

FIRST DIVISION

[G.R. No. 102784, February 28, 1996]

ROSA LIM, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

HERMOSISIMA, JR., J.:

This is a petition to review the Decision of the Court of Appeals in CA-G.R. CR No. 10290, entitled "People v. Rosa Lim," promulgated on August 30, 1991.

On January 26, 1989, an Information for Estafa was filed against petitioner Rosa Lim before Branch 92 of the Regional Trial Court of Quezon City.^[1] The Information reads:

"That on or about the 8th day of October 1987, in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the said accused with intent to gain, with unfaithfulness and/or abuse of confidence, did, then and there, wilfully, unlawfully and feloniously defraud one **VICTORIA SUAREZ**, in the following manner, to wit: on the date and place aforementioned said accused got and received in trust from said complainant one (1) ring 3.35 solo worth P169,000.00, Philippine Currency, with the obligation to sell the same on commission basis and to turn over the proceeds of the sale to said complainant or to return said jewelry if unsold, but the said accused once in possession thereof and far from complying with her obligation despite repeated demands therefor, misapplied, misappropriated and converted the same to her own personal use and benefit, to the damage and prejudice of the said offended party in the amount aforementioned and in such other amount as may be awarded under the provisions of the Civil Code."

"CONTRARY TO LAW."^[2]

After arraignment and trial on the merits, the trial court rendered judgment, the dispositive portion of which reads:

"WHEREFORE, in view of the foregoing, judgment is hereby rendered:

1. Finding accused Rosa Lim GUILTY beyond reasonable doubt of the offense of estafa as defined and penalized under Article 315, paragraph 1(b) of the Revised Penal Code;
2. Sentencing her to suffer the Indeterminate penalty of FOUR (4) YEARS

and TWO (2) MONTHS of prision correccional as minimum, to TEN (10) YEARS of prision mayor as maximum;

3. Ordering her to return to the offended party Mrs. Victoria Suarez the ring or its value in the amount of P169,000 without subsidiary imprisonment in case of insolvency; and

4. To pay costs."^[3]

On appeal, the Court of Appeals affirmed the Judgment of conviction with the modification that the penalty imposed shall be six (6) years, eight (8) months and twenty- one (21) days to twenty (20) years in accordance with Article 315, paragraph 1 of the Revised Penal Code.^[4]

Petitioner filed a motion for reconsideration before the appellate court on September 20, 1991, but the motion was denied in a Resolution dated November 11, 1991.

In her final bid to exonerate herself, petitioner filed the instant petition for review alleging the following grounds:

I

THE RESPONDENT COURT VIOLATED THE CONSTITUTION, THE RULES OF COURT AND THE DECISION OF THIS HONORABLE COURT IN NOT PASSING UPON THE FIRST AND THIRD ASSIGNED ERRORS IN PETITIONER'S BRIEF;

II

THE RESPONDENT COURT FAILED TO APPLY THE PRINCIPLE THAT THE PAROL EVIDENCE RULE WAS WAIVED WHEN THE PRIVATE PROSECUTOR CROSS-EXAMINED THE PETITIONER AND AURELIA NADERA AND WHEN COMPLAINANT WAS CROSS-EXAMINED BY THE COUNSEL FOR THE PETITIONER AS TO THE TRUE NATURE OF THE AGREEMENT BETWEEN THE PARTIES WHEREIN IT WAS DISCLOSED THAT THE TRUE AGREEMENT OF THE PARTIES WAS A SALE OF JEWELRIES AND NOT WHAT WAS EMBODIED IN THE RECEIPT MARKED AS EXHIBIT "A" WHICH WAS RELIED UPON BY THE RESPONDENT COURT IN AFFIRMING THE JUDGMENT OF CONVICTION AGAINST HEREIN PETITIONER; and

III

THE RESPONDENT COURT FAILED TO APPLY IN THIS CASE THE PRINCIPLE ENUNCIATED BY THIS HONORABLE COURT TO THE EFFECT THAT "ACCUSATION" IS NOT, ACCORDING TO THE FUNDAMENTAL LAW, SYNONYMOUS WITH GUILT: THE PROSECUTION MUST OVERTHROW THE

PRESUMPTION OF INNOCENCE WITH PROOF OF GUILT BEYOND REASONABLE DOUBT. TO MEET THIS STANDARD, THERE IS NEED FOR THE MOST CAREFUL SCRUTINY OF THE TESTIMONY OF THE STATE, BOTH ORAL AND DOCUMENTARY, INDEPENDENTLY OF WHATEVER DEFENSE IS OFFERED BY THE ACCUSED. ONLY IF THE JUDGE BELOW AND THE APPELLATE TRIBUNAL COULD ARRIVE AT A CONCLUSION THAT THE CRIME HAD BEEN COMMITTED PRECISELY BY THE PERSON ON TRIAL UNDER SUCH AN EXACTING TEST SHOULD SENTENCE THUS REQUIRED THAT EVERY INNOCENCE BE DULY TAKEN INTO ACCOUNT. THE PROOF AGAINST HIM MUST SURVIVE THE TEST OF REASON, THE STRONGEST SUSPICION MUST NOT BE PERMITTED TO SWAY JUDGMENT." (People v. Austria, 195 SCRA 700)^[5]

Herein the pertinent facts as alleged by the prosecution.

On or about October 8, 1987, petitioner Rosa Lim who had come from Cebu received from private respondent Victoria Suarez the following two pieces of jewelry: one (1) 3.35 carat diamond ring worth P169,000.00 and one (1) bracelet worth P170,000.00, to be sold on commission basis. The agreement was reflected in a receipt marked as Exhibit "A"^[6] for the prosecution. The transaction took place at the Sir Williams Apartelle in Timog Avenue, Quezon City, where Rosa Lim was temporarily billeted.

On December 15, 1987, petitioner returned the bracelet to Vicky Suarez, but failed to return the diamond ring or to turn over the proceeds thereof if sold. As a result, private complainant, aside from making verbal demands, wrote a demand letter^[7] to petitioner asking for the return of said ring or the proceeds of the sale thereof. In response, petitioner, thru counsel, wrote a letter^[8] to private respondent's counsel alleging that Rosa Lim had returned both ring and bracelet to Vicky Suarez sometime in September, 1987, for which reason, petitioner had no longer any liability to Mrs. Suarez insofar as the pieces of jewelry were concerned. Irked, Vicky Suarez filed a complaint for estafa under **Article 315, par. 1(b)** of the Revised Penal Code for which the petitioner herein stands convicted.

Petitioner has a different version.

Rosa Lim admitted in court that she arrived in Manila from Cebu sometime in October 1987, together with one Aurelia Nadera, who introduced petitioner to private respondent, and that they were lodged at the Williams Apartelle in Timog, Quezon City. Petitioner denied that the transaction was for her to sell the two pieces of jewelry on commission basis. She told Mrs. Suarez that she would consider buying the pieces of jewelry for her own use and that she would inform the private complainant of such decision before she goes back to Cebu. Thereafter, the petitioner took the pieces of jewelry and told Mrs. Suarez to prepare the "necessary paper for me to sign because I was not yet prepare(d) to buy it."^[9] After the document was prepared, petitioner signed it. To prove that she did not agree to the terms of the receipt regarding the sale on commission basis, petitioner insists that she signed the aforesaid document on the upper portion thereof and not at the bottom where a space is provided for the signature of the person(s) receiving the jewelry.^[10]

On October 12, 1987 before departing for Cebu, petitioner called up Mrs. Suarez by telephone in order to inform her that she was no longer interested in the ring and bracelet. Mrs. Suarez replied that she was busy at the time and so, she instructed the petitioner to give the pieces of jewelry to Aurelia Nadera who would in turn give them back to the private complainant. The petitioner did as she was told and gave the two pieces of jewelry to Nadera as evidenced by a handwritten receipt, dated October 12, 1987.^[11]

Two issues need to be resolved: First, what was the real transaction between Rosa Lim and Vicky Suarez - a contract of agency to sell on commission basis as set out in the receipt or a sale on credit; and, second, was the subject diamond ring returned to Mrs. Suarez through Aurelia Nadera?

Petitioner maintains that she cannot be liable for estafa since she never received the jewelries in trust or on commission basis from Vicky Suarez. The real agreement between her and the private respondent was a sale on credit with Mrs. Suarez as the owner-seller and petitioner as the buyer, as indicated by the fact that petitioner did not sign on the blank space provided for the signature of the person receiving the jewelry but at the upper portion thereof immediately below the description of the items taken.^[12]

The contention is far from meritorious.

The receipt marked as Exhibit "A" which establishes a contract of agency to sell on commission basis between Vicky Suarez and Rosa Lim is herein reproduced in order to come to a proper perspective:

"THIS IS TO CERTIFY, that I received from Vicky Suarez
PINATUTUNAYAN KO na aking tinanggap kay _____ the
following jewelries:

ang mga alahas na sumusunod:

Description Mga Uri	Price Halaga
1 ring 3.35 dolo	P 169,000.00
1 bracelet	170.000.00
total Kabuuan	P 339.000.00

in good condition, to be sold in CASH ONLY within . . .days from date of signing this receipt na nasa mabuting kalagayan upang ipagbili ng KALIWAAN (ALCONTADO) lamang sa loob ng. . . araw mula ng ating pagkalagdaan:

'if I could not sell, I shall return all the jewelry within the period mentioned above; if I would be able to sell, I shall immediately deliver and account the whole proceeds of sale thereof to the owner of the jewelries at his/her residence; my compensation or commission shall be the over-price on the value of each jewelry quoted above. I am prohibited to sell any jewelry on credit or by installment; deposit, give for safekeeping; lend, pledge or give as security or guaranty under any circumstance or manner, any jewelry to other person or persons.'

'kung hindi ko maipagbili ay isasauli ko ang lahat ng alahas sa loob ng taning na panahong nakatala sa itaas; kung maipagbili ko naman ay dagli kong isusulit at ibibigay ang buong pinagbilhan sa may-ari ng mga alahas sa kanyang bahay tahanan; ang aking gantimpala ay ang mapapahigit na halaga sa nakatakdang halaga sa itaas ng bawat alahas HIND I ko ipinahihintulutang ipa-u-u-tang o ibibigay na hulugan ang alin mang alahas, ilalagak, ipagkakatiwala; ipahihiram; isasangla o ipananagot kahit sa anong paraan ang alin mang alahas sa ibang mga tao o tao.'

I sign my name this . . . day of. . . 19 . . . at Manila, NILALAGDAAN ko ang kasunduang ito ngayong ika_____ ng dito sa Maynila.

Signature of Persons who
received jewelries (Lagda
ng Tumanggap ng mga
Alahas)
Address:"

Rosa Lim's signature indeed appears on the upper portion of the receipt immediately below the description of the items taken. We find that this fact does not have the effect of altering the terms of the transaction from a contract of agency to sell on commission basis to a contract of sale. Neither does it indicate absence or vitiation of consent thereto on the part of Rosa Lim which would make the contract void or voidable. The moment she affixed her signature thereon, petitioner became bound by all the terms stipulated in the receipt. She, thus, opened herself to all the legal obligations that may arise from their breach. This is clear from Article 1356 of the New Civil Code which provides:

"Contracts shall be obligatory in whatever form they may have been entered into, provided all the essential requisites for their validity are present. x x x."

However, there are some provisions of the law which require certain formalities for particular contracts. The first is when the form is required for the validity of the contract; the second is when it is required to make the contract effective as against third parties such as those mentioned in Articles 1357 and 1358; and the third is when the form is required for the purpose of proving the existence of the contract,