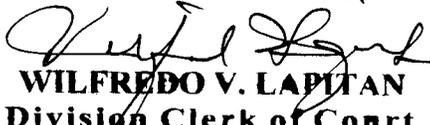




Republic of the Philippines
SUPREME COURT
 Manila

CERTIFIED TRUE COPY

WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

AUG 08 2017

THIRD DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 220458

Present:

- versus -

VELASCO, JR., J., Chairperson,
 BERSAMIN,
 BERNABE,*
 TIJAM, and
 REYES, JR., JJ.

ROSARIO BALADJAY,
 Accused-Appellant.

Promulgated:

July 26, 2017



x-----x

DECISION

VELASCO, JR., J.:

“... the only people who get rich from “get rich quick” books are those who write them.”

-Richard M. Nixon

Nature of the Case

Before this Court is an appeal from the November 13, 2014 Decision¹ of the Court of Appeals (CA) in CA-G.R. CR HC No. 06308 finding the accused-appellant, Rosario Baladjay (Baladjay), guilty beyond reasonable doubt of the crime of Syndicated *Estafa* defined and penalized under Article 315 (2) (a) of the Revised Penal Code (RPC) in relation to Section 1 of Presidential Decree No. (PD) 1689.²

*Additional Member per raffle dated October 19, 2015.

¹ *Rollo*, pp. 2-44. Penned by Associate Justice Marie Amy Lazaro-Javier and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Leoncia Real-Dimagiba, Special 14th Division.

² Entitled “INCREASING THE PENALTY FOR CERTAIN FORMS OF SWINDLING OR ESTAFA” (April 6, 1980).



The Facts

In an *Information* dated August 6, 2003, accused-appellant Baladjay and her co-accused were indicted with the crime of Syndicated *Estafa*. The accusatory portion of the *Information* reads:

The undersigned Prosecutor accuses ROSARIO BALADJAY, SATURNINO BALADJAY, LITO NATIVIDAD, RANDY RUBIO, TESS VILLEGAS, OLIVE MARASIGAN, LORNA PANGAN, CARMEN CHAN, STELLA ILAGAN and JOHN MUNOZ of the crime of SYNDICATED ESTAFA under Article 315, par. 2(a) of the Revised Penal Code in relation to [PD] 1689, committed as follows:

That on or about and sometime during the months covering the period from May 2001 to October 2002, in the City of Makati, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being officers, employees, and/or agents of Multinational Telecom Investors Corporation (Multitel), an association operating on funds solicited from the public, conspiring or confederating with and mutually helping one another, and confederating as a syndicate, did then and there, willfully, unlawfully and feloniously defraud complainants JOSE SAMALA, HENRY CHUA CO, ROLANDO T. CUSTODIO, KATHERINE T. HEBRON AND STELLA P. LEE by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of fraud to the effect that they have the business, property and power to solicit and accept investments and deposits from the general public and capacity to pay the complainants guaranteed monthly interest on investment from 5% to 6% and lucrative commissions, and by means of other deceits of similar import, induced and succeeded in inducing the complainants to invest, deposit, give and deliver as in fact the latter gave the accused the total amount of [Php]7,810,000.00 as investment or deposit, accused knowing fully well that said pretenses and representations are fraudulent scheme to enable them to obtain said amount, and thereafter, having in their possession said amount, with intent to gain and to defraud, misappropriated and converted the same to their own personal benefits to the damage and prejudice of said complainants in the aforementioned amount.

CONTRARY TO LAW.³

Upon motion of the public prosecutor, the charge against Carmen Chan was dismissed for lack of probable cause; while the other accused, aside from Baladjay, remained at large. On arraignment, Baladjay pleaded not guilty to the offense charged. Thereafter, trial on the merits ensued.

The prosecution presented Rolando T. Custodio (Rolando), Estella Pozon Lee (Estella), Henry M. Chua Co (Henry), and Yolanda Baladjay (Yolanda) to testify against accused-appellant Baladjay.

When Rolando took to the stand, he narrated that sometime in February 2001, his neighbor told him about Multitel, a company which

³ CA rollo, pp. 12-13.



allegedly pays its investors an interest income of at least five percent (5%) per month. Enticed with the prospective returns, Rolando invested the amount of Php100,000.00 in Multitel and received monthly interest payments, as promised.⁴

Thereafter, Rolando met Gladina Baligad (Gladina), a counselor of Multitel, who explained to him that the company was engaged in the telecommunications business. Convinced of Gladina's representations regarding Multitel's legitimacy and her assurances as to its profitability, Rolando increased his investment in the company to Php2,000,000.00. Gladina then made a more attractive offer, promising an increased monthly earning of eight to twelve percent (8%-12%) of the investments, luring Rolando to invest a total of Php3,200,000.00 in Multitel. A receipt was issued for every placement that Rolando made, together with checks personally signed by Baladjay, representing his principal investment.⁵

However, sometime in October 2002, when he had yet to receive his interest income for the month, Rolando learned that Baladjay was under investigation. Knowledge of this prompted him to call Gladina, who assured him that Multitel would still be able to deliver on its promised returns. Nevertheless, despite Gladina's assurance, Multitel defaulted. Rolando then conducted his own investigation on the matter and found out that Multitel was not issued a secondary license by the Securities and Exchange Commission (SEC) to deal in securities and solicit investments from the general public. In fact, per an SEC Advisory, the company and its conduits were not duly registered and had no juridical personality and authority to engage in any activity, let alone investment-taking.⁶

Rolando exerted all effort to recover his investments after his discovery. He even attended the meetings conducted by Multitel, the last one of which was held on November 5, 2002. During the final meeting, Baladjay's co-accused Randy Rubio, Olive Marasigan, and Tess Villegas, all officers of Multitel, met with the investors and repeatedly assured the latter that Multitel was a legitimate company and that it was merely organizing its books so as to meet the monthly withdrawals. Multitel, however, was unable to deliver on the promised returns, prompting Rolando to file a criminal complaint.⁷

In her account of the events, Estella claimed that she was advised by Carmencita Chan (Carmencita), a Multitel counselor, to invest in the company through the One Heart Multi-Purpose Cooperative (One Heart).⁸ As Carmencita explained to her, One Heart was an agent of Multitel, which could receive investments in the latter's behalf. Carmencita also informed

⁴ TSN, August 25, 2005, pp. 12-13.

⁵ Id. at 15-26.

⁶ Id. at 31-35.

⁷ Id. at 36-38.

⁸ TSN, November 10, 2005, p. 4.

Estella in one of their meetings at One Heart's office at the Enterprise Building in Makati City that Multitel is a local subsidiary of a New York-based telecommunications company.⁹

Carmencita later introduced Estella and her husband to accused Manolito Natividad (Manolito), who confirmed the information about Multitel. With the promised yield of six percent (6%) monthly interest, Estella's total investment with Multitel amounted to Php3,280,000.00 and US\$7,520.00. Estella initially received the promised interest yields. However, in October 2002, no interest income was deposited to Estella's account. This impelled Estella to call Carmencita, who told her that she had to wait before she could get her income for the month.¹⁰

Subsequently, Estella constantly called and followed up with Carmencita and even Multitel's advertised hotline only to be repeatedly told that she would be informed of the status of her investments. However, no information ever reached her, and her investments were never returned by Multitel.¹¹

In his testimony, Henry claimed that he knew the accused Baladjay, Saturnino Baladjay, Randy Rubio, Lito Natividad, and Tess Villegas. According to him, he was also persuaded by Gladina to invest in Multitel because of the promise of a five percent (5%) monthly interest income. His total investments amounted to Php1,050,000.00, for which he received interest payment only once.¹² When the guaranteed return never arrived, Henry called Gladina who relayed to him that Baladjay was having difficulty with respect to the Multitel funds. Henry then became suspicious, prompting him to consult with the SEC where he was informed that Multitel is a scam, and that a Cease and Desist Order had already been issued against it for soliciting funds from the public without a valid license.¹³

Henry then confronted Gladina, only to be redirected to Baladjay's then counsel. He then attempted to settle with Baladjay, but the latter can no longer be contacted. And in his last-ditch effort to recover his investment, he attended the investors meeting organized by Multitel counselors, including Randy Rubio, Olive Marasigan, and Tess Villegas, among others.¹⁴

Lastly, Yolanda testified that her and Baladjay's husbands are brothers.¹⁵ Baladjay offered her a job as a Multitel counselor, promising her commissions equivalent to seven percent (7%) of the capital infused by the investors that she would convince. Accepting the offer, Yolanda ushered in clients to Baladjay's office at the Enterprise Building in Ayala, Makati City

⁹ Id. at 6-8.

¹⁰ Id. at 6-13.

¹¹ Id. at 14-18.

¹² TSN, March 7, 2007, pp. 5-9.

¹³ Id. at 12-15.

¹⁴ Id. at 24-25.

¹⁵ TSN, September 20, 2007, p. 12.

until 2001. Thereafter, Yolanda and the other Multitel counselors were assigned to different groups or cooperatives, which Baladjay herself had established. According to her, the investments were placed in the cooperatives, which, in turn, placed them in Multitel.¹⁶

By September 2002, Multitel started to have problems with the SEC. Consequently, the investors demanded from Yolanda that she return their money placements. However, she could not address their demands as she could no longer contact Baladjay, who, by then, was already nowhere to be found.¹⁷

For its part, the defense presented accused-appellant Baladjay as its sole witness. Baladjay, in her testimony, denied knowing, meeting, or transacting with the private complainants. She insisted on her innocence and decried the allegations that she took the private complainants' money in the aggregate amount of Php7,810,000.00.¹⁸

Baladjay added that while she is the President and Chairman of the Board of Multitel International Holdings, Inc. (MIHI), it is a company totally distinct and separate from Multinational Telecom Investors Corporation or Multitel. She claimed that her company, which was registered with the SEC, was only engaged in the selling of cell phones and did not solicit any investment from the public. However, Baladjay admitted that she was also known as the president of Multitel.¹⁹

The Ruling of the RTC

On December 3, 2012, the Regional Trial Court (RTC), Makati City, Branch 58, rendered judgment in Criminal Case No. 03-3261 finding Baladjay guilty of Syndicated *Estafa*, disposing as follows:

WHEREFORE, premises considered, JUDGMENT is hereby rendered as follows:

1. Convicting the accused Rosario Baladjay of the crime of syndicated estafa and is hereby ordered to suffer life imprisonment.

By way of civil liability

2. To pay Dr. Rolando T. Custodio the sum of Php3,200,000.00 as actual damages and Php500,000.00 as moral damages;

3. To pay Estella Ponce Lee the sum of Php3,280,000.00 and US\$ 7,520.00 the rate to be computed from the time of its investment and Php500,000.00 as moral damages;

¹⁶ Id. at 18-25.

¹⁷ Id. at 28-31.

¹⁸ TSN, April 5, 2010, pp. 5-6.

¹⁹ Id. at 7-17.



4. To pay Henry M. Chua Co the sum of Php1,050,000.00 and Php500,000.00 as moral damages;

Considering that the Court has yet to acquire jurisdiction over the other accused, let alias warrants of arrest be issued against them.

SO ORDERED.

An Amended Decision²⁰ was later issued on April 26, 2013 to correct the middle name of one of the private complainants, Estella Pozon Lee.

Baladjay interposed an appeal from the above-quoted RTC ruling, arguing that the trial court gravely erred in convicting her when her guilt has not been proven beyond reasonable doubt.²¹

The Ruling of the CA

In its November 13, 2014 Decision, the CA affirmed the guilty verdict meted by the RTC, but with modification with respect to the amount of moral damages awarded. The CA held that all the elements of *Estafa* under Article 315 (2) (a) of the RPC are present in the instant case, and that the crime was committed by Baladjay together with her counselors numbering more than five (5), thus, qualifying the felony to Syndicated *Estafa* in accordance with PD 1689. The dispositive portion of the CA Decision states:

ACCORDINGLY, the appeal is DENIED and the Decision dated December 3, 2012, AFFIRMED WITH MODIFICATION, reducing the award of moral damages to Php100,000.00 for each of the private complainant.

SO ORDERED.²²

Aggrieved, accused-appellant Baladjay elevated the case before Us, raising the same arguments she had at the CA.

The Issue

The sole issue in this case is whether or not the appellate court gravely erred in affirming the accused-appellant's conviction for Syndicated *Estafa*.

The Court's Ruling

We find no merit in the instant appeal.

***All the elements of Syndicated Estafa
are present in the instant case***

²⁰ CA rollo, pp. 32-44. Penned by Presiding Judge Eugene C. Paras.

²¹ Id. at 55-69.

²² Rollo, p. 44.



Accused-appellant and her eight (8) co-accused were charged with Syndicated *Estafa*, in relation to Article 315 (2)(a) of the RPC, viz:

Art. 315. Swindling (*estafa*). – Any person who shall defraud another by any means mentioned herein below shall be punished by:

x x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business, or imaginary transactions; or by means of other similar deceits.

x x x x

Jurisprudence elucidates that the elements of *Estafa* by means of deceit under this provision are as follows: (a) that there must be a false pretense or fraudulent representation as to the offender's power, influence, qualifications, property, credit, agency, business or imaginary transactions; (b) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of the fraud; (c) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (d) that, as a result thereof, the offended party suffered damage.²³

In relation to the foregoing, Section 1 of PD 1689 qualifies the offense of *Estafa* if it is committed by a syndicate, viz:

Section 1. Any person or persons who shall commit *estafa* or other forms of swindling as defined in Articles 315 and 316 of the Revised Penal Code, as amended, shall be punished by life imprisonment to death if the swindling (*estafa*) is committed by a syndicate consisting of five or more persons formed with the intention of carrying out the unlawful or illegal act, transaction, enterprise or scheme, and the defraudation results in the misappropriation of moneys contributed by stockholders, or members of rural banks, cooperatives, “*samahang nayon(s)*,” or farmers' associations, or funds solicited by corporations/associations from the general public.

Synthesizing the two provisions of law, the elements of Syndicated *Estafa*, therefore, are as follows: (a) *Estafa* or other forms of swindling, as defined in Articles 315 and 316 of the RPC, is committed; (b) the *Estafa* or swindling is committed by a syndicate of five (5) or more persons; and (c) the defraudation results in the misappropriation of moneys contributed by stockholders, or members of rural banks, cooperatives, “*samahang nayon(s)*,” or farmers' associations, or of funds solicited by corporations/associations from the general public.²⁴

²³ *People v. Tibayan*, G.R. Nos. 209655-60, January 14, 2015, 746 SCRA 259, 268.

²⁴ *Galvez v. CA*, G.R. Nos. 187919, 187979, and 188030, February 20, 2013, 691 SCRA 455, 467.

The special law is typically invoked by those who fall prey to the too-good-to-be-true promises of a Ponzi scheme, wherein the purported investment program offers impossibly high returns and pays these returns to early investors out of the capital contributed by later investors. The history of such a stratagem has been discussed in the landmark ruling of *People v. Balasa (Balasa)*:

x x x x Named after Charles Ponzi who promoted the scheme in the 1920s, the original scheme involved the issuance of bonds which offered 50% interest in 45 days or a 100% profit if held for 90 days. Basically, Ponzi used the money he received from later investors to pay extravagant rates of return to early investors, thereby inducing more investors to place their money with him in the false hope of realizing this same extravagant rate of return themselves. x x x x

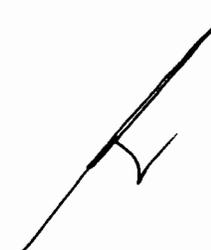
However, the Ponzi scheme works only as long as there is an ever-increasing number of new investors joining the scheme. To pay off the 50% bonds Ponzi had to come up with a one-and-a-half times increase with each round. To pay 100% profit he had to double the number of investors at each stage, and this is the reason why a Ponzi scheme is a scheme and not an investment strategy. The progression it depends upon is unsustainable. The pattern of increase in the number of participants in the system explains how it is able to succeed in the short run and, at the same time, why it must fail in the long run. This game is difficult to sustain over a long period of time because to continue paying the promised profits to early investors, the operator needs an ever larger pool of later investors. The idea behind this type of swindle is that the "con-man" collects his money from his second or third round of investors and then absconds before anyone else shows up to collect. Necessarily, these schemes only last weeks, or months at most.²⁵

In *Balasa*, Panata Foundation of the Philippines, Inc. sent out brochures soliciting deposits from the public, assuring would-be depositors that their money would either be doubled after 21 days or tripled after 30 days. Under its alleged investment program, a depositor hands his investment to a clerk who, in turn would give it to the teller. In exchange, the depositors would receive filled-up printed forms called "slots," which bear resemblance to bank checks and were already signed beforehand by the president of the foundation. The amounts received by the foundation were deposited in various banks under the names of its president and/or secretary.²⁶

The foundation started with a few depositors, most of whom only invested small amounts to see whether the foundation would make good on its promise. As word got around that the foundation was able to fulfill its obligations, more depositors were attracted by the promised returns. Blinded by the prospect of gaining substantial profits for nothing more than a

²⁵ G.R. Nos. 10635 and 108601-02, September 3, 1998, 295 SCRA 49, 77-78.

²⁶ Id. at 60-62.



minuscule investment, these investors were lured to reinvest their earnings, if not to invest more.²⁷

The operations initially proceeded smoothly. However, on November 29, 1989, the foundation closed down. Depositors then began to demand for the reimbursement of their deposits, but the foundation was unable to deliver. Consequently, sixty-four informations, all charging the offense of Syndicated *Estafa* were filed against the officers and trustees of the foundation.²⁸ The cashier and the disbursing officer of the foundation were eventually found guilty beyond reasonable doubt of the offense charged. They were sentenced to suffer the penalty of life imprisonment, and were ordered to retribute to complainants the amounts defrauded.

Parallelisms can be drawn between *Balasa* and *People v. Menil*.²⁹ In the said case, the spouses Menil were the proprietors of a business operating under the name ABM Appliance and Upholstery. Through ushers and sales executives, they began soliciting investments from the general public in Surigao City and its neighboring towns, assuring would-be investors that their money would be multiplied tenfold after fifteen (15) calendar days.³⁰

Instead of the “slots” that were given to the investors in *Balasa*, the spouses Menil issued “coupons” as proofs of investment. And just as in *Balasa*, the initial amounts involved were small, and so the spouses Menil were able to pay the returns on the investments as they fell due. However, the amounts invested and the number of depositors gradually increased until it reached a point wherein the daily investments amounting to millions of pesos were pouring in and payments of the returns were delayed.³¹ On September 19, 1989, the spouses stopped releasing payments altogether, prompting the investors to charge them with large-scale swindling.³²

More recently, in *People v. Tibayan*,³³ the Court has convicted two incorporators of the Tibayan Group Investment Company, Inc. (TGICI) of multiple counts of Syndicated *Estafa* and sentencing them to suffer life imprisonment for each count. As in the other fraudulent investment schemes, the private complainants in that case were enticed to invest in TGICI due to the offer of high interest rates, as well as the assurance that they will recover their investments. After parting with their monies, the private complainants received a Certificate of Share and post-dated checks, representing the

²⁷ Id. at 62.

²⁸ Id. at 62-63.

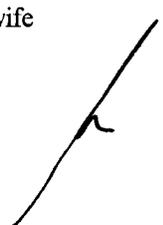
²⁹ G.R. Nos. 115054-66. September 12, 2000, 340 SCRA 125.

³⁰ Id. at 127.

³¹ Id. at 127-128.

³² The spouses Menil could not be charged and convicted with syndicated estafa since there was no showing that at least five (5) persons perpetrated the fraudulent investment scheme. Said the Court: “While the prosecution proved that a non-stock corporation with eleven (11) incorporators, including accused-appellant and his wife, was involved in the illegal scheme, there was no showing that these incorporators collaborated, confederated, and mutually helped one another in directing the corporations activities. In fact, the evidence for the prosecution shows that it was only accused-appellant and his wife who had knowledge of and who perpetrated the illegal scheme”; id. at 148.

³³ Supra note 23.



amount of the principal investment and the corresponding monthly interest earnings. The checks, however, were dishonoured upon encashment, and the TGICI office closed down without private complainants having been paid. The investors were then constrained to file criminal complaints against the incorporators and directors of TGICI.

The gravamen of the offenses charged in all the afore-mentioned cases is the employment of fraud or deceit to the damage or prejudice of another. As defined in *Balasa*:

Fraud, in its general sense, is deemed to comprise anything calculated to deceive, including all acts, omissions, and concealment involving a breach of legal or equitable duty, trust, or confidence justly reposed, resulting in damage to another, or by which an undue and unconscientious advantage is taken of another. It is a generic term embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to secure an advantage over another by false suggestions or by suppression of truth and includes all surprise, trick, cunning, dissembling and any unfair way by which another is cheated. On the other hand, deceit is the false representation of a matter of fact whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury.³⁴

In the case at bar, it can be observed that Multitel engaged in a *modus operandi* that does not deviate far from those practiced in the above-cited cases. The similarity of the pattern is uncanny. Here, using Multitel as their conduit, Baladjay and her more than five (5) counselors employed deceit and falsely pretended to have the authority to solicit investments from the general public when, in truth, they did not have such authority. The deception continued when Baladjay's counselors actively solicited investments from the public, promising very high interest returns starting at five percent (5%) per month. Convinced of Baladjay's and her counselors' promise of lucrative income, the private complainants were then enticed to invest in Multitel. However, unknown to them, the promised high-yielding venture was unsustainable, as Multitel was not really engaged in any legitimate business. Eventually, Baladjay and her cohorts ran away with the private complainants' money causing them damage and prejudice.

Clearly, all the elements of Syndicated *Estafa* obtain in this case, considering that: (a) more than five (5) persons are involved in Multitel's grand fraudulent scheme, including Baladjay and her co-accused - who employed deceit, false pretenses and representations to the private complainants regarding a supposed lucrative investment opportunity with Multitel in order to solicit money from them; (b) the said false pretenses and representations were made prior to or simultaneous with the commission of fraud; (c) relying on the false promises and misrepresentations thus

³⁴ *People v. Balasa*, supra note 25, at 71-72.



employed, private complainants invested their hard-earned money in Multitel; and (d) Baladjay and her co-accused defrauded the private complainants, obviously to the latter's prejudice.

***Baladjay's connection with Multitel
has been clearly established***

Baladjay contends, however, that the prosecution failed to prove her connection with Multitel, which is supposedly an entity distinct from the company she actually owns.

We are not convinced.

Multitel was sufficiently proven to be owned by and linked to Baladjay. The positive and straightforward testimony of her own sister-in-law, Yolanda, shows not only Baladjay's direct connection with Multitel, but also her active participation in soliciting and convincing prospective investors to place their investments in Multitel, viz:

ATTY. FERMO

Q: Why did you agree to become a counselor of Ms. Baladjay and recruit investors, Ms. Witness?

A: Because I will earn something from the persons that I will be recruiting, ma'am.

Q: You mentioned that you will earn, why, how much will you earn if you will be able to recruit investors of Multitel?

A: She'll give me seven percent (7%) and then to the person they will be given four percent (4%).

x x x x

Q: Were you able to recruit or persuade others to invest at Multitel, Madam witness?

A: Yes, ma'am and the persons whom I recruited, I brought them to her residence and she personally talked to them.

Q: When you brought these persons to her house, did they immediately invest?

A: Yes, ma'am they invested immediately because she is very articulate.

Q: After these investors made their investment, when will you receive the three percent (3%) commission?

A: Every month ma'am, I will receive the commission and the investors will also receive their monthly interest.

Q: Do you know what are the proofs to show that people invested in Multitel, Madam witness?

A: She issued us post dated checks for the principal and the monthly interest was given in cash and we have to sign in the paper.

x x x x

Q: For how long have you been a counselor of Multitel, Madam witness?

- A: I started with her ma'am and it was already at Multitel Office in Ayala.
- Q: When was that?
- A: In the year 2000 ma'am.
- Q: Year 2000 when she had an office at Ayala?
- A: Yes, ma'am.
- Q: What building is that Madam witness?
- A: At Enterprise Building Ma'am.
- Q: For how long were you able to bring investors at her office at Enterprise Building?
- A: Until 2001, ma'am.
- Q: So, why, what happened after 2001?
- A: Because we already have our own group or cooperative.
- Q: What do you mean, that you became part of the cooperative?
- A: Because there were plenty of investors, ma'am and her office can no longer accommodate us.
- Q: So, who established this cooperative, Madam witness?
- A: She established the cooperative Ma'am and we have our own chairman.
- Q: How many cooperatives were established, if you know, madam witness?
- A: 16 Cooperatives, ma'am but I can only remember three names Telecon, Star Enterprise, One Heart.
- Q: And what is the name of your cooperative?
- A: Star Enterprise, ma'am.³⁵

Further, Baladjay's claim that she has not transacted with the private complainants, or has never known the supposed Multitel counselors to whom the victims of Multitel's fraudulent scheme delivered their money, cannot prevail over the evidence on record. Baladjay cannot feign innocence by hiding behind her so-called "counselors" because not only did they positively identify her, **she also signed the checks issued in favor of the investors.**

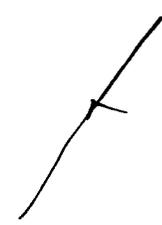
The RTC and the CA both found that the witnesses presented in the instant case were credible, having given their respective testimonies in a straightforward manner, corroborated by documentary evidence. Accordingly, the totality of the testimonies of the witnesses, documentary evidence on record, and findings of the SEC all point to Baladjay as the perpetrator of a grand scheme to defraud investors of their investments in her company, Multitel.³⁶

Based on the foregoing, the CA correctly affirmed Baladjay's guilt.

Notably, the crime of *Estafa* under Article 315 (2)(a) of the RPC was committed by accused-appellant together with her counselors, numbering more than five (5), qualifying the crime to Syndicated *Estafa* in accordance with PD 1689. Thus, the imposition of the penalty of life imprisonment should be upheld, as well as the order to pay the actual damages suffered by

³⁵ TSN, Supra note 15, at 18-24.

³⁶ *Rollo*, p. 42.



each of the private complainants. In addition thereto, the Court imposes interest on the monetary penalty at the rate of six percent (6%) per annum from the time of the demand, which shall be deemed as made on the same day the Information was filed against accused-appellant, until the amounts are fully paid.³⁷

As regards the award of moral damages, the CA was correct in reducing the same to a fair, just and reasonable amount³⁸ of One Hundred Thousand Pesos (Php100,000.00) for each of the private complainants. The Court also imposes an interest at the rate of six percent (6%) per annum on the moral damages assessed from finality of this ruling until full payment.³⁹

IN VIEW OF THE FOREGOING, the Court **ADOPTS** the findings and conclusions of law in the Decision dated November 13, 2014 of the Court of Appeals in CA-G.R. CR HC No. 06308 and **AFFIRMS** said Decision **WITH MODIFICATION** that (1) accused-appellant is assessed and shall pay an interest at the rate of six percent (6%) per annum on the amount of actual damages suffered by each of the private complainants, reckoned from the filing of Information on August 27, 2003 until fully paid, and (2) an interest at the rate of six percent (6%) per annum on the amount of moral damages awarded to each of the private complainants from the finality of the Court's Decision until full payment.

As thus modified, the judgment of the Regional Trial Court of Makati City, Branch 58, promulgated on December 3, 2012, as amended on April 26, 2013, shall read as follows:

WHEREFORE, premises considered, **JUDGMENT** is hereby rendered as follows:

1. Convicting the accused Rosario Baladjay of the crime of Syndicated *Estafa* and ordering her to suffer the penalty of life imprisonment.

By way of civil liability

2. To pay Dr. Rolando T. Custodio the sum of Php3,200,000.00 as actual damages;

3. To pay Estella Pozon Lee the sum of Php3,280,000.00 and US\$7,520.00 the rate to be computed from the time of its investment;

4. To pay Henry M. Chua Co the sum of Php1,050,000.00;

³⁷ *People v. Gallemit*, G.R. No. 197539, June 2, 2014, 724 SCRA 359, 387.

³⁸ *Coca Cola Bottlers, Phils., Inc. v. Roque*, G.R. No. 118985, June 14, 1999, 308 SCRA 215.

³⁹ *People v. Sevillano*, G.R. No. 200800, February 9, 2015; *People v. Delfin*, G.R. No. 201572, July 9, 2014, 729 SCRA 617; *People v. Consorte*, G.R. No. 194068, July 9, 2014, 729 SCRA 528; *People v. De Los Santos*, G.R. No. 207818, July 23, 2014, 731 SCRA 52.

The afore-stated amounts shall be paid with legal interest at the rate of six percent (6%) per annum from August 27, 2003 until fully paid.

By way of moral damages

5. To pay Dr. Rolando T. Custodio, Estella Pozon Lee, and Henry M. Chua Co the amount of One Hundred Thousand Pesos (Php100,000.00) each, with interest at the rate of six percent (6%) per annum from the finality of the Court's Decision until fully paid.

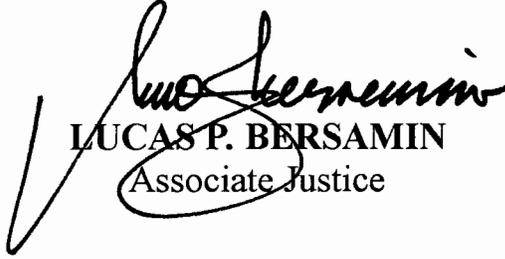
Considering that the Court has yet to acquire jurisdiction over the other accused, let alias warrants of arrest be issued against them.

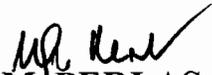
SO ORDERED.



PRESBITERO J. VELASCO, JR.
Associate Justice

WE CONCUR:


LUCAS P. BERSAMIN
 Associate Justice


ESTELA M. PERLAS-BERNABE
 Associate Justice


NOEL GIMENEZ TIJAM
 Associate Justice


ANDRES REYES, JR.
 Associate Justice

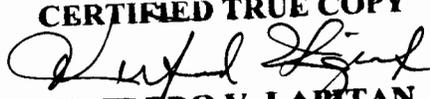
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


PRESBITERO J. VELASCO, JR.
 Associate Justice
 Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

CERTIFIED TRUE COPY

WILFREDO V. LAPATAN
 Division Clerk of Court
 Third Division


MARIA LOURDES P. A. SERENO
 Chief Justice

AUG 08 2017