



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated August 31, 2022, which reads as follows:*

“**G.R. No. 253859** (*Samuel O. Cañete v. People of the Philippines*) — Repugned in this Petition for Review on *Certiorari*<sup>1</sup> filed by petitioner Samuel O. Cañete (Samuel) are the *Decision*<sup>2</sup> dated 28 August 2019 and the *Resolution*<sup>3</sup> dated 21 February 2020 of the Court of Appeals (CA) in CA G.R. CR No. 41641, which upheld the *Decision*<sup>4</sup> dated 19 September 2017 rendered by the Regional Trial Court (RTC) of Valenzuela City, Branch 285 in Criminal Case No. 1214-V-17. The RTC affirmed with modification the *Decision*<sup>5</sup> dated 16 June 2017 of the Metropolitan Trial Court (MeTC) of Valenzuela City, Branch 81, convicting Samuel of the crime of Estafa under Article 315 (1) (b) of the Revised Penal Code (RPC).

Samuel was indicted by virtue of the Information dated 18 April 2007, the inculpatory averments of which read—

That sometime in August 2006, in Valenzuela City and within the jurisdiction of the Honorable Court, the above-named accused, did then and there willfully, unlawfully, and feloniously defraud and deceive Tomas Bacsal y Rivera (Complainant), in the following manner, to wit: the said accused receive(d) from the said complainant the amount of PhP1,500.00 for the purpose of securing a Certificate of Live Birth of their children. Accused falsely pretended to possess influence, qualification, and agency in securing said Certificate of Births and once in possession of the said amount of PhP1,500.00, with abuse of trust and confidence, misappropriat(ed), misapply(ied), and convert(ed) to his own personal use and benefit the said amount of PhP1,500.00 and despite repeated demands

<sup>1</sup> *Rollo*, pp. 12-31.

<sup>2</sup> *Id.* at 135-143. Penned by Associate Justice Danton Q. Bueser, with the concurrence of Associate Justices Fernanda Lampas Peralta and Ronaldo Roberto B. Martin.

<sup>3</sup> *Id.* at 151-152.

<sup>4</sup> *Id.* at 58-63. Penned by Presiding Judge Orven Kuan Ontalan.

<sup>5</sup> *Id.* at 33-45. Penned by Presiding Judge Teresita Asuncion M. Lacandula-Rodriguez.

to him to immediately return the said amount of money the accused refused and failed and still refuses and fail to so do, to the damage and prejudice of the said complainant in amount of PhP1,500.00.

CONTRARY TO LAW.<sup>6</sup>

When arraigned, Samuel pled not guilty to the charge. Trial on the merits forthwith ensued.<sup>7</sup>

The prosecution endeavored to establish Samuel's culpability in this wise—

Sometime in 2006, Samuel approached private complainant Tomas Bacsal (Tomas) and his wife, with an offer to apply for and obtain certified true copies of their children's birth certificates from the National Statistics Office (NSO). He then asked for the amount of One Thousand Pesos (₱1,000.00), which Tomas readily gave him.<sup>8</sup>

After a few days, Samuel informed Tomas that an additional Four Hundred Pesos (₱400.00) was needed for the birth certificates. Thereupon, Tomas handed him Five Hundred Pesos (₱500.00), with the understanding that the excess would cover transportation and food expenses.<sup>9</sup>

Samuel failed to deliver the birth certificates, impelling Tomas to file a complaint against him before the *barangay* office. With the help of witness Ronnie Lleabres (Ronnie), Tomas sent a demand letter to Samuel, who "crumpled" it and declined to fulfill his commitment. Ensuingly, Tomas lodged a criminal complaint for Estafa against Samuel before the MeTC.<sup>10</sup>

Conversely, Samuel averred that upon the NSO's denial of his application, he attempted to return the money to Tomas, but the latter refused and told him to keep it. In exchange, Tomas purportedly took Samuel's Victorinox knife. Since then, Tomas no longer followed up on the application.<sup>11</sup>

On 16 June 2017, the MeTC rendered a Decision,<sup>12</sup> convicting Samuel of Estafa under Article 315 (1) (b) of the RPC, and sentencing him to suffer

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<sup>6</sup> Id. at 33.

<sup>7</sup> Id. at 33-34.

<sup>8</sup> Id. at 136-137.

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Id. at 33-45.

an indeterminate penalty of three (3) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum. The MeTC likewise ordered Samuel to pay Tomas the amount of ₱1,500.00 as actual damages, with interest at the rate of six percent (6%) from the time of the filing of the case until fully paid, and to pay the costs of suit.<sup>13</sup>

Aggrieved, Samuel sought recourse before the RTC, which upheld his conviction in the Decision<sup>14</sup> dated 19 September 2017. However, the RTC applied Republic Act (RA) No. 10951<sup>15</sup> and modified his penalty by reducing the period of imprisonment to three (3) months of *arresto mayor* in the Order<sup>16</sup> dated 2 April 2018.

His bid for a reconsideration having been unsuccessful,<sup>17</sup> Samuel filed a Petition for Review<sup>18</sup> before the CA. To his utter dismay, the CA affirmed his conviction in the now-repugned *Decision*.<sup>19</sup> When his Motion for Reconsideration<sup>20</sup> met a similar denial, he filed the instant Petition for Review on *Certiorari*<sup>21</sup> before this Court.

Looking askance at his acquittal, Samuel asserts that he could not be held liable for Estafa under Article 315 (1) (b) of the RPC absent any indication that he received the money *in trust* from Tomas. Succinctly put, he was under no obligation to return the money received as his duty was to deliver the birth certificates.<sup>22</sup> By the same token, he maintains that there was no misappropriation to speak of because he attempted to return the money to Tomas, who rejected it.<sup>23</sup>

### ***Samuel's assertions fail to inspire assent.***

Preliminarily, it bears stressing that the factual findings of the trial court, especially when affirmed by the CA, are binding upon this Court.<sup>24</sup> While the rule admits of exceptions, none of them obtain in this case.

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<sup>13</sup> Id. at 45.

<sup>14</sup> Supra note 4.

<sup>15</sup> 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 29 August 2017.

<sup>16</sup> Id. at 73.

<sup>17</sup> Id.

<sup>18</sup> Id. at 74-91.

<sup>19</sup> Supra note 2.

<sup>20</sup> Id. at 144-147.

<sup>21</sup> Supra note 1.

<sup>22</sup> Id. at 20-21.

<sup>23</sup> Id. at 22-23.

<sup>24</sup> See *Malcampo-Repollo v. People*, G.R. No. 246017, 25 November 2020.

Estafa, as defined and penalized under Article 315 (1) (b) of the Revised Penal Code provides:

Art. 315. Swindling (estafa).

x x x x

... the fraud be committed by any of the following means:

1. With unfaithfulness or abuse of confidence, namely:

x x x x

(b) 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 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.

The crime requires the concurrence of the following elements — *first*, that money, goods or other personal properties are 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; *second*, that there is a misappropriation or conversion of such money or property by the offender or a denial of the receipt thereof; *third*, that the misappropriation or conversion or denial is to the prejudice of another; and *fourth*, that there is a demand made by the offended party on the offender.<sup>25</sup>

As aptly adjudged by the courts *a quo*, all the elements of Estafa are immediately discernible from the prosecution's evidence. Verily, Samuel admitted having received money from Tomas, who entrusted it to him upon his assurance that he would use it to obtain and deliver the NSO birth certificates. The said receipt marked the creation of a fiduciary relation between them, the existence of which, either in the form of a trust or under any other obligation involving the duty to make delivery of the same, is an essential element of the crime of Estafa under Article 315 (1) (b).<sup>26</sup>

Despite his receipt of a demand letter, however, Samuel reneged on his commitment to turn over the birth certificates or otherwise return the money, to Tomas' prejudice. Notably, the failure to account upon demand, for funds or property held in trust, is circumstantial evidence of misappropriation.<sup>27</sup>

<sup>25</sup> See *Barlin v. People*, G.R. No. 207418, 23 June 2021.

<sup>26</sup> See *Sy v. People*, 254 Phil. 693, 701 (1989).

<sup>27</sup> See *Arrivas v. Bacotoc*, G.R. No. 228704, 2 December 2020.

Anent Samuel's postulation that he attempted to return the money to Tomas, the same is self-serving and uncorroborated, meriting no credence when pitted against the clear and categorical testimonies<sup>28</sup> of the prosecution's witnesses, who attested that he "crumpled" the demand letter and refused to fulfill his obligation to deliver the birth certificates or otherwise return the money.

In his forlorn attempt for exculpation, Samuel insists that his agreement with Tomas was in truth, "a contract of agency," with Tomas as the principal and himself as the agent. Thence, he posits that "any liability arising from non-compliance with their respective obligations is merely civil."<sup>29</sup>

Assuming *arguendo* that indeed, there was a contract of agency between Samuel and Tomas, such agreement will not absolve him from criminal liability. This Court's ruling in *Lim v. CA*<sup>30</sup> edifyingly instructs that even an agent can be held liable for Estafa, so long as all the elements of the crime have been duly proven.

*Ergo*, this Court perceives no cogent reason to warrant a reversal of Samuel's conviction for Estafa under Article 315 (1) (b) of the RPC.

The Court now delves into the matter of penalties. Article 315 of the RPC, as amended by RA No. 10951,<sup>31</sup> provides that the imposable penalty is *arresto mayor* in its medium and maximum periods, *i.e.*, two months and one day to six months, when the amount of the fraud does not exceed ₱40,000.00. The Indeterminate Sentence Law no longer applies because the imposable penalty is less than one year.<sup>32</sup> Thus, the CA unerringly imposed the straight penalty of three months of *arresto mayor*, in obeisance to RA No. 10951.<sup>33</sup>

Finally, Samuel should be ordered to pay Tomas the amount of ₱1,500.00 as actual damages plus interest. In fealty to the Court's ruling in *Nacar v. Gallery Frames, et al.*,<sup>34</sup> the sum of ₱1,500.00 shall earn interest at the rate of 12% *per annum* from the time of its judicial demand, *i.e.*, the filing of the Information, until 30 June 2013, and thereafter at the rate of six percent (6%) *per annum* from 1 July 2013 until the finality of this Resolution.

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<sup>28</sup> *Rollo*, p. 36.

<sup>29</sup> *Id.* at 23.

<sup>30</sup> 324 Phil. 400-402 (1996).

<sup>31</sup> *Supra* note 15.

<sup>32</sup> Section 2 of the Indeterminate Sentence Law reads:

SEC. 2. This Act shall not apply to x x x those whose maximum term of imprisonment does not exceed one year x x x."

<sup>33</sup> *Supra* note 15.

<sup>34</sup> 716 Phil. 267-283 (2013).

Withal, the entire amount of judgment award shall earn six percent (6%) interest *per annum* until fully paid.

**WHEREFORE**, the Petition for Review on *Certiorari* is hereby **DENIED**. The *Decision* dated 28 August 2019 and the *Resolution*<sup>35</sup> dated 21 February 2020 of the Court of Appeals in CA G.R. CR No. 41641 are **AFFIRMED with MODIFICATION**. Petitioner Samuel O. Cañete is ordered to pay Tomas Bacsal the amount of ₱1,500.00 as actual damages plus interest. The sum of ₱1,500.00 shall earn interest at the rate of 12% *per annum* from the time of its judicial demand, *i.e.*, the filing of the Information, until 30 June 2013, and thereafter at the rate of six percent (6%) *per annum* from 1 July 2013 until the finality of this Resolution. The entire amount of judgment award shall earn six percent (6%) interest *per annum* until fully paid.

**SO ORDERED.”**

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*  
9/27/22

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COURT OF APPEALS  
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The Presiding Judge  
REGIONAL TRIAL COURT  
Branch 285, Valenzuela City  
(Criminal Case No. 1214-V-17)

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<sup>35</sup> Id. at 151-152.

The Presiding Judge  
METROPOLITAN TRIAL COURT  
Branch 81, Valenzuela City  
(Criminal Case No. 73469)

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**G.R. No. 253859**

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