 8, 2003 of the Regional Trial Court (RTC) of San Pedro, Laguna, Branch 93, in Criminal Case No. 0748-SPL. The RTC found appellant Virginia Baby P. Montaner guilty beyond reasonable doubt of the crime of estafa as defined and penalized under paragraph 2(d), Article 315 of the Revised Penal Code.

In an Information[3] dated April 21, 1998, appellant was charged as follows:

That on or about May 17, 1996 in the Municipality of San Pedro, Province of Laguna and within the jurisdiction of this Honorable Court accused Virginia (Baby) P. Montaner did then and there willfully, unlawfully and feloniously defraud one Reynaldo Solis in the following manner: said accused by means of false pretenses and fraudulent acts that her checks are fully funded draw, make and issue in favor of one Reynaldo Solis the following Prudential Bank Checks Nos.:

- 0002284 P5,000.00
- 0002285 P5,000.00
- 0002286 P5,000.00
- 0002287 P5,000.00
- 0002288 P5,000.00
- 0002289 P5,000.00
- 0002290 P5,000.00
- 0002291 P5,000.00
- 0002292 P5,000.00
- 0002293 P5,000.00

all having a total value of FIFTY THOUSAND PESOS (P50,000.00) and all aforesaid checks are postdated June 17, 1996 in exchange for cash knowing fully well that she has no funds in the drawee bank and when the said checks were presented for payment the same were dishonored by the drawee bank on reason of "ACCOUNT CLOSED" and despite demand accused failed and refused to pay the value thereof to the damage and prejudice of Reynaldo Solis in the aforementioned total amount of P50,000.00.

Appellant pleaded "not guilty" to the charge leveled against her during her arraignment on June 10, 1998.[4] Thereafter, trial ensued.

The parties' evidence was summarized by the trial court, as follows:

The evidence for the prosecution disclose that on May 17, 1996, accused Virginia Baby P. Montaner, in exchange for cash, issued to private complainant Reynaldo Solis in his house at Caliraya Street, Holiday Homes, San Pedro, Laguna, ten (10) Prudential Bank checks, specifically, check nos. 0002284, 0002285, 0002286, 0002287, 0002288, 0002289, 0002290, 0002291, 0002292, and 0002293 all postdated June 17, 1996, each in the amount of P5,000.00 all in the total amount of P50,000.00. Accused represented to complainant Solis that the checks were fully funded. When private complainant deposited the checks for encashment however, they were dishonored for the reason "account closed". Private complainant verbally and thereafter, thru demand letter (Exhibit "A") formally demanded that accused settle her accounts. Despite receipt of the demand letter, accused Montaner failed to pay the value of the ten (10) checks, thus private complainant Reynaldo Solis filed the instant complaint for estafa. In connection with this complaint, private complainant Solis executed a sworn statement (Exhibit "D").

Ruel Allan Pajarito, Branch Cashier O-I-C of Prudential Bank testified that they placed the mark "account closed" on the ten (10) checks issued in the account of accused Montaner considering that at the time the same were presented to them, the account of accused Montaner was already closed. Witness Pajarito further testified that as per their records, the account of accused Montaner, account no. 00099-000050-4 was closed on July 11, 1996. The checks were returned on October 4, 1996 for the reason account closed.

Accused, thru counsel initially manifested that she is intending to file a demurrer to evidence. However, her right to file the same was considered waived in view of her failure to file the demurrer despite due notice.

To exculpate herself from criminal liability, accused Virginia Baby P. Montaner denied the allegations that she issued ten (10) checks in private complainant's favor claiming that the ten (10) checks were borrowed from her by one Marlyn Galope because the latter needed money. She gave the ten checks to Galope, signed the same albeit the space for the date, amount and payee were left blank so that the checks cannot be used for any negotiation. She further told Galope that the checks were not funded. When she learned that a case was filed against her for estafa, she confronted Marlyn Galope and the latter told her that money will not be given to her if she will not issue the said checks. She has no knowledge of the notice of dishonor sent to her by private complainant and claimed that her husband, who supposedly received the notice of dishonor left for abroad in July 1996 and returned only after a year, that is, in 1997.[5]

In a Decision dated April 8, 2003, the trial court convicted appellant for the crime of estafa as defined and penalized under paragraph 2(d), Article 315 of the Revised Penal Code. The dispositive portion of said Decision reads:

WHEREFORE, this Court hereby sentences accused Virginia Baby P. Montaner to suffer an indeterminate penalty of imprisonment from twelve (12) years of prision mayor as minimum to twenty-two (22) years of reclusion perpetua as maximum and to indemnify complainant Reynaldo Solis in the amount of P50,000.00.[6]

Appellant elevated the case to the Court of Appeals but the adverse ruling was merely affirmed by the appellate court in its Decision dated February 12, 2008, the dispositive portion of which states:

WHEREFORE, premises considered, the instant petition is DENIED. Accordingly, the challenged Decision is hereby AFFIRMED in toto.[7]

Hence, appellant interposed this appeal before this Court and adopted her Appellant's Brief with the Court of Appeals, wherein she put forth a single assignment of error:

THE TRIAL COURT GRAVELY ERRED IN FINDING THE ACCUSED-APPELLANT GUILTY BEYOND

REASONABLE DOUBT OF THE CRIME OF ESTAFA UNDER ARTICLE 315, PAR. 2 (D) OF THE REVISED PENAL CODE.[8]

Appellant maintains that she entrusted the subject checks, purportedly signed in blank, to Marilyn Galope (Galope) out of pity in order for the latter to secure a loan. Thus, there is purportedly no certainty beyond reasonable doubt that she issued the checks purposely to defraud Reynaldo Solis (Solis) into lending her money. She further claims that no transaction had ever transpired between her and Solis. Admitting that she may have been imprudent, she nonetheless insists that her simple imprudence does not translate to criminal liability.

We are not persuaded.

Paragraph 2(d), Article 315 of the Revised Penal Code provides:

ART. 315. Swindling (estafa). - Any person who shall defraud another by any of the means mentioned hereinbelow x x x:

x x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

x x x x

(d) By postdating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack or insufficiency of funds shall be prima facie evidence of deceit constituting false pretense or fraudulent act.

The elements of estafa under paragraph 2(d), Article 315 of the Revised Penal Code are: (1) the postdating or issuance of a check in payment of an obligation contracted at the time the check was issued; (2) lack of sufficiency of funds to cover the check; and (3) damage to the payee.[9]

In the case at bar, the prosecution sufficiently established appellant's guilt beyond reasonable doubt for estafa under paragraph 2(d), Article 315 of the Revised Penal Code. According to Solis's clear and categorical testimony, appellant issued to him the 10 postdated Prudential Bank checks, each in the amount of P5,000.00 or a total of P50,000.00, in his house in exchange for their cash equivalent. We quote the pertinent portions of the transcript:

[On Direct Examination]

Q:

Mr. Witness, why did you file this complaint against the accused?

A:

She issued me checks in exchange for cash, ten postdated checks, ma'am.

Q:

When did Mrs. Montaner issue to you these checks?

A:

In May 1996, ma'am.

Q:

What was the purpose of issuing to you these checks?

A:

Because she needed cash, ma'am.

Q:

And how many checks did she issue to you?

A:

Ten checks, ma'am.

Q:

And what is the date of the checks that were issued to you?

A:

June 17, 1996, ma'am.

Q:

What is the total value of these ten checks?

A:

Fifty Thousand Pesos.

Q:

At the time these checks were issued to you, what if any, was her representation about them?

A:

To deposit those checks on their due date, ma'am.

Q:

And aside from telling you to deposit those checks on their due date, what else did she represent to you regarding these checks?

A:

None, ma'am.

Q:

Did you deposit these checks?

A:

Yes, ma'am.

Q:

Where?

A:

At the Premier Bank, San Pedro, Laguna.

Q:

What happened to these checks after depositing the same?

A:

The checks bounced, ma'am.

Q:

All these checks?

A:

Yes, ma'am, all checks bounced for reason account closed.

Q:

After these checks were dishonored what did you do?

A:

I informed her about that.

Q:

Thru what, verbal or written?

A:

Initially it was verbal, then I informed her thru a demand letter, ma'am.

x x x x

Fiscal (continuing):

Q:

You said that the accused issued to you ten checks in exchange for cash, where are those checks?

A.

The original checks are with me here, ma'am.

Q.

Handed to this representation are checks, Prudential Bank checks Nos. 002284, 002285, 002286, 002287, 002288, 002289, 002290, 002291, 002292, 002293 all dated June 17, 1996 and all in the amount of P50,000 [should be P5,000.00] each. Mr. Witness, there appears from these checks a signature at the bottom portion whose signature is this?

A.

The signature of Mrs. Montaner, ma'am.

Q.

Why do you say it is her signature?

A.

She signed those in my presence, ma'am.

Q.

I am showing these checks to the opposing counsel for comparison...

Atty. Peñala

The checks are admitted, your Honor.

x x x x

[On Cross-Examination]

Atty. Peñala (continuing):

Q:

When Mrs. Montaner issued those checks, ten checks were they issued in your house or in her house?

A:

In my house, sir.

Q:

Mrs. Montaner brought the checks in your house?

A:

Yes, sir.

Q:

Can you tell us the time of the day when she brought the checks to you?

A:

May 17, 1996 at 1:00 o'clock in the afternoon, sir.

Q:

Was she alone or including her husband?

A:

She was alone, sir.[10]

From the circumstances narrated above, it was evident that Solis would not have given P50,000.00 cash to appellant had it not been for her issuance of the 10 Prudential Bank checks. These postdated checks were undoubtedly issued by appellant to induce Solis to part with his cash. However, when Solis attempted to encash them, they were all dishonored by the bank because the account was already closed.

Solis wrote appellant a demand letter dated October 13, 1996[11] which was received by appellant's husband to inform appellant that her postdated checks had bounced and that she must settle her obligation or else face legal action from Solis. Appellant did not comply with the demand nor did she deposit the amount necessary to cover the checks within three days from receipt of notice. This gave rise to a prima facie evidence of deceit, which is an

element of the crime of estafa, constituting false pretense or fraudulent act as stated in the second sentence of paragraph 2(d), Article 315 of the Revised Penal Code.

As for appellant's claims that she merely entrusted to Galope the blank but signed checks imprudently, without knowing that Galope would give them as a guarantee for a loan, the Court views such statements with the same incredulity as the lower courts.

Evidence, to be believed, must not only proceed from the mouth of a credible witness, but it must be credible in itself - such as the common experience and observation of mankind can approve as probable under the circumstances. The Court has no test of the truth of human testimony, except its conformity to our knowledge, observation and experience. Whatever is repugnant to these belongs to the miraculous and is outside judicial cognizance.[12]

Appellant wishes to impress upon the Court that she voluntarily parted with her blank but signed checks not knowing or even having any hint of suspicion that the same may be used to defraud anyone who may rely on them. Verily, appellant's assertion defies ordinary common sense and human experience.

Moreover, it is elementary that denial, if unsubstantiated by clear and convincing evidence, is negative and self-serving evidence which has far less evidentiary value than the testimony of credible witnesses who testify on affirmative matters.[13] We agree with the lower courts that appellant's bare denial cannot be accorded credence for lack of evidentiary support. As aptly noted by the trial court, appellant's failure to produce Galope as a witness to corroborate her story is fatal to her cause.[14] In all, the Court of Appeals committed no error in upholding the conviction of appellant for estafa.

WHEREFORE, premises considered, the Decision dated February 12, 2008 of the Court of Appeals in CA-G.R. CR.-H.C. No. 01162 is hereby AFFIRMED.

SO ORDERED.

Corona, C.J., (Chairperson), Bersamin, Del Castillo, and Villarama, Jr., JJ., concur.

[1] Rollo, pp. 4-10; penned by Associate Justice Myrna Dimaranan Vidal with Associate Justices Jose L. Sabio, Jr. and Jose C. Reyes, Jr., concurring.

[2] CA rollo, pp. 19-22.

[3] Records, pp. 1-2.

[4] Id. at 37.

[5] CA rollo, pp. 20-21.

[6] Id. at 22.

[7] Rollo, p. 10.

[8] CA rollo, p. 87.

[9] *Cajigas v. People*, G.R. No. 156541, February 23, 2009, 580 SCRA 54, 63.

[10] TSN, November 25, 1998, pp. 4-8.

[11] Records, p. 15.

[12] *People v. Garin*, 476 Phil. 455, 474 (2004); *People v. Samus*, 437 Phil. 645, 659 (2002).

[13] *Gomba v. People*, G.R. No. 150536, September 17, 2008, 565 SCRA 396, 400, citing *People v. Magbanua*, G.R. No. 133004, May 20, 2004, 428 SCRA 617, 630.

[14] *Records*, p. 212.

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