

## FIRST DIVISION

[ G.R. No. 192391, June 19, 2017 ]

**ESTATE OF HONORIO POBLADOR, JR., REPRESENTED BY RAFAEL A. POBLADOR, PETITIONER, VS. ROSARIO L. MANZANO, RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

Before the Court is a petition for review on *certiorari*<sup>[1]</sup> assailing the Decision<sup>[2]</sup> dated September 30, 2009 and the Resolution<sup>[3]</sup> dated May 26, 2010 of the Court of Appeals (CA) in CA-G.R. CV No. 78891 that denied the appeal of petitioner Estate of Honorio Poblador, Jr. (petitioner), represented by Rafael A. Poblador (Rafael), from the Order<sup>[4]</sup> dated January 13, 2003 of the Regional Trial Court of Pasig City, Branch 157 (RTC). Petitioner appealed the civil aspect of the dismissed criminal case for *Estafa* which it filed against respondent Rosario L. Manzano (Manzano).

#### The Facts

Petitioner was the subject of settlement proceedings in Special Proceedings No. 9984 before the Regional Trial Court of Pasig City (Probate Court). Among its properties was one share of stock in Wack-Wack Golf and Country Club, Inc. (Wack-Wack Share) covered by membership Certificate No. 3759 issued on September 17, 1974.<sup>[5]</sup>

In an Order dated May 10, 1996, the Probate Court authorized petitioner's administratrix, Elsa A. Poblador (Elsa), to negotiate the sale of certain properties of petitioner, including the Wack-Wack Share. Upon Elsa's instruction, Rafael (one of the heirs of the deceased Honorio Poblador, Jr.) looked for interested buyers. Subsequently, he engaged the services of Manzano, a broker of Metroland Holdings Incorporated (Metroland)<sup>[6]</sup> who, on September 9, 1996, faxed a computation for the sale of the Wack-Wack Share to petitioner,<sup>[7]</sup> showing a final net amount of P15,000,000.00. On September 18, 1996,<sup>[8]</sup> the final net amount to the seller was increased to P15,200,000.00.

Manzano later introduced Rafael to Moreland Realty, Inc. (Moreland), and in September 1996, the parties entered into a Deed of Absolute Sale<sup>[9]</sup> with Elsa covering the Wack-Wack Share for the gross amount of P18,000,000.00. Out of the P18,000,000.00 purchase price, Moreland directly paid Elsa the amount of P15,200,000.00 through a Metrobank check.<sup>[10]</sup> The balance of P2,800,000.00 was allegedly given to Manzano for the payment of the capital gains tax, documentary stamp tax, and other pertinent fees, as well as for her service fee.<sup>[11]</sup>

In October 1996, however, the Probate Court annulled the sale of the Wack-Wack Share. Thus, Elsa returned to Moreland the amount of P18,000,000.00 which the latter paid for the Wack-Wack Share, plus interest, and applied with the Bureau of Internal Revenue (BIR) for the refund of the taxes paid for the annulled sale. Petitioner likewise asked Manzano to return the broker's service fee.<sup>[12]</sup>

Meanwhile, Rafael, through petitioner's accountant, Nonilo P. Torres (Torres), allegedly requested Manzano for an accounting of the P2,800,000.00 she received on behalf of petitioner. In response, Manzano faxed the following documents addressed to Torres: (a) Cover letter dated February 4, 1997;<sup>[13]</sup> (b) Capital Gains Tax Return dated September 23, 1996 indicating the payment of P1,480,000.00 as capital gains tax;<sup>[14]</sup> (c) BIR Certification dated September 23, 1996 indicating the payment of P1,480,000.00 as capital gains tax;<sup>[15]</sup> (d) Authority to Accept Payment dated September 23, 1996 indicating the payment of P135,000.00 as documentary stamp tax;<sup>[16]</sup> and (e) Deed of Absolute Sale between petitioner, represented by Elsa, and Moreland.<sup>[17]</sup> Examining these documents, Rafael and Torres allegedly noticed a discrepancy in the faxed Capital Gains Tax Return: while the typewritten portion of the Return indicated P1,480,000.00 as the capital gains tax paid, the machine validation imprint reflected only P80,000.00 as the amount paid. To clarify the discrepancy, petitioner secured a certified true copy of the Capital Gains Tax Return from the BIR that reflected only P80,000.00 as the capital gains tax paid for the sale of the Wack-Wack Share.<sup>[18]</sup> As a result, petitioner demanded<sup>[19]</sup> Manzano to properly account for the P2,800,000.00 allegedly given to her for the payment of taxes and broker's fees, but to no avail.<sup>[20]</sup> This led to the filing, on December 8, 1999, of an Information<sup>[21]</sup> for the crime of *Estafa* under Article 315, paragraph (1) (b) of the Revised Penal Code (RPC) against Manzano before the RTC, docketed as Crim. Case No. 113549.<sup>[22]</sup> In the course of the proceedings, Manzano filed a Demurrer to Evidence<sup>[23]</sup> praying for the dismissal of the case for failure of the prosecution to establish the essential elements of *Estafa* with which she was charged.<sup>[24]</sup>

### **The RTC Ruling**

In an Order<sup>[25]</sup> dated January 13, 2003, the RTC granted Manzano's Demurrer to Evidence and dismissed the complaint for *Estafa* for failure of the prosecution to "prove all the elements of estafa through misappropriation as defined in and penalized under paragraph 1 (b)[, Article 315] of the Revised Penal Code, x x x."<sup>[26]</sup> The RTC found that the element of deceit was absent, considering that both Manzano and Rafael were equally guilty of defrauding the government of taxes actually due on the transaction. It pointed out that Rafael knew and concurred with the plan, including the special arrangements that had to be made with the BIR, as long as the estate would receive a higher net proceed from the sale. In fact, petitioner received in full the agreed net sale proceeds of P15,200,000.00. Finally, it held that Manzano was entitled to her broker's fee in the amount of P900,000.00 as she was commissioned and successfully closed the transaction for petitioner.<sup>[27]</sup>

Dissatisfied, petitioner filed a motion for reconsideration<sup>[28]</sup> which the RTC denied in

an Order<sup>[29]</sup> dated March 11, 2003. Hence, petitioner appealed the civil aspect of the case before the CA.

### **The CA Ruling**

In a Decision<sup>[30]</sup> dated September 30, 2009, the CA denied petitioner's appeal, declaring that the prosecution did not only fail to prove all the elements of *Estafa* through misappropriation;<sup>[31]</sup> it also failed to prove the alleged civil liability of Manzano in the amount of P2,800,000.00.<sup>[32]</sup>

It found that the prosecution's evidence failed to show that Manzano personally received the P2,800,000.00 earmarked for the payment of taxes and broker's fees.<sup>[33]</sup> At most, such evidence only proved that Manzano tried to help broker and negotiate the sale of the Wack-Wack Share.<sup>[34]</sup> In fact, Rafael himself admitted that he was unsure if Manzano indeed received the P2,800,000.00. Neither could he state the date when she supposedly received the same.<sup>[35]</sup>

Moreover, the CA stressed that: (a) petitioner readily admitted receipt of the full amount of P15,200,000.00 – the amount agreed upon in the computation sent by Manzano – for the sale of the Wack-Wack Share which was paid with a check by the buyer, Moreland Realty, Inc., and acknowledged by Elsa A. Poblador;<sup>[36]</sup> (b) Rafael made a categorical admission that he did not even know who actually paid the taxes to the BIR and that the name of Manzano did not appear in the documents with respect to the payment of the capital gains tax and documentary stamp tax;<sup>[37]</sup> and (c) petitioner knew that Manzano was merely an employee of Metroland, who talked to and negotiated with it in such capacity, and with whom it would not have dealt with had she not been Metroland's employee.<sup>[38]</sup>

Finally, the CA observed that this is a case of *pari delicto*, as petitioner's predicament would have been avoided if only Rafael sought the permission and approval of the Probate Court prior to the sale of the Wack-Wack Share.<sup>[39]</sup>

Aggrieved, petitioner sought reconsideration,<sup>[40]</sup> which the CA denied in a Resolution<sup>[41]</sup> dated May 26, 2010; hence, this petition.

### **The Issue Before the Court**

The core issue in this case is whether or not the CA erred in denying petitioner's appeal on the civil liability *ex delicto* of Manzano.

### **The Court's Ruling**

The petition lacks merit.

It is a fundamental rule that "[t]he acquittal of the accused does not automatically preclude a judgment against him on the civil aspect of the case. The extinction of

the penal action does not carry with it the extinction of the civil liability where: (a) the acquittal is based on reasonable doubt as only 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 from or is not based upon the crime of which the accused is acquitted. **However, the civil action based on delict may be deemed extinguished if there is a finding on the final judgment in the criminal action that the [prosecution absolutely failed to prove the guilt of the accused, or the] act or omission from which the civil liability may arise did not exist, or where the accused did not commit the acts or omission imputed to him.**"<sup>[42]</sup>

In the fairly recent case of *Dy v. People*,<sup>[43]</sup> the Court discussed the concept of civil liability *ex delicto* in *Estafa* cases under paragraph 1 (b), Article 315 of the RPC (with which Manzano was likewise charged), stating that **when the element of misappropriation or conversion is absent, there can be no *Estafa* and concomitantly, the civil liability *ex delicto* does not exist.** Particularly, the Court said:

Our laws penalize criminal fraud which causes damage capable of pecuniary estimation through *estafa* under Article 315 of the Revised Penal Code. In general, the elements of *estafa* are:

- (1) That the accused defrauded another (a) by abuse of confidence, or (b) by means of deceit; and
- (2) That damage or prejudice capable of pecuniary estimation is caused to the offended party or third person.

The essence of the crime is the unlawful abuse of confidence or deceit in order to cause damage. As this Court previously held, "the element of fraud or bad faith is indispensable." Our law abhors the act of defrauding another person by abusing his trust or deceiving him, such that, it criminalizes this kind of fraud.

Article 315 of the Revised Penal Code identifies the circumstances which constitute *estafa*. Article 315, paragraph 1 (b) states that *estafa* is committed by abuse of confidence —

Art. 315. *Swindling (estafa)*. — ... (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.