



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 5, 2023 which reads as follows:

“G.R. No. 240875 (*Singa Ship Management Philippines, Inc. v. Randy C. Alsim*). – After a judicious review of the case, We resolve to DENY the instant Petition for Review on *Certiorari*¹ due to the failure of petitioner Singa Ship Management Philippines, Inc. (Singa Ship) to show that the Court of Appeals (CA) committed any reversible error in its Decision² dated February 13, 2018 and its Resolution³ dated July 13, 2018 in CA-G.R. CV No. 105108. In its assailed Decision and Resolution, the CA affirmed with modification the Decision⁴ dated January 12, 2015 of the Regional Trial Court (RTC) of Manila, Branch 42, which consequently deleted the award of civil indemnity arising from the delict due to the absence of the element of misappropriation or conversion in the crime charged against respondent Randy C. Alsim (Alsim), which is Estafa with unfaithfulness or abuse of confidence, as defined and penalized under Article 315, paragraph 1(b)⁵ of the Revised Penal Code (RPC).⁶

It is well-settled that the civil action based on delict may be deemed extinguished if there is a finding on the final judgment in the criminal action that the prosecution absolutely failed to prove the guilt of the accused, or the act or omission from which the civil liability may arise did not exist, or where

¹ *Rollo*, pp. 3-43.

² *Id.* at 45-67. Penned by Associate Justice Henri Jean Paul B. Inting (now a Member of the Court) and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Danton Q. Bueser.

³ *Id.* at 69-70. Penned by Associate Justice Henri Jean Paul B. Inting (now a Member of the Court) and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Danton Q. Bueser.

⁴ *Id.* at 123-134. Penned by Presiding Judge Dinnah C. Aguila-Topacio.

⁵ Article 315, paragraph 1 (b) of the RPC provides:

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 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;

⁶ Entitled “AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS.” Approved: December 8, 1930.

mt

the accused did not commit the acts or omission imputed to him or her.⁷ The essence of *estafa* cases under Art. 315, paragraph 1(b) of the RPC and the fraud which the law considers as criminal act is the misappropriation or conversion of money or property received to the prejudice of the entity to whom the return thereof should be made.⁸ Thus, when the element of misappropriation or conversion is missing, there can be no *estafa*,⁹ and thus, the civil liability *ex delicto* does not exist.¹⁰ Thus, in the absence of the element of misappropriation and conversion, there can be no civil liability as there is no act or omission from which any civil liability may be sourced.¹¹

In the instant case, the Court upholds the findings of the CA and the trial court that the element of misappropriation or conversion is not present considering that the rebates or commissions received by Alsim from Kenstar Travel Corporation (Kenstar), a travel agency which facilitates the purchase of airline tickets for Singa Ship, were found to have been actually intended for him and were not received in trust for Singa Ship. The RTC correctly pointed out that Singa Ship failed to present any proof that it had an agreement with Kenstar for the latter's refund of commission or rebates in Singa Ship's favor. Thus, said rebates or commission could not have been received by Alsim in trust, or on commission, or for administration, or under any obligation involving the duty to make delivery of, or return the same to Singa Ship.¹²

The CA correctly deleted the RTC's award of civil indemnity arising from the delict considering that the finding of the absence of the crime of *estafa* means that there is no delict. Consequently, the award of a civil liability *ex delicto* cannot be imposed.¹³ Since the civil liability may have arisen from another source of obligation, *i.e.*, the fiduciary relationship and contractual relationship between Alsim and Singa Ship, as enunciated by the lower courts, and that the subject rebates and commissions were received by Alsim pursuant to an agreement with Kenstar, a separate civil action must be instituted by Singa Ship to claim such civil liability.¹⁴ As such, the award of civil liability *ex delicto* is deleted without prejudice to the filing of a separate civil action to claim the civil liability arising from sources other than the delict, subject to the rules on prescription.¹⁵

ACCORDINGLY, premises considered, the instant petition is **DENIED**. The Decision dated February 13, 2018 and the Resolution dated July 13, 2018 in CA-G.R. CV No. 105108 are **AFFIRMED**.

⁷ *Estate of Honorio Poblador, Jr. v. Manzano*, 811 Phil. 66, 75 (2017).

⁸ *Ibañez v. People*, 864 Phil. 861, 877 (2019).

⁹ *Dy v. People*, 792 Phil. 672, 686 (2016).

¹⁰ *Estate of Honorio Poblador, Jr. v. Manzano*, *supra*.

¹¹ *Dy v. People*, *supra*.

¹² See RTC Decision, *rollo*, p. 133.

¹³ See *Spouses Tayamen v. People*, G.R. No. 246986, April 28, 2021.

¹⁴ *Id.*

¹⁵ *Id.*

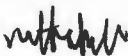
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SO ORDERED.” *Gesmundo, CJ., on official leave.*

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court.

by:



MARIA TERESA B. SIBULO
Deputy Division Clerk of Court ¹²¹
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