Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

WILFRED N. CHIOK,
Petitioner,

- versus -

PEOPLE OF THE PHILIPPINES and RUFINA CHUA,
Respondents.

G.R. No. 179814

x - x

RUFINA CHUA,
Petitioner,

- versus -

WILFRED N. CHIOK, and THE PEOPLE OF THE PHILIPPINES (as an unwilling co-party petitioner),
Respondents.

G.R. No. 180021

Present:

SERENO, *C.J.*,[*]
VELASCO, JR., Chairperson
VILLARAMA, JR.,
REYES, and
JARDELEZA, *JJ.*

Promulgated:

December 7, 2015

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DECISION

JARDELEZA, *J.*:

These are consolidated petitions[1] seeking to nullify the Court of Appeals' (CA) July 19, 2007 Decision[2] and October 3, 2007 Resolution[3] in CA-G.R. CR No. 23309. The CA reversed and set aside the December 3,

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* Designated as Additional Member per Raffle dated November 9, 2015.

1 Petition for Review on Certiorari filed by Wilfred Chiok, *rollo,* G.R. No. 179814, pp. 83-97; and Petition for Certiorari and Mandamus, and Petition for Review on Certiorari filed by Rufina Chua, *rollo*, G.R. No. 180021, pp. 36-110. We resolved to consolidate these petitions in our Resolution dated March 16, 2011; See *rollo*, G.R. No. 179814, pp. 392-393.

2 *Rollo,* G.R. No. 179814, pp. 12-48; penned by Associate Justice Lucas P. Bersamin and concurred in by Associate Justices Noel G. Tijam and Marlene Gonzales-Sison, (Special Division of Five). See dissent by Associate Justice Estela M. Perlas-Bernabe, joined by Associate Justice Marina L. Buzon, *rollo*, G.R. No. 179814, pp. 49-54.

3 *Id.* at 73-80; penned by Associate Justice Lucas P. Bersamin and concurred in by Associate Justices Noel G. Tijam, Marlene Gonzales-Sison, Estela M. Perlas-Bernabe, and Marina L. Buzon (Special Division of Five).

1998 Decision[4] of the Regional Trial Court (RTC) of Pasig-Branch 165, and acquitted petitioner Wilfred Chiok (Chiok) of the crime of *estafa* in Criminal Case No. 109927, but ordered him to pay civil liability to Rufina Chua in the total amount of ₱9,500,000.00, plus interests:

> **WHEREFORE**, the **DECISION DATED DECEMBER 3, 1998** is **REVERSED AND SET ASIDE** and accused **WILFRED N. CHIOK** is **ACQUITTED** for failure of the Prosecution to prove his guilt beyond reasonable doubt, but he is **ORDERED** to pay complainant **RUFINA CHUA** the principal amount of [₱]9,500,000.00, plus legal interest of 6% *per annum* reckoned from the filing of this case, which rate shall increase to 12% *per annum* from the finality of judgment.
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> No pronouncement on costs of suit.
>
> **SO ORDERED**.[5] (Emphasis in original)

STATEMENT OF FACTS

Chiok was charged with *estafa*, defined and penalized under Article 315, paragraph 1 (b) of the Revised Penal Code, in an Information that reads:

> That sometime in June, 1995 in the Municipality of San Juan, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, received in trust from Rufina Chua the amount of ₱9,563,900.00 for him to buy complainant shares of stocks, under the express obligation on the part of the accused to deliver the documents thereon or to return the whole amount if the purchase did not materialize, but the accused once in possession of the said amount, far from complying with his obligation as aforesaid, with intent to defraud the complainant, did then and there willfully, unlawfully and feloniously misapply, misappropriate and convert to his own personal use and benefit the said amount of ₱9,563,900.00, and despite repeated demands failed and refused and still fails and refuses to return the said amount or to account for the same, to the damage and prejudice of the complainant Rufina Chua in the aforementioned amount of ₱9,563,900.00.
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> CONTRARY TO LAW.[6]

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4 *Rollo*, G.R. No. 180021, pp. 111-133; penned by Judge Marietta A. Legaspi.
5 *Rollo,* G.R. No. 179814, pp. 47-48.
6 RTC records, Vol. I, p. 1.

Chiok pleaded not guilty to the crime charged. Thereafter, trial ensued, with both parties presenting their evidence in support of their respective claims and defenses.

According to the Prosecution, petitioner Rufina Chua (Chua) met Chiok in mid-1989, during which he offered to be her investment adviser. Convinced by Chiok's representations and the fact that he is Chinese, Chua made an initial investment of ₱200,000.00, allegedly to buy Meralco and PLDT shares. She rolled over the original investment and profits, and this went on until 1994. For each of their transactions, Chua claimed she was not given any document evidencing every stock transaction and that she only relied on the assurances of Chiok. In mid-1995, she accepted his proposal to buy shares in bulk in the amount of ₱9,563,900.00. Chua alleged that she deposited ₱7,100,000.00 to Chiok's Far East Bank, Annapolis account on June 9, 1995 and delivered to him ₱2,463,900.00 in cash later that same date at the Han Court Restaurant in Annapolis, Greenhills. As proof, she presented a deposit slip dated June 9, 1995 of Chiok's Far East Bank Annapolis account. There was no receipt or memorandum for the cash delivery.[7]

Chua narrated that she became suspicious when Chiok later on avoided her calls and when he failed to show any document of the sale. He reassured her by giving her two interbank checks, Check No. 02030693 dated July 11, 1995 for ₱7,963,900.00 and Check No. 02030694 dated August 15, 1995 in the amount of ₱1,600,000.00 (interbank checks). The interbank checks were given with the request to deposit the first check only after 60-75 days to enable him to generate funds from the sale of a property in Hong Kong. Both interbank checks were ultimately dishonored upon presentment for payment due to garnishment and insufficiency of funds. Despite Chua's pleas, Chiok did not return her money. Hence, she referred the matter to her counsel who wrote a demand letter dated October 25, 1995. Chiok sent her a letter-reply dated November 16, 1995 stating that the money was Chua's investment in their unregistered partnership, and was duly invested with Yu Que Ngo. In the end, Chua decided to file her complaint-affidavit against him in the Pasig Prosecutor's Office.[8]

In his defense, Chiok denied that he enticed Chua to invest in the stock market, or offered her the prospect of buying shares of stocks in bulk. Chiok maintained that from the time he met her in 1991 and until 1995, he previously only had dollar transactions with Chua. It was in 1995 when both of them decided to form an unregistered partnership. He admitted that the ₱7,963,900.00 she gave him before she left for the United States was her investment in this unregistered partnership. Chua allegedly instructed him to invest according to his best judgment and asked him to issue a check in her

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7 CA Decision dated July 19, 2007, *rollo,* G.R. No. 179814, pp. 13-14.

8 *Id.* at 14-15.

name for her peace of mind. Chiok denied having received the ₱2,463,900.00 in cash from her.[9]

On cross-examination, however, Chiok admitted receiving "P7.9" million in June 1995 and "P1.6" million earlier.[10] He testified that exercising his best judgment, he invested ₱8,000,000.00 with Yu Que Ngo, a businesswoman engaged in the manufacture of machine bolts and screws under the name and style of Capri Manufacturing Company.[11] Chiok narrated that Chua only panicked when she learned that he was swindled by one Gonzalo Nuguid, who supplied him with dollars.[12] It was then that she immediately demanded the return of her investment. To reassure Chua, Chiok informed her that he had invested the money with Yu Que Ngo and offered to give Yu Que Ngo's checks to replace his previously issued interbank checks.[13] Chua agreed, but instead of returning his checks, she retained them along with the checks of Yu Que Ngo. Chua rejected Yu Que Ngo's offer to settle her obligation with land and machineries, insisting on recovering the "whole amount plus interest, litigation expenses plus attorney's fees."[14] After the case was filed, Chiok and Yu Que Ngo met with Chua, accompanied by their lawyers, in an effort to amicably settle Chua's demand for the return of her funds. Chua demanded more than ₱30,000,000.00, but Chiok and Yu Que Ngo requested for a lower amount because the original claim was only ₱9,500,000.00. Chua did not grant their request.[15]

In a Decision[16] dated December 3, 1998, the RTC convicted Chiok of the crime of *estafa* (RTC conviction). Its dispositive portion reads:

> In View Of All The Foregoing, the Court hereby finds the accused Wilfred N. Chiok guilty beyond reasonable doubt of the crime of estafa under Art. 315, paragraph 1(b) of the Revised Penal Code.
>
> Applying the Indeterminate Sentence Law, the Court hereby sentences the accused to suffer imprisonment of twelve (12) years of prision mayor as minimum to twenty (20) years of reclusion temporal as maximum and to pay the costs.
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> The accused is ordered to pay the private complainant the amount of ₱9,563,900.00 with interest at the legal rate to be computed from the date of demand – October 25, 1995 until fully paid.

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9 *Id.* at 15-16.

10 Transcript of Stenographic Notes (TSN), October 13, 1997, p. 23. CA *rollo*, Vol. I, p. 1215.

11 TSN, June 3, 1997, pp. 33-34.

12 *Rollo*, G.R. No. 179814, p. 17.

13 The checks of Yu Que Ngo that were given to Chua were Metrobank Check No. 0261666961 dated August 15, 1995 for ₱2,000,000.00 and Metrobank Check No. 0261666962 dated October 15, 1995 for ₱6,000,000.00, *id.* at 17.

14 *Id.* at 16.

15 *Id.* at 17-18.

16 RTC records, Vol. II, pp. 325-345.

> For want of evidence, the Court cannot award the alleged actual damages.
>
> SO ORDERED.[17]

The prosecution filed a Motion for Cancellation of Bail[18] pursuant to Section 5, Rule 114 of the 1985 Rules on Criminal Procedure on February 1, 1999, the same day the judgment was promulgated.[19] On February 15, 1999, Chiok filed a Motion for Reconsideration[20] of the RTC conviction.

The RTC, in an omnibus order[21] dated May 28, 1999 (omnibus order), denied Chiok's motion for reconsideration, and also cancelled his bail pursuant to Section 5, Rule 114 of the 1985 Rules on Criminal Procedure. The RTC held that the circumstances of the accused indicated the probability of flight if released on bail and/or that there is undue risk that during the pendency of the appeal, he may commit another crime. Thus:

> WHEREFORE, the bail of the accused is cancelled. The accused is given five (5) days from receipt of this order within which to surrender before this Court otherwise, his arrest will be ordered.
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> SO ORDERED.[22]

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17 *Id.* at 345.

18 *Id.* at 348-356.

19 Section 5. *Bail, when discretionary*.—Upon conviction by the Regional Trial Court of an offense not punishable by death, *reclusion perpetua* or life imprisonment, the court, on application, may admit the accused to bail.

The court, in its discretion, may allow the accused to continue on provisional liberty under the same bail bond during the period of appeal subject to the consent of the bondsman.

If the court imposed a penalty of imprisonment exceeding six (6) years but not more than twenty (20) years, the accused shall be denied bail, or his bail previously granted shall be cancelled, upon a showing by the prosecution, with notice to the accused, of the following or other similar circumstances:

(a) That the accused is a recidivist, quasi-recidivist, or habitual delinquent, or has committed the crime aggravated by the circumstance of reiteration;

(b) That the accused is found to have previously escaped from legal confinement, evaded sentence, or has violated the conditions of his bail without valid justification;

(c) That the accused committed the offense while on probation, parole, or under conditional pardon;

(d) That the circumstances of the accused or his case indicate the probability of flight of released on bail; or

(e) That there is undue risk that during the pendency of the appeal, the accused may commit another crime.

The appellate court may review the resolution of the Regional Trial Court, on motion and with notice to the adverse party.

20 RTC records, Vol. II, pp. 372-383.

21 *Rollo*, G.R. No. 180021, pp. 134-152.

22 *Id.* at 151-152.

On June 18, 1999, Chiok filed a Notice of Appeal[23] on the RTC conviction and omnibus order, docketed as CA-G.R. CR No. 23309 (the appeal case) and raffled to the CA Fifteenth Division. On June 19, 1999, Chiok also filed a Petition for Certiorari and Prohibition with a prayer for Temporary Restraining Order (TRO) and/or Injunction against the omnibus order,[24] which was docketed as CA-G.R. CR No. 53340 (bail case) and raffled to the CA Thirteenth Division.

Meanwhile, the RTC issued an order of arrest[25] on June 25, 1999 (order of arrest) pursuant to the omnibus order. The order of arrest was returned to the trial court by the Makati Police Station on July 25, 1999 on the ground that Chiok could not be located at his last given address.[26]

The Bail Case

On July 27, 1999, the CA issued a TRO on the implementation of the omnibus order until further orders.[27] On September 20, 1999, the CA issued a writ of preliminary injunction[28] enjoining the arrest of Chiok. The CA ruled that Chiok should not be deprived of liberty pending the resolution of his appeal because the offense for which he was convicted is a non-capital offense, and that the probability of flight during the pendency of his appeal is merely conjectural.[29] The Office of the Solicitor General (OSG) and Chua filed a motion for reconsideration but it was denied by the CA in a Resolution dated November 16, 1999.

On November 3, 1999, the OSG representing the People of the Philippines, and Chua, filed separate petitions for certiorari before us seeking review of the CA Resolutions dated September 20, 1999 and November 16, 1999.[30] We granted the OSG's and Chua's petitions and reversed the CA's injunction on the arrest of Chiok.[31] Our decisions (SC bail decisions) became final on December 6, 2006 and June 20, 2007, respectively.

The Appeal Case

On September 21, 1999, the CA Thirteenth Division dismissed the appeal of Chiok finding him to have jumped bail when the order of arrest

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23 CA *rollo,* Vol. I, pp. 18-19.
24 *Id.* at 55-77.
25 RTC records, Vol. II, pp. 538-539.
26 *Rollo*, G.R. No. 180021, p. 46.
27 *Id.* at 514.
28 *Id.* at 509-512.
29 *Id*. at 510-511.
30 The petitions were docketed as G.R. No. 140285 and G.R. No. 140842, correspondingly.
31 *People of the Philippines v. CA and Wilfred N. Chiok,* G.R. No. 140285, September 27, 2006, 503 SCRA 417 and *Rufina Chua v. Court of Appeals and Wilfred N. Chiok,* G.R. No. 140842, April 12, 2007, 520 SCRA 729.

was returned unserved.[32] The CA considered his appeal abandoned, dismissing it pursuant to Section 8, Rule 124 of the 1985 Rules on Criminal Procedure. However, on February 29, 2000, the CA reinstated Chiok's appeal when it learned of the issuance of the TRO and injunction in the bail case on September 20, 1999 or a day prior to the appeal's dismissal.[33]

Proceedings before the CA ensued. Chiok filed his Appellant's Brief[34] dated August 28, 2003 while the OSG filed its Appellee's Brief[35] dated December 23, 2003. Chiok submitted his Reply Brief[36] dated April 14, 2004 while the OSG and Chua replied through their Rejoinder Briefs[37] dated October 6, 2004.

On July 19, 2007, the CA in a Special Division of Five (Former Fourth Division) rendered a Decision reversing and setting aside the Decision dated December 3, 1998 of the trial court, and acquitted Chiok for failure of the prosecution to prove his guilt beyond reasonable doubt (CA acquittal).

The CA found that the RTC conviction did not contain findings of fact on the prosecution's evidence but merely recited the evidence of the prosecution as if such evidence was already proof of the ultimate facts constituting *estafa*. Instead of relying on the strength of the prosecution's evidence, the trial court relied on the weakness of the defense. It found that Chua's testimony, which was the sole evidence of the prosecution, was inconsistent and improbable. Specifically, it was irregular that Chua was not able to produce any single receipt or documentary evidence of all the alleged stock dealings which spanned for a long period of six years with Chiok–the purpose of which was to prove that he misappropriated the amount contrary to her instructions of investing it to blue chip stocks. More importantly, the acceptance by Chua of the checks issued by Yu Que Ngo ratified his application of the funds based on the instructions to invest it. Simply put, the prosecution was not able to prove the element of misappropriation (*i.e.,* deviation from Chua's instructions). As to the civil aspect, the CA found Chiok liable to Chua for the amount of ₱9,500,000.00,[38] the amount he admitted on record.

The OSG did not file a motion for reconsideration on the ground of double jeopardy. Chua, on the other hand, filed a motion for reconsideration[39] on August 8, 2007. Chiok also filed his own motion for reconsideration,[40] on the civil liability imposed on him.

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32 CA *rollo*, Vol. I, p. 28.
33 *Rollo*, G.R. No. 180021, pp. 513-515.
34 CA *rollo*, Vol. III, pp. 113-177.
35 *Id.* at 356-388.
36 *Id.* at 547-566.
37 *Id*. at 865-904.
38 *Rollo*, G.R. No. 179814, p. 36.
39 CA *rollo,* Vol. III, pp. 962-996.
40 *Rollo*, G.R. No. 179814, pp. 60-71.

In a Resolution[41] dated October 3, 2007, the CA denied Chua's motion for reconsideration and its supplement on the ground that acquittal is immediately final and the re-examination of the record of the case would violate the guarantee against double jeopardy. It also denied the motions for reconsideration of both parties on the civil aspect of the case.

Hence, these consolidated petitions questioning the CA acquittal by way of a petition for certiorari and mandamus, and the civil aspect of the case by way of appeal by certiorari.

Issues

The consolidated petitions raise the following issues:

I. Whether or not Chua has a legal personality to file and prosecute this petition.

II. Whether or not the case is an exception to the rule on finality of acquittal and the doctrine of double jeopardy.

III. Whether or not Chiok is civilly liable to Chua.

Discussion

I. Chua lacks the legal personality to file this petition.

Chua argues that her petition should be allowed because the circumstances of this case warrant leniency on her lack of personality to assail the criminal aspect of the CA acquittal. She argues that "the OSG did not take any action to comment on the position of Chua [and] that this case belongs to the realm of exceptions to the doctrine of double jeopardy."[42]

We disagree with Chua.

Chua lacks the personality or legal standing to question the CA Decision because it is only the OSG, on behalf of the State, which can bring actions in criminal proceedings before this Court and the CA.

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41 *Id.* at 73-80.

42 *Rollo,* G.R. No. 180021, p. 70.

In *Villareal v. Aliga,*[43] we upheld the doctrine that it is only the OSG, as representative of the State, which may question the acquittal of the accused *via* a petition for certiorari under Rule 65, *viz*:

> x x x **The authority to represent the State in appeals of criminal cases before the Supreme Court and the CA is solely vested in the Office of the Solicitor General (OSG).** Section 35 (1), Chapter 12, Title III, Book IV of the 1987 Administrative Code explicitly provides that the OSG shall represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. It shall have specific powers and functions to represent the Government and its officers in the Supreme Court and the CA, and all other courts or tribunals in all civil actions and special proceedings in which the Government or any officer thereof in his official capacity is a party. The OSG is the law office of the Government.
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> **To be sure, in criminal cases, the acquittal of the accused or the dismissal of the case against him can only be appealed by the Solicitor General, acting on behalf of the State.** The private complainant or the offended party may question such acquittal or dismissal only insofar as the civil liability of the accused is concerned. In a catena of cases, this view has been time and again espoused and maintained by the Court. In *Rodriguez v. Gadiane*, it was categorically stated that if the criminal case is dismissed by the trial court or if there is an acquittal, the appeal on the criminal aspect of the case must be instituted by the Solicitor General in behalf of the State. The capability of the private complainant to question such dismissal or acquittal is limited only to the civil aspect of the case. The same determination was also arrived at by the Court in *Metropolitan Bank and Trust Company v. Veridiano II*. In the recent case of *Bangayan, Jr. v. Bangayan*, the Court again upheld this guiding principle.
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> x x x
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> Thus, the Court has definitively ruled that in a criminal case in which the offended party is the State, the interest of the private complainant or the private offended party is limited to the civil liability arising therefrom. **If a criminal case is dismissed by the trial court or if there is an acquittal, an appeal of the criminal aspect may be undertaken, whenever legally feasible, only by the State through the Solicitor General.** As a rule, only the Solicitor General may represent the People of the Philippines on appeal. The private offended party or

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[43] G.R. No. 166995, January 13, 2014, 713 SCRA 52, 64-66, citing *Bautista v. Cuneta-Pangilinan*, G.R. No. 189754, October 24, 2012, 684 SCRA 521, 534-537.

> complainant may not undertake such appeal. (Emphasis supplied)

The rationale behind this rule is that in a criminal case, the party affected by the dismissal of the criminal action is the State and not the private complainant.[44] The interest of the private complainant or the private offended party is limited only to the civil liability.[45] In the prosecution of the offense, the complainant's role is limited to that of a witness for the prosecution such that when a criminal case is dismissed by the trial court or if there is an acquittal, an appeal therefrom on the criminal aspect may be undertaken only by the State through the Solicitor General.[46] The private offended party or complainant may not take such appeal, but may only do so as to the civil aspect of the case.[47]

Although there are instances when we adopt a liberal view and give due course to a petition filed by an offended party, we direct the OSG to file its comment.[48] When through its comment, the OSG takes a position similar to the private complainant's, we hold that the OSG ratifies and adopts the private complainant's petition as its own.[49] However, when the OSG in its comment neither prays that the petition be granted nor expressly ratifies and adopts the petition as its own, we hesitate in disregarding, and uphold instead, the rule on personality or legal standing.[50]

In this case, the OSG neither appealed the judgment of acquittal of the CA nor gave its conformity to Chua's special civil action for certiorari and mandamus. In its Comment[51] dated March 27, 2008, the OSG is of the view that Chua's petition will place Chiok in double jeopardy:

> x x x Notably, while petitioner [Chua] imputes grave abuse of discretion on the Court of Appeals in acquitting private respondent, a perusal of the allegations will reveal errors of judgment in the appreciation of evidence, not error of jurisdiction. Verily, petitioner contends that the Court of Appeals abused its discretion when it pronounced that "we have also reviewed the evidence of the accused in order to satisfy ourselves about the essential question of misappropriation or conversion" and hold thereafter that "review now justifies us to pronounce that his version on the matter was probably credible." Petitioner argues that a simple review of the evidence of respondent accused readily leads to the conclusion that it is very far from being probably credible.

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44 *People v. Piccio*, G.R. No. 193681, August 6, 2014, 732 SCRA 254, 261-262. Citations omitted.
45 *People v. Santiago*, G.R. No. 80778, June 20, 1989, 174 SCRA 143.
46 *Id.*
47 *Id.*
48 See *Montañez v. Cipriano*, G.R. No. 181089, October 22, 2012, 684 SCRA 315.
49 *Id.* at 322.
50 *Villareal v. Aliga, supra* at 66.
51 *Rollo*, G.R. No. 179814, pp. 302-315.

> Clearly, the errors ascribed to the Court of Appeals are errors that go deeply into the appreciation and assessment of the evidence presented by the prosecution and the defense during the trial. Thus, the present petition smacks in the heart of the Court of [Appeals'] appreciation of evidence x x x.[52]

In view of the contrary position of the OSG, we do not subscribe to Chua's view that the circumstances of this case warrant the relaxation on the rule. Even if we do relax this procedural rule, we find that the merits of the case still calls for the dismissal of Chua's petition.

II. The appeal from the judgment of acquittal will place Chiok in double jeopardy.

The 1987 Constitution, as well as its predecessors, guarantees the right of the accused against double jeopardy.[53] Section 7, Rule 117 of the 1985 and 2000 Rules on Criminal Procedure strictly adhere to the constitutional proscription against double jeopardy and provide for the requisites in order for double jeopardy to attach. For double jeopardy to attach, the following elements must concur: (1) a valid information sufficient in form and substance to sustain a conviction of the crime charged; (2) a court of competent jurisdiction; (3) the accused has been arraigned and had pleaded; and (4) the accused was convicted or acquitted or the case was dismissed without his express consent.[54]

In order to give life to the rule on double jeopardy, our rules on criminal proceedings require that a judgment of acquittal, whether ordered by the trial or the appellate court, is final, unappealable, and immediately executory upon its promulgation.[55] This is referred to as the "finality-of-acquittal" rule. The rationale for the rule was explained in *People v. Velasco*:[56]

> The fundamental philosophy highlighting the finality of an acquittal by the trial court cuts deep into "the humanity of the laws and in a jealous watchfulness over the rights of the citizen, when brought in unequal contest with the State. x x x." Thus, Green expressed the concern that "(t)he underlying idea, one that is deeply ingrained in at least the Anglo-American system of jurisprudence, is that **the State with all its resources and power should not be allowed to make repeated attempts to convict an individual for an alleged offense, thereby subjecting him to embarrassment, expense and ordeal and compelling**

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52 *Id.* at 309-310.

53 CONSTITUTION, Art. III, Sec. 21. See also CONSTITUTION, (1973), Art. IV, Sec. 22 and CONSTITUTION, (1935), Art. III, Sec. 1, par. 20.

54 See *People v. City Court of Silay*, G.R. No. L-43790, December 9, 1976, 74 SCRA 247, 253. See also *Tiu v. Court of Appeals*, G.R. No. 162370, April 21, 2009, 586 SCRA 118, 126.

55 *Villareal v. Aliga, supra* note 43, at 70.

56 G.R. No. 127444, September 13, 2000, 340 SCRA 207, 240-241.

> **him to live in a continuing state of anxiety and insecurity, as well as enhancing the possibility that even though innocent, he may be found guilty."**
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> It is axiomatic that on the basis of humanity, fairness and justice, an acquitted defendant is entitled to the right of repose as a direct consequence of the finality of his acquittal. The philosophy underlying this rule establishing the absolute nature of acquittals is "part of the paramount importance criminal justice system attaches to the protection of the innocent against wrongful conviction." **The interest in the finality-of-acquittal rule, confined exclusively to verdicts of not guilty, is easy to understand: it is a need for "repose," a desire to know the exact extent of one's liability.** With this right of repose, the criminal justice system has built in a protection to insure that the innocent, even those whose innocence rests upon a jury's leniency, will not be found guilty in a subsequent proceeding.
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> Related to his right of repose is the defendant's interest in his right to have his trial completed by a particular tribunal. This interest encompasses his right to have his guilt or innocence determined in a single proceeding by the initial jury empanelled to try him, for society's awareness of the heavy personal strain which the criminal trial represents for the individual defendant is manifested in the willingness to limit Government to a single criminal proceeding to vindicate its very vital interest in enforcement of criminal laws. The ultimate goal is prevention of government oppression; the goal finds its voice in the finality of the initial proceeding. As observed in *Lockhart v. Nelson*, **"(t)he fundamental tenet animating the Double Jeopardy Clause is that the State should not be able to oppress individuals through the abuse of the criminal process." Because the innocence of the accused has been confirmed by a final judgment, the Constitution conclusively presumes that a second trial would be unfair**. (Citations omitted, emphasis supplied)

There were cases, however, where we recognized certain exceptions to the rule against double jeopardy and its resultant doctrine of finality-of-acquittal.

In *Galman v. Sandiganbayan*,[57] we remanded a judgment of acquittal to a trial court due to a finding of mistrial. In declaring the trial before the *Sandiganbayan* of the murder of former Senator Benigno Simeon "Ninoy" Aquino, Jr., which resulted in the acquittal of all the accused, as a sham, we found that "the prosecution and the sovereign people were denied due process of law with a partial court and biased [*Tanodbayan*] under the constant and pervasive monitoring and pressure exerted by the authoritarian

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57 G.R. No. L-72670, September 12, 1986, 144 SCRA 43.

[p]resident to assure the carrying out of his instructions."[58] We considered the acquittal as void, and held that no double jeopardy attached.

In *People v. Uy*,[59] we held that by way of exception, a judgment of acquittal in a criminal case may be assailed in a petition for certiorari under Rule 65 of the Rules of Court upon clear showing by the petitioner that the lower court, in acquitting the accused, committed not merely reversible errors of judgment but grave abuse of discretion amounting to lack or excess of jurisdiction or a denial of due process, thus rendering the assailed judgment void.

Chua assails the acquittal of Chiok on two grounds. *First*, the first jeopardy did not attach because the CA did not have jurisdiction over the appeal; Chiok having lost his right to appeal when the CA found him to have jumped bail. *Second,* assuming that the first jeopardy attached, the circumstances of this case is an exception to the rule on double jeopardy.

A. The CA had jurisdiction to entertain Chiok's appeal.

Chua claims that the SC bail decisions set aside as bereft of any factual or legal basis the CA resolutions in the bail case which enjoined the cancellation of bail of Chiok and his warrant of arrest by the trial court. The logical and legal consequence of the nullification of the CA resolutions is to automatically revive the CA's Resolution dated September 21, 1999 dismissing the appeal of Chiok. Accordingly, the CA had no jurisdiction to entertain the appeal of Chiok and the proceedings therein are null and void.

We find no merit in Chua's claims.

At the outset, the CA validly acquired jurisdiction over Chiok's appeal. Chiok filed his Notice of Appeal on June 18, 1999 at the time when the 1985 Rules on Criminal Procedure was still in effect. Section 6, Rule 120 of the 1985 Rules on Criminal Procedure explicitly provides that the right to appeal is not automatically forfeited when an accused fails to appear during the promulgation of judgment.[60] Upon perfection of Chiok's Notice

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58 *Id.* at 88.

59 G.R. No. 158157, September 30, 2005, 471 SCRA 668, 680-681.

60 Said section provides:

> Section 6. *Promulgation of judgment*–The judgment is promulgated by reading the same in the presence of the accused and any judge of the court in which it was rendered. However, if the conviction is for a light offense, the judgment may be pronounced in the presence of his counsel or representative. When the judge is absent or outside of the province or city, the judgment may be promulgated by the clerk of court…
>
> The proper clerk of court shall give notice to the accused personally or through his bondsman or warden and counsel, requiring him to be present at the promulgation of the decision. **In case the accused fails to appear thereat the promulgation shall consist in the recording of the judgment in the criminal docket and a copy thereof shall be served upon the accused or counsel. If the judgment is for conviction and the**

of Appeal and the subsequent denial of the prosecution's Motion to Deny Due Course to the Notice of Appeal by the RTC in its Order[61] dated July 15, 1999, the CA completely acquired jurisdiction over Chiok's appeal.

After acquiring jurisdiction over the appeal, the CA took cognizance of the unserved order of arrest. Exercising jurisdiction over Chiok's appeal, the CA in its Resolution dated September 21, 1999 dismissed his appeal in accordance with Section 8, Rule 124 of the 1985 Rules on Criminal Procedure:

> Sec. 8. *Dismissal of appeal for abandonment or failure to prosecute.*–The appellate court may, upon motion of the appellee or on its own motion and notice to the appellant, dismiss the appeal if the appellant fails to file his brief within the time prescribed by this Rule, except in case the appellant is represented by a counsel *de oficio.*
>
> **The court *may* also**, upon motion of the appellee or **on its own motion, dismiss the appeal if the appellant** escapes from prison or confinement or **jumps bail** or flees to a foreign country during the pendency of the appeal. (Emphasis and italics supplied)

The aforecited section gives the CA the authority to dismiss an appeal for abandonment if the accused escapes from prison or confinement or jumps bail or flees to a foreign country during the pendency of the appeal. This authority to dismiss an appeal is, nevertheless, discretionary.[62] When an accused jumps bail during the pendency of his appeal, the appellate court may exercise its discretion whether to proceed with the appeal or dismiss it outright.[63] In several cases, we still proceeded to acquit an accused who remained at large during the pendency of the appeal.[64]

In this case, the CA exercised this discretion when it found that Chiok jumped bail because the order of arrest was not served. Subsequently, when

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> **accused's failure to appear was without justifiable cause, the court shall further order the arrest of the accused, who may appeal within fifteen (15) days from notice of the decision to him or his counsel**. (Emphasis supplied)

The nuance between the 1985 and the 2000 Rules on Criminal Procedure was explained in the (*Pascua v. CA,* G.R. No. 140243, December 14, 2000, 348 SCRA 197, 205-206*)* case, to wit:

> Here lies the difference in the two versions of the section. **The old rule automatically gives the accused 15 days from notice (of the decision) to him or his counsel within which to appeal. In the new rule, the accused who failed to appear without justifiable cause shall lose the remedies available in the Rules against the judgment.** However, within 15 days from promulgation of judgment, the accused may surrender and file a motion for leave of court to avail of these remedies. He shall state in his motion the reasons for his absence at the scheduled promulgation and if he proves that his absence was for a justifiable cause, he shall be allowed to avail of said remedies within 15 days from notice. (Emphasis supplied)

61 *Rollo,* G.R. No. 180021, pp. 664-669.

62 *People v. Castillo*, G.R. No. 118912, May 28, 2004, 430 SCRA 40, 47.

63 *Id.*

64 See *People v. Mamalias,* G.R. No. 128073, March 27, 2000, 328 SCRA 760, 769-771; See also *People v. Araneta*, G.R. No. 125894, December 11, 1998, 300 SCRA 80, 89-90.

Chiok moved for its reconsideration, the CA again exercised its discretion, this time to entertain the appeal. Notably, neither the prosecution nor Chua attributed any grave abuse of discretion on the part of the appellate court when it reinstated the appeal *via* a Resolution dated February 29, 2000. This resolution, which effectively replaces the original resolution dismissing the appeal, has already attained finality.

Thus, contrary to the claim of Chua, the SC bail decisions which set aside the CA resolutions enjoining Chiok's arrest did not automatically revive the CA resolution dismissing the appeal; the dismissal being a discretionary act on the part of the appellate court. Consequently, we reject the claim of Chua that the first jeopardy did not attach because the whole proceedings before the CA, and the CA acquittal, are null and void.

B. Exceptions to the rule on finality-of-acquittal and double jeopardy doctrine do not apply.

Chua next asserts that certain exceptions to the rule on double jeopardy are present in this case. Particularly, she submits that: (1) the appellate court's proceeding is a sham or mock proceeding; (2) the People through the OSG, was deprived of the opportunity to be heard and its "day in court"; and (3) the result is a null and void judgment of acquittal. Chua cites the case of *Galman v. Sandiganbayan*[65] to bolster her assertions.

Chua claims that the "trial in both the bouncing checks cases and this *estafa* case, is a sham insofar as they have resulted in acquittals."[66] Chua anchors her claim on the report submitted by Judge Elvira D.C. Panganiban that there were unauthorized tamperings in the evidence in the bouncing checks cases[67] (BP 22 case) she filed against Chiok, and that a TSN in the same BP 22 case, where Chiok allegedly made an implied admission of guilt, has been secretly removed from the record.

We do not see any exception to the rule on double jeopardy in this case.

The factual milieu in *Galman v. Sandiganbayan*[68] is starkly different from this case. In *Galman*, we concluded that there was a mock or sham trial because of the overwhelming evidence of collusion and undue pressures made by former President Marcos on the prosecution and the Justices who tried and decided the case, which prevented the prosecution from fully ventilating its position and offering all evidence. We recognized the intensity

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65 *Supra* note 57.

66 *Rollo,* G.R. No. 180021, p. 92.

67 *Id., rollo*, G.R. No. 179814, pp. 243-255. Criminal Cases No. 44739 and 51988 filed with the Metropolitan Trial Court of San Juan.

68 *Supra*.

and gravity of the pressure exerted by the highest official in the land that resulted to a miscarriage of justice.

In this case, Chua presents a report submitted by Judge Elvira D.C. Panganiban showing irregularities in the BP 22 case against Chiok, including the loss of a TSN containing an alleged offer of settlement by Chiok equivalent to his implied admission of guilt. We, however, do not see the same evils presented in *Galman* when the alleged anomalies pointed out by Chua were in a different case and when the main basis of the acquittal is not on the credibility of the physical evidence but of the testimony of Chua herself. Moreover, it is apparent from the CA acquittal that the appellate court considered Chiok's offer of settlement in arriving at the decision, having included it in its statement of facts. In essence, Chua is asking us to nullify the CA acquittal because in her opinion, if the appellate court considered these pieces of evidence, it would have convicted Chiok. These are purported errors of judgment or those involving misappreciation of evidence which cannot be raised and be reviewed in a petition for certiorari under Rule 65.

We are also not convinced that the State was deprived of due process in presenting its case. The OSG, in fact, actively participated in prosecuting the case before the CA. It was able to file an Appellee's Brief[69] dated December 23, 2003, as well as its Rejoinder Brief[70] dated October 6, 2004. As Chua even admits in her petition, the OSG was able to present its case before the appellate court as when "[t]he OSG's position in this case on the merits is clear in the submissions it has filed, as most eloquently expressed in the Rejoinder Brief…"[71] Certainly, no grave abuse of discretion can be ascribed where both parties had the opportunity to present their case and even required them to submit memoranda from which its decision is based, as in this case.[72]

Although we do not absolutely preclude the availment of the remedy of *certiorari* to correct an erroneous acquittal, the petitioner must clearly and convincingly demonstrate that the appellate court blatantly abused its authority to a point so grave and so severe as to deprive it of its very power to dispense justice.[73] Chua failed to do so.

III. Chiok is civilly liable to Chua in the amount of ₱9,563,900.00.

Chiok claims that the Joint Decision[74] dated November 27, 2000 in the BP 22 case docketed as Criminal Case No. 44739 of the Metropolitan

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69 CA *rollo,* Vol. III, pp. 356-389.
70 *Id.* at 865-904.
71 *Rollo*, G.R. No. 180021, p. 69
72 See *Metropolitan Bank and Trust Company v. Veridiano II*, G.R. No. 118251, June 29, 2001, 360 SCRA 359, 366-367.
73 *People v. De Grano*, G.R. No. 167710, June 5, 2009, 588 SCRA 550, 568.
74 *Rollo*, G.R. No. 179814, pp. 243-255.

Trial Court (MeTC) San Juan, Manila - Branch 58, which absolved Chiok from civil liability, is *res judicata* on this case. On the other hand, Chua claims that the CA erred when it ordered Chiok to pay only the amount of ₱9,500,000.00 when it was shown by evidence that the amount should be ₱9,563,900.00.

We rule that Chiok is liable for the amount of ₱9,563,900.00.

In *Castillo v. Salvador*[75] and several cases before it, we ruled that if the acquittal is based on reasonable doubt, the accused is not automatically exempt from civil liability which may be proved by preponderance of evidence only. In this regard, preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term "greater weight of the evidence" or "greater weight of the credible evidence." Preponderance of evidence is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.[76]

While the CA acquitted Chiok on the ground that the prosecution's evidence on his alleged misappropriation of Chua's money did not meet the quantum of proof beyond reasonable doubt, we hold that the monetary transaction between Chua and Chiok was proven by preponderance of evidence.

Chua presented in evidence a bank deposit slip dated June 9, 1995 to Chiok's Far East Bank, Annapolis account in the amount of ₱7,100,000.00. She also testified that she delivered to him in cash the amount of ₱2,463,900.00. Chiok's admission that he issued the interbank checks in the total amount of ₱9,563,900.00 to Chua, albeit claiming that it was "for safekeeping purposes only" and to assure her that she will be paid back her investment, corroborates Chua's evidence. In any event, as found by the appellate court, Chiok admitted that he received from Chua the amount of "P7.9" million in June 1995 and for "P1.6" million at an earlier time. It is on this basis that the CA found Chiok civilly liable in the amount of ₱9,500,000.00 only.

However, we find that during the direct and cross-examination of Chiok on September 15, 1997 and October 13, 1997, the reference to "P9.5" million is the amount in issue, which is the whole of ₱9,563,900.00:

> TSN September 15, 1997 (direct examination of Wilfred Chiok)
>
> ATTY ESPIRITU[:] Mr. Witness. The amount here you are being charged in the information is

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75 G.R. No. 191240, July 30, 2014, 731 SCRA 329, 340.

76 *Id.,* citing *Encinas v. National Bookstore, Inc*., G.R. No. 162704, November 19, 2004, 443 SCRA 293, 302.

> ₱9,563,900.00 covered by the two (2) checks Exhibits "C" and "D" of the prosecution. x x x[77]
>
> TSN October 13, 1997 (cross examination of Wilfred Chiok)
>
> PROSECUTOR RASA[:] Do you know how much Mrs. Chua is claiming from you [which is the] *subject matter* of this case of estafa?
>
> WITNESS[:] Yes, ma'am.
>
> PROSECUTOR RASA[:] How much?
>
> WITNESS[:] More or less 9.5.
>
> PROSECUTOR RASA[:] In peso or in dollar?
>
> WITNESS[:] In Peso.
>
> PROSECUTOR RASA[:] 9.5 Million what?
>
> WITNESS[:] Million Peso, ma'am.
>
> PROSECUTOR RASA[:] You admit that you received 9.5 Million from Mrs. Chua?
>
> WITNESS[:] I admitted that, ma'am.[78] (Italics supplied)

Accordingly, the amount admitted should be ₱9,563,900.00.

There is also no merit in Chiok's claim that his absolution from civil liability in the BP 22 case involving the same transaction bars civil liability in this *estafa* case under the doctrine of *res judicata* in the concept of "conclusiveness of judgment."

The doctrine of *res judicata* under the concept of "conclusiveness of judgment" is found in paragraph (c) of Section 47, Rule 39 of the Revised Rules of Court. Under this doctrine, a final judgment or decree on the merits by a court of competent jurisdiction is conclusive of the rights of the parties or their privies in all later suits on points and matters determined in the former suit.[79] Stated differently, facts and issues actually and directly

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77 CA *rollo*, Vol. I, p. 1167.

78 *Id.* at 1213-1214.

79 RULES OF COURT, RULE 39, Sec. 47 (c).

RULE 39. Sec. 47. *Effect of judgments or final orders*.–The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

x x x

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

resolved in a former suit cannot again be raised in any future case between the same parties, even if the latter suit may involve a different cause of action.[80] This principle of *res judicata* bars the re-litigation of particular facts or issues in another litigation between the same parties on a different claim or cause of action.[81]

In *Rodriguez v. Ponferrada,*[82] we explained that a civil action in a BP 22 case is not a bar to a civil action in *estafa* case. In rejecting the theory of petitioner therein that the civil action arising from the criminal case for violation of BP 22 precludes the institution of the corresponding civil action in the criminal case for *estafa* pending before the RTC, we ruled that Rule 111 of the Rules of Court expressly allows the institution of a civil action in the crimes of both *estafa* and violation of BP 22, without need of election by the offended party. There is no forum shopping because both remedies are simultaneously available to the offended party. We explained that while every such act of issuing a bouncing check involves only one civil liability for the offended party who has sustained only a single injury, this single civil liability can be the subject of both civil actions in the *estafa* case and the BP 22 case. However, there may only be one recovery of the single civil liability.

We affirmed this in *Rimando v. Aldaba,*[83] where we were confronted with the similar issue of whether an accused's civil liability in the *estafa* case must be upheld despite acquittal and exoneration from civil liability in BP 22 cases. We held that both *estafa* and BP 22 cases can proceed to their final adjudication–both as to their criminal and civil aspects–subject only to the prohibition on double recovery.

Since the Rules itself allows for both remedies to be simultaneously availed of by the offended party, the doctrine of *res judicata* finds no application here.

Moreover, the principle of *res judicata* in the concept of conclusiveness of judgment presupposes that facts and issues were actually and directly resolved in a previous case.[84] However, the records show that in the BP 22 case, the facts and issues proving the transaction were not actually and directly resolved in the decision, *viz*:

> The court is not persuaded.
>
> First, what the law requires is a notice of dishonor of the check to be given to the accused after its dishonor. There is no showing that this requirement was complied by

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80 See *Superior Commercial Enterprises, Inc. v. Kunnan Enterprises Ltd.*, G.R. No. 169974, April 20, 2010, 618 SCRA 531, 552.

81 *Id.*

82 G.R. Nos. 155531-34, July 29, 2005, 465 SCRA 338, 349-350.

83 G.R. No. 203583, October 13, 2014, 738 SCRA 232, 239.

84 *Superior Commercial Enterprises, Inc. v. Kunnan Enterprises Ltd.*, *supra*.

> the prosecution. Second, the drawer must be given at least 5 banking days from such notice of dishonor within which to pay the holder thereof the amount due thereon or to make arrangement for payment in full by the drawee of such check. Indeed, there was no notice of dishonor established to have been furnished the accused and therefore there is more reason that the accused was not given the requisite 5-banking day to make good aforesaid checks. The 5-day notice serves to mitigate the harshness of the law in its application by giving the drawer an opportunity to make good the bum check. And, it cannot be said that accused was ever given that opportunity simply because the prosecution failed to prove that accused was notified of the dishonor of the checks in suit.
>
> x x x
>
> Even assuming without admitting but only for the sake of argument that accused was notified of the dishonor of the checks in suit by the demand letter adverted to above, still the prosecution cause must fail because there are more reasons not to believe than to believe the theory of the prosecution as compared with that of the defense as will be explained hereunder.
>
> x x x
>
> WHEREFORE, in the light of the foregoing considerations, the court hereby absolves the accused from criminal as well as civil liability and orders these cases DISMISSED for lack of evidence to support the charges levelled against him.
>
> Costs de officio.
>
> No other pronouncements.
>
> SO ORDERED.[85]

The basis for Chiok's acquittal therein is the prosecution's failure to show that a notice of dishonor was first given to Chiok. The discussion that the prosecution's version is incredible was merely secondary, and was not necessary, for accused's acquittal. There were no findings of fact on the transaction which gives rise to the civil liability.

In light of these, we reject Chiok's claim that *res judicata* in the concept of conclusiveness of judgment bars Chua from recovering any civil claims.

Following this Court's ruling in *Nacar v. Gallery Frames*,[86] the foregoing amount of ₱9,563,900.00 shall earn interest at the rate of six

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85 *Rollo,* G.R. No. 179814, pp. 252-255.

86 G.R. No. 189871, August 13, 2013, 703 SCRA 439.

percent (6%) per annum computed from October 25, 1995, the date of Chua's extrajudicial demand, until the date of finality of this judgment. The total amount shall thereafter earn interest at the rate of six percent (6%) per annum from such finality of judgment until its satisfaction.

WHEREFORE, the petition for review on certiorari in G.R. No. 179814 and the special civil action for certiorari and mandamus in G.R. No. 180021 are **DENIED**. The petition for review on certiorari in G.R. No. 180021 is **GRANTED**. The Assailed Decision dated July 19, 2007 and the Resolution dated October 3, 2007 of the Court of Appeals are **AFFIRMED** with the **MODIFICATION** that Wilfred Chiok is ordered to pay Rufina Chua the principal amount of ₱9,563,900.00, with interest at the rate of six percent (6%) per annum computed from October 25, 1995 until the date of finality of this judgment. The total amount shall thereafter earn interest at the rate of six percent (6%) per annum from the finality of judgment until its satisfaction.

No costs.

SO ORDERED.

FRANCIS H. JARDELEZA
Associate Justice

WE CONCUR:

MARIA LOURDES P. A. SERENO
Chief Justice

PRESBITERO J. VELASCO, JR.
Chairperson
Associate Justice

MARTIN S. VILLARAMA, JR.
Associate Justice

BIENVENIDO L. REYES
Associate Justice

ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation before the cases were 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, it is hereby certified that the conclusions in the above Decision had been reached in consultation before the cases were assigned to the writer of the opinion of the Court's Division.

MARIA LOURDES P. A. SERENO
Chief Justice

CERTIFIED TRUE COPY
WILFREDO V. LAPITAN
Division Clerk of Court
Third Division
JAN 13 2016