

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. EDITHA SARMIENTO AND NENITA RAMOS (DECEASED), ACCUSED, EDITHA SARMIENTO, ACCUSED-APPELLANT.

Ponente: DIMAAMPAO, J.

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DIMAAMPAO, J.:

Repugned before Us is the Decision[1] dated 10 October 2011 of the Regional Trial Court, Fourth Judicial Region, Calapan City, Oriental Mindoro, Branch 40, convicting accused-appellant of the crime of Estafa Through Falsification of Public Documents, in Criminal Case No. C-04-7664, the fallo of which reads—

“ACCORDINGLY, finding the guilt of herein accused Editha Sarmiento y Caguete of the crime beyond reasonable doubt as principal by direct participation of the crime charged punishable under Article 315, par. 2 (a) and Article 172, par. (1) both of the Revised Penal Code in relation to Article 48 thereof and applying the Indeterminate Sentence Law, said accused is hereby sentenced to suffer imprisonment ranging from FOUR (4) MONTHS and ONE (1) DAY OF Arresto Mayor to NINE (9) YEARS of Prision Mayor in its medium period, with all the accessory penalties as provided for by law.

SO ORDERED.”[2]

In an Information[3] dated 21 May 2004, accused-appellant Editha Sarmiento (SARMIENTO) and co-accused Nenita Ramos (Ramos) were inculpated for the crime of Estafa Through Falsification of Public Documents, the accusatory averments read as follows:

“That during the months from February to March 1998, in the City of Calapan, Philippines and within the jurisdiction of the Honorable, the above-named accused conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously prepare or cause to be prepared 'SPECIAL POWER OF ATTORNEY' more particularly described as Doc. No. 66, Page No. 14, Book No. 1, Series of 1998 of the Notarial Register of Notary Public CALIXTO A. BACULO and an 'AFFIDAVIT OF NON-TENANCY' subscribed and sworn to before Atty. CALIXTO A. BACULO, a notary public, causing it to appear that CORONA SANCHEZ executed the said affidavit of non-tenancy and the special power of attorney giving them the authority to mortgage or re-mortgage with the Rural Bank of Victoria the parcel of land covered and embraced by Transfer Certificate of Title No. 33662 issued by the Registry of Deeds of Oriental Mindoro registered in the name of CORONA SANCHEZ, when said accused well knew, that said CORONA SANCHEZ could have not executed said 'AFFIDAVIT OF NON-TENANCY' and 'SPECIAL POWER OF ATTORNEY' because Corona Sanchez was not in the Philippines at the time of the execution of the said documents; and thereafter, mortgage(d) said property covered by TCT No. 33662 with the Rural Bank of Victoria in the amount of SIXTY THOUSAND (Php60,000.00) PESOS, Philippine Currency, to the damage and prejudice of CORONA SANCHEZ represented by NEMESIA RAMOS SANCHEZ.

CONTRARY TO LAW.”

Upon arraignment, SARMIENTO and Ramos pled not guilty to the charge.[4] Pending resolution of the case, Ramos died ensuing in the dismissal of the case against her. Thereafter, trial on the merits proceeded as regards

SARMIENTO.

Culled from the records are the following undisputed facts:

One. Private complainant Corona Sanchez (Sanchez) is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-33662 located in Barangay Malinao, Naujan, Oriental Mindoro.[5]

Two. SARMIENTO, armed with a Special Power of Attorney and Affidavit of Non-Tenancy,[6] obtained a loan in the amount of P60,000.00 from the Rural Bank of Victoria, Oriental Mindoro. To secure payment thereof, she executed a Real Estate Mortgage and Promissory Note over the subject realty.[7]

The prosecution endeavored to demonstrate that SARMIENTO and Ramos conspired with each other and forged the signature of Sanchez in the Special Power of Attorney and Affidavit of Non-Tenancy, and used the falsified documents to obtain a loan from the bank. Sanchez neither prepared nor signed the Special Power of Attorney and Affidavit of Non-Tenancy given that at the time of its execution she was working at the Israeli Embassy in Vienna, Austria. Moreover, she did not authorize SARMIENTO and Ramos to mortgage her property or receive the proceeds of the mortgage loan as she did not personally know them.[8]

Professing innocence, SARMIENTO denied falsifying or participating in falsifying the Special Power of Attorney and Affidavit of Non-Tenancy, and avowed that it was Ramos and her husband, Divino Ramos, who facilitated the mortgage loan and received the proceeds thereof. They, in turn, gave it to private complainant's mother.[9]

Ploughing through the discordant evidence of the prosecution and the defense, the court a quo rendered the challenged Decision.

Unflustered, SARMIENTO (now, appellant) seeks refuge before Us asseverating that the court a quo gravely erred in:

I

FINDING ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

II

DISREGARDING THE ACCUSED-APPELLANT'S VERSION AND RELYING HEAVILY ON THE PROSECUTION'S VERSION.

At the maelstrom of this Appeal is the following query— Did the court a quo err in convicting appellant of the complex crime of Estafa Through Falsification of Public Documents?

Upon this point, We answer in the affirmative.

Section 14(2), Article III of the 1987 Constitution provides that an accused has the right to be informed of the nature and cause of the accusation against him. In the same vein, Section 6, Rule 110 of the Revised Rules of Criminal Procedure requires that the acts or omissions complained of as constituting the offense must be alleged in the Information. Section 8 thereof likewise provides that the Information shall state the designation of the offense given by the statute and aver the acts or omissions constituting the offense.

The real nature of the crime charged is determined by the facts alleged in the Information and not by the title or designation of the offense contained in the caption of the Information. It is fundamental that every element of which the offense is comprised must be alleged in the Information. What facts and circumstances are necessary to be alleged in the Information must be determined by reference to the definition and the essential elements of the

specific crimes.[10]

Paragraph 2(a), Article 315 of the Revised Penal Code penalizes fraud or deceit when committed as follows:

“Art. 315. (Swindling (Estafa).- Any person who shall defraud another by any of the means mentioned herein below shall be punished by: x xx x

x x x

x x x

"2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits."

From the foregoing, the elements of the crime of estafa are: (1) there must be false pretense, fraudulent act 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, that is, he must have been induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; and (4) as a result thereof, the offended party suffered damage.[11]

Deeply-embedded in Our jurisprudence is the rule that for a complex crime of estafa through falsification of a public document to prosper all the elements of both crimes of estafa and falsification of a public document must exist.[12]

In the case at bench, the records reflect that the Information is devoid of any allegation as to the aforesaid elements. Ergo, appellant could not be charged with estafa under Paragraph 2(a), Article 315 of the Revised Penal Code. Ineluctably, We deem it judicious to ACQUIT appellant of the crime of Estafa.

Anent the crime of Falsification of Public Documents, nonetheless, We find appellant guilty.

From the evidence on record, there lies the moral certainty that appellant committed the crime of Falsification of Public Documents under Paragraph 1, Article 172 of the Revised Penal Code which punishes any private individual who shall commit any of the acts of falsification enumerated in Article 171 in any public or official document or letter of exchange or any other kind of commercial document.

The elements of falsification of public, official, or commercial document by a private individual are:

- That the offender is a private individual or a public officer or employee who did not take advantage of his official position.

- That he committed any of the acts of falsification enumerated in Art. 171.

- That the falsification was committed in a public official or commercial document.

On the other hand, the requisites for acts committed under Paragraph 2, Article 171 are:

- That the offender caused it to appear in a document that a person or persons participated in an act or a proceedings; and

- That such person or persons did not in fact so participate in the act or proceedings.[13]

Here, appellant is a private individual who used the Special Power of Attorney and Affidavit of Non-Tenancy and made it appear that private complainant prepared and signed such documents, when in truth and in fact, appellant knew very well that the latter neither signed nor executed the same as she was then working in Vienna, Austria.

Along this grain, We echo with approbation the disquisition of the court a quo that appellant and her co-accused, Ramos, conspired to perpetuate forgery and falsification, viz:

“The prosecution was able to clearly establish that said (appellant) in conspiracy with her co-accused Nenita Ramos (deceased), was able to secure mortgage loan from the Rural Bank of Victoria, Oriental Mindoro by presenting a special power of attorney making it appear in the said document that said (appellant) was given the authority by the private complainant Corona Sanchez to mortgage the latter's property situated in barangay Malinao, Naujan, Oriental Mindoro and embraced in Transfer Certificate of Title No. T-3362 issued in the name of the private complainant by the Registry of Deeds of Oriental Mindoro and the said special power of attorney was notarized by notary public Calixto A. Baculo; that the said (appellant) also in conspiracy with her co-accused Nenita Ramos submitted an affidavit of non-tenancy causing it to appear that the private complainant Corona Sanchez executed the same which was also subscribed before Atty. Calixto A. Baculo, a notary public, when in truth and in fact, the private complainant did not actually sign the said documents and did not give consent to the execution of both the aforesaid Special Power of Attorney and the Affidavit of Non-Tenancy as she was then abroad at the time of the execution of the said fictitious documents.

As adverted to earlier, the said falsified documents were used by said (appellant) in order to obtain a loan from the Rural Bank of Vitoria, Oriental Mindoro in the amount of P60,000.00 and used the property covered by the aforesaid TCT No. T-33662 of the private complainant as collateral to the damage and prejudice of the latter.”[14]

It is a hoary doctrine that full weight and respect are accorded by the appellate court to the findings of the trial court on the credibility of witnesses, since the trial judge had the opportunity to observe the demeanor of the witnesses.[15] In the absence of palpable error or grave abuse of discretion on the part of the trial judge, the trial court's evaluation of the credibility of witnesses will not be disturbed on appeal.[16] It is the peculiar province of the trial court to determine the credibility of witnesses and related questions of fact because of its superior advantage in observing the conduct and demeanor of witnesses while testifying. Thus, it has become a well-settled rule that where the issue touches on the credibility of witnesses or factual findings, the appellate court will generally not disturb the findings of the trial court, unless some facts or circumstances that may affect the result of the case have been overlooked.[17]

We now elucidate the imposable penalty for Falsification of Public Documents.

Article 172 of the Revised Penal Code imposes the penalty of prision correccional in its medium period and maximum periods and a fine of not more than P5,000.00. Prision correccional in its medium and maximum periods is equivalent to imprisonment of 2 years, 4 months and 1 day. Applying the Indeterminate Sentence law, the next lower in degree to prision correccional is arresto mayor in its maximum period to prision correccional in its minimum period, or 4 months and 1 day to 2 years and 4 months of imprisonment.[18] Appropriately, appellant should be sentenced to suffer the imprisonment of four months and one day of arresto mayor, as minimum, to two years, four months and one day of prision correccional, as maximum, and to pay a fine of

P5,000.00.

WHEREFORE, the Decision dated 10 October 2011 of the Regional Trial Court, Fourth Judicial Region, Calapan City, Oriental Mindoro, Branch 40, in Criminal Case No. C-04-7664 is hereby AFFIRMED with MODIFICATION in that accused-appellant EDITHA SARMIENTO is ACQUITTED of the complex crime of Estafa Through Falsification of Public Documents. However, she is adjudged GUILTY of the crime of Falsification of Public Documents and is ACCORDINGLY METED an Indeterminate Sentence of four (4) months and one (1) day of arresto mayor, as minimum, to two (2) years, four (4) months and one (1) day of prision correccional, as maximum, and ORDERED to pay a fine of P5,000.00.

SO ORDERED.

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

Pursuant to Article VIII, Section 13 of the 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.

Ybañez and Sadang, JJ., concur.

[1] Original Records, pp. 452-465.

[2] Original Records, pp. 464-465.

[3] Id., p. 1.

[4] Id., pp . 82, 241-242.

[5] Original Records, pp. 12.

[6] Id., pp. 16-19.

[7] Id., pp. 20-24.

[8] TSN, 26 October 2005; 25 May 2006; 6 October 2006.

[9] Id., 1 September 2010.

[10] Naya v. Abing, 398 SCRA 364, 369-370 (27 February 2003).

[11] See Uy v. People, 564 SCRA 542, 558-559 (11 September 2008).

[12] See Ansaldo v. People, 616 SCRA 556, 563-564 (26 March 2010).

[13] See Obando v. People, 624 SCRA 299, 316 (7 July 2010).

[14] Original Records, pp. 460,461.

[15] See Sanchez v. People, 588 SCRA 747, 762 (5 June 2009).

[16] See People v. Desuyo, 625 SCRA 590, 605 (26 July 2010).

[17] Barrameda v. Court of Appeals, 313 SCRA 477, 486 (1999); Soplente v. People, 465 SCRA 267, 277 (2005).

[18] See Borlongan, Jr. v. Pena, 620 SCRA 106, 118 (5 May 2010).

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