



Republic of the Philippines  
 Supreme Court  
 Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,  
 Plaintiff-Appellee,

G.R. No. 210612

Present:

- versus -

ERVIN Y. MATEO, EVELYN E.  
 MATEO, CARMELITA B. GALVEZ,  
 ROMEO L. ESTEBAN, GALILEO J.  
 SAPORSANTOS and NENITA S.  
 SAPORSANTOS,

CARPIO, J., Chairperson,  
 PERALTA,  
 PERLAS-BERNABE,  
 CAGUIOA,  
 REYES, JR., JJ.

Accused,

Promulgated:

ERVIN Y. MATEO,

Accused-Appellant.

09 OCT 2017  
*[Signature]*

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DECISION

PERALTA, J.:

Before the Court is an ordinary appeal filed by accused-appellant Ervin Y. Mateo (*Mateo*) assailing the Decision<sup>1</sup> of the Court of Appeals (*CA*), dated July 16, 2012, in CA-G.R. CR-H.C. No. 04001, which affirmed with modification the Judgment<sup>2</sup> of the Regional Trial Court (*RTC*) of Makati Cty, Branch 132, in Criminal Case Nos. 03-2936 and 03-2987, finding Mateo guilty beyond reasonable doubt of the crime of syndicated estafa, as defined and penalized under Article 315 of the Revised Penal Code (*RPC*) in relation to Presidential Decree No. 1689<sup>3</sup> (*PD 1689*), and imposing upon him the penalty of life imprisonment for each count and to pay actual damages to the private complainants.

<sup>1</sup> Penned by Associate Justice Mario V. Lopez, with Associate Justices Jose C. Reyes, Jr. and Socorro B. Inting, concurring; *rollo*, pp. 2-19.

<sup>2</sup> Penned by Judge Rommel O. Baybay; records, pp. 330-340.

<sup>3</sup> A Decree Increasing the Penalty for Certain Forms of Swindling or Estafa.

*[Signature]*

The antecedents are as follows:

In March 2001, private complainant Herminio Alcid, Jr. (*Herminio, Jr.*) met a certain Geraldine Alejandro (*Geraldine*) who introduced herself as the head of the Business Center of MMG International Holdings Co., Ltd. (*MMG*). Geraldine was then soliciting investments and has shown a brochure showcasing the investments and businesses of the said entity. Herminio, Jr. was also shown Articles of Partnership to prove that MMG is registered with the Securities and Exchange Commission (*SEC*). The Articles of Partnership showed accused-appellant as a general partner who has contributed ₱49,750,000.00 to MMG. The other accused were shown to be limited partners who have contributed ₱50,000.00 each. Convinced by the representations of Geraldine, Herminio, Jr. invested ₱50,000.00 with MMG on April 20, 2002. Subsequently, all the interests and principal were promptly paid, which induced him to make a bigger investment. On May 2, 2002, Herminio, Jr. and his father, Herminio, Sr., made a joint investment of ₱200,000.00. Later, Geraldine was also able to convince Herminio, Jr.'s sister, Melanie, who made an investment of ₱50,000.00 with MMG. The private complainants' investments were covered by a notarized Memorandum of Agreement (*MOA*), signed by accused-appellant, which stipulated, among others, that MMG was being represented by its President, herein accused-appellant, and that the investors will be earning 2.5% monthly interest income from the capital they have invested. Subsequently, the complainants received several post-dated checks covering their investments. However, when they tried to deposit the checks, their banks informed them that these were dishonored because MMG's accounts in the bank from which the checks were drawn were already closed. The complainants then demanded from the accused the return of their money, but their demands were unheeded. The private complainants and other investors then went to the SEC to file a complaint, where they discovered that MMG was not a registered issuer of securities. The SEC forwarded their complaint to the City Prosecutor of Makati.

Subsequently, on April 11, 2003, the Assistant City Prosecutor of Makati City filed two separate Informations<sup>4</sup> with the RTC of Makati City charging accused-appellant, together with Evelyn E. Mateo, Carmelita B. Galvez, Romeo L. Esteban, Galileo J. Saporantos and Nenita S. Saporantos with the crime of syndicated estafa. The Informations were similarly worded, except as to the dates of the commission of the crime, the names of the complainants, and the amounts obtained from them, as follows:



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<sup>4</sup> Records, pp. 1-2; 15-16.

X X X X

That on or about the 2<sup>nd</sup> day of May (09<sup>th</sup> day of July) 2002 prior or subsequent thereto, in Makati, Philippines, said accused, being officers, employees and/or agents of Mateo Management Group Holding Company, a corporation operating on funds solicited from the public, conspiring, or confederating with, and mutually helping one another, and operating as a syndicate, did then and there, wilfully, unlawfully and feloniously defraud complainants HERMINIO ALCID, SR. and HERMINIO ALCID, JR. (MELANIE ALCID) by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud to the effect that they have the business, property and power to solicit and accept investments and deposits from the general public and the capacity to pay the complainants guaranteed monthly returns (interest) on investment from two point five percent (2.5%) and lucrative commissions, and by means of other deceits of similar import, induced and succeeded in inducing complainants to invest, deposit, give and deliver as in fact the latter gave and delivered to said accused the total amount of ₱200,000.00 (₱50,000.00) as investment or deposit, accused knowing fully well that said pretenses and representations are a 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 use and benefit to the damage and prejudice of said complainants in the said amount.

Contrary to law.

X X X<sup>5</sup>

On motion of the prosecution, and without objection on the part of the defense, the Informations were subsequently amended where the third and fourth lines of the Informations, as quoted above, were made to read as follows: "... being partners, officers, employees and/or agents of MMG, International Holdings Company, Ltd." <sup>6</sup>

The above cases were docketed as Criminal Case Nos. 03-2936 and 03-2987.

Similar cases for estafa and syndicated estafa, totalling 209, were also filed against the accused.

Among the accused, only accused-appellant was arrested and when arraigned on February 19, 2004, he pleaded not guilty to all the charges.<sup>7</sup>

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<sup>5</sup> *Id.* at 1 and 15.

<sup>6</sup> See RTC Order dated September 3, 2008, *id.* at 301.

<sup>7</sup> See RTC Order dated February 19, 2004, *id.* at 24-25.

Pre-trial<sup>8</sup> was then conducted. Thereafter, Criminal Case Nos. 03-2936 and 03-2987 were jointly tried.

After the prosecution rested its case, the defense, represented by private counsel, failed to present its evidence despite several re-settings made by the RTC.<sup>9</sup> Thus, upon motion of the prosecution, the case was deemed submitted for resolution.<sup>10</sup>

On October 22, 2008, the RTC rendered its Judgment finding accused-appellant guilty as charged, the dispositive portion of which reads as follows:

**WHEREFORE**, in Criminal Case No. 03-2936, the Court finds the accused, **Ervin Y. Mateo**, **GUILTY** beyond reasonable doubt of the crime of Syndicated Estafa penalized under Article 315 of the Revised Penal Code, in relation to Presidential Decree No. 1689 and hereby sentences him to suffer the penalty of life imprisonment. Likewise, Ervin Y. Mateo is held solidarily liable with MMG International Holdings Company, Ltd. to pay private complainant[s] **Herminio Alcid, Jr. and Herminio Alcid, Sr.** ₱206,000.00 as actual damages.

In Criminal Case No. 03-2987, the Court finds the accused, **Ervin Y. Mateo**, **GUILTY** beyond reasonable doubt of the crime of Syndicated Estafa penalized under Article 315 of the Revised Penal Code, in relation to Presidential Decree No. 1689 and hereby sentences him to suffer the penalty of life imprisonment. Likewise, Ervin Y. Mateo is held solidarily liable with MMG International Holdings Company, Ltd. to pay private complainant **Melanie Alcid** ₱59,702.61 as actual damages.

**SO ORDERED.**<sup>11</sup>

The RTC found that all the elements of the crime of syndicated estafa are present, to wit: (1) MMG was formed by accused-appellant, together with five (5) other persons; (2) accused-appellant, together with his co-accused, committed fraud in inducing private complainants to part with their money; and (3) the fraud resulted in the misappropriation of the money contributed by the private complainants.

Accused-appellant appealed the RTC Decision with the CA.<sup>12</sup>

<sup>8</sup> See Pre-Trial Order, *id.* at 32-34.

<sup>9</sup> See RTC Orders dated March 26, 2008, April 23, 2008 and September 17, 2008, *id.* at 283, 287 and 304, respectively.

<sup>10</sup> See RTC Order dated September 17, 2008, *id.* at 304.

<sup>11</sup> Records, p. 340.

<sup>12</sup> See Notice of Appeal, *id.* at 375.

On July 16, 2012, the CA promulgated its assailed Decision affirming the judgment of the RTC *in toto*.

The CA held, among others, that, contrary to accused-appellant's position, PD 1689 contemplates estafa as defined and penalized under Article 315, paragraph 2(a) of the RPC. The CA also held that all the elements of syndicated estafa are present in the instant case.

On August 8, 2013, accused-appellant, through counsel, filed a Notice of Appeal<sup>13</sup> manifesting his intention to appeal the CA Decision to this Court.

In its Resolution dated August 29, 2013, the CA gave due course to accused-appellant's Notice of Appeal and ordered the elevation of the records of the case to this Court.<sup>14</sup>

Hence, this appeal was instituted.

In a Resolution<sup>15</sup> dated March 5, 2014, this Court, among others, notified the parties that they may file their respective supplemental briefs, if they so desire.

In its Manifestation (In Lieu of Supplemental Brief)<sup>16</sup> dated May 6, 2014, the Office of the Solicitor General (*OSG*) informed this Court that it will no longer file a supplemental brief because it had already exhaustively addressed in its brief filed before the CA all the issues and arguments raised by accused-appellant in his brief.

On the other hand, accused-appellant filed a Supplemental Brief<sup>17</sup> on June 30, 2014, raising the following issues:

A. WHETHER OR NOT ACCUSED-APPELLANT MAY BE CONVICTED WITH ESTAFA UNDER ARTICLE 315, PARAGRAPH 2(A) IN RELATION TO P.D. 1689.

B. WHETHER OR NOT THE ELEMENT OF DEFRAUDATION WAS PROVEN BEYOND REASONABLE DOUBT BY THE PROSECUTION.

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<sup>13</sup> CA *rollo*, pp. 812-813.

<sup>14</sup> *Id.* at 818.

<sup>15</sup> *Rollo*, p. 23.

<sup>16</sup> *Id.* at 24-28.

<sup>17</sup> *Id.* at 32-70.

C. WHETHER OR NOT THERE IS SUFFICIENT QUANTUM OF PROOF TO WARRANT THE CONVICTION OF APPELLANT BEYOND REASONABLE DOUBT AS FOUND BY THE TRIAL COURT IN THE CHALLENGED DECISION.

D. WHETHER OR NOT THE ACCUSED-[APPELLANT] MAY BE CONVICTED IN THE ABOVEMENTIONED CASES DESPITE THE STAY ORDER ISSUED BY THE COMMERCIAL COURT, RTC, BRANCH 256, MUNTINLUPA CITY, FOR THE CORPORATE REHABILITATION OF MMG GROUP INCLUDING MMG HOLDINGS.

E. WHETHER OR NOT THE HONORABLE COURT OF APPEALS COMMITTED SERIOUS AND REVERSIBLE ERRORS IN DENYING THE MOTION FOR RECONSIDERATION AND THE SUPPLEMENTAL MOTION FOR RECONSIDERATION.<sup>18</sup>

The appeal lacks merit.

Anent the first issue raised, the Court does not agree with accused-appellant's contention that he may not be found guilty of violating PD 1689 in relation to estafa under Article 315 (2)(a)<sup>19</sup> of the RPC on the ground that the only kind of estafa contemplated under PD 1689 is that defined under Article 315 (1)(b)<sup>20</sup> of the RPC and not the kind of estafa falling under Article 315 (2)(a) of the same Code.

Section 1 of PD 1689 provides as follows:

**Section 1.** Any person or persons who shall commit estafa or other forms of swindling as defined in Article 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 money contributed by stockholders, or members of rural banks, cooperative, "samahang nayon(s)", or farmers association, or of funds solicited by corporations/associations from the general public.

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<sup>18</sup> *Id.* at 38-39.

<sup>19</sup> By using a fictitious name, or falsely pretending to possess power, influence, qualification, property, credit, agency, business or imaginary transactions; or by means of other similar deceits.

<sup>20</sup> By misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;



When not committed by a syndicate as above defined, the penalty impossible shall be reclusion temporal to *reclusion perpetua* if the amount of the fraud exceeds 100,000 pesos.

Suffice it to say that it has been settled in a number of cases<sup>21</sup> that estafa, as defined under Article 315 (2)(a) of the RPC, is one of the kinds of swindling contemplated under PD 1689.

Under the second and third issues raised by accused-appellant, he argues that, insofar as he is concerned, the element of defraudation was not proven beyond reasonable doubt because the prosecution failed to prove that he personally transacted or dealt with the private complainants. The Court is not persuaded.

The elements of estafa by means of deceit under Article 315 (2)(a) of the RPC are the following: (a) that there must be a false pretense or fraudulent representation as to his 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.<sup>22</sup>

In addition, 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.<sup>23</sup> 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.<sup>24</sup> 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.<sup>25</sup>

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<sup>21</sup> *People v. Balasa*, 356 Phil. 362, 382 (1998); *People v. Menil*, 394 Phil. 433, 450 (2000); *Galvez, et al. v. Court of Appeals, et al.*, 704 Phil. 463, 469 (2013); *People v. Tibayan, et al.*, 750 Phil. 910, 919 (2015).

<sup>22</sup> *Id.*

<sup>23</sup> *People v. Menil, supra*, note 21, at 452.

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*

In relation to the above, the elements of syndicated *estafa* as defined under Section 1 of PD 1689 are: (a) *estafa* or other forms of swindling as defined in Articles 315 and 316 of the Revised Penal Code is committed; (b) the *estafa* or swindling is committed by a syndicate of five or more persons; and (c) 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.<sup>26</sup>

With respect to the presence of the elements of fraud and deceit, the Court agrees with the arguments and conclusions of the OSG, to wit:

In pursuit of their fraudulent investment scheme, appellant and his partners formed a partnership which, by its Amended Article of Partnership, had the end in view "to acquire, manage, own, hold, buy, sell, and/or encumber securities or equity participation of other persons, partnership, corporation, or any other entities, as permitted or may be authorized by law as well as to [purchase] or otherwise acquire the whole or any [part] of the property, assests, business and goodwill of any other persons, firm, corporation or association and to conduct in any lawful measures the business so acquired and to express all the powers necessary or [convenient] in and about the conduct, management and carrying on of such business. However, the [partnership] shall not engage in stock brokerage or dealership of securities."

In violation thereof, the people behind the partnership were effectively engaging in the sale of securites by enticing the public to "invest" funds with MMG International Holdings Co., Ltd. offering a promise of a two point five percent (2.5%) monthly compensation out of the capital on their investment. These investment activities were clearly *ultra vires* acts or acts beyond the partnership's authority.

In fact, Atty. Justine Callangan, Director of the Corporate Finance Division of the Securities and Exchange Commission, issued on February 10, 2003 a Certification that based on the records of the Commission, MMG International Holdings Co. Ltd. is not a registered issuer of securities. She explained in her testimony that the partnership has not been issued a permit or a secondary license or franchise to go to the public and offer to sell any form of securities which means that the partnership cannot offer or sell shares of stocks or equity, securities, investment contracts, debt instruments like short-term or long-term commercial papers to more than nineteen (19) people without any prior licensing from the Commission. In plain language, Atty. Callangan stated that soliciting funds from the public is a form of issuing securities, which MMG International Holdings Co. Ltd. was not authorized to do so.



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<sup>26</sup> Galvez, et al. v. Court of Appeals, et al., supra note 21, at 472.

Apparently, registration with the Securities and Exchange Commission was procured by MMG International Holdings Co. Ltd. only for the purpose of giving a semblance of legitimacy to the partnership; that the partnership's business was sanctioned by the government and that it was allowed by law to accept investments.

In carrying out the nefarious transactions, MMG International Holdings Co. Ltd. even published its own brochure entitled "*Alliance*" which was shown to potential investors showcasing that it had the following businesses to finance the promised earnings: a condotel (MMG Condotel), a realty company (Mateo Realty and Development Corporation), schools (MMG Academy, Mateo College and Technical Foundation, Inc., MMG Computer Learning Center, Mateo Institute of Computer Studies), consumer products manufacturing businesses (M-Power Enterprises, Inc.), an insurance firm (Mateo Pre-Need Plans), retail establishments (MMG International Trading Corporation), movie outfit (MMG Films International) and a shipping line (Mateo Maritime Management), among others. Be that as it may, there was no evidence presented by the partnership to bolster their representations of being engaged in these so-called bustling business endeavors.

Evidently, the testimonial evidence presented by the prosecution more than amply proved that appellant, together with his partners, employed fraud and deceit upon trusting individuals in order to convince them to invest in MMG International Holdings Co. Ltd. It may even be observed that there was a uniform pattern employed in selling their proposition as shown by how potential investors are ensnared by appellant and his partners, through MMG International Holdings Co. Ltd. Business Center Head Geraldine Alejandro. First, they would make a presentation of the "*Alliance*" brochure featuring the businesses the company professes to own and combine with the misrepresentation that they had the technical know-how and false promise of two point five percent (2.5%) monthly compensation out of the capital on their investment.<sup>27</sup>

Thus, in the present case, it is clear that all the elements of syndicated estafa, are present, considering that: (a) the incorporators/directors of MMG comprising more than five (5) people, including herein accused-appellant, made false pretenses and representations to the investing public – in this case, the private complainants – regarding a supposed lucrative investment opportunity with MMG 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 same, private complainants invested their hard-earned money into MMG; and (d) the incorporators/directors of MMG ended up running away with the private complainants' investments, obviously to the latter's prejudice.

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CA rollo, pp. 162-165.

Accused-appellant insists that the prosecution failed to prove the element of defraudation because no sufficient evidence was presented to prove that he “personally, physically and actually performed any 'false pretenses' and/or 'fraudulent representations' against the private complainants.”<sup>28</sup> The Court does not agree. Accused-appellant should be reminded that he is being accused of syndicated estafa in conspiracy with the other co-accused. In this regard, the Court finds no error in the finding of the CA that herein appellant and his co-accused are guilty of conspiracy, to wit:

x x x x

The evidence adduced by the prosecution established the existence of conspiracy among the accused in committing the crime charged. They started by forming the partnership. All of them had access to MMG Holding's bank accounts. They composed the Members of the Board of Directors that manage and control the business transactions of MMG Holdings. Without the participation of each of the accused, MMG Holdings could not have solicited funds from the general public and succeeded to perpetrate their fraudulent scheme. Hence, each of them is a co-conspirator by virtue of indispensable cooperation in the fraudulent acts of the partnership.

x x x<sup>29</sup>

In the instant case, it was not necessary for the prosecution to still prove that accused-appellant himself “personally, physically and actually performed any 'false pretenses' and/or 'fraudulent representations' against the private complainants,” given the findings of both the RTC and the CA of the existence of conspiracy among appellant and his co-accused. When there is conspiracy, the act of one is the act of all.<sup>30</sup> It is not essential that there be actual proof that all the conspirators took a direct part in every act.<sup>31</sup> It is sufficient that they acted in concert pursuant to the same objective.<sup>32</sup> In any case, appellant's direct participation in the conspiracy is evidenced by the findings of the CA that: (1) the Articles of Partnership of MMG named appellant as the sole general partner with a capital contribution of ₱49,750,000.00; (2) his signatures appear in the MOA entered into by the complainants and facilitated by his co-accused Geraldine Alejandro; (3) his signatures also appear in the Secretary's Certificate and Signature Cards which were submitted to Allied Bank when the partnership opened an account; (4) the MOA are notarized and it was only on appeal that he denied his signatures appearing therein or questioned the authenticity and due execution of the said documents. Indeed, it cannot be denied that accused-appellant, together with the rest of his co-accused, participated in a network of deception. The active involvement of each in the scheme of soliciting

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<sup>28</sup> *Id.* at. 51.

<sup>29</sup> *Id.* at 18.

<sup>30</sup> *People v. Daud, et al.*, 734 Phil. 698, 717 (2014).

<sup>31</sup> *Id.* at 717-718.

<sup>32</sup> *Id.* at 718.

investments was directed at one single purpose – which is to divest complainants of their money on the pretext of guaranteed high return of investment. Without a doubt, the nature and extent of the actions of accused-appellant, as well as with the other persons in MMG show unity of action towards a common undertaking. Hence, conspiracy is evidently present.

As to accused-appellant's contention that his signatures appearing in the questioned documents are mere facsimile signatures, this Court has held that a facsimile signature, which is defined as a signature produced by mechanical means, is recognized as valid in banking, financial, and business transactions.<sup>33</sup> Besides, as earlier mentioned, the MOA where accused-appellant's signature appears, was notarized and that it was only on appeal that he denied authenticity of such signatures and questioned the due execution of the concerned documents. Also, the same facsimile signature, together with the other facsimile and stamped signatures of appellant's co-accused, were used in opening a bank account in the name of MMG where accused-appellant was one of the authorized signatories. As found by the CA, the bank used and recognized these facsimile and stamped signatures in transacting with appellant and his co-accused without any complaints from them. Thus, accused-appellant cannot deny the binding effect of the subject signatures.

With respect to the fourth issue raised, the matter to be resolved is whether the suspension of all claims as an incident to MMG Group of Companies' corporate rehabilitation also contemplate the suspension of criminal charges filed against herein accused-appellant as an officer of the distressed corporation.

This Court rules in the negative.

Citing the case of *Rosario v. Co*,<sup>34</sup> the ruling of this Court in *Panlilio, et al. v. RTC, Branch 51, City of Manila, et al.*,<sup>35</sup> to wit:

x x x x

x x x There is no reason why criminal proceedings should be suspended during corporate rehabilitation, more so, since the prime purpose of the criminal action is to punish the offender in order to deter him and others from committing the same or similar offense, to isolate him from society, reform and rehabilitate him or, in general, to maintain social order. As correctly observed in *Rosario*, it would be absurd for one who has engaged

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<sup>33</sup> *Heirs of Lourdes Saez Sabanpan v. Comorposa*, 456 Phil. 161, 170 (2003).

<sup>34</sup> 585 Phil. 236 (2008).

<sup>35</sup> 656 Phil. 453 (2011).



in criminal conduct could escape punishment by the mere filing of a petition for rehabilitation by the corporation of which he is an officer.

The prosecution of the officers of the corporation has no bearing on the pending rehabilitation of the corporation, especially since they are charged in their individual capacities. Such being the case, the purpose of the law for the issuance of the stay order is not compromised, since the appointed rehabilitation receiver can still fully discharge his functions as mandated by law. It bears to stress that the rehabilitation receiver is not charged to defend the officers of the corporation. If there is anything that the rehabilitation receiver might be remotely interested in is whether the court also rules that petitioners are civilly liable. Such a scenario, however, is not a reason to suspend the criminal proceedings, because as aptly discussed in *Rosario*, should the court prosecuting the officers of the corporation find that an award or indemnification is warranted, such award would fall under the category of claims, the execution of which would be subject to the stay order issued by the rehabilitation court. x x x

x x x.<sup>36</sup>

As to the last issue raised, accused-appellant insists that his acquittal of the same offense charged in several other cases only proves that he never committed the said crime of syndicated estafa. Accused-appellant's logic is skewed. The fact that he was acquitted in several other cases for the same offense charged does not necessarily follow that he should also be found innocent in the present case. His acquittal in the cases he mentioned was due to the prosecution's failure to present sufficient evidence to convict him of the offense charged. These cases involved different parties, factual milieu and sets of evidence. In the present case, both the RTC and the CA found that the evidence presented by the prosecution is enough to prove that accused-appellant is guilty beyond reasonable doubt of the crimes of syndicated estafa. After a review of the evidence presented, this Court finds no cogent reason to depart from the findings of the RTC and the CA.

Finally, the Court notes the recent passage into law of Republic Act No. 10951 (RA 10951), otherwise known as "AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED, AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS "THE REVISED PENAL CODE", AS AMENDED. Consistent with the settled principle that an appeal in criminal cases throws the whole case open for review, the Court finds it proper to look into the applicability or non-applicability of the amendatory provisions of RA 10951 to the present case.

<sup>36</sup>

*Panlilio, et al. v. RTC, Branch 51, City of Manila, et al., supra*, at 461-462.

The amendments under RA 10951 were passed with the primary objective of **adjusting the amounts or the values of the property and damage on which a penalty is based** for various crimes committed under the RPC, including estafa. Section 85 of RA 10951 makes mention of PD 1689 as one of the laws which amends Article 315 of the RPC.

On the other hand, it should be considered that PD 1689 is a special law which was enacted for the specific purpose of defining syndicated estafa and imposing a specific penalty for the commission of the said offense. Thus, the law emphatically states its intent in its "WHEREAS" clauses, to wit:

x x x x

WHEREAS, there is an upsurge in the commission of swindling and other forms of frauds in rural banks, cooperatives, "*samahang nayon(s)*", and farmers' associations or corporations/associations operating on funds solicited from the general public;

WHEREAS, such defraudation or misappropriation of funds contributed by stockholders or members of such rural banks, cooperatives, "*samahang nayon(s)*", or farmers' associations, or of funds solicited by corporations/associations from the general public, erodes the confidence of the public in the banking and cooperative system, contravenes the public interest, and constitutes economic sabotage that threatens the stability of the nation;

WHEREAS, it is imperative that the resurgence of said crimes be checked, or at least minimized, by imposing capital punishment on certain forms of swindling and other frauds involving rural banks, cooperatives, "*samahang nayon(s)*", farmers' associations or corporations/associations operating on funds solicited from the general public;

x x x."

Notably, the first paragraph of PD 1689 penalizes offenders with life imprisonment to death **regardless of the amount or value of the property or damage involved**, provided that a syndicate committed the crime.<sup>37</sup>

Moreover, from the provisions of RA 10951, there appears no manifest intent to repeal or alter the penalty for syndicated estafa. If there was such an intent, then the amending law should have clearly so indicated because implied repeals are not favored.<sup>38</sup> Thus, unlike the specific

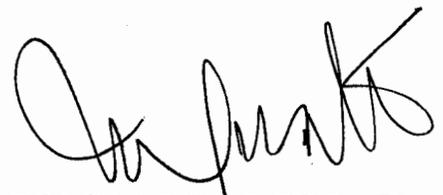
<sup>37</sup> *Catiis v. Court of Appeals (17<sup>th</sup> Division)*, 517 Phil. 294, 303 (2006); *People v. Menil*, *supra* note 21, at 458; *People v. Balasa*, *supra* note 21, at 397.

<sup>38</sup> *Manzano v. Hon. Valera*, 354 Phil. 66, 75 (1998).

amendments introduced by RA 10951 to the penalties on estafa committed by means of bouncing checks, as defined under Article 315 (2)(d) and amended by Republic Act No. 4885<sup>39</sup> and Presidential Decree No. 818,<sup>40</sup> nowhere in RA 10951 was it clearly shown that the legislature intended to repeal or amend the provisions of PD 1689. As much as possible, effect must be given to all enactments of the legislature.<sup>41</sup> A special law cannot be repealed, amended or altered by a subsequent general law by mere implication.<sup>42</sup> Furthermore, for an implied repeal, a pre-condition must be found, that is, a substantial conflict should exist between the new and prior laws.<sup>43</sup> Absent an express repeal, a subsequent law cannot be construed as repealing a prior one unless an irreconcilable inconsistency or repugnancy exists in the terms of the new and old laws.<sup>44</sup> The two laws, in brief, must be absolutely incompatible.<sup>45</sup> In the instant case, the Court finds neither inconsistency nor absolute incompatibility in the existing provisions of PD 1689 and the amendatory provisions of RA 10951. As such, the amendatory provisions under RA 10951 are not applicable to the present case.

**WHEREFORE**, the Court **AFFIRMS** the Decision dated July 16, 2012 and Resolution dated July 1, 2013 of the Court of Appeals in CA-G.R. CR-H.C. No. 04001.

**SO ORDERED.**



**DIOSDADO M. PERALTA**  
Associate Justice

<sup>39</sup> AN ACT TO AMEND SECTION TWO, PARAGRAPH (d), ARTICLE THREE HUNDRED FIFTEEN OF ACT NUMBERED THIRTY-EIGHT HUNDRED AND FIFTEEN, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE. (re: issuance of checks.)

<sup>40</sup> AMENDING ARTICLE 315 OF THE REVISED PENAL CODE BY INCREASING THE PENALTIES FOR ESTAFA COMMITTED BY MEANS OF BOUNCING CHECKS

<sup>41</sup> *Manzano v. Hon. Valera, supra* note 38, at 75-76.

<sup>42</sup> *Id.* at 76.

<sup>43</sup> *Id.*

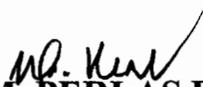
<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

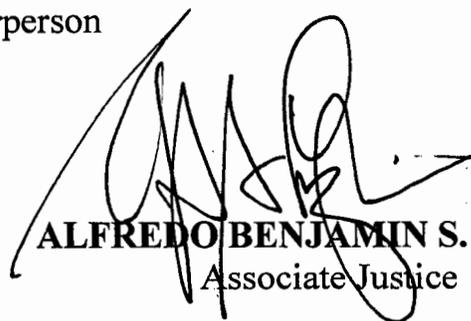
**WE CONCUR:**



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ESTELA M. PERLAS BERNABE**  
Associate Justice



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ANDRES B. 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.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**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.



**MARIA LOURDES P. A. SERENO**  
Chief Justice