



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **June 20, 2022** which reads as follows:

“G.R. No. 256229 – (*Hannah Gina Augustina¹ Eleazar-Flores v. People of the Philippines*). – This Petition for Review on *Certiorari* assails the Decision dated January 24, 2020,² and Resolution dated March 10, 2021³ of the Court of Appeals in CA-G.R. CR No. 38828, affirming with modification the conviction of petitioner Hannah Gina Augustina Eleazar-Flores for *Estafa* under Article 315, paragraph 2(a) of the Revised Penal Code,⁴ as amended by Republic Act No. 10951.⁵

Petitioner was charged with *estafa* under the following Information⁶ dated April 1, 2004, viz.:

“That in or about the month of August 2000 and for sometime subsequent thereto, in the City of Manila, Philippines, the said accused, did then and there, willfully, unlawfully, and feloniously defraud LOURDES BENAVIDES⁷-CAÑARES and her spouse, ENGR. ELIAS CAÑARES (the Cañares Spouses) in the following manner, to wit: the said accused by means of false pretenses which she made to the said spouses prior to or simultaneous with the commission of the fraud to the effect that she had an account with the Philippine National Bank (PNB) amounting to Australian Dollar A\$1,254,100.593 or the equivalent of P37,500.000.00 in Philippine Currency, and manifesting their interest to buy the island of the said

¹ Sometimes spelled as “Agustina” in some parts of the *rollo*.

² *Rollo*, pp. 44–56. Penned by Associate Justice Danton Q. Bueser and concurred in by Associate Justice Ronaldo Roberto B. Martin and Associate Justice Walter S. Ong.

³ *Id.* at 9–11.

⁴ Article 315. *Swindling (estafa)*. - Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by: 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 deceits. (Act No. 3815, the Revised Penal Code, approved on December 8, 1930, as amended).

⁵ Entitled, 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.

⁶ *Rollo* pp. 45–46.

⁷ Sometimes spelled as BENAVIDEZ in some parts of the records.

12/15

Cañares [S]pouses, induced the latter to give, as in fact the latter gave, in the form of advances to the accused, sums of money on various occasions amounting to a total of P2,900,000.00 on the basis of the representations of accused that the amount would be used to secure the title on the subject island and other documents required in connection with the sale, but which however turned out to be false and untrue because accused has in fact no account with the PNB of the amount represented to the Cañares [S]pouses and that the said representations were only made by the accused for the purpose of obtaining, as in fact, she did obtain from the said Cañares [S]pouses the said amount of P2,900,000.00 which, once in her possession, with intent to defraud, she willfully, unlawfully[,] and feloniously misappropriated, misapplied[,] and converted to her own personal use and benefit, to the damage and prejudice of the said spouses Lourdes Benavidez-Cañares and Elias Cañares in the aforesaid amount of P2,900,000.00, Philippine Currency.

Contrary to Law.”⁸

The case was raffled to the Regional Trial Court (RTC)-Branch 17, Manila, presided by Judge Felicitas O. Laron-Cacanindin.

On arraignment, petitioner pleaded not guilty.⁹ Trial ensued.

The victim, Lourdes Benavides-Cañares (*Lourdes*) testified for the prosecution. On the other hand, petitioner, her husband Edgardo Flores, and Matnog Municipal Assessor Ramon Gacis, Jr. testified for the defense.¹⁰

The Prosecution's Version

In August 2000, Lourdes and her husband Elias Cañares (*Spouses Cañares*) met petitioner through Barangay Chairman Arturo Llamas and Barangay Councilor Marcelo Perez. Allegedly, petitioner and her Australian friend were looking for an island to develop. Spouses Cañares own an island in Matnog, Sorsogon, the reason they got introduced to petitioner. Petitioner represented to them that she had an escrow account with the Philippine National Bank (*PNB*) amounting to A\$1,000,254.00, equivalent to ₱37,901,000.00.¹¹

Petitioner showed Lourdes her supposed Investment Management Agreement (*IMA*) No. 00461 with PNB. This quashed the initial doubt of Lourdes on petitioner's financial capacity.¹²

⁸ *Id.* at 45–46.

⁹ *Id.* at 46.

¹⁰ *Id.* at 48.

¹¹ *Id.* at 46.

¹² *Id.*

They subsequently agreed on the purchase price of ₱6,500,000.00 for the island. Spouses Cañares showed petitioner the tax declaration and tax payment on the property.¹³

Petitioner, however, intimated to Spouses Cañares that she could not withdraw her money from the escrow account without the proper sale documents. They were later made to believe that petitioner needed cash advances for this purpose. In view of petitioner's demonstrated keen interest to purchase their property, Spouses Cañares were persuaded to advance money to petitioner on various occasions. Altogether, Spouses Cañares gave petitioner ₱2,900,000.00. The latter promised to return the money once she was able to withdraw it from her escrow account. Petitioner even showed them her passbook under Savings Account No. 072-604157-1 with an initial deposit of ₱37,901,000.00.¹⁴

Lourdes recounted that for the purpose of the sale, she secured a survey plan for the island. She waited for a year for petitioner to remit her payment for both the island and the cash advances, but it was all in vain. Petitioner informed her that the money in the bank had been held by a certain Melanie Lacuna who wanted to get ₱5,000,000.00 from this deposit. Petitioner subsequently issued in favor of Spouses Cañares a Letter of Acknowledgement or Promissory Note dated August 16, 2001, both indicating her intention to buy the island and her actual receipt of the ₱2,900,000.00 from Spouses Cañares. She also issued in their favor Landbank Check No. 0058253 dated September 24, 2001, for ₱6,500,000.00 as payment for the island; and Landbank Check No. 058254 dated September 24, 2001, for ₱2,900,000.00 as payment for the cash advances. On their respective due dates, Lourdes deposited the checks but the same got dishonored. Per Certification of Landbank Acting Head Felimon C. Correa, petitioner's deposit in her account was only ₱5,000.00.¹⁵ On the other hand, per Certification dated October 9, 2001, by the Cash Operation Division of PNB, the so-called IMA No. 00461 was spurious and the alleged authorized signatories appearing thereon did not come from the Trust Banking Group of PNB.¹⁶

The Defense's Version

Petitioner and her husband asserted that while they had an Australian friend seeking to purchase an island, they never agreed to broker or purchase the island owned by Spouses Cañares as the same fell short of their standard. Too, their island had no title yet. While it was true that petitioner gave five blank Landbank checks to Lourdes, these checks were not issued as payment for the island or the alleged cash advances made by Lourdes. She issued the

¹³ *Id.* at 47-48.

¹⁴ *Id.* at 48.

¹⁵ *Id.* at 47.

¹⁶ *Id.* at 48.

checks to help Lourdes deal with her unpaid employees. And while these Landbank checks had in fact been delivered to Spouses Cañares, the same were issued without any consideration. Petitioner even questioned the capacity of the Spouses Cañares to raise the supposed cash advances claiming that the latter were in dire financial need at that time. She admitted the genuineness of her signatures on the checks but added that she closed her checking account when she learned that the two checks presented bore large amounts.¹⁷

Petitioner denied she had an escrow account with PNB and that she executed a handwritten Letter of Acknowledgment in favor of Spouses Cañares. All she did was agree to meet with Spouses Cañares to retrieve from them the three remaining Landbank checks. She was shocked when Lourdes handed her an envelope of money.¹⁸

Ruling of the Regional Trial Court

By Decision dated October 5, 2015,¹⁹ the trial court rendered a verdict of conviction, *viz.*:

“WHEREFORE, judgment is rendered finding the accused Hannah Gina Agustina Eleazar-Flores *a.k.a.* Hanna Gina Agustina Eleazar-Flores guilty beyond reasonable doubt of *Estafa* under Article 315, paragraph 2(a) of the Revised Penal Code. She is hereby sentenced to an indeterminate [term] of four (4) years and two (2) months of *prision correccional* as minimum to twenty (20) years of *reclusion temporal* as maximum.

Further, [the] accused is sentenced to pay private complainants/Spouses Lourdes Benavides-Cañares and Engr. Elias Cañares the amount of TWO MILLION NINE HUNDRED THOUSAND PESOS (P2.9M) plus twelve percent (12%) interest from the filing of the case in court.

SO ORDERED.”²⁰

The trial court held that all the elements of *estafa* under Article 315, paragraph 2(a) of the Revised Penal Code, as amended, are present in this case. It found that petitioner’s false pretenses had been the very cause or motive, which induced Spouses Cañares to part with the amount of ₱2,900,000.00. They were deceived into believing that petitioner had an escrow account with PNB worth A\$1,254,100.593. Petitioner’s misrepresentations likewise convinced them that the cash advances she got from them would be used to secure the required documents for the sale of their island. Too, the trial court observed that petitioner’s evidence failed to overcome the positive assertions of Spouses

¹⁷ *Id.*

¹⁸ *Id.* at 48–49.

¹⁹ As mentioned by CA decision, *id.* at 44–45.

²⁰ *Id.* at 45.

Cañares and the Letter of Acknowledgement she herself issued proving the cash advances she received from them.

Ruling of the Court of Appeals

Under its assailed Decision dated January 24, 2020,²¹ the Court of Appeals affirmed the verdict of conviction but modified the imposed penalty, thus:

WHEREFORE, the foregoing considered, the Decision dated October 5, 2015 of the Regional Trial Court of Manila, Branch 17 is hereby **AFFIRMED** with **MODIFICATION** in that the maximum penalty imposed upon accused-appellant is **REDUCED** from TWENTY (20) YEARS of Reclusion Temporal to SIX (6) YEARS, EIGHT (8) MONTHS[,] and ONE (1) DAY of Prison Mayor.

SO ORDERED.²²

It also denied petitioner's subsequent motion for reconsideration under Resolution dated March 10, 2021.²³

The Present Petition

Petitioner now prays anew for her acquittal, reiterating the arguments she presented before the Court of Appeals.

Our Ruling

The petition must fail.

First off, the Court, not being a trier of facts, will not take cognizance of factual issues raised in Rule 45 petitions as only questions of law are allowed therein. It is not the task of the Court to review the factual findings of the trial court, let alone recalibrate the evidence on record. More, in the absence of grave abuse of discretion or misapprehension of facts, the factual findings of the trial court on the credibility of the witnesses are conclusive and binding on the Court especially when they carry the full conformity of the appellate court, as in this case. No special reason was adduced to justify a departure from this general rule, let alone the exercise of the Court's discretionary appellate jurisdiction.

²¹ *Id.* at 44–56.

²² *Id.* at 55.

²³ *Id.* at 57–59.

Indeed, the Court of Appeals did not err when it affirmed petitioner's conviction for *estafa* under Article 315, paragraph 2(a) of the Revised Penal Code, as amended by Republic Act No. 10951,²⁴ viz.:

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

1st. The penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of the fraud is over Two million four hundred thousand pesos (P2,400.000) but does not exceed Four million four hundred thousand pesos (P4,400.000), and if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional Two million pesos (P2,000.000); but the total penalty which may be imposed shall not exceed twenty years. In such cases, and in connection with the accessory penalties which may be imposed and for the purpose of other provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

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 details.²⁵

Verily, *estafa* under the foregoing provision requires the following elements: (a) there must be a false pretense, fraudulent act, or fraudulent means; (b) such false pretense, fraudulent act, or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (c) the offended party must have relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his or her money or property; and (d) that as a result thereof, the offended party suffered damage.²⁶

There are different modalities of committing *estafa* under Article 315, paragraph 2(a). The false pretense or fraudulent representation referred to under the first element exists when the accused uses a fictitious name, pretends to possess power, influence, qualifications, property, credit, agency,

²⁴ Entitled, 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.

²⁵ *Id.*

²⁶ *Id.*

12/15

business, or imaginary transactions, or when the accused commits other similar deceptions.²⁷

The elements of *estafa* are all present here. As aptly observed by the trial court and the Court of Appeals, the evidence on record shows that petitioner used an imaginary transaction, *i.e.*, the negotiated sale of complainant's island for ₱6,500,000.00, to commit the crime of *estafa*. Simultaneous with the false pretense of entering into a sale transaction, petitioner defrauded complainants by soliciting the amount of ₱2,900,000.00 as cash advances. Complainants were induced to part with their money, relying on the false pretense and fraudulent act of the petitioner. Hence, complainants suffered damage as a consequence of petitioner's action.

Penalty

Given that the amount of fraud totaled ₱2,900,000.00, the imposable penalty is *prision correccional* in its maximum period to *prision mayor* in its minimum period. Applying the Indeterminate Sentence Law, and there being no mitigating nor aggravating circumstances here, petitioner should be sentenced to four (4) years and two (2) months of *prision correccional* as minimum to six (6) years, eight (8) months, and (1) day of *prision mayor* as maximum.

The Court deems it proper to impose legal interest on the monetary award in accordance with *Nacar v. Gallery Frames*.²⁸ Hence, from the time the case was filed in court up to June 30, 2013, a twelve percent (12%) legal interest *per annum* should be imposed on the monetary award; and from July 1, 2013, a six percent (6%) legal interest *per annum* shall be imposed until finality of this Resolution. Thereafter, the total monetary award shall earn 6% interest *per annum* until the same shall have been full paid.

FOR THESE REASONS, the petition is **DENIED**. The Decision dated January 24, 2020, and Resolution dated March 10, 2021, in CA-G.R. CR No. 38828 are **AFFIRMED** with **MODIFICATION**.

Petitioner HANNAH GINA AUGUSTINA ELEAZAR-FLORES is found guilty of *Estafa* under Article 315, paragraph 2(a) of the Revised Penal Code, as amended. She is sentenced to an indeterminate penalty of four (4) years and two (2) months of *prision correccional* as minimum to six (6) years, eight (8) months, and one (1) day of *prision mayor* as maximum.

²⁷ *Osorio v. People of the Philippines*, 834 Phil. 768, 780 (2018). [Per J. Leonen, Third Division].

²⁸ 716 Phil. 267-283 (2013). [Per J. Peralta, En Banc].

Petitioner HANNAH GINA AUGUSTINA ELEAZAR-FLORES is further ORDERED to PAY Spouses Lourdes and Elias Cañares, TWO MILLION NINE HUNDRED THOUSAND PESOS (₱2,900,000.00) plus twelve percent (12%) legal interest *per annum* from April 1, 2004, to June 30, 2013, and six percent (6%) legal interest *per annum* from July 1, 2013, until finality of this Resolution. The monetary award shall earn six percent (6%) legal interest *per annum* from finality of this Resolution until full payment.

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *ff 4/4*

15 FEB 2023

*GALICIA SISON LAW PARTNERSHIP (reg)
Counsel for Petitioner
Blk. 1, Lot. 20, Grand Cypress
Brgy. Tungkong Mangga
City of San Jose del Monte
3023 Bulacan

*OFFICE OF THE SOLICITOR GENERAL (reg)
134 Amorsolo Street
1229 Legaspi Village
Makati City

HON. PRESIDING JUDGE (reg)
Regional Trial Court, Branch 17
Manila
(Crim. Case No. 04-225468)

JUDGMENT DIVISION (x)
Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)
LIBRARY SERVICES (x)
[For uploading pursuant to A.M. No. 12-7-SC]

OFFICE OF THE CHIEF ATTORNEY (x)
PHILIPPINE JUDICIAL ACADEMY (x)
Supreme Court, Manila

COURT OF APPEALS (x)
Ma. Orosa Street
Ermita, 1000 Manila
CA-G.R. CR No. 38828

*with copy of CA Decision dated January 24, 2020
Please notify the Court of any change in your address.
GR256229. 06/20/2022(164)URES

(164)URES