

SECOND DIVISION

[G. R. No. 195002, January 25, 2012]

**HECTOR TREÑAS, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

SERENO, J.:

Where life or liberty is affected by its proceedings, courts must keep strictly within the limits of the law authorizing them to take jurisdiction and to try the case and render judgment thereon.^[1]

This is a Petition for Review on Certiorari under Rule 45 of the 1997 Revised Rules of Civil Procedure, seeking to annul and set aside the Court of Appeals (CA) Decision dated 9 July 2010^[2] and Resolution dated 4 January 2011.

Statement of the Facts and of the Case

The pertinent facts, as found by the CA, are as follows:

Sometime in December 1999, Margarita Alocilja (Margarita) wanted to buy a house-and-lot in Iloilo City covered by TCT No. 109266. It was then mortgaged with Maybank. The bank manager Joselito Palma recommended the appellant Hector Treñas (Hector) to private complainant Elizabeth, who was an employee and niece of Margarita, for advice regarding the transfer of the title in the latter's name. Hector informed Elizabeth that for the titling of the property in the name of her aunt Margarita, the following expenses would be incurred:

P20,000.00- Attorney's fees,
P90,000.00- Capital Gains Tax,
P24,000.00- Documentary Stamp,
P10,000.00- Miscellaneous Expenses.

Thereafter, Elizabeth gave P150,000.00 to Hector who issued a corresponding receipt dated December 22, 1999 and prepared [a] Deed of Sale with Assumption of Mortgage. Subsequently, Hector gave Elizabeth Revenue Official Receipt Nos. 00084370 for P96,000.00 and 00084369 for P24,000.00. However, when she consulted with the BIR, she was informed that the receipts were fake. When confronted, Hector admitted to her that the receipts were fake and that he used the P120,000.00 for his other transactions. Elizabeth demanded the return of the money.

To settle his accounts, appellant Hector issued in favor of Elizabeth a Bank of Commerce check No. 0042856 dated November 10, 2000 in the amount of P120,000.00, deducting from P150,000.00 the P30,000.00 as attorney's fees. When the check was deposited with the PCIBank, Makati Branch, the same was dishonored for the reason that the account was closed. Notwithstanding repeated formal and verbal demands, appellant failed to pay. Thus, the instant case of Estafa was filed against him.^[3]

On 29 October 2001, an Information was filed by the Office of the City Prosecutor before the Regional Trial Court (RTC), both of Makati City. The Information reads as follows:

That on or about the 23rd day of December, 1999, in the City of Makati, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, received in trust from ELIZABETH LUCIAJA the amount of P150,000.00 which money was given to her by her aunt Margarita Alocilja, with the express obligation on the part of the accused to use the said amount for expenses and fees in connection with the purchase of a parcel of land covered by TCT No. T-109266, but the said accused, once in possession of the said amount, with the intent to gain and abuse of confidence, did then and there willfully, unlawfully and feloniously misappropriate, misapply and convert to his own personal use and benefit the amount of P130,000.00 less attorney's fees and the said accused failed and refused and still fails and refuses to do so, to the damage and prejudice of complainant Elizabeth Luciaja and Margarita Alocilja in the aforementioned amount of P130,000.00.

CONTRARY TO LAW.^[4]

During arraignment on 26 April 2002, petitioner, acting as his own counsel, entered a plea of "Not Guilty." Allegedly due to old age and poor health, and the fact that he lives in Iloilo City, petitioner was unable to attend the pre-trial and trial of the case.

On 8 January 2007, the RTC rendered a Decision^[5] finding petitioner guilty of the crime of Estafa under section 1, paragraph (b), of Article 315 of the Revised Penal Code (RPC), with the dispositive portion as follows:

WHEREFORE, in view of the foregoing, judgment is rendered finding accused Hector Trenas guilty of the crime of Estafa with abuse of confidence as penalized under Article 315 of the Revised Penal Code, and which offense was committed in the manner described in the aforementioned information. As a consequence of this judgment, accused Hector Trenas is sentenced to suffer a penalty of Ten (10) Years and One (1) Day of *Prision Mayor* to Seventeen (17) Years and Four (4) Months of *Reclusion Temporal*. Moreover, he is ordered to indemnify private complainant Elizabeth Luciaja the amount of P130,000.00 with interest at the legal rate of 12% per annum, reckoned from the date this case was filed until the amount is fully paid.

SO ORDERED.^[6]

We note at this point that petitioner has been variably called Treñas and Trenas in the pleadings and court issuances, but for consistency, we use the name "Treñas", under which he was accused in the Information.

On 24 August 2007, petitioner filed a Motion for Reconsideration,^[7] which was denied by the RTC in a Resolution dated 2 July 2008.^[8]

On 25 September 2008, petitioner filed a Notice of Appeal before the RTC.^[9] The appeal was docketed as CA-G.R. CR No. 32177. On 9 July 2010, the CA rendered a Decision^[10] affirming that of the RTC. On 4 August 2010, petitioner filed a Motion for Reconsideration, which was denied by the CA in a Resolution dated 4 January 2011.^[11]

On 25 January 2011, petitioner filed a Motion for Extension of Time to File Petition for Review on Certiorari^[12] before this Court. He asked for a period of 15 days within which to file a petition for review, and the Court granted his motion in a Resolution dated 9 February 2011.

On 3 February 2011, petitioner filed his Petition for Review on Certiorari before this Court, with the following assignment of errors:

1. THE COURT OF APPEALS ERRED IN RULING THAT AN ACCUSED HAS TO PRESENT EVIDENCE IN SUPPORT OF THE DEFENSE OF LACK OF JURISDICTION EVEN IF SUCH LACK OF JURISDICTION APPEARS IN THE EVIDENCE OF THE PROSECUTION;

2. THE COURT OF APPEALS ERRED IN RULING THAT DEMAND MADE BY A PERSON OTHER THAN THE AGGRIEVED PARTY SATISFIES THE REQUIREMENT OF DEMAND TO CONSTITUTE THE OFFENSE OF ESTAFA;

^[13]

On the first issue, petitioner asserts that nowhere in the evidence presented by the prosecution does it show that P150,000 was given to and received by petitioner in Makati City. Instead, the evidence shows that the Receipt issued by petitioner for the money was dated 22 December 1999, without any indication of the place where it was issued. Meanwhile, the Deed of Sale with Assumption of Mortgage prepared by petitioner was signed and notarized in Iloilo City, also on 22 December 1999. Petitioner claims that the only logical conclusion is that the money was actually delivered to him in Iloilo City, especially since his residence and office were situated there as well. Absent any direct proof as to the place of delivery, one must rely on the disputable presumption that things happened according to the ordinary course of nature and the ordinary habits of life. The only time Makati City was mentioned was with respect to the time when the check provided by petitioner was dishonored by Equitable-PCI Bank in its De la Rosa-Rada Branch in Makati. Petitioner asserts that the prosecution witness failed to allege that any of the acts material to the

crime of *estafa* had occurred in Makati City. Thus, the trial court failed to acquire jurisdiction over the case.

Petitioner thus argues that an accused is not required to present evidence to prove lack of jurisdiction, when such lack is already indicated in the prosecution evidence.

As to the second issue, petitioner claims that the amount of P150,000 actually belongs to Margarita. Assuming there was misappropriation, it was actually she - not Elizabeth - who was the offended party. Thus, the latter's demand does not satisfy the requirement of prior demand by the offended party in the offense of *estafa*. Even assuming that the demand could have been properly made by Elizabeth, the demand referred to the amount of P120,000, instead of P150,000. Finally, there is no showing that the demand was actually received by petitioner. The signature on the Registry Return Receipt was not proven to be that of petitioner's.

On 30 May 2011, this Court issued a Resolution directing the Office of the Solicitor General (OSG) to file the latter's Comment on the Petition. On 27 July 2011, the OSG filed a Motion for Extension, praying for an additional period of 60 days within which to submit its Comment. This motion was granted in a Resolution dated 12 September 2011. On 23 September 2011, the OSG filed a Motion for Special Extension, requesting an additional period of five days. On 29 September 2011, it filed its Comment on the Petition.

In its Comment, the OSG asserts that the RTC did not err in convicting petitioner as charged. The OSG notes that petitioner does not dispute the factual findings of the trial court with respect to the delivery of P150,000 to him, and that there was a relationship of trust and confidence between him and Elizabeth. With respect to his claim that the Complaint should have been filed in Iloilo City, his claim was not supported by any piece of evidence, as he did not present any. Further, petitioner is, in effect, asking the Court to weigh the credibility of the prosecution witness, Elizabeth. However, the trial court's assessment of the credibility of a witness is entitled to great weight, unless tainted with arbitrariness or oversight of some fact or circumstance, which is not the case here.

With respect to the second issue, the OSG stresses that the defense of "no valid demand" was not raised in the lower court. Nevertheless, the demand letter sent to Elizabeth suffices, as she is also one of the complainants alleged in the Information, as an agent of Margarita. Moreover, no proof was adduced as to the genuineness of petitioner's signature in the Registry Return Receipt of the demand letter.

The OSG, however, submits that the Court may recommend petitioner for executive clemency, in view of his advanced age and failing health.

The Court's Ruling

The Petition is impressed with merit.

Review of Factual Findings

While the Petition raises questions of law, the resolution of the Petition requires a review of the factual findings of the lower courts and the evidence upon which they are based.

As a rule, only questions of law may be raised in a petition for review under Rule 45 of the Rules of Court. In many instances, however, this Court has laid down exceptions to this general rule, as follows:

- (1) When the factual findings of the Court of Appeals and the trial court are contradictory;
- (2) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (3) When the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible;
- (4) When there is grave abuse of discretion in the appreciation of facts;
- (5) When the appellate court, in making its findings, went beyond the issues of the case, and such findings are contrary to the admissions of both appellant and appellee;
- (6) When the judgment of the Court of Appeals is premised on misapprehension of facts;
- (7) When the Court of Appeals failed to notice certain relevant facts which, if properly considered, would justify a different conclusion;
- (8) When the findings of fact are themselves conflicting;
- (9) When the findings of fact are conclusions without citation of the specific evidence on which they are based; and
- (10) When the findings of fact of the Court of Appeals are premised on the absence of evidence but such findings are contradicted by the evidence on record.^[14]

In this case, the findings of fact of the trial court and the CA on the issue of the place of commission of the offense are conclusions without any citation of the specific evidence on which they are based; they are grounded on conclusions and conjectures.

The trial court, in its Decision, ruled on the commission of the offense without any finding as to where it was committed:

Based on the evidence presented by the prosecution through private complainant Elizabeth Luciaja, the Court is convinced that accused Trenas had committed the offense of Estafa by taking advantage of her trust so that he could misappropriate for his own personal benefit the amount entrusted to him for payment of the capital gains tax and documentary stamp tax.

As clearly narrated by private complainant Luciaja, after accused Trenas had obtained the amount of P150,000.00 from her, he gave her two receipts purportedly issued by the Bureau of Internal Revenue, for the fraudulent purpose of fooling her and making her believe that he had complied with his duty to pay the aforementioned taxes. Eventually, private complainant Luciaja discovered that said receipts were fabricated documents.^[15]