



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **January 18, 2023**, which reads as follows:*

“G.R. No. 228538 – LETICIA GO GARVIDA AND HENRY PASCUAL, *Petitioners*, v. PEOPLE OF THE PHILIPPINES, NENITA C. LEE-TAN, ESTRELLA C. LEE-UY, ROBERT C. LEE, NELLIE C. LEE-ALVAREZ, MARILOU C. LEE-CHUA, JIMMY C. LEE, RICHARD C. LEE, and JULIET C. LEE-ALVAREZ, *Respondents*.

After a review of the Petition for Review,¹ including the assailed Decision,² dated May 16, 2016, and the Resolution,³ dated November 22, 2016, of the Court of Appeals (CA), in CA-G.R. CR No. 36937, and the Decision,⁴ dated August 14, 2014, of the Regional Trial Court (RTC) of Bangui, Ilocos Norte, Branch 19, in Criminal Case No. 1967-19, the Court resolves to **DENY** the same for failure of the petitioners Leticia Go Garvida (**Leticia**) and Henry Pascual (**Henry**) (collectively, **the petitioners**) to sufficiently show that the CA committed any reversible error in the assailed Decision and Resolution as to warrant the exercise of the Court’s discretionary appellate jurisdiction.

Preliminarily, it bears stressing that the issues raised by the petitioners pertain to factual and evidentiary matters that are not subject to review *via* Rule 45 of the Rules of Court. It is doctrinal that only errors of law, and not of fact, are reviewable by this Court in petitions for review on *certiorari* under Rule 45. Save for the most cogent and compelling reason, it is not our function under the rule to examine, evaluate or weigh the probative value of the evidence presented by the parties all over again.⁵ Thus, on this ground alone, the Petition should be dismissed outright.

¹ *Rollo*, pp. 9-33.

² *Id.* at 38-70. Penned by Associate Justice Priscilla J. Baltazar-Padilla (now deceased, was a Member of the Court) and concurred in by Associate Justices Remedios A. Salazar-Fernando and Socorro B. Inting.

³ *Id.* at 72-74.

⁴ *Id.* at 75-98. Penned by Presiding Judge Rosemarie V. Ramos.

⁵ *Thomas Ang v. Associated Bank and Antonio Ang Eng Liong*, 559 Phil. 29, 64-65 (2007).

Nonetheless, even on the merits, the Petition must fail.

The Court finds that all the elements to support a conviction for the complex crime of Estafa through Falsification of Public Documents are present in this case.

For a successful prosecution of the complex crime of Estafa through Falsification of Public Documents, the concurrence of all the elements of the two crimes of Estafa and Falsification of Public Documents is required. This means that the prosecution must establish that the accused resorted to the Falsification of a Public Document as a necessary means to commit the crime of Estafa.⁶

For conviction of Estafa by means of deceit under Article 315 (2) of the Revised Penal Code (RPC), the prosecution must establish the following elements: (1) there must be a false pretense, fraudulent acts or fraudulent means; (2) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (3) the offended party must have relied on the false pretense, fraudulent act or fraudulent means and was induced to part with his money or property; and (4) as a result thereof, the offended party suffered damage.⁷

Here, the prosecution was able to establish the foregoing elements: (1) the petitioners committed fraudulent acts by falsifying public documents and making it appear that Paz voluntarily transferred her properties,⁸ through a falsified Agreement on Voluntary Land Transfer⁹ and Deed of Voluntary Land Transfer;¹⁰ (2) the falsification of the documents was made prior to the commission of the fraud; (3) such fraudulent acts led to the subdivision and transfer of ownership of the subject property without the knowledge and consent of Paz;¹¹ and (4) as a result thereof, Paz and her heirs suffered damages.

Further, the Court agrees with the CA that the crime of Falsification of a Public Document can be appreciated in this case as a necessary means of committing the Estafa. The elements of the crime of Falsification of Public Documents are: (1) the offender is a public officer who takes advantage of his position under Article 171 of the RPC or a

⁶ See *Intestate Estate of Manolita Gonzales Vda. De Carungcong v. People, et al.*, 626 Phil. 177, 205 (2010), citing *Gonzaludo v. People*, 517 Phil. 110 (2006).

⁷ *People v. Baladjay*, 814 Phil. 914, 923-924 (2017), citing *People v. Tibayan*, 750 Phil. 910, 919 (2015).

⁸ *Rollo*, p. 56.

⁹ *Id.* at 102-104

¹⁰ *Id.* at 99-101.

¹¹ *Id.* at 63, 65.

private individual under Article 172 of the RPC; (2) the offender committed any of the acts of falsification enumerated in Article 171¹² of the RPC (*i.e.*, *by causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate*); and (3) that the falsification was committed in a public, official or commercial document.¹³

The foregoing elements are present in this case. *First*, Henry is a public officer, who took advantage of his official position as the Municipal Agrarian Reform Officer (**MARO**) of Ilocos, by facilitating and approving the transfer of Paz's property without her knowledge and participation;¹⁴ while Leticia is a private individual. *Second*, the petitioners made it appear that Paz executed the Agreement on Voluntary Land Transfer and the Deed of Voluntary Land Transfer when she did not in fact sign the same.¹⁵ *Third*, based on the examination of the expert witness,¹⁶ it was established that the signature of Paz was falsified in the said documents, which are all notarized documents.¹⁷

Clearly, the complex crime of Estafa through Falsification of Public Documents was established as it was shown that the falsification committed by the petitioners was done as a necessary means to commit fraud against Paz and her heirs.

The Court likewise upholds the finding of conspiracy by the RTC, as concurred in by the CA.

¹² Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* — The penalty of prison mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. **Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;**
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book. (Emphasis supplied)

¹³ See *Ansaldo v. People*, 630 Phil. 549, 560-561 (2010); See *Lim v. Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices*, 795 Phil. 226, 238-239 (2016).

¹⁴ *Rollo*, p. 68

¹⁵ *Id.* at 67.

¹⁶ *Id.* at 317-318.

¹⁷ *Id.* at 90.

In this case, upon Leticia's request, surveys were made for the subdivision of the said property in her favor.¹⁸ Further, she filed and signed the application for CARP beneficiary and submitted the falsified Agreement on Voluntary Land Transfer and Deed of Voluntary Land Transfer for purposes of transferring the property owned by Paz.¹⁹ As a result, she was able to secure the titles covering the said property.²⁰

On the other hand, Henry's involvement in the commission of the crime was established when he facilitated the approval of the application of Leticia for the transfer of the property of Paz, notwithstanding that the latter did not participate in the transfer of her property.²¹ He solely relied on the representations of Leticia and her brother, Froilan, who have no relation to Paz and did not secure any proof that the supposed transfer of the property was actually made by the registered owner, or by her authority.²² Further, Henry admitted that he issued a Certification stating that he fully explained the nature of the voluntary transfer to Paz when in truth and in fact he never met Paz.²³

These circumstances unmistakably show a unity of purpose, intention and design to defraud Paz and her heirs by making it appear that Paz voluntarily transferred her ownership of the property, when she never did. The series of overt acts by the petitioners, taken together, clearly show they were in concert and shared a common intent of fraudulently transferring the property of Paz.

The conspiracy among the petitioners would render all the conspirators as principals regardless of the extent and character of their participation, for in conspiracy, the act of one is the act of all.²⁴

As regards the petitioners' defense of denial, the same deserves scant consideration. A defense of denial which is unsupported and unsubstantiated by clear and convincing evidence becomes negative and self-serving, deserving no weight in law, and cannot be given greater evidentiary value over convincing, straightforward and probable testimony on affirmative matters.²⁵ Denial is an inherently weak defense which must be supported by strong evidence of non-culpability to merit credibility.²⁶

¹⁸ *Id.* at 322-323.

¹⁹ *Id.* at 61-62.

²⁰ *Id.*

²¹ *Id.* at 68.

²² *Id.* at 95.

²³ *Id.* at 65-67; TSN dated November 21, 2013, p. 22-24.

²⁴ *People v. XXX and YYY*, G.R. No. 242474, September 16, 2020, citing *People v. Gungon*, 351 Phil. 116, 142 (1998).

²⁵ *People v. Mateo*, G.R. No. 179036, July 28, 2008, citing *People v. Gonzales*, 417 Phil. 342, 353 (2001).

²⁶ *Id.* citing *People v. Hivela*, 373 Phil. 600, 605 (1999).

Here, apart from her bare denial that she did not accomplish the documents required for the transfer of the properties owned by Paz, Leticia did not present proof nor offer satisfactory explanation as to how she obtained in her favor the titles covering portions of the land in controversy despite her claim that she did not do anything to obtain the same.²⁷ Similarly, Henry failed to proffer any convincing reason why he relied solely on the representations of Leticia and Froilan and favorably acted on the transfer of the properties owned by Paz without the latter's participation and knowledge, and why he falsely attested that Paz appeared before him, when she never did.²⁸

At this juncture, it bears to point out that the Court accord the trial court's findings the probative weight it deserves in the absence of any compelling reason to discredit its findings.²⁹ It is a fundamental judicial dictum that the findings of fact of the trial court are not disturbed on appeal, except when it overlooked, misunderstood, or misapplied some facts or circumstances of weight and substance that would have materially affected the outcome of the case.³⁰

Thus, absent any indication that they committed any error in their appreciation of the evidence, the Court finds that the RTC and the CA did not err in convicting the petitioners of the complex crime of Estafa through Falsification of Public Documents.

Penalty

There is a need to modify the penalties imposed by the CA in light of the passage of Republic Act (R.A.) No. 10951.³¹

Under Article 48³² of the RPC, the prescribed penalty for a complex crime is the penalty for the most serious crime, and the same shall be imposed in its maximum period. Thus, a comparison of the prescribed penalties for Estafa and Falsification of Public Documents must first be made.

²⁷ *Rollo*, p. 56.

²⁸ *Id.* at 95.

²⁹ *Domingo v. People*, 618 Phil. 499, 519 (2009).

³⁰ *Id.*

³¹ *An Act Adjusting the Amount or the Value of Property and Damage on Which a Penalty is Based, a the Fines Imposed under the Revised Penal Code.*

³² ARTICLE 48. Penalty for Complex Crimes. — When a single act constitutes two or more crimes, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

Section 85 of R.A. No. 10951, which amended Article 315 of the RPC provides:

ART. 315. Swindling (*estafa*). - Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

3rd. The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, if such amount is over Forty thousand pesos (PHP 40,000) but does not exceed One million two hundred thousand pesos (PHP 1,200,000).

Meanwhile, for Falsification of a Public Document, considering that Leticia, a private individual, conspired with Henry, a public officer who took advantage of his position, the penalty under Article 171(2) of the RPC shall be considered. A private person who cooperates with a public officer in the falsification of a public document is guilty of the crime and incurs the same liability and penalty as the public officer.³³

The penalty of imprisonment for Falsification of Public Documents is the same for both Article 171(2) of the RPC and Section 25 of R.A. No. 10951, which is *prision mayor*.

Since the crime committed is a complex crime under Article 48 of the RPC, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period. In this case, applying R.A. No. 10951 and considering the amount defrauded is PHP 200,961.00, the penalty for Estafa (*i.e.*, *prision correccional* in its minimum period) is now lighter than the penalty for Falsification of Public Documents (*i.e.*, *prision mayor*).

Hence, the penalty for Falsification of Public Documents which is *prision mayor* should be imposed in the maximum period, being the more serious crime than Estafa.

Applying the Indeterminate Sentence Law, the minimum term should come from the penalty next lower in degree which is *prision correccional* (six months and one day to six years), and the maximum term should come from *prision mayor* in its maximum period (10 years and one day to 12 years).

³³ 2, LUIS B. REYES, THE REVISED PENAL CODE CRIMINAL LAW 231 (17th Ed., 2008).

In fine, the petitioners should be sentenced to suffer imprisonment of six months and one day of *prision correccional*, as minimum, to 10 years and one day of *prision mayor*, as maximum.

As for the imposable fine, R.A. No. 10951 also amended the penalty of fine for Falsification of a Public Documents under Article 171 of the RPC. The old law states that the fine shall not be more than PHP 5,000.00, while the amendatory law increased the fine to not more than PHP 1,000,000.00. Given that the prior law is more favorable to the accused, the fine of PHP 5,000.00 should be imposed against the petitioners.

WHEREFORE, the Petition for Review on *Certiorari* is **DENIED**. The Decision, dated May 16, 2016, and the Resolution, dated November 22, 2016, of the Court of Appeals, in CA-G.R. CR No. 36937, are **AFFIRMED** with **MODIFICATION**. The petitioners Leticia Go Garvida and Henry Pascual are **GUILTY** beyond reasonable doubt of the complex crime of Estafa through Falsification of Public Documents and are sentenced to suffer the indeterminate penalty of imprisonment ranging from six (6) months and one (1) day of *prision correccional*, as minimum, to ten (10) years and one (1) day of *prision mayor*, as maximum and to pay a **FINE** of PHP 5,000.00.

Likewise, the petitioners are **ORDERED** to pay the private complainants Nenita C. Lee-Tan, Estrella C. Lee-Uy, Robert C. Lee, Nellie C. Lee-Alvarez, Marilou C. Lee-Chua, Jimmy C. Lee, Richard C. Lee, and Juliet C. Lee-Alvarez, the amount of PHP 19,990.00 as actual damages, with legal interest at six percent (6%) per *annum* from the date of finality of this Resolution, until fully paid.

SO ORDERED.” (Inting, J., no part; Gesmundo, C.J., designated as Additional Member per Raffle, dated March 15, 2021.)

By authority of the Court:

Misael Domingo C. Battung III
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court 18/1/23

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