

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. JOSE B. PACISTOL, ACCUSED, MA. ISABEL B. AMARO, ACCUSED-APPELLANT.

Ponente: SORONGON, E.D., J.

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SORONGON, E.D., J.

Assailed in this ordinary appeal filed by Ma. Isabel B. Amaro (accused-appellant) is the Decision[1] dated November 19, 2009 of the Regional Trial Court of Calabanga, Camarines Sur, Branch 63 in Criminal Case No. RTC '04-949 entitled “People of the Philippines vs. Jose B. Pacistol & Ma. Isabel B. Amaro. Said decision convicted accused-appellant of Falsification of Public Document defined and penalized under Article 171, par. (2) of the Revised Penal Code, thus:

“WHEREFORE, in view of the foregoing, the prosecution having proven the guilt of the accused Ma. Isabel B. Amaro, beyond reasonable doubt of the offense as charged, judgment is hereby rendered CONVICTING accused Ma. Isabel B. Amaro, the Barangay Secretary of Barangay II, Poblacion, Garchitorena, Camarines Sur and sentenced to suffer the indeterminate penalty of FOUR (4) YEARS and TWO (2) MONTHS of Prison Correccional, as minimum to EIGHT (8) YEARS and ONE (1) DAY of Prison Mayor, as maximum. A fine of Php 5,000.00 is likewise imposed upon her.

No pronouncement as to costs.

SO ORDERED.”

The origin of the present case can be traced from a complaint for child abuse filed by Patria Lopez and Rolly Patrick Lopez against Lorena B. Cruel before the Municipal Trial Court of Garchitorena, Camarines Sur. As a mandatory requirement for filing of an action in court, Patria Lopez was required by Police Inspector Eymard Gomez (Gomez) to secure an indorsement or certification from their barangay that the dispute had undergone barangay conciliation proceedings which is to be appended in her complaint. Patria Lopez went to their barangay hall and asked for the said certification from Brgy. Capt. Jose B. Pacistol (another accused in this case) but the latter refused to issue the indorsement because the complaint did not pass through the Lupon Tagapamayapa (Lupon). Patria Lopez then went back to Gomez to inform him that she failed to get a certification since her complaint has not passed the Lupon but Gomez replied that in child abuse cases the Lupon proceeding is not required. As per instruction of Gomez, she went back to accused Pacistol who immediately instructed accused-appellant, being the Barangay Secretary, to prepare the certification to file action. Since accused-appellant does not know how to make a certification she asked the assistance of policeman Edgar Villete who gave her a copy of Katarungang Pambarangay Form No. 20-A. Accused-appellant prepared the certification by copying verbatim the contents of Form No. 20-A and thereafter handed the certification to accused Pacistol who immediately signed it together with a certain Edmundo Borebor, also a member of the Lupon. Patria Lopez then gave the certification to file action to Gomez.

A complaint for child abuse was thereafter filed by Patria Lopez against Lorena Cruel. Appended with the Subpoena and copy of the complaint received by Lorena Cruel is a Certification to File Action which states that:

- There was a personal confrontation between the parties before the Punong Barangay but mediation failed;
- The pangkat ng katapagkasundo (sic) was constituted but the personal confrontation before the pangkat likewise did not result into a settlement; and
- Therefore, the corresponding complaint for the dispute may now be filed in court/government office.

The aforementioned certification was signed by accused Pacistol and accused-appellant duly attested by three (3) members of the Lupon Tagapamayapa namely: David Cordovez, Edmundo Borebor and Nilo Valencia.

Very much aware that no confrontation or mediation took place contrary to the contents of the certification to file action, Lorena Cruel filed a complaint for Falsification and Grave Misconduct before the Office of the Ombudsman (OMB). Finding merit in the complaint, the OMB resolved in favor of Lorena Cruel and suspended both accused from work for six (6) months without pay[2].

By virtue of the recommendation[3] of the Graft Investigator and Prosecutor Officer II Roberto V. Marcelo, an Information[4] dated July 6, 2004 was filed before the court a quo charging accused Pacistol and herein accused-appellant for Falsification of Public documents penalized under Article 171, par. (2) of the Revised Penal Code, the accusatory portion of which reads as follows:

“That on or about October 22, 2003 or sometime prior or subsequent thereto in Brgy. II Poblacion, Gatchitoren, Camarines Sur, Philippines and within the jurisdiction of this Honorable Court, the said accused JOSE B. PACISTOL, a public officer, being the Barangay Captain of Brgy. II Poblacion, Gatchitoren, Camarines Sur in connivance with MA. ISABEL B. AMARO, a public officer, being the Barangay Secretary of the said Barangay, acting in relation to their official position and taking advantage of the same, did then and there willfully, unlawfully and feloniously falsify a “Certification to File Action” by making it appear that a certain Lorena B. Cruel was personally present during the confrontation before the Office of the Barangay Captain and with the Pangkat Tagasundo for mediation/conciliation proceeding when in truth and in fact said Lorena B. Cruel did not participate in the confrontation/mediation and conciliation proceeding, the same person was not summoned to appear thereat, to the damage and prejudice of said Lorena B. Cruel.

CONTRARY TO LAW.”

Upon arraignment on April 26, 2005, both accused entered a “Not Guilty”[5] plea. Hence, trial forthwith ensued. Accused Pacistol died while trial was on going. The case was thus dismissed as against him.

Records likewise show that the complaint for Child Abuse filed by Patria Lopez and Rolly Patrick Lopez against Lorena B. Cruel and where the subject Certification to File Action was duly appended was down graded to Slight Physical Injuries which is being tried to date by the trial court.

As mentioned from the start, the court a quo rendered a judgment of conviction against herein accused-appellant finding all the essential requisites of falsification under Article 171, par. 2 of the Revised Penal Code extant in the present case.

Accused-appellant interposed the instant appeal alleging that:

I. THE COURT A QUO GRAVELY ERRED IN RENDERING A JUDGMENT OF CONVICTION DESPITE THE PROSECUTION'S FAILURE TO ESTABLISH ACCUSED-APPELLANT'S GUILT BEYOND REASONABLE DOUBT; and

II. THE COURT A QUO GRAVELY ERRED IN IMPOSING THE PENALTY.

In convicting herein accused-appellant, the trial court found all the elements of falsification of public documents under paragraph 2 of Rule 171 of the Revised Penal Code present. The trial court ratiocinated,

"Both accused admitted that indeed they have issued a certificate to file action and that they have signed both the said certification to file action. The said document is considered genuine and true document. There is no other recourse but to convict the accused of the offense as charged. xxx"

We reverse.

As a matter of long and sound appellate practice, this Court usually defers to the factual findings of facts made by the trial court and the same shall not be disturbed on appeal except for convincing reason that the trial court might have overlooked relevant fact which if considered would have warranted a different conclusion.

At bar, accused-appellant was charged under Article 171 of the Revised Penal Code, particularly paragraph 2 thereof, thus:

ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. — The penalty of prison mayor and a fine not to exceed 5,000 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:

xxx

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

xxx"

Under the foregoing article, for falsification of a public document to be established, the following elements must concur:

- "1. That the offender is a public officer, employee, or notary public;
2. That he takes advantage of his official position;
3. That he falsifies a document by committing any of the following acts:

xxx

b. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;[6]

Albeit the above-quoted rule did not specify the nature of the document that is falsified, a scrutiny thereof shows that it indisputably pertains to a public document considering that the offender is a public officer, employee or a notary public. Thus, it is an oft-cited rule that even if the document is originally a private one, if it was executed with the intervention of the public officer or employee or the same was in the latter's official custody or it forms part of the official records when it was falsified, the same is considered as a public or official document[7].

Black defines a public document as "a document of public interest issued or published by a political body or otherwise connected with public business." [8] The term is also described as a document in the execution of which a person in authority or notary public takes part. [9] The document must be of apparent legal efficacy [10]. Hence, a document becomes a public document when (1) it is prepared by the person in relation to his office and (2) the document was prepared in the conduct of public business or of apparent legal efficacy.

Undoubtedly, herein accused-appellant, being the Barangay Secretary is a public officer within the ambit of the foregoing article. As such, it is her duty to cause the preparation of the Certification to File Action. However, the attendant facts considered, accused-appellant did not take advantage of her position when she made said certification. Moreover, the prosecution failed to present and establish sufficient evidence that accused-appellant was impelled by any malice nor was there any indicia of deliberateness to conspire with her co-accused when she accomplished the certification. But what was clear was that she was merely following an order from her co-accused who was her immediate superior. Being a subordinate, she was obliged to perform a task which she was mandated to do as the Barangay Secretary. This fact is very patent in her testimony, which was duly summarized in the assailed decision, viz:

"xxx

She went back to her on October 22, 2003 at 2:00 o'clock in the afternoon because Patria Lopez did not want to confront with Lorena Cruel and the Punong Barnagay called for her and she was told by the Barangay Captain to make a certification to file action to be signed by him and told her it will no longer pass by the Lupon because it is a child abuse case that was told to her by Mrs. Lopez. Her basis now in issuing the certification to file action is because she was told by the Barangay Captain to issue said certification. xxx"[11]

Accused-appellant cannot, therefore, be faulted if she had obeyed the instruction of the barangay captain, her immediate superior. To our mind, while her following the instruction of her superior constituted violation of law, there was no indication that her action was perpetrated by self interest or for an unlawful purpose. Hence, "actus non facit reum, nisi mens sit rea"[12]. Even granting arguendo that accused-appellant is still liable, at the very least her action is only a mistake of fact or lapse of judgment committed in good faith¹³.

In conclusion, the trial court erroneously appreciated the circumstances surrounding the alleged commission of the crime. Indeed, in criminal cases, two inferences are patent, one favoring the innocence of the accused and the other for conviction. From the established facts, the guilty verdict against accused-appellant must be set aside consistent with the constitutionally enshrined presumption of innocence.

WHEREFORE, the November 19, 2009 decision of the Regional Trial Court of Calabanga, Camarines Sur, Branch 63, is REVERSED and SET ASIDE and herein accused-appellant Ma. Isabel B. Amaro is ACQUITTED of the charge.

SO ORDERED.

C E R T I F I C A T I O N

Pursuant to Article VIII, Section 13 of the 1987 Constitution, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court.

Carandang, R.D., Chairperson and Gonzales-Sison, JJ., concur.

[1] Rollo, pp. 18-28

[2] Decision dated July 27, 2007, Records, pp. 100-103

[3] Resolution dated July 6, 2004, Records, pp. 4-6

[4] Records, pp. 1-2

[5] Order dated April 26, 2005, Records, p. 74

[6] Suero vs. People of the Philippines, G.R. No. 156408, January 31, 2005

[7] Reyes, Revised Penal Code, Book 2, 1981, Edition. P. 212; U.S. vs. Inosanto, 20 Phil 376

[8] Black's Law Dictionary 520 (8th Ed.) as cited in the case of Goma vs. Court of Appeals, G.R. No. 168437, January 8, 2009

[9] Id.

[10] Luis B. Reyes, The Revised Penal Code, Fifteenth Ed., 2001, p. 203

[11] Page 6 of the assailed decision, Supra at note 1

[12] There can be no crime when the criminal mind is wanting.

[13] Gregorio, Fundamentals of Criminal Law, 1988 ed. P. 5

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