

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
TERESITA S. SINGSON, DEFENDANT-APPELLANT.***G.R. No. 75920. November 12, 1992*

Ponente: CAMPOS, JR., J.

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This case is an appeal from a decision convicting the accused of estafa, and sentencing her to the penalty of reclusion perpetua with its accessory penalties and ordering her to indemnify the Sucrex Marketing Corporation in the amount of P163,000.00, with interest.

The facts of the case, as found by the trial court, can be summarized as follows. Sucrex Marketing Corporation (Sucrex for short) is a private corporation engaged in the trading and marketing of commodities, among which is sugar. On August 4, 1976, the accused Teresita Singson (accused for short) was introduced to Vicente Cenzone, trading manager of Sucrex, by Rene Antonio, who had previous business dealings with the corporation. On that day, the accused bought 1,000 bags of sugar from Sucrex at P74.50 per bag, and for which documents known as "delivery orders and advice" for the total amount of P74,500.00 were issued to her. She paid for the sugar by means of two postdated checks dated August 7 and August 11, 1976 (Exhs. 1-A and 1-B), respectively. These checks were honored by the drawee bank.

On August 9, 1976, the accused went again to Sucrex and bought 4,000 bags of sugar at the price of P75.00 per bag. Again, 20 sets of delivery orders and advice were made out and delivered to her. According to the testimony of Cenzone, in the sugar trading business, sales of sugar are made through "delivery orders and advice" documents prepared in triplicate, the original of which is given to the customer-buyer. The latter then presents the documents to the sugar central or warehouse, for delivery of the sugar as specified in the documents.

In payment for the 4,000 bags of sugar, the accused issued six checks, five of which were postdated. Of these six checks, only two were honored by the bank. The four other checks (Exhs. E, F, G and H) in the total sum of P200,000.00, were dishonored when they were deposited on their due dates. These checks were deposited and dishonored three times, and on the fourth time, they were returned on the basis of the "BAP rule", under which a check cannot be dishonored four times and thus cannot be redeposited on the fourth time. Early in the month of September, 1976, when the accused was advised of the dishonor of the checks, she offered to issue seven replacement checks (Exhs. J, J-1 to J-6) in the total amount of P200,000.00, which offer was accepted by Sucrex. However, when Sucrex deposited three of the checks, they were dishonored with the note "Try next clearing". The check marked Exhibit J was deposited three times, while those marked Exhibit J-1 and J-2 were deposited twice, and they were dishonored each time. Because of this, Sucrex did not deposit the remaining checks.

On September 14, 1976, Sucrex, through Vicente Cenzone, wrote to the accused demanding full payment of the P200,000.00. Upon receipt of the letter, the accused went to Cenzone's office and offered to make partial payment, explaining that she was unable to fund her checks on time due to the sudden and unforeseen fluctuation in the price of sugar, which resulted in her inability not only to collect from her own buyers, but to sell all the sugar as

she had expected. Sucrex refused to accept the offer of partial payment at that time, but eventually, on October 12, 1976, Sucrex accepted the offer of the accused to pay P30,000.00 in cash and the return of 92 bags. In the receipt (Exh. L) issued by Sucrex, it is indicated that:

"Acceptance of this payment shall not in any way novate your obligation to Sucrex Marketing Corporation under our sale to you of 4,000 bags (of) refined sugar per our Delivery Order Nos. 2801-2822."

The accused was unable to pay or deposit the amount covered by any of the dishonored checks.

On March 11, 1980, an information was filed with the then Court of First Instance of Rizal in Pasig, entitled "People of the Philippines vs. Teresita S. Singson", charging the accused with estafa based on the six checks originally given by her in payment of the 4,000 bags of sugar. The information charged that the accused "by means of deceit and false pretenses, with intent to gain and to defraud the Sucrex Marketing Corporation, did then and there willfully, unlawfully and feloniously induce said corporation to sell her 4,000 bags of sugar at P75.00 per sack . . . and in payment (sic) thereof said accused knowing that she did not have sufficient funds in the bank, did then (and) there willfully, unlawfully and feloniously make out and deliver to the said Sucrex Marketing Corp. six (6) personal checks, to wit: . . . representing to the said corporation that the checks were good checks and would be honored upon presentment for payment . . . ". The information further charged that only two of the six checks were honored and that the dishonor of the four checks in the total amount of P200,000.00, caused damage and prejudice to Sucrex.

After trial, the lower court found the accused guilty as charged and imposed upon her the penalty of reclusion perpetua. The lower court based its decision on the provisions of Article 315 of the Revised Penal Code as amended by P.D. 818, the pertinent portion of which read as follows:

"Art. 315. Swindling (estafa). Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

1st. The penalty of reclusion temporal if the amount of the fraud is over 12,000 pesos but does 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;

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 x x

(d) By post-dating 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."

Since the amount involved is P200,000.00, applying the above provision, the resulting penalty is thirty years, the maximum penalty that may be imposed.[1]

The counsel for the accused-appellant raised five assignments of error, all of which can be reduced to one: That the Court a quo erred in not acquitting the accused-appellant of the crime charged on the ground that her guilt was not proven beyond reasonable doubt.

For the crime of estafa to exist, the element of fraud or bad faith is indispensable. And its presence must be proven beyond a reasonable doubt before the accused can be found guilty of such crime. Although in the case of a bouncing check under B.P. Blg. 22, failure of the drawee to deposit the amount necessary to cover his checks within three days from notice of its dishonor shall be prima facie evidence of fraud or deceit, under Article 315 of the Revised Penal Code, mere failure to make such deposit cannot be the basis for conviction if the surrounding circumstances tend to show the absence of bad faith or deceit. In the present case, We find the evidence not sufficient to establish the existence of fraud or deceit on the part of the accused.

The accused testified, and this was not controverted, that at the time she issued the six checks on August 9, 1976 she had more than P100,000.00 in the bank. In fact, the first two checks were honored by the bank. She expected to sell the sugar in time to deposit enough money to cover the four checks which were later dishonored. Unforeseen circumstances prevented her from doing so. Perhaps, on account of these circumstances, Sucrex, through Cenzone, finally agreed to take replacement checks, and when these were dishonored, it finally agreed to accept a partial payment of P30,000.00 in cash and the return of 92 bags of sugar.

These circumstances -- the prompt action of the accused in offering to replace the dishonored checks and in later making partial payment and the taking of postdated checks and subsequently of the replacement checks, and the acceptance of partial payment -- show, first, that in all probability Sucrex knew that the funds to cover the six postdated checks subject of this action were to come from the sale of the sugar which the accused had bought from it. This kind of a situation is not unusual in the trading of commodities like sugar and rice. If Sucrex had such knowledge, then it follows that there was no deceit. And where there is no proven deceit or fraud, there is no crime of estafa. On the other hand, one who is guilty of bad faith would probably not have acted the way the accused did. If she had fraudulent intentions at the time of the sale and the issuance of the subject checks, her normal reaction would have been to hide or at least avoid or delay confrontation with Sucrex. But she did neither. On the contrary, as soon as she was notified of the dishonor, she immediately went to Cenzone's office to offer replacement checks and later, partial payment, both of which were accepted by Sucrex, through Cenzone. In fact, she even returned some 92 bags of sugar which she was unable to sell. Moreover, since the accused was new in the sugar trading business, she was perhaps not completely aware of the attendant risks, like instability in the price of sugar.

Although the established facts may prove the civil liability of the accused to pay the balance of the purchase price of the sugar (a liability which incidentally she has never denied), considering the above, Our mind cannot "rest easy on the certainty of guilt". We are not convinced that the evidence in this case has proven beyond reasonable doubt that the accused was guilty of fraud or deceit when she issued the checks in question. It therefore follows that she cannot be convicted of estafa as charged. All the other issues raised by the parties become irrelevant in the face of this reasonable doubt as to the guilt of the accused, and need not therefore be considered by this Court.

WHEREFORE, the decision of the lower court is hereby REVERSED and SET ASIDE and the accused is hereby ACQUITTED of the charge of estafa on the ground that her guilt has not been proven beyond a reasonable doubt, without prejudice to any civil liability which may be established in a civil case against her.

SO ORDERED.

Feliciano, Regalado, and Nocon, JJ., concur.
Narvasa, C.J., (Chairman), on official leave.

[1] At the time acts complained of took place, the above was the only provision penalizing the issuance of

bouncing checks. The Bouncing Checks Law (B.P. Blg. 22) was passed later in April, 1979.

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