



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated July 13, 2020 which reads as follows:

“G.R. No. 241550 – Arnold Castro y Cruz @ “Arnold C. Haidle” v. People of the Philippines

This is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court, assailing the Decision² dated March 16, 2018 and Resolution³ dated August 7, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39817, which affirmed with modification only as to the penalty imposed in the Decision⁴ dated February 9, 2017 of the Regional Trial Court (RTC) of Pasig City, Branch 71 in Criminal Case No. 157472, convicting Arnold Castro y Cruz @ “Arnold C. Haidle” (petitioner) of estafa under Article 315, paragraph 2(a) of the Revised Penal Code (RPC) as amended by Republic Act (R.A.) No. 10951.

The Facts

Petitioner was separately charged with estafa under Article 315, paragraph 2(a) of the RPC and illegal recruitment under R.A. No. 8042 before the RTC of Pasig City as follows:

Criminal Case No. 157472

Sometime [i]n March 2014, in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously defraud the complainant Ryan Tirao David, in the amount of [P]136,000.00, by means of

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¹ *Rollo*, pp. 10-25.

² Penned by Associate Justice Jane Aurora C. Lantion, with Associate Justices Remedios A. Salazar-Fernando and Zenaida T. Galapate-Laguilles, concurring; *id.* at 31-44.

³ *Id.* at 46-47.

⁴ *Id.* at 73-85.

deceit and false representations, which he made to the latter, prior to or simultaneous with the commission of the fraud to the effect that he could facilitate the employment abroad of the said complainant and would need a certain amount for expenses in processing of his employment in Canada as student visa with working permit which representation accused well knew to be false and fraudulent and was only made by him to induce the complainant to give and pay, as the latter gave and paid to him the amount of [P]136,000.00, which the accused once in possession of the said amount, misappropriated, misapplied and converted the same to his own personal use and benefit to the damage and prejudice of said complainant, Ryan Tirao David, in the aforementioned amount of [P]136,000.00.

Contrary to law.⁵

Criminal Case No. 157473

Sometime [i]n March 2014, in Pasig City, and within the jurisdiction of this Honorable Court, the said accused, did then and there willfully, unlawfully and feloniously for a fee, recruit and promise employment/job placement abroad to private complainant Ryan Tirao David a student visa with working permit in Canada and in total consideration of [P]136,000.00 as processing and placement fee and for which herein private complainant Ryan Tirao David, delivered and paid to herein accused, without said accused having first secured the required license and authority from the Philippine Overseas Employment Administration, in violation of the aforementioned law against Illegal Recruitment committed.

Contrary to law.⁶

When arraigned, petitioner pleaded not guilty to both charges. The joint pre-trial commenced and thereafter, trial on the merits ensued.⁷

During trial, the prosecution presented as witnesses the following: private complainant Ryan Tirao David (Ryan), Ryan's mother Lourdes T. David (Lourdes), and Philippine Overseas Employment Administration (POEA) representative Mercedita R. Maat (Mercedita).⁸

Ryan testified that sometime in 2013, his friend, a certain MG De Venecia (MG), told him about petitioner, who was said to have the

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⁵ Id. at 73-74.

⁶ Id. at 74.

⁷ Id. at 75.

⁸ Id.

capacity to send Filipinos abroad. As he was then in Taiwan, he was introduced to petitioner through social media. Ryan asked petitioner if he could help him go to Canada. Petitioner told him that since the aftermath of typhoon Yolanda, Canada had opened its doors to Filipinos. Petitioner then offered him a visa which allowed him to work while studying, subject to several fees in the amount of ₱136,000.00. Ryan prepared the amount which his mother, Lourdes, handed to petitioner in Ortigas, Pasig City, as evidenced by receipts on record. Ryan further testified that petitioner also directed his mother to open a bank account that will serve as Ryan's "show money," amounting to ₱500,000.00, which was allegedly required by the Canadian embassy. Petitioner offered to lend them the amount subject to the payment of interest. Petitioner then told Ryan that he will be able to leave for Canada after three months from payment of said fees. Five months, however, had passed since then but he was not sent to Canada. This prompted Ryan to return to the Philippines from Taiwan to personally ask for a refund of the fees he had paid petitioner. Such demand, however, went unheeded as petitioner never ran out of excuses and continuously evaded him.⁹

Lourdes corroborated Ryan's testimony on all points.¹⁰

Mercedita testified to identify in open court two Certifications dated August 16, 2016 issued by the POEA, stating that petitioner, in his personal capacity, and Surecare International Visa Consultancy (Surecare) are not licensed to recruit workers for overseas employment.¹¹

The defense, on the other hand, presented petitioner and a certain Leandro Bautista (Leandro) as witnesses.¹²

Petitioner denied the charges against him. He testified that he met Ryan through their common friend, MG. He confirmed owning Surecare, which provides services like securing different types of visas. He claimed that Ryan merely sought his help in securing a student visa in Canada. He denied ever meeting Lourdes, and receiving money from Ryan through her in March 2014, as Surecare became operational only in April 2014. He pointed out that the receipt showing payment of ₱136,000.00 did not have any heading and the signatory therein named "Stephen Delgado" was not his employee. He, however, admitted that the signatory "JM Mabait"

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⁹ Id.

¹⁰ Id. at 76.

¹¹ Id.

¹² Id. at 77.

appearing in one of the receipts belongs to Surecare's former operational manager. He stated that Surecare had two other employees, Leandro Bautista and Daniel Nicodemus. Petitioner alleged that in August 2014, Ryan personally met up with him to inform him that he would no longer push through with his student visa in Canada since he already has a working visa in Taiwan.¹³

Leandro corroborated petitioner's testimony as to being one of the staff of Surecare.¹⁴

The RTC Ruling

On February 9, 2017, the RTC issued a Decision, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

1. In Criminal Case No. 157473 for Illegal Recruitment, the court hereby finds accused **NOT GUILTY**.
2. In Criminal Case No. 157472 for Estafa under Article 315 paragraph 2 (a) of the Revised Penal Code, the court finds accused **GUILTY** beyond reasonable doubt and hereby sentences him to an indeterminate penalty of six years and one day of prision mayor, as minimum, to 19 years of reclusion temporal, as maximum, and to indemnify complainant in the amount of One Hundred Thirty Six Thousand Pesos ([P]136,000.00).

SO ORDERED.¹⁵

Aggrieved, petitioner filed an appeal before the CA. In its assailed March 16, 2018 Decision, the CA affirmed the RTC Decision, modifying only the penalty imposed in accordance with R.A. No. 10951, thus:

WHEREFORE, the instant appeal is **DENIED**. The Decision dated 09 February 2017 of the Regional Trial Court of Pasig City, Branch 71, in Criminal Case No. 157472 is **AFFIRMED WITH MODIFICATION** in that accused-appellant **ARNOLD CASTRO y CRUZ a.k.a. "Arnold C. Haidle"** is hereby sentenced to suffer the indeterminate penalty of imprisonment of **ONE (1) YEAR and ONE (1) DAY of prision correccional, as minimum to ONE (1) YEAR, EIGHT (8)**

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¹³ Id. at 77-78.

¹⁴ Id. at 78.

¹⁵ Id. at 85.

MONTHS of *prision correccional*, as maximum, and to indemnify complainant Ryan Tirao David in the amount of One Hundred Thirty Six Thousand (₱136,000.00) Pesos as actual damages, with legal interest of six (6%) percent *per annum* from 23 July 2015 until said amount is fully paid.

SO ORDERED.¹⁶

Petitioner's motion for reconsideration¹⁷ of said Decision, suffered the same fate of being denied for being a mere rehash of the arguments already addressed by the CA in its Decision. Thus, the dispositive portion of the assailed August 7, 2018 CA Resolution reads:

WHEREFORE, the Motion for Reconsideration is **DENIED**.

SO ORDERED.¹⁸

The Issue

Undaunted, petitioner comes before the Court *via* petition for review on *certiorari* under Rule 45, raising the lone issue of:

WHETHER THE COURT OF APPEALS GRAVELY ERRED IN AFFIRMING PETITIONER'S CONVICTION FOR ESTAFA UNDER ARTICLE 315 PARAGRAPH 2(A) OF THE REVISED PENAL CODE, DESPITE THE PROSECUTION'S FAILURE TO PROVE THE ELEMENT OF FRAUD OR DECEIT.¹⁹

Petitioner argues that the indispensable element of fraud or deceit in estafa is not present in this case.²⁰ Foremost, petitioner insists that it was Ryan who initiated communication with him to ask for his help in obtaining a Canadian visa. For petitioner, that fact shows that there was no intent on his part to deceive Ryan.²¹ Further, petitioner avers that the prosecution failed to prove that he had absolutely no capacity to send Ryan abroad; that he made a clear and personal undertaking to send him abroad for a price; and that he received money, which Ryan parted with by reason of the alleged assurance given to the latter.²² He points out the legitimacy of his business and the adequacy of his knowledge and expertise in the

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¹⁶ Id. at 43.

¹⁷ Id. at 48-52.

¹⁸ Id. at 47.

¹⁹ Id. at 17.

²⁰ Id. at 19.

²¹ Id. at 21.

²² Id. at 20.

services he offers in said business. Also, he maintains that he is completely unaware of the alleged amount collected from Ryan.²³ For petitioner, the most that he made was to offer help, solicited by Ryan himself, in facilitating visa application without promising to send him to Canada.²⁴

The Court's Ruling

The Petition has no merit.

At the outset, we state our consistent ruling with regard to the narrow ambit of review under Rule 45, which limits the scope of our inquiry to questions of law only. Stated differently, it is not proper to pass upon questions of fact in this review. To be sure, this rule admits of exceptions applicable to those rare petitions whose peculiar factual milieu justifies relaxation of the Rules.²⁵ As petitioner correctly pointed out, one exception would be when the CA made erroneous conclusions due to overlooked undisputed facts which, if duly considered, would lead to a different conclusion. As shown below, however, we find that such instance does not obtain in this case. We proceed, therefore, without disturbing the CA's factual findings.

Petitioner stands convicted of estafa under Article 315, paragraph 2(a) of the RPC, which, as described under said provision, is committed by any person who defrauds another by using fictitious name, or falsely pretends to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of similar deceits executed prior to or simultaneously with the commission of the fraud. The elements, thus, of estafa by means of deceit are: (a) that there must be a false pretense or fraudulent misrepresentation as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions; (b) that such false pretense or fraudulent representation was made or executed prior to or simultaneously with the commission of fraud; (c) that the offended party relied on the false pretense, fraudulent act, or fraudulent means and was induced to part with his money or property; and (d) that, as a result thereof, the offended party suffered damage.²⁶

In this case, we are one with the RTC and the CA in ruling that the prosecution has established all the elements of estafa enumerated above.

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²³ Id. at 22.

²⁴ Id. at 24.

²⁵ *Lopez v. People of the Philippines*, 715 Phil. 839, 846 (2013).

²⁶ *People of the Philippines v. Dela Cruz*, G.R. No. 214500, June 28, 2017.

As found by the courts *a quo*, the prosecution has established that petitioner defrauded Ryan by leading him to believe that he has the power and authority to secure a Canadian student visa with working permit for him and, ultimately, to send him to Canada, when he did not have the license or authority for that purpose. Contrary to petitioner's argument that the prosecution was duty bound to first establish that he had absolutely no capacity to assist Ryan in his visa application, his capacity, or incapacity for that matter, is not a relevant question in this case. After all, the use of false pretense of capacity or capability is not penalized under Article 315, paragraph 2(a) of the RPC.²⁷ Otherwise put, his capacity or incapacity to actually secure visa for and send Ryan abroad is not the element of the crime contemplated under the law. Rather, it is the false pretense of power to make good the assurance that he gave Ryan that three months from payment of fees, the latter will be able to proceed to Canada to study and work. In fact, as observed by the CA, petitioner made Ryan believe that he had previously sent a lot of Filipinos abroad by flaunting his alleged accreditation with a school in Canada to impress upon Ryan that he has a legitimate business to send people abroad.²⁸

Further, it is of no moment that it was Ryan who initiated the communication and that it was the latter who sought for petitioner's help for securing a visa. The fact that petitioner made representations that he will be able to help Ryan with his visa for a fee but failed to make good the same is sufficient to establish the element of false pretense.

It is also clear from the foregoing that such false pretense came before Ryan, through his mother, delivered ₱136,000.00 for the processing of the application. Evidently, Ryan relied upon such false pretense as he would not have parted with his money if it was not for petitioner's enticement.

As a consequence of petitioner's false pretense, Ryan suffered damages as the promised study and work visa in Canada did not materialize, and the money he paid therefor was never recovered. Petitioner's bare denial of having knowledge regarding the amount collected from Ryan cannot prevail over the documentary evidence presented by the prosecution consisting of receipts amounting to ₱136,000.00.

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²⁷ *Lopez v. People of the Philippines*, supra note 25, at 848.

²⁸ *Rollo*, p. 40.

Clearly, the RTC and the CA correctly found that the prosecution was able to establish beyond reasonable doubt the elements of estafa under Article 315, paragraph 2(a) of the RPC.

A modification of the penalty imposed by the CA is, however, imperative pursuant to R.A. No. 10951, as well as the Indeterminate Sentence Law (ISL). The impossible penalties for certain crimes under the RPC were reduced with the enactment of R.A. No. 10951. For estafa under Article 315, paragraph 2(a) of the RPC, Section 85 of R.A. No. 10951 provides that the prescribed penalty is *arresto mayor* in its maximum to *prision correccional*, in its minimum, *i.e.*, four months and one day to two years and four months. Applying the ISL, the minimum term of the impossible penalty should be taken from the period which is one degree lower from the prescribed penalty. One degree lower from the prescribed penalty in this case is *arresto mayor* minimum and medium or one month and one day to four months. The maximum of the impossible penalty, on the other hand, should be within the medium period of the prescribed penalty, *i.e.*, one year and one day to one year and eight months, there being no aggravating or mitigating circumstances present in this case.

Guided by the foregoing, the Court finds it proper to impose the penalty of four months of *arresto mayor*, as minimum, to one year and eight months of *prision correccional*, as maximum.

Finally, pursuant to prevailing jurisprudence,²⁹ the Court also finds it proper to modify the interest imposed. The amount owed to Ryan constitutes forbearance of money, hence, the corresponding interest is treated under said parameters.³⁰ Thus, in line with our ruling in *Nacar v. Gallery Frames*,³¹ the interest rate, where none was stipulated, is 6% from the time of demand, which in this case shall be deemed as the time of the filing of the Information on July 23, 2015, up to the finality of judgment. In addition, when the judgment of the court awarding a sum of money, as in this case, becomes final and executory, the total amount thereof shall earn an interest at the rate of 6% per annum from the finality of judgment until full satisfaction, the interim period being deemed to be by then an equivalent to a forbearance of credit.³²

WHEREFORE, the Petition is **DENIED**. The Decision dated March 16, 2018 and the Resolution dated August 7, 2018 are hereby

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²⁹ *Nacar v. Gallery Frames and/or Bordey, Jr.*, 716 Phil. 267 (2013).

³⁰ *See People v. Racho*, G.R. No. 227505, October 2, 2017.

³¹ *Nacar v. Gallery Frames*, *supra*.

³² *Id.*

AFFIRMED with MODIFICATION. Accordingly, petitioner Arnold Castro y Cruz also known as “Arnold C. Haidle” is found **GUILTY** beyond reasonable doubt of Estafa under Article 315, paragraph 2(a) of the Revised Penal Code and is **SENTENCED** to suffer the indeterminate penalty of imprisonment from four (4) months of *arresto mayor*, as minimum, to one (1) year and eight (8) months of *prision correccional*, as maximum. Moreover, petitioner is **ORDERED** to **PAY** private complainant Ryan Tirao David actual damages in the amount of One Hundred Thirty Six Thousand Pesos (₱136,000.00), with legal interest at the legal rate of 6% per annum from July 23, 2015 until finality of this resolution; and the total amount of the foregoing shall, in turn, earn interest at the rate of 6% per annum from the finality of this resolution until full satisfaction.

SO ORDERED.”

By authority of the Court:

LIBRADA C. BUENA
Division Clerk of Court *m.v./13*

by:

m.v./13
MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
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FIRST DIVISION

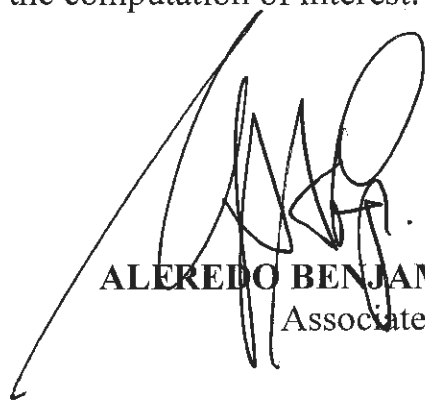
Agenda of July 13, 2020

Item No. 145

G.R. No. 241550 – ARNOLD CASTRO y CRUZ @ “ARNOLD C. HAIDLE,” *petitioner, versus PEOPLE OF PHILIPPINES,* *respondent.*

X -----X

“I maintain my position in Lara’s Gifts v. Midtown, G.R. 225433 (which is on MR) regarding the computation of interest.”



ALEREDO BENJAMIN S. CAGUIOA
Associate Justice