



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

AMANDO JUAQUICO,
 Petitioner,

G.R. No. 223998

Present:

SERENO, C.J.,*
 Chairperson,
 LEONARDO-DE CASTRO,**
 DEL CASTILLO,
 JARDELEZA, and
 TIJAM, JJ.

- versus -

PEOPLE OF THE PHILIPPINES,
 Respondent.

Promulgated:

MAR 05 2018

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DECISION

TIJAM, J.:

This is a Petition for Review on *Certiorari*¹ filed under Rule 45 of the Rules of Court assailing the Decision² dated October 14, 2015 and Resolution³ dated March 14, 2016 of the Court of Appeals (CA) in CA-G.R. CR No. 36267, which upheld the Judgment⁴ dated August 16, 2013 of the Regional Trial Court (RTC) of Manila, Branch 51 finding Amando Juaquico (petitioner) guilty for the crime of *Estafa* under Article 315 (2)(d) of the Revised Penal Code (RPC).

* On Leave.

** Designated Acting Chairperson, First Division per Special Order No. 2540 dated February 28, 2018.

¹ *Rollo*, pp. 13-29.

² Penned by Associate Justice Amy C. Lazaro-Javier, concurred in by Associate Justices Celia C. Librea-Leagogo and Melchor Q. C. Sadang; id. at 34-50.

³ Id. at 52.

⁴ Rendered by Presiding Judge Merianthe Pacita M. Zuraek; id. at 64-71.

Facts of the Case

In 1991, petitioner went to Robert Chan's (private complainant) store in Juan Luna, Tondo, Manila and asked to exchange for cash the following checks all issued by Home Bankers Trust, namely: (i) Check No. 128033 dated October 3, 1991, for ₱9,000; (ii) Check No. 128038 dated October 4, 1991, for ₱30,000; (iii) Check No. 128040 dated October 10, 1991, for ₱20,000; (iv) Check No. 128039 dated October 11, 1991, for ₱30,000; (v) Check No. 128043 dated October 12, 1991, for ₱10,000; (vi) Check No. 128044 dated October 26, 1991, for ₱60,000; (vii) Check No. 128045 dated November 7, 1991, for ₱30,000; (viii) Check No. 128046 dated November 9, 1991, for ₱40,000; (ix) Check No. 147505 dated November 20, 1991, for ₱50,000; and (x) Check No. 147504 dated November 24, 1991, for ₱50,000.⁵

Considering that private complainant knew petitioner, being both his customer and godson, he accommodated the latter's request. On their maturity dates, however, the checks were all returned due to insufficient funds.⁶

Immediately, private complainant sent a demand letter dated October 17, 1991 to petitioner. The same, however, was ignored by the petitioner. Consequently, private complainant was constrained to file the instant case.⁷

For his defense, petitioner averred that he is engaged in the embroidery business. Since 1977, he purchased the threads and other accessories for his business with private complainant. At first, he paid in cash, but starting 1980, he paid in the form of checks issued to him by his customers.⁸

According to him, he did not receive cash from petitioner in exchange of the checks indorsed to him. He explained that the subject checks were issued to him by his customer, Ho Myong Ham (Ham), a Korean lady,⁹ which he subsequently indorsed as payment to private complainant for the materials he purchased from him. Upon learning that the checks bounced, he tried to search for the Korean, but his efforts remained futile.¹⁰

Ruling of the RTC

On August 16, 2013, the RTC rendered its Judgment wherein it convicted the petitioner for the crime charged. The dispositive portion thereof reads:

⁵ Id. at 36-37.

⁶ Id. at 37.

⁷ Id.

⁸ Id. at 38.

⁹ Id. at 66.

¹⁰ Id. at 38-39.

WHEREFORE, having been found guilty beyond reasonable doubt of the crime of *Estafa* under Article 315 (2) (d) of the [RPC], and after applying the Indeterminate Sentence Law, [petitioner] is hereby sentenced to suffer the indeterminate penalty of imprisonment ranging from four (4) years and two (2) months of *prision correccional* as minimum to twenty (20) years of *reclusion temporal* as maximum and to pay [private complainant] the amount of three hundred twenty-nine thousand pesos (Php329,000.00) as actual damages, representing the amount of check that bounced.

SO ORDERED.¹¹

The RTC held that the evidence presented by the prosecution was sufficient to prove the guilt of petitioner beyond reasonable doubt. It held that the act of petitioner in endorsing the subject checks to private complainant, in exchange of cash, and with the knowledge that the drawer had no sufficient funds in the bank, made him liable for estafa.¹²

Aggrieved, petitioner appealed the decision of the RTC to the CA.

Ruling of the CA

On October 14, 2015, the CA issued its Decision¹³ wherein it denied the appeal of petitioner and accordingly affirmed the Judgment rendered by the RTC. The dispositive portion thereof reads:

ACCORDINGLY, the appeal is **DENIED** and the Decision dated August 16, 2013, **AFFIRMED**.

SO ORDERED.¹⁴

Hence, this Petition.

Issue

Essentially, the issue in the present case is whether or not petitioner is guilty of the crime charged.

Ruling of the Court

The petition is meritorious.

Paragraph 2(d), Article 315 of the RPC provides:

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

x x x x

¹¹ Id. at 70.

¹² Id.

¹³ Id. at 34-50.

¹⁴ Id. at 49.

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

x x x x

(d) By postdating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or the payee or holder that said check has been dishonored for lack or insufficiency of funds shall be *prima facie* evidence of deceit constituting false pretense or fraudulent act. (As amended by R.A. 4885, approved June 17, 1967)

The elements of the offense are: (i) postdating or issuance of a check in payment of an obligation contracted at the time the check was issued; (ii) lack of or insufficiency of funds to cover the check; and (iii) the payee was not informed by the offender and the payee did not know that the offender had no funds or insufficient funds.

As to the third element, the Court held in *Ilagan v. People*¹⁵ that the prosecution must prove that the accused had guilty knowledge of the fact that the drawer of the check had no funds in the bank at the time the accused indorsed the same.

In the present case, the prosecution failed to prove the same. There is no showing whatsoever that petitioner had knowledge of the insufficiency of funds of the check he endorsed to private complainant. Admittedly, the checks received by private complainant were checks issued and paid to petitioner by a certain Ham. Upon notice that the subject checks were dishonored, petitioner immediately searched for Ham but the same proved to be futile considering that the latter already left the country.

Moreover, in *Lim v. People*,¹⁶ the Court reiterated that in the crime of *estafa* by postdating or issuing a bad check, deceit and damage are essential elements of the offense and have to be established with satisfactory proof to warrant conviction.

Here, the 16-year business relationship and dealings between private complainant and petitioner coupled with the private complainant's practice of accepting checks of petitioner's clients, even if he did not personally know them, negates the petitioner's necessity of having to assure him that the subject checks would be sufficiently funded upon maturity before accepting the same. Clearly, private complainant was not deceived to accept

¹⁵ 550 Phil. 791 (2007).

¹⁶ 748 Phil. 649 (2014).

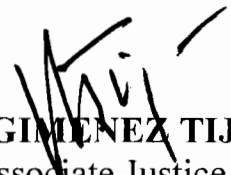


the subject checks but did so out of a standard procedure which he and the petitioner developed over the years.

The lack of criminal liability of petitioner, however, does not absolve him from his civil liabilities. Records show that the trial court, as affirmed by the CA, found that petitioner was able to obtain the amount of ₱329,000 from private complainant thru the checks which the former endorsed to the latter.¹⁷ Consequently, the Court finds petitioner civilly liable to private complainant in the amount of ₱329,000 plus legal interest at the rate of twelve percent (12%) *per annum* from October 17, 1991, and interest of six percent (6%) *per annum* from July 1, 2013 until its full satisfaction pursuant to *Nacar v. Gallery Frames, et al.*,¹⁸ applying the Resolution No. 796 of the Bangko Sentral ng Pilipinas Monetary Board.¹⁹

WHEREFORE, the challenged decision of the Court of Appeals convicting petitioner Amando Juaquico is **REVERSED and SET ASIDE**. Petitioner is thus **ACQUITTED** of the crime charged on the ground of reasonable doubt, but **ORDERS** him to pay private complainant Robert Chan the amount of ₱329,000 as actual damages, plus legal interest at the rate of twelve percent (12%) *per annum* from October 17, 1991, and interest of six percent (6%) *per annum* from July 1, 2013 until its full satisfaction.

SO ORDERED.


NOEL GIMENEZ TIJAM
Associate Justice

WE CONCUR:

(On leave)
MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

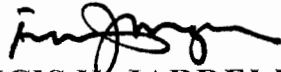

TERESITA J. LEONARDO-DE CASTRO
Acting Chairperson, First Division


MARIANO C. DEL CASTILLO
Associate Justice

¹⁷ *Rollo*, p. 70.

¹⁸ 716 Phil. 267 (2013).

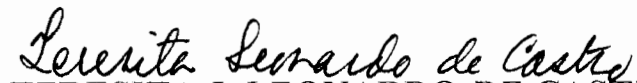
¹⁹ *People v. Villanueva*, 755 Phil. 28, 40 (2015).



FRANCIS H. JARDELEZA
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



TERESITA J. LEONARDO-DE CASTRO
Associate Justice
Acting Chairperson, First Division

C E R T I F I C A T I O N

Pursuant to Section 13, Article VIII of the Constitution and the Acting Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Acting Chief Justice