

# FIRST DIVISION

[ G.R. No. 234405, December 09, 2020 ]

**MARTIN N. LIM, JR., PETITIONER, VS. MARIA CONCEPCION D. LINTAG, RESPONDENT.**

## DECISION

**PERALTA, C.J.:**

On appeal is the May 18, 2017 Decision<sup>[1]</sup> of the Court of Appeals (CA) in CA-G.R. CV No. 104923 which affirmed the March 20, 2015 Decision<sup>[2]</sup> of the Regional Trial Court (RTQ, Branch 148, Makati City, in Criminal Case No. 09-3335 and 09-3336, finding Martin N. Lim (*petitioner*) civilly liable to Maria Concepcion D. Lintag (*Lintag*).

On October 30, 2009, two (2) separate Informations for estafa were filed against petitioner, viz.:

Information dated October 30, 2009 in Criminal Case No. 09-3335 for estafa under Article 315(1)00 of the RPC

On the 9<sup>th</sup> day of December 2008, in the [C]ity of Makati, the Philippines, the accused being the sales agent of New San Jose Builders, Inc. (NSJBI), received in trust from Maria Concepcion D. Lintag, a BPI Family Savings Bank check no. 0478253 in the amount of P158,344.48 as payment for the expenses to be incurred in the transfer of the unit purchased by the complainant from NSJBI and with the corresponding obligation on the part of the accused to immediately remit/turn-over the check to NSJBI, but the accused[,] far from complying with his obligation, with intent to defraud and with unfaithfulness and grave abuse of confidence encashed the check, and thereafter, accused did then and there willfully, unlawfully, and feloniously misappropriate, misapply, and convert the proceeds of the check to his own personal use and benefit, and the accused, despite repeated demands made by [the] complainant, failed and refused and still fails and refuses to return to the complainant or to remit/turn-over the amount of P158,344.48 to New San Jose Builders, Inc., to the damage and prejudice of Maria Concepcion D. Lintag.

CONTRARY TO LAW.<sup>[3]</sup>

Information dated October 30, 2009 in Criminal Case No. 09-3336 for estafa under Article 315(2) (a) in relation to Article 172 of the RPC:

On the 16<sup>th</sup> day of January 2009, in the [C]ity of Makati, the Philippines, accused, being the sales agent of New San Jose Builders, Inc. (NSJBI),

received from Maria Concepcion D. Lintag BPI Family Savings Bank check no. 0478252 in the amount of P1,141,655.52, which is a commercial document, as partial payment for the condominium unit purchased from NSJBI, with the corresponding obligation on the part of the accused to deliver the check to NSJBI, the payee thereof, but the accused instead erased the words "New San Jose Builders, Inc." and wrote the word "CASH" as payee, and thereafter affixed the customary signature of Ma. Concepcion D. Lintag above the said word and accused, once he had accomplished the same, encashed the check to the drawee bank, accused knowing very well that the complainant did not participate or authorize the accused to change the payee's name and sign on her behalf in view of such falsification, accused was able to encash the check in the amount of P1,141,655.52 and received the proceeds thereof, to the damage and prejudice of Maria Concepcion D. Lintag.

CONTRARY TO LAW.<sup>[4]</sup>

Petitioner pleaded "not guilty" upon arraignment.<sup>[5]</sup>

Trial ensued and the succeeding facts were established.

Lintag purchased a condominium unit from New San Jose Builders, Inc. (NSJBI) for the total contract price of Two Million Four Hundred Thousand Pesos (P2,400,000.00). The payment scheme was on a monthly basis and Lintag hands check payments to petitioner, a sales agent, who then remits it to NSJBI.

On November 27, 2008, Lintag issued check no. 0478521 which was drawn from her checking account with BPI Family Savings Bank. The check, dated January 16, 2009, was payable to the order of *New San Jose Builders, Inc.*, for the amount of One Million Three Hundred Thousand Pesos (P1,300,000.00). Petitioner issued a NSJBI acknowledgment receipt, with control no. 12802, dated November 27, 2008.

On December 9, 2008, Lintag once again met with petitioner to replace check no. 0478521 after the latter made representations that NSJBI wanted Lintag to issue two different checks - one check for partial payment of the condominium unit, and the other to cover expenses for transfer of unit under Lintag and her husband's names. Consequently, Lintag issued two crossed-checks dated January 16, 2009. Check no. 0478252, was issued as partial payment for the unit and was payable to *New San Jose Builders, Inc.*, for the amount of P1,141,655.52. The other one, check no. 0478253, was issued to cover expenses for transfer and was payable to *CASH*, for the amount of P158,344.48. Petitioner received the checks and placed them inside his clutch bag, and then handed another NSJBI acknowledgment receipt with control no. 12803.

On his way home, petitioner was allegedly accosted by two unidentified men who were armed with deadly weapons. The men grabbed petitioner's clutch bag and immediately absconded, taking the checks with them.

Petitioner, however, failed to inform Lintag and NSJBI that the checks were stolen. Lintag testified that she and petitioner communicated on several occasions, through text messages or personal interactions, to finalize the purchase of the unit. Lintag stated that, on January 8, 2009, petitioner even reminded her to ensure that her

accounts had sufficient funds.

On February 6, 2009, Lintag learned that her current account with BPI had been credited for the checks, but not as payment to NSJBI. She also discovered that check no. 0478252 had been tampered with when the payee was changed from *New San Jose Builders, Inc.* to *CASH*. It was also only after such discovery that petitioner revealed the robbery incident to Lintag. Aggrieved Lintag filed a complaint for estafa with abuse of confidence, under Article 315 (1)(b), and estafa through falsification of commercial documents, under Article 315 (2)(a), against petitioner.

On March 20, 2015, the RTC rendered a Decision,<sup>[6]</sup> acquitting petitioner from estafa, but holding him civilly liable, the dispositive portion of which reads:

**WHEREFORE**, premises considered, for failure of the prosecution to establish the guilt of the accused beyond reasonable doubt, accused **Martin N. Lim Jr.** is hereby **ACQUITTED on Criminal Case Nos. 09-3335 and 09-3336**.

Nevertheless, Accused Martin N. Lim[, Jr.] is held civilly liable to the private complainant and is hereby ordered to pay the latter the following:

1. Nominal Damages in the amount of P200,000.00
2. Moral Damages in the amount of P200,000.00
3. Attorney's fees in the amount of P100,000.00
4. Cost of Suit.

**SO ORDERED.**<sup>[7]</sup>

The RTC Decision states that the following elements must be proven beyond reasonable doubt in prosecuting for the crime of estafa through misappropriation or conversion under paragraph (1) (b) Article 315 of the Revised Penal Code:

- (1) that the money, good or other personal property is received by the offender in trust, of on commission, of for administration, or under any other obligation involving the duty to make delivery of, or to return, the same;
- (2) that there be misappropriation or conversion of such money or property by the offender or denial on his part of such receipt;
- (3) that such misappropriation or conversion or denial is to the prejudice of another; and
- (4) that there is demand made by the offended party on the offender.<sup>[8]</sup>

The RTC found that the prosecution failed to prove the first and second elements of the crime charged. The first element necessitates material or physical, *and* juridical possession of the thing received. As stated by the RTC, petitioner only had material or physical possession of the checks because he received them not "as agent of [Lintag]" but as an employee of NSJBI.

Misappropriation was also wanting because there was no moral certainty that petitioner received the proceeds of the checks. Respondent alleged that the checks were crossed or for deposit only yet, she did not present any proof as to whose accounts the checks were deposited.

In the end, the RTC only found petitioner civilly liable for failing to report the robbery incident to Lintag or NSJBI, which could have averted the unauthorized encashment of the checks.

On April 23, 2015, petitioner filed an appeal before the CA. Petitioner averred that his civil liability had no sufficient basis as he was not the perpetrator of the crimes charged.

On May 18, 2017, the CA rendered the assailed Decision, the dispositive portion of which reads:

The Decision dated March 20, 2015 is AFFIRMED with MODIFICATION, AWARDING P1,300,000.00 as actual damages (representing the total value of BPI Family Savings Bank Check Nos. 0478252 and 0478253), P200,000.00 as moral damages, P30,000.00 as exemplary damages, and P500,000.00 as attorney's fees. The award of P200,000.00 as nominal damages is DELETED.<sup>[9]</sup>

On June 16, 2017, petitioner filed his Motion for Reconsideration, but the same was denied in a Resolution<sup>[10]</sup> dated September 6, 2017.

Thus, the present petition.

Petitioner submits the following assignment of error:

Specifically, the question here is whether or not it is proper for the Court of Appeals, following the trial court, to award a huge money judgment to the private complainant despite the findings that:

- (a) The trial court did not find the accused to have committed the crimes charged or profited therefrom.
- (b) There is no preponderance of evidence in these cases establishing that accused's acts caused the loss and damage to the private complainant.
- (c) The rules and jurisprudence are clear that, if there is no basis to charge the accused, then he has no criminal liability; it follows that he should also have no civil liability.<sup>[11]</sup>

The only issue to be resolved before the Court is whether or not Lim is liable for civil damages.

The Court answers in the affirmative.

Petitioner maintains that there is no basis for civil liability because he was found innocent of the crime charged. Such argument must fail. It is entrenched in jurisprudence, that the extinction of penal action does not carry with it the extinction of civil action where (a) the acquittal is based on reasonable doubt as only a preponderance of evidence is required; (b) the court declares that the liability of the accused is only civil; and (c) the civil liability of the accused does not arise