Supreme Court E-Library

FIRST DIVISION

[G.R. No. 225753. October 15, 2018]

JOSE PAULO LEGASPI *y* NAVERA, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

[G.R. No. 225799. October 15, 2018]

VICTOR DAGANAS *y* JANDOC, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. CRIMINAL LAW; REVISED PENAL CODE; ESTAFA; ELEMENTS.— Criminal fraud resulting to damage capable of pecuniary estimation is punished under Article 315 of the RPC. In general, the elements of *estafa* are: (1) that the accused defrauded another (a) by abuse of confidence, or (b) by means of deceit; and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. Invariably, unlawful abuse of confidence or deceit is the essence of *estafa*.

2. ID.; ID.; ESTAFA THROUGH MISAPPROPRIATION; ESSENTIAL ELEMENTS; EXISTENCE THEREOF MUST BE PROVED BEYOND REASONABLE DOUBT TO SECURE CONVICTION, FOR ANYTHING LESS THAN ALL THE ELEMENTS OF THE OFFENSE CHARGED NEGATES A FINDING OF GUILT.— [*E*]*stafa* through misappropriation is defined and penalized under Article 315, paragraph 1(b) of the RPC, as amended by Republic Act No. 10951 x x x. The elements of *estafa* through misappropriation under Article 315, paragraph 1(b) are: (a) the offender's receipt of money, goods, or other personal property in trust, or on commission, or for administration, or under any other obligation involving the duty to deliver, or to return, the same; (b) misappropriation or conversion by the offender of the money or property received, or denial of receipt of the money or property; (c) the misappropriation, conversion or denial is to the prejudice of another; and (d) demand by the offended party that the offender return the money or property received. To

Supreme Court E-Library

secure conviction, it behooves upon the State to prove the existence of all essential elements of the offense charged beyond reasonable doubt. Anything less than all the elements of the offense charged negates a finding of guilt.

3. ID.; ID.; ID.; ID.; ELEMENT OF RECEIPT OF MONEY OR PROPERTY; ACCUSED'S ACQUISITION OF BOTH MATERIAL OR PHYSICAL POSSESSION AND JURIDICAL POSSESSION OF THE THING RECEIVED MUST BE PROVED. — To establish the first element of *estafa* under Article 315, paragraph 1(b), the CA focused on an acknowledgement receipt executed by Legaspi to show that the latter indeed received the amount of ₱9,500,000.00 from private complainant. This observation is, however, inaccurate. For one, Article 315, paragraph 1(b) requires proof of receipt by the offender of the money, goods, or other personal property *in trust* or *on commission,* or *for administration,* or under any other obligation *involving the duty to make delivery* of or to *return* the same. In other words, mere receipt of the money, goods, or personal property does not satisfy the first element, it must be demonstrated that the character of such receipt must either be in trust, on commission or for administration or that the accused has the obligation to deliver or return the same money, goods or personal property received. It is therefore essential to prove that the accused acquired both material or physical possession and juridical possession of the thing received. The Information itself is bereft of any indication that petitioners received private complainant's money in such manner as to create a fiduciary relationship between them. On the contrary, the Information reads that private complainant "invested" his money with iGen-Portal.

4. ID.; ID.; ID.; ID.; ELEMENT OF CONVERSION OR MISAPPROPRIATION; WORDS "CONVERT" AND "MISAPPROPRIATE," DEFINED; IN PROVING THE ELEMENT OF CONVERSION OR MISAPPROPRIATION, A LEGAL PRESUMPTION OF MISAPPROPRIATION ARISES WHEN THE ACCUSED FAILS TO DELIVER THE PROCEEDS OF THE SALE OR TO RETURN THE ITEMS TO BE SOLD AND FAILS TO GIVE AN ACCOUNT OF THEIR WHEREABOUTS.— Anent the second element, the CA relied on a legal presumption of conversion or

Supreme Court E-Library

misappropriation only because petitioners failed to issue to private complainant the stock certificates for the 2,000 shares of stocks purchased. This reasoning is utterly misplaced. In *Tria v. People*, We defined the second element of conversion or misappropriation as follows: The words "convert" and "misappropriate" connote the act of using or disposing of another's property as if it were one's own, or of devoting it to a purpose or use different from that agreed upon. To misappropriate for one's own use includes not only conversion to one's personal advantage, but also every attempt to dispose of the property of another without right. In proving the element of conversion or misappropriation, a legal presumption of misappropriation arises when the accused fails to deliver the proceeds of the sale or to return the items to be sold and fails to give an account of their whereabouts. Thus, to convert or to misappropriate invariably require that the accused used or disposed the property as if it were his own or devoted the same to an entirely different purpose than that agreed upon. Here, there was not the slightest demonstration that petitioners used the amount of ₱9,500,000.00 at any time after private complainant deposited said money to iGen-Portal. In fact, the CA had to rely on a mere presumption that petitioners coverted or misappropriated said money anchored upon the latter's failure to issue the stock certificate in private complainant's name. We find that the application of said legal presumption is utterly misplaced.

APPEARANCES OF COUNSEL

Defensor Lantion Briones Villamor & Tolentino for petitioner Jose Paulo N. Legaspi.

Fernandez & Associates Law Offices for petitioner Victor J. Daganas.

The Solicitor General for respondent.

D E C I S I O N

TIJAM, *J.*:

Petitioners Jose Paulo Legaspi *y* Navera (Legaspi) and Victor Daganas *y* Jandoc (Daganas) (collectively, the petitioners) assail

Supreme Court E-Library

through these consolidated Petitions for Review on *Certiorari*[1] under Rule 45 of the Rules of Court the Decision[2] dated January 21, 2016 and the subsequent Resolution[3] dated July 13, 2016 of the Court of Appeals in CA-G.R. CR No. 36404. Respondent, through the Office of the Solicitor General (OSG), filed its Comment[4] on the consolidated petitions, to which Legaspi interposed a Reply.[5]

On September 6, 2017, the Court denied the consolidated petitions for failure to show reversible error on the part of the CA as to warrant the exercise of its discretionary appellate jurisdiction.[6] Legaspi and Daganas timely moved for reconsideration[7] and urged a review of the denial of their petitions essentially on the ground that the Information under which they were charged was fatally defective and negates the crime charged therein.[8] The OSG sought the denial of petitioners' motion for reconsideration.

To lend proper context and appropriate review of the instant case, a statement of the facts and the arguments raised by the parties is imperative.

The Facts

Legaspi and Daganas were charged with the crime of estafa committed under Article 315, paragraph 1(b) of the Revised Penal Code (RPC) in an Information[9] which reads:

---

[1] *Rollo* (G.R. No. 225753), pp. 30-62; *rollo* (G.R. No. 225799), pp. 12-38.

[2] *Rollo* (G.R. No. 225753), pp. 64-73.

[3] *Id*. at 75-76.

[4] *Id*. at pp. 287-289.

[5] *Rollo* (G.R. No. 225799), pp. 97-103.

[6] *Rollo* (G.R. No. 225753), p. 302.

[7] *Id*. at 304-336 and 339-361.

[8] *Id*. at 311.

[9] *Id*. at 77.

Supreme Court E-Library

The undersigned State Prosecutor II of the Department of Justice, in his capacity as the Acting City Prosecutor of Pasig City, hereby accuses [Legaspi] and [Daganas] of the crime of estafa under Article 315, par. 1(b) of the [RPC], committed as follows:

That on or about November 15, 2005, in Pasig City and within the jurisdiction of this Honorable Court, the above-named [petitioners], conspiring and confederating together and helping one another, did then and there willfuly, unlawfully and feloniously defraud Fung Hing Kit in the following manner, to wit: the said [petitioners], with abuse of confidence, induced Fung Hing Kit to invest at iGen-Portal, and the latter invested and in fact deposited the amount of 9.5 Million Pesos into the account of iGen-Portal, once in possession of said amount, the said (petitioners], with abuse of confidence, misappropriated, misapplied and converted the said amount to their own and personal use and benefit, to the damage and prejudice of said Fung Hing Kit in the aforesaid amount of 9.5 Million Pesos.

CONTRARY TO LAW.[10]

When arraigned, petitioners pleaded not guilty. At the pre-trial conference, the parties stipulated that Fung Hing Kit (private complainant) remitted, through Express Padala in Hongkong, the amount of ₱9,500,000.00 to iGen-Portal International Corporation (iGen-Portal).[11]

The prosecution presented private complainant and one Marcelina Balisi (Balisi), private complainant's domestic helper in Hongkong.[12] The prosecution's evidence tends to establish the following facts:

Private complainant is a businessman in Hongkong. In May 2005, he met Daganas in Hongkong who then proposed a "joint venture" by buying 10% share of iGen-Portal. Private complainant went to the Philippines in November 2005 where he was presented with iGen-Portal's income analysis, articles of incorporation and projected income analysis. Private

---

[10] *Id*.

[11] *Id*. at 79.

[12] *Id*. at 80.

Supreme Court E-Library

complainant agreed to invest in iGen-Portal upon his return to Hongkong.[13]

Thus, in November 15, 2005, private complainant remitted the amount of ₱9,500,000.00 as payment for the 10% shares of iGen-Portal. Private complainant requested for the issuance of a stock certificate in his name but none was allegedly given.[14]

In January 2006, private complainant met with petitioners in Hongkong. Instead of issuing his stock certificate, petitioners allegedly made new proposals which private complainant turned down.[15]

For their part, petitioners alleged that private complainant wanted to purchase shares of iGen-Portal. However, because there were no more shares available and because private complainant is a foreigner prohibited to engage in retail trade business, petitioners refused. Then, petitioners received a call from Balisi who wanted to buy 2,000 shares of stock of iGen-Portal for ₱9,500,000.00 and that private complainant, on behalf of Balisi, will remit the said amount to iGen-Portal. After some time, private complainant demanded that the shares in the name of Balisi be transferred to his name, explaining that it was he who actually paid for the shares of stock. When the shares could not be transferred to him, private complainant demanded for the return of the ₱9,500,000.00. Eventually, iGen-Portal suffered loss of sales which led to its closure.[16]

On November 14, 2013, the RTC rendered Judgment[17] finding petitioners guilty of the crime of *estafa* and disposed as follows:

WHEREFORE, premises considered, judgment is hereby rendered finding the accused, [**LEGASPI] AND [DAGANAS**], guilty beyond

---

[13] *Id.* at 66.

[14] *Id.* at 66-67.

[15] *Id.* at 67.

[16] *Id.* at 67-68.

[17] *Id.* at 131-148.

Supreme Court E-Library

reasonable doubt of the crime of *estafa* penalized under Article 315, par. 1(b) of the [RPC], without any aggravating or mitigating circumstance, and are accordingly sentenced to suffer the indeterminate penalty of imprisonment ranging from 4 years and 2 months of *prision correccional* as minimum to 20 years of *reclusion temporal* as maximum and to indemnify private complainant, Fung Hing Kit, in the amount of Php9,500,000.00 as well as to pay the costs of suit.

SO ORDERED.[18]

This prompted petitioners to appeal[19] to the CA, essentially arguing that the instant case involves the purchase and sale of shares of stock and as such, there can be no estafa in the absence of a fiduciary relationship between petitioners and private complainant.

The CA, however, affirmed petitioners' conviction in a Decision dated January 21, 2016, as follows:

WHEREFORE, the instant appeal is **DENIED**. The *Decision* dated 14 November 2013 of the Regional Trial Court of Pasig City, Branch 166, in Criminal Case No. 136334 is hereby **AFFIRMED**.

SO ORDERED.[20]

According to the CA, all elements of estafa through conversion or misappropriation are present: (1) money in the amount of ₱9,500,000.00 was received by Legaspi as evidenced by an acknowledgment receipt issued by the latter;[21] (2) there is a legal presumption of conversion or misappropriation when petitioners failed to issue to private complainant the stock certificate evidencing the 2,000 shares which he purchased and when petitioners failed to return the amount of ₱9,500,000.00;[22] (3) private complainant was prejudiced by petitioners'

---

[18] *Id*. at 148.

[19] *Id*. at 153-203.

[20] *Id*. at 72.

[21] *Id*. at 70-71.

[22] *Id*. at 71.

misappropriation;[23] and (4) there was demand for the return of private complainant's investment.[24]

Petitioners' motion for reconsideration met similar denial from the CA Resolution[25] dated July 13, 2016. Thus, resort to the present appeal.

The Issue

The core issue to be resolved is whether or not the CA correctly affirmed petitioners' conviction for estafa defined and penalized under Article 315, paragraph 1(b) of the RPC.

Ruling of the Court

We find merit in the motions for reconsideration and accordingly, the Court reconsiders its Resolution dated September 6, 2017.

Criminal fraud resulting to damage capable of pecuniary estimation is punished under Article 315 of the RPC. In general, the elements of *estafa* are: (1) that the accused defrauded another (a) by abuse of confidence, or (b) by means of deceit; and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. Invariably, unlawful abuse of confidence or deceit is the essence of *estafa*.

In particular, *estafa* through misappropriation is defined and penalized under Article 315, paragraph 1(b) of the RPC, as amended by Republic Act No. 10951,[26] which provides:

---

[23] *Id.* at 72.

[24] *Id.*

[25] *Id.* at 75-76.

[26] AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS THE "REVISED PENAL CODE," AS AMENDED. Approved August 29, 2017.

Supreme Court E-Library

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 *prision correccional* in its maximum period to *prision 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 *prision mayor* or *reclusion temporal*, as the case may be.

x x x x x x x x x

1. With unfaithfulness or abuse of confidence, namely:

x x x x x x x x

(b) By misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property[.]

The elements of *estafa* through misappropriation under Article 315, paragraph 1(b) are: (a) the offender's receipt of money, goods, or other personal property in trust, or on commission, or for administration, or under any other obligation involving the duty to deliver, or to return, the same; (b) misappropriation or conversion by the offender of the money or property received, or denial of receipt of the money or property; (c) the misappropriation, conversion or denial is to the prejudice

Supreme Court E-Library

of another; and (d) demand by the offended party that the offender return the money or property received.[27]

To secure conviction, it behooves upon the State to prove the existence of all the essential elements of the offense charged beyond reasonable doubt. Anything less than all the elements of the offense charged negates a finding of guilt.

To establish the first element of *estafa* under Article 315, paragraph 1(b), the CA focused on an acknowledgment receipt executed by Legaspi to show that the latter indeed received the amount of ₱9,500,000.00 from private complainant. This observation is, however, inaccurate.

For one, Article 315, paragraph 1(b) requires proof of receipt by the offender of the money, goods, or other personal property *in trust* or *on commission*, or *for administration*, or under any other obligation *involving the duty to make delivery* of or to *return* the same. In other words, mere receipt of the money, goods, or personal property does not satisfy the first element, it must be demonstrated that the character of such receipt must either be in trust, on commission or for administration or that the accused has the obligation to deliver or return the same money, goods or personal property received.[28] It is therefore essential to prove that the accused acquired both material or physical possession and juridical possession of the thing received.[29]

The Information itself is bereft of any indication that petitioners received private complainant's money in such manner as to create a fiduciary relationship between them. On the contrary, the Information reads that private complainant "invested" his money with iGen-Portal. It is undisputed that at the time material to the instant case, iGen-Portal was a duly-registered corporation engaged in wholesale and retail business,[30]

---

[27] *Serona v. Court of Appeals*, 440 Phil. 508, 517 (2002).

[28] *Tanzo v. Hon. Drilon*, 385 Phil. 790, 800 (2000).

[29] See *Santos v. People*, 260 Phil. 519, 526 (1990).

[30] *Rollo* (G.R. No. 225753), p. 137.

Supreme Court E-Library

the existence of which was never denied by private complainant as he himself admitted having scrutinized iGen-Portal's Articles of Incorporation, income analysis and projected income analysis.[31] Clearly, by the transfer of stocks in exchange for the amount of ₱9,500,000.00, no fiduciary relationship was created between petitioners and private complainant.

However, as the undisputed facts reveal, the shares of stock of Legaspi were transferred to Balisi, a Filipino, instead of to private complainant. This transaction was duly evidenced by a Deed of Sale of Shares of Stock between Legaspi and Balisi. Accordingly, a stock certificate was issued for the 2,000 shares in the name of Balisi which was recorded in the stock and transfer book of iGen-Portal.[32] To be sure, the issue of whether such arrangement was contrary to foreign ownership restrictions or was used to circumvent Commonwealth Act No. 108 or the "Anti-Dummy Law" is not the pressing concern in this *estafa* case. If at all, what this circumstance reveals is that there was no abuse of confidence committed by petitioners nor suffered by private complainant; rather, private complainant voluntarily parted with his money after he was made fully aware of foreign ownership restrictions and then, even acquiesced to having Balisi, private complainant's domestic helper, purchase the stocks albeit the funds therefor would come from him.

It is also revealing that private complainant first demanded for the issuance or transfer of the stock certificate in his name and when said demand was not forthcoming, he demanded for the return of his investment and when that remained unsatisfied, only then did he file the complaint *a quo* for *estafa*. Private complainant's demand for the issuance of a stock certificate in his name in return for his investment negates the claim that petitioners received the money with the obligation to return the same.

---

[31] *Id*. at 133.

[32] *Id*. at 139.

Supreme Court E-Library

For another, the acknowledgment receipt relied upon by the CA unequivocally states that the amount of ₱9,500,000.00 was "for the payment for 2,000 shares of stocks of [i-Gen] Portal." This is consistent with private complainant's allegation in his complaint that he remitted the amount of ₱9,500,000.00 as "payment for the 10% shares of [i-Gen] Portal." At the pre-trial, the prosecution also stipulated that said amount was "received by i-Gen Portal in its account."[33] The Information also charges that private complainant deposited the amount of ₱9,500,000.00 "into the account of [i-Gen] Portal." Such partake of judicial admissions which require no further proof. Thus, the inevitable conclusion is that the sum of ₱9,500,000.00 was not received by petitioners, either materially or juridically, but by iGen-Portal – an entity separate and distinct from individual petitioners which veil of corporate fiction was not pierced.

Anent the second element, the CA relied on a legal presumption of conversion or misappropriation only because petitioners failed to issue to private complainant the stock certificates for the 2,000 shares of stocks purchased. This reasoning is utterly misplaced.

In *Tria v. People*,[34] We defined the second element of conversion or misappropriation as follows:

> The words "convert" and "misappropriate;" connote the act of using or disposing of another's property as if it were one's own, or of devoting it to a purpose or use different from that agreed upon. To misappropriate for one's own use includes not only conversion to one's personal advantage, but also every attempt to dispose of the property of another without right. In proving the element of conversion or misappropriation, a legal presumption of misappropriation arises when the accused fails to deliver the proceeds of the sale or to return the items to be sold and fails to give an account of their whereabouts.[35] (Citation omitted)

---

[33] *Id.* at 44.

[34] 743 Phil. 441 (2014).

[35] *Id.* at 452.

Supreme Court E-Library

Thus, to convert or to misappropriate invariably require that the accused used or disposed the property as if it were his own or devoted the same to an entirely different purpose than that agreed upon. Here, there was not the slightest demonstration that petitioners used the amount of ₱9,500,000.00 at any time after private complainant deposited said money to iGen-Portal. In fact, the CA had to rely on a mere presumption that petitioners converted or misappropriated said money anchored upon the latter's failure to issue the stock certificate in private complainant's name.

We find that the application of said legal presumption is utterly misplaced. Under the Corporation Code,[36] shares of stock are personal property and thus may be transferred by delivery of the certificate. For a corporation to be bound, such transfer must be recorded in the stock and transfer book, where the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred are indicated. It is only from this time that the obligation on the part of the corporation to recognize the rights of a transferee as a stockholder arises.[37] Consequently, "without such recording, the transferee may not be regarded by the corporation as one among its stockholders and the

---

[36] Sec. 63. *Certificate of stock and transfer of shares*. – The capital stock of stock corporations shall be divided into shares for which certificates signed by the president or vice president, countersigned by the secretary or assistant secretary, and sealed with the seal of the corporation shall be issued in accordance with the by-laws. Shares of stock so issued are personal property and may be transferred by delivery of the certificate or certificates endorsed by the owner or his attorney-in-fact or other person legally authorized to make the transfer. No transfer, however, shall be valid, except as between the parties, until the transfer is recorded in the books of the corporation showing the names of the parties to the transaction, the date of the transfer, the number of the certificate or certificates and the number of shares transferred.

No shares of stock against which the corporation holds any unpaid claim shall be transferable in the books of the corporation

[37] *Ponce v. Alsons Cement Corp*., 442 Phil. 98, 110 (2002).

Supreme Court E-Library

corporation may legally refuse the issuance of stock certificates."[38] Thus, private complainant could not have demanded for the issuance of a stock certificate in his name when he acquiesced to having Balisi stand-in for him. As far as i-Gen Portal was concerned, the purchase was made by Balisi and hence, if at all, the transfer ought to be made in her name.

In the absence of the first and second elements, there can be no crime of *estafa*; petitioners' acquittal should follow as a matter of course.

It is apparent that private complainant departed with a considerable amount of money for purposes of investing in iGen-Portal. It is an unfortunate occurrence that after his investment, iGen-Portal suffered successive breakaways of its distributors.[39] But the Court cannot hold petitioners liable, much less criminally, only because of private complainant's unfruitful investment. As succinctly held in *Spouses Pascual v. Ramos*:[40]

> All men are presumed to be sane and normal and subject to be moved by substantially the same motives. When of age and sane, they must take care of themselves. In their relations with others in the business of life, wits, sense, intelligence, training, ability and judgment meet and clash and contest, sometimes with gain and advantage to all, sometimes to a few only, with loss and injury to others. In these contests men must depend upon themselves — upon their own abilities, talents, training, sense, acumen, judgment. The fact that one may be worsted by another, of itself, furnishes no cause of complaint. One man cannot complain because another is more able, or better trained, or has better sense or judgment than he has; and when the two meet on a fair field the inferior cannot murmur if the battle goes against him. The law furnishes no protection to the inferior simply because he *is* inferior, any more than it protects the strong because he *is* strong. The law furnishes protection to both alike — to one no more or less than to the other. It makes no distinction between the wise and the foolish, the great and the small, the strong

---

[38] *Id*.

[39] *Rollo* (G.R. No. 225753), p. 49.

[40] 433 Phil. 449 (2002).

Supreme Court E-Library

and the weak. The foolish may lose all they have to the wise; but that does not mean that the law will give it back to them again. Courts cannot follow one every step of his life and extricate him from bad bargains, protect him from unwise investments, relieve him from one-sided contracts, or annul the effects of foolish acts. Courts cannot constitute themselves guardians of persons who are not legally incompetent. Courts operate not because one person has been defeated or overcome by another, but because he has been defeated or overcome *illegally*. Men may do foolish things, make ridiculous contracts, use miserable judgment, and lose money by then — indeed, all they have in the world; but not for that alone can the law intervene and restore. There must be, in addition, a *violation* of law, the commission of what the law knows as an *actionable wrong*, before the courts are authorized to lay hold of the situation and remedy it.[41] (Citation omitted and italics in the original)

WHEREFORE, the motions for reconsideration are **GRANTED**. The Resolution dated September 6, 2017 is **SET ASIDE**. Instead, a new judgment is rendered **GRANTING**the consolidated petitions. Accordingly, the Decision dated January 21, 2016 and Resolution dated July 13, 2016 of the Court of Appeals in CA-G.R. CR No. 36404 are **REVERSED and SET ASIDE**. The criminal charges against petitioners Jose Paulo Legaspi *y* Navera and Victor Daganas *y* Jandoc, in Criminal Case No. 136334, are **DISMISSED**.

SO ORDERED.

Bersamin[*] (*Acting Chairperson*) and *del Castillo, JJ.*, concur.

Jardeleza, J., on official business.

Gesmundo,[**] *J.*, on leave.

---

[41] *Id.* at 460-461, citing *Vales v. Villa*, 35 Phil. 769, 787-788 (1916).

[*] Designated Acting Chairperson per Special Order No. 2606 dated October 10, 2018.

[**] Designated Additional Member per Special Order No. 2607 dated October 10, 2018.