



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NORMA C. GAMARO and G.R. No. 211917
JOSEPHINE G. UMALI,
Petitioners, **Present:**

- versus -

CARPIO, J., Chairperson,
PERALTA,
BERSAMIN,*
MENDOZA, and
LEONEN,** JJ.

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated:

27 FEB 2017

X-----X

DECISION

PERALTA, J.:

Before us is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court which seeks the reversal of the Decision² dated November 25, 2013, and Resolution³ dated February 21, 2014 of the Court of Appeals (CA) in CA-G.R. CR No. 34454. The CA affirmed the Decision of the Regional Trial Court (RTC), Branch 32, San Pablo City in Criminal Case No. 15407 finding petitioner Norma C. Gamaro guilty of Estafa under Article 315, paragraph 1(b) of the Revised Penal Code, while exonerating petitioner Josephine G. Umali from the crime charged. The RTC also adjudged the petitioners jointly and severally liable to pay the monetary awards in favor of private complainant Joan Fructoza E. Fineza.

* Designated Additional Member in lieu of Associate Justice Francis H. Jardeleza, per Raffle dated September 1, 2014.

** On official leave.

¹ *Rollo*, pp.13-43.

² Penned by Associate Justice Socorro B. Inting, with Associate Justices Jose C. Reyes, Jr. and Mario V. Lopez, concurring; *id.* at 47-56.

³ *Id.* at 44-A-45.

The factual antecedents are as follows:

On March 1, 2005, the petitioners were charged with Estafa under Article 315, paragraph 2(a), of the Revised Penal Code before Branch 32 of the RTC of San Pablo City under the following Information:

That on or about January 2, 2002, in the City of San Pablo, Republic of the Philippines, and within the jurisdiction of this Honorable Court, the accused above-named, conspiring, confederating and mutually helping one another, did then and there, defraud one JOAN FRUCTOZA E. FINEZA, in the following manner, to wit: That Norma C. Gamaro, pretending that she is knowledgeable in the business of buy and sell of jewelry, other merchandise and financing, assuring complainant of a sure market and big profit lure and entice complainant Joan Fructoza E. Fineza to enter into the business and the latter purchased and delivered to her the jewelry amounting to ₱2,292,519.00 with the obligation to manage the business for private complainant and remit the proceeds of the sale to her, but accused, far from complying, with her obligation, managed the business as her own, failing to remit the proceeds of the sale and pledging jewelries to Lluillier Pawnshop where accused Josephine Umali work while the checks issued by respondent Rowena Gamaro to guarantee their payment were all dishonoured for having been drawn against insufficient funds, to the damage and prejudice of the offended party in the aforementioned amount.

CONTRARY TO LAW.⁴

When arraigned on August 4, 2005, petitioners pleaded not guilty to the crime charged, while accused Rowena C. Gamaro remained at-large.⁵ Thereafter, trial on the merits ensued.

The evidence disclosed the following facts:

Sometime in 2002, private complainant Joan Fructoza E. Fineza (*Fineza*) engaged in a business venture with petitioner Norma C. Gamaro and her daughters – petitioners Josephine G. Umali (*Umali*) and accused Rowena Gamaro Fineza would buy any foreclosed pieces of jewelry from M. Lhuillier Pawnshop whenever informed by Umali who was then the manager of the said pawnshop located at Basa St., San Pablo City, Laguna. The pieces of jewelry would then be sold for profit by Norma Gamaro to her co-employees at the Social Security System (SSS) in San Pablo City. The proceeds of the sale would then be divided among them in the following manner: fifty percent (50%) would go to Fineza, while the other fifty percent (50%) would be divided among Umali, Norma Gamaro and Rowena Gamaro. As security for the pieces of jewelry which were placed in the

⁴ *Id.* at 74.

⁵ *Id.* at 48.



possession of Norma Gamaro and her daughter Rowena Gamaro, the two would issue several checks drawn from their joint bank account in favor of Fineza reflecting the appraised amount of the pieces of jewelry.⁶

The business venture was initially successful. However, when Fineza discovered that Norma Gamaro, together with her daughters Rowena Gamaro and Umali, also engaged in a similar business with other suppliers of pieces of jewelry, she decided to terminate the business. To wind up the business, it was agreed that Norma Gamaro and Rowena Gamaro would just dispose or sell the remaining pieces of jewelry in their possession. But when Fineza tried to encash the checks which were issued to her by Rowena Gamaro, the same were dishonored because the account of the Gamaros had been closed. Fineza then confronted petitioner Norma Gamaro about the dishonored checks, and the latter confessed that she did not have enough money to cover the amount of the checks. Fineza also learned that the pieces of jewelry were pawned to several pawnshops and private individuals contrary to what they had agreed upon. Petitioner Norma Gamaro furnished Fineza with a list of the pawnshops, such that, the latter was compelled to redeem the pieces of jewelry with her own money. It appeared in the pawnshop tickets that it was the nephew of Norma Gamaro named Frederick San Diego who pledged the pieces of jewelry.⁷

To settle the matter, Fineza asked Norma Gamaro to return the remaining pieces of jewelry in her possession but the latter failed to do so, and instead, offered her house and lot as payment for the pieces of jewelry. Fineza, however, did not accept the said offer.⁸

A demand letter was then sent by Fineza to Umali, Norma Gamaro and Rowena Gamaro, dated February 16, 2004, asking for the return of the amount of ₱2,292,519.00 as payment for all the pieces of jewelry which were not returned to her, including the cash given by Fineza for the rediscounting business. The demand letter was left unanswered.⁹

For her part, Norma Gamaro, averred that she had no involvement in the jewelry business of her daughters. Umali likewise denied having any business dealings with her sister Rowena Gamaro and with Fineza. While admitting that there were pieces of jewelry pledged by her cousin, Frederick San Diego, in the pawnshop where she was the manager, Umali denied that she knew where those pieces of jewelry came from.¹⁰

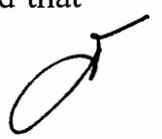
⁶ *Id.* at 48-49.

⁷ *Id.* at 49.

⁸ *Id.*

⁹ *Id.* at 49-50.

¹⁰ *Id.* at 50.



On July 25, 2011, the RTC issued a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, this court hereby renders judgment, as follows:

- a. **FINDING** accused **Norma Gamaro** guilty beyond reasonable doubt of the crime of estafa as defined and penalized under Section 1(b), Article 315 of the Revised Penal Code, and hereby sentences her to suffer the indeterminate prison term of Four (4) Years and Two (2) Months of *Prision Correccional*, as Minimum, to Twenty (20) Years of *Reclusion Temporal*, as Maximum;
- b. **EXONERATING** accused **Josephine G. Umali** of any criminal liability;
- c. **DIRECTING** both accused **Norma Gamaro** and **Josephine Umali** to pay the private complainant jointly and solidarily the following amounts:
 1. ₱1,259,841.46, plus legal interest from date of demand on February 16, 2004, until fully paid;
 2. ₱50,000.00 for and by way of moral damages;
 3. ₱25,000.00, for and by way of exemplary damages;
 4. ₱50,000.00, for and by way of attorney's fees; and
 5. To pay the costs.

Let a warrant issue for the arrest of **Rowena Gamaro**. The Bureau of Immigration is likewise directed to issue a HOLD DEPARTURE ORDER against ROWENA GAMARO, her personal circumstances are as follows:

Name:	ROWENA C. GAMARO
Former Residence:	Lot 20, Block 16, National Housing Authority (NHA), Brgy. San Jose, San Pablo City

SO ORDERED.¹¹

Aggrieved, petitioners filed an appeal before the CA. In a Decision dated November 25, 2013, the CA affirmed the Decision of the RTC. The *fallo* of the Decision states:

WHEREFORE, the instant appeal is **DENIED**. The assailed Decision dated July 25, 2011 of the Regional Trial Court, Branch 32, San Pablo City, in Criminal Case No. 15407 is hereby **AFFIRMED**.

SO ORDERED.¹²

A motion for reconsideration was filed by the petitioners, but the same was denied by the CA on February 21, 2014.

¹¹ *Id.* at 50-51. (Emphasis in the original)

¹² *Id.* at 56. (Emphasis in the original)

Hence, this petition, raising the following errors:

A) THE CA COMMITTED AN ERROR OF LAW AND GRAVE ABUSE OF DISCRETION IN AFFIRMING THE RTC DECISION FINDING NORMA GAMARO GUILTY OF THE CRIME OF ESTAFA UNDER SECTION 1(B), ARTICLE 315 OF THE REVISED PENAL CODE DESPITE THE INFORMATION ACCUSING HER OF THE CRIME OF ESTAFA UNDER PARAGRAPH 2(A) ARTICLE 315 OF THE REVISED PENAL CODE IN GRAVE VIOLATION OF THE PETITIONER'S CONSTITUTIONAL RIGHT TO BE INFORMED OF THE CHARGE AGAINST HER;

B) THE CA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT SUSTAINED THE FINDINGS OF THE RTC DESPITE THE FACT THAT IT (RTC) RELIED ON THE FINDINGS ON THE PROCEEDINGS IN THE ADMINISTRATIVE CASE WITH SSS AGAINST NORMA GAMARO;

C) THE CA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT SUSTAINED THE FINDINGS OF THE RTC DESPITE THE FACT THAT IT (RTC) CONSIDERED THE TESTIMONY OF PROSECUTION WITNESS ATTY. BALDEO DESPITE CONFLICT OF INTEREST IN THAT SHE (ATTY. BALDEO) GAVE NORMA GAMARO ADVISE REGARDING HER CASE; AND

D) THE CA COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR IN EXCESS OF JURISDICTION WHEN IT UPHELD THE FINDINGS OF FACT OF THE RTC THAT NORMA GAMARO RECEIVED THE SUBJECT JEWELRIES DESPITE THE INCOMPETENT AND CONTRADICTORY EVIDENCE OF THE PROSECUTION ITSELF.¹³

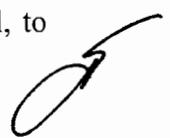
The first issue for resolution is whether a conviction for the crime of Estafa under a different paragraph from the one charged is legally permissible.

The Bill of Rights of the 1987 Constitution guarantees some rights to every person accused of a crime, among them the right to be informed of the nature and cause of the accusation, *viz.*:

Section 14. (1) No person shall be held to answer for a criminal offense without due process of law.

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to

¹³ *Id.* at 18-19.



meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.¹⁴

The constitutional provision requiring the accused to be "informed of the nature and cause of the accusation against him" is for him to adequately and responsively prepare his defense. The prosecutor is not required, however, to be absolutely accurate in designating the offense by its formal name in the law. It is hornbook doctrine that what determines the real nature and cause of the accusation against an accused is the actual recital of facts stated in the information or complaint and not the caption or preamble of the information or complaint nor the specification of the provision of law alleged to have been violated, they being conclusions of law.¹⁵

The controlling words of the information are found in its body. Accordingly, the Court explained the doctrine in *Flores v. Hon. Layosa*¹⁶ as follows:

The Revised Rules of Criminal Procedure provides that an information shall be deemed sufficient if it states, among others, the designation of the offense given by the statute and the acts of omissions complained of as constituting the offense. However, the Court has clarified in several cases that the designation of the offense, by making reference to the section or subsection of the statute punishing, it [sic] is not controlling; **what actually determines the nature and character of the crime charged are the facts alleged in the information.** The Court's ruling in *U.S. v. Lim San* is instructive:

x x x Notwithstanding the apparent contradiction between caption and body, we believe that we ought to say and hold that the characterization of the crime by the fiscal in the caption of the information is immaterial and purposeless, and that the facts stated in the body of the pleading must determine the crime of which the defendant stands charged and for which he must be tried. The establishment of this doctrine is permitted by the Code of Criminal Procedure, and is thoroughly in accord with common sense and with the requirements of plain justice x x x.¹⁷

In the instant case, the crime of estafa charged against petitioners is defined and penalized by Article 315, paragraph 2 (a) of the Revised Penal Code, viz.:

¹⁴ Emphasis ours.

¹⁵ *Espino v. People*, 713 Phil. 377, 385-386 (2013).

¹⁶ 479 Phil. 1020 (2004).

¹⁷ *Flores v. Hon. Layosa, supra*, at 1033-1034.

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 12,000 pesos but does not exceed 22,000 pesos, 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 10,000 pesos; 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 under the provisions of this Code, the penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

2nd. The penalty of *prision correccional* in its minimum and medium periods, if the amount of the fraud is over 6,000 pesos but does not exceed 12,000 pesos;

3rd. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period if such amount is over 200 pesos but does not exceed 6,000 pesos; and

4th. By *arresto mayor* in its maximum period, if such amount does not exceed 200 pesos, provided that in the four cases mentioned, the fraud be committed by any of the following means:

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.**¹⁸

The elements of the said crime are as follows: (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.¹⁹



¹⁸ Emphasis ours.

¹⁹ *Franco v. People*, 658 Phil. 600, 613 (2011).

However, the crime petitioner Norma Gamaro was convicted of is estafa under Article 315, paragraph 1(b) of the Revised Penal Code:

Article 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 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.

x x x²⁰

The elements of estafa under Article 315, paragraph 1(b) are as follows: (1) 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; (2) that there is a misappropriation or conversion of such money or property by the offender or a denial of the receipt thereof; (3) that the misappropriation or conversion or denial is to the prejudice of another; and (4) that there is a demand made by the offended party on the offender.²¹

The question then is whether the facts in the Information do indeed constitute the crime of which petitioner Norma Gamaro was convicted. In other words, was the RTC correct in convicting her of estafa under Article 315, paragraph 1(b) instead of paragraph 2(a)?

What is of vital importance to determine is whether or not petitioner Norma Gamaro was convicted of a crime charged in the Information as embraced within the allegations contained therein. A reading of the Information yields an affirmative answer. The Information filed sufficiently charges estafa through misappropriation or conversion. Fineza entrusted petitioner Norma Gamaro with the pieces of jewelry amounting to ₱2,292,519.00 on the condition that the same will be sold for profit. Petitioner Norma Gamaro was under obligation to turn over the proceeds of the sale to Fineza. However, instead of complying with the obligation, she

²⁰ Emphasis ours.

²¹ *D'Aigle v. People*, 689 Phil. 480, 489 (2012); *Asejo v. People*, 555 Phil. 106, 112-113 (2007).

pawned the pieces of jewelry to M. Lhuillier Pawnshop where petitioner Umali worked as Branch Manager and kept the proceeds thereof to the damage and prejudice of Fineza.

Paragraph 1(b) provides liability for estafa committed 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 that obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property. This, at least, is very clearly shown by the factual allegations of the Information.²²

There is, therefore, no ambiguity in the Information. The factual allegations therein sufficiently inform petitioners of the acts constituting their purported offense and satisfactorily allege the elements of estafa by misappropriation. Petitioners are fully apprised of the charge against them and for them to suitably prepare their defense. Therefore, petitioner Norma Gamaro was not deprived of any constitutional right. She was sufficiently apprised of the facts that pertained to the charge and conviction for estafa, because the RTC has the discretion to read the Information in the context of the facts alleged. In the case of *Flores v. Hon. Layosa*,²³ We explained the rationale behind this discretion in this manner:

From a legal point of view, and in a very real sense, it is of no concern to the accused what is the technical name of the crime of which he stands charged. It in no way aids him in a defense on the merits. Whatever its purpose may be, its result is to enable the accused to vex the court and embarrass the administration of justice by setting up the technical defense that the crime set forth in the body of the information and proved in the trial is not the crime characterized by the fiscal in the caption of the information. **That to which his attention should be directed, and in which he, above all things else, should be most interested, are the facts alleged. The real question is not did he commit a crime given in the law some technical and specific name, but did he perform the acts alleged in the body of the information in the manner therein set forth.** If he did, it is of no consequence to him, either as a matter of procedure or of substantive right, how the law denominates the crime which those acts constitute. The designation of the crime by name in the caption of the information from the facts alleged in the body of that pleading is a conclusion of law made by the fiscal. In the designation of the crime the accused never has a real interest until the trial has ended. For his full and complete defense he need not know the name of the crime at all. It is of no consequence whatever for the protection of his substantial rights... **If he performed the acts alleged, in the manner, stated, the law determines what the name of the crime is and fixes the penalty therefore. It is the**

²² *Espino v. People*, *supra* note 15, at 391.

²³ *Supra* note 16.



province of the court alone to say what the crime is or what it is named x x x.²⁴

Also, the prosecution was able to prove the crime of estafa under paragraph 1(b). As held by the CA, Fineza positively and categorically testified on the transaction that transpired between her and petitioners and accused Rowena Gamaro. The failure to account upon demand, for funds or property held in trust, is circumstantial evidence of misappropriation. As mentioned, petitioner Norma Gamaro failed to account for, upon demand, the jewelry which was received by her in trust. This already constitutes circumstantial evidence of misappropriation or conversion to petitioner's own personal use. The failure to return upon demand the properties which one has the duty to return is tantamount to appropriating the same for his own personal use.²⁵ As in fact, in this case, Fineza, herself redeemed the pieces of jewelry using her own money.

The essence of this kind of *estafa* is the appropriation or conversion of money or property received to the prejudice of the entity to whom a return should be made. The words convert and misappropriate connote the act of using or disposing of another's property as if it were one's own, or of devoting it to a purpose or use different from that agreed upon. To misappropriate for one's own use includes not only conversion to one's personal advantage, but also every attempt to dispose of the property of another without right. In proving the element of conversion or misappropriation, a legal presumption of misappropriation arises when the accused fails to deliver the proceeds of the sale or to return the items to be sold and fails to give an account of their whereabouts.²⁶

Thus, petitioners having been adequately informed of the nature and cause of the accusation against them, petitioner Norma Gamaro could be convicted of the said offense, the same having been proved.

Furthermore, We are not persuaded by the argument raised by petitioners that the testimony of prosecution witness Atty. Baldeo violated the rule on "privileged communication between attorney and client" for the reason that Atty. Baldeo allegedly gave petitioner Norma Gamaro "advise" regarding her case.

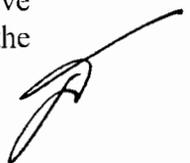
The factors essential to establish the existence of the privilege are:

(1) There exists an attorney-client relationship, or a prospective attorney-client relationship, and it is by reason of this relationship that the client made the communication;

²⁴ *Id.* at 1034. (Emphases supplied.)

²⁵ *D'Aigle v. People*, *supra* note 21, at 491.

²⁶ *Pamintuan v. People*, 635 Phil. 514, 522 (2010).



(2) The client made the communication in confidence;

(3) The legal advice must be sought from the attorney in his professional capacity.²⁷

The mere relation of attorney and client does not raise a presumption of confidentiality. The client must intend the communication to be confidential. A confidential communication refers to information transmitted by voluntary act of disclosure between attorney and client in confidence and by means which, so far as the client is aware, discloses the information to no third person other than one reasonably necessary for the transmission of the information or the accomplishment of the purpose for which it was given. The communication made by a client to his attorney must not be intended for mere information, but for the purpose of seeking legal advice from his attorney as to his rights or obligations. The communication must have been transmitted by a client to his attorney for the purpose of seeking legal advice.²⁸

Applying the rules to the case at bar, We hold that the evidence on record fails to substantiate petitioner's allegation. The testimony of Atty. Baldeo consisted merely of observations that petitioner Norma Gamaro was indeed engaged in the business of selling jewelry supplied by private complainant Fineza. We note that the testimony is merely corroborative to the testimony of private complainant Fineza. Atty. Baldeo is an officemate of petitioner Norma Gamaro. Atty. Baldeo testified primarily on the fact that she personally saw petitioner Gamaro, on several occasions, showing the jewelry for sale to their officemates. As in fact, Atty. Baldeo was offered to buy the pieces of jewelry on some instances, and she was told by petitioner Norma Gamaro that the pieces of jewelry came from Fineza.²⁹

The aforesaid testimony of Atty. Baldeo was considered by the RTC to dispute the defense of petitioner Norma Gamaro that she had no involvement in the jewelry business of her daughters:

Thus, based on the testimony of Atty. Baldeo in this case and in the aforementioned administrative case, accused Norma Gamaro's defense of denial of her participation in the business transaction involving the sale of jewelry supplied by private complainant, fall flat on its face.³⁰

Lastly, the argument of petitioner Norma Gamaro that the RTC erred in finding that she was the one who received the pieces of jewelry is a finding of fact. It is a well-entrenched doctrine that factual findings of the

²⁷ *Mercado v. Atty. Vitriolo*, 498 Phil. 49, 58-60 (2005).

²⁸ *Id.* at 60.

²⁹ *Rollo*, p. 96.

³⁰ *Id.* at 97.



trial court, especially when affirmed by the appellate court, are accorded the highest degree of respect and are considered conclusive between the parties. Though jurisprudence recognizes highly meritorious exceptions, none of them obtain herein which would warrant a reversal of the challenged Decision.³¹

We stick to the findings of fact of the RTC which was sustained by the CA that petitioner Norma Gamaro received some pieces of jewelry from Fineza, and accused Rowena Gamaro pawned the jewelry entrusted to them by Fineza which is a clear act of misappropriation, thus:

x x x x. The attempt of the defense to exculpate Norma and Josephine through the testimony of Frederick San Diego is understandable. The argument, however, that it was Frederick San Diego, upon instructions of Rowena Gamaro who pledged the jewelry, without the knowledge of Norma or Josephine is unavailing. The records show that Frederick San Diego is not only a mere nephew of Norma, and cousin to Rowena and Josephine, but also the messenger and collector of Rowena, who had knowledge of the fact that Rowena's partner was the private complainant, Frederick San Diego also knew that the private complainant went to the house of Norma asking the missing jewelry.

As earlier stressed, some of the jewelry were delivered by the private complainant to Norma Gamaro, not Rowena Gamaro. Yet the defense admits that Frederick San Diego pledged the same pieces of jewelry to M. Lhuillier Pawnshop, Cebuana Lhuillier, and the owner of Collette's upon instructions of Rowena Gamaro. Clearly then, Norma turned over the said jewelry to Rowena with knowledge that they will be pledged to the pawnshops and to the owner of Collette's. To hold otherwise would run counter to human nature and experience.³²

It must be stressed that the prosecution offered in evidence the eighteen (18) index cards given by accused Rowena Gamaro to Fineza stating the pieces of jewelries that were given to them by Fineza, with the corresponding appraised values. The due dates of the checks issued in favor of Fineza (Exhibits "F" to "F-7" and "F-11" "F-27") were also indicated on the index cards.³³ The pieces of jewelry were pawned to various pawnshops and individuals, instead of offering them for sale. Hence, petitioner Norma Gamaro failed to return the jewelry to the damage and prejudice of Fineza. She even offered her house and lot to Fineza as payment for the jewelry.

We agree with the findings of the RTC and the CA that petitioner Norma Gamaro was guilty beyond reasonable doubt of *estafa*. The CA ruled that the prosecution's evidence showed that Fineza entrusted the possession of the jewelry to petitioner. The CA observed that the prosecution duly proved petitioner's misappropriation by showing that she

³¹ *D'Aigle v. People*, *supra* note 21, at 492.

³² *Rollo*, pp. 95-96. (Emphasis supplied.)

³³ *Id.* at 94.



failed to return the diamond ring upon demand. That misappropriation took place was strengthened when petitioner Norma Gamaro informed Fineza that they pawned the jewelry, an act that ran counter to the terms of their business agreement.

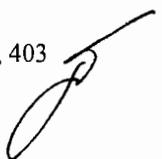
Likewise, as to the civil liability of Umali despite her acquittal, We note the declaration of the RTC that Umali had knowledge as to who owned the jewelry pledged with M. Lhuiller Pawnshop. The RTC further pointed out that Umali was part of the business transaction between Norma Gamaro and Rowena Gamaro with Fineza, as she too signed the Joint Solidary Account Agreement with Banco Filipino to enable them to open a checking account. It was against this account that Norma and Rowena Gamaro drew the checks that they issued to guarantee the share of Fineza from the proceeds of the sale of the pieces of jewelry. These findings support the conclusion of the CA that Umali's acquittal was based on reasonable doubt. Hence, Umali's civil liability was not extinguished by her discharge.³⁴ We, therefore, concur with the findings of the CA:

On the other hand, We likewise find appellant Umali civilly liable to private complainant Fineza. As may be recalled, appellant Umali was exonerated from the crime of *estafa*. Notwithstanding, she is not entirely free from any liability towards private complainant Fineza. It has been held that an acquittal based on reasonable doubt that the accused committed the crime charged does not necessarily exempt her from civil liability where a mere preponderance of evidence is required.³⁵ There is no question that the evidence adduced by the prosecution is preponderant enough to sustain appellant Umali's civil liability. Accordingly, We agree with the court *a quo*'s ratiocination in this wise:

“What militates against the posture of Josephine is the admission by Frederick that it was Rowena Gamaro who instructed him to pledge the jewelry to M. Lhuiller Pawnshop. If this were true, then, with more reason Josephine had knowledge as to who owns the jewelry. It may well be pointed out, as earlier stated, that Josephine is part of the business transaction between Norma and Rowena with the private complainant, as she too signed the Joint Solidary Account Agreement with Banco Filipino purposely to enable them to open a checking account, and it was against this account that Norma and Rowena drew the checks that they issued to guarantee the share of Joan from the proceeds of the sale of the jewelry. It follows then that Josephine also knows beforehand who owns the jewelry pledged with her (*sic*) M. Lhuillier Pawnshop Branch. x x x”

³⁴ *Dr. Lumantas v. Spouses Calapiz*, 724 Phil. 248, 253 (2014); *Manantan v. Court of Appeals*, 403 Phil. 298, 310 (2001).

³⁵ *Manahan, Jr. v. Court of Appeals*, 325 Phil. 484, 499 (1996)

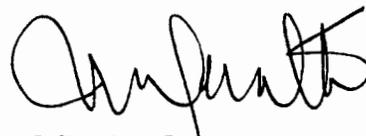


With the foregoing premises considered, We sustain the court *a quo*'s ruling that herein appellants be held jointly and solidarily liable to herein private complainant Fineza. Thus, there is no cogent reason to depart from the ruling of the court *a quo*.³⁶

There is no reason for this Court to review the findings when both the appellate and the trial courts agree on the facts.³⁷ We, therefore, adopt the factual findings of the lower courts in totality, bearing in mind the credence lent to their appreciation of the evidence.

WHEREFORE, the petition is **DENIED**. The Decision of the Court of Appeals dated November 25, 2013, and its Resolution dated February 21, 2014 in CA-G.R. CR No. 34454 are **AFFIRMED**.

SO ORDERED.



DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:



ANTONIO T. CARPIO
Associate Justice
Chairperson



LUCAS P. BERSAMIN
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice

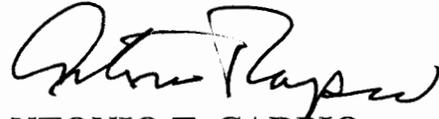
On official leave
MARVIC M.V.F. LEONEN
Associate Justice

³⁶ Rollo, pp. 55-56.

³⁷ *Espino v. People*, *supra* note 15, at 392.

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, 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.



ANTONIO T. CARPIO
Acting Chief Justice

