

PEOPLE OF THE PHILIPPINES, (PUBLIC PETITIONER), AND ALLIED BANKING CORPORATION (PRIVATE PETITIONER), VS. HON. JUDGE DAVID G. NITAFAN, (PUBLIC RESPONDENT), AND BETTY SIA ANG (PRI...

G.R. Nos. 81559-60. April 06, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This petition for certiorari involves an issue that has been raised before this Court several times in the past. The petitioner, in effect, is asking for a re-examination of our decisions on the issue of whether or not an entrustee in a trust receipt agreement who fails to deliver the proceeds of the sale or to return the goods if not sold to the entruster-bank is liable for the crime of estafa.

Petitioner Allied Banking Corporation charged Betty Sia Ang with estafa in Criminal Case No. 87-53501 in an information which alleged:

"That on or about July 18, 1980, in the City of Manila, Philippines, the said accused, being then the proprietress of Eckart Enterprises, a business entity located at 756 Norberto Amoranto Avenue, Quezon City, did then and there wilfully, unlawfully and feloniously defraud the Allied Banking Corporation, a banking institution, represented by its Account Officer, Raymund S. Li, in the following manner, to wit: the said accused received in trust from the aforesaid bank Gordon Plastics, plastic sheeting and Hook Chromed, in the total amount of P398,000.00, specified in a trust receipt and covered by Domestic Letter of Credit No. DLC?002-801254, under the express obligation on the part of said accused to sell the same and account for the proceeds of the sale thereof, if sold, or to return said merchandise, if not sold, on or before October 16, 1980, or upon demand, but the said accused, once in possession of the said articles, far from complying with the aforesaid obligation, notwithstanding repeated demands made upon her to that effect, paid only the amount of P283,115.78, thereby leaving unaccounted for the amount of P114,884.22 which, once in her possession, with intent to defraud, she misappropriated, misapplied and converted to her own personal use and benefit, to the damage and prejudice of said Allied Banking Corporation in the aforesaid sum of P114,884.22, Philippine Currency." (Rollo, pp. 13-14)

The accused filed a motion to quash the information on the ground that the facts charged do not constitute an offense.

On January 7, 1988, the respondent judge granted the motion to quash. The order was anchored on the premise that a trust receipt transaction is an evidence of a loan being secured so that there is, as between the parties to it, a creditor-debtor relationship. The court ruled that the penal clause of Presidential Decree No. 115 on the Trust Receipts Law is inoperative because it does not actually punish an offense *mala prohibita*. The law only refers to the relevant estafa provision in the Revised Penal Code. The Court relied on the judicial pronouncements in *People v. Cuevo*, 104 SCRA 312 [1981] where, for lack of the required number of votes, this Court upheld the dismissal of a charge for estafa for a violation of a trust receipt agreement; and in *Sia v. People*, 121 SCRA 655

[1983] where we held that the violation merely gives rise to a civil obligation. At the time the order to quash was issued or on January 7, 1988, these two decisions were the only most recent ones. Hence, this petition.

The private respondent adopted practically the same stance of the lower court. She likewise asserts that P.D. 115 is unconstitutional as it violates the constitutional prohibition against imprisonment for non-payment of a debt. She argues that where no malice exists in a breach of a purely commercial undertaking, P.D. 115 imputes it.

This Court notes that the petitioner bank brought a similar case before this Court in G.R. No. 82495, entitled *Allied Banking Corporation v. Hon. Secretary Sedfrey Ordoñez and Alfredo Ching* which we decided on December 10, 1990 (192 SCRA 246). In that case, the petitioner additionally questioned, and we accordingly reversed, the pronouncement of the Secretary of Justice limiting the application of the penal provision of P.D. 115 only to goods intended to be sold to the exclusion of those still to be manufactured.

As in G.R. No. 82495, we resolve the instant petition in the light of the Court's ruling in *Lee v. Rodil*, 175 SCRA 100 [1989] and *Sia v. Court of Appeals*, 166 SCRA 263 [1988]. We have held in the latter cases that acts involving the violation of trust receipt agreements occurring after 29 January 1973 (date of enactment of P.D. 115) would make the accused criminally liable for estafa under paragraph 1 (b), Article 315 of the Revised Penal Code (RPC) pursuant to the explicit provision in Section 13 of P.D. 115.

The relevant penal provision of P.D. 115 provides:

"SEC. 13 of P.D. No. 115 provides:

"xxx Penalty clause. - The failure of an entrustee to turn over the proceeds of the sale of the goods, documents or instruments covered by a trust receipt to the extent of the amount owing to the entruster or as appears in the trust receipt or to return said goods, documents or instruments if they were not sold or disposed of in accordance with the terms of the trust receipt shall constitute the crime of estafa, punishable under the provisions of Article Three Hundred and Fifteen, paragraph one (b) of Act Numbered Three Thousand Eight Hundred and Fifteen, as amended, otherwise known as the Revised Penal Code. If the violation or offense is committed by a corporation, partnership, association or other juridical entities, the penalty provided for in this Decree shall be imposed upon the directors, officers, employees or other officials or persons therein responsible for the offense, without prejudice to the civil liabilities arising from the criminal offense."

Section 1 (b), Article 315 of the RPC under which the violation is made to fall, states:

"xxx Swindling (estafa). - Any person who shall defraud another by any of the means mentioned herein below
x x x:

xxx xxx xxx

"b. By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property."

The factual circumstances in the present case show that the alleged violation was committed sometime in 1980 or during the effectivity of P.D. 115. The failure, therefore, to account for the P114,884.22 balance is what makes the accused-respondent criminally liable for estafa. The Court reiterates its definitive ruling that, in the *Cuevo* and *Sia* (1983) cases relied upon by the accused, P.D. 115 was not applied because the questioned acts were committed before its effectivity. (*Lee v. Rodil*, supra, p. 108) At the time those cases were decided, the failure to comply with the obligations under the trust receipt was susceptible to two interpretations. The Court in *Sia* adopted the view that a violation gives rise only to a civil liability as the more feasible view "before the

promulgation of P.D. 115," notwithstanding prior decisions where we ruled that a breach also gives rise to a liability for estafa. (People v. Yu Chai Ho, 53 Phil. 874 [1929]; Samo v. People, 115 Phil. 346 [1962]; Philippine National Bank v. Arrozal, 103 Phil. 213 [1958]; Philippine National Bank v. Viuda e Hijos de Angel Jose, 63 Phil. 814 [1936]).

Contrary to the reasoning of the respondent court and the accused, a trust receipt arrangement does not involve a simple loan transaction between a creditor and a debtor-importer. Apart from a loan feature, the trust receipt arrangement has a security feature that is covered by the trust receipt itself. (Vintola v. Insular Bank of Asia and America, 151 SCRA 578 [1987]) That second feature is what provides the much needed financial assistance to our traders in the importation or purchase of goods or merchandise through the use of those goods or merchandise as collateral for the advancements made by a bank. (Samo v. People, supra). The title of the bank to the security is the one sought to be protected and not the loan which is a separate and distinct agreement.

The Trust Receipts Law punishes the dishonesty and abuse of confidence in the handling of money or goods to the prejudice of another regardless of whether the latter is the owner or not. The law does not seek to enforce payment of the loan. Thus, there can be no violation of a right against imprisonment for non-payment of a debt.

Trust receipts are indispensable contracts in international and domestic business transactions. The prevalent use of trust receipts, the danger of their misuse and/or misappropriation of the goods or proceeds realized from the sale of goods, documents or instruments held in trust for entruster-banks, and the need for regulation of trust receipt transactions to safeguard the rights and enforce the obligations of the parties involved are the main thrusts of P.D. 115. As correctly observed by the Solicitor General, P.D. 115, like Batas Pambansa Blg. 22, punishes the act "not as an offense against property, but as an offense against public order. x x x The misuse of trust receipts therefore should be deterred to prevent any possible havoc in trade circles and the banking community (citing Lozano v. Martinez, 146 SCRA 323 [1986]; Rollo, p. 57). It is in the context of upholding public interest that the law now specifically designates a breach of a trust receipt agreement to be an act that "shall" make one liable for estafa.

The offense is punished as a *malum prohibitum* regardless of the existence of intent or malice. A mere failure to deliver the proceeds of the sale or the goods if not sold, constitutes a criminal offense that causes prejudice not only to another, but more to the public interest.

We are continually re-evaluating the opposite view which insists that the violation of a trust receipt agreement should result only in a civil action for collection. The respondent contends that there is no malice involved. She cites the dissent of the late Chief Justice Claudio Teehanke in *Ong v. Court of Appeals*, (124 SCRA 578 [1983]) to wit:

"The old capitalist orientation of putting importers in jail for supposed estafa or swindling for non-payment of the price of the imported goods released to them under trust receipts (a purely commercial transaction) under the fiction of the trust receipt device, should no longer be permitted in this day and age."

As earlier stated, however, the law punishes the dishonesty and abuse of confidence in the handling of money or goods to the prejudice of the bank.

The Court reiterates that the enactment of P.D. 115 is a valid exercise of the police power of the State and is, thus, constitutional. (Lee v. Rodil, supra; Lozano v. Martinez, supra) The arguments of the respondent are appropriate for a repeal or modification of the law and should be directed to Congress. But until the law is repealed, we are constrained to apply it.

WHEREFORE, the petition is hereby GRANTED. The Order of the respondent Regional Trial Court of Manila, Branch 52 dated January 7, 1988 is SET ASIDE. Let this case be remanded to the said court for disposition in

accordance with this decision.

SO ORDERED.

Feliciano, Bidin, Davide, Jr., and Romero, JJ., concur.

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