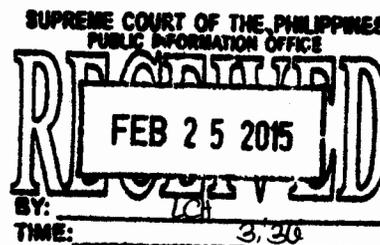




Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE



Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated January 21, 2015 which reads as follows:

“G.R. No. 167469 – ROGELIO MATA @ ROWEL, Petitioner, v. PEOPLE OF THE PHILIPPINES, Respondent.

This appeal is taken by the accused to assail the affirmance with modification by the Court of Appeals (CA) through the judgment promulgated on July 9, 2004¹ of his conviction for *estafa* as defined and penalized under Article 315, Paragraph 2(a) of the *Revised Penal Code* under the judgment rendered on October 23, 2000 by the Regional Trial Court (RTC) in Iriga City, Camarines Sur.² The *estafa* related to the sale by the petitioner of non-existent fish cages with 30,000 tilapia fingerlings.

It appears that the Office of the Provincial Prosecutor of Camarines Sur filed the following information dated March 14, 1994 against the petitioner, to wit:

That on or about the 27th day of February 1993 in San Nicolas, Iriga City, Philippines and within the jurisdiction of this Honorable Court, the said accused, did, then and there willfully, unlawfully and feloniously with intent to defraud one SPO4 WILFREDO N. LUCEÑA, by pretending to possess ten (10) fish cages with 30,000.00 (sic)

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¹ *Rollo*, pp. 32-37; penned by Associate Justice Eliezer R. De los Santos (retired/deceased), concurred in by Associate Justice Delilah Vidallon-Magtolis (retired) and Associate Justice Arturo D. Brion (now a Member of the Court).

² *Id.* at 41-46; penned by Presiding Judge Alfredo D. Agawa.

fingerlings of tilapia, knowing fully well that said manifestation and representations to the false and fraudulent, induce said SPO4 Wilfredo N. Luceña to purchase the said 10 fish cages with 30,000.00 (sic) fingerlings of tilapia in the amount of ₱16,500.00, with the express obligation on the part of the accused to notify Wilfredo N. Luceña the time of harvest but far from complying with his obligation, the said accused misappropriated, misapplied and converted the said amount to (sic) his own personal use and benefit, to the damage and prejudice of the said Wilfredo N. Luceña in the aforesaid amount and such other forms of damages as may be proven in court.

CONTRARY TO LAW.³

The Prosecution substantiated the charge through Eliseo Ebron, the cousin of complainant Wilfredo N. Luceña, Sr., and Wilfredo Luceña, Jr., the son of Luceña, Sr. (who died pending the trial and did not testify). In his defense, the petitioner presented himself and Romeo Magalona Tino, his barangay mate.

In its judgment of October 23, 2000,⁴ the RTC found the petitioner guilty of *estafa* as charged, and decreed thusly:

WHEREFORE, finding Rogelio Mata guilty beyond reasonable doubt for the crime of Estafa under Article 315 2(a) of the Revised Penal Code, without aggravating and mitigating circumstances, the court sentences him to suffer an indeterminate penalty from five (5) years, five (5) months and eleven (11) days to six (6) years, eight (8) months and twenty (20) days, the medium of prision correccional in its maximum period to prision mayor in its minimum period; to pay the amount of ₱9,200 for actual damages and to pay the costs. In the service of sentence he shall be credited with full period of his preventive imprisonment if Article 59 of the Revised Penal Code has been complied with.

SO ORDERED.

On appeal to the CA, the petitioner assigned as the sole error the insufficiency of evidence to sustain his conviction, arguing that “except for the bare and self-serving testimonies of the alleged deceased-victim’s son, there was no proof” of deceit.

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³ Id. at 32-33.

⁴ Supra note 2.

On July 9, 2004, the CA affirmed the conviction,⁵ holding and ruling:

In this case, the accused-appellant made the late Wilfredo, Sr. believe that he was the owner of ten fish cages that were later bought from him by the latter. Accused-appellant's deceit through false pretenses is clearly shown by his having assured private complainant that he owns ten fish cages. The accused-appellant made the private complainant believe that the money he gave to the former was payment in exchange of the fish cages sold to him. As correctly observed by the OSG:

Appellant himself failed to prove that he owned any fishcage. As found by the trial court, appellant failed to present his permit to operate the fishcages in the area notwithstanding his claim that the municipal government issued him the necessary permit.”

While defense witness Romeo Magalona Tino testified that he saw appellant near the fishcages after the typhoon of December 1993, the same was correctly disregarded by the trial court for being irrelevant and immaterial. It does not prove that appellant was the owner of the said fishcages. Nor does it mean that the fishcages where appellant was seen were the same fishcages he offered and sold to the victim in February 1993.

From the above, the only conclusion is that the accused-petitioner received the money with no intention of selling the fish cages which he does not really own. Obviously, his representation that he possessed property was actually false and was resorted to by the accused-petitioner to deceive the late Wilfredo Lucena, Sr. into parting with his money.

We are convinced that the fraud utilized by the accused-petitioner as well as the offense itself, had been proven beyond reasonable doubt. The act committed by the accused-appellant constitutes the crime of estafa defined and punished under Article 315, par. 2(a) of Revised Penal Code. In this kind of estafa, the pretense of the accused that he possesses property is false.

The penalty for estafa depends on the amount defrauded. Inasmuch as the amount involved in this case is ₱16,500.00, the penalty to be imposed upon the accused-appellant is the medium period of *prision correccional* in its maximum period to *prision mayor* in its minimum period (5 years, 5 months and 11 days to 6 years, 8 months and 20 days). Under the Indeterminate Sentence Law, the minimum term of the indeterminate penalty should be within the range of the penalty next

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⁵ Supra note 1.

lower in degree to that prescribed by the Code for the offense committed, which in this case is *prision correccional* in its minimum and medium period, in any of its periods (6 months and 1 day to 4 years and 2 months).

WHEREFORE, in view of the foregoing the decision appealed from is hereby AFFIRMED with MODIFICATION. Accused-petitioner Rogelio Mata is hereby sentenced to suffer the indeterminate penalty of imprisonment ranging from 6 months and 1 day of *prision correccional* as minimum to 6 years and 1 day of *prision mayor* as maximum. He is likewise ordered to pay the private complainant the amount of ₱16,500.00 and to pay the costs.

SO ORDERED.

On December 1, 2004, the CA denied the petitioner's motion for reconsideration.

The petitioner now posits that the CA erred in law in affirming the decision of the RTC with modification despite the information charging him with wilfully, unlawfully and feloniously defrauding one SPO4 Wilfredo N. Luceña who was not the proper party because the transaction on the fish cages with 30,000 fingerlings had involved his father, Wildredo N. Luceña, Sr.; and despite him not having committed the crime charged.

Ruling of the Court

The appeal lacks merit.

First of all, the petitioner's submission, that the information wrongly averred SPO4 Wilfredo N. Luceña as the complainant when it should be his father who was the proper party, is unwarranted. The SPO4 Wilfredo N. Luceña who had filed the criminal complaint dated February 4, 1994 against the petitioner had identified himself as "WILFREDO LUCEÑA Y NACARIO, 50 years old, married, a resident of San Nicolas, Iriga City, and member of the Iriga City Police Station with the rank of Senior Police Officer IV."⁶ On the other hand, Wilfredo Luceña, Jr. who testified in the trial, identified himself as "31 years old, married, a government employee, resident of San Nicolas, Iriga City."⁷ The distinctiveness of the two Wilfredo Luceñas was clear and devoid of confusion.

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⁶ Records, pp. 5 and 7.

⁷ TSN, July 17, 1998, p. 2.

Secondly, the petitioner's contention that the evidence did not establish his guilt for *estafa* is unworthy of consideration. To start with, the contention dwells on an issue of fact that is beyond the purview of an appeal on *certiorari* under Rule 45 of the *Rules of Court*, whose Section 1 limits the question to be raised to questions of law. Jurisprudence has recognized exceptions to this limitation, including when the CA made erroneous inferences, or arrived at a conclusion based on speculation or conjectures, or overlooked undisputed facts, which if duly considered would lead to a different outcome.⁸ However, he has not shown that his appeal came under any of the exceptions. Moreover, the affirmance of his conviction by the CA was based on the CA's findings of fact that echoed the RTC's own findings of fact. Their findings are binding and conclusive upon the Court, which is not a trier of facts.

Thirdly, the penalty for the *estafa* charged and proved is *prision correccional* in the maximum period to *prision mayor* in the minimum period (*i.e.*, four years, two months and one day to eight years). In view of the absence of any modifying circumstances, the penalty should be imposed in its medium period, which ranges from five years, five months and 11 days to six years, eight months and 20 days. The indeterminate sentence of "from 6 months and 1 day of *prision correccional* as minimum to 6 years and 1 day of *prision mayor* as maximum" fixed by the CA, being within the penalty prescribed for the offense, is left undisturbed.

Lastly, anent the civil liability, the RTC had omitted the return of the value of the defraudation, and had imposed by way of actual damages only the travel expenses totalling ₱9,200.00 incurred during the investigation of the case. Viewing the omission as error on the part of the RTC, the CA ordered the petitioner to indemnify the complainant in the amount of ₱16,500.00, the value of the defraudation. We concur with the CA, considering that every trial court's duty in every criminal case is to grant the correct items and amounts of civil liability to the offended party as are factually and legally warranted.⁹ Under Section 2, Rule 120 of the *Rules of Court*, indeed, the judgment, if it is of conviction, shall state: "(1) the legal qualification of the offense constituted by the acts committed by the accused and the aggravating or mitigating circumstances which attended its commission; (2) the participation of the accused in the offense, whether as principal, accomplice, or accessory after the fact; (3) **the penalty imposed**

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⁸ *Lopez v. People*, G.R. No. 199294, July 31, 2013, 703 SCRA 118, 126.

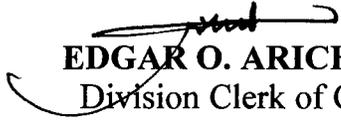
⁹ *Bacolod v. People*, G.R. No. 206236, July 15, 2013, 701 SCRA 229.

upon the accused; and (4) the civil liability or damages caused by his wrongful act or omission to be recovered from the accused by the offended party, if there is any, unless the enforcement of the civil liability by a separate civil action has been reserved or waived.”¹⁰ In order to avoid confusion, the ₱9,200.00 awarded by the RTC, there being no appeal upon it by the petitioner, is in addition to the ₱16,500.00 fixed by the CA as the value of the defraudation. Both amounts shall earn interest of 6% *per annum* from the finality of this resolution until full satisfaction.¹¹

WHEREFORE, the Court **AFFIRMS** in all respects the decision promulgated on July 9, 2004 subject to the **MODIFICATION** that the petitioner shall pay to the Heirs of Wilfredo N. Luceña, Sr.: (a) the amounts of ₱16,500.00 as the value of the defraudation and ₱9,200.00 as actual damages, plus interest of 6% *per annum* on said amounts from the finality of this resolution until full satisfaction; and (b) the costs of suit.

SO ORDERED.”

Very truly yours,


EDGAR O. ARICHETA

Division Clerk of Court 

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The Solicitor General (x)
Makati City

The Hon. Presiding Judge
Regional Trial Court, Br. 35
Iriga City 4431 Camarines Sur
(Crim. Case No. IR-3615)

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Judgment Division (x)
Supreme Court

SR

¹⁰ The underscoring is part of the original text.

¹¹ *Nakar v. Gallery Frames*, G.R. No. 189871, August 13, 2013, 703 SCRA 439.