

## THIRD DIVISION

[ G.R. NO. 156248, August 28, 2007 ]

**MARISSA CENIZA-MANANTAN, PETITIONER, VS. THE PEOPLE OF  
THE PHILIPPINES, RESPONDENT.**

### DECISION

**CHICO-NAZARIO, J.:**

In this Petition for Review on *Certiorari*<sup>[1]</sup> under Rule 45 of the Revised Rules of Court, petitioner Marissa Ceniza-Manantan prays for the reversal of the Decision,<sup>[2]</sup> dated 29 August 2001, and Resolution,<sup>[3]</sup> dated 26 November 2002, of the Court of Appeals in CA-G.R. CR No. 23676, affirming with modification the Decision,<sup>[4]</sup> dated 30 July 1999, of the Quezon City Regional Trial Court (RTC), Branch 78, in Criminal Case No. Q-97-72787, finding petitioner guilty of the crime of *Estafa* as defined and penalized under paragraph 1(b), Article 315 of the Revised Penal Code.

On 1 August 1997, petitioner Marissa Ceniza-Manantan (Manantan) and her sister-in-law, Regina Manantan-Vizconde (Vizconde), were indicted in an Information<sup>[5]</sup> for *estafa* under paragraph 1(b), Article 315 of the Revised Penal Code allegedly committed as follows:

That on or about the period comprised from July 15, 1994 to September 3, 1994, in Quezon City, Philippines, the said accused, conspiring together, confederating with and mutually helping each other, did, then and there, willfully, unlawfully and feloniously defraud one ALBERTO CARILLA, in the following manner to wit: the said accused, pursuant to their conspiracy, received in trust from said complainant several pieces of jewelry worth P1,079,000.00, Philippine Currency, for the purpose of selling the same on commission basis under the express obligation on the part of the said accused of turning over the proceeds of the sale to said Alberto Carilla, if sold, or of returning the same if unsold to said complainant, but the said accused, once in possession of the said items, far from complying with their obligations as aforesaid, with intent to defraud, unfaithfulness and grave abuse of confidence, failed and refused and still fails and refuses to fulfill their aforesaid obligation despite repeated demands made upon them to do so, and instead misapplied, misappropriated and converted the same or the value thereof, to their own personal use and benefit, to the damage and prejudice of said Alberto Carilla, in the aforesaid amount of P1,079,000.00, Philippine Currency.

On 2 December 1998, Manantan was arrested whereas Vizconde remained at large. When arraigned on 5 March 1999, Manantan pleaded "Not Guilty" to the charge.<sup>[6]</sup> Thereafter, trial on the merits ensued.

The facts, according to the prosecution, are summarized in the Comment dated 4 July 2003 of the Office of the Solicitor General (OSG), to wit:

Herein private complainant, Alberto Carilla, is a jeweler whose office is located at Aurora Blvd., Cubao, Quezon City. Sisters-in-law Regina Manantan-Vizconde and Marissa Ceniza-Manantan entered into an agreement with Carilla that they would act as the latter's agent in selling the pieces of jewelry worth P1,079,000.00. They received the jewelry in trust with the obligation to sell them within two (2) weeks and remit the proceeds to private complainant within another two (2) weeks or to return them within the same period if they were unable to sell. The sisters-in-law would earn any amount that they would add to the selling price.

After the lapse of the above-mentioned period, accused sisters-in-law failed to remit the purchase price or return the pieces of jewelry. As such, Carilla made verbal demands for their return or the proceeds of the sale. After several verbal demands, the sisters-in-law issued several checks. Regina Manantan-Vizconde issued thirteen (13) postdated checks, while Marissa Ceniza-Manantan issued four (4) postdated checks.

Upon maturity of the checks, Carilla deposited the checks to his bank account. But to his dismay, the checks were dishonored for the reason that the account from which the checks were drawn had been closed. The checks that were still to fall due were stamped on their face "account closed."

Carilla thus sought the help of a lawyer who made out a written demand upon the accused through their counsel. But despite this, the two accused still refused to pay. Hence, Carilla was constrained to file a criminal complaint.<sup>[7]</sup>

Manantan denied the foregoing accusations. In her Counter-Affidavit with Motion to Dismiss dated July 1996,<sup>[8]</sup> Manantan alleged that Carilla's filing of *estafa* case against her was a mere harassment suit as Carilla desperately tried but failed to recover from her the jewelries allegedly entrusted to her and to Vizconde; that Vizconde borrowed several checks from her after Vizconde ran out of her own checks; that Vizconde told her that the borrowed checks will only be shown to the former's customers or other persons from whom she received jewelries so as to convince them that she had collections; and that Vizconde promised to return the checks. During her direct examination before the RTC,<sup>[9]</sup> Manantan denied that she had any business transaction with Carilla. Manantan also disclaimed any knowledge as to how the four dishonored checks in her name came into the possession of Carilla.

On 30 July 1999, the RTC rendered a Decision convicting Manantan of *estafa* under paragraph 1(b), Article 315 of the Revised Penal Code. Thus:

WHEREFORE, this Court finds accused MARISSA CENIZA-MANANTAN, GUILTY of the crime of *Estafa*, defined and penalized under par.1 (b) of Article 315 of the Revised Penal Code, and is hereby sentenced to suffer imprisonment of, there being no mitigating and aggravating

circumstances, and applying the Indeterminate Sentence Law, TWELVE (12) YEARS, and one (1) DAY, as minimum, to FOURTEEN (14) YEARS, and EIGHT (8) MONTHS, as maximum, of *Reclusion Temporal* in its minimum period.

Further, the award of civil liability is appropriate as the preponderance of evidence sanctioned by the Rules has been satisfied, the accused Marissa Ceniza-Manantan is ordered to pay P1,079,000.00 as actual damages.

[10]

Aggrieved, Manantan filed an appeal with the Court of Appeals. On 29 August 2001, the appellate court promulgated its Decision affirming with modification the assailed RTC Decision. The modification pertains to Manantan's period of imprisonment as provided under the Indeterminate Sentence Law. The decretal portion of the appellate court's decision reads:

WHEREFORE, in view of the foregoing, the instant appeal is DENIED and the assailed decision of the court *a quo* in Criminal Case No. Q-97-72787 is hereby AFFIRMED with modification that accused is hereby sentenced to suffer an indeterminate penalty of Four (4) years and two (2) months of *prision correccional* as minimum to Twenty (20) years of *reclusion temporal* as maximum.[11]

Manantan filed a motion for reconsideration but this was denied for lack of merit by the appellate court in its Resolution dated 26 November 2002.

Hence, Manantan filed the instant Petition. In our Resolution dated 10 March 2003, [12] we denied the Petition due to Manantan's (a) failure to state the material dates showing when the notice of the assailed decision and resolution were received and when the motion for reconsideration was filed thereby violating Sections 4(b) and 5 of Rule 45, in relation to Sec. 5(d) of Rule 56; and (b) failure to indicate in the Petition the counsel's roll number as required in Bar Matter 1132. Manantan filed a Motion for Reconsideration which we subsequently granted in our Resolution dated 7 May 2003.[13] The petition was then reinstated.

Manantan proffered the following issues[14] for our consideration:

#### I.

CONTRARY TO THE FINDINGS OF THE TRIAL COURT, WHICH FINDINGS THE COURT OF APPEALS AFFIRMED, THE PROSECUTION FAILED TO PROVE THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT, CONSIDERING INTER ALIA THAT NOT ALL THE ELEMENTS CONSTITUTING THE OFFENSE CHARGED, SPECIFICALLY CONSPIRACY AND THE ALLEGED CONTRACTUAL RELATION (i.e., THE RECEIPT IN TRUST BY PETITIONER OF CERTAIN PIECES OF JEWELRY FROM PRIVATE COMPLAINANT), WERE ESTABLISHED.

#### II.

MORE IMPORTANTLY, THE COUNSEL FOR PETITIONER IN THE TRIAL COURT MISERABLY FAILED AND/OR REFUSED TO DISCHARGE HIS

BOUNDEN DUTY TO HIS CLIENT. STATED DIFFERENTLY, SAID COUNSEL'S INCOMPETENCE WAS SO GREAT AND SO EXECRABLE THAT, IN THE INTEREST OF SUBSTANTIAL JUSTICE, *AT LEAST* A NEW TRIAL SHOULD BE ORDERED BY THIS HONORABLE COURT IF ONLY TO AFFORD PETITIONER THE CONSTITUTIONALLY MANDATED OPPORTUNITY TO DEFEND HERSELF WITH THE ASSISTANCE OF AN EFFECTIVE AND VIGILANT COUNSEL OF HER OWN CHOICE. THE AFORESAID FAILURE AND/OR REFUSAL OF HER COUNSEL WERE A VIRTUAL GIVEAWAY TO THE PROSECUTION TO SEND HER TO THE GALLOWS. THE CONSEQUENCE WAS A MISCARRIAGE OF JUSTICE.

Anent the first issue, Manantan alleged that the RTC conducted only one hearing where the prosecution presented only one witness, which was Carilla himself, and thereafter rested its case; that the said lone hearing was abbreviated at the expense of the rights and liberty of Manantan; that the direct testimony of Carilla, upon which the RTC based its conviction of Manantan, consisted only of five double-spaced pages as shown in the transcript of stenographic notes (TSN); and that Manantan's guilt cannot be proven on the basis of the few questions propounded by the private prosecutor on Carilla and Manantan.<sup>[15]</sup>

#### EVIDENCE FOR THE PROSECUTION

The prosecution presented the lone court testimony of Carilla as its testimonial evidence. Carilla testified that Manantan and Vizconde agreed to be his agents in selling jewelries; that Manantan and Vizconde received from him in trust jewelries with the obligation to sell them within two weeks from receipt thereof, and to remit the proceeds to him within two weeks after the sale or to return the jewelries in case they were not sold; that Manantan and Vizconde would earn from any amount that they would add to the original sale price of the jewelries fixed by him; that after the expiration of the stipulated period, Manantan and Vizconde failed to remit to him the proceeds of the sale of the jewelries or return the unsold jewelries themselves; that he made several verbal demands on Manantan and Vizconde to remit the proceeds of the sale of the jewelries or return the unsold jewelries; that Manantan and Vizconde issued to him postdated checks as supposed payment of the sales proceeds of the jewelries; that these checks were dishonored by reason of "Account Closed"; that Manantan and Vizconde failed to make good the value of the dishonored checks despite his repeated demands for them to do so; and that by reason of the foregoing, he instituted the instant case against Manantan and Vizconde.

The prosecution also offered documentary evidence to buttress Carilla's court testimony. It introduced Carilla's Complaint-Affidavit dated 11 March 1996 which recounts how Manantan and Vizconde had swindled Carilla of the jewelries.<sup>[16]</sup> This Complaint-Affidavit was admitted as part of Carilla's direct testimony.<sup>[17]</sup> It also submitted the dishonored checks issued by Manantan<sup>[18]</sup> to prove that the jewelries were still unpaid for, and the demand-letters<sup>[19]</sup> sent by Carilla to Manantan, to substantiate the latter's persistent failure to comply therewith.

#### EVIDENCE FOR THE DEFENSE

On the other hand, the defense presented Manantan as its sole witness. No documentary evidence was utilized.<sup>[20]</sup>

Manantan conjured denials and alibi in support of her contentions. Manantan denied having any transaction with Carilla. She claims that she lent the dishonored checks to Vizconde as the latter was running out of checks; that she had no idea as to how the dishonored checks came into the possession of Carilla; and that Carilla had an ill motive to accuse her of a crime since Carilla failed to recover from her the alleged entrusted jewelries.

The threshold issue is, whose evidence is credible?

It is axiomatic that truth is established not by the number of witnesses but by the quality of their testimonies.<sup>[21]</sup> In the determination of the sufficiency of evidence, what matters is not the number of witnesses but their credibility and the nature and quality of their testimonies.<sup>[22]</sup> The testimony of a lone witness, if found positive and credible by the trial court, is sufficient to support a conviction especially when the testimony bears the earmarks of truth and sincerity. While the number of witnesses may be considered a factor in the appreciation of evidence, proof beyond reasonable doubt is not necessarily with the greatest number.<sup>[23]</sup>

Witnesses are to be weighed, not numbered; hence, it is not at all uncommon to reach a conclusion of guilt on the basis of the testimony of a single witness. Conviction of the accused may still be had on the basis of the positive and credible testimony of a single witness.<sup>[24]</sup>

Verily, the prosecution presented only one witness, who was Carilla himself as the complainant. However, we find the latter's testimony consistent with his Complaint-Affidavit dated 11 March 1996, which was positive and categorical. The RTC and the Court of Appeals both found Carilla's testimony credible and truthful.<sup>[25]</sup>

More telling are the documentary evidences consisting of various checks issued by Manantan which later bounced and the demand letters of Carilla addressed to Manantan. Although the admissibility of these checks was objected to by Manantan during the trial, the RTC, nevertheless, admitted them as part of the testimony of Carilla.

The rule is that the findings of fact of the trial court, its calibration of the testimonies of the witnesses and its assessment of the probative weight thereof, as well as its conclusions anchored on said findings are accorded high respect if not conclusive effect.<sup>[26]</sup> This is more true if such findings were affirmed by the appellate court. When the trial court's findings have been affirmed by the appellate court, said findings are generally binding upon this Court.<sup>[27]</sup>

In stark contrast, the evidence for the defense consists mainly of denials. Manantan denied having transacted with Carilla. Beyond her bare denials, however, she has not presented any plausible proof to successfully rebut the evidence for the prosecution.

It is jurisprudentially settled that as between bare denials and positive testimony on affirmative matters, the latter is accorded greater evidentiary weight.<sup>[28]</sup>