

# FIRST DIVISION

[ G.R. No. 228704, December 02, 2020 ]

**DIOSA ARRIVAS, PETITIONER, VS. MANUELA BACOTOC,  
RESPONDENT.**

## D E C I S I O N

**PERALTA, C.J.:**

Before Us is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision<sup>[1]</sup> dated May 26, 2016 and the Resolution<sup>[2]</sup> dated September 30, 2016 of the Court of Appeals (CA) in CA-G.R. CRNo. 01596, which affirmed, with modifications, the Decision dated September 7, 2010 of the Regional Trial Court, Iloilo City, Branch 31 finding herein petitioner guilty beyond reasonable doubt of the crime of *Estafa* under Article 315, paragraph I(b) of the Revised Penal Code.

The antecedent facts are as follows:

Diosa Arrivas was charged with *Estafa* in an Information, which read:

That on or about the 23<sup>rd</sup> day of July, 2003, in the City of Iloilo, Philippines and within the jurisdiction of this Honorable Court, herein accused, took and received in trust from Manuela Bacotoc one (1) men's ring with 2K solo diamond at the center with eight smaller diamonds around, in yellow Gold (14K) valued at P75,000.00 to be sold by her at an overprice, the overprice will constitute as her commission, with the express duty and obligation to remit the proceeds of the sale within the same period, however, said accused, far from complying with her express duty and obligation and with grave abuse of confidence, did then and there willfully, unlawfully, and criminally convert and misappropriate to her own personal use and benefit the amount of P75,000.00 or the jewelry received, that despite repeated demands made upon her to remit the proceeds of the sale or return the unsold items, fails and refuses to do so, to the damage and prejudice of Manuela Bacotoc in the sum of P75,000.00.<sup>[3]</sup>

Arrivas pleaded not guilty, and thus, trial ensued.

### **Version of the Prosecution and Herein Private Respondent Manuela Bacotoc**

Diosa Arrivas and Manuela Bacotoc personally knew each other and had been long-time acquaintances. They are both engaged in buying and selling of jewelries, and had done business together countless times.

On July 23, 2003, Arrivas told Bacotoc that she knew someone who was interested

in a male's ring and was willing to buy one at a price ranging from P50,000.00 to P80,000.00. She asked Bacotoc if she had an available item within the given specification. When Bacotoc told Arrivas that she had an available ring, Arrivas asked Bacotoc if she could bring the said ring to her client. Considering the price of the ring, Bacotoc was hesitant at first to entrust the same to Arrivas. The latter, however, was able to convince Bacotoc, and promised that she will return the ring if the buyer would not buy the same, or immediately deliver the amount if the buyer decides to purchase the ring. They then agreed to execute a trust receipt as they usually do whenever they transact business together.

A trust receipt was executed and personally signed by them on that same day, which provides:

Received from MANUELA BACOTOC the following items: lpc of men's ring with 2K solo diamond at center and eight smaller diamonds around, in yellow Gold (14K) which cost Php 75,000.00. RECEIVED on Consignment from MANUELA the goods stated below. It is hereof understood that all the consigned goods listed hereunder remain the property of BACOTOC on which goods I am also responsible as in their merchantable condition and quantity; and I am also responsible on the loss of any of this goods by theft or otherwise, and that I, upon order on demand will return all consigned goods on hand or otherwise turn over the proceeds of any of the consigned goods to the amount of the prices stated hereunder; and finally, I further agree to assume liability and expense for the safekeeping of these consigned goods. To be sold by me on commission basis and return the same if not sold within two (2) days from today. I am prohibited from giving the above items to sub-agents; signed by Diosa Arrivas on July 23, 2003." (*sic*)

After the lapse of two days from July 23, 2003, however, Arrivas was not able to deliver the payment of the ring or return the same to Bacotoc. The latter tried to look for Arrivas in her usual place of business but she could not be found. It was only after two weeks that Bacotoc was able to finally meet with Arrivas.

During their said meeting, Arrivas told Bacotoc that the payment for the ring will be made in thirty days. However, the said thirty days lapsed and Arrivas still failed to make any payment to Bacotoc.

Thereafter, when Bacotoc again met Arrivas, the latter asked for reconsideration and pleaded that she be allowed to pay the price of the ring in installments as well as pay her old accounts, to which Bacotoc agreed. Nevertheless, no payment was made by Arrivas.

Thus, Bacotoc sent a demand letter dated November 3, 2004 to Arrivas, and demanded for the payment of the ring in the amount of P75,000.00. The said demand letter was sent through registered mail and was personally received by Arrivas on November 5, 2004. Arrivas then met with Bacotoc's lawyer and promised to settle the amount in installments. However, Arrivas again failed to comply with her promise.

**Version of Herein Petitioner**

Arrivas and Bacotoc were long time acquaintances, and they were engaged in the same business of buying and selling jewelries. They had, likewise, entered into countless transactions where Bacotoc would also buy jewelries from Arrivas.

On July 23, 2003, Bacotoc and Arrivas, together with Virgie Valencia, Letty Espinosa, and Daphne Lopez, met at the stall of Arrivas because Valencia and Espinosa were looking for a men's diamond ring. Bacotoc had an available stock of the ring which the two wanted, but she would not release the same unless Bacotoc sign a receipt for them. Thus, as usual,

Bacotoc released the men's diamond ring after Arrivas signed a trust receipt in the amount of Php75,000.00.

On August 8, 2003, or fifteen days from July 23, 2003, but prior to the filing of Bacotoc's complaint, Arrivas paid Bacotoc a partial amount of Php20,000.00 from her own pocket because Valencia and Espinosa did not appear after the lapse of the two days agreed in the trust receipt. Arrivas further made several payments even after the filing of the complaint.

Lopez testified for Arrivas that on July 23, 2003, Arrivas, Espinosa, and Valencia met with Bacotoc because Espinosa and Valencia were looking for a men's ring to sell. Lopez further testified that because Espinosa and Valencia had unsettled accounts with Bacotoc, the latter did not want to give it to them and instead asked Arrivas to sign the receipt for the two.

### **Ruling of the RTC**

After trial on the merits, the trial court rendered judgment convicting Arrivas. Its decision read -

WHEREFORE, IN VIEW OF THE FOREGOING, the prosecution having established the guilt of the accused of the offense of Swindling as defined and penalized under Art. 315, par. I(b), Revised Penal Code, JUDGMENT is hereby rendered finding said accused DIOSA ARRIVAS, GUILTY beyond reasonable doubt of said crime and hereby sentences her to suffer the indeterminate penalty of imprisonment consisting of six (6) months and one (1) day of *Prision Correccional*[,] as minimum[,] to six (6) years and (1) day of *Prision Mayor*[,] as maximum, to indemnify the offended party the amount of P75,000.00 by way of actual damages and to pay attorney's fees equivalent to 25% of the value of the ring, as well as to suffer all the accessory penalties provided by law.

SO ORDERED.<sup>[4]</sup>

The trial court held that the elements of *Estafa* under paragraph I(b) of Article 315 had been established - a personal property, that is, one men's diamond ring, valued at P75,000.00 was delivered to and received by Arrivas on July 23, 2003 with the obligation to sell the same and deliver the proceeds thereof to Bacotoc; otherwise, if not sold, to return the said ring to Bacotoc within two days therefrom. The trial court further noted that Arrivas admitted the identity of the subject ring and that she understood the terms and conditions of the trust receipt when she signed the

same.

While Arrivas claimed that payments were made, the trial court found that none of the receipts evidencing the alleged payments referred to the July 23, 2003 transaction involving the subject ring. The trial court added that the receipts showed that these were payments made to Arrivas's previous accounts with Bacotoc. The trial court, however, considered the payments made by Arrivas as a manifestation of her lack of intent to commit so grave a wrong, a mitigating circumstance, and imposed the minimum penalty.

Aggrieved, Arrivas filed an appeal before the Court of Appeals.

### **Ruling of the CA**

In its Decision dated May 26, 2016, the CA denied Arrivas's appeal and affirmed, with modifications, the ruling of the trial court.

It held that all the elements of Estafa under Article 315, paragraph I(b) of the Revised Penal Code were established by the prosecution.

A motion for reconsideration was filed by Arrivas, but the same was denied by the CA in its Resolution dated September 30, 2016.

Thus, this petition for review.

### **Issues**

The petitioner raises the following issues:

- I. WHETHER OR NOT THE COURT OF APPEALS ERRED IN NOT CONSIDERING THAT THE PHP20,000.00 PAYMENT MADE BEFORE THE LETTER OF DEMAND WAS FOR THE VALUE OF THE DIAMOND RING AND THIS CONVERTED THE TRUST RELATIONSHIP INTO DEBTOR-CREDITOR RELATIONSHIP.
- II. WHETHER OR NOT THERE WAS NOVATION OF THE PRINCIPAL OBLIGATION OF TRUST

Petitioner Arrivas contends that there was no demand made by Bacotoc prior to the partial payment of P20,000.00, and that this partial payment was for the principal of P75,000.00, or the amount of the subject men's ring. Thus, the trust relationship between them was novated, and it was converted into one between a debtor and a creditor.

Basing on this premise, Arrivas contends that Article 1292 of the Civil Code should have been applied since a contract of sale novated the principal obligation of trust, and this was before the consummation of the crime of *Estafa*.

### **Our Ruling**

The petition lacks merit.