

710



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

RECEIVED
AUG 19 2020

BY: LCH
TIME: 3:30

FIRST DIVISION

MARIA LOURDES ARTATES y G.R. No. 235724
GALLARDO,

Petitioner,

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J., JR.,
LOPEZ, and
DELOS SANTOS,* JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent.

MAR 11 2020

X-----X

DECISION

PERALTA, C.J.:

Before this Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court, assailing the Amended Decision¹ and Resolution,² dated April 10, 2017 and September 4, 2017, respectively, of the Court of Appeals (CA) in CA-G.R. CR No. 37551, which affirmed with modification the Decision³ dated January 13, 2015 of the Regional Trial Court (RTC), Branch 20, Vigan City, Ilocos Sur, in Criminal Case No. 5559-V, finding petitioner Maria Lourdes Artates y Gallardo guilty beyond reasonable doubt of the crime of Estafa, defined and penalized under Article 315 paragraph 2(a) of the Revised Penal Code (RPC).

The factual antecedents, as culled from the CA Decision, are as follows:

* Designated Additional Member, in lieu of Associate Justice Amy C. Lazaro-Javier, per Raffle dated February 19, 2020.

¹ Penned by Associate Justice Pedro B. Corales, with Associate Justices Celia C. Librea-Leagogo and Amy C. Lazaro-Javier (now a Member of this Court), concurring; *rollo*, pp. 41-56.

² *Id.* at 75-76.

³ Penned by Judge Marita Bernales Balloguing; *id.* at 104-113.

It was established by the prosecution that on November 16, 2003, private complainant Patrocinia Pablico and her son, Jun Pablico, were in Filart Shoe Store located at Quezon Avenue, Vigan City, when Maria recruited Jun, a criminology graduate, to enter the Philippine National Police (PNP). Maria told Patrocinia that her husband, PO3 Edmundo Artates, was detailed as security of then Governor Luis "Chavit" Singson and could facilitate Jun's entry into the PNP. In return, Maria asked for money for uniform, medical examination, neuro-examination, and "blow-out." She also told Patrocinia that it was no longer necessary for her son to undergo the medical examination because her husband was influential at the PNP. Thus, from November 16, 2003 to February 20, 2004, Maria asked and received from Patrocinia and Jun the total amount of ₱50,000.00 or more. Despite this, Maria's promise did not happen; Jun was informed that the recruitment at the PNP had already ended. Feeling fooled by Maria, Patrocinia and Jun went to the house of Maria to inquire about Jun's application. There, they discovered that Maria was no longer living with Edmundo, who told them that he had no knowledge of Jun's application and that, in fact, he and Maria were already separated. Consequently, Patrocinia and Jun immediately reported the matter to the Vigan Police Station on February 20, 2004.⁴

At the station, Patrocinia, Jun, and Police Senior Inspector (PSI) Nestor Caballes agreed on an entrapment operation where Patrocinia and Jun were to meet Maria to give her the money that the latter previously asked for as payment for Jun's firearm. PSI Caballes photocopied the bills that Patrocinia had in her pocket amounting to ₱400.00 which she would hand to Maria. Thereafter, Patrocinia and Jun, together with PSI Caballes, SPO4 Alexander Tapaya, and PO3 Peter Arca, proceeded to meet Maria. Upon meeting her, the police officers positioned themselves near a Jollibee branch which was about 20 to 30 meters away from where Patrocinia and Maria were talking. After Patrocinia handed the money, the police officers immediately went to Maria and informed her that they were arresting her for estafa, informed her of her rights, and brought her to the police station. There, the arresting officers frisked Maria and recovered from her the money handed to her by Patrocinia earlier. They marked said money and proceeded to interview and detain Maria.⁵ Subsequently, an Information for estafa was filed against her, to wit:

That during the period starting November 16, 2003 up to February 20, 2004, in the [C]ity of Vigan, [P]rovince of Ilocos Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously defraud one PATROCINIA PABLICO, as follows, to wit: That said accused by means of false pretenses and fraudulent misrepresentations which she made to said PATROCINIA PABLICO to the effect that she possesses power,

⁴ *Id.* at 43.

⁵ *Id.* at 44.

influence, and connections to have (sic) employ JUN P. PABLICO, son of said PATROCINIA PABLICO, as Police Officer, provided the amount of P50,000.00, Philippine Currency, be delivered to her for securing such employment, as in fact said PATROCINIA PABLICO was induced and delivered to said accused the total amount of P50,000.00, more or less, that after having received the same, the said accused instead of complying with her assurances, representations, and obligation of securing employment as Police Officer for said JUN PABLICO, did then and there willfully, unlawfully, and feloniously convert and misappropriate the said amount of P50,000.00, more or less, to her own personal use and benefit, to the damage and prejudice of said PATROCINIA PABLICO in the said amount of P50,000.00, more or less.

Contrary to law.⁶

Maria posted bail to secure her provisional liberty. She also pleaded not guilty at her arraignment. Then, in the ensuing trial, the prosecution presented as witnesses, Patrocinia, Jun, and PSI Nestor. For the defense, the accused, Maria, solely testified on her behalf.

At the stand, Maria denied the allegations against her. She narrated that Patrocinia was her friend and co-worker at the Filart Shoe Shop. In the afternoon of February 20, 2004, Patrocinia met her at Plaza Maestro and told her that the former had given "lots of money" to Edmundo who reneged on his promise to help Jun enter the PNP. As such, Patrocinia asked her to testify in a case that the former was going to file against Edmundo, but she declined due to the absence of any knowledge on what really transpired between Patrocinia and Edmundo. After 30 minutes, the policemen suddenly arrived and invited her to the police station. There, she was again told about the proposal to testify against her husband, but she still refused. Maria further recalled that Patrocinia also attempted to give her some money which she refused to accept. In the end, she maintained that Patrocinia and Jun filed the case of estafa against her instead of her husband, because they were afraid to file a complaint against him being an influential police officer detailed as security of former Governor Chavit Singson.⁷

On January 13, 2015, the RTC rendered its Decision finding Maria guilty beyond reasonable doubt of the crime charged and disposed as follows:

WHEREFORE, the Court finds accused MARIA LOURDES ARTATES GUILTY beyond reasonable doubt of the crime of Estafa defined and penalized under Art. 315 par. 2(a) of the Revised Penal Code, hereby sentencing her to suffer the indeterminate penalty of FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) day of *prision correccional*, as minimum, to TWELVE (12) years and ONE (1) day of *reclusion temporal*,

⁶ Records, pp. 1-2.
⁷ *Id.*



as maximum. The accused is hereby ordered to return to Patrocinia Publico the amount of FIFTY THOUSAND (P50,000.00) PESOS.

COSTS DE [OFICIO].

SO ORDERED.⁸

The RTC found that the prosecution duly established all the elements of estafa by means of deceit, giving more credence to the positive testimonies of the prosecution over Maria's bare denial. It also held that the validity of Maria's arrest could no longer be assailed because the defense neither moved for the quashal of the Information nor made any reservation to question the same.⁹

In its Decision dated March 28, 2017, the CA affirmed the RTC ruling with the modification as to the penalty, to wit:

WHEREFORE, the instant appeal is hereby DENIED. The January 13, 2015 Decision of the Regional Trial Court, Branch 20, Vigan City, Ilocos Sur in Criminal Case No. 5559-V is AFFIRMED with the following MODIFICATIONS: 1) accused-appellant Maria Lourdes Artates y Gallardo is sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years, eight (8) months, and twenty (21) days of *prision mayor*, as maximum; and 2) the P50,000.00 actual damages awarded to Patrocinia Publico shall earn 6% interest *per annum* from the day the Information was filed on February 23, 2004 until full payment.

SO ORDERED.¹⁰

In its subsequent Resolution and Amended Decision, both dated April 10, 2017, the CA rectified the typographical error in its March 28, 2017 Decision where the maximum penalty was written as "eight (8) years, eight (8) months, and **twenty** (21) days of *prision mayor*." Thus, it was corrected to read as follows:

WHEREFORE, the instant appeal is hereby DENIED. The January 13, 2015 Decision of the Regional Trial Court, Branch 20, Vigan City, Ilocos Sur in Criminal Case No. 5559-V is AFFIRMED with the following MODIFICATIONS: 1) accused-appellant Maria Lourdes Artates y Gallardo is sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years, eight (8) months, and **twenty-one** (21) days of *prision mayor*, as maximum; and 2) the P50,000.00 actual damages awarded to Patrocinia Publico shall earn 6% interest *per annum* from the day the Information was filed on February 23, 2004 until full payment.

⁸ *Id.* at 113.

⁹ *Id.* at 111.

¹⁰ *Id.* at 72-73.

SO ORDERED.¹¹

In said Amended Decision, the CA accorded great respect to the findings of the trial court, considering that it is in a better position to decide the issue of Maria's guilt having heard the witnesses themselves and observed their deportment and manner of testifying during trial. It held that Maria's defense of denial cannot prevail over the categorical declarations of the prosecution's witnesses that it was Maria, not PO3 Edmundo, who defrauded Patrocinia and Jun.¹²

Aggrieved, petitioner filed the instant petition before the Court raising the following errors:

I.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S CONVICTION OF THE PETITIONER FOR ESTAFA, DESPITE THE PROSECUTION'S FAILURE TO PROVE ALL ITS ELEMENTS.

II.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S CONVICTION OF THE PETITIONER, DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

III.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S CONVICTION OF THE PETITIONER, DESPITE THE ILLEGALITY OF HER ARREST, AND THE CONSEQUENT INADMISSIBILITY OF THE MARKED MONEY USED IN EVIDENCE AGAINST HER.

III.

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING THE TRIAL COURT'S DECISION OF IMPOSING THE PENALTY OF IMPRISONMENT ON THE PETITIONER, AND THE AWARDED OF DAMAGES TO PRIVATE COMPLAINANT PATROCINIA PABLICO, DESPITE THE LACK OF ANY CREDIBLE EVIDENCE TO SHOW ACTUAL DAMAGE SUFFERED BY THE LATTER.¹³

Maria seeks her acquittal raising several errors committed by the courts below. *First*, Maria insists that the prosecution failed to prove all the elements of the crime charged against her, specifically, the first and third elements. According to Maria, there is no proof, other than the testimonies of Patrocinia and Jun, that her representation that she had the influence to facilitate Jun's application was untrue. Neither is there proof that said

¹¹ *Id.* at 55.

¹² *Id.* at 52.

¹³ *Id.* at 18-19.

misrepresentation was the very cause which induced Patrocinia to part with her money. Further, there is also an absence of any evidence to show that Patrocinia, indeed, suffered a loss of ₱50,000.00. *Second*, Maria maintained that there are glaring inconsistencies in the testimonies of the prosecution witnesses which render their narration dubious. *Third*, she argued that the marked money obtained from her during the alleged entrapment operation is inadmissible in evidence for being a product of an unlawful arrest. *Finally*, Maria posited that while maintaining her innocence, the recent passage of Republic Act (R.A.) No. 10951¹⁴ effectively lowered the imposable penalty of the crime charged against her.

The petition lacks merit.

Estafa, under paragraph 2 (a), Article 315 of the RPC, is committed in the following manner:

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

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

Thus, it requires the concurrence of the following elements: (1) there must be a false pretense, fraudulent acts or fraudulent means; (2) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (3) the offended party must have relied on the false pretense, fraudulent act or fraudulent means and was thus induced to part with his money or property; and (4) as a result thereof, the offended party suffered damage.¹⁵

In the present case, the Court affirms the findings of the courts below as to the presence of all the elements of the crime charged herein. As the appellate court ruled, the acts of Maria of deliberately misrepresenting herself to the Pablicos as having the capacity to facilitate Jun's entry into the police force through her husband so that she could, as she did, collect money from them allegedly for medical examination, service firearm, and other so-called requirements and her failure to return the same clearly amount to

¹⁴ *An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, and the Fines Imposed under the Revised Penal Code, August 29, 2017.*

¹⁵ *Gamaro, et al. v. People*, 806 Phil. 483, 496 (2017).

estafa by means of deceit.¹⁶ Contrary to the claims of Maria, the prosecution sufficiently established, through the following pertinent testimony of Patrocinia, the elements that Patrocinia was specifically induced by Maria's false pretense to part with her money, thereby suffering damage as a result thereof:

Q: On November 16, 2003, do you know where were you?

A: I was in our Filart Store, sir.

Q: And while in your store, do you remember having seen Maria Lourdes Artates?

A: Yes, sir.

Q: And when you saw Maria Lourdes Artates, what happened?

A: She recruited my son to become a member of the police, but it was (sic) not materialized, sir.

Q: And what is the name of your son whom (sic) recruited by the accused?

A: June (sic) Pablico, sir.

Q: And how did she recruit your son?

A: She told me that her husband is a policeman and my son was a graduate of criminology so she told me that her husband is able to assist him in entering the police service, sir.

Q: And did you believe her when she told you that?

A: Yes, I was convinced because my son also wanted to enter into the police service, sir.

Q: And when you believed her, what did you do?

A: So I told her, "Alright, if your husband can help him," sir.

Q: And after that what happened?

A: Then she demanded money for medical, sir.

Q: And how much did she demand from you?

A: She demanded money by installment, sir.

Q: And did you give her those amounts?

A: Yes, sir.

Q: And did she tell you for what purpose those money she received from you?

A: For medical for the police, sir.

Q: And do you know if medical of whom?

A: June (sic) Pablico, sir.

Q: And do you know if your son had undergone the medical examination?

A: She told me that it is not necessary that he will (sic) come, sir.

Q: And what did you do when she told you that it is not necessary for your son to go for a medical examination?

A: I trusted her because she told me that her husband has influence, sir.

Q: Aside from those amount[s] she demanded from you[,] what else[,] if any?

A: None, only the money sir.

Q: And how much all in all did you give Maria Lourdes Artates?

A: P50,000.00 or more, sir.

Q: And was she able to have your son entered (sic) the police service?

A: No. sir.

Q: Do you know the reason why she was not able to enter your son into the police service?

A: No, because she only fooled us, sir.

Q: She fooled you on what?

A: That her husband could enter my son into the police service, sir.

Q: And what happened when you discovered that Maria Lourdes Artates was just fooling you?

A: I got mad together with my son, sir.

Q: And when you got mad, what did you do[,] if any?

A: We went to their house and we came to know that they were not living together, sir.

Q: Whom (sic) are you referring to?

A: Maria Lourdes Artates and the husband, sir.¹⁷

Despite the foregoing, Maria further assails her conviction due to the prosecution's failure to present any documentary proof, such as receipts, to prove that she actually received the amount of ₱50,000.00 from Patrocinia. According to her, the failure of the Publicos to keep a record of every transaction they had with her renders their claims speculative at best. The argument, however, fails to convince. In *Sy v. People*,¹⁸ the Court ruled that the failure of the prosecution to produce receipts of the amount allegedly suffered is not fatal to the case. As in this case, We found that the prosecution was able to prove, by the positive testimony of the private complainant, that the accused was the one who received the money in consideration of a fraudulent representation. Besides, as duly pointed out by the CA, the fact that Patrocinia did not ask for receipts only bolsters her claim that she completely trusted Maria.

Ultimately, the Court has consistently conformed to the rule that findings of the trial court on the credibility of witnesses deserve great

¹⁷ *Rollo*, pp. 49-51.

¹⁸ 632 Phil. 276, 287 (2010).

weight. Factual findings of the trial court and its observation as to the testimonies of the witnesses are accorded great respect, if not conclusive effect, most especially when affirmed by the Court of Appeals, as in this case. The reason for this is that trial courts are in a better position to decide the question of credibility, having heard the witnesses themselves and having observed first-hand their demeanor and manner of testifying under grueling examination. In the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.¹⁹

This notwithstanding, Maria further berates the testimonies of the prosecution witnesses maintaining the same to have glaring inconsistencies. Specifically, she pointed out that while Patrocinia testified that she was with her son Jun during the entrapment, PSI Caballes stated that it was only Patrocinia who talked to Maria. She also faulted Patrocinia when at first, she said that she could not recall the exact amount of the marked money, but when asked again, she suddenly remembered. The contention, however, cannot be used to free her from liability. Time and again, the Court has held that “minor inconsistencies in the narration of the witness do not detract from its essential credibility as long as it is, on the whole, coherent and intrinsically believable.”²⁰ It is in this light that We find any inconsistencies that Maria harps on in the testimonies of the complainants to be inconsequential. What is important is that Patrocinia has positively identified Maria as the one who enticed her to part with her money in exchange for the promised job for Jun.²¹ Be that as it may, We nonetheless affirm the CA in finding that the issue of the legality of the entrapment operation and admissibility of the marked money is inconsequential, considering that the crime of estafa was proved by evidence independent of the money seized from Maria during the same.²²

In the end, the Court remains unconvinced by Maria's bare denial and alibi in passing on the liability to her estranged husband PO3 Edmundo as the real perpetrator of the crime, claiming that the only reason why she was being charged of the same is because Patrocinia was afraid to file a complaint against Edmundo who was an influential security officer of former Governor Chavit Singson. Between the categorical statements of the private complainants and the bare denial of Maria, the former must perforce prevail. An affirmative testimony is far stronger than a negative testimony, especially when the former comes from the mouth of a credible witness. Denial, same as an alibi, if not substantiated by clear and convincing evidence, is negative and self-serving evidence undeserving of weight in law. It is considered with suspicion and always received with caution, not

¹⁹ *People v. Dela Cruz*, 811 Phil. 745, 764 (2017).

²⁰ *People v. Paz*, G.R. No. 233466, August 7, 2019.

²¹ *People v. Daud, et al.*, 734 Phil. 698, 716 (2014).

²² *Rollo*, p. 53.

only because it is inherently weak and unreliable, but also because it is easily fabricated and concocted.²³

Nevertheless, We resolve to sustain Maria's allegation that in light of the recent enactment of R.A. No. 10951, a modification of the penalty imposed by the appellate court of four (4) years and two (2) months of *prision correccional*, as minimum, to eight (8) years, eight (8) months, and twenty-one (21) days of *prision mayor*, as maximum, is in order. As amended by R.A. 10951, Article 315 of the RPC now reads:

SEC. 85. Article 315 of the same Act, as amended by Republic Act No. 4885, Presidential Decree No. 1689, and Presidential Decree No. 818, is hereby further amended to read as follows:

ART. 315. *Swindling (estafa)*. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

x x x x

"3rd. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if such amount is over Forty thousand pesos (P40,000) but does not exceed One million two hundred thousand pesos (P1,200,000).

Applying the provision cited above, and considering that the amount defrauded by Maria amounted to ₱50,000.00, which is over ₱40,000.00 but does not exceed ₱1,200,000.00, the imposable penalty shall now be *arresto mayor* in its maximum period to *prision correccional* in its minimum period. There being no mitigating and aggravating circumstance, the maximum penalty should be one (1) year and one (1) day of *prision correccional*. Applying the Indeterminate Sentence Law, the minimum term of the indeterminate sentence is *arresto mayor* in its minimum and medium periods, the range of which is one (1) month and one (1) day to four (4) months. Thus, the indeterminate penalty for the crime charged herein should be modified to a prison term of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum.²⁴

WHEREFORE, premises considered, the Petition is **DENIED**. The Amended Decision and Resolution, dated April 10, 2017 and September 4, 2017, respectively, of the Court of Appeals in CA-G.R. CR No. 37551, affirming with modification the Decision dated January 13, 2015 of the RTC, Branch 20, Vigan City, Ilocos Sur, in Criminal Case No. 5559-V, are **AFFIRMED** with **MODIFICATION**. Petitioner Maria Lourdes Artates y

²³ *People v. Dela Cruz*, *supra* note 19.

²⁴ *Seguritan v. People*, G.R. No. 236499 (Notice), April 10, 2019.

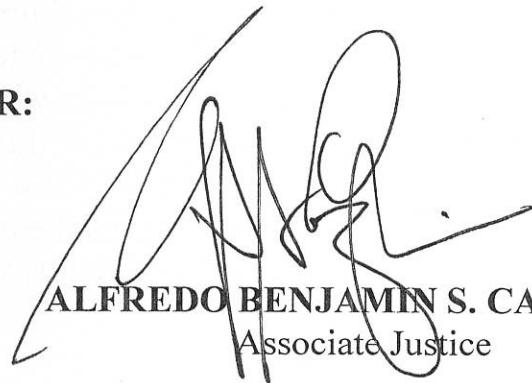
Gallardo is hereby meted the indeterminate penalty of imprisonment of two (2) months and one (1) day of *arresto mayor*, as minimum, to one (1) year and one (1) day of *prision correccional*, as maximum. In addition, an interest at the rate of twelve percent (12%) *per annum* from the filing of the Information until June 30, 2013 and six percent (6%) *per annum* from July 1, 2013 until finality of this Decision is imposed on the amount of ₱50,000.00. The total amount of the foregoing shall earn interest at the rate of six percent (6%) *per annum* from the date of finality of this Decision until full payment.

SO ORDERED.

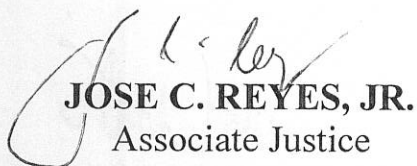


DIOSDADO M. PERALTA
Chief Justice

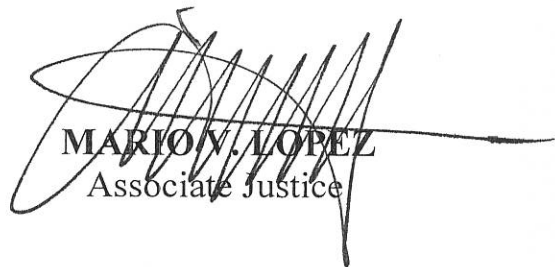
WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



MARIO N. LOPEZ
Associate Justice



EDGARDO B. DELOS SANTOS
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



DIOSDADO M. PERALTA
Chief Justice