



Republic of the Philippines
Court of Appeals
Cebu City

FORMER NINETEENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee,

CA-G.R. CEB- CR. NO. 01853

Members:

~versus~

Delos Santos, *Chairperson*
Contreras, &
Fiel-Macaraig, *JJ.*

MERAFLOR YAP ARRIOLA,*
Accused-Appellant.

Promulgated:

R E S O L U T I O N

FIEL-MACARAIG, J.:

At bar is a Motion for Reconsideration¹ of the Court's 20 December 2016 Decision,² which affirmed accused-appellant's conviction for Estafa in the 29 October 2010 Decision³ rendered by the Regional Trial Court, 7th Judicial Region, Branch 10, Cebu City.

At the outset, the Court NOTES plaintiff-appellee's Comment⁴ to the Motion for Reconsideration.

* Also referred to in the records as Miraflor Yap Arreola; Meraflor Yap Arreola.

¹ ROLLO, p. 140 (Motion for Reconsideration).

² ROLLO, p. 122 (20 December 2016 Decision).

³ ROLLO, p. 77 (29 October 2010 Decision).

⁴ ROLLO, p. 156 (Comment).

In the instant Motion, accused-appellant insists that she did not enter into a trust receipt agreement with the private offended party, as what was entered into between them was a contract of sale, payable by installments. She contends that the foregoing are inconsistent with the claim that there was trust receipt agreement: (i) contrary to the usual practice, the trust receipt agreement was executed days after the entrustee received the items; (ii) the entrustee made a *down payment*, which takes place only when the parties agree upon a sale paid by installments.

Accused-appellant further laments that the arrangement between the parties cannot be presumed to be a trust receipt agreement, which is more onerous than a contract of sale payable by installments.

Accused-appellant finally argues that the testimonies given by the witnesses for the Prosecution, particularly that of the Spouses Adoptante, are inconsistent with each other.

The Court finds that the foregoing arguments, which are mere reiterations of those earlier raised in the appeal filed by the accused-appellant, had been squarely passed upon in the 20 December 2016 Decision sought to be reconsidered.

As this Court held, all the elements of the crime of Estafa, through misappropriation, defined by Article 315, 1(b) of the Revised Penal Code are present. This is shown by the following: (i) as evidenced by the document denominated as the Trust Receipt Agreement, accused-appellant received the pieces of jewelry from the private offended party in trust or on commission, or for administration, or under an obligation to deliver or return the same; (ii) that there was misappropriation or conversion when the accused-appellant could no longer deliver, upon demand, the proceeds or the unsold items; (iii) that the private offended party suffered damage or prejudice by failing to recover the pieces of jewelry, or the proceeds

thereof, even as she failed to earn profit from such transaction; and, (iv) that a letter of demand was sent by the private complainant's lawyer to the accused-appellant, which the latter failed to heed.

Aside from the aforesaid arguments, accused-appellant failed to raise new matters of weight and influence which, if considered, would affect affect the outcome of the case.

WHEREFORE, in view of the foregoing, the Motion for Reconsideration is DENIED for lack of merit.

SO ORDERED.

GERALDINE C. FIEL-MACARAIG
Associate Justice

WE CONCUR:

EDGARDO L. DELOS SANTOS
Associate Justice

EDWARD B. CONTRERAS
Associate Justice