



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

JERRY DEAN A. PALAOAG,* **G.R. No. 256798**
Petitioner,

Present:

CAGUIOA, J., *Chairperson,*
 INTING,
 GAERLAN,
 DIMAAMPAO, and
 SINGH, JJ.

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent. July 10, 2023

Mis-DCBatt

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D E C I S I O N

INTING, J.:

Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by Jerry Dean A. Palaoag (petitioner) assailing the Decision² dated November 26, 2020, and the Resolution³ dated June 4, 2021, of the Court of Appeals (CA) in CA-G.R. CR No. 42714.

In the assailed Decision, the CA affirmed the Decision⁴ dated August 16, 2018, of Branch 72, Regional Trial Court (RTC), Olongapo City, in Criminal Case No. 36-2013 that found petitioner and Maricar Buyo *a.k.a* Ma. Christina Yamada Banzon (accused Buyo) guilty of *Estafa* under paragraph 2(a) of Article 315 of the Revised Penal Code (RPC), as amended by Republic Act No. (RA) 10951.⁵ The assailed Resolution denied petitioner’s motion for reconsideration.

* Spelled as Palaog and Palauag in some parts of the *rollo*.

¹ *Rollo*, pp. 37–56.

² *Id.* at 10–18. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Franchito N. Diamante and Carlito B. Calpatura.

³ *Id.* at 33–34. Penned by Associate Justice Germano Francisco D. Legaspi and concurred in by Associate Justices Carlito B. Calpatura and Raymond Reynold R. Lauigan.

⁴ Not attached to the *rollo*. See Comment dated February 16, 2022, *id.* at 67–68.

⁵ 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, approved on August 29, 2017.

The Antecedents

Petitioner, together with accused Buyo, April Rose Marquez-Hautakorpi (Marquez-Hautakorpi), and a certain Jane Doe, was charged with *Estafa* in an Amended Information, the accusatory portion of which reads:

That on or about the eleventh (11th) day of September, 2011, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping with [sic] one another, with intent to defraud herein complainant, Alberto M. Balauag, by means of deceit, fraudulent[] representations and false manifestations made to the latter by the said accused, executed prior to or simultaneously with the commission of the fraud by then and there, with [petitioner] and Maricar Buyo introducing a person who pretended to be that she is 'April Rose Hautakorpi,[]' the lawful owner of a Nissan Sentra with Plate No. TOO 297, which car has been provided for by April Rose Marquez-Hautakorpi, by showing her driver's license and other spurious documents to Alberto M. Balauag, did then and there wil[l]fully, unlawfully and feloniously mortgage the said Nissan Sentra to said Alberto M. Bala[u]ag, the accused well knowing their representations and manifestations to be false and fraudulent as the person introduced by [petitioner] and Maricar Buyo is not the real "April Rose Hautakorpi" and the documents showed to said Alberto M. Balauag were all fake and spurious and were only made to inveigle complainant to part with his money as in fact the latter believing said representations to be true, gave the total amount of ONE HUNDRED SIXTY THOUSAND PESOS (Php. 160,000.00), Philippine currency to the accused, thereby defrauding said Alberto M. Balauag in the aforementioned amount, to his damage and prejudice.

CONTRARY TO LAW.⁶ (Underscoring in the original.)

Upon arraignment, petitioner, accused Buyo, and Marquez-Hautakorpi entered their respective pleas of "not guilty" to the crime charged. Meanwhile, the identity of "Jane Doe" was never established; she remained at large.⁷

Accused Buyo failed to appear during the pre-trial and presentation of evidence. Her counsel informed the RTC that accused Buyo already jumped bail.⁸

Trial as to petitioner, accused Buyo, and Marquez-Hautakorpi ensued.⁹

⁶ As culled from the CA Decision, *rollo*, pp. 10–11.

⁷ *Id.* at 11.

⁸ *Id.* at 44.

⁹ *Id.* at 11.

Version of the Prosecution

Complainant Alberto Balauag (Balauag) and petitioner knew each other since 2008 as they had frequented the same casino located along Magsaysay Avenue, Olongapo City.¹⁰

On September 11, 2011, petitioner presented to Balauag a woman, who pretended and introduced herself as “*April Rose M. Hautakorpi*” (herein referred to as Jane Doe”); she wanted to borrow ₱300,000.00. In return, Jane Doe was willing to mortgage a Nissan Sentra, with plate number TOO 297, which she said belonged to her. To prove her ownership of the car, Jane Doe showed Balauag a certificate of registration, an official receipt under the name of *April Rose M. Hautakorpi*, and a driver’s license in the name of *April Rose M. Hautakorpi* with Jane Doe’s picture.¹¹

Balauag agreed to lend money to Jane Doe because he knew and trusted petitioner. However, he was short on cash so that he was only able to give ₱160,000.00 to Jane Doe. They agreed that the remaining amount of ₱140,000.00 will be sent through courier. Jane Doe signed an acknowledgment receipt for the ₱160,000.00 and another acknowledgment receipt for the ₱300,000.00 to convince Balauag to give her the balance. After Balauag handed the ₱160,000.00 to Jane Doe, he left and drove the Nissan Sentra in going home.¹²

On September 14, 2011, Balauag found out that the Nissan Sentra, with valuables inside, was missing from his garage. His neighbor told him that three-armed men on board a black Hyundai Accent, with plate number PQC 904, took the car. He later found out that the Hyundai Accent was registered under the name of Marquez-Hautakorpi. He reported the incident to the Highway Patrol Group Olongapo City and the Olongapo City Police Station 6. On the same day, the Las Piñas City Police Station was able to recover the Nissan Sentra.¹³

On September 15, 2011, Balauag went to the Las Piñas City Police Station where he met Marquez-Hautakorpi. He found out that Marquez-Hautakorpi was the owner of a rent-a-car business and learned that the Nissan Sentra belonged to the latter’s fleet of cars. He also found out that the Nissan Sentra was rented from September 8 to 11 but was never returned. The Nissan Sentra was reported to have been carnapped on September 12, 2011. Police

¹⁰ Id.

¹¹ Id. at 11–12.

¹² Id. at 12.

¹³ Id.

Chief Inspector Jandale Sulit of the Las Piñas City Police Station informed Balauag that it was his operatives who took the Nissan Sentra from his garage after coordinating with the Olongapo City Police Station 3.¹⁴

Upon learning that Jane Doe misrepresented herself as *April Rose M. Hautakorpi*, Balauag called petitioner and told him about the incident. After which, petitioner promised to help him look for Jane Doe but to no avail.¹⁵

Version of the Defense

Petitioner denied any participation in the transaction that transpired between Jane Doe and Balauag. He alleged that it was accused Buyo who introduced Jane Doe to Balauag and that he does not know Jane Doe personally. He admitted that accused Buyo contacted him about Jane Doe who wanted to obtain a loan. He referred accused Buyo to Cindy Macaraeg (Macaraeg), who was the agent of Balauag. He also admitted that he received ₱1,000.00 from Macaraeg after the latter closed the deal between Jane Doe and Balauag. He alleged that he was not sure if the ₱1,000.00 was a commission.¹⁶

The RTC Ruling

Marquez-Hautakorpi filed a demurrer to evidence alleging that the prosecution's evidence failed to establish her guilt beyond reasonable doubt. The RTC granted her motion and dismissed the case as against her.¹⁷

On August 16, 2018, the RTC issued a Decision finding petitioner and accused Buyo guilty beyond reasonable doubt of the crime of *Estafa* under paragraph 2(a), Article 315 of the RPC, as amended. The dispositive portion reads:

WHEREFORE, PREMISES CONSIDERED, the [c]ourt finds [petitioner] JERRY DEAN A. PALAOAG and MARICAR BUYO *aka* MA. KRISTINA YAMADA BANZON GUILTY beyond reasonable doubt of the crime of *Estafa* under Art. 315 par. 2 (a), as amended by Republic Act 10951 and is hereby sente[nced] to serve the penalty of Indeterminate prison term of THREE (3) MONTHS of *arrestor mayor* as minimum to ONE (1) YEAR and EIGHT (8) MONTHS of *prision correccional* as maximum. [Petitioner] is hereby ordered to indemnify [Balauag] jointly and

¹⁴ Id. at 12–13.

¹⁵ Id. at 13.

¹⁶ Id. at 13–14.

¹⁷ Id. at 44–45.

severally [in] the amount of Php160,000.00 with interest at 6% per annum until fully paid.

Meantime, the case against JANE DOE aka APRIL ROSE HAUTAKORPI is hereby ordered [to] remain ARCHIVED, without prejudice to her subsequent prosecution as soon as she is apprehended. Let an alias warrant be issued against her.¹⁸

Aggrieved, petitioner appealed to the CA alleging that the prosecution failed to establish the fact of conspiracy beyond reasonable doubt.¹⁹

The CA Rulings

On November 26, 2020, the CA issued a Decision²⁰ affirming the Decision of the RTC. The dispositive portion reads:

WHEREFORE, premises considered, the instant appeal is DENIED. The 16 August 2018 Decision of the Regional Trial Court of Olongapo City, Branch 72 in Criminal Case No. 36-2013 is AFFIRMED.

SO ORDERED.²¹

The CA sustained the ruling of the RTC that Jane Doe defrauded Balauag of ₱160,000.00 under the guise of a loan, with the Nissan Sentra as the security. The CA also found that petitioner and accused Buyo conspired with Jane Doe in the commission of the fraud.²² In ratiocinating petitioner's guilt, the CA found that without the indispensable participation of petitioner in introducing Jane Doe to Balauag, the latter would not have met Jane Doe and eventually surrendered his money.²³

Acting on the Motion for Reconsideration²⁴ of petitioner, the CA issued the assailed Resolution²⁵ denying it for failure to present new arguments that would justify the reversal of the assailed Decision.²⁶

¹⁸ As culled from the Comment dated February 16, 2022, id. at 67–68.

¹⁹ Id. at 14–15.

²⁰ Id. at 10–18.

²¹ Id. at 18.

²² Id. at 16.

²³ Id. at 17.

²⁴ Id. at 21–29. The document is entitled “Motion for Reconsideration [of the] Decision Dated November 26, 2020.”

²⁵ Id. at 33–34.

²⁶ Id.

Hence the instant petition wherein petitioner ascribes error to the CA when it affirmed the RTC's ruling that there exists a conspiracy between him, accused Buyo, and Jane Doe in the commission of the crime of *Estafa* against Balauag. Petitioner argues that the proof of conspiracy was not established beyond reasonable doubt; hence, he alleged that he should be presumed innocent.²⁷

Issue

Essentially, the issue raised before the Court is whether the CA erred in finding petitioner guilty of conspiring to commit *Estafa* against Balauag.

The Court's Ruling

Preliminarily, the crime of *Estafa* by Means of Deceit²⁸ has already been established by the trial courts when they found that: (1) Jane Doe pretended to be Marqueuz-Hautakorpi and acted as if she owned the Nissan Sentra; (2) the pretension was done or executed prior to or simultaneously with the commission of the fraud; (3) Balauag relied on this pretension for him to lend ₱160,000.00 to Jane Doe; and (4) as a result, Balauag lost ₱160,000.00 to his damage and prejudice.²⁹

However, the Court is not persuaded that petitioner conspired to commit *Estafa* by Means of Deceit against Balauag. Hence, petitioner should be acquitted based on reasonable doubt.

Generally, in a Rule 45 petition, the Court will not disturb the factual findings of the trial courts. It is not the Court's function to analyze or weigh evidence all over again, unless the trial courts are perceived to have overlooked, misunderstood, or misinterpreted certain facts or circumstances

²⁷ Id. at 46–47.

²⁸ Article 315 of the Revised Penal Code provides:

ART. 315. Swindling (*estafa*). — Any person who shall defraud another x x x
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 fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceptions.

x x x x

²⁹ In *Artates v. People* (G.R. No. 235724, March 11, 2020), the Court ruled that *Estafa* by Means of Deceit requires the concurrence of the following elements: (1) there must be a false pretense, fraudulent acts or fraudulent means; (2) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (3) the offended party must have relied on the false pretense, fraudulent act or fraudulent means and was thus induced to part with his money or property; and (4) as a result thereof, the offended party suffered damage; see *rollo*, pp. 16–17.

which can affect the result of the case and warrant a reversal of the decision involved.³⁰ “The Court must be satisfied that the factual findings and conclusions of the trial court, leading to an accused’s conviction, must satisfy the standard of proof beyond reasonable doubt.”³¹

In the instant case, the Court finds petitioner’s participation in the commission of *Estafa* by Means of Deceit not adequately proven with moral certainty. The CA hinged its finding of conspiracy against petitioner on the basis of his act of introducing Jane Doe to Balauag. Thus:

In the instant case, We find accused-appellant’s participation in the crime adequately proven with moral certainty. The prosecution had duly established that accused-appellant, together with [Buyo], introduced Jane Doe to [Balauag]. The purpose of introducing Jane Doe to [Balauag] was for Jane Doe to borrow money and mortgage the Nissan Sentra which was later found to be stolen. x x x Without the indispensable participation of accused-appellant in introducing Jane Doe to [Balauag], the latter would not have met Jane Doe and eventually surrendered his money in the amount of P160,000.00. x x x³²

Also, the CA added that petitioner personally knew Jane Doe, *viz.*:

x x x We concur with the observation of the lower court finding improbable the claim of accused-appellant that he did not know Jane Doe personally. It was established by the prosecution that two days prior to the mortgage transaction, accused-appellant met with [Balauag] asking if he is interested in lending money as he has a friend who wants to mortgage her car. It cannot be denied that [petitioner], together with [Buyo] and Jane Doe, succeeded in defrauding [Balauag] of P160,000.00.³³

The CA appreciated the purported indispensable participation of petitioner in the commission of the fraud and personal knowledge of Jane Doe as indications that petitioner had a common purpose with Jane Doe in defrauding Balauag of his money.

The Court disagrees.

Conspiracy in criminal cases exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.³⁴ As such, the act of one is the act of all and each conspirator is liable for

³⁰ *People v. Domingo*, G.R. No. 241248, June 23, 2021, citing *Quidet v. People*, 632 Phil. 1 (2010).

³¹ *Bahilidad v. People*, 629 Phil. 567, 574 (2010).

³² *Rollo*, pp. 16–17.

³³ *Id.* at 17.

³⁴ Article 8 of the Revised Penal Code.

the felony committed.³⁵ Considering this, it is but important that conspiracy must be proven beyond reasonable doubt and mere surmises and speculations are not enough to sustain a conviction.³⁶ As the CA aptly discussed in the assailed Decision:

Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts. It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators.³⁷

Still, the Court disagrees with the CA that petitioner was a conspirator of Jane Doe in the commission of *Estafa* against Balauag. The prosecution failed to satisfy the requirement that conspiracy must be proved beyond reasonable doubt, insofar as petitioner is concerned.

Petitioner's act was limited only to introducing Jane Doe to Balauag. Such act does not show that petitioner acted in concert pursuant to Jane Doe's objective to defraud Balauag. There is also no evidence presented to show that petitioner had knowledge of Jane Doe's intent to defraud Balauag. The prosecution miserably failed to show that petitioner exerted any effort in convincing Balauag to agree to the transaction.³⁸

Even if petitioner was present when the transaction between Jane Doe and Balauag transpired, his presence does not make him outright a party to the fraud committed. In order to hold petitioner liable as a conspirator, it should be shown that he performed an overt act in pursuance or furtherance of the fraud's design. As the Court held in *Macapagal-Arroyo v. People*:³⁹

³⁵ *Fuertes v. Senate of the Philippines*, G.R. No. 208162, January 7, 2020.

³⁶ *People v. Arnado*, G.R. Nos. 250100-02, March 21, 2022.

³⁷ *Rollo*, p. 16, citing *Rimando v. People*, 821 Phil. 1086, 1097 (2017).

³⁸ See *Macairan v. People*, G.R. No. 215104, March 18, 2021, citing *Cruz v. People*, G.R. No. 197142, October 9, 2019, where the Court held that in order to establish conspiracy, it must be shown that the participants performed overt acts which may consist of active participation in the actual commission of the crime itself or moral assistance to his co-conspirators or by exerting moral ascendancy over the other co-conspirators by moving them to execute or implement the conspiracy.

³⁹ *Macapagal-Arroyo v. People*, 790 Phil. 367 (2016).

x x x Conspiracy transcends mere companionship, and mere presence at the scene of the crime does not in itself amount to conspiracy. Even knowledge of, or acquiescence in, or agreement to cooperate is not enough to constitute one a party to a conspiracy, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose. x x x⁴⁰

Furthermore, petitioner's act of asking Balauag if he is interested in lending money to a friend who wants to mortgage her car, two days prior to the transaction,⁴¹ does not sufficiently make a conclusion that petitioner personally knew Jane Doe. Again, no evidence was presented that petitioner was acquainted with Jane Doe prior to the transaction. Personally knowing a person contemplates awareness, understanding, or knowledge of a person's identity and circumstances gained through firsthand observation or experience.⁴²

Also, the Court notes that petitioner, in his testimony, admitted that he was interested in the transaction as he needed to earn a commission; although upon receiving the ₱1,000.00, he said that he was not sure if it was an amount for a commission.⁴³ This shows that he was merely interested to earn a commission from a legitimate transaction and not as a conspirator to defraud Balauag.⁴⁴

The Court emphasizes that conspiracy must be established beyond reasonable doubt. Necessarily, a conviction grounded on a finding of conspiracy must be based on facts and not on mere speculations. Our legal culture demands that guilt must be founded on these facts before any person may be convicted of any crime. Moral certainty and not mere possibility establishes this guilt.⁴⁵

Considering that petitioner's defense is personal, his acquittal should not benefit accused Buyo who jumped bail. Unless she surrenders or submits to the jurisdiction of the court, she is deemed to have waived any right to seek relief from the court.⁴⁶

⁴⁰ Id. at 419.

⁴¹ *Rollo*, p. 17.

⁴² *Jorge v. Marcelo*, G.R. No. 232989, March 18, 2019, citing *Heir of Unite v. Atty. Guzman*, A.C. No. 12062, 834 Phil. 724, 732 (2018).

⁴³ Id. at 14.

⁴⁴ See *People v. Dizon*, 390 Phil. 1176, 1187 (2000).

⁴⁵ *People v. Jesalva*, 811 Phil. 299, 312 (2017), citing *People v. Mandao*, 441 Phil. 570, 586 (2002).

⁴⁶ *Usares v. People*, 845 Phil. 339, 345 (2019), citing *People v. Mapalao*, 274 Phil. 354, 363 (1991).

WHEREFORE, the petition is **GRANTED**. The Decision dated November 26, 2020, and the Resolution dated June 4, 2021, of the Court of Appeals in CA-G.R. CR No. 42714 are **MODIFIED** in that petitioner Jerry Dean A. Palaoag is **ACQUITTED** in Criminal Case No. 36-2013 filed before Branch 72, Regional Trial Court, Olongapo City, of *Estafa* under paragraph 2(a), Article 315 of the Revised Penal Code, as amended by Republic Act No. 10951, for failure of the prosecution to prove his guilt beyond reasonable doubt.

Let Entry of Judgment be issued immediately.

SO ORDERED.

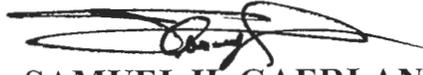


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice

ATTESTATION

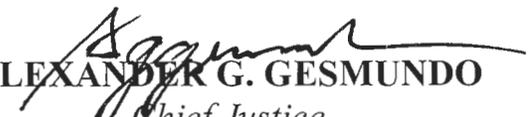
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third 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.



ALEXANDER G. GESMUNDO
Chief Justice

