



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated March 29, 2023, which reads as follows:

“G.R. No. 264245 (Jean Gunda y Alamodin, *Petitioner* vs. People of the Philippines, *Respondent*). — Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court filed by Jean Gunda y Alamodin (petitioner) which assails the Decision² dated August 13, 2021, and Resolution³ dated October 24, 2022, of the Court of Appeals (CA) in CA-G.R. SP No. 168049. The CA affirmed the Decision⁴ dated August 11, 2020, and Order⁵ dated December 17, 2020, of Branch 222, Regional Trial Court (RTC), Quezon City, in Criminal Case No. M-QZN-18-13896-CR-R00-00 which found petitioner guilty beyond reasonable doubt of the crime of Estafa under paragraph 2(a), Article 315 of the Revised Penal Code (RPC).

The Court resolves to deny the present petition for failure of petitioner to sufficiently show that the CA committed any reversible error in finding her guilty beyond reasonable doubt of the crime of Estafa.

The courts below held petitioner liable for Estafa by false deceits under paragraph 2(a) of Article 315 of the RPC, which provides:

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

¹ Rollo, pp. 13–37.

² Id. at 41–53. Penned by Associate Justice Zenaida T. Galapate-Laguilles and concurred in by Associate Justices Florencio M. Mamauag, Jr. and Carlito B. Calpatura.

³ Id. at 55–58.

⁴ Id. at 88–92. Penned by Presiding Judge Edgar Dalmacio Santos.

⁵ Id. at 83.

- a. By using a fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceptions.

Jurisprudence enumerates the essential elements for Estafa as follows: “(a) that there must be a false pretense or fraudulent representation as to the offender’s 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.”⁶

The Court finds that the prosecution was successful in establishing all the elements of the crime charged. It was established that:

1. On April 9, 2016, petitioner fraudulently represented to Rogelio G. Colita (private complainant) that she could obtain a taxi franchise for him in exchange for ₱175,000.00, even as she knew that she was not authorized to receive money relating to the applications for a taxi franchise;
2. By reason of petitioner’s fraudulent representation, private complainant was induced to give the former the amount that she demanded;
3. On April 12, 2016, private complainant went to petitioner’s office to give petitioner the amount of ₱175,000.00;
4. However, petitioner failed to deliver the taxi franchise to private complainant and to comply with the latter’s demand for the return of the money, to the damage and prejudice of private complainant.⁷

As aptly ruled by the lower courts, which the CA affirmed, private complainant’s testimony was corroborated by the screenshots of the text messages between petitioner and private complainant. This was further confirmed by the fact that the sender’s cellphone number that sent the messages to private complainant’s cellphone is the same cellphone number indicated in petitioner’s Personal Data Sheet (PDS).⁸ Verily, the screenshots of the text messages show that indeed private complainant and

⁶ *Umpa v. People*, G.R. Nos. 246265–66, March 15, 2021, citing *People of the Philippines v. Baladajay*, 814 Phil. 914, 923–924 (2017).

⁷ See *rollo*, pp. 46–47.

⁸ See *id.* at 49.

petitioner had a transaction involving a taxi franchise in exchange for ₱175,000.00.⁹

On petitioner's argument that the screenshots of text messages were not properly authenticated pursuant to the Rules on Electronic Evidence and were not shown or proved to have been sent by her, the Court is one with the CA in ruling that the screenshots were properly admitted in evidence. Under Section 2, Rule 11 of the Rules on Electronic Evidence:

Section 2. *Ephemeral electronic communication.* – Ephemeral electronic communications shall be proven by the testimony of a person who was a party to the same or has personal knowledge thereof. In the absence or unavailability of such witnesses, other competent evidence may be admitted.

x x x x

Thus, private complainant, who was a party to the electronic communication with petitioner, can competently testify as to the text messages. As found by the courts below, the conversation that happened between petitioner and private complainant through text messages shows that the latter made several follow-ups with petitioner regarding his taxi franchise application, but the latter failed to deliver.¹⁰

Notably, even without the corroborating evidence, *i.e.*, the screenshots of the text messages, private complainant's testimony was convincing and credible in itself; thus, it sufficiently established the guilt of petitioner of the crime charged beyond reasonable doubt.¹¹ Further, the lower courts found no reason to doubt private complainant's testimony because it was detailed and straightforward, and there was no indication that private complainant had any ill motive against petitioner that would have impelled the former to give false testimony.¹²

On the other hand, petitioner merely offered bare denial of the allegations against her. Her assertion that she does not know private complainant must also fail considering the text messages that she sent and received through her cellphone.¹³ To reiterate, records show that the cellphone number that appeared in private complainant's cellphone matched with petitioner's cellphone number in her PDS.¹⁴

Well-settled is the rule that when the issues involve matters of credibility of witnesses, high respect, if not conclusive effect, should be accorded to the findings of the trial court, its calibration of the testimonies, and its assessment of the probative weight thereof, as well as its

⁹ Id.

¹⁰ Id. at 50.

¹¹ See id.

¹² Id.

¹³ Id. at 47.

¹⁴ Id. at 50.

conclusions anchored on said findings.¹⁵ The trial court “has the unique opportunity to observe the demeanor of witnesses and is in the best position to discern whether they are telling the truth.”¹⁶ It follows that the “appellate courts will not overturn the factual findings of the trial court unless there is a showing that the latter overlooked facts or circumstances of weight and substance that would affect the result of the case.”¹⁷ As the CA aptly ruled, this foregoing rule finds an even more stringent application in the present case because the findings of the MTC were sustained by the RTC.¹⁸

As to the penalty, the court *a quo* properly imposed on petitioner the penalty of three (3) months of *arresto mayor*, as minimum, to one (1) year and five (5) months of *prision correccional*, as maximum.¹⁹ Further, the Court affirms that the amount of ₱175,000.00 which petitioner is supposed to return to private complainant shall earn legal interest at the rate of six percent (6%) *per annum* from the filing of the Information until full payment.²⁰

WHEREFORE, the petition is **DENIED**. The Decision dated August 13, 2021, and Resolution dated October 24, 2022, of the Court of Appeals in CA-G.R. SP No. 168049 are **AFFIRMED**.

The Court finds petitioner Jean Gunda y Alamodin **GUILTY** beyond reasonable doubt of the crime of *Estafa* under paragraph 2(a), Article 315 of the Revised Penal Code in Criminal Case No. 18-13896 and sentences her to suffer the indeterminate penalty of three (3) months of *arresto mayor* as minimum to one (1) year and five (5) months of *prision correccional* as maximum.

In addition, the Court orders petitioner Jean Gunda y Alamodin to **PAY** private complainant Rogelio G. Colita the amount of ₱175,000.00 as actual damages, with legal interest of six percent (6%) *per annum* from the filing of the information on November 29, 2018, until fully paid.

SO ORDERED.”

By authority of the Court:

Misael
MISAEAL DOMINGO C. BATTUNG III
Division Clerk of Court *JB 6/23/23*

¹⁵ *Republic v. Buenaventura*, G.R. No. 198629, April 5, 2022, citing *Givero v. Givero*, 661 Phil. 114, 124 (2011).

¹⁶ *People v. Dayaday*, 803 Phil. 363, 371 (2017).

¹⁷ *Id.*

¹⁸ *Rollo*, p. 51.

¹⁹ See *id.* at 52.

²⁰ *Lara's Gifts and Decors, Inc. v. Midtown Industrial Sales*, G.R. No. 225433, September 20, 2022.

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The Presiding Judge
REGIONAL TRIAL COURT
Branch 222
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(Crim. Case No. M-QZN-18-13896-CR-R00-00)

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