

## THIRD DIVISION

[ G.R. NO. 141180, January 11, 2005 ]

**GERTRUDES TEH, PETITIONER, VS. THE PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**SANDOVAL-GUTIERREZ, J.:**

Before us is the petition for review on *certiorari* filed by Gertrudes Teh assailing the Resolution<sup>[1]</sup> of the Court of Appeals dated October 4, 1999 in CA-G.R. CR No. 23482 dismissing her petition for review and its Resolution dated November 29, 1999 denying her motion for reconsideration.

The factual backdrop of this case is as follows:

Petitioner Gertrudes Teh and Josalie Baguio were charged with estafa before the Municipal Trial Courts in Cities (MTCC), Branch 2, Davao City. The Information, docketed as Criminal Case No. 45,542-B-96, reads:

“That on or about December 18, 1995, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, above-mentioned accused received on consignment basis from Rodson’s Collection Center, represented by Elizabeth E. Maridable, goods worth P1,583.00 with the express obligation on her part to sell the consigned items and to remit the proceeds from the sale or to return the same if unsold to said complainant; but far from complying with the aforesaid obligation, with grave abuse of confidence and in violation of trust and with intent to defraud, the said accused willfully and unlawfully failed to remit the proceeds from the sale nor to return the same items despite demands therefore, thereby misappropriating and converting the same to her personal use and benefit, to the damage and prejudice of herein complainant in the said amount.

CONTRARY TO LAW.”

Upon arraignment, petitioner, assisted by counsel, pleaded not guilty to the charge. Josalie Baguio has remained at large.

The evidence for the prosecution show that petitioner was formerly an area manager of Rodson’s Collection Center which sells various personal products, such as ladies’ T-shirts and perfumes, men’s cologne, care soap and shading strip. Under her were several dealers, one of whom was Josalie Baguio. Based on a “ride on” system, the area manager was allowed in certain instances to withdraw stocks for sale in the name of the dealer, provided that both would sign a trust receipt agreement. The trust receipt agreement provides that they should remit the proceeds of the goods sold within a specified time. If not sold, then they should return the unsold items to

Rodson's Collection Center.

On December 18, 1995, petitioner and Josalie Baguio withdrew from the Rodson's Collection Center several items consisting of men's cologne, soap, and other sundries worth P1,583.00. Both signed the required trust receipt agreement.

However, petitioner and Josalie failed to remit the proceeds of the sale despite Rodson's Collection Center's several demands, hence, they were charged with estafa.

Petitioner contends that while she signed the trust receipt agreement, however, she did so only for the purpose of identifying her as the area manager of Josalie Baguio. She denied receiving any item. The stocks withdrawn were for the account of Josalie.

On February 15, 1999, the MTCC rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, finding accused GERTRUDES TEH guilty beyond reasonable doubt, she is hereby sentenced to an imprisonment of THREE (3) MONTHS of *arresto mayor* as minimum to TWO (2) YEARS and FOUR (4) MONTHS of *prision correccional* as maximum; to indemnify the offended party the sum of ONE THOUSAND FIVE HUNDRED EIGHTY THREE PESOS (P1,583.00) and to pay the proportionate share of the costs.

Accused is further ordered to indemnify the offended party expenses incurred in enforcing her claim from the time the case was filed in 1996 to its final termination in 1999, which the Court hereby fixed as reasonable in the amount of One Thousand Pesos (P1,000.00).

As regards accused JOSALIE S. BAGUIO who remains at-large, let the case be sent to the ARCHIVES to be withdrawn therefrom as soon as she is apprehended.

SO ORDERED."<sup>[2]</sup>

In finding petitioner guilty as charged, the MTCC ruled that inasmuch as she signed the trust receipt agreement, she is bound by the terms stipulated therein. Her failure to remit the proceeds or to return the goods to Rodson's Collection Center constitutes estafa under Article 315(1) of the Revised Penal Code.

On appeal, the Regional Trial Court (RTC), Branch 10, Davao City, affirmed the MTCC Decision.

Petitioner then elevated the matter to the Court of Appeals by way of a petition for review.

However, the Court of Appeals dismissed the petition for being insufficient in form, not being accompanied by duplicate original or certified true copies of the documents and material parts of the record that would support the allegations. Moreover, there was no written explanation why service of the petition was not done personally.