



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated July 31, 2023, which reads as follows:

“G.R. No. 254898 (Alberto Augusto Bato Elguira @ Augusto Callanta Bato, Petitioner, versus People of the Philippines, Respondent). – Before the Court is a Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court assailing the Decision² dated June 11, 2020, and Resolution³ dated December 17, 2020, of the Court of Appeals (CA) in CA-G.R. CR No. 42476. The CA denied the petition for review⁴ under Rule 42 of the same Rules and affirmed the Decision⁵ dated November 17, 2017, and the Order⁶ dated October 17, 2018, of Branch 117, Regional Trial Court (RTC), Pasay City in Criminal Case No. 98-2528-R00-00. The RTC previously affirmed the Decision⁷ dated February 23, 2007, of Branch 46, Metropolitan Trial Court (MeTC), Pasay City, that found Alberto Augusto Bato Elguira @ Augusto Callanta Bato (petitioner) guilty of the crime of Falsification of a Public Document by a Private Individual under paragraph 1, Article 172 in relation to Article 171 of the Revised Penal Code (RPC).

The Antecedents

Petitioner was charged with the crime of Falsification of Public Document under the following Information,⁸ viz:

That sometime in May 1996, or dates prior thereto, in Pasay City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, [petitioner], in utter disregard of truth and in violation of public faith, did and [sic] then and there, wilfully,

¹ See Petition for Review on *Certiorari* filed on February 18, 2021, *rollo*, pp. 10-28.

² *Id.* at 30-44. Penned by Associate Justice Walter S. Ong and concurred in by Associate Justices Mariflor P. Punzalan Castillo and Victoria Isabel A. Paredes.

³ *Id.* at 46-49.

⁴ *Id.* at 117-131.

⁵ *Id.* at 101-106. Penned by Presiding Judge Eugenio G. Dela Cruz.

⁶ *Id.* at 114-116.

⁷ *Id.* at 88-95. Penned by Pairing Judge Gina M. Bibat-Palamos.

⁸ *Id.* at 55-57. Signed by State Prosecutor Carlos C. Pormento.

unlawfully and feloniously commit falsification in a Philippine Passport bearing No. AA916676 issued by the Consular Officers of the Department of Foreign Affairs, which affects the integrity of said documents, by tampering, making and causing false entries in the said passport.

CONTRARY TO LAW.⁹

Upon arraignment, petitioner entered a plea of "Not Guilty" to the charge.¹⁰

Trial ensued.¹¹

Version of the Prosecution

Divina Carina Corpuz (Corpuz) of the Research Investigation Group, Department of Foreign Affairs (DFA), Pasay City investigated petitioner with regard to a spurious or fake passport referred to her by the United States (US) Embassy Anti-Fraud Unit. According to Corpuz, petitioner submitted a Passport with No. AA916676 (the subject passport), purportedly issued under the name of Augusto Callanta Bato on March 18, 1996, when he applied for a US visa. In his Affidavit of Explanation dated December 17, 1996, petitioner admitted having dealt with a certain Tommy Dela Cruz (Dela Cruz), who purportedly facilitated the procurement of the fraudulent documents for ₱100,000.00.¹²

Upon investigation, Corpuz found that the subject passport was issued under the name of Augusto Callanta Bato on May 18, 1996. Later, it was given to petitioner even though Passport No. AA324477 was already issued under his name on August 10, 1995. Meanwhile, according to Barry K. Simmons (Simmons),¹³ Vice Consul of the US Embassy, petitioner came to their office and applied for a visa. Later, they discovered that petitioner submitted the following fraudulent documents: Philippine National Bank Certification, Income Tax Return, business registration, Birth Certificate, Bureau of Internal Revenue Official Receipt No. A0017336, and the subject passport.¹⁴ Petitioner even admitted that the subject passport had a different name, birth date, and birthplace.¹⁵

Version of the Defense

Petitioner denied that he falsified the subject passport or any

⁹ Id.

¹⁰ Id. at 88 and 101.

¹¹ Id.

¹² Id. at 32.

¹³ Also referred to as "Barry K. Simons" in the MeTC Decision, id. at 91.

¹⁴ Id. at 91-92.

¹⁵ Id. at 33.

entries therein. He averred that Dela Cruz, who told him about his connections with First¹⁶ Travel Agency and the US Embassy, was the one who processed his passport. He just affixed his signature on the visa application and was then told by Dela Cruz to wait for his call. After completing the requirements, Dela Cruz accompanied him to the US Embassy along with an employee named Jake Reyes.¹⁷

At the US Embassy, he submitted the subject passport and other documents in a sealed envelope to the interviewer. He was asked to proceed to a circular booth because his documents had a problem. At that point, a Filipino-American investigated him and asked him to identify the person who prepared the documents. Petitioner responded that Dela Cruz prepared the documents.¹⁸

The Ruling of the MeTC

In a Decision¹⁹ dated February 23, 2007, the MeTC found petitioner guilty as charged. It gave credence to the testimony of Corpuz, an investigator at the Research Investigation Group of the Office of the Consular Affairs, DFA. Petitioner was in possession of two passports, namely: (1) Passport No. "AA916676", issued on March 18, 1996, bearing the name "Augusto Callanta Bato," whose birthdate is "February 22, 1961"; and (2) Passport No. "AA324477", issued on August 10, 1995, bearing the name "Alberto Augusto Bato Elguira."²⁰ Simmons, Vice Consul of the US Embassy, also positively testified that petitioner went to the US Embassy to apply for a visa and submitted fake documents.²¹ In the absence of satisfactory explanation, one found in possession of and who used a forged document is deemed to be the forger thereof and guilty of falsification.²² The *fallo* of the MeTC Decision reads:

WHEREFORE, premises considered, [petitioner] is found GUILTY beyond reasonable doubt of the crime of Falsification of Public Document, defined and penalized under paragraph 1 of Article 172, in relation to Article 171[,] of the Revised Penal Code and he is hereby sentenced to suffer imprisonment of 1 year, 8 months and 21 days of prision correccional minimum and medium as minimum range to 3 years, 6 months and 21 days of prision correccional medium and maximum as maximum range and to pay a fine of Five [H]undred [P]esos (Php500.00) without subsidiary imprisonment in case of insolvency.

No pronouncement as to civil liability and costs.

¹⁶ Also referred to as "Quest" in some parts of the *rollo* (see *id.* at 14, 20-22 and 46).

¹⁷ *Id.*

¹⁸ *Id.* at 34.

¹⁹ *Id.* at 88-95, MeTC Decision.

²⁰ *Id.* at 94.

²¹ *Id.*

²² *Id.*

SO ORDERED.²³

Aggrieved, petitioner appealed to the RTC.

The Ruling of the RTC

On November 17, 2017,²⁴ the RTC affirmed the MeTC's ruling. The RTC decreed as follows:

IN THE LIGHT OF THE FOREGOING, the decision of the [MeTC], Branch 46 of Pasay City, finding [petitioner] GUILTY BEYOND REASONABLE DOUBT x x x, is (sic) hereby SUSTAINED.

As a consequence, [petitioner] is hereby found GUILTY beyond reasonable doubt of the crime of Falsification of Public Document, defined and penalized under paragraph 1 of Article 172, in relation to Article 171[,] of the Revised Penal Code and is hereby sentenced to [suffer] imprisonment of ONE (1) YEAR, EIGHT (8) MONTHS AND TWENTY-ONE (21) DAYS OF PRISION CORRECCIONAL MINIMUM AND MEDIUM AS MINIMUM RANGE TO THREE (3) YEARS, SIX (6) MONTHS AND TWENTY-ONE (21) DAYS OF PRISION CORRECCIONAL MEDIUM AND MAXIMUM AS MAXIMUM RANGE AND TO PAY A FINE OF FIVE HUNDRED PESOS (P500.00) WITHOUT SUBSIDIARY IMPRISONMENT IN CASE OF INSOLVENCY.

No pronouncement as to civil liability and costs.

SO ORDERED.²⁵

According to the RTC, petitioner was aware that the subject passport was issued under a different name. Despite such knowledge, he submitted it along with the other spurious documents when he applied for a US visa.²⁶

Petitioner filed a Motion for Reconsideration²⁷, but the RTC denied it in its Order²⁸ dated October 17, 2018.

Unperturbed, petitioner filed a petition for review²⁹ with the CA.

²³ Id. at 95.

²⁴ Id. at 101-106, RTC Decision.

²⁵ Id. at 105-106.

²⁶ Id. at 103.

²⁷ Id. at 107-113.

²⁸ Id. at 114-116.

²⁹ Id. at 117-131.

The Ruling of the CA

In the assailed Decision,³⁰ the CA affirmed the RTC Decision. It held that while there was no direct falsification of the subject passport by petitioner himself, his failure to correct the information in his passport made the issuance thereof possible.³¹ Thus:

For clarity, the dispositive [portion] of the Decision dated 17 November 2017 is amended to read as follows:

IN THE LIGHT OF THE FOREGOING, the decision dated February 23, 2007 of the Metropolitan Trial Court, Branch 46 of Pasay City, finding the accused GUILTY BEYOND REASONABLE DOUBT, is hereby SUSTAINED.

As a consequence, the accused is hereby found GUILTY beyond reasonable doubt of the crime of Falsification of Public Document, defined and penalized under paragraph 1 of Article 172, in relation to Article 171, of the Revised Penal Code, and he is hereby sentenced to suffer imprisonment of ONE (1) YEAR, EIGHT (8) MONTHS AND TWENTY-ONE (21) DAYS OF PRISION CORRECCIONAL, AS MINIMUM, TO THREE (3) YEARS, SIX (6) MONTHS AND TWENTY-ONE (21) DAYS OF PRISION CORRECCIONAL, AS MAXIMUM, AND TO PAY A FINE OF FIVE HUNDRED PESOS (P500.00) WITHOUT SUBSIDIARY IMPRISONMENT IN CASE OF INSOLVENCY.

No pronouncement as to civil liability and costs.

SO ORDERED.

IT IS SO ORDERED.³²

Petitioner moved for a reconsideration, but the CA denied it in its Resolution³³ dated December 17, 2020.

Hence, the present petition.

Petitioner avers that the prosecution failed to prove his guilt beyond reasonable doubt; that while he was caught in possession of a falsified passport, there was no direct and conclusive evidence that he was the author of the crime; and that the evidence shows that it was Dela Cruz, or someone from Quest Travel and Tours, who procured the subject passport.³⁴

³⁰ Id. at 30-44.

³¹ Id. at 42.

³² Id. at 43-44.

³³ Id. at 46-49.

³⁴ Id. at 21.

In its Comment,³⁵ the People, represented by the Office of the Solicitor General, countered that petitioner made untruthful statements in a narration of facts when he caused the issuance of the subject passport under a different or fictitious name and thereafter used and submitted the subject passport, along with other fake documents, to the US Embassy for his visa application.³⁶ Petitioner did not deny the facts.

In his Reply,³⁷ petitioner insists that the CA heavily relied on the presumption that he was the author of the crime simply because he was caught in possession of a falsified document.³⁸ He averred that during his testimony, he already mentioned that a certain “Tommy Dela Cruz” of the First Travel Agency facilitated the procurement of the subject passport; that it was Tommy Dela Cruz who instructed him to sign the visa application and affix his signature thereon; and that on the day of his interview at the US Embassy, the documents were turned over to him in a sealed envelope.³⁹

The Issue

The core issue for the Court’s consideration is whether petitioner is guilty beyond reasonable doubt of Falsification of a Public Document by a Private Individual.

The Court’s Ruling

The petition lacks merit.

Falsification of a Public Document by a Private Individual refers to falsification by a private individual or a public officer or employee, who did not take advantage of his or her official position, of a public, private, or commercial document.⁴⁰ It is punishable under paragraph 1, Article 172 of the RPC in relation to Article 171 thereof. The relevant provisions state:

Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* – The penalty of *prision 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:

x x x

4. Making untruthful statements in a narration of facts;

³⁵ Id. at 154-165.

³⁶ Id. at 160.

³⁷ Id. at 190-195.

³⁸ Id. at 190.

³⁹ Id. at 191.

⁴⁰ *Tanenggee v. People*, 712 Phil. 310, 332 (2013).

x x x

Art. 172. *Falsification by private individual and use of falsified documents.* – The penalty of *prision correccional* in its medium and maximum periods and a fine of not more than P5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and

x x x

The elements of the crime are as follows: (1) that the offender is a private individual or a public officer or employee who did not take advantage of his or her official position; (2) that he or she committed any of the acts of falsification enumerated in Article 171 of the RPC; and (3) that the falsification was committed in a public, official, or commercial document.⁴¹

The presence of the first element is beyond question: the accused is a private individual. The third element is likewise present inasmuch as the subject passport is a public document. As testified to by the prosecution witnesses, Corpuz and Simmons, the subject passport presented by petitioner was spurious. The MeTC discussed:

The Court finds no reason to doubt the testimony of Divina Carina Corpuz, an Investigator of the Research Investigation Group of the Office of the Consular Affairs, Department of Foreign Affairs. Her narration of the fact that [petitioner] was in possession of two passports, No. AA916676 issued on March 18, 1996 bearing the name Augusto Callanta Bato with birthdate February 22, 1961 and No. AA324477 under his real name Alberto Augusto Bato Elguira issued on August 10, 1995 as well as the submission of the income tax return which [petitioner] filed in Calasiao, Pangasinan and which upon verification with the BIR District Office No. 4, the alleged tax filer Augusto Bato does not appear in the revenue district list in 1995 Income Tax filers, were consistent.

Moreover, the Court cannot disregard the testimony of Barry K. Simons, Vice Consul, Embassy of the United States of America who positively asserted that [petitioner] went to the US Embassy to apply for a US visa and submitted a number of fake documents.

The admission of the [petitioner] that it was a certain Tommy dela Cruz of First Travel Agency who processed his passport cannot exonerate him of any liability. He admitted having signed the application for passport and did not personally provide the information contained therein. Such admissions cannot at all be of help to him. The Court is morally certain that the accused knew everything as he should have read the application for passport before

⁴¹ Id. at 332-333.

signing the same, thus, he may not be spared from the consequences thereof.⁴²

As regards the second element, petitioner's making of untruthful statements in a narration of facts, as shown by his act of causing the issuance of the subject passport under a different or fictitious name and then knowingly using it for his visa application, is considered an act of falsification under Article 171 of the RPC. While there was no direct evidence showing that petitioner actually falsified the subject passport, he is nevertheless presumed to have forged it or caused the forging thereof.⁴³

That petitioner was the author and/or mastermind of the falsification is presumed from the fact that he benefited from it. In the absence of a satisfactory explanation, one found in possession of and who use a forged document is the forger and therefore guilty of falsification. Accordingly, "[i]f a person had in his possession a falsified document and he made use of it (uttered it), taking advantage of it and profiting thereby, the clear presumption is that he is the material author of the falsification."⁴⁴ Petitioner failed to rebut this presumption. Admittedly, petitioner was the one who benefited from the falsified passport, which was procured in his favor. He also used the subject passport when he submitted it to the US Embassy for his visa application.

Besides, petitioner was well aware that the passport he was using was spurious as it was issued under a different name. Despite such knowledge, petitioner continued to use the subject passport when he submitted it, along with the other falsified documents, to the US Embassy. As a professional nurse, petitioner should have been more circumspect; he should have inquired as to why a new passport was issued to him, with a different name and number, when he already has a passport.

Petitioner further contends that Dela Cruz was solely responsible for the procurement of the subject passport.

The Court is not persuaded.

The Court affirms the uniform finding of the lower courts that petitioner's defense of good faith has no merit. Petitioner's bare-faced assertion that Dela Cruz committed the falsification is flimsy and unsupported by evidence. The CA properly explained this, as follows:

⁴² *Rollo*, p. 94.

⁴³ *Elma v. Jacobi*, 689 Phil. 307 (2012).

⁴⁴ *Maliwat v. CA*, 326 Phil. 732, 750 (1996), citing *U.S. v. Castillo*, 6 Phil. 453 (1906); *People v. de Lara*, 45 Phil. 754 (1924); *People v. Domingo*, 49 Phil. 28 (1926); *People v. Astudillo*, 60 Phil. 338 (1934); *People v. Manansala*, 105 Phil. 1253 (1959), cited in *People v. Sendaydiego*, 171 Phil. 114, 134 (1978).

As in this case, although there was no direct falsification of the passport itself by petitioner, his abject failure to provide the correct information in his passport application made the issuance of the falsified passport possible. To iterate, he was admittedly in possession of the falsified passport, which bears a false name, and which he submitted together with other documents to the US Embassy in support of his application for the issuance of a visa, and which he evidently used for his advantage and benefit. The presumption, therefore, is that he authored the crime. It behooves petitioner to controvert such *prima facie* presumption, which he clearly failed to do.

A passport being a proclamation of the citizenship of a Filipino, is a document that is superior to all other official documents. As such, it should be accorded the highest respect by its holder. To do damage to its integrity and validity is a serious crime that should be penalized accordingly.⁴⁵

Verily, the fact that petitioner was aware of the absolute falsity of the subject passport and still made use of it despite having the legal obligation to disclose the truth is akin to him falsifying it. Petitioner's act of tolerating its use as well as his failure to disclose the truth despite having knowledge of its falsity is analogous to him making the untruthful statement himself.

Under Article 172 of the RPC, Falsification of a Public Document by a Private Individual is punishable by *prision correccional* in its medium and maximum periods which ranges from two (2) years, four (4) months, and one (1) day to six (6) years, and a fine of not more than ₱5,000.00. Applying the Indeterminate Sentence Law, the minimum of the indeterminate sentence imposable upon petitioner should come from the penalty next lower in degree which is *arresto mayor* in its maximum period to *prision correccional* in its minimum period or four (4) months and one (1) day to two (2) years and four (4) months.⁴⁶ There being no mitigating or aggravating circumstance in the commission of the crime, the penalty should be imposed in its medium period or one (1) year and one (1) day to one (1) year and eight (8) months.

In this case, petitioner should serve an indeterminate penalty of one (1) year and one (1) day, as minimum, to three (3) years, six (6) months, and twenty-one (21) days, as maximum; and pay a fine in the amount of ₱500.00. The penalty of fine of not more than ₱5,000.00 under the RPC, being more favorable to petitioner, should be imposed instead of the penalty of fine of not more than ₱1,000,000.00 under Republic Act No. 10951.⁴⁷

⁴⁵ Rollo, p. 42.

⁴⁶ *Panuncio v. People*, 610 Phil. 594, 607 (2009).

⁴⁷ *Desmoparan v. People*, 850 Phil. 966, 982 (2019).

WHEREFORE, the petition is **DENIED**. The Decision dated June 11, 2020, and the Resolution dated December 17, 2020, of the Court of Appeals in CA-G.R. CR No. 42476 are **AFFIRMED** with **MODIFICATION**. Petitioner Alberto Augusto Bato Elguira @ Augusto Callanta Bato is sentenced to suffer the indeterminate penalty of imprisonment of one (1) year and one (1) day, as minimum, to three (3) years, six (6) months, and twenty-one (21) days, as maximum. He is further **ORDERED** to pay a **FINE** of ₱500.00.

SO ORDERED.”

By authority of the Court:

MisDcBatt
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Division Clerk of Court
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Branch 117, 1300 Pasay City
(Criminal Case No. 98-2528-R00-00)

The Presiding Judge
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Branch 46, 1300 Pasay City
(Criminal Case No. 98-2528)

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