



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

G.R. No. 163662

Present:

- versus -

SERENO, C.J.,
LEONARDO-DE CASTRO,
BERSAMIN,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

JULIE GRACE K. VILLANUEVA,
Accused-Appellant.

FEB 25 2015.

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DECISION

BERSAMIN, J.:

Under review is the decision promulgated on May 25, 2004,¹ whereby the Court of Appeals (CA) affirmed with modification the judgment rendered on January 24, 2002 by the Regional Trial Court (RTC), Branch 60, in Makati City convicting Julie Grace K. Villanueva of *estafa* as defined and penalized under Article 315, paragraph 2 (d) of the *Revised Penal Code*.² The decretal portion of the assailed decision reads:

WHEREFORE, the decision appealed from convicting accused-appellant **Julie Grace K. Villanueva** of *estafa* under Article 315, paragraph 2(d) of the Revised Penal Code is **AFFIRMED**, with **MODIFICATION** as to the penalty imposed as hereinabove indicated. The Resolution of January 15, 2004 granting her bail pending appeal is **REVOKED** and her proffered bail bond is **REJECTED**. Pursuant to Section 13, second paragraph, Rule 124 of the 2000 Revised Rules of Criminal Procedure, the case, inclusive of the entire record thereof, is

¹ *Rollo*, pp. 29-46; penned by Court of Appeals Associate Justice Salvador J. Valdez, Jr. (retired/deceased), with Associate Justice Rebecca De Guia-Salvador (retired) and Associate Justice Fernanda Lampas Peralta concurring.

² RTC records, pp. 300-307.

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CERTIFIED and **ELEVATED** to the Supreme Court for review. Costs against the accused-appellant.

SO ORDERED.³

Antecedents

Villanueva stands charged with *estafa* as defined and penalized under Article 315, paragraph 2 (d), of the *Revised Penal Code* under the information that reads:

That on or about the 16th day of August 1994, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously by means of deceit, false pretenses and fraudulent acts executed prior to or simultaneously with the commission of the fraud, following PNB checks, [to] wit:

Check No.	Date	Amount
031526	9-02-94	₱185,000.00
031527	9-17-94	185,000.00
031528	10-02-94	185,000.00
031529	10-17-94	185,000.00
031532	9-16-94	85,000.00
031533	10-16-94	85,000.00
031534	11-16-94	85,000.00

as payment for various jewelries (*sic*) purchased to (*sic*) the said complainant, the accused well knowing that at the time of issue thereof, the said checks have no sufficient funds in or credit with the drawee bank to cover the amount of the said checks, neither will said checks be honored or paid upon presentment, the bank dishonored and returned the said checks for the reason "account closed" or "stopped payment" or should have been dishonored for insufficiency of funds had not the said accused, without any valid reason, ordered her drawee bank to stop payment and despite repeated demands accused failed and refused to deposit the amount necessary to cover the aforesaid check or to pay the value thereof, to the damage and prejudice of the said complainant in the aforesaid amounts.

CONTRARY TO LAW.⁴

Version of the Prosecution

In August 1994, Loreto Madarang met Villanueva through a townmate. The latter was interested in buying jewelry. Being then engaged in the business of selling jewelry, Madarang went to Villanueva's residence at the Galeria de Magallanes, and was able to sell to Villanueva five sets of

³ CA rollo, p. 169.

⁴ RTC records, p. 1.

jewelry worth ₱1,010,000.00.⁵ Villanueva made out nine checks drawn against Philippine National Bank (PNB), eight of which were postdated. Villanueva signed a receipt reading as follows:⁶

August 16, 1994

Received from MRS. LORETO A. MADARANG the following jewelries (*sic*) with the corresponding amount

1 set diamond	-	₱ 70,000
1 set South Sea Black		
w/ necklace & bracelet	-	220,000
1 set heart shape diamond		
w/ pendant (4.56 cts)	-	450,000
1 set marquee xxx dia. 2 cts.	-	220,000
1 bracelet diamond	-	50,000
		<u>₱1,010,000</u>

paid by the following checks issued by me

PNB #031501	-	August 6, 1994	₱ 5,000
PNB #031531	-	August 19, 1994	10,000
PNB #031526	-	Sept. 2, 1994	185,000
PNB #031527	-	Sept. 17, 1994	185,000
PNB #031528	-	Oct. 2, 1994	185,000
PNB #031529	-	Oct. 17, 1994	185,000
PNB #031532	-	Sept. 16, 1994	85,000
PNB #031533	-	Oct. 16, 1994	85,000
PNB #031534	-	Nov. 16, 1994	85,000
			<u>₱1,010,000</u>

with a total of One Million Ten Thousand pesos.

(sgd)

JULIE GRACE K. VILLANUEVA

Madarang received the checks because of Villanueva's assurance that they would all be honored upon presentment.⁷ However, the drawee bank paid only PNB Check No. 031501 and PNB Check No. 131531, the remaining seven checks being dishonored either by reason of *Account Closed* or *Drawn Against Insufficient Funds*.⁸ Madarang tried to call and see Villanueva at her residence to inform her of the dishonored checks, but Madarang was barred by security guards from reaching Villanueva.⁹ Madarang resorted to sending demand letters, but her effort to contact Villanueva proved futile.¹⁰ After Villanueva did not settle her obligations,

⁵ TSN dated March 21, 2001, pp. 4-8.

⁶ RTC records, p. 271.

⁷ TSN dated March 21, 2001, pp. 8-9.

⁸ Exhibits B to H, inclusive; RTC records, pp. 272-274.

⁹ TSN dated March 21, 2001, pp. 9-10.

¹⁰ Exhibits I and J; RTC records, pp. 275-277.

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Madarang brought the criminal complaint for *estafa*,¹¹ and the corresponding information for *estafa* was ultimately filed in court on September 4, 1995. On arraignment, Villanueva pleaded *not guilty*.¹²

Version of the Defense

Villanueva denied the accusation. She claimed that she met Madarang three times. The first was at the residence of Cheng Diaz Davis, where Madarang was then selling jewelry. The second time was at her residence in the Galeria de Magallanes where Madarang arrived without prior notice at around 7:00 or 7:30 in the evening. Madarang was persistent that Villanueva buy jewelry on credit, and even assured Villanueva that she could replace the same if she was dissatisfied with her purchase. Madarang prevailed on Villanueva to buy six pieces of jewelry, for which she issued six checks as payment, five of which were postdated. On August 16, 1994, Villanueva saw Madarang for the last time to have the jewelry replaced. Villanueva retrieved the checks she had previously issued and replaced them with another set of postdated checks that were the subject of the criminal case against her. Villanueva maintained that the second set of checks were issued as guarantee under the agreement that they were not to be deposited until Villanueva advised Madarang of the sufficiency of funds in her account. Villanueva insisted that she did not receive any notice from Madarang regarding the dishonor of the checks.¹³

Ruling of the RTC

On January 24, 2002, the RTC rendered its judgment finding Villanueva guilty as charged,¹⁴ viz:

WHEREFORE, in view of the foregoing this Court finds accused Julie Grace K. Villanueva GUILTY of the crime of *estafa* as punished under Art. 315 par. 2(d) of the Revised Penal Code in relation to Presidential Decree No. 818, said crime having been committed in the manner described in the information filed on September 4, 1995.

As a consequence of this judgment, accused shall suffer the penalty of punishment for a period of Fourteen Years Eight Months and One Day to Twenty Years which is within the range of Reclusion Temporal in its medium and maximum periods.

She is also ordered to pay the private complainant Mrs. Loreto Madarang the sum of Nine Hundred Ninety Five Thousand Pesos (P995,000.00) plus interest at the legal rate of 12% per annum until the

¹¹ RTC records, pp. 5-7.

¹² RTC records, p. 41.

¹³ TSN dated July 25, 2001, pp. 3-15.

¹⁴ RTC records, pp. 300-307.

amount is fully paid with said interest accruing at the time the information was filed on or October 25, 1995.

The period of accused's detention shall be credited in her favor conformably with Art. 29 of the Revised Penal Code.

She shall serve her entire sentence at the Correccional Institute for Women at Mandaluyong City.

SO ORDERED.¹⁵

Decision of the CA

On appeal, the CA affirmed the conviction but differed on the application of the *Indeterminate Sentence Law*, to wit:

Nonetheless, the indeterminate penalty imposed by the trial court, which is 14 years, eight (8) months and one (1) day to twenty (20) years, both of *reclusion temporal*, is erroneous. Said court did not pay obeisance to the teaching of *People v. Hernando*, viz:

Presidential Decree No. 818 provides:

“SECTION 1. Any person who shall defraud another by means of false pretenses or fraudulent acts as defined in paragraph 2(d) of Article 315 of the Revised Penal Code, as amended by Republic Act No. 4885, shall be punished by:

1st. The penalty of *reclusion temporal* of the amount of 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 x x

Hence, if the amount of the fraud exceeds twenty two thousand pesos, the penalty of *reclusion temporal* is imposed in its maximum period, adding one year for each additional ten thousand (₱10,000.00) pesos but the total penalty shall not exceed thirty (30) years, which shall be termed *reclusion perpetua*. As used herein, *reclusion perpetua* is not the prescribed penalty for the offense. It merely describes the penalty actually imposed on account of the amount of the fraud involved, which exceeds twenty two thousand (₱22,000.00) pesos.

¹⁵ RTC records, pp. 306-307.

“Under the Indeterminate Sentence Law, if the offense is punished by the Revised Penal Code, such as estafa, the court shall sentence the accused to an indeterminate penalty, the maximum term of which shall be that which, in view of the attending circumstances, could be properly imposed under the rules of the Revised Penal Code, and the minimum term of which shall be within the range of the penalty next lower to that prescribed by the Code for the offense.” “The penalty next lower should be based on the penalty prescribed by the Code for the offense, without first considering any modifying circumstance attendant to the commission of the crime. The determination of the minimum penalty is left by law to the sound discretion of the court and it can be anywhere within the range of the penalty next lower without any reference to the periods into which it might be subdivided. The modifying circumstances are considered only in the imposition of the maximum term of the indeterminate sentence.”

Here, complainant was defrauded in the amount of seven hundred [thousand] (₱700,000.00) pesos. The fact that the amount involved in the instant case exceeds ₱22,000.00 should not be considered in the initial determination of the indeterminate penalty; instead the matter would be so taken as analogous to modifying circumstances in the imposition of the maximum term of the full indeterminate sentence. This accords with the rule that penal laws are construed in favor of the accused.

Applying the above-cited provision, accused shall be meted an indeterminate sentence, the maximum of which shall be taken from the maximum period of the basic penalty, that is, *reclusion temporal*, to be imposed in its maximum period, plus one (1) year for each additional ₱10,000.00 of the amount of the fraud, but the total penalty shall not exceed thirty (30) years.

On the other hand, the minimum of the indeterminate sentence shall be within the range of the penalty next lower in degree to that prescribed by the Code for the offense, without first considering any modifying circumstance nor the incremental penalty for the amount of the fraud in excess of twenty two thousand (₱22,000.00) pesos. Such penalty is *prision mayor*, with a duration of six (6) years and one (1) day to twelve (12) years.”

Accordingly, the accused-appellant in the case at bar should be, as she is hereby, sentenced to suffer the penalty of EIGHT (8) YEARS and ONE (1) DAY of *prision mayor*, as minimum, to THIRTY (30) YEARS of *reclusion perpetua* as maximum.

x x x x.¹⁶

The CA then certified the case to the Court pursuant to Section 13 of Rule 124, *Rules of Court*.

¹⁶ CA rollo, pp. 40-42.

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Issues

Villanueva submits the following errors for our consideration:

I

THE LOWER COURT GRAVELY ERRED IN FINDING ACCUSED-APPELLANT GUILTY BEYOND REASONABLE DOUBT OF THE CRIME CHARGED.

II

THE LOWER COURT GRAVELY ERRED IN NOT GIVING FULL CREDENCE TO THE DEFENSE OF ACCUSED-APPELLANT.

III

WHETHER THERE WAS FRAUD PRIOR TO OR SIMULTANEOUS WITH THE ISSUANCE OF THE SUBJECT POST-DATED CHECKS.

IV

WHETHER THE ACCUSED APPELLANT IS GUILTY, BEYOND REASONABLE DOUBT, OF ESTAFA.¹⁷

Villanueva insists on the absence of fraud when she drew the postdated checks, averring that: (a) the checks were issued as replacement; (b) the checks could only be deposited or encashed after Madarang was notified of the sufficiency of funds; and (c) the receipt presented by the Prosecution failed to embody the real intention of the parties.¹⁸ She argues that *estafa* under paragraph 2(d), Article 315 of the *Revised Penal Code* was not committed because the checks were not executed prior to or simultaneous with the alleged fraud; and because Madarang had instigated her to issue the checks.¹⁹

Did Villanueva commit *estafa* punishable under Article 315, paragraph 2(d), of the *Revised Penal Code* in issuing the seven postdated checks?

Ruling of the Court

We affirm the conviction.

Article 315, paragraph 2(d), of the *Revised Penal Code* provides:

¹⁷ *Rollo*, pp. 23-24.

¹⁸ *CA rollo*, pp. 48-49.

¹⁹ *Rollo*, pp. 24-26.

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

(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.

The *estafa* charged in the information may be committed, therefore, when: (1) the offender has postdated or issued a check in payment of an obligation contracted at the time of the postdating or issuance; (2) at the time of postdating or issuance of said check, the offender has no funds in the bank, or the funds deposited are not sufficient to cover the amount of the check; and (3) the payee has been defrauded.²⁰ The deceit should be the efficient cause of the defraudation, and should either be prior to, or simultaneous with, the act of the fraud.²¹

All the elements of *estafa* were present. The first element was admitted by Villanueva, who confirmed that she had issued the checks to Madarang in exchange for the jewelry she had purchased. There is no question that Madarang accepted the checks upon the assurance of Villanueva that they would be funded upon presentment. It is clear that Madarang would not have parted with and entrusted the pieces of valuable jewelry to Villanueva whom she barely knew unless Villanueva gave such assurance to her. The second element was likewise established because the checks were dishonored upon presentment due to insufficiency of funds or because the account was already closed. The third element was also proved by the showing that Madarang suffered prejudice by her failure to collect from Villanueva the balance of ₱995,000.00.

In her defense, Villanueva adverts to an agreement with Madarang whereby the latter would deposit or encash the checks only after being informed of the sufficiency of funds in Villanueva's account. Villanueva posits that the receipt the Prosecution presented in evidence did not embody such agreement.

²⁰ *People v. Juliano*, G.R. No. 134120, January 17, 2005, 448 SCRA 370, 379.

²¹ *Reyes, Revised Penal Code*, Book II (2006), p. 784.

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This defense of Villanueva is actually anchored on the rule that *estafa* will not lie when the parties waive the negotiable character of the check, and instead treat the same as proof of an obligation. For instance, when there is an agreement between the parties at the time of the issuance and postdating of the checks that the obligee shall not encash or present the same to the bank, the obligor cannot be prosecuted for *estafa* because the element of deceit is lacking. When the payee was informed that the checks are not covered by adequate funds, bad faith or *estafa* shall not arise.²²

Villanueva does not impress. Her defense crumbles because she did not present proof of the supposed agreement. The receipt signed by her proved the transaction and her issuance of the postdated checks by listing the items bought and the postdated checks issued as payment. If the parties really agreed for Madarang to deposit the checks only after notice of the sufficiency of funds, then such agreement should have been incorporated in the receipt as an integral part of the transaction, or simply written in another document with Madarang's express conformity for Villanueva's protection. We simply cannot accept that Villanueva signed the receipt despite not including the supposed agreement that would shield her from probable criminal prosecution. In that regard, her being a businesswoman²³ presumably made her aware of the consequences of issuing unfunded checks.²⁴ All that she is claiming here is that the receipt did not express the true intention of the parties, implying that no written document substantiated her alleged defense. She did not claim at all that she had been coerced or intimidated into signing the receipt as written. Her self-serving statements on the agreement were entirely inadequate to establish her assertions, for they were not proof.²⁵

Under Article 315 2(d) of the *Revised Penal Code*, as amended by P.D. 818, the penalty for *estafa* when the total value of the checks exceed ₱22,000.00 is *reclusion temporal* in its maximum period (*i.e.*, 17 years, four months and one day to 20 years), plus one year for each additional ₱10,000. Applying the *Indeterminate Sentence Law*, the minimum term shall be from six years and one day to 12 years of *prision mayor*. In imposing the indeterminate sentence of eight years and one day of *prision mayor*, as minimum, to thirty years of *reclusion perpetua* as maximum, the CA correctly applied the *Indeterminate Sentence Law*. It is well to state that *reclusión perpetua* merely describes in this instance the penalty actually imposed on account of the amount of the fraud involved.²⁶

²² *Pacheco v. Court of Appeals*, G.R. No. 126670, December 2, 1999, 319 SCRA 595, 605-606.

²³ TSN dated July 25, 2001, p. 3.

²⁴ *Chua v. People*, G.R. Nos. 150926 and 150930, March 6, 2006, 484 SCRA 161, 168.

²⁵ *Llana v. Court of Appeals*, G.R. No. 104802, July 11, 2001, 361 SCRA 27, 34.

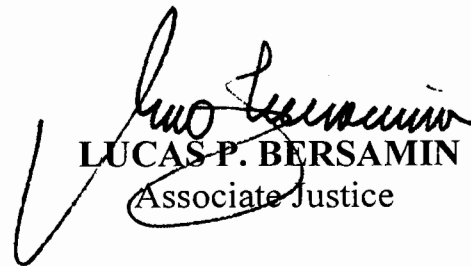
²⁶ *Dy v. People*, G.R. No. 158312, November 14, 2008, 571 SCRA 59, 81.

We note, however, that the CA affirmed the imposition by the RTC of 12% interest accruing from the time that the information was filed until the full satisfaction of the obligation in the amount of ₱995,000.00. Conformably with the ruling in *Nacar v. Gallery Frames*²⁷ applying Resolution No. 796 of the Bangko Sentral ng Pilipinas Monetary Board (BSP-MB), said amount should earn interest of 12% *per annum* from the filing of the information on September 4, 1995 until June 30, 2013, and interest of 6% *per annum* from July 1, 2013 until its full satisfaction.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on May 25, 2004 by the Court of Appeals, subject to the **MODIFICATION** that the amount of ₱995,000.00 shall earn interest 12% *per annum* from the filing of the information on September 4, 1995 until June 30, 2013, and interest of 6% *per annum* from July 1, 2013 until its full satisfaction.


The petitioner shall pay the costs of suit.

SO ORDERED.




LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:




MARIA LOURDES P. A. SERENO
Chief Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice



JOSE PORTUGAL PEREZ
Associate Justice




ESTELA M. PERLAS-BERNABE
Associate Justice

²⁷ G.R. No. 189871, August 13, 2013, 703 SCRA 439.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.



MARIA LOURDES P. A. SERENO
Chief Justice