Republic of the Philippines  
**SUPREME COURT**  
Manila

THIRD DIVISION

**G.R. No. 141180            January 11, 2005**

**GERTRUDES TEH,** petitioner,   
vs.  
**THE PEOPLE of the PHILIPPINES,** respondent.

D E C I S I O N

**SANDOVAL-GUTIERREZ, *J.:***

Before us is the petition for review on *certiorari* filed by Gertrudes Teh assailing the Resolution[1](http://www.lawphil.net/judjuris/juri2005/jan2005/gr_141180_2005.html" \l "fnt1) of the Court of Appeals dated October 4, 1999 in CA-G.R. CR No. 23482 dismissing her petition for review and its Resolution dated November 29, 1999 denying her motion for reconsideration.

The factual backdrop of this case is as follows:

Petitioner Gertrudes Teh and Josalie Baguio were charged with estafa before the Municipal Trial Courts in Cities (MTCC), Branch 2, Davao City. The Information, docketed as Criminal Case No. 45,542-B-96, reads:

"That on or about December 18, 1995, in the City of Davao, Philippines, and within the jurisdiction of this Honorable Court, above-mentioned accused received on consignment basis from Rodson’s Collection Center, represented by Elizabeth E. Maridable, goods worth ~~P~~1,583.00 with the express obligation on her part to sell the consigned items and to remit the proceeds from the sale or to return the same if unsold to said complainant; but far from complying with the aforesaid obligation, with grave abuse of confidence and in violation of trust and with intent to defraud, the said accused willfully and unlawfully failed to remit the proceeds from the sale nor to return the same items despite demands therefore, thereby misappropriating and converting the same to her personal use and benefit, to the damage and prejudice of herein complainant in the said amount.

CONTRARY TO LAW."

Upon arraignment, petitioner, assisted by counsel, pleaded not guilty to the charge. Josalie Baguio has remained at large.*1a\^/phi1.net*

The evidence for the prosecution show that petitioner was formerly an area manager of Rodson’s Collection Center which sells various personal products, such as ladies’ T-shirts and perfumes, men’s cologne, care soap and shading strip. Under her were several dealers, one of whom was Josalie Baguio. Based on a "ride on" system, the area manager was allowed in certain instances to withdraw stocks for sale in the name of the dealer, provided that both would sign a trust receipt agreement. The trust receipt agreement provides that they should remit the proceeds of the goods sold within a specified time. If not sold, then they should return the unsold items to Rodson’s Collection Center.

On December 18, 1995, petitioner and Josalie Baguio withdrew from the Rodson’s Collection Center several items consisting of men’s cologne, soap, and other sundries worth ~~P~~1,583.00. Both signed the required trust receipt agreement.

However, petitioner and Josalie failed to remit the proceeds of the sale despite Rodson’s Collection Center’s several demands, hence, they were charged with estafa.

Petitioner contends that while she signed the trust receipt agreement, however, she did so only for the purpose of identifying her as the area manager of Josalie Baguio. She denied receiving any item. The stocks withdrawn were for the account of Josalie.

On February 15, 1999, the MTCC rendered its Decision, the dispositive portion of which reads:

"WHEREFORE, finding accused GERTRUDES TEH guilty beyond reasonable doubt, she is hereby sentenced to an imprisonment of THREE (3) MONTHS of *arresto mayor* as minimum to TWO (2) YEARS and FOUR (4) MONTHS of *prision correccional* as maximum; to indemnify the offended party the sum of ONE THOUSAND FIVE HUNDRED EIGHTY THREE PESOS (~~P~~1,583.00) and to pay the proportionate share of the costs.

Accused is further ordered to indemnify the offended party expenses incurred in enforcing her claim from the time the case was filed in 1996 to its final termination in 1999, which the Court hereby fixed as reasonable in the amount of One Thousand Pesos (~~P~~1,000.00).

As regards accused JOSALIE S. BAGUIO who remains at-large, let the case be sent to the ARCHIVES to be withdrawn therefrom as soon as she is apprehended.*1awphi1.nét*

SO ORDERED."[2](http://www.lawphil.net/judjuris/juri2005/jan2005/gr_141180_2005.html" \l "fnt2)

In finding petitioner guilty as charged, the MTCC ruled that inasmuch as she signed the trust receipt agreement, she is bound by the terms stipulated therein. Her failure to remit the proceeds or to return the goods to Rodson’s Collection Center constitutes estafa under Article 315(1) of the Revised Penal Code.

On appeal, the Regional Trial Court (RTC), Branch 10, Davao City, affirmed the MTCC Decision.

Petitioner then elevated the matter to the Court of Appeals by way of a petition for review.

However, the Court of Appeals dismissed the petition for being insufficient in form, not being accompanied by duplicate original or certified true copies of the documents and material parts of the record that would support the allegations. Moreover, there was no written explanation why service of the petition was not done personally.

Petitioner filed a motion for reconsideration but was denied by the Appellate Court.

Hence, the instant petition. Petitioner submits that the Court of Appeals erred in holding that she failed to comply with Section 2, Rule 42 and Section 11, Rule 13 of the 1997 Rules of Civil Procedure, as amended.

In his comment on the petition, the Solicitor General maintains that the Court of Appeals did not err in dismissing the petition in CA-G.R. CR No. 23482.

Section 2, Rule 42 of the same Rules provides:

"SEC. 2. *Form and contents.* – The petition shall be filed in seven (7) legible copies, with the original copy intended for the court being indicated as such by the petitioner, and shall (a) state the full names of the parties to the case, without impleading the lower courts or judges thereof either as petitioners or respondents; (b) indicate the specific material dates showing that it was filed on time; (c) set forth concisely a statement of the matters involved, the issues raised, the specification of errors of fact or law, or both, allegedly committed by the Regional Trial Court, and the reasons or arguments relied upon for the allowance of the appeal; (d) be accompanied by clearly legible duplicate originals or true copies of the judgments or final orders of both lower courts, certified correct by the clerk of court of the Regional Trial Court, the requisite number of plain copies thereof and of the pleadings and other material portions of the record as would support the allegations of the petition.

x x x"

We note that petitioner herself admits that the only documents attached to the petition in CA-G.R. CR No. 23482 were certified true copies of the Decisions of the RTC and the MTCC. There were no copies of the pleadings filed below or other material portions of the record which would support the allegations in the petition. Indeed, this is contrary to Section 2, Rule 42 quoted above.

Section 11, Rule 13 of the 1997 Rules of Civil Procedure reads:

"SEC. 11. *Priorities in modes of service and filing.* – Whenever practicable, the service and filing of pleadings and other papers shall be done personally. Except with respect to papers emanating from the court, a resort to other modes must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule may be cause to consider the paper as not filed."

Again, petitioner admits that she failed to comply with the above provision. She contends, however, that no prejudice was caused to the parties by her non-compliance.

Clearly, petitioner violated both provisions quoted above which warrants the dismissal of her petition by the Court of Appeals.*1awphi1.nét*

We thus rule that in dismissing the petition in CA-G.R. CR No. 23482, the Court of Appeals did not commit any error.

**WHEREFORE**, the petition is DENIED. The Resolutions of the Court of Appeals dated October 4, 1999 and November 29, 1999 in CA-G.R. CR No. 23482 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Panganiban, (Chairman), Corona, Carpio-Morales, and Garcia, JJ., concur.

**Footnotes**

[1](http://www.lawphil.net/judjuris/juri2005/jan2005/gr_141180_2005.html" \l "rnt1) *Rollo*, pp. 36-38. Per Associate Justice Remedios Salazar-Fernando and concurred in by Associate Justices Buenaventura Guerrero (retired) and Portia Aliño-Hormachuelos.

[2](http://www.lawphil.net/judjuris/juri2005/jan2005/gr_141180_2005.html" \l "rnt2) *Id*. at 54-55.