

THIRD DIVISION

[G.R. No. 166995, January 13, 2014]

**DENNIS T. VILLAREAL, PETITIONER, VS. CONSUELO C. ALIGA,
RESPONDENT.**

D E C I S I O N

PERALTA, J.:

Challenged in this petition for review on *certiorari* under Rule 45 of the 1997 Revised Rules of Civil Procedure (*Rules*) are the April 27, 2004 Decision^[1] and August 10, 2004 Resolution,^[2] of the Court of Appeals (CA) in CA-G.R. CR No. 25581 entitled *People of the Philippines v. Consuelo Cruz Aliga* which acquitted respondent Consuelo C. Aliga (*Aliga*) from the offense charged and, in effect, reversed and set aside the July 12, 2001 Decision^[3] of the Regional Trial Court (RTC), Branch 147, Makati City.

On October 31, 1996, an Information was filed against respondent Aliga for the crime of Qualified Theft thru Falsification of Commercial Document, committed as follows:

That on or about the 30th day of October 1996, in the City of Makati, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, being then an accountant of Dentrade Inc., herein represented by Dennis T. Villareal, and who has access to the company's checking accounts did then and there willfully, unlawfully and feloniously with grave abuse of confidence, with intent [to] gain and without the consent of the owner thereof, take, steal and carry away from complainant's office, United Coconut Planters Bank Check No. HOF 681039 dated October 24, 1996 in the amount of P5,000.00, once in possession of said check, did then and there willfully, unlawfully and feloniously falsify the amount by changing it to P65,000.00 and having the same encashed with the bank, thereafter misappropriate and convert to her own personal use and benefit the amount of P60,000.00 to the damage and prejudice of the herein complainant, Dentrade Inc., in the aforementioned amount of P60,000.00.^[4]

During her arraignment on December 6, 1996, respondent Aliga pleaded not guilty.^[5] After the RTC resolved to deny petitioner's motion for issuance of a hold departure order against respondent Aliga and the latter's motion to suspend proceedings,^[6] trial on the merits ensued. Both the prosecution and the defense were able to present the testimonies of their witnesses and their respective documentary exhibits.

The Court of Appeals, substantially adopting the trial court's findings, narrated the relevant facts as follows:

Apart from the documentary exhibits "A" to "F", the combined testimonies of the prosecution witnesses Elsa Doroteo, Diosdado Corompido, Yolanda Martirez and NBI agent John Leonard David tend to establish the following factual milieu:

Complainant Dennis T. Villareal is the President and General Manager of Dentrade, Inc., a corporation with principal office address at the 7/F Citibank Center 8741 Paseo de Roxas, Makati City. As a businessman, Villareal maintains checking accounts with the head office of China Banking Corporation (Chinabank) in Paseo de Roxas and United Coconut Planters Bank (UCPB) in Makati Avenue, both banks are located in Makati City. He has under his employ, Elsa Doroteo, as executive secretary, Diosdado Corompido, as messenger, Yolanda Martirez, as chief accountant, [respondent] Consuelo Cruz Aliga and Annaliza Perez, as accounting clerks.

[Respondent] has custody of the personal checks of Villareal. She prepares the personal checks by typing its contents and submits them to Villareal for his signature. After the signed checks are delivered to her, she in turn, gives the checks to the messenger for encashment with the bank.

Sometime in October 1996, Villareal's governess asked Doroteo for the payment covering the year 1995 for his children's teacher in horseback riding. Doroteo replied that the said fees had been paid. To verify the matter, Doroteo instructed Perez, one of the accounting clerks, to produce the originals of the returned checks from [the] personal account of Villareal. Upon examining the returned checks, Doroteo found out that the fees for the horseback riding instructor had indeed been paid and that there were large encashments reflected on the checks in typewritten form. Doroteo informed Villareal of her findings. Villareal examined the returned checks and was surprised as he never authorized the large encashments.

Upon advice of his lawyer, Atty. Victor Lazatin of the ACCRA Law Offices, Mr. Villareal sent a letter to the National Bureau of Investigation (NBI) asking for assistance in the investigation of the matter (Exh. "A"). A few days thereafter, NBI agents John Leonard David and Rafael Ragos arrived at the Dentrade office. They examined the particular checks which involved large amounts and interviewed Doroteo.

When asked by the two NBI agents, Villareal told them that there were three (3) checks pending for his signature, UCPB checks, all in petty cash: one check was for P1,000.00, another for P5,000.00, and the last one for P6,000.00. They were all in typewritten form which [respondent] prepared. As suggested by the NBI agents, Villareal signed the three (3) checks. Doroteo had the three checks photocopied then released their originals to [respondent].

On instruction of Villareal, Doroteo and NBI agent David went to UCPB the next day hoping that one of the checks will be encashed. At or about 3:00 p.m. on that day, Doroteo asked the bank teller if Villareal's three checks were encashed. The bank teller informed Doroteo that UCPB check in the amount of P65,000.00 was encashed. Doroteo was surprised because she was then holding a photocopy of the original check for P5,000.00 while she saw the teller holding a check for P65,000.00 but the check number and date were exactly the same as that of its photocopy. Obviously, the number "6" was intercalated in the check by adding the said number before the digits "5,000.00." Upon Doroteo's request, the teller gave her a photocopy of the supposedly altered check.

Doroteo reported back to the Dentrade office and handed to Villareal the photocopy of the check bearing the amount of P65,000.00. When summoned, [respondent] arrived then executed a statement voluntarily giving back the amount of P60,000.00 to Villareal in the presence of his lawyers Lazatin and Vallente, and Doroteo. The said statement was in the handwriting of [respondent] (Exh. "D"), which reads:

"After being confronted by Mr. Dennis T. Villareal, I am voluntarily surrendering the P60,000.00 as part of the proceeds of UCPB check # 681039 dated October 30, 1996 as follows (in P1,000.00 bills)

(serial no. of P1,000.00 bills subject of the statement)."

Doroteo photocopied the P1,000.00 bills (Exh. "E"). After [respondent] admitted the taking of the excess amount of P60,000.00, the NBI agents placed her under arrest and took her to the NBI detention center.

According to witness Corompido, Villareal's messenger, at 10:00 a.m. of October 30, 1996, he was bound for UCPB, Makati Avenue branch. [Respondent] requested him to pay her "Extelcom" bill and asked him to meet her at the UCPB bank. After several minutes, the two met at the bank. [Respondent] handed to Corompido her "Extelcom" bill and one personal check of Villareal in the amount of P65,000.00. [Respondent] returned to the Dentrade [office]. Corompido gave to the teller [respondent's] "Extelcom" payment and also the personal check of Villareal for P65,000.00. The teller release the P65,000.00 to Corompido who signed on the stamped portion of the check.

[Respondent] Aliga has a different version for her defense. She claimed that on October 30, 1996 at around 2:30 p.m., the NBI agents arrested her but they did [not] inform [her] of her constitutional rights to remain silent and to be assisted by counsel; that she was actually an accounting assistant to Dentrade's chief accountant, Yolanda Martirez, the accounting clerk being Annaliza Perez; that she was not in charge of Villareal's personal checking account, but Martirez; that Perez was the one in custody of the [checkbooks] pertaining to the personal checking accounts of Villareal with UCPB and [Chinabank]; that Doroteo was in possession of another [checkbook] and kept it in Villareal's residence.

[Respondent] admitted that the UCPB and Chinabank checks were also used for the replenishment of the cash advances made by Villareal; that the replenishment was prepared using a typewriter by Martirez, Perez, Doroteo and herself; that there was no regulation or control mechanism in their office where the responsibility for preparing any particular check on the personal account of Villareal could be identified; that the issuance of checks against the personal checking accounts at the UCPB and Chinabank were frequent, from 5 to 12 checks daily; and that there were no accompanying vouchers to record the purposes for which the checks were issued; and that it was Martirez who monitors Villareal's personal checks at the UCPB and Chinabank.^[7]

Additionally, respondent Aliga claimed that Perez, Doroteo, and Martirez are also using typewriter in the check preparation.^[8] Moreover, at the time she was summoned by Villareal inside his office, the two NBI agents (David and Ragos) and Villareal's counsels (Attys. Lazatin and Vallente) were joined in by NBI Director Toledo.^[9] The extent of the NBI's participation is disputed. While respondent Aliga^[10] maintained that she was already arrested by the NBI at the moment she was called to the office of Villareal, David^[11] testified that they were merely silent spectators therein, just witnessing the confrontation or interview conducted by Villareal and not even talking to respondent Aliga.

The RTC succinctly opined that the evidence of the prosecution is very clear that respondent Aliga must have been the one who made the intercalation in the subject check, and that even without her written admission (Exhibit "D"), the evidence presented constitutes proof beyond reasonable doubt. The July 12, 2001 Decision disposed:

WHEREFORE, in view of the foregoing, the Court, finding the accused CONSUELO CRUZ ALIGA guilty beyond reasonable doubt of the crime charged, hereby sentences her to suffer an indeterminate sentence of 14 years, 8 months of reclusion temporal as the minimum to 20 years of reclusion temporal as the maximum.

It appearing that the amount of P60,000.00 subject of the offense was already returned by the accused, the Court hereby absolves the accused of civil liability in this case.

SO ORDERED.^[12]

Respondent Aliga appealed to the CA, which, on April 27, 2004, reversed and set aside the judgment of the RTC on the grounds that: (1) her admission or confession of guilt before the NBI authorities, which already qualifies as a custodial investigation, is inadmissible in evidence because she was not informed of her rights to remain silent and to have competent and independent counsel preferably of her own choice; and (2) the totality of the circumstantial evidence presented by the prosecution is insufficient to overcome the presumption of innocence of the accused.

Petitioner's motion for reconsideration was denied by the CA on August 10, 2004; hence, this petition raising the issues for resolution as follows:

I.

THE COURT OF APPEALS GRAVELY ERRED IN DECLARING INADMISSIBLE RESPONDENT'S VOLUNTARY ADMISSION OF GUILT, ON ITS CLEARLY SPECULATIVE AND CONJECTURAL PREMISE THAT RESPONDENT'S FREEDOM OF ACTION WAS IMPAIRED WHEN SHE MADE THE ADMISSION, CONSIDERING THAT:

- A. AS LAID DOWN BY THIS HONORABLE COURT, AN ADMISSION OF GUILT SHIFTS THE BURDEN TO THE DEFENSE TO SHOW THAT IT WAS EXTRACTED BY FORCE OR DURESS.
- B. CONTRARY TO THE JURISPRUDENTIAL GUIDELINES LAID DOWN BY THIS HONORABLE COURT, THE COURT OF APPEALS ERRONEOUSLY CONCLUDED THAT RESPONDENT WAS "EFFECTIVELY PLACED UNDER CUSTODIAL INVESTIGATION" BY THE SHEER PHYSICAL PRESENCE OF THE NBI AGENTS WHEN THE ADMISSION WAS MADE.
- C. RESPONDENT'S VOLUNTARY ADMISSION WAS MADE TO A PRIVATE INDIVIDUAL, I.E., PETITIONER HEREIN.

II.

THE COURT OF APPEALS GRAVELY ERRED, IF NOT ACTED IN EXCESS OF ITS JURISDICTION, WHEN IT CONCLUDED THAT THE PROSECUTION'S EVIDENCE WAS INSUFFICIENT TO OVERCOME RESPONDENT'S PRESUMPTION OF INNOCENCE, CONSIDERING THAT:

- A. CONTRARY TO THIS HONORABLE COURT'S JURISPRUDENTIAL RULING, THE COURT OF APPEALS ENTIRELY OVERLOOKED THE EVIDENCE ON RECORD AND EXACTED DIRECT EVIDENCE FROM THE PROSECUTION.
- B. THE COURT OF APPEALS' ERRONEOUS CONCLUSION THAT RESPONDENT IS INNOCENT IS BASED ON ITS FINDING OF A SUPPOSED INSUFFICIENCY OF EVIDENCE WHICH IS CONTRADICTED BY THE EVIDENCE ON RECORD.
- C. THE COURT OF APPEALS DEPARTED FROM SETTLED JURISPRUDENCE, REQUIRING FROM THE PROSECUTION A QUANTUM OF EVIDENCE GREATER THAN PROOF BEYOND REASONABLE DOUBT, WHEN IT:

- 1. ERRONEOUSLY RULED THAT THE PROSECUTION FAILED TO DISCOUNT THE POSSIBILITY THAT SOMEONE ELSE COULD