

## THIRD DIVISION

[ G.R. No. 194359, September 02, 2020 ]

**ANICIA S. LIBUNAO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**CARANDANG, J.:**

Before Us is a Petition for Review on *Certiorari*<sup>[1]</sup> filed by Anicia S. Libunao (petitioner) assailing the Decision<sup>[2]</sup> dated August 10, 2010 of the Court of Appeals (CA) in CA-G.R. CR No. 31439 which affirmed with modification the Judgment<sup>[3]</sup> dated August 15, 2007 of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 14, finding petitioner guilty beyond reasonable doubt of the crime of Estafa under Article 315, paragraph I(b) of the Revised Penal Code (RPC).

Petitioner was charged with Estafa under Article 315, paragraph I(b) of the RPC, under the following Information:

That on or about and during the period covered from April 1994 to October 1995, in the municipality of San Miguel, province of Bulacan, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being an employee has defraud (sic) the Baliuag Marketing Co., Inc., in the following manner, to wit: the said accused by taking advantage of her position as cashier, having collected and received money in form of cash and checks in the total sum of P304,040.00 from several customers in payment of the products taken from the Baliuag Marketing Co., Inc., covered by various sales invoices under the express obligation on the part of the said accused to immediately account for and deliver the collections so made by her to the Baliuag Marketing Co., Inc., and once the said amount of P304,040.00 was in the accused's possession with intent to defraud, she did then and there willfully, unlawfully and feloniously misappropriated, misapply and convert the same to her own personal use and benefit, to the damage and prejudice of the Baliuag Marketing Co., Inc., in the aforesaid amount of P304,040.00, Philippine Currency.<sup>[4]</sup>

#### Version of the Prosecution

Baliuag Marketing Co., Inc., (Baliuag) is a corporation engaged in the business of selling among others, agricultural and chemical products. It has several branches, one of which is in San Miguel, Bulacan.<sup>[5]</sup>

Petitioner was the over-all in charge of the store in San Miguel. She was in charge of the sales and the collections. From April 1994 to October 1995, the store incurred sales losses and missing merchandise. Thus, Baliuag conducted sales and stock

inventories. It was then discovered that there were several falsified receipts, sales invoices and unreported sales.<sup>[6]</sup>

Helen Macasadia (Helen), the book keeper of Baliuag, testified that she checked the sales reports of petitioner. Helen identified the following invoices which amounts were unremitted to Baliuag:

- a. Sales Invoice No. 100165<sup>[7]</sup> dated October 15, 1995 in the amount of P27,960 in the name of Dr. Edwin Tecson;<sup>[8]</sup>
- b. Sales Invoice No. 100160 in the amount of P196,000.00 in the name of Hog Bakod Multi- Purpose Corporation;<sup>[9]</sup>
- c. Sales Invoice No. 4143<sup>[10]</sup> dated May 23, 1995 in the amount of P29,000.00 in the name of Eva Bachoco;<sup>[11]</sup>
- d. Sales Invoice No. 98801 dated August 28, 1995 in the amount of P7,800.00 in the name of Lito Alcantara;<sup>[12]</sup>
- e. Sales Invoice No. 98861 dated September 6, 1995, in the amount of P26, 340.00 under the name of Arnel Marcelo.<sup>[13]</sup>

Further, Virginia Samonte (Virginia) testified that they also discovered some discrepancies in the following sales invoices:

- a. Sales Invoice No. 95155, the real amount is P39,480.00 but petitioner failed to remit the amount of P16,740.00;<sup>[14]</sup> and
- b. Sales Invoice No. 95138 in the amount of P5,040.00 which petitioner failed to remit to Baliuag.<sup>[15]</sup>

When asked, Virginia testified that petitioner failed to remit a total amount of P308,880.00.<sup>[16]</sup> The prosecutor manifested that they would amend the Information to reflect the true amount but the Information was not amended.<sup>[17]</sup>

Romeo Paladin (Romeo) testified that as for Sales Invoice No. 100165<sup>[18]</sup> in the amount of P27,960.00, he was surprised when Helen asked him to pay the said amount indicated in the Sales Invoice because he already paid the same. Romeo also denied that the signature on the Sales Invoice was his.<sup>[19]</sup>

Macario Libunao, Jr. (Macario) testified that as for Sales Invoice No. 100160 in the name of Hog Bakod Multi-purpose Corporation, they paid their obligation to petitioner sometime in November 1995.<sup>[20]</sup> Macario assumed that the checks they paid were not applied to their obligation because a personnel of Baliuag came to their office asking for the payment of their obligation.<sup>[21]</sup>

Helen testified that insofar as Sales Invoice No. 4143<sup>[22]</sup> in the amount of P29,000.00 under the name of Eva Bachoco, there is a corresponding Official Receipt No. 42394 in the amount of P10,000.00 evidencing payment. However, the

said amount was not remitted by petitioner.<sup>[23]</sup>

Insofar as Sales Invoice No. 98801 in the name of Lito Alcantara, when he was confronted with the same, he claimed that he already paid the amount of P7,800.00 to petitioner as evidenced by an Official Receipt, but the said payment was also not remitted to Baliuag.<sup>[24]</sup>

As for Sales Invoice No. 98861 dated September 6, 1995 in the amount of P26,340.00 under the name of Arnel Marcelo, when the latter was confronted with the said Sales Invoice, Arnel claimed that he already paid an amount of P1,929.00 as evidenced by Official Receipt No. 41517. However, when Baliuag looked for the duplicate copy of the receipt, the same is in the name of Romy Santos in the amount of P40,697.00.<sup>[25]</sup>

Baliuag confronted petitioner with the unremitted amounts but petitioner failed to explain the discrepancy and the unremitted amounts. Baliuag demanded that petitioner return the unremitted amounts. Prior to the filing of the criminal complaint, petitioner made a partial payment of P110,000.00.<sup>[26]</sup>

### **Version of the Defense**

Petitioner claimed that the acts attributed to her are not true. It is simply an act of harassment because she earlier filed a complaint for illegal dismissal against Baliuag. Petitioner however admitted that she was not dismissed by Baliuag, she simply stopped reporting to work because she did not like the treatment of the management. The management changed the locks of the store, investigated some customers and was very inquisitive about her personal life.<sup>[27]</sup>

Petitioner admitted that she prepared the sales invoices but she had no participation at all with respect to the delivery of the items mentioned in the sales invoices. The procedure was after preparing the invoices, she would give the same to another co-worker who would deliver or give the items to the customer. With respect to the payments, the customer can pay to whoever was present at the store at the time of payment.<sup>[28]</sup>

Insofar as Sales Invoice No. 100160, the check given by Ms. Everina Lapaz (Everina) in the amount of P141,000.00 was dishonored but was replaced by Everina with cash which was deposited in the account of Baliuag. As to Sales Invoice No. 4143,<sup>[29]</sup> only the amount of P10,000.00 was paid to her and she remitted the same to Baliuag. For Sales Invoices No. 98801 and 98861, the amount of P7,800.00 and P26,340.00, respectively, were paid to her and she deposited the same to Baliuag.<sup>[30]</sup>

On cross-examination, petitioner admitted that she was asked to explain and to account for the unremitted amounts but she did not make any explanation because the records of the store were no longer with her.<sup>[31]</sup>

### **Ruling of the Regional Trial Court**

On August 15, 2007, the RTC issued a Judgment<sup>[32]</sup> finding petitioner guilty of

Estafa under Article 315, paragraph 1(b) of the RPC. The RTC ruled that the prosecution was able to present all the elements of Estafa. While petitioner claimed that she deposited the payments of the customers to Baliuag, she failed to substantiate her claim.<sup>[33]</sup>

Due to the admission of the prosecution that petitioner made a partial payment of PI 10,000.00, the RTC ruled that the same should be deducted from the total amount of P308,880.00. Thus, her total liability is P198,880.00. As such, the dispositive portion of the RTC's ruling is as follows:

WHEREFORE, in the light of the foregoing, the court finds the accused Anicia S. Libunao, guilty beyond reasonable doubt, and is hereby sentenced to suffer the penalty of imprisonment ranging from six (6) years and one (1) day of prision mayor as minimum to twelve (12) years of prision mayor as maximum; to pay Baliuag Marketing Co., In., the amount of Php 198,880.00; to suffer the accessory penalties provided by law and to pay the costs.

SO ORDERED.<sup>[34]</sup>

### **Ruling of the Court of Appeals**

On August 10, 2010, the CA affirmed with modification the ruling of the RTC, thus:

WHEREFORE, with the MODIFICATION that accused-appellant is sentenced to suffer the penalty of four (4) years and one (1) day of prision correccional as minimum to twenty (20) years of reclusion temporal as maximum, the Decision now on appeal finding accused-appellant Anicia S. Libunao guilty beyond reasonable doubt of the crime of Estafa under Par. 1 (b), Article 315 of the Revised Penal Code, as amended, is hereby AFFIRMED in all other respects. No pronouncement as to costs.

SO ORDERED.<sup>[35]</sup>

### **Petitioner's Arguments**

Petitioner argues that to be convicted of Estafa under Article 315, paragraph 1(b) of the RPC, she must acquire juridical possession of the money or property she allegedly converted or misappropriated. Thus, she must first acquire both material and juridical possession of the thing or money received in order to be held liable for Estafa. Petitioner being a mere employee of Baliuag, her receipt of the payments of the customers of Baliuag was by reason of her employment. As such, she did not acquire juridical possession over the sums of money she allegedly misappropriated or converted.<sup>[36]</sup>

Petitioner further argued that the prosecution failed to prove that she misappropriated or converted the money she allegedly received from the customers of Baliuag. Petitioner merely prepared the sales invoices for the customers of Baliuag. She has no participation whatsoever as to the delivery of the items listed in

the sales invoices as well as to the payment of the items purchased.<sup>[37]</sup>

While petitioner admitted that a demand was made by an officer of Baliuag for her to account or return the money she allegedly misappropriated, the demand itself cannot, by any stretch, prove the existence of misappropriation.<sup>[38]</sup>

### **Respondent's Arguments**

Respondent, through the Office of the Solicitor General (OSG), argued that the prosecution has convincingly established the existence of the elements of Estafa. *First*, petitioner prepared the sales invoices and thus received payments corresponding to the sales invoices; and *second*, the said payments were misappropriated since they were not received by Baliuag.<sup>[39]</sup>

The failure of petitioner to pay the full amount of the unremitted payments upon demand raises the presumption of misappropriation.<sup>[40]</sup> The sales invoices presented are sufficient to prove the transactions that petitioner made in behalf of Baliuag with third persons. Petitioner therefore had material and juridical possession over the money paid by the customers.<sup>[41]</sup>

Petitioner cannot deny her liability for the unremitted amounts, since she had already made a partial payment of P110,000.00. As provided by Section 2(f), Rule 131 of the Rules of Court, it is conclusively presumed that money paid by one to another was due to the latter.<sup>[42]</sup>

### **Issue**

Whether petitioner is guilty beyond reasonable doubt of the crime of Estafa under Article 315, par. I(b) of the RPC.

### **Ruling of the Court**

**Petitioner did not acquire juridical possession of the money misappropriated.**

Estafa through misappropriation or conversion is defined and penalized under Article 315, paragraph 1(b)<sup>[43]</sup> of the RPC. The elements of the said crime are: (1) that money, goods, or other personal properties are 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; (2) that there is a misappropriation or conversion of such money or property by the offender or a denial of the receipt thereof; (3) that the misappropriation, conversion, or denial is to the prejudice of another; and (4) that there is a demand made by the offended party on the offender.<sup>[44]</sup>

To be convicted of Estafa through misappropriation or conversion, it is necessary that the offender had both material and juridical possession of the money, goods, or other personal properties he misappropriated. As held in the case of *Cristeta Chua-Burce v. Court of Appeals*,<sup>[45]</sup> when the money, goods, or any other personal