

SECOND DIVISION

[G.R. NO. 136388, March 14, 2006]

ANICIA RAMOS-ANDAN, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

For our resolution is the instant petition for review on certiorari seeking to reverse the Decision^[1] and the Resolution of the Court of Appeals in CA-G.R. CR No. 18379, entitled "*People of the Philippines, plaintiff-appellee, versus Anicia Ramos-Andan and Potenciana Nieto, accused, Anicia Ramos Andan, accused-appellant.*"

On February 4, 1991, Anicia Ramos-Andan, herein petitioner, and Potenciana Nieto approached Elizabeth E. Calderon and offered to buy the latter's 18-carat heart-shaped diamond ring. Elizabeth agreed to sell her ring. In turn, Potenciana tendered her three (3) postdated checks. To evidence the transaction, the parties prepared and signed a receipt which reads as follows:

February 4, 1991

Received from Mrs. Elizabeth Eusebio Calderon the heart-shaped diamond ring which in return Mrs. Potenciana Nieto and Mrs. Annie Andan had given the checks dated June 30, 1991 worth P23,000.00, August 30, 1991 worth P25,000.00, and Sept. 30, 1991 worth P25,000.00 as full payment of the said jewelry.

(Sgd.) DIGNA G. SEVILLA
Witness

(Sgd.) ANICIA ANDAN
Signature

Witness^[2]

Inasmuch as the three checks (PDB Check Nos. 14173188, 14173189, and 14173190) were all payable to cash, Elizabeth required petitioner to endorse them. The latter complied.

When Elizabeth deposited the checks upon maturity with the drawee bank, they bounced for the reason "Account Closed." She then sent Potenciana a demand letter to pay, but she refused.

On July 10, 1997, Elizabeth filed with the Office of the Provincial Prosecutor of Bulacan a Complaint for Estafa against petitioner and Potenciana. Finding a probable cause for Estafa against them, the Provincial Prosecutor filed the corresponding Information for Estafa with the Regional Trial Court (RTC), Branch 8,

Malolos, Bulacan. Subsequently, petitioner was arrested but Potenciana has remained at large. When arraigned, petitioner entered a plea of not guilty to the charge.

During the hearing, petitioner denied buying a diamond ring from Elizabeth, maintaining that she signed the receipt and the checks merely as a witness to the transaction between Elizabeth and Potenciana. Thus, she could not be held liable for the bounced checks she did not issue.

After hearing, the trial court rendered its Decision finding petitioner guilty as charged and imposing upon her an indeterminate prison term of six (6) years and one (1) day of *prision mayor*, as minimum, to fourteen (14) years, eight (8) months and one (1) day of *reclusion temporal*, as maximum, and to indemnify Elizabeth E. Calderon in the amount of P73,000.00 representing the purchase price of the diamond ring.

The trial court held that while it was Potenciana who issued the checks, nonetheless, it was petitioner who induced Elizabeth to accept them and who endorsed the same. Accordingly, petitioner cannot escape liability.

On appeal, the Court of Appeals rendered its Decision dated July 16, 1998 affirming with modification the RTC Decision. The maximum penalty imposed was increased to seventeen (17) years, four (4) months and one (1) day of *reclusion temporal* and the indemnity was reduced to P23,000.00 considering the RTC's finding that:

Complainant, however, was able to present in Court only Planters Development Bank (Check) No. 14173188, dated June 30, 1991, in the amount of P23,000.00 and the fact of its being dishonored. The other two checks were neither presented nor the fact of being dishonored proven. Likewise, the two checks were not mentioned in the demand letter marked as Exhibit 'C.' Although, therefore, it is clear from the records, in fact admitted by the accused, that the total amount of P23,000.00 as purchase price of the diamond ring has not been paid, the accused should only be held liable for the dishonor of the check above-stated as the dishonor of the two other checks was not proven in Court.

Petitioner filed a motion for reconsideration, but this was denied by the Appellate Court.

Hence, the instant petition raising the following basic issues:

(1) Whether the prosecution has proved petitioner's guilt beyond reasonable doubt; and (2) whether she is entitled to the mitigating circumstance of lack of intention to commit so grave a wrong.

On the first issue, petitioner contends that not being the drawer of the checks, she cannot be held criminally liable.

The Solicitor General counters that this issue is not novel, having long been resolved by this Court in *Zagado v. Court of Appeals*,^[3] thus: