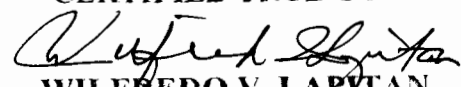




Republic of the Philippines  
**Supreme Court**  
 Manila

CERTIFIED TRUE COPY  
  
 WILFREDO V. LAPID  
 Division Clerk of Court  
 Third Division

JUL 11 2018

**THIRD DIVISION**

**ILUMINADA BATAC,**  
 Petitioner,

**G.R. No. 191622**

**Present:**

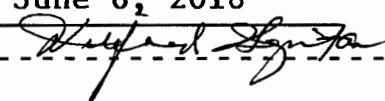
VELASCO, JR., J.  
*Chairperson,*  
 BERSAMIN,  
 LEONEN,  
 MARTIRES, and  
 GESMUNDO, JJ.

- versus -

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

Promulgated:

June 6, 2018

X -----  ----- X

**RESOLUTION**

**MARTIRES, J.:**

Before this Court is a petition for review under Rule 45 of the Rules of Court, filed by petitioner Iluminada Batac (*Batac*) assailing the Decision<sup>1</sup> of the Court of Appeals (*CA*) dated 6 November 2009 in CA-G.R. CR No. 29462.

The CA affirmed the decision of the Regional Trial Court (*RTC*) in Criminal Case No. SCC-3026, finding Batac guilty beyond reasonable doubt of Estafa defined under Article 315, paragraph 2(d) of the Revised Penal Code (*RPC*), as amended by Republic Act (*R.A.*) No. 4885, committed against private complainant Roger L. Frias (*Frias*).



<sup>1</sup> *Rollo*, pp. 56-72; penned by Associate Justice Jane Aurora C. Lantion, and concurred in by Associate Justices Mario L. Guarina III and Mariflor P. Punzalan Castillo.

Batac was charged as follows:

That sometime on November 8, 1998, in the public market, municipality of Malasiqui, [P]rovince of Pangasinan, Philippine[s], and within the jurisdiction of this Honorable Court, the above-named accused, knowing fully well that she had no funds in the bank to cover the amount of the checks, by means of false pretenses and deceit and with intent to defraud, did then and there willfully, unlawfully and feloniously make, issue and deliver to [Frias] several post-dated checks, to wit:

Check No.	Drawee Bank	Amount	Date
0050275	Prime Bank, Calasiao	P8,000.00	Nov. 18, 1998
0050278	-do-	8,500.00	-do-
0050263	-do-	8,000.00	-do-
0050265	-do-	7,500.00	-do-
0050277	-do-	8,000.00	-do-
0050262	-do-	8,000.00	-do-
0050260	-do-	8,500.00	Nov. 16, 1998
0050266	-do-	8,500.00	-do-
0050267	-do-	8,500.00	-do-
0050256	-do-	7,000.00	Nov. 12, 1998
0050257	-do-	5,000.00	-do-
0050255	-do-	8,000.00	-do-
0050258	-do-	5,000.00	Nov. 10, 1998
0050259	-do-	<u>5,000.00</u>	-do-
		P103,500	

in the amount of P103,500.00 and [Frias] accepted the said checks in a rediscounting manner after being convinced that [Batac] had sufficient funds in the bank and when said checks were presented for encashment with the drawee bank on their respective due dates, all checks were returned unpaid for reasons of "ACCOUNT CLOSED", and despite repeated demands made upon her, accused failed and refused and still fails and refuses to make good her checks, to the damage and prejudice of [Frias] in the total amount P103,500.00.

Contrary to Article 315, par. 2(d) of the Revised Penal Code.<sup>2</sup>

When arraigned, Batac pleaded not guilty, and trial thereafter ensued.

### THE FACTS

Frias recounted that on 8 November 1998, Batac and one Erlinda Cabardo (*Erlinda*) went to his store, located inside the public market of the Municipality of Malasiqui, Pangasinan, to have her checks rediscounted. When Batac assured Frias that the checks were hers and were duly funded, he was persuaded to buy a total of fourteen (14) checks at a rediscounted rate

<sup>2</sup> Id. at 21-22.

of five percent (5%) of the total aggregate amount. Batac thereafter affixed her signature on the face of the checks in the presence of Frias.

Upon the due dates stated on the checks, Frias attempted to deposit the checks to his bank accounts. However, the drawee bank – Prime Bank, Calasiao Branch, Poblacion West, Calasiao, Pangasinan – refused payment for the reason “Account Closed” and thus returned the checks to Frias. Frias then proceeded to Batac’s house to demand from her payment of the equivalent amount of the said checks, giving her five (5) days within which to complete payment. Batac failed to do so, prompting Frias to file the present case for estafa.

On the other hand, Batac maintains that it was Erlinda who issued and delivered the checks to Frias for rediscounting; and that she had never met nor transacted business with Frias. According to Batac, further raising doubt on Frias’ assertions is the fact that the proceeds being claimed still amounts to ₱103,500.00, the aggregate amount of the checks involved, when there should have been a rediscounting fee of 5%; thus casting doubt on whether there was a rediscounting transaction at all. Consequently, Batac asserts, there is reasonable doubt that she committed estafa. Furthermore, Batac claims that if she has any criminal liability at all, it would only be for violation of Batas Pambansa Blg. 22 (*B.P. Blg. 22*), or the Bouncing Checks Law, instead of estafa.

After trial, the RTC found Batac guilty beyond reasonable doubt of the crime of estafa. The dispositive portion of the decision reads:

WHEREFORE, premises considered, Iluminada Batac is hereby found guilty beyond reasonable doubt as principal for estafa, defined under Article 315 2(d) of the Revised Penal Code, and she is hereby sentenced to an indeterminate penalty of imprisonment of 2 years, 10 months and 21 days of *arresto mayor* as minimum and 12 years of *prision mayor* as maximum.

Iluminada Batac is ordered to reimburse private complainant Roger Frias the amount of PhP103,500.00 with interest computed from the date of this decision.<sup>3</sup>

On appeal, the CA affirmed Batac’s conviction. According to the CA, the prosecution was able to establish all the elements of estafa under Article 315, paragraph 2(d) of the RPC. The CA ruled that it was Batac’s representations that the checks were funded which induced Frias to buy them at a rediscounted rate, to his damage and prejudice; and that Batac’s knowledge of the insufficiency of funds was clearly established by her express admission. The CA, however, modified the penalty imposed.



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<sup>3</sup> Id. at 26.

The dispositive portion of the CA decision reads:

**WHEREFORE**, premises considered, the assailed Decision of the First Judicial Region, Regional Trial Court, Branch 56, San Carlos City, Pangasinan, in Criminal Case No. SCC-3026 is **AFFIRMED** with **MODIFICATION**. Accused-appellant Iluminada Batac is sentenced to an indeterminate penalty of imprisonment of 4 years and 2 months of *prision correccional* as minimum to 14 years, 8 months and 21 days of *reclusion temporal* as maximum.

By way of restitution, Iluminada Batac is **ORDERED** to **PAY** the offended party, Roger L. Frias, the amount of one hundred three thousand five hundred [pesos] (Php103,500.00) plus six (6%) percent interest per annum, counting from the filing of this case, i.e., 25 March 1999 up to the time [o]ur Decision becomes final and executory. Thereafter, the amount due shall further earn interest at twelve (12%) percent per annum, until the obligation is satisfied. No pronouncement as to Costs.<sup>4</sup>

### THE COURT'S RULING

The Court finds no merit in the present petition.

At the outset, in contending that she should not be criminally liable for estafa because it was Erlinda, and not Batac, who issued and delivered the subject checks as well as defrauded Frias, Batac raised a factual issue.

It must be noted that only questions of law may be raised in a petition for review on certiorari. The resolution of the issue must rest solely on what the law provides on the given set of circumstances.<sup>5</sup> If the issue invites a review of the evidence presented, such as the one posed by Batac, the question posed is one of fact.<sup>6</sup> While the Court has admitted exceptions to this rule,<sup>7</sup> it does not appear that any of those exceptions was alleged,

<sup>4</sup> Id. at 71-72.

<sup>5</sup> *Century Iron Works, inc. v. Bañas*, 711 Phil. 576, 585-586 (2013).

<sup>6</sup> Id. at 586.

<sup>7</sup> *Pascual v. Burgos*, 776 Phil. 167, 182-183 (2016), where the Court, citing *Medina v. Mayor Asistio Jr.*, 269 Phil. 225, 232 (1990) reiterated the exceptions, viz:

- (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (2) When the inference made is manifestly mistaken, absurd or impossible;
- (3) Where there is a grave abuse of discretion;
- (4) When the judgment is based on a misapprehension of facts;
- (5) When the findings of fact are conflicting;
- (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) The findings of the Court of Appeals are contrary to those of the trial court;
- (8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
- (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and
- (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record.

substantiated, and proven by Batac. Thus, the factual findings of the courts *a quo* is binding upon this Court.<sup>8</sup>

Both the RTC and the CA correctly gave credence to Frias' testimony that Batac, together with Erlinda, personally met with him at his store and represented to him that the checks were funded. This was corroborated by his sister Ivy Luna Frias (*Ivy*), who testified that she was present during the transaction in question and that the exchange between Batac and Frias, as narrated by the latter, was consistent with Ivy's recollection.<sup>9</sup>

To controvert Frias' positive identification, Batac merely offered the defense of denial, as in fact in her petition she merely insists that it was Erlinda, not she, who committed the crime, without laying any basis for such conclusion. The Court has held that "positive identification destroys the defense of alibi and renders it impotent, especially where such identification is credible and categorical."<sup>10</sup> There is no reason to doubt the credibility of the identification made by Frias, as corroborated by Ivy.

Moreover, the finding by the RTC of such fact, especially since it has been affirmed by the CA, is binding upon this Court.

The identity of Batac as a party to the subject transaction having been established, the issue now is whether Batac's guilt for the crime of estafa under Article 315, paragraph 2(d) of the RPC has been proven beyond reasonable doubt, as provided as follows:

2. By means of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

x x x x

- d) By postdating a check, or issuing a check in payment of an obligation when the offender had no funds in the bank, or his funds deposited therein were not sufficient to cover the amount of the check. The failure of the drawer of the check to deposit the amount necessary to cover his check within three (3) days from receipt of notice from the bank and/or payee or holder that said check has been dishonored for lack or insufficiency of funds shall be *prima facie* evidence of deceit constituting false pretense or fraudulent act.

Jurisprudence has consistently held that such estafa consists of the following elements: (1) the offender has postdated or issued a check in payment of an obligation contracted at the time of the postdating or issuance;

<sup>8</sup> Id. at 182.

<sup>9</sup> TSN, 19 January 2001, pp. 3-8.

<sup>10</sup> *People v. Anticamara*, 666 Phil. 484, 508 (2011).

(2) at the time of postdating or issuance of said check, the offender has no funds in the bank or the funds deposited are not sufficient to cover the amount of the check; and (3) the payee has been defrauded.<sup>11</sup>

It has been settled in jurisprudence that in the above-defined form of estafa, it is not the nonpayment of a debt which is made punishable, but the criminal fraud or deceit in the issuance of a check.<sup>12</sup> Deceit has been defined as “the false representation of a matter of fact, whether by words or conduct by false or misleading allegations or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury.”<sup>13</sup>

In *People v. Reyes*,<sup>14</sup> the Court ruled that for estafa under the above provision to prosper, the issuance of the check must have been the inducement for the other party to part with his money or property, *viz*:

To constitute estafa under this provision, the act of postdating or issuing a check in payment of an obligation must be the efficient cause of the defraudation; as such, it should be either prior to or simultaneous with the act of fraud. **The offender must be able to obtain money or property from the offended party because of the issuance of the check, whether postdated or not.** It must be shown that the person to whom the check was delivered would not have parted with his money or property were it not for the issuance of the check by the other party. Stated otherwise, **the check should have been issued as an inducement for the surrender by the party deceived of his money or property and not in payment of a pre-existing obligation.**<sup>15</sup> (emphasis and underlining supplied)

The prosecution sufficiently demonstrated Batac's deceit when it established that the latter induced Frias into buying the checks at a rediscounted rate by representing to him that she had enough funds in her account to cover them. In an effort to support her misrepresentation and further persuade Frias to believe her, Batac conveyed to him that she was a school teacher,<sup>16</sup> presumably as a guarantee of her good reputation. Batac also signed the postdated checks in Frias' presence,<sup>17</sup> presumably as a measure of good faith and an assurance that the signature therein was genuine. All these induced Frias to part with his money.

Further highlighting Batac's deceit was her knowledge, at the time she issued the subject checks, that she had no sufficient funds in her account to

<sup>11</sup> *Lopez v. People*, 578 Phil. 486, 491-492.

<sup>12</sup> *Id.* at 492.

<sup>13</sup> *Id.*

<sup>14</sup> 298 Phil. 661 (1993).

<sup>15</sup> *Id.* at 669.

<sup>16</sup> TSN, 8 February 2000, pp. 13-20; TSN, 19 January 2001, pp. 3-8.

<sup>17</sup> *Id.*

cover the amount involved. During trial, she expressly admitted that at the time she issued them, she only had a little over one thousand pesos in her account.<sup>18</sup> Moreover, when informed by Frias of the dishonor of the checks, Batac failed to pay the amounts thereon within the 5-day grace period given to her by Frias, prompting him to file the instant case.<sup>19</sup>

There is thus no merit to Batac's contention that, at most, she can only be held liable for violation of B.P. Blg. 22. While sourced from the same act, i.e., the issuance of a check subsequently dishonored, estafa and violation of B.P. Blg. 22 are separate and distinct from each other because they pertain to different causes of action.<sup>20</sup> The Court has held that, among other differences, damage and deceit are essential elements for estafa under Article 315 2(d) of the RPC, but are not so for violation under B.P. Blg. 22, which punishes the mere issuance of a bouncing check, to wit:

What petitioner failed to mention in his argument is the fact that deceit and damage are essential elements in Article 315 (2-d) [of the] Revised Penal Code, but are not required in Batas Pambansa Bilang 22. Under the latter law, mere issuance of a check that is dishonored gives rise to the presumption of knowledge on the part of the drawer that he issued the same without sufficient funds and hence punishable which is not so under the Penal Code. **Other differences between the two also include the following: (1) a drawer of a dishonored check may be convicted under Batas Pambansa Bilang 22 even if he had issued the same for a preexisting obligation, while under Article 315 (2-d) of the Revised Penal Code, such circumstance negates criminal liability; (2) specific and different penalties are imposed in each of the two offenses; (3) estafa is essentially a crime against property, while violation of Batas Pambansa Bilang 22 is principally a crime against public interest as it does injury to the entire banking system; (4) violations of Article 315 of the Revised Penal Code are mala in se, while those of Batas Pambansa Bilang 22 are mala prohibita.**<sup>21</sup> (emphasis and underlining supplied)

Batac attempts to punch holes in Frias' testimony by pointing out that the proceeds being claimed by the latter amounts to ₱103,500.00, the aggregate amount of the checks involved, when there should have been a rediscounting fee of 5%, casting doubt that there was a rediscounting transaction at all. No cloud of suspicion could be gathered from this fact alone. Frias has been defrauded of the aggregate amount of the checks she had issued, as this was the amount Frias expected to secure from the transaction: precisely, he was induced to buy the subject checks by the guarantee that he would obtain the amounts stated therein on the dates so stated, but at a price lower than the aggregate amounts on the date of the

<sup>18</sup> TSN, 1 December 2001, pp. 34-35.

<sup>19</sup> TSN, 8 February 2000, pp. 19-20.

<sup>20</sup> *Rimando v. Aldaba*, 745 Phil. 358, 364 (2014).

<sup>21</sup> *Id.*



subject transaction with Batac. The aggregate amount therein is the subject of Batac's deceit and the amount of which Frias was defrauded.

As previously discussed, Batac's deceit and the damage to Frias in the subject transaction have been duly proven by the former's own admissions and the clear, credible, and positive testimonies of the prosecution witnesses, to which Batac offered no sufficient refutation but a mere denial. Accordingly, her conviction for estafa must be upheld.

The penalty imposed by the CA, however, must be modified in view of the amendments embodied in R.A. No. 10951, to wit:

Section 85. Article 315 of the same Act, as amended by Republic Act No. 4885, Presidential Decree No. 1689, and Presidential Decree No. 818, is hereby further amended to read as follows:

Art. 315. *Swindling (estafa)*.— Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

1st. The penalty of *prisión correccional* in its maximum period to *prisión mayor* in its minimum period, if the amount of the fraud is over Two million four hundred thousand pesos (₱2,400,000) but does not exceed Four million four hundred thousand pesos (₱4,400,000), 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 (₱2,000,000); 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 the other provisions of this Code, the penalty shall be termed *prisión mayor* or *reclusion temporal*, as the case may be.

2nd. The penalty of *prisión correccional* in its minimum and medium periods, if the amount of the fraud is over One million two hundred thousand pesos (₱1,200,000) but does not exceed Two million four hundred thousand pesos (₱2,400,000).

3rd. **The penalty of *arresto mayor* in its maximum period to *prisión correccional* in its minimum period, if such amount is over Forty thousand pesos (₱40,000) but does not exceed One million two hundred thousand pesos (₱1,200,000).** (emphasis and underlining supplied)

4th. By *arresto mayor* in its medium and maximum periods, if such amount does not exceed Forty thousand pesos (₱40,000): *Provided*, That in the four cases mentioned, the fraud be committed by any of the following means:



x x x x



Considering that the amount involved in the subject transaction is ₱103,500.00, the proper imposable penalty is *arresto mayor* in its maximum period to *prision correccional* in its minimum period. This has a range of 4 months and 1 day to 2 years and 4 months, with a minimum period of 4 months and 1 day to 1 year, a medium period of 1 year and 1 day to 1 year and 8 months, and a maximum period of 1 year, 8 months and 1 day to 2 years and 4 months.

Applying the Indeterminate Sentence Law (*ISL*), the minimum term, which is left to the sound discretion of the court,<sup>22</sup> should be within the range of the penalty next lower than the aforementioned penalty, which is left to the sound discretion of the court.<sup>23</sup> The penalty next lower is *arresto mayor* in its minimum and medium periods, with a range of 1 month and 1 day to 4 months. The Court now fixes the minimum at 4 months. On the other hand, the maximum term is that which, in view of the attending circumstances, could be properly imposed under the RPC rules.<sup>24</sup> Under Article 64 of the RPC, the penalty prescribed shall be imposed in its medium period when there are neither aggravating nor mitigating circumstances. Since none of these circumstances are attendant in the case at bar, the maximum term is the medium period of *arresto mayor* maximum to *prision correccional* minimum, at 1 year and 1 day to 1 year and 8 months.

In line with current policy,<sup>25</sup> the Court also modifies the rate of interest imposed by the CA. Such interest shall be imposed at the legal rate of six percent (6%) per annum on the monetary award, from the date of finality of this Decision until fully paid.

**WHEREFORE**, the 6 November 2009 Decision of the Court of Appeals in CA-G.R. CR No. 29462 is **MODIFIED** with respect to the penalty imposed on petitioner Iluminada Batac. The indeterminate sentence imposed on petitioner Iluminada Batac is hereby reduced to 4 months of *arresto mayor*, as minimum, and 1 year and 8 months of *prision correccional*, as maximum. The monetary award shall earn interest at the legal rate of six percent (6%) per annum from the date of finality of this Decision until fully paid.

In all other respects, the Decision of the Court of Appeals is **AFFIRMED**.




<sup>22</sup> *Vasquez v. People*, 566 Phil. 507, 513 (2008).

<sup>23</sup> Indeterminate Sentence Law, Section 1.

<sup>24</sup> *Id.*


<sup>25</sup> *People v. Jugueta*, 783 Phil. 806, 854 (2016) citing *Nacar v. Gallery Frames*, 716 Phil. 267, 283 (2013).

**SO ORDERED.**

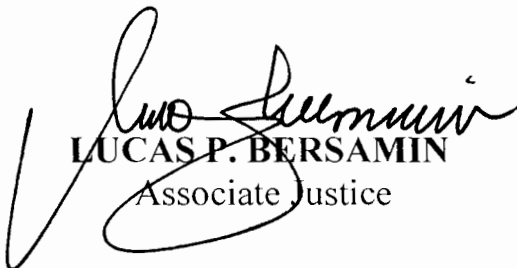


**SAMUEL R. MARTIRES**  
Associate Justice

**WE CONCUR:**



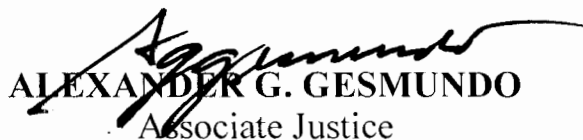
**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson



**LUCAS P. BERSAMIN**  
Associate Justice



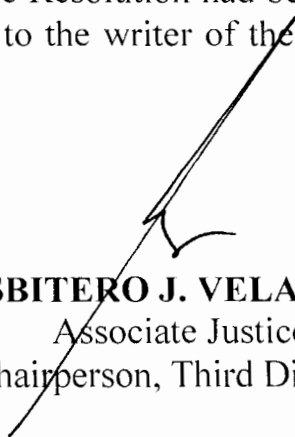
**MARVIC M.V.F. LEONEN**  
Associate Justice



**ALEXANDER G. GESMUNDO**  
Associate Justice

**ATTESTATION**

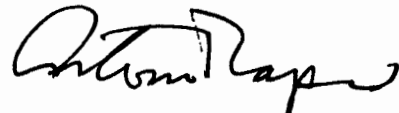
I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**PRESBITERO J. VELASCO, JR.**  
Associate Justice  
Chairperson, Third Division

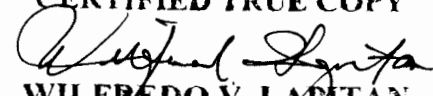
**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Senior Associate Justice  
(Per Section 12, R.A. No. 296,  
The Judiciary Act of 1948, as amended)

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**WILFREDO V. LAPITAN**  
Division Clerk of Court  
Third Division

JUL 11 2018