



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

ANGELITA CRUZ BENITO,
Petitioner,

G.R. No. 204644

Present:

-versus-

CARPIO, J., *Chairperson*,
VELASCO, JR., * J.,
DEL CASTILLO,
MENDOZA, and
LEONEN, JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:
11 FEB 2015

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DECISION

LEONEN, J.:

Conspiracy must be proven with evidence that can convince a trial court of its existence beyond reasonable doubt. Moreover, there can be no conspiracy to commit a crime that has already been consummated.

This is a Petition for Review on Certiorari¹ of the Court of Appeals' Decision,² affirming *in toto* the November 17, 2009³ Decision of the Regional Trial Court, Branch 80, Quezon City. The trial court convicted Angelita Cruz Benito of estafa, finding that she conspired with Rebecca

* Designated Acting Member per S.O. No. 1910 dated January 12, 2015.

¹ Rollo, pp. 8–24.

² Id. at 26–36. The Decision docketed as CA-G.R. No. 33219, dated June 30, 2011, was penned by Associate Justice Magdangal M. De Leon and concurred in by Associate Justices Mario V. Lopez and Socorro B. Inting.

³ Id. at 59–73.

Agbulos in misappropriating the pieces of jewelry the latter received in trust from Dorie Cruz-Abadilla.⁴

In the Information dated October 28, 1994, Rebecca Agbulos (Agbulos) and Angelita Cruz Benito⁵ (Benito) were charged with estafa punished under Article 315, paragraph 1(b) of the Revised Penal Code. The accusatory portion of the Information reads:

That in or about the period comprised from June 8, 1994 up to August 3, 1994, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping with each other, did then and there willfully, unlawfully and feloniously defraud DORIE CRUZ-ABADILLA in the following manner, to wit:

Assorted pieces of jewelry in the amount of ₱2,070,300.00, Philippine Currency, for the purpose of selling the same on commission basis, under the express obligation on the part of said accused of turning over the proceeds of the sale to said DORIS CRUZ-ABADILLA if sold, or of returning the same if unsold to said complainant, but the said accused, once in possession of the said items, far from complying with their obligation as aforesaid, with intent to defraud, unfaithfulness and grave abuse of confidence, failed and refused and still fails and refuses to fulfill their aforesaid obligation despite repeated demands made upon them to do so and instead misapplied, misappropriated and converted the same or the value thereof, to their own personal use and benefit, to the damage and prejudice of said DORIE CRUZ-ABADILLA in the aforesaid amount of ₱2,070,300.00, Philippine Currency.⁶

Agbulos and Benito were arraigned on July 10, 1995, pleading not guilty to the charge. Trial ensued.⁷

The prosecution presented as witnesses complainant, Dorie Cruz-Abadilla (Abadilla); her friend, Concepcion Quiñonez Pamintuan (Pamintuan);⁸ and Estela Dilorio (Dilorio),⁹ a pawnshop appraiser of E. Ochoa Pawnshop.

The prosecution's version of the facts

Abadilla knew Agbulos and Benito through Abadilla's friend, Pamintuan. Pamintuan introduced Agbulos to Abadilla as a jeweler.¹⁰

⁴ Id. at 73. She was also referred to as "Doris Cruz-Abadilla" in the *rollo*.

⁵ Id. at 59. She was also referred to as "Angelita Cruz-Benito" and "Angelita C. Benito" in the *rollo*.

⁶ Id. at 29-30.

⁷ Id. at 30.

⁸ Id. at 28 and 62. She was also referred to as "Connie Pamintuan" in the *rollo*.

⁹ Id. at 29-30. She was also referred to as "Estela Dilorio" and "Estelita Deloria" in the *rollo*.

¹⁰ Id. at 27.

Abadilla and Agbulos entered into several transactions for the sale of jewelry, with Agbulos going to Abadilla's residence at 174 Maginhawa Street, Sikatuna Village, Quezon City. In all these transactions, Benito accompanied Agbulos.¹¹

On June 9, 1994, Agbulos received pieces of jewelry from Abadilla. They agreed that Agbulos would return the pieces of jewelry in the afternoon should Agbulos fail to sell them. Agbulos then issued Abadilla a check for the value of the jewelry received.¹²

Agbulos received another batch of jewelry from Abadilla on June 14, 1994. She again issued Abadilla a check, this time for ₱828,000.00. They likewise agreed that Agbulos would return the jewelry in the afternoon should she fail to sell them.¹³

On June 16, 1994, Agbulos received the last batch of jewelry from Abadilla, issuing a check in the amount of ₱453,000.00.¹⁴

On June 21, 1994, Abadilla called Agbulos on the phone, asking for security for the pieces of jewelry she gave Agbulos. Agbulos then gave as security the owner's copy of Transfer Certificate of Title No. 438259.¹⁵

However, upon verification with the Land Registration Authority, the certificate of title turned out to be spurious.¹⁶

Abadilla deposited the checks Agbulos issued to her, and all were dishonored by reason of "closed account." Abadilla then tried to locate Agbulos, but Agbulos could no longer be found.¹⁷

After several months, Abadilla learned from Agbulos' sister-in-law that the latter received pawn tickets from a friend. Abadilla, through her friend Pamintuan, obtained from Agbulos' sister-in-law pawn tickets numbered 45227 and 45306 issued by E. Ochoa Pawnshop. Appearing on the pawn tickets was the name "Linda Chua."¹⁸

¹¹ Id.

¹² Id.

¹³ Id. at 27–28.

¹⁴ Id. at 28.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

Abadilla went to E. Ochoa Pawnshop to verify the items described in the pawn tickets. She learned that the items pawned were among the pieces of jewelry she turned over to Agbulos, specifically, a men's diamond ring and a set of diamond ring and earrings. She also learned from Dilorio, the pawnshop appraiser, that the "Linda Chua" who pawned her jewelry was Benito.¹⁹

The defense's version of the facts

For the defense, Agbulos and Benito testified. Benito denied that she was the "Linda Chua" who pawned Abadilla's jewelry. According to her, on June 8, 1994, she was at the house of Agbulos' mother, working as a cook and taking care of Agbulos' children. She denied being with Agbulos when the latter transacted with Abadilla and that she only knew of Abadilla when the latter looked for Agbulos.²⁰

Agbulos supported the testimony of her co-accused Benito, stating that the latter "had no participation [in her transactions with Abadilla]."²¹ Agbulos likewise denied that Benito accompanied her to Abadilla's residence whenever she received jewelry from Abadilla.²²

The Regional Trial Court's findings

The Regional Trial Court found that the prosecution proved beyond reasonable doubt that Agbulos and Benito conspired to commit estafa. According to the trial court, Agbulos and Benito received the pieces of jewelry in trust for Abadilla. They undertook to sell the jewelry for Abadilla or return them in the afternoon should they fail to sell them. However, in violation of that trust, they failed to return the unsold jewelry. Worse, they had the jewelry pawned under a different name.²³

Thus, in the Decision²⁴ dated November 17, 2009, the trial court sentenced Agbulos and Benito to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum to twenty (20) years of *reclusion temporal* as maximum. It also ordered Agbulos and Benito to pay Abadilla ₱2,070,300.00 by way of civil indemnity plus 12% interest from the filing of the Information until full payment.²⁵

¹⁹ Id. at 28–29.

²⁰ Id. at 64.

²¹ Id. at 63.

²² Id. at 63–64.

²³ Id. at 65–73.

²⁴ Id. at 59–73. Criminal case docketed as Criminal Case No. Q-94-59259 was penned by Presiding Judge Charito B. Gonzales.

²⁵ Id. at 73.

Disposition of the Court of Appeals

Benito appealed before the Court of Appeals, maintaining that she had nothing to do with Agbulos' transaction with Abadilla.²⁶

Nevertheless, the Court of Appeals sustained the finding that Benito was the "Linda Chua" who pawned Abadilla's jewelry as testified to by the pawnshop appraiser, Dilorio. Thus, even assuming that Agbulos alone transacted with Abadilla, "it was the action of [Benito] that paved the way [to the misappropriation or conversion of the jewelry, to the prejudice of Abadilla]."²⁷ The Court of Appeals upheld the finding that Agbulos and Benito conspired to commit estafa.

Affirming *in toto* the trial court's Decision, the Court of Appeals denied Benito's appeal in the Decision²⁸ dated June 30, 2011.

Benito filed a Motion for Reconsideration, which the Court of Appeals denied in the Resolution²⁹ dated November 13, 2012.

Proceedings in this court

Benito filed a Petition for Review on Certiorari before this court. On behalf of the People of the Philippines, the Office of the Solicitor General commented on Benito's Petition,³⁰ after which, Benito replied to the Comment.³¹

In her Petition for Review on Certiorari and Reply, Benito insists that the prosecution failed to prove her alleged conspiracy with Agbulos to commit estafa. She maintains that Agbulos alone transacted with Abadilla, denying that she received any of the pieces of jewelry. That she allegedly accompanied Agbulos to Abadilla's residence does not prove that she likewise received some of the pieces of jewelry. Thus, the element of estafa consisting of the receipt in trust of personal property does not apply to her.³²

Moreover, Benito vehemently denies that she was the "Linda Chua" who pawned Abadilla's jewelry. She points out that prosecution witness Dilorio did not personally transact with "Linda Chua." Dilorio allegedly testified that her co-worker entertained "Linda Chua" and appraised the

²⁶ Id. at 40–58.

²⁷ Id. at 32.

²⁸ Id. at 26–36.

²⁹ Id. at 38–39.

³⁰ Id. at 114–129.

³¹ Id. at 142–151.

³² Id. at 14–17 and 146.

jewelry being pawned. With “no extraordinary reason why [the Linda Chua transaction] stuck to [Diloria’s] mind,”³³ Benito argues that Diloria was incompetent to testify as to the identity of “Linda Chua.”³⁴

Maintaining that the prosecution failed to prove her guilt beyond reasonable doubt, Benito prays for her acquittal.

In the Comment, the People of the Philippines argues that Benito raises questions of fact that is not allowed in a Petition for Review on Certiorari. In addition, the Regional Trial Court and the Court of Appeals agreed in their findings of fact. Thus, the findings that Benito received jewelry from Abadilla and that she was the “Linda Chua” who pawned some of the jewelry are entitled to great respect, if not finality, by this court.³⁵

Considering that the arguments of Benito are a mere rehash of those she raised in her appeal before the Court of Appeals, the People of the Philippines prays that this court deny Benito’s Petition for Review on Certiorari.

The issue for this court’s resolution is whether Angelita Cruz Benito conspired with Rebecca Agbulos in committing estafa punished under Article 315, paragraph 1(b) of the Revised Penal Code.

We grant this Petition.

I

The judgments of the Regional Trial Court and the Court of Appeals are based on a misapprehension of facts

Under Rule 45, Section 1 of the Rules of Court, only questions of law may be raised in a Petition for Review on Certiorari:

Section 1. *Filing of petition with Supreme Court.* – A party desiring to appeal by certiorari from a judgment, final order or resolution of the Court of Appeals, the Sandiganbayan, the Court of Tax Appeals, the Regional Trial Court or other courts, whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition may include an application for a writ of preliminary injunction or other provisional remedies and *shall raise only questions of*

³³ Id. at 17.

³⁴ Id. at 17 and 146–147.

³⁵ Id. at 118–119.

law, which must be distinctly set forth. The petitioner may seek the same provisional remedies by verified motion filed in the same action or proceeding at any time during its pendency. (Emphasis supplied)

As an exception to the rule, questions of fact may be raised in a Rule 45 Petition if any of the following is present:

(1) when there is grave abuse of discretion; (2) when the findings are grounded on speculations; (3) when the inference made is manifestly mistaken; (4) when the judgment of the Court of Appeals is based on a misapprehension of facts; (5) when the factual findings are conflicting; (6) when the Court of Appeals went beyond the issues of the case and its findings are contrary to the admissions of the parties; (7) when the Court of Appeals overlooked undisputed facts which, if properly considered, would justify a different conclusion; (8) when the findings of the Court of Appeals are contrary to those of the trial court; (9) when the facts set forth by the petitioner are not disputed by the respondent; and (10) when the findings of the Court of Appeals are premised on the absence of evidence and are contradicted by the evidence on record.³⁶

A question of fact exists “when the doubt or difference arises as to the truth or the falsehood of alleged facts.”³⁷ On the other hand, a question of law exists “when the doubt or difference arises as to what the law is on a certain state of facts.”³⁸

Benito raises questions of fact in her Petition for Review on Certiorari. Specifically, she prays that this court examine the truth of the following findings: that she received jewelry from Abadilla and that she posed as “Linda Chua” and pawned the jewelry she received from Abadilla.

Despite Benito raising questions of fact in her Petition for Review on Certiorari, we nevertheless take cognizance of her Petition. The trial court and Court of Appeals misapprehended the facts of this case.

II

³⁶ *Pagsibigan v. People*, 606 Phil. 233, 241–242 (2009) [Per J. Carpio, First Division]. See *Medina v. Asistio, Jr.*, G.R. No. 75450, November 8, 1990, 191 SCRA 218, 223 [Per J. Bidin, Third Division] where this court enumerated for the first time the instances when the findings of fact by the trial courts and the Court of Appeals were passed upon and reviewed in a Rule 45 Petition.

³⁷ *Sesbreno v. Honorable Court of Appeals*, 310 Phil. 671, 679 (1995) [Per J. Quiason, First Division], citing *Bernardo v. Court of Appeals*, G.R. No. 101680, December 7, 1992, 216 SCRA 224, 232 (1992) [Per J. Campos, Jr., Second Division].

³⁸ *Id.*

The prosecution failed to prove beyond reasonable doubt Benito's conspiracy with Agbulos to commit estafa

Under Article 8 of the Revised Penal Code, “a conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.” Proof of conspiracy may be direct or circumstantial.³⁹ So long as the evidence presented show a “common design or purpose”⁴⁰ to commit the crime, all of the accused shall be held equally liable as co-principals even if one or more of them did not participate in all the details of the execution of the crime.⁴¹

For this reason, the fact of conspiracy “must be proven on the same quantum of evidence as the felony subject of the agreement of the parties,”⁴² that is, proof beyond reasonable doubt.⁴³

Article 315, paragraph 1(b) of the Revised Penal Code punishes estafa through misappropriation:

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

1st. The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the 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 not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of the other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

. . . .

³⁹ *Franco v. People*, G.R. No. 171328, February 16, 2011, 643 SCRA 474, 485 [Per J. Del Castillo, First Division].

⁴⁰ *Id.*

⁴¹ REVISED PENAL CODE, art. 17 provides:

Art. 17. *Principals*. – The following are considered principals:

. . . .

3. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

See People v. Balasa, 356 Phil. 362 (1998) [Per J. Romero, Third Division].

⁴² *Franco v. People*, G.R. No. 171328, February 16, 2011, 643 SCRA 474, 484 [Per J. Del Castillo, First Division].

⁴³ RULES OF COURT, Rule 133, sec. 2 provides:

Sec. 2. *Proof beyond reasonable doubt*. – In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.

1. With unfaithfulness or abuse of confidence, namely:

....

(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.

To prove estafa through misappropriation, the prosecution must establish the following elements:

- (1) the offender's receipt of money, goods, or other personal property in trust, or on commission, or for administration, or under any other obligation involving the duty to deliver, or to return, the same;
- (2) misappropriation or conversion by the offender of the money or property received, or denial of receipt of the money or property;
- (3) the misappropriation, conversion or denial is to the prejudice of another; and
- (4) demand by the offended party that the offender return the money or property received.⁴⁴ (Citation omitted)

We find that the prosecution failed to prove beyond reasonable doubt the conspiracy between Benito and Agbulos.

As testified to by Abadilla, only Agbulos received the pieces of jewelry from her, and Benito was merely "present during the negotiation":

Q[:] Do you have an agreement regarding the business of jewelry?

A[:] Our agreement is that they will get the items on the same day and if they could not sell [the] items, they will return it in the afternoon of the same day.

Q[:] *Who took the pieces of jewelry you mentioned awhile ago?*

A[:] *Rebecca Agbulos.*

⁴⁴ *Pamintuan v. People*, 635 Phil. 514, 522 (2010) [Per J. Brion, Third Division].

Q[:] Where was accused Angelita C. Benito?

A[:] She was present during the negotiation.⁴⁵ (Emphasis supplied)

Even assuming that Benito accompanied Agbulos in going to Abadilla's residence, this does not prove that Benito received any jewelry from Abadilla. As the helper of Agbulos' brother,⁴⁶ Benito may have accompanied Agbulos on her employer's order. "Mere presence [at the scene of the crime] is not by itself indicative of conspiracy between [the accused]."⁴⁷

Interestingly, Agbulos testified that the transaction was only between her and Abadilla. She alone issued security for the jewelry, namely, the dishonored checks and the spurious certificate of title.⁴⁸ Agbulos even declared in open court that "[Benito] ha[d] no participation in the case at bench".⁴⁹

Q: Can you tell us the participation of your co-accused Angelita Benito in this case?

A: Angelita Benito is just a maid of my brother and assigned to fetch my kids in school.

Q: The prosecution witness testified that you were with your co-accused at that time you went to the place of the complainant to receive the pieces of jewelry?

A: That is not true, sir.

Q: *You said you were the only one who went to the house of the complainant?*

A: *Yes, sir.*⁵⁰ (Emphasis supplied)

Agbulos' statement was an admission against her interest.⁵¹ The statement negated the alleged "common design or purpose" between her and Benito and would lead to her being solely liable for the crime.⁵² It also means that she admitted that her companion's acts can never be attributed to

⁴⁵ *Rollo*, p. 65.

⁴⁶ *Id.* at 63–64.

⁴⁷ *Gomez v. IAC*, 220 Phil. 295, 310 (1985) [Per J. Gutierrez, Jr., First Division], citing *People v. Drilon*, 208 Phil. 70, 76 (1983) [Per J. Escolin, Second Division].

⁴⁸ *Rollo*, pp. 60–62.

⁴⁹ *Id.* at 63.

⁵⁰ *Id.* at 93.

⁵¹ RULES OF COURT, Rule 130, sec. 26 provides:

Sec. 26. *Admissions of a party.* – The act, declaration or omission of a party as to a relevant fact may be given in evidence against him.

See Gomez v. IAC, 220 Phil. 295, 307 (1985) [Per J. Gutierrez, Jr., First Division].

⁵² *See Gomez v. IAC*, 220 Phil. 295, 307 (1985) [Per J. Gutierrez, Jr., First Division].

her. The Regional Trial Court and the Court of Appeals should have considered this statement in assessing the guilt of Benito.⁵³

In *Gomez v. IAC*,⁵⁴ Dolores Gomez (Dolores), together with her husband Rodrigo Gomez (Rodrigo), was charged with estafa for allegedly conspiring with Rodrigo in misappropriating pieces of jewelry they received from Rodrigo's sister. The trial court convicted her and Rodrigo of the crime charged.⁵⁵

On appeal, this court acquitted Dolores. It considered a letter Rodrigo wrote his sister, stating that he alone misappropriated the pieces of jewelry. According to the court, this letter was a declaration against Rodrigo's interest that the trial court should have given weight.⁵⁶

In *Ong v. Court of Appeals*,⁵⁷ Santiago Ong (Ong), together with a Tony Chua (Chua), was charged with estafa for allegedly conspiring with Chua in misappropriating pieces of jewelry they received from a Florentina Buyco (Buyco). The trial court convicted them of the crime charged.

On appeal, this court acquitted Ong. It considered an affidavit Chua executed, "absolving [Ong] from any participation in his jewelry transaction with [Buyco and her sister]."⁵⁸ According to this court, Chua's statement in his affidavit was a declaration against his interest that should have been given weight by the trial court.⁵⁹

The strongest evidence against Benito is the testimony of Diloría, the pawnshop appraiser who positively identified Benito as the "Linda Chua" who pawned Abadilla's jewelry. According to the Court of Appeals, Benito's posing as "Linda Chua" and pawning the jewelry "paved the way for the presence of the second and third elements of [estafa],"⁶⁰ i.e., the misappropriation of the property to the prejudice of another.

However, the identification of Benito as the "Linda Chua" who pawned the jewelry is "open to serious doubt."⁶¹ As testified to by Diloría, she saw Benito in E. Ochoa Pawnshop only on two occasions: on June 6 and 17, 1994.⁶² Moreover, there is evidence that Diloría was not the pawnshop

⁵³ *Gomez v. IAC*, 220 Phil. 295, 307 (1985) [Per J. Gutierrez, Jr., First Division].

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ 188 Phil. 618 (1980) [Per J. Fernandez, First Division].

⁵⁸ *Id.* at 635.

⁵⁹ *Id.*

⁶⁰ *Rollo*, p. 32.

⁶¹ *People v. Abejero*, G.R. No. 95455, March 23, 1993, 220 SCRA 336, 344 [Per J. Nocon, Second Division].

⁶² *Rollo*, p. 63.

appraiser who entertained “Linda Chua”⁶³ but a co-worker named Mary Ann:

Q[:] Who prepared the pawn ticket?

A[:] Anybody who is available.

....

Q[:] Anybody who is available?

A[:] Yes, sir.

Q[:] In this case, you appraised [pawn tickets numbered 45227 and 45306]?

A[:] One of our appraisers.

....

Q[:] Who filled up this pawnshop ticket?

A[:] Mary Ann.

Q[:] Your co-employee?

A[:] Yes[,] sir.⁶⁴

Therefore, as Benito argues, “[t]here is . . . no special reason why the [Linda Chua transaction] stuck to D[e]loria’s mind, such that she was able to remember the face of a complete stranger and positively identify her more than three (3) months after the alleged transaction.”⁶⁵

Further, based on Diloría’s testimony, “Linda Chua” first went to E. Ochoa Pawnshop on June 6, 1994.⁶⁶ This date was prior to the first time Agbulos received pieces of jewelry from Abadilla on June 9, 1994. There is thus some reasonable doubt as to whether the jewelry “Linda Chua” pawned on June 6, 1994 belonged to Abadilla.

With respect to the second time “Linda Chua” went to the pawnshop on June 17, 1994, Benito cannot be held liable for it as well.

Generally, demand for the return of the thing delivered in trust is necessary before an accused is convicted of estafa. However, if there is an agreed period for the accused to return the thing received in trust and the

⁶³ Id. at 17.

⁶⁴ Id. at 54-55, *citing* TSN, November 3, 1997, pp. 6–9.

⁶⁵ Id.

⁶⁶ Id. at 63.

accused fails to return it within the agreed period, demand is unnecessary. Failure to return the thing within the agreed period consummates the crime of estafa, i.e, the misappropriation of the thing received in trust.⁶⁷

In *United States v. Sotelo*,⁶⁸ Manuel Araneta (Araneta) delivered to Vicente Sotelo (Sotelo) pieces of jewelry for the latter to sell for a price not less than ₱180.00 or to return the jewelry within one hour from delivery if unsold. Sotelo failed to return the pieces of jewelry within one hour from their delivery. Without demanding for the return of the jewelry, Araneta filed against Sotelo a complaint for estafa within the hour after Sotelo failed to return the jewelry.

The court convicted Sotelo of estafa because “[he] did not return [the pieces of jewelry] within the [agreed period] nor at any other time.”⁶⁹

When Agbulos failed to return in the afternoon the jewelry she received on June 9, 14, and 16, 1994, she was already presumed to have misappropriated the jewelry. There would be no more need to present any act to prove the misappropriation.

Consequently, the estafa had already been consummated when “Linda Chua” allegedly pawned the jewelry on June 17, 1994. Benito, who was allegedly “Linda Chua,” cannot be held criminally liable with Agbulos. “There can be no *ex post facto* conspiracy to do that which has already been done and consummated.”⁷⁰

In *Preferred Home Specialties, Inc. v. Court of Appeals*,⁷¹ Preferred Home Specialties, Inc., through its president, Edwin Yu (Yu), entered into an agreement with Specialty Oils, Inc. for the toll manufacturing of high-quality margarine. Yu, however, had second thoughts in continuing the agreement with Specialty Oils, Inc.⁷²

Through the intervention of Harley Sy (Sy), Yu continued the agreement with Specialty Oils, Inc.⁷³ However, the margarine delivered by Specialty Oils, Inc. discolored and “turned white.”⁷⁴ Yu also learned that Specialty Oils, Inc. claimed in an affidavit filed before the Securities and

⁶⁷ See *United States v. Sotelo*, 28 Phil. 147, 156 (1914) [Per J. Johnson, En Banc].

⁶⁸ 28 Phil. 147 (1914) [Per J. Johnson, En Banc].

⁶⁹ Id. at 156.

⁷⁰ *Preferred Home Specialties, Inc. v. Court of Appeals*, 514 Phil. 574, 602–603 (2005) [Per J. Callejo, Sr., Second Division], citing *Popielarski v. Jacobson*, N.W. 2d 45 (1953).

⁷¹ 514 Phil. 574 (2005) [Per J. Callejo, Sr., Second Division].

⁷² Id. at 581–582.

⁷³ Id. at 582.

⁷⁴ Id.

Exchange Commission that it was already non-operational when it entered into the agreement with Preferred Home Specialties, Inc.⁷⁵

Claiming that Specialty Oils, Inc. defrauded it, Preferred Home Specialties, Inc. filed a complaint for estafa against the officers of Specialty Oils, Inc. It impleaded Sy as respondent for allegedly conspiring with the officers of Specialty Oils, Inc. in defrauding Preferred Home Specialties, Inc. In a certiorari proceeding against the Department of Justice's Resolution, the Court of Appeals ordered the criminal Complaint against Sy dismissed.⁷⁶

This court affirmed the Court of Appeals' decision, ruling that the crime of estafa had already been consummated by the time Sy intervened between Preferred Home Specialties, Inc. and Specialty Oils, Inc. According to this court, Sy intervened after Specialty Oils, Inc. had delivered the substandard margarine. Therefore, Sy could not be held criminally liable with the officers of Specialty Oils, Inc.⁷⁷

In *People v. Furugganan*,⁷⁸ Anacleto Furugganan (Furugganan), together with other co-accused, was charged with murder for allegedly shooting to death several men and wounding a Joseph Ferrer (Ferrer). According to Ferrer, he, together with other fishermen, was sleeping in a nipa hut when he heard gunshots. He was shot on the leg but pretended to be dead.⁷⁹

After the shooting had stopped, Ferrer saw Furugganan and other men climbing up the hut. One of the men hit Ferrer's head to confirm that he was dead. After the men had left, Ferrer went home to have his wound treated and report the incident.⁸⁰

In his defense, Furugganan denied that he shot Ferrer's companions and alleged that he was merely threatened by one of the shooters to go up the hut or he himself would be shot. Furugganan emphasized that he was unarmed when he went up the hut. Ferrer would eventually testify that Furugganan was indeed unarmed.⁸¹

This court found Furugganan credible and acquitted him on the ground of reasonable doubt. According to this court, Furugganan's act of going up the hut "cannot . . . be said to have lent in any way even a whit of

⁷⁵ Id. at 584.

⁷⁶ Id. at 589–590.

⁷⁷ Id. at 602–603.

⁷⁸ 271 Phil. 496 (1991) [Per J. Regalado, Second Division].

⁷⁹ Id. at 500.

⁸⁰ Id. at 501.

⁸¹ Id. at 503.

material or moral aid in the actual commission of the [crime] charged as, by then, [the crime] had already been consummated.”⁸²

All told, the prosecution failed to prove beyond reasonable doubt that Benito conspired with Agbulos in misappropriating the jewelry belonging to Abadilla. Benito, therefore, cannot be convicted of estafa.

There is no proof of Benito’s direct participation in the commission of the crime charged. Neither is there proof beyond reasonable doubt of her conspiracy with Agbulos.


The presumption of innocence holds in favor of Benito.⁸³ She should be acquitted on the ground that her guilt has not been proven beyond reasonable doubt.

WHEREFORE, the Petition for Review on Certiorari is **GRANTED**. The Decision of the Regional Trial Court, Branch 80, Quezon City in Criminal Case No. Q-94-59259 is **REVERSED** and **SET ASIDE** with respect to Angelita Cruz Benito. Petitioner Angelita Cruz Benito is **ACQUITTED** on the ground of reasonable doubt.

SO ORDERED.


MARVIC M.V.F. LEONEN
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


PRESBITERO J. VELASCO, JR.
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

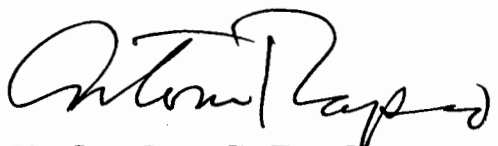
⁸² Id. at 507–508.

⁸³ CONST., art. III, sec. 14(2).


JOSE CATRAL MENDOZA
Associate Justice


ATTESTATION

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.


ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

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


MARIA LOURDES P. A. SERENO
Chief Justice