

RAUL H. SESBRENO PETITIONER, VS. HONORABLE COURT OF APPEALS AND HERMILO RODIS, SR., RESPONDENTS.

G.R. No. 84096. January 26, 1995

Ponente: QUIASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-84096/>

QUIASON, J.:

Private respondent Hermilo Rodis, Sr., together with Douglas Sandiego and Ricardo Silverio, Sr., was charged with estafa before the Regional Trial Court, Branch 20, Cebu, in an information docketed as Criminal Case No. CU-10568, which reads as follows:

“That on or about the 9th day of February, 1981, and for sometime prior and subsequent thereto, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, conniving and confederating together and mutually helping one another, having received from Atty. Raul H. Sesbreno the sum of P300,000.00 as money market placement for 32 days at 20% interest with said corporation or a maturity date of March 13, 1981, with the obligation on their part to immediately account for and turn over to said Atty. Raul H. Sesbreno the aforesaid sum of money including the 20% interest upon maturity, or the total sum of P305,333.33, the said accused, once in possession of said sum of money, far from complying with their obligation, with deliberate intent, with intent of gain and of defrauding the herein complainant, did then and there misappropriate, misapply and convert into their own personal use and benefit the same, and despite repeated demands made upon them by Atty. Raul H. Sesbreno, they have failed and refused and up to the present time still fail and refuse to comply with their obligation, to the damage and prejudice of Atty. Raul H. Sesbreno, in the aforementioned sum of P300,000.00 Philippine Currency” (Rollo, p. 80).

Respondent Rodis moved to quash the information on the ground that the Securities and Exchange Commission (SEC), not the regular courts, had jurisdiction over the offense charged and that the facts stated therein did not constitute an offense (Record [Folio No. I], p. 309). The trial court denied the motion and private respondent elevated the case to the then Intermediate Appellate Court on a petition for certiorari docketed as AC-G.R. SP No. 15448.

On August 16, 1983, the appellate court dismissed the petition after finding no grave abuse of discretion on the part of the trial court in denying the motion to quash (Record [Folio No. I], p. 633). The motion for reconsideration was, likewise, denied. Thus, private respondent filed a petition for review on certiorari with this Court, docketed as G.R. No. 65477. On February 6, 1984, the petition was denied.

Hence, trial ensued in the criminal case. However, after the prosecution had rested its case, private respondent filed a motion to dismiss on demurrer to evidence based on the core proposition that there was no criminal offense of estafa from the non-payment of a money market placement (Record [Folio No. II], p. 210). The motion alleged that herein petitioner had also filed a similar complaint against Elizabeth de Villa involving the same money market placement before the City Fiscal of Cebu; but, upon review of the complaint, then Minister of Justice Estelito Mendoza directed the dismissal of the complaint on the ground that a money market placement partook of the nature of a loan and therefore no criminal liability for estafa could arise from non-payment thereof.

On March 13, 1985, the trial court denied the motion to dismiss (Record [Folio No. II], p. 310). On June 21, 1985, it issued an order stating that private respondent had waived his right to present evidence by his dilatory motions to postpone the trial of the case (Ibid., p. 329).

Private respondent then filed a petition for certiorari and prohibition before the Intermediate Appellate Court under Docket No. AC-G.R. SP No. 6315 (Ibid., p. 365) assailing the Order of March 13, 1985 as tainted with grave abuse of discretion amounting to lack or excess of jurisdiction.

On December 29, 1987, the appellate court rendered a decision based on *Perez v. Court of Appeals*, 127 SCRA 636 (1984), upholding private respondent's contention that a money market placement is in the nature of a loan which entails the transfer of ownership of the money so invested and therefore the liability for its return is civil in nature (Rollo, p. 79). The dispositive portion of the decision reads:

“WHEREFORE, finding the present petition to be impressed with merit, the same is accordingly GRANTED, and the Order of March 13, 1985, as well as that of June 21, 1985 in Criminal Case No. CU-10568, are (sic) hereby set aside. The respondent Judge is directed to issue in lieu thereof an appropriate order (i) granting petitioner's motion to dismiss on demurrer to evidence; (ii) dismissing Criminal Case No. CU-10568 in due course; and (iii) declaring mooted all acts, orders and processes made and done therein during the pendency of this petition” (Rollo, p. 86).

Upon a motion for the reconsideration of said decision, the Court of Appeals modified the dispositive portion of the decision as follows:

“WHEREFORE, finding the present petition to be impressed with merit, the same is accordingly GRANTED, and the Order of March 13, 1985 in Criminal Case No. CU-10568, is hereby set aside. The respondent Judge is directed to issue in lieu thereof an appropriate order (i) granting petitioner's motion to dismiss on demurrer to evidence; (ii) dismissing Criminal Case No. CU-10568 as against petitioner Hermilo Rodis, Sr. only; and (iii) directing respondent judge to determine the civil liability, if any, of petitioner Hermilo Rodis, Sr. to private respondent Raul H. Sesbreno from the evidence extant in the record of said case (CU-10568)” (Rollo, p. 117).

Consequently, petitioner interposed the instant petition alleging that the Court of Appeals gravely erred in:

“a. Taking cognizance over CA-GR SP No. 06315 even if it has NO JURISDICTION over the issue raised by the petition for certiorari filed therein;

“b. Deciding CA-GR SP No. 06315 in a way probably not in accord with law or with the applicable decisions of this Honorable Supreme Court” (Rollo, p. 10).

On the issue of jurisdiction, petitioner contends that by the filing of a motion to dismiss on demurrer to evidence, private respondent, in effect, admitted the truth of the allegations in the information, as well as the evidence presented by the prosecution to support said allegations. Therefore, the only issue raised by private respondent before the Court of Appeals, i.e., whether or not he can be held liable for estafa under the facts obtaining in the case, is purely a question of law for which said appellate court had no jurisdiction (Rollo, pp. 12-13).

In *Bernardo v. Court of Appeals*, 216 SCRA 224 (1992), this Court clarified the distinction between a question of law and a question of fact in this wise:

“x x x. As distinguished from a question of law which exists ‘when the doubt or difference arises as to what the law is on certain state of facts’ – ‘there is a question of fact when the doubt or difference arises as to the truth or the falsehood of alleged facts;’ or when the ‘query necessarily invites calibration of the whole evidence considering mainly the credibility of witnesses, existence and relevancy of specific surrounding circumstances, their relation to each other and to the whole and the probabilities of the situation.’”

An examination of the petition filed before the Court of Appeals disclosed that indeed no question of fact was raised. What private respondent asserted therein was that facts as alleged and proved by petitioner did not constitute a criminal offense. Clearly then, the only issue to be resolved by the Court of Appeals, which it did resolve, was whether private respondent could be held liable for estafa under the facts obtaining in the criminal case. This certainly is a question of law that should fall within the jurisdiction of this Court.

Petitioner did not assail the jurisdiction of the Court of Appeals during the pendency of his petition in AC--G.R. SP No. 63151. As a matter of fact, he actively participated in the proceedings before said appellate court. While it is true that jurisdiction over the subject matter of a case may be raised at any time of the proceedings, this rule presupposes that laches or estoppel has not supervened. In this regard, *Banaga v. Commission on the Settlement of Land Problems*, 181 SCRA 599, 608-609 (1990) is most enlightening. The Court therein stated:

“This Court has time and again frowned upon the undesirable practice of party submitting his case for decision and then accepting the judgment, only if favorable, and attacking it for lack of jurisdiction when adverse. Here, the principle of estoppel applies. Hence, a party may be estopped or barred from raising the question of jurisdiction for the first time in a petition before the Supreme Court when it failed to do so in the early stages of the proceedings. This principle should deter those who are disposed to trifle with the courts by taking inconsistent positions contrary to the elementary principles of right dealing and good faith (*Tijam v. Sibonghanoy*, No. L-21450, April 15, 1968, 23 SCRA 29; *Capilitan v. de la Cruz*, Nos. L-29536-37, February 28, 1974, 55 SCRA 706; *Marquez v. Secretary of Labor*, G.R. 80685, March 16, 1989). x x x.”

On the pivotal issue of whether or not private respondent may be held liable for estafa under the facts obtaining in the trial court, respondent court held that private respondent's liability, if any, is only civil. The nature of a money market transaction is explained by the Court in *Perez v. Court of Appeals* (*supra*, pp. 645-646) as follows:

“x x x. What is involved here is a money market transaction. As defined by Lawrence Smith, ‘the money market is a market dealing in standardized short-term credit instruments (involving large amounts) where lenders and borrowers do not deal directly with each other but through a middle man or dealer in the open market.’ It involves ‘commercial papers’ which are instruments ‘evidencing indebtedness of any person or entity . . . which are issued, endorsed, sold or transferred or in any manner conveyed to another person or entity, with or without recourse.’ The fundamental function of the money market device in its operation is to match and bring together in a most impersonal manner both the ‘fund users’ and the ‘fund suppliers.’ The money market is an ‘impersonal market’, free from personal considerations. The market mechanism is intended ‘to provide quick mobility of money and securities.’

“The impersonal character of the money market device overlooks the individuals or entities concerned. The issuer of a commercial paper in the money market necessarily knows in advance that it would be expeditiously transacted and transferred to any investor/lender without need of notice to said issuer. In practice, no notification is given to the borrower or issuer of commercial paper of the sale or transfer to the investor.”

The Court of Appeals, therefore, correctly ruled that a money market transaction partakes of the nature of a loan and therefore “nonpayment thereof would not give rise to criminal liability for estafa through misappropriation or conversion.” Citing *Yam v. Malik*, 94 SCRA 30 (1979), the Court of Appeals noted that private respondent or Philfinance was not obliged under the money market transaction to return the same money he or the corporation had received from petitioner. In fact, the Court of Appeals noted that petitioner admitted on the witness stand that he had “invested” his money; that “he was not concerned about the same money because what is important is the same amount will be returned to me plus its earnings, because naturally when you give the money with the same serial numbers and you entrust it for investment purposes, when it is invested and there are returns, the same money with the same serial numbers will not be returned to you;” and that private respondent would be “held liable to me in case of their failure to account” for the investment (*Rollo*, p. 83).

In money market placement, the investor is a lender who loans his money to a borrower through a middleman or dealer. Petitioner here loaned his money to a borrower through Philfinance. When the latter failed to deliver back petitioner's placement with the corresponding interest earned at the maturity date, the liability incurred by Philfinance was a civil one. As such, petitioner could have instituted against Philfinance before the ordinary courts a simple action for recovery of the amount he had invested and he could have prayed therein for damages (*Lim Sio Bio v. Court of Appeals*, 221 SCRA 307 [1993]; *Orosa, Jr. v. Court of Appeals*, 193 SCRA 391 [1991]; *Manila Electric Company v. Genbancor Development Corporation*, 72 SCRA 249 [1976]). However, since petitioner also alleged fraud, the proper forum should have been the Securities and Exchange Commission (*Araneta v. Court of Appeals*, 211 SCRA 390 [1992]).

It appears, however, that petitioner did not even implead Philfinance in the complaint for damages arising from the nonreturn of investment with respect to the same money market placement involved herein, which he eventually filed against Delta Motors Corporation and Pilipinas Bank before the Regional Trial Court of Cebu City on September 28, 1982. The said complaint having been dismissed for lack of merit, petitioner appealed to the Court of Appeals which, on March 21, 1989, affirmed the dismissal order. The Court of Appeals held that Philfinance is "solely and legally obligated to return the investment of plaintiff, together with its earnings, and to answer all the damages plaintiff has suffered incident thereto." Petitioner thereafter filed a petition for review on certiorari, which this Court docketed as G.R. No. 89252.

On May 24, 1993, the Court, through Associate Justice Feliciano, rendered a decision in G.R. No. 89252 ordering Pilipinas Bank to pay petitioner the amount of P304,533.33 in damages plus legal interest thereon at the rate of six percent (6%) per annum counted from April 2, 1981. Pilipinas Bank was the custodian-depositary of DMC PN No. 2731 evidencing petitioner's money market placement. In holding Pilipinas Bank liable for damages for breach of duty, the Court said:

"x x x. By failing to deliver the Note to the petitioner as depositor-beneficiary of the thing deposited, Pilipinas effectively and unlawfully deprived petitioner of the Note deposited with it. Whether or not Pilipinas itself benefitted from such conversion or unlawful deprivation inflicted upon petitioner, is of no moment for present purposes. Prima facie, the damages suffered by petitioner consisted of P304,533.33, the portion of the DMC PN No. 2731 assigned to petitioner but lost by him by reason of discharge of the Note by compensation, plus legal interest of six percent (6%) per annum counting from 14 March 1981.

"The conclusion we have here reached is, of course, without prejudice to such right of reimbursement as Pilipinas may have vis-a-vis Philfinance" (G.R. No. 89252, Rollo, pp. 295-296).

Petitioner's recovery of his investment and the dismissal of the criminal aspect of the case he had filed against private respondent as a consequence of this decision notwithstanding, he still has an opportunity to hold private respondent civilly liable in Criminal Case No. CU-10568. In *People v. Tugbang*, 196 SCRA 341 (1991), the Court categorically pronounced that "xxx an accused acquitted of a criminal charge may nevertheless be held in the same case civilly liable where the facts established by the evidence so warrants."

WHEREFORE, the petition is DENIED and the Decision of the Court of Appeals, as modified by its Resolution of May 27, 1988, is AFFIRMED in toto.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., Bellosillo, and Kapunan, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.