

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RENE D. ROSELL, ACCUSED-APPELLANT.*G.R. No. 266132, December 01, 2025*

Ponente: LEONEN, SAJ.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-266132/>**LEONEN, SAJ.:**

To convict one of estafa through bouncing checks, the prosecution must prove the concurrence of the following elements:[1] (1) the postdating or issuance of a check in payment of an obligation contracted at the time the check was issued; (2) lack of or insufficiency of funds to cover the check; and (3) damage to the payee.[2]

Where the parties had a history of business relations and a contract, the offense's core element of deceit is not automatically precluded. The existence of those factors is not mutually exclusive with deceit. There is estafa so long as the issuing party's bouncing checks—not the business history or the contract—caused the receiving party to deliver and/or release its goods. This still falls under estafa because the receiving party was deceived, through bad checks, into thinking that it had been compensated when, in reality, it suffered damages from parting with its goods in exchange for something worthless.

This Court resolves an appeal[3] from the Decision[4] of the Court of Appeals, which affirmed the Regional Trial Court Decision[5] convicting Rene D. Rosell (Rosell) of estafa through the issuance of bouncing checks, as defined and penalized by Article 315(2)(d) of the Revised Penal Code.

An Information was filed against Rosell and Domingo Bautista (Bautista), charging them with estafa via bouncing checks under Article 315(2)(d) of the Revised Penal Code, as follows:

That sometime [in] the months of June 2007 to October 2007, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above[-]named accused, conspiring and confederating together and mutually helping and aiding one another, by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of fraud, did then and there willfully, unlawfully[,] and feloniously draw and issue to complainant LIQUIGAZ PHILIPPINES CORPORATION, represented by Julieta S. Albano, the following postdated checks, to wit:

Bank

Check No.

Date

Amount [(PHP)]

IEB

330857

04-28-07

[]720,390.00

IEB

331204

06-18-07

788,723.00

IEB

331213

07-27-07

667,440.00

IEB

259867

04-06-07

667,760.00

IEB

330861

05-06-07

703,560.00

IEB

331072

06-10-07

738,300.00

IEB

331201

06-16-07

628,250.00

IEB

331199

06-18-07

685,690.00

IEB

331200

06-21-07

606,710.00

IEB

331202

06-22-07

638,302.00

IEB

331203

06-24-07

786,928.00

IEB

331215

06-29-07

673,024.00

IEB

331197

07-05-07

673,024.00

IEB

331196

07-08-07

637,472.00

IEB

311205

07-09-07

652,960.00

IEB

331206

07-11-07

629,728.00

IEB

331208

07-17-07

608,760.00

IEB

331207

07-15-07

587,840.00

IEB

331209

07-20-07

598,320.00

IEB

331210

07-21-07

606,960.00

IEB

331211

07-23-07

599,760.00

IEB

331212

07-24-07

658,080.00

IEB

331214

07-29-07

595,690.00

IEB

343899

07-30-07

588,235.00

IEB

343900

07-31-07

600,305.00

IEB

343901

08-01-07

598,175.00

TOTAL

[PHP] 16,940,386.00

with the assurance that the same would be funded or covered with sufficient funds, upon its presentment for payment, and by means of such false pretenses or fraudulent acts, induced complainant to deliver to them LPG purchases, as in fact complainant did deliver in the total amount of [PHP] 16,940,386.00 and when the aforementioned postdated checks issued by the accused as payment therefore [sic] were presented to the drawee bank for payment, they were all dishonored for reasons "Account Closed" and some "Drawn Against Insufficient Funds (DAIF)", and despite receipt of the notice of dishonor, accused refused to pay and/or make good the amounts thereof even to date to complainant, to the damage and prejudice of Liquigaz Philippines Corporation, herein represented by Julieta S. Albano[,] in the total amount of [PHP] 16,940,386.00.

CONTRARY TO LAW.[6] (Emphasis in the original)

Rosell was the president, and Bautista was the corporate secretary, of Entra Gaz Corporation (Entra). Bautista then succeeded Rosell as Entra's president. Meanwhile, in Equal Gaz Corporation (Equal), Rosell and Bautista were the president and corporate secretary, respectively.[7] Equal and Entra formed part of the Excel Group of Companies (the Excel Group).[8]

Rosell was arraigned, pleading not guilty to the charge, while Bautista remained at large.[9] Trial on the merits followed.[10]

The prosecution presented as witnesses the officers of Liquigaz Philippines Corporation (Liquigaz, Senior Marketing Manager Iñigo Golingay, Jr. (Golingay), and Chief Financial Officer Julieta S. Albaño (Albaño).[11]

Golingay testified that Equal and Entra had become "problem account[s]" for Liquigaz,[12] in that they had to be monitored to ensure that they would pay for their purchases.[13] When the Excel Group "demanded that [Liquigaz] continue doing business with them,"[14] he was instructed to renegotiate the terms of Liquigaz's transactions with Equal and Entra.[15] Golingay had to eliminate Liquigaz's difficulties in dealing with them by securing terms that would make the latter "pay for LPG purchases as agreed." [16]

During the renegotiations, Rosell and a certain Bonifacio Eleria (Eleria)[17] convinced Liquigaz to still sell tanks to Equal and Entra by "promis[ing to] religiously comply with the payment schedule and [to] give pre-signed checks that will be as good as cash[,] before or simultaneous with the delivery or withdrawal of LPG." [18] Rosell also told Liquigaz "that they are major industry players, [with] the influence or capability to increase [Liquigaz's] sales." [19]

As a result of the renegotiations, on January 4, 2005,[20] Liquigaz (represented by Golingay) entered into a Purchase and Sales Contract with Entra (represented by Rosell).[21] It also entered into a separate Purchase and Sales Contract with Equal.[22]

Liquigaz's contract with Entra provided for the sale of liquefied petroleum gas (LPG) in metric tons,[23] from its Mariveles depot.[24]

Pertinently—though Rosell and Eleria, in the course of the renegotiations, had pushed for Liquigaz to let Equal and Entra pay with checks in their tank purchases[25]—the contract came out stipulating: "8. PAYMENTS/CREDITS: Deliveries shall be on cash basis unless SELLER and BUYER agree from time to time on other terms and payment conditions[.]"[26]

Thus, by paying for each delivery in cash, Equal and Entra were able to keep buying LPG tanks from Liquigaz.[27]

Equal and Entra later were able to change the payment terms from cash to check.[28] Aside from Rosell's earlier assertions that their checks were as good as cash,[29] they had the Excel Group mortgage various properties in favor of Liquigaz, and Rosell cited those mortgages to show and assure Liquigaz that they had the resources to fund or make good their checks.[30]

Liquigaz was thus convinced that Equal and Entra's checks would be funded.[31] It then agreed to extend a 45-day credit term to Equal and Entra and to accept their checks as payments, on the understanding that the mortgages would not excuse them from funding their checks "since [Liquigaz] is not interested in acquiring land or real property." [32]

From then on, instead of paying for each delivery with cash, Rosell would give pre-signed checks to Liquigaz, postdated to mature in "45 days . . . from the date of withdrawal of LPG." [33] In accepting the checks as payments, Liquigaz would in turn deliver or release its tanks to Rosell.[34]

On top of those changes, Albaño said, Liquigaz threw in a discount for Equal and Entra's purchases.[35] What Liquigaz kept nonnegotiable was the protection it had secured through the renegotiations: "not part[ing] with its LPG products without any assurance of payment." [36]

The subject International Exchange Bank (IEB) checks, signed by Rosell and Bautista, thus came to be.[37] Rosell delivered them to Liquigaz.[38]

Albaño explained that the subject checks were delivered to Liquigaz on different dates.[39] Each time that Rosell and Bautista wanted "to be able to withdraw the LPG" from Liquigaz's depot, a check would be given to Liquigaz "either a day [before,] or on the day of the [LPG withdrawal]," [40] with the check serving "as payment prior to the [LPG] release or withdrawal." [41] Albaño emphasized that it was only upon Rosell's delivery of such check payment that Liquigaz would release its LPG tanks, through Golingay's issuance of "a clearance to load LPG in the trucks of [Rosell]." [42]

However, the first three IEB checks bounced. On June 7, 2007,[43] Liquigaz deposited IEB Check Nos. 330857 and 331204, but these were dishonored for being drawn against insufficient funds.[44] On July 27, 2007, IEB Check No. 331213 was deposited but dishonored, this time due to the drawer's account being closed.[45]

Golingay said that he had told Rosell of the first three checks bouncing, and had consequently asked him to pay Liquigaz with cash instead.[46] Rosell promised to make a cash payment for the said three checks.[47]

Golingay further stated that Rosell had pushed for Liquigaz to still accept the postdated IEB checks, and deliver or release its LPG tanks in exchange for it. Rosell had said that if Liquigaz stopped dealing them LPG, then they

could not deliver LPG to their own clients, who would not pay them, in which case they would stop paying Liquigaz.[48] Rosell had also assured them that if they held onto the checks longer and deposited when he told them to, then the checks would clear.[49]

Liquigaz thus continued selling to Equal and Entra, but it resumed its close monitoring of the Equal and Entra account.[50] More than that, it began limiting its exposure to the Excel Group, Rosell, and Bautista, by sometimes reducing or disallowing their LPG withdrawals.[51]

In any case, Liquigaz accepted as payment 23 more postdated IEB checks from Rosell; Albaño showed, through sales invoices, that for each of the checks that Liquigaz accepted as payment, it in turn allowed the delivery or release of its LPG tanks to Rosell.[52]

Then, in September 2007, in response to Rosell's requests for Liquigaz to hold off on depositing his check payments, Golingay "met several times" with Rosell and Eleria "to convince them to make good their checks" or "to pay at least 50% of [Equal and Entra's] outstanding unpaid purchases." [53] Golingay said that Rosell had promised to "fund the checks he issued and [that Liquigaz] can deposit by the 1[st] week of October." [54]

In October 2007, the 23 IEB checks were deposited. However, these were all dishonored due to the drawer's account being closed.[55]

At that point, all 26 of Equal and Entra's postdated IEB check payments for Liquigaz's LPG tank deliveries or releases had bounced.[56]

This caused Liquigaz to send Rosell and Bautista, through Atty. Edgardo L. De Jesus (Atty. De Jesus), a "Notice of Dishonor of Checks Payable to Liquigaz Corporation with Demand for Payment" dated October 18, 2007.[57]

Rather than pay, Rosell—in meetings with Golingay, Albaño, Atty. De Jesus, and the Spouses Bonifacio and Rosa Eleria[58]—"requested for reconciliation and promised to pay the entire outstanding obligations to Liquigaz . . . if he is allowed to sell his properties and only if [Liquigaz] allow[ed] him to continue withdrawal of LPG." [59]

Liquigaz rejected Rosell's conditions,[60] and then had Albaño give Rosell a January 2008 summary statement of account for the Excel Group's (Equal and Entra) obligations.[61] Rosell signed the document on January 9, 2008,[62] but responded only by telling Golingay "to foreclose the property [that] they [had] mortgaged to Liquigaz." [63]

When neither Rosell nor Bautista paid in cash for the 26 bounced checks,[64] Liquigaz, through Atty. De Jesus, sent them a final notice of dishonor and demand for payment, which was dated September 17, 2008.[65]

Despite the final notice of dishonor and demand for payment, Golingay asserted that "there was no payment" for the 26 bounced checks, and by extension, no payment for the checks' corresponding sales invoices.[66]

Albaño stated that Liquigaz's actual damages suffered, from the nonpayment of the 26 bounced checks' total value, amounted to PHP 16,940,386.00.[67]

On the other hand, the defense presented Rosell as its lone witness. He denied the charge against him.[68]

Rosell said that he no longer remembered the circumstances surrounding Equal and Entra's 26 postdated IEB checks.[69]

What Rosell recalled was that Equal and Entra "ha[d] been dealing with Liquigaz since 1999" and that it was in January 2005 when Equal and Liquigaz "entered into a Sales and Purchase Agreement" for the sale and delivery of 140 metric tons of LPG on a 45-day credit term.[70] He then claimed that from January to November 2009,[71] Equal and Entra had paid for Liquigaz's LPG using 11 Union Bank checks, each worth PHP 100,000.00.[72] He

further claimed that there was one final check paid to Liquigaz worth PHP 1 million.[73]

Rosell also recalled that Entra and Equal's obligations had been secured by several mortgages.[74]

Rosell thus contended that (1) Liquigaz had delivered or released its LPG tanks to Equal and Entra as a contractual obligation,[75] and (2) Equal and Entra had already paid for the total value of the 26 bounced IEB checks through the "real estate mortgages and the personal properties, mortgaged." [76]

Nonetheless, on cross-examination, Rosell admitted that under Item No. 8 of the contract in question, Equal and Entra were "to pay on cash basis" for Liquigaz's LPG deliveries or releases.[77] In connection, he admitted too that at first, Equal and Entra were "allowed to purchase on cash" and later, considering how they "were paying in cash on time," Liquigaz agreed to grant them a 45-day credit term.[78] He then admitted that when granted the credit term, Equal and Entra switched to paying for each LPG delivery or release with a check that was postdated to mature on the 45[th] day from the date of the LPG delivery or release.[79]

Next, when cross-examined about the purported Union Bank check payments for Liquigaz's LPG deliveries or releases, including the alleged final PHP 1 million check, Rosell admitted that those were not his personal checks and that he was "not the one who directly paid Liquigaz." [80] He maintained that there was a PHP 2 million total payment made to Liquigaz, through several checks, but admitted that those checks were "issued by a certain Alma Sevillana or Robert Sevillana." [81]

Lastly, when cross-examined about the chattel and real estate mortgages executed in favor of Liquigaz, Rosell admitted that those were not payments for the total value of the 26 bounced IEB checks, but were "guarantee for payment" of Equal and Entra's LPG withdrawals from Liquigaz.[82]

In a July 7, 2017 Decision,[83] the Regional Trial Court found Rosell guilty beyond reasonable doubt of estafa via issuance of bouncing checks.[84] It ruled that the prosecution had proven all of the offense's elements.[85] It found no merit in Rosell's main defense—that the checks did not induce Liquigaz to give Equal and Entra its gas—as it was contrary to common experience.[86] To the trial court, the checks prompted Liquigaz to part with its gas, as not only did Rosell and Bautista sign them as payment, but Rosell even handed them to Liquigaz when he picked up the tanks.[87] The court deemed this exchange as proof that Liquigaz only gave Equal and Entra its gas upon reliance on the checks it received from Rosell.[88]

Moreover, the Regional Trial Court held that Rosell and Bautista's failure to satisfy the amount of the checks within three days from receiving the Notices of Dishonor, even using the mortgages as excuse, was prima facie evidence of deceit.[89] It also observed that Rosell and Bautista had informed Liquigaz that stopping gas sales to Entra would only hinder Entra from eventually making good on the checks.[90] That, the court determined, was proof that Liquigaz suffered losses as a result of Rosell and Bautista's inducements for it to keep supplying gas to Entra, sans compensation.[91]

The dispositive portion of the Decision reads:

WHEREFORE, premises considered, accused is hereby found guilty as charged. He is hereby sentenced to suffer imprisonment of reclusion perpetua as prescribed in Presidential Decree [No.] 818, in relation to Article 315[,] par. 2 (d) of the Revised Penal Code. The bail for the temporary liberty of the accused is hereby cancelled. Let an alias warrant be issued against the other accused who still remained [sic] at large.

Furnish copy of this order to all parties and counsels concerned.

SO ORDERED.[92] (Emphasis in the original)

On appeal, Rosell sought acquittal,[93] insisting that the checks did not induce Liquigaz to part with its gas.[94] He averred that the checks only served as guarantee for the eventual cash payment, which was the agreed mode of payment.[95] He added that the prosecution failed to prove his receipt of the Notices of Dishonor, considering how the registry return receipt indicated the recipient to be another person.[96] Lastly, he stated that he cannot be held liable for Equal and Entra's obligations to Liquigaz since he signed the checks as a corporate officer.[97]

In response, Liquigaz stressed that the sales invoices showed Equal and Entra giving it the checks either simultaneously or before receiving the tanks, indicating that the checks were to induce it to hand over the tanks.[98]

The Office of the Solicitor General, on behalf of the Republic, refuted Rosell's argument that the checks were only given as a guarantee.[99] It said that Rosell gave the checks as payment, seeing as he knew about the contract's cash-payment clause but chose to give checks, even assuring Liquigaz that those checks were funded, all to get Liquigaz to release the gas tanks.[100] It added that Rosell fraudulently used the checks to convince Liquigaz to release its tanks, knowing that he had no funds to cover those checks.[101]

In its February 17, 2022 Decision,[102] the Court of Appeals affirmed Rosell's conviction. It ruled that all the elements of estafa using bouncing checks were present because:[103] (1) Rosell and Bautista signed the postdated checks, and Rosell gave them to Liquigaz as payment for the gas sale;[104] (2) Rosell falsely represented the checks to Liquigaz as being fully funded;[105] (3) the obligation to which the checks were applied was not a pre-existing one, as Liquigaz only released the gas tanks to Rosell upon its receipt of the checks from him;[106] (4) without the checks, Liquigaz would not have parted with its tanks;[107] (5) Liquigaz suffered prejudice when all the checks bounced, and Rosell and Bautista never paid it the checks' total value;[108] and (6) Rosell was guilty of actual deceit.[109] In sum, Rosell criminally defrauded Liquigaz of its goods by paying it with postdated checks that he made Liquigaz wrongly believe to be of value.[110]

On finding that actual deceit existed, the Court of Appeals said that Rosell's reactions upon learning of the bounced checks exposed a pattern of deceit meant to convince Liquigaz to keep supplying gas to Equal and Entra, not knowing that Rosell had no intention to pay.[111] First, Rosell promised Liquigaz that funds would be deposited to make good on the checks.[112] He did not follow through with the deposits, but kept telling Liquigaz that if it stopped providing gas tanks, Equal and Entra could not operate and earn the funds it needed to make the deposits.[113] Second, he appeared to cooperate with Albaño's settlement efforts by accepting the statement of account reflecting the bounced checks' details,[114] but ultimately tried to get out of paying the checks' value by encouraging Liquigaz to just proceed against the real estate mortgages.[115]

The Court of Appeals then rejected Rosell's defense of having signed the checks only in his capacity as Equal and Entra's chief executive officer.[116] It said that he is personally liable for falsely representing that the 26 postdated IEB checks were funded and that funds would eventually be deposited.[117] The first false representation made Liquigaz agree to part with the gas tanks that Rosell came to pick up.[118] The second made Liquigaz believe that it had to keep supplying gas tanks to Equal and Entra despite not being paid for its tanks.[119]

Finally, the Court of Appeals rejected Rosell's unsubstantiated denial when he claimed that he no longer remembered the circumstances surrounding the checks.[120]

The dispositive portion of the Court of Appeals Decision reads:

WHEREFORE, premises considered, the instant appeal is DENIED for lack of merit. The assailed Decision dated July 7, 2017 of the Regional Trial Court, Branch 256, Muntinlupa City in Criminal Case No. 09-537 is hereby AFFIRMED in toto.

SO ORDERED.[121] (Emphasis in the original)

Thereafter, Rosell filed his Notice of Appeal dated June 21, 2022.[122] The Court of Appeals gave it due course on July 13, 2022[123] and elevated the case records to this Court.[124]

In its June 26, 2023 Resolution,[125] this Court required the parties to file their supplemental briefs.

Accused-appellant Rosell and the Office of the Solicitor General both manifested that they would no longer file supplemental briefs,[126] as noted in this Court's November 20, 2023[127] and July 22, 2024[128] Resolutions.

For this Court's resolution is the issue of whether accused-appellant is guilty beyond reasonable doubt of committing estafa through the issuance of bouncing checks under Article 315(2)(d) of the Revised Penal Code.[129]

We dismiss the appeal.

Estafa is defraudation—"to deprive some right, interest, or property by deceitful device." [130] Its foundational elements are deceit and resultant damage.[131]

Deceit is the "false representation of a matter of fact, whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury." [132] When the deceit is done through the issuance of bouncing checks, and the consequential damage is suffered by a victim who unwittingly accepted the worthless checks in exchange for their goods, the estafa falls under Article 315(2)(d) of the Revised Penal Code, as amended,[133] which states:

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

. . . .

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

. . . .

(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. (Emphasis supplied)

Hence, for a conviction for estafa via bouncing checks, the State must prove the concurrence of the following elements:[134] "(1) postdating or issuance of a check in payment of an obligation contracted at the time the check was issued; (2) lack or insufficiency of funds to cover the check; and (3) damage to the payee thereof." [135]

As the Regional Trial Court found,[136] and as the Court of Appeals affirmed,[137] all the elements of estafa via bouncing checks are present here.

In estafa via bouncing checks, deceit lies in the perpetrator's issuance of checks as immediate consideration[138] to induce the payee to relinquish their money or property.[139] The checks' issuance must be what tricked the payee into surrendering their money or property, on a false belief that they did so for value.[140] This is to say that the prosecution must show that the payee "would not have parted with [their] money or property were it not

for the [payor's] issuance of the check[.]"[141]

The prosecution satisfactorily discharged that burden.

The prosecution presented Golingay, who supplied the context that Liquigaz had identified Equal and Entra as "problem accounts,"[142] and that the renegotiations were about Liquigaz having protection in future transactions with Equal and Entra, who were bent on still being able to buy LPG tanks from Liquigaz.[143]

Golingay also testified that after the execution of the Purchase and Sales Contracts, accused-appellant "regularly deliver[ed] checks to [the Liquigaz] office." [144] Golingay then recounted the assurances that accused-appellant made to Liquigaz about those checks: (1) when accused-appellant got Liquigaz to agree to a change in payment terms for each LPG withdrawal, from cash to check; and (2) when accused-appellant later convinced Liquigaz to keep accepting postdated checks as payment even after the first few ones had bounced.

As to the first, Golingay narrated how, even during the renegotiations, accused-appellant was already trying to talk Liquigaz into accepting check payments, by claiming that Equal and Entra checks would be as good as cash.[145] But that did not work, and he ended up with Item No. 8 of the Purchase and Sales Contracts requiring cash payments for each LPG withdrawal.[146] Still, he eventually swayed Liquigaz into agreeing to accept check payments, by laying out all the chattel and real estate mortgages that the Excel Group executed in Liquigaz's favor, as a show of Equal and Entra's means to fund their checks.[147]

As to the second, Golingay detailed how accused-appellant had promised that he would pay the value of the bounced checks;[148] that if Liquigaz would hold onto his other checks longer and deposit when he told them to, then the checks would clear;[149] and that all the checks would be funded by the first week of October 2007.[150]

The prosecution then presented Albaño, who explained in her Judicial Affidavit that "[accused-appellant] and Bautista issued the postdated checks . . . as payment prior to the release or withdrawal of the LPG," so that they could "be able to withdraw the LPG," since Liquigaz's policy as to Equal and Entra was to "not part with its LPG products without any assurance of payment." [151]

Albaño was consistent about these points during her cross-examination and re-direct. She reiterated that Liquigaz required Equal and Entra to pay before it would deliver or release its tanks to them, and that accused-appellant's issuance and delivery of the postdated checks were "in compliance with such policy or requirement." [152] Elaborating, she said that he gave them the checks on different dates after the execution of the Purchase and Sales Contract—"normally ... either a day [before] or on the day of" Equal and Entra's LPG withdrawals[153]—with the checks' deliveries always preceding Liquigaz's release of its tanks.[154]

Next, the prosecution dissected accused-appellant's claims in his Judicial Affidavit, that under the Purchase and Sales Contract, Equal and Entra had a 45-day credit term to buy LPG tanks from Liquigaz,[155] and had paid for LPG purchases from Liquigaz using Union Bank checks that had been cleared.[156]

Upon being cross-examined, accused-appellant admitted that "[t]here is no [45-day credit] term" in the Purchase and Sales Contracts, rather, "the agreement, based on [the contracts, wa]s for [Equal and Entra] to pay on cash basis." [157] In actuality—by his own admission—Equal and Entra "were first allowed to purchase on cash and later on this agreement was changed because [they] were paying in cash on time." [158] Thus:

ATTY. EDGARDO DE JESUS IN CONTINUANCE
OF HIS CROSS EXAMINATION ON WITNESS
ACCUSED RENE ROSELL:

...

Q

In your judicial affidavit you said that you were granted a 45-day credit by Liquigaz, correct?

A

Yes, sir.

Q

Now please go back to your Exhibits the two (2) Sales and Purchase Agreement and tell me if there is a provision there that grants you a [45-]day credit.

A

(witness going over the document - no answer)

Q

There is none, correct?

A

(still going over the subject document for a minute or so, still had no answer)

COURT:

There is none?

Q

There's none, instead the agreement between you and Liquigaz in the purchase and sales contract, the two Sales and Purchase Contract, should be paid in cash, is that correct?

A

Sir that is – (interrupted)

Q

Based on this contract –

A

Because – (interrupted)

Q

Based on this contract, that was my question.

A

That is not the basis for the credit line – (interrupted)

Q

Please answer my question, based on this contract, what was your agreement?

A

There is no term in that purchase and sales agreement, sir.

Q

There is no term – (interrupted)

A

That is not included in the Purchase and Sales – (interrupted)

Q

No. What was the payment term or method based on this agreement?

A

Silent.

Q

It is silent. I am calling your attention to Number 8, payments and credits, delivery shall be on cash basis unless seller and buyer agree from time to time. Do you still maintain that this is silent.

A

What I mean – (interrupted)

Q

That's not my question. Do you maintain that it is silent?

A

Sir because we were given the 45[-]day credit.

Q

No that's not my question. May we request the witness to answer the question.

COURT:

Just answer it.

A

Yes, your Honor.

Q

So the agreement, based on this sales and purchase agreement is for you to pay on cash basis.

A

That's why sir there is –(interrupted).

Q

Correct? Correct?

A

Okay, okay.

Q

Right, so you are claiming that you were granted 45 days credit line, correct?

A

Yes.

Q

Granting, granting – (interrupted)

A

Before it is only 30 days sir, and 15 days – (interrupted)

Q

That is not my question. I move to strike out your Honor. I move to strike out the last part of the answer, it is not responsive to the question.

COURT:

Strike out the last portion of the answer of the witness.

Q

Now you said you were granted 45 days, could it be Mr. witness that you were first allowed to purchase on cash and later on this agreement was change[d] because you were paying in cash on time, is that right?

A

Yes, sir.[159]

Accused-appellant admitted too that following Liquigaz's assent to changes in its payment arrangement with Equal and Entra, every time they purchased LPG from Liquigaz, he would pay by issuing and delivering checks postdated to mature on the 45[th] day following an LPG withdrawal from Liquigaz's depot.[160] Thus:

ATTY. EDGARDO DE JESUS IN CONTINUANCE
OF HIS CROSS EXAMINATION ON WITNESS
ACCUSED RENE ROSELL:

....

Q

So when you were granted, according to you 45 days to pay, how did you pay?

A

Every forty five (45) days.

Q

How did you pay, did you pay in cash?

A

No the checks were being deposited.

Q

You paid by checks, so the checks were dated.

A

For nine (9) years.

Q

The checks were dated forty five (45) days after, after what?

A

Forty five (45) days after purchase.

Q

And under your contract, your purchase is when, – upon withdrawal of the LPG from the warehouse or from the depot?

....

Q

So upon withdrawal from the Sales Depot?

(Witness and counsel are talking with each other)

ATTY. DE JESUS:

Your Honor, may I request that they stop conferring with each other, this is under cross.

Q

Withdrawal from the Sales Depot, correct?

A

Yes – yes.

Q

Thank you. So you issue the check upon withdrawal, correct, that's what you said and the date of withdrawal is the date indicated in the Sales Invoice, is that correct?

A

I cannot remember anymore, that's a long time ago your Honor.

Q

You cannot remember. If I show you the Sales Invoices, could you be able to recall (counsel perusing the record for the document) in the dates of your checks, the checks that you issued for payment for both purchases of LPG is the same as the date of the Sales Invoice? Please go over Exhibits... "E" submarking "E-4" to... "AA" and submarkings, I am referring to...the submarkings of the sales invoices. – (to the Court) Your Honor, since my copy is blurred, I would show to the witness the original your Honor, if I may. – for expediency your Honor, so as to facilitate the cross, I will just cite specific annex or exhibit and show it to the witness, to prove my point that the check was issued forty five (45) days after the date of the sales invoice your Honor. Unfortunately, the copy with me are also photocopies I forgot to bring the original.

COURT:

Is that readable?

ATTY. DE JESUS:

Yes, your Honor, it [i]s readable.

COURT:

Okay proceed.

ATTY. DE JESUS:

Q

Mr. witness as an example I am showing to you Exhibit..."O", Mr. witness you do not dispute that these are your signatures or these are your checks, is that correct?

A

The signature looks like my signature, but I don't know the check.

Q

You do not know, because in the – (interrupted)

A

Because it [i]s a long long time ago.

Q

I know – (interrupted)

A

And I cannot remember anymore.

Q

But Mr. witness you are also facing a similar complaint for [Batas Pambansa Blg.] 22 before the Municipal Trial Court of this Judicial District is that right?

A

Yes.

Q

And in that case, may I remind you that you did not dispute the issuance of the check in that case and its part of the transcript and you did not dispute the transaction? So now Exh[i]bit..."O" is a check of International Exchange Bank payable to Liguigaz, for the amount of Six Hundred Thirty Seven Thousand Four Hundred Seventy Two (637,472.00) Pesos dated July 8, 2007. Okay? There is...a corresponding Sales Invoice, 6065955 Invoice Date May 24, 2007, your Check is July 8, 2007, so in simple mathematical computation Mr. witness, you will agree with me that, that is more or less forty five (45) days?

A

I don't know.

Q

So we can easily compute that, so that was forty five (45) days?

A

I don't know.

Q

You don't know, okay, you don't know. But I am telling you the date May 24, 2007 and then July 8, 2007, more or less corresponds to forty five (45) days? You refuse to cooperate with me, that's fine. That is expected of you?

A

I am just handling that – (interrupted)

Q

I am not asking you any question. And you will see Mr. witness that you paid you issued a check for Six Hundred Thirty Seven Thousand Four Hundred Seventy Two (637,472[.00]) the Sales Invoice that I showed you is Seven Hundred Thirty Thousand Fourteen and 40/100 (730,014.40). and there is a corresponding attached Sales Invoice to that Sales Invoice for a discount of One Hundred Ten Thousand Six Hundred Fifty Two Pesos and 10/100 (110,652.10), also dated May 24, 2007 and this is Exhibit "O". So would you agree with me that everytime you purchase, you issue a check at the time of the withdrawal [and] you were granted a discount?

A

Sometimes.

ATTY. SANTIAGO:

Your Honor – (interrupted)

ATTY. DE JESUS:

Answered.[161]

....

DURING THE CROSS EXAMINATION ON
THE WITNESS BY ATTY. EDGARDO DE JESUS:

....

Q

And during your cross[-]examination at that time, you testified that you were given forty-five (45) days credit by Liquigaz is that correct?

A

Yes, that's right.

Q

Although you could not pinpoint whether the forty-five (45) days credit was in the Purchase Agreement, do you remember that? Do you recall that you were not able to pinpoint when I requested you to identify which paragraph of the Purchase Agreement where it is stated that you are entitled to forty-five (45) days credit. But nevertheless, your testimony centers on the fact or your allegation that you were given forty-five (45) days credit, that is correct?

A

(nodding)

ATTY. DE JESUS:

For the record, the witness is nodding Your Honor. May I request that he answer the question instead of nodding his head?

A

That's right.

Q

Okay, that's correct. Thank you. And you also testified that you issued the check forty-five (45) days before – it is dated forty-five (45) days after the delivery, is that right?

A

That's right.[162]

Further into his cross-examination, he identified the chattel and real estate mortgages—and not the checks—as "guarantee [of/for] payment" for Equal and Entra's LPG purchases.[163] Thus:

DURING THE CROSS EXAMINATION ON
THE WITNESS BY ATTY. EDGARDO DE JESUS:

....

Q

... [S]ince you entered into a real estate mortgage agreement, you decided not to pay the bounced checks anymore, is that right?

A

That is not right.

Q

That is not right, so you still believe it is your obligation to pay the amount of the dishonored checks, is that correct?

A

We paid it already because of the real estate mortgages and the personal properties, mortgaged.

Q

So your contention, you are saying now is that the real estate mortgage is your payment for the bounced checks, is that correct? Is that your position?

A

That is guarantee of payment.

Q

My question is, is it your position now that the Real Estate Mortgage executed by you is already the payment for the bounced checks?

A

What I'm saying is, our purchases – (interrupted)

Q

Please answer my question, yes or no? Are you saying now that the Real Estate Mortgages that you executed are now the payments for the bounced checks?

A

They are guarantee for payment.

Q

That is the – in your previous answer to me, to my question, you said that this is already the payment for the bounced checks, are you standing by that?

A

The creditor may – (interrupted)

Q

May?

A

Repossess our properties – (interrupted)

Q

Foreclosed? You mean may foreclose?

A

May foreclose.

Q

Your property?

A

Yes, in exchange for – (interrupted)

Q

Do they have an option to proceed after you for payment or foreclosure? Do they have the option, in your understanding.

A

Yes they have.

Q

So they are not compelled to foreclose correct?

A

Yes.

Q

Correct, in fact there is no provision that the Real Estate Mortgage is payment for the bounced check correct?
For your purchases?

A

As I said, it's a guarantee for payment.[164]

Based on the foregoing, it is clear that: (1) in response to Equal and Entra's history as problem accounts, Liquigaz adopted a policy of holding onto its LPG tanks until it received their payment; (2) after their renegotiations, Liquigaz's policy was formalized in Item No. 8 of its contracts with Equal and Entra—"8. PAYMENTS/CREDITS: Deliveries shall be on cash basis unless SELLER and BUYER agree from time to time on other terms and payment conditions";[165] and (3) as a result, every time that Equal and Entra were to withdraw LPG from Liquigaz's depot, they had to pay in cash for the tanks' delivery/release.

It is also settled that through their compliance with that arrangement, Equal and Entra earned some goodwill with Liquigaz. Subsequently, with accused-appellant making assurances, since the days of the renegotiations, that Equal and Entra checks are as good as cash, with Equal and Entra having improved relations with Liquigaz, and with accused-appellant's use of the mortgaged properties to showcase Equal and Entra as truly having the resources to issue good-as-cash checks, Liquigaz agreed to accept checks as payments.

The terms of the new arrangement are likewise clear: (1) a day before or on the day of an Equal and Entra LPG withdrawal from Liquigaz's depot, accused-appellant would deliver a pre-signed check, postdated to mature 45 days after Liquigaz's delivery/release of its tanks; (2) Liquigaz would accept the postdated check as payment; and (3) Liquigaz, deeming the check as Equal and Entra's compliance with its policy to not let go of its tanks without receiving payment, would have Golingay issue a clearance for the tanks to be loaded into accused-appellant's trucks.

It has also been established that after the first few postdated checks under the new arrangement had bounced, accused-appellant had exerted efforts to convince Liquigaz to continue accepting check payments.

It is therefore unmistakable that accused-appellant gave Liquigaz the postdated checks as payment, that he had given it numerous assurances to convince it to start and then to keep accepting those checks as payment, all to induce it to deliver or release its tanks to him. With that, the prosecution established the first element of estafa via bouncing checks. "[P]ostdating 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, is a false pretense or fraudulent act." [166] Accused-appellant deceived Liquigaz by issuing (worthless) checks, giving (false) assurances that the checks would clear, handing the checks to Liquigaz as payment for Equal and Entra's LPG withdrawals, and in that way inducing Liquigaz to part with its tanks. If not for his 26 postdated IEB checks, Liquigaz would not have let its tanks go (into his waiting trucks). His issuance of those checks made Liquigaz (wrongly) believe, to its damage, that it had gotten something of value in exchange for its own valuables.

In this light, accused-appellant's main defense, that Liquigaz supposedly released its LPG tanks solely because of the Purchase and Sales Contracts with Equal and Entra, is unavailing.[167]

It bears reiterating that under Item No. 8 of the Purchase and Sales Contracts, Liquigaz was obligated to deliver or release its tanks upon receipt of payment. This was the protection that Liquigaz had successfully secured for itself, coming out of its renegotiations with Equal and Entra, who were bargaining from the position of problem accounts.

Accused-appellant admitted during his cross-examination that Equal and Entra had understood that and had paid in cash every time they made an LPG withdrawal[168]—up until Liquigaz was convinced (by accused-appellant's assurances that Equal and Entra checks are as good as cash, by Equal and Entra's compliance with the cash payment requirement, and by accused-appellant's presentation of the mortgages as proof of Equal and Entra's capacity to issue good checks) to agree to different payment terms.[169]

According also to accused-appellant, the arrangement for 'cash payments per LPG withdrawal' was changed to 'check payments per LPG withdrawal.'[170]

Since, under Item No. 8, Equal and Entra had the cash requirement replaced with a postdated-check requirement, it stands to reason that the checks had the same purpose as the cash—compensation for Liquigaz, so that it receives something of value, for it to in turn deliver or release its goods. In conclusion, it was accused-appellant's postdated checks, and not the Purchase and Sales Contracts per se, that made Liquigaz part with its tanks.

Accused-appellant's other defense, that he gave the checks only as a guarantee for a future cash payment,[171] is equally futile.

The checks' true nature and purpose (as payment for Liquigaz, to induce it to part with its tanks) is confirmed—rather than cast in doubt—by the fact that they were delivered to Liquigaz after the signing of the Purchase and Sales Contracts, and that they were required of Equal and Entra.

As can be gleaned from piecing together Golingay, Albaño, and accused-appellant's testimonies, accused-appellant issued and delivered the 26 postdated IEB checks to Liquigaz as payment, and not as something tentative or ambiguous like a 'guarantee for future payment.' The timing of the checks' issuance and delivery does not contradict or muddle this; they were given to Liquigaz after the Purchase and Sales Contracts' execution, specifically either a day before, or on the day of, an LPG withdrawal from Liquigaz's depot, exactly because they were for paying for each of those withdrawals. Neither does the checks' being a requirement; they were naturally required of Equal and Entra, as prior payment, because that was the last arrangement that the parties had agreed to, under their contracts' Item No. 8.

In any event, the checks' nature and purpose as payment is also laid bare by accused-appellant's acts.

Accused-appellant did not tell Liquigaz to disregard the checks and just wait for a cash payment; at most, he would ask them to delay the depositing of the checks.[172] That did not change even when he was told that the checks were being dishonored for being drawn against insufficient funds and then due to the closure of the drawer's account.[173] He only cycled through (1) saying that funds would at some point be deposited to cover the bounced checks;[174] (2) requesting more time for making the deposit;[175] and (3) telling Liquigaz that if it wanted Equal and Entra to one day be able to make the deposit, it had to keep supplying Equal and Entra with gas.[176]

Most importantly, after all 26 of the postdated IEB checks had bounced, accused-appellant still did not make a cash payment for the LPG tanks that had been delivered/released to him. He instead tried to get Liquigaz to agree

to cut its losses to the tune of a measly PHP 2 million[177] which, he admitted, he was not even the payor of.[178] Thus:

ATTY. EDGARDO DE JESUS IN CONTINUANCE
OF HIS CROSS EXAMINATION ON WITNESS
ACCUSED RENE ROSELL:

...

Q

In your judicial affidavit Mr. witness, you mentioned that you – in addition to real estate mortgages, you have a Chattel mortgage dated January 5, 2005 with the private complainant Liquigaz, is that correct?

A

Yes.

Q

And that as a sign of good faith, you said in your judicial affidavit that this Chattel Mortgage was already paid, is that correct?

A

Yes.

Q

And you also attached checks I think, several checks, of Union Bank – eleven (11) checks of Union Bank, consecutively numbered, issued March 20, 2009, – February 20, 2009, and every month thereafter, up to November 20, 2009. I am sorry. January 20, 2009 up to November 20, 2009, so all in all eleven (11) checks, of One Hundred Thousand Pesos (Php100,000.00) each. Is that right, these are the checks that you attached?

A

Yes. That is a One Million Check.

Q

You are correct there is a One Million Check, dated January 20, 2009. You attached these checks to show you that you paid or you made payments to Liquigaz. I am showing to you the checks Mr. witness, are these your personal checks?

A

Those are the checks of Sivillana – Alma and Robert Sivillana.

Q

So you were not the one who directly paid Liquigaz, these checks to Liquigaz, it was another person?

A

Yes.[179]

....

DURING THE CROSS EXAMINATION ON

THE WITNESS BY ATTY. EDGARDO DE JESUS:

....

Q

You just signed the papers. Still a knowledgeable and educated man like you signing several, not only one, but almost ten or eleven Real Estate Mortgages. Now, another point in your Judicial Affidavit is your allegation that you are again in good faith because you paid for the – out of 26 Million or 17 Million that you owe Liquigaz, you were able to pay 1 Million Pesos for a chattel mortgage is that correct?

A

No sir. That is not 1 Million.

Q

How much?

A

That's around 2 Million.

Q

Okay, 2 Million. I'll go with 2 Million. You are saying that you paid correct?

A

Yes sir.

Q

I'm showing to you the checks that you attached Mr. Witness. Are these checks your checks?

A

No sir.

Q

In fact the checks were issue by a certain Alma Sevilla or Robert Sevilla?

A

Yes sir.

Q

And these are not your checks and it was all paid to Liquigaz Philippines?

A

Yes sir.[180]

With the above proof of actual deceit, this Court need not address accused-appellant's assertion that deceit cannot be presumed against him since the registry return receipt for the October 18, 2007 Notice of Dishonor said that it was received by one Michela Rosell.[181]

Concerning the second element, the drawee bank dishonored two checks—IEB Check Nos. 330857 and

331204—due to insufficiency of funds in the account against which they were drawn.[182] The other 24 checks bounced because the drawer's account had been closed.[183] All these facts remain undisputed.

As to the third element, Liquigaz suffered a loss of PHP 16,940,386.00. The 26 postdated checks all bounced and accused-appellant never paid for the LPG tanks.

All told, the lower courts properly convicted accused-appellant of estafa via bouncing checks.

Accused-appellant cannot, as a last-ditch attempt to escape liability, fall back on his signing of the checks as Entra's chief executive officer.[184] As the Court of Appeals aptly stated:

[W]hen a corporate officer issues a worthless check in the name of the corporation, he may be held personally liable for violating a penal statute. The statute imposes criminal penalties on anyone who with intent to defraud another of money or property, draws or issues a check on any bank with knowledge that he has no sufficient funds in such bank to meet the check on presentment. Moreover, the personal liability of the corporate officer is predicated on the principle that he cannot shield himself from liability from his own acts on the ground that it was a corporate act and not his personal act.

As correctly argued by the [Office of the Solicitor General], accused-appellant Rosell himself committed unlawful acts by making false representation/pretenses that the postdated checks were sufficiently funded to induce Liquigaz to deliver LPG to [Entra]. When the postdated checks were dishonored, accused-appellant Rosell guaranteed that they [would] be funded. He even requested to defer the deposit of said checks and for extension of payment but nevertheless, failed to make good the dishonored checks. He not only consented to the unlawful acts but performed the same.[185]

To be sure, accused-appellant also cannot shelter under the ruling in *Ilagan v. People*. [186]

There, the petitioners were acquitted after the Court found that their four-year long business history with the private complainant was what induced the latter to accept the former's checks and in turn part with her cash:

Given the admitted previous 4-year period of "rediscounting" transactions between Rosita and petitioner Tan, if he indeed assured her that the checks in question would be sufficiently funded on maturity, the same was unnecessary to convince her to change them with cash, not unlike in *People v. Ong* where this Court acquitted the accused for estafa, "the Bank [therein having,] on its own, accorded [the accused] a [D]rawn [A]gainst [U]ncollected [D]eposit (DAUD) privilege without the need of any pretensions on his part." In other words, any such assurance was not the efficient cause which induced Rosita to change the checks with cash. It is in this light that this Court credits the disclaimer of petitioner Sy of having gone with petitioner Tan to Rosita's house to negotiate the checks and assure her that they would be sufficiently funded on maturity.[187] (Emphasis in the original, citations omitted)

Here, the most that could be said about Equal and Entra's business history with Liquigaz is that it may have factored into Liquigaz's decision to renegotiate with Equal and Entra, instead of blacklisting or cutting them off for being problem accounts.[188] Even then, it was not among Liquigaz's immediate considerations, as these were (1) accused-appellant and Eleria's promise of prompt payments,[189] (2) accused-appellant's assurance that since "they are major industry players, they have the influence or capability to increase [Liquigaz's] sales,"[190] and (3) accused-appellant and Eleria's "guarantee [of a] significant increase in [Liquigaz's] sales of LPG." [191]

More to the point, that difficult history drove Liquigaz to adopt a strict payment-first policy for its future dealings with Equal and Entra, and to use the renegotiations to formalize the policy, fleshing it out as Item No. 8 in the Purchase and Sales Contracts.[192]

Furthermore, when Rosell's checks had started bouncing, Liquigaz's relations with Equal and Entra deteriorated to where Liquigaz was actively reducing its exposure to Equal and Entra by sometimes limiting its deliveries or

refusing to make releases.[193]

Thus, there was no real period where accused-appellant could effectively invoke Liquigaz's business history with Equal and Entra to make Liquigaz part with its LPG tanks, sans compensation.

This Court now comes to the issue of penalty.

The Regional Trial Court[194] imposed the penalty of "reclusion perpetua as prescribed in Presidential Decree [No.] 818,[195] in relation to Article 315(2)(d) of the Revised Penal Code." [196] The Court of Appeals affirmed that sentence.[197]

There is no question that (1) the penalty for accused-appellant's commission of estafa via bouncing checks is provided for by Presidential Decree No. 818 and (2) per the law's terms, given the amount by which private complainant was defrauded by accused-appellant (PHP 16,940,386.00), it is technically appropriate for his penalty to be referred to as reclusion perpetua. Yet, the penalty imposed upon accused-appellant must be made compliant with this Court's pronouncement in *People v. Spouses Hernando*[198]—that is, it is mandatory to "impos[e] an indeterminate sentence in all criminal offenses . . . punishable by the Revised Penal Code or by special laws, with definite minimum and maximum terms, as the Court deems proper within the legal range of the penalty specified by the law[.]"[199]

This Court thus delineates the bounds of accused-appellant's penalty.[200]

Section 1 of Presidential Decree No. 818 provides:

SECTION 1. Any person who shall defraud another by means of false pretenses or fraudulent acts as defined in paragraph 2(d) of Article 315 of the Revised Penal Code, as amended by Republic Act No. 4885, shall be punished by:

1st. The penalty of reclusion temporal if the amount of the fraud is over 12,000 pesos but not exceed 22,000 pesos, and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos but the total penalty which may be imposed shall in no case exceed thirty years. In such cases, and in connection with the accessory penalties which may be imposed under the Revised Penal Code, the penalty shall be termed reclusion perpetua[.] (Emphasis supplied)

This Court explained the provision's effect in *Dy v. People*: [201]

[I]f the amount of the fraud exceeds [PHP] 22,000, . . . reclusión temporal is imposed in its maximum period, adding one year for each additional [PHP] 10,000 but the total penalty shall not exceed thirty (30) years, which shall be termed reclusión perpetua. Reclusión perpetua is not the prescribed penalty . . . but merely describes the penalty actually imposed on account of the amount [defrauded].[202] (Citations omitted)

Taking the above together with the Indeterminate Sentence Law,[203] since private complainant was defrauded of PHP 16,940,386.00, "the maximum penalty shall be reclusion temporal in its maximum period, plus one year for each additional [PHP] 10,000[.00] of the amount of the fraud," but without exceeding 30 years, "and the minimum shall be prision mayor, which is the penalty next lower to that prescribed for the offense without first considering any modifying circumstances or the incremental penalty for the amount of fraud in excess of [PHP] 22,000[.00]."[204]

Reclusion temporal's maximum period is 17 years, four months, and 1 day to 20 years.[205] Prision mayor in its entirety is from six years and one day to 12 years.[206]

Hence, accused-appellant's indeterminate penalty has: (1) for its maximum term, 20 years plus one year for every

PHP 10,000.00 that makes up PHP 16,918,386.00 (that is, the difference between PHP 16,940,386.00 and PHP 22,000.00), but only up to a total of 30 years; and (2) for its minimum term, anywhere from six years and one day to 12 years. It must be noted, however, that this Court has previously fixed such minimum term at 12 years.[207]

This Court thus elaborates upon the penalty imposed by the Regional Trial Court and Court of Appeals. We clarify that, in full, accused-appellant's sentence is 12 years of prision mayor as minimum, up to 30 years of reclusion perpetua as maximum.

ACCORDINGLY, the appeal is DENIED. The February 17, 2022 Decision of the Court of Appeals in CA-G.R. CR-H.C. No. 12141 is AFFIRMED with MODIFICATION as to the penalty. Accused-appellant Rene D. Rosell is found GUILTY beyond reasonable doubt of estafa through the issuance of bouncing checks, as defined and penalized by Article 315(2)(d) of the Revised Penal Code. His bail for temporary liberty is cancelled, and he is sentenced to suffer the indeterminate penalty of 12 years of prision mayor, as minimum, to 30 years of reclusion perpetua, as maximum, pursuant to Presidential Decree No. 818 in relation to the Indeterminate Sentence Law, as amended.

SO ORDERED.

Lazaro-Javier, J. Lopez, and Villanueva, JJ., concur.

Kho, Jr.,^[**] J., on official business.

[*] Spelled as "Rossel" in some parts of the rollo.

[**] On official business.

[1] In view of the amendment of Article 315(2)(d) by Republic Act No. 4885, the following are no longer elements of estafa: (1) knowledge of the drawer that he has no funds in the bank or that the funds deposited by him are not sufficient; and (2) failure to inform the payee of such circumstance. See *People v. Holzer*, 391 Phil. 196, 203-204 (2000) [Per J. Mendoza, Second Division], citing A. GREGORIO, *FUNDAMENTALS OF CRIMINAL LAW REVIEW* 832 (1997).

[2] *People v. Montaner*, 672 Phil. 254, 259-260 (2011) [Per J. Leonardo-De Castro, First Division]. (Citation omitted)

[3] Rollo, pp. 3-6.

[4] *Id.* at 9-19. The February 17, 2022 Decision in CA-G.R. CR-H.C. No. 12141 was penned by Presiding Justice Remedios A. Salazar-Fernando and concurred in by Associate Justices Marie Christine Azcarraga-Jacob and Angeleno Mary W. Quimpo-Sale of the First Division, Court of Appeals, Manila.

[5] *Id.* at 21-29. The July 7, 2017 Decision in Criminal Case No. 09-537 was penned by Presiding Judge Leandro C. Catalo of Branch 256, Regional Trial Court, Muntinlupa City.

[6] *Id.* at 10-11.

[7] RTC records, pp. 1541-1542.

[8] CA rollo, pp. 568-581, 584-598, 617-630, 681-694. The other members of the group were the Excel Gas Corporation, Elxia Gas Corporation, Bayan Gas Corporation, and Tiger Gas Corporation. (*Id.* at 568, 584, 617, 681.)

[9] Rollo, p. 23.

[10] Id.

[11] Id. at 23-24. Spelled as "Albano" in some parts of the rollo.

[12] RTC records, pp. 851, 896.

[13] Id. at 896.

[14] Id. at 852.

[15] Id. at 851.

[16] Id. at 852.

[17] Rosell described Eleria as the founder of the Excel Group of Companies. (Id. at 1579-1580.)

[18] Id. at 852-853.

[19] Id. at 853.

[20] Rollo, p. 11.

[21] RTC records, p. 1066.

[22] Id. at 893-894.

[23] Rollo, p. 11.

[24] RTC records, p. 1063.

[25] Id. at 852-853.

[26] Rollo, p. 23. See also CA rollo, p. 551.

[27] RTC records, p. 853.

[28] Id. at 854-855.

[29] Id. at 852-853.

[30] Id. at 854-855.

[31] Id.

[32] Id.

[33] Id. at 854.

[34] Id.

[35] Id. at 929.

[36] Id. at 958.

[37] Rollo, p. 23.

[38] Id. at 11, 23. RTC records, p. 897.

[39] RTC records, p. 1092.

[40] Id. at 1105.

[41] Id. at 958.

[42] Id.

[43] Rollo, p. 24. The Court of Appeals Decision states that IEB Check Nos. 330857 and 331204 were deposited on June 19, 2007. (Id. at 11).

[44] Id. at 24.

[45] Id.

[46] RTC records, p. 855.

[47] Id.

[48] Id. at 856.

[49] Id.

[50] Id.

[51] Id.

[52] Id. at 959-969.

[53] Id. at 856.

[54] Id.

[55] Id. at 961-968.

[56] Rollo, pp. 11-12, 24.

[57] RTC records, pp. 544-545.

[58] Id. at 971.

[59] Id. at 858.

[60] Id. at 859.

[61] Id. at 971.

[62] Id.

[63] Id. at 859.

[64] Rollo, pp. 12, 24.

[65] RTC records, pp. 547-548.

[66] Id. at 899-900.

[67] Id. at 931.

[68] Rollo, p 26.

[69] RTC records, pp. 1536-1537.

[70] Id. at 1295.

- [71] Id. at 1543.
- [72] Id. at 1301-1302.
- [73] Id. at 1580-1581.
- [74] Id. at 1297-1300.
- [75] Rollo, p. 26.
- [76] RTC records, p. 1575.
- [77] Id. at 1533.
- [78] Id. at 1534.
- [79] Id. at 1536-1538, 1574.
- [80] Id. at 1544.
- [81] Id. at 1581.
- [82] Id. at 1575-1576.
- [83] Rollo, pp. 21-29.
- [84] Id. at 29.
- [85] Id. at 27-29.
- [86] Id. at 28-29.
- [87] Id. at 28.
- [88] Id.
- [89] Id. at 27-28.
- [90] Id.
- [91] Id.
- [92] Id. at 29.
- [93] Id. at 13.
- [94] Id.
- [95] Id.
- [96] Id.
- [97] Id.
- [98] Id.
- [99] Id.
- [100] Id.

[101] Id.

[102] Id. at 9-19.

[103] Id. at 14.

[104] Id. at 14-15.

[105] Id. at 16.

[106] Id. at 15.

[107] Id. at 14.

[108] Id. at 15.

[109] Id.

[110] Id. at 15-16, citing *Abalos y Puroc v. People*, 859 Phil. 450 (2019) [Per J. Reyes, Jr., Second Division]; *Juaquico v. People*, 827 Phil. 145 (2018) [Per J. Tijam, First Division]; *Recuerdo v. People*, 526 Phil. 460 (2006) [Per J. Callejo, Sr., First Division].

[111] Id. at 16-17.

[112] Id. at 16.

[113] Id.

[114] Id. at 17.

[115] Id. at 16.

[116] Id. at 17-18.

[117] Id. at 18.

[118] Id.

[119] Id.

[120] Id. at 18-19.

[121] Id. at 19.

[122] Id. at 3-6.

[123] Id. at 7.

[124] Id. at 1.

[125] Id. at 30.

[126] Id. at 31-35, 38-42.

[127] Id. at 36.

[128] Id. at 43.

[129] REV. PEN. CODE, art. 315(2)(d), as amended by Republic Act No. 4885 (1967), sec. 1, Amending Sec. 2(d), Article 315 of the Revised Penal Code Re: Issuance of Checks.

[130] *People v. Sabio, Sr.*, 176 Phil. 212, 227 (1978) [Per J. Concepcion, Jr., En Banc], citing *People v. Quesada*, 60 Phil. 515, 520 (1934) [Per J. Vickers, En Banc].

[131] *Dy v. People*, 591 Phil. 678, 690 (2008) [Per Acting C.J. Quisumbing, Second Division], citing *People v. Ojeda*, 474 Phil. 491, 503 (2004) [Per J. Corona, Third Division], *People v. Dimalanta*, 483 Phil. 56, 64 (2004) [Per J. Ynares-Santiago, First Division].

[132] *People v. Mateo*, 819 Phil. 545, 556 (2017) [Per J. Peralta, Second Division], citing *People v. Menil, Jr.*, 394 Phil. 433, 452 (2000) [Per J. Gonzaga-Reyes, Third Division].

[133] REV. PEN. CODE, art. 315(2)(d), as amended by Republic Act No. 4885 (1967), sec. 1, Amending Section 2(d), Article 315 of the Revised Penal Code Re: Issuance of Checks.

[134] See *People v. Holzer*, 391 Phil. 196, 203-204 (2000) [Per J. Mendoza, Second Division], citing A. GREGORIO, *FUNDAMENTALS OF CRIMINAL LAW REVIEW* 832 (1997): "In view of the amendment of Art[icle] 315(2)(d) by [Republic Act] No. 4885, the following are no longer elements of estafa: 1. knowledge of the drawer that he has no funds in the bank or that the funds deposited by him are not sufficient[; and] 2. failure to inform the payee of such circumstance[.]"

[135] *People v. Sabio, Sr.*, 176 Phil. 212, 226-227 (1978) [Per J. Concepcion, Jr., En Banc].

[136] *Rollo*, pp. 27-29.

[137] *Id.* at 14.

[138] *People v. Spouses Hernando*, 375 Phil. 1078, 1090 (1999) [Per J. Pardo, First Division], citing *Nieva, Jr. v. Court of Appeals*, 338 Phil. 529, 539 (1997) [Per J. Hermosissima, Jr., First Division].

[139] *People v. Reyes*, 494 Phil. 620, 631 (2005) [Per J. Puno, Second Division].

[140] *People v. Romero*, 365 Phil. 531, 541 (1999) [Per J. Pardo, First Division], citing *Abela v. Golez*, 216 Phil. 12, 15 (1984) [Per J. Relova, En Banc].

[141] *People v. Reyes*, 298 Phil. 661, 669 (1993) [Pe J. Cruz, First Division].

[142] RTC records, p. 851.

[143] *Id.* at 850-852.

[144] *Id.* at 897.

[145] *Id.* at 852-853.

[146] *Id.* at 1063-1064.

[147] *Id.* at 854-855; CA *rollo*, pp. 163-164.

[148] RTC records, p. 855.

[149] *Id.* at 856.

[150] *Id.*

[151] *Id.* at 958.

[152] *Id.* at 1095.

[153] Id. at 1105-1106.

[154] Id. at 1091-1092.

[155] Id. at 1295.

[156] Id. at 1301-1302.

[157] Id. at 1532-1533.

[158] Id. at 1534.

[159] Id. at 1532-1534.

[160] Id. at 1535-1538, 1574.

[161] Id. at 1535-1538.

[162] Id. at 1574.

[163] Id. at 1575-1576.

[164] Id. at 1575-1576.

[165] Id. at 1063.

[166] *Bañares v. Court of Appeals*, 271 Phil. 886, 898 (1991) [Per J. Regalado, Second Division], citing *Vallarta v. Court of Appeals*, 234 Phil. 334 (1987) [Per J. Cortes, En Banc].

[167] Rollo, p. 26.

[168] RTC records, pp. 1533-1534.

[169] Id. at 1534.

[170] Id. at 1535.

[171] Rollo, p. 13.

[172] RTC records, p. 855.

[173] Id. at 856-859, 899-900.

[174] Id. at 855-856.

[175] Id.

[176] Id. at 856, 858.

[177] Id. at 1580-1581.

[178] Id. at 1543-1544.

[179] Id.

[180] Id. at 1580-1581.

[181] Rollo, p. 13.

[182] Id. at 24.

[183] Id.

[184] Id. at 13.

[185] Id. at 18, citing *Gosiaco v. Ching*, 603 Phil. 457, 464-465 (2009) [Per J. Tinga, Second Division]; RTC records, p. 291.

[186] 550 Phil. 791 (2007) [Per J. Carpio-Morales, Second Division].

[187] Id. at 803-804.

[188] RTC records, p. 896.

[189] Id. at 852.

[190] Id. at 853.

[191] Id. at 853.

[192] Id. at 896; 958; 1095.

[193] Id. at 856.

[194] Rollo, p. 29.

[195] Presidential Decree No. 818 (1975), Amending Article 315 of the Revised Penal Code Re: Increase in Penalties for Estafa.

[196] REV. PEN. CODE, art. 315(2)(d), as amended by Republic Act No. 4885 (1967), sec. 1, Amending Section 2(d), Article 315 of the Revised Penal Code Re: Issuance of Checks.

[197] Rollo, p. 11.

[198] 375 Phil. 1078 (1999) [Per J. Pardo, First Division].

[199] Id. at 1093, citing *Spouses Bacar v. De Guzman, Jr.*, 338 Phil. 41, 54 (1997) [Per J. Padilla, First Division]; *People v. Lee, Jr.*, 217 Phil. 65 (1984) [Per J. Aquino, Second Division]; *Argoncillo v. Court of Appeals*, 354 Phil. 324 (1998) [Per J. Kapunan, Third Division].

[200] "Bounds" here refer to the maximum and minimum penalty, as contemplated by the Indeterminate Sentence Law. (Act No. 4103 (1933), Indeterminate Sentence Law, as amended by Act No. 4225 (1935), Amendment to Secs. 1, 2 and 8 of Act No. 4103.)

[201] 591 Phil. 678 (2008) [Per Acting C.J. Quisumbing, Second Division].

Likewise, this Court, in *People v. Reyes*, stated that:

[T]here is legal basis, both in law and logic, for Presidential Decree No. 818 to declare that any penalty exceeding twenty (20) years, or the maximum duration of reclusion temporal, is within the range of reclusion perpetua.

. . . Article 27 of the [Revised Penal] Code provides for the minimum and maximum ranges of all the penalties in the Code (except bond to keep the peace which shall be for such period of time as the court may determine) .

. . . For reclusion perpetua, however, there is no specification as to its minimum and maximum range, as the aforesaid article merely provides that "(a)ny person sentenced to any of the perpetual penalties shall be pardoned after undergoing the penalty for thirty years, unless such person by reason of his conduct or some

other serious cause shall be considered by the Chief Executive as unworthy of pardon."

....

Since . . . in all the graduated scales of penalties in the Code, as set out in Articles 25, 70 and 71, reclusion perpetua is the penalty immediately next higher to reclusion temporal, it follows by necessary implication that the minimum of reclusion perpetua is twenty (20) years and one (1) day with a maximum duration thereafter to last for the rest of the convict's natural life...It would be legally absurd and violative of the scales of penalties in the Code to reckon the minimum of reclusion perpetua at thirty (30) years since there would thereby be a resultant lacuna whenever the penalty exceeds the maximum twenty (20) years of reclusion temporal but is less than thirty (30) years. (See 287 Phil. 446, 453 (1992) [Per J. Regalado, En Banc] (Citation omitted.))

[202] *Dy v. People*, 591 Phil. 678, 697-698 (2008) [Per Acting C.J. Quisumbing, Second Division].

[203] See *People v. Spouses Hernando*, 315 Phil. 1078, 1094 (1999) [Per J. Pardo, First Division]:

"Under the Indeterminate Sentence law, if the offense is punished by the Revised Penal Code, such as estafa, the court shall sentence the accused to an indeterminate penalty, the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code, and the minimum term of which shall be within the range of the penalty next lower to that prescribed by the Code for the offense." "The penalty next lower should be based on the penalty prescribed by the Code for the offense, without first considering any modifying circumstance attendant to the commission of the crime. The determination of the minimum penalty is left by law to the sound discretion of the court and it can be anywhere within the range of the penalty next lower without any reference to the periods into which it might be subdivided. The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence." (Emphasis supplied, citations omitted)

[204] *Nagrampa v. People*, 435 Phil. 440, 458 (2002) [Per C.J. Davide, Jr., First Division], citing *People v. Spouses Hernando*, 375 Phil. 1078, 1094-1095 (1999) [Per J. Pardo, First Division].

[205] *Spouses Cajigas v. People*, 599 Phil. 207, 221 (2009) [Per J. Carpio, First Division], citing *People v. Dinglasan*, 437 Phil. 621, 632-633 (2002) [Per J. Quisumbing, Second Division].

[206] This is pursuant to Article 27 of the Revised Penal Code, the pertinent portion of which states: "Prisión mayor and temporary disqualification. — The duration of the penalties of prisión mayor and temporary disqualification shall be from six years and one day to twelve years, except when the penalty of disqualification is imposed as an accessory penalty, in which case its duration shall be that of the principal penalty."

[207] *People v. Panganiban*, 390 Phil. 673, 690-691 (2000) [Per J. Gonzaga-Reyes, Third Division], citing *People v. Spouses Hernando*, 375 Phil. 1078, 1095 (1999) [Per J. Pardo, First Division]. See also *People v. Flores*, 426 Phil. 187, 200 (2002) [Per J. Mendoza, Second Division]; *Dy v. People*, 591 Phil. 678, 698 (2008) [Per Acting C.J. Quisumbing, Second Division].

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