

THIRD DIVISION

[G.R. No. 174899, September 11, 2008]

**RAMON L. UY, PETITIONER, VS. PEOPLE OF THE PHILIPPINES,
RESPONDENT.**

DECISION

CHICO-NAZARIO, J.:

Before Us is a Petition for Review on *Certiorari* which seeks to set aside the Decision^[1] of the Court of Appeals in CA-G.R. CR No. 28581 dated 2 March 2006 which affirmed with modification the Decision^[2] of the Regional Trial Court (RTC) of Makati City, Branch 64, in Criminal Case No. 98-1065, finding petitioner Ramon L. Uy guilty of Estafa as defined and penalized under Article 315, paragraph 2 of the Revised Penal Code, and its Resolution^[3] dated 9 October 2006 denying petitioner's Motion for Reconsideration.

On 19 May 1998, petitioner was charged before the RTC of Makati City with Estafa under Article 315, par. 2 of the Revised Penal Code, allegedly committed as follows:

That sometime in November 1995, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, did then and there willfully, unlawfully and feloniously defraud Mr. Eugene Yu, as follows, to wit: The said accused under false and fraudulent representations which he made to said Eugene Yu convinced said Eugene Yu to invest in the said low cost housing project in the amount of P3,500,000.00 and by means of other similar deceit, which representations he well knew were false and fraudulent and were only made to induce the aforementioned Eugene Yu to give and deliver as in fact the said Eugene Yu gave and delivered the said amount of P3,500,000.00 to the accused, to the damage and prejudice of said Mr. Eugene Yu in the said amount of P3,500,000.00, Philippine Currency.^[4]

On the same date, the case was docketed as Criminal Case No. 98-1065 and raffled to Branch 64. Finding reasonable ground to believe that a criminal act had been committed and that petitioner was probably guilty thereof, the trial court issued a warrant for his arrest.^[5] On 31 August 1998, considering that the warrant of arrest had been returned unserved, the case was archived and an alias warrant of arrest was issued.^[6]

On 27 June 2000, petitioner submitted himself to the jurisdiction of the trial court and filed a bailbond for his provisional liberty.^[7]

When arraigned on 4 June 2000, appellant, with the assistance of counsel *de parte*, pleaded "not guilty" to the crime charged.^[8]

For failure of petitioner to appear in the scheduled pre-trial on 7 September 2000 despite notice, his bailbond was cancelled and an order of arrest was issued against him.^[9]

On 28 September 2000, the trial court, upon motion of private complainant Eugene Yu, issued a Hold Departure Order against accused-appellant.^[10]

On 16 November 2000, the pre-trial conference of the case proceeded without the presence of the petitioner or his counsel *de parte*. A counsel *de oficio* was appointed only for the purpose of pre-trial.^[11]

On 12 December 2000, the trial court, upon motion of petitioner, lifted the order of arrest and confiscation of bailbond.^[12]

The prosecution presented the following witnesses, namely: (1) private complainant Eugene Yu;^[13] (2) Patricia L. Yu, spouse of private complainant;^[14] and (3) Atty. Wilfredo I. Imperial, Director, Executive Services Group, Housing and Land Use Regulatory Board (HLURB).^[15]

The version of the prosecution is as follows:

Private complainant Eugene Yu first met petitioner Ramon L. Uy in Bacolod City in 1993 during a convention of the Chamber of Real Estate and Builders' Association, Inc. (CREBA, INC.), of which they were both members. Petitioner represented himself as a businessman and developer of low-cost housing and President of Trans-Builders Resources and Development Corporation. Becoming friends, petitioner and private complainant entered into a business venture in 1995 involving a project in Parañaque City, with the former as developer and the latter as exclusive marketer.

Thereafter, petitioner proposed to private complainant a plan to develop low-cost housing in Cagayan de Oro. Initially, petitioner attempted to convince private complainant to agree to jointly develop the project, but the proposed scheme did not materialize. Eventually, however, petitioner was able to get private complainant to agree to an investment portfolio, whereby private complainant was to give the amount of P3,500,000.00 to petitioner who, in turn, would pay private complainant the amount of P4,500,000.00 by the end of May 1996. The additional P1,000,000.00 was the interest on his investment.

Petitioner proposed to come up with an investment agreement. Private complainant requested his lawyer, Atty. Dennis Perez, to prepare an investment agreement containing the suggestions of petitioner.^[16] On 28 October 1995, in the office of Atty. Perez, private complainant and petitioner signed an undated Investment Agreement.^[17] Before signing the document, petitioner went over the same thoroughly. The agreement contained, among other provisions, the following:

WHEREAS, FIRST PARTY is the registered owner and developer of parcel of land located at Agusan, Cagayan de Oro City covered by Transfer Certificate of Title No. 61746 issued by the Register of Deeds of Cagayan de Oro and which is more particularly described as follows:

x x x x

WHEREAS, the FIRST PARTY wishes to develop the above parcel [of] land into a low-cost housing subdivision;

WHEREAS, the SECOND PARTY is willing to invest in the development of the above parcel of land;

WHEREAS, the parties desire to execute this Investment Agreement for the purpose of investing in the development of the above parcel of land;

NOW, THEREFORE, for and in consideration of the foregoing premises and the mutual covenants and stipulations hereinafter set forth, the parties hereto have agreed, and as they hereby agree, as follows:

Section 1. The FIRST PARTY shall develop the above parcel of land in a low-cost housing subdivision;

Section 2. The SECOND PARTY agrees to invest the amount of Three Million Five Hundred Thousand Pesos (P3,500,000.00), Philippine Currency, in the construction and development costs of the FIRST PARTY, which amount shall be remitted to it immediately upon the signing of this Investment Agreement;

Section 3. For and in consideration of the investment referred to in Section 2, the FIRST PARTY shall pay the amount of Four Million Five Hundred Thousand Pesos (P4,500,000.00), Philippine Currency to the SECOND PARTY payable after six (6) months from the execution of this Investment Agreement. For this purpose, the FIRST PARTY shall issue post-dated check no. CD00371579951 drawn on Metrobank, Cagayan de Oro Branch in favor of the SECOND PARTY;

In the event that the amount due the SECOND PARTY or any part thereof is unpaid, the FIRST PARTY shall pay compounded interest at the rate of six percent (6%) on such amount or balance. The SECOND PARTY shall also have the option to acquire a portion(s) of the low-cost housing subdivision in lieu of payment of any unpaid amount or balance. Should the SECOND PARTY choose this option, the FIRST PARTY shall convey to the SECOND PARTY that portion which he chooses.

Section 4. It is hereby understood by the parties that Transfer Certificate of Title No. 61746, the Site Development Plan, House Plans and the Special Power of Attorney executed by Patricio Quisumbing, copies of which are hereto attached as Annexes "A", "B", "C" and "D", shall form integral parts of this Investment Agreement.

The signing was witnessed, among others, by Patricia Yu, wife of private complainant, and Atty. Perez. Simultaneous with the signing of the agreement, private complainant issued Asiatrust Bank Check No. 087918 dated 30 October 1995 payable to Trans-Builders Resources and Development Corporation in the amount of P3,500,000.00.^[18] Petitioner, in turn, issued in favor of private complainant

Metrobank Check No. 0371579951 dated "30 May 1995" in the amount of P4,500,000.00.^[19]

The amount of P3,500,000.00 covered by Asiatruster Bank Check No. 087918 was debited against the account of private complainant and credited to the account of Trans-Builders Resources and Development Corporation. When private complainant deposited petitioner's Metrobank check to his savings account with Asiatruster Bank, the check was dishonored because it was "Drawn Against Insufficient Funds (DAIF)."^[20] It was at this time that private complainant noticed that the check issued to him was dated 30 May 1995 instead of 30 May 1996.

From that time on, petitioner could no longer be located, and he ignored private complainant's efforts to collect on his investment. On 16 October 1996, private complainant, through his lawyer, sent a demand letter to petitioner to make good on his bounced check.^[21]

Upon inquiry from the HLURB, private complainant learned that Trans-Builders Resources and Development Corporation had no ongoing low-cost housing project in Agusan, Cagayan de Oro City, as represented by petitioner and contained in the Investment Agreement. Atty. Wilfredo I. Imperial, Director, Executive Services Group of the HLURB, said that Trans-Builders Resources and Development Corporation had only three projects in Region 10, namely: (1) Transville Oroquieta 1- Oroquieta City, Misamis Occidental; (2) Transville Oroquieta 2 - Oroquieta City, Misamis Occidental; and (3) Transville Homes - Quezon, Bukidnon.^[22]

Patricia Yu testified on the circumstances regarding the execution of the Investment Agreement and the issuance of the checks by private complainant and petitioner. She corroborated the statements of private complainant on these matters. Atty. Wilfredo I. Imperial testified that Trans-Builders Resources and Development Corporation did not have any ongoing low-cost housing project in Agusan, Cagayan de Oro City.

On 30 April 2002, the prosecution made its Formal Offer of Exhibits (with Motion for Additional Time to File HLURB Certification) consisting of Exhibits "A" to "G," inclusive, with sub-markings.^[23] The trial court noted the offer and granted the motion.^[24] On 24 May 2002, the prosecution made a Supplemental Offer of Evidence consisting of the HLURB certification which was marked Exhibit "H."^[25] The trial court admitted the exhibits offered on 5 July 2002.^[26]

For the defense, petitioner^[27] took the stand.

Petitioner testified that his first business transaction with private complainant involved real property development in Parañaque in the middle of 1995, he being the developer and private complainant the exclusive marketer. In the middle of the planning of the Parañaque project, he, being in need of funds, offered private complainant a joint-venture agreement for his project in Cagayan de Oro. Nothing came out of this proposal. Petitioner likewise sought rediscounting of his check by private complainant, but the same did not materialize. Instead, private complainant made a counter-proposal wherein he would finance the P3,500,000.00 petitioner needed, payable within six to seven months with P1,000,000.00 interest.

Private complainant instructed his Makati-based lawyer to draft an agreement whereby he was to give petitioner the amount of P3,500,000.00 in exchange for the check he had earlier received from petitioner in the amount of P4,500,000.00, to be deposited at least six (6) months after petitioner had already encashed the P3,500,000.00 check given to him by private complainant on 28 October 2005.

Petitioner went to the law office of private complainant's lawyer in Makati and signed the Investment Agreement.^[28] Before signing said document, petitioner told private complainant: "*Pare utang lang ito, I issued a check, bakit kailangan pa natin itong investment agreement.*"^[29] Private complainant replied that the document was just a formality.

Six months after the delivery of private complainant's Asiatrust check for P3,500,000.00 to petitioner, private complainant deposited the latter's Metrobank check for P4,500,000.00, which he had received in exchange for private complainant's Asiatrust check. The P4,500,000.00 Metrobank check deposited in private complainant's account was dishonored. Petitioner denied having received a demand letter from private complainant's lawyer.^[30]

Petitioner declared that the contract between him and private complainant was a simple loan to finance his project in Mindanao.^[31]

On 23 September 2003, the defense formally offered its evidence^[32] consisting of Exhibits "1" to "5." On 9 October 2003, the prosecution formally offered petitioner's counter-affidavit as Exhibit I, with sub-markings. On 29 October 2003, the trial court admitted all the exhibits of the defense as well as the additional exhibit of the prosecution.^[33]

On 17 June 2004, the trial court promulgated its decision convicting petitioner of the crime charged. The decretal portion of the decision reads:

WHEREFORE, judgment is rendered finding accused RAMON UY GUILTY beyond reasonable doubt of the crime of Estafa and sentencing him to suffer the indeterminate imprisonment of TEN (10) YEARS **prision mayor** medium, as minimum, to TWENTY (20) YEARS of **prision temporal**, as maximum.

The accused is ordered to pay complainant Eugene Yu the sum of P4,500,000 and plus twelve percent (12%) interest per annum from May 30, 1996 until payment is made, and to pay the cost of suit.^[34]

In convicting petitioner, the trial court explained:

The fact remains that the complainant and the accused signed an agreement which they denominated as "Investment Agreement." The Agreement, having been signed by complainant and the accused is evidence of what is contained therein (Exh. A). The document speaks for itself. x x x.

x x x x