

FELIX O. ALFELOR, SR., REMEDIOS R. ALFELOR, CIRIACO R. ALFELOR, FELIX R. ALFELOR, JR., ERNESTO RIGOROSO, ELEUTERIO SALAZAR, PORFERIO TURIANO, ROMEO CATANGUI, JOSE IBARRIENTOS, M...

G.R. No. L-27590. April 30, 1976

Ponente: FERNANDO, Acting C.J.

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FERNANDO, Acting C.J.:

The Judiciary Act[1] and the Rules of Court[2] set forth with clarity the jurisdiction of a municipal court over crimes. That was the point stressed by petitioners to respondent Judge.[3] It did not avail, their motion to dismiss a falsification charge against them having been denied. They did point out that in the very complaint itself it was admitted that it was in another municipality where such alleged falsification took place. Respondent Judge was not persuaded; he accepted the view set forth in the objection to the motion to dismiss that the municipal court of Tigaon, his station, was vested with jurisdiction as it "is one of the intervening municipalities where the jeep carrying the ballot box [the contents of which were allegedly falsified passed through." [4] He maintained that falsification is a continuing offense. He did not budge, notwithstanding his attention being called to authoritative decisions that affirmed the contrary. Clearly then, there is merit to this petition. Certiorari and prohibition lie.

The principal petitioner, Felix O. Alfelor, and respondent Felix A. Fuentebella were congressional candidates in the second district of Camarines Sur in the 1965 elections, with the latter being proclaimed as winner resulting in the filing of an electoral protest by the former.[5] Respondent Fuentebella in turn charged his opponent and the other petitioners in the municipal court of Tigaon, Camarines Sur, presided by respondent Judge, with falsification of public or official documents contained in the ballot box of a precinct in Parubcan, Camarines Sur, the alleged criminal act having taken place in still another municipality, Iriga, Camarines Sur.[6] There was on the part of petitioners a motion to dismiss on the ground of lack of jurisdiction, the situs of the alleged falsification being in another municipality, Iriga, Camarines Sur.[7] Respondent Judge in the challenged order issued on April 29, 1967 denied the motion to dismiss on the ground that falsification was a continuing offense.[8] A motion for reconsideration was filed. It was denied.[9] Hence this petition for certiorari and prohibition.

As noted at the outset, the petition possesses merit.

1. Reference was previously made both to the Judiciary Act and the Rules of Court as to the jurisdiction of municipal courts to try criminal cases being confined only to such offenses committed within the limits of the territories appertaining to their position.[10] In the latest case in point, *Lopez v. City Judge*, [11] Justice Dizon, as ponente, restated the basic rule thus: "It is settled law in criminal actions that the place where the criminal offense was committed not only determines the venue of the action but is an essential element of jurisdiction (*U.S. v. Pagdayuman*, 5 Phil. 265). Thus, under the provisions of Section 86 of the Judiciary Act of 1948, municipal courts have original jurisdiction only over criminal offenses committed within their respective territorial jurisdiction." [12] As was pointed out by him, such a doctrine goes back to *U.S. v. Pagdayuman*, [13] a 1905

decision. *Beltran v. Ramos*,^[14] *Ragpala, v. Justice of the Peace of Tubod*,^[15] *People v. Yumang*^[16] and *People v. San Antonio*^[17] may likewise be cited on this point.

2. That much, as was pointed out by Justice Dizon, is settled law. It is to be assumed that respondent Judge would not deliberately ignore what it commands. His persistence can be ascribed to his view that falsification is a continuing offense. He was led to conclude, therefore, that an ingredient thereof took place within his jurisdiction. Here his stand is decidedly opposed to what this Court has uniformly and consistently held. Again, *Lopez v. City Judge*^[18] points the way: "We now come to consider the question of when and where is the offense of falsification of a private document deemed consummated or committed? Upon this point, We have ruled clearly and definitely in *U.S. v. Infante*, * * * that the crime of falsification of a private document defined and penalized by Article 304 of the Penal Code (now paragraph 2, Article 172 of the Revised Penal Code) is consummated when such document is actually falsified with the intent to prejudice a third person, whether such falsified document is or is not thereafter put to the illegal use for which it was intended."^[19] *United States v. Infante*^[20] was decided as far back as 1917, almost sixty years ago. Less than a month later that same year, *United States v. Barreto*,^[21] which spoke to the same effect, was promulgated. As was pointed out by Justice Carson who likewise penned the *Infante* opinion: "It is evident, therefore, that the place where the crime is committed is the place where the document is actually falsified, and that the improper, or illegal use of the document thereafter is in no wise a material or essential element of the crime of falsification of a private document; and even if it were otherwise, the charge that the crime was committed in a specific place would seem to be a sufficient allegation that all of the acts necessary to its consummation were in fact done at the place indicated."^[22] There is also this opinion of Chief Justice Avanceña in *People v. Villanueva*:^[23] "The falsification of each of these six money orders committed separately by means of different acts constitutes independent crimes of falsification (*U.S. v. Infante* and *Barreto*, 36 Phil. 146), and the appropriation of the respective amounts thereof by the defendant, likewise constitutes different crimes of malversation."^[24] All of the above cases explicitly ruled on the specific point at issue. It does not admit of doubt though that while no such categorical statement may be found in other decisions of this Court, it has always been assumed that falsification is not a continuing offense.^[25]

WHEREFORE, the petition for certiorari is granted and the order of respondent Judge of April 29, 1967 and the order of May 25, 1967 denying the motion for reconsideration are reversed, nullified and set aside and declared to be of no force and effect. The writ of prohibition is likewise granted, respondent Judge being enjoined to desist from taking any further action on the complaint for falsification of public and/or official documents filed against petitioners in his sala except for the purpose of dismissing the same. No costs.

Barredo, (Acting Chairman), Antonio, Aquino, and Concepcion Jr., JJ., concur.

[1] According to Section 86 (a), Republic Act 296:

"Original jurisdiction to try criminal cases in which the offense charged has been committed within their respective territorial jurisdictions; * * *."

[2] Section 14, Rule 110, Rules of Court provides:

"Place where action is to be instituted. – (a) In all criminal prosecutions the action shall be instituted and tried in the court of the municipality or province wherein the offense was committed or any one of the essential ingredients thereof took place."

[3] The then Congressman Felix A. Fuentebella was included as respondent. It was he who filed the complaint for falsification.

[4] Petition, Annex E.

[5] Ibid, par. 2.

[6] Ibid, pars. 3-4.

[7] Ibid, par. 5.

[8] Ibid, par. 8.

[9] Ibid, par. 11.

[10] Under the Rules of Court, Rule 110, Section 14, there is this modification that the action may be instituted and tried in the court and municipality where the offense is committed or any one of its essential ingredients took place.

[11] L-25795, October 29, 1966, 18 SCRA 616.

[12] Ibid, 619-620.

[13] 5 Phil. 265.

[14] 96 Phil. 149 (1954).

[15] 109 Phil. 373 (1960).

[16] L-19569, May 30, 1964, 11 SCRA 297.

[17] L-20430, May 20, 1965, 14 SCRA 63.

[18] L-25795, October 29, 1966, 18 SCRA 616.

[19] Ibid, 619.

[20] 36 Phil. 146.

[21] 36 Phil. 204.

[22] Ibid, 207.

[23] 58 Phil. 671 (1933).

[24] Ibid, 673.

[25] Cf. U.S. v. Sarmiento, 1 Phil. 484 (1902); U.S. v. Bunagan, 5 Phil. 141 (1905); U.S. v. Leyson, 5 Phil. 447 (1905); U.S. v. Barrios, 10 Phil. 366 (1908); U.S. v. Austero, 14 Phil. 377 (1909); U.S. v. Tolentino, 15 Phil. 56 (1910); U.S. v. Corral, 15 Phil. 383 (1910); U.S. v. Capule, 24 Phil. 12 (1913); People v. Isla, 42 Phil. 485 (1921); People v. de Lara, 45 Phil. 754 (1924); People v. Orendain, 57 Phil. 276 (1932); People v. Balmores, 85 Phil. 493 (1950); People v. Po Giok To, 96 Phil. 913 (1955); People v. Uy, 101 Phil. 159 (1957); Mendiola v. Macadaeg, L-16874, Feb. 27, 1961, 1 SCRA 593; Paras v. Vailoces, AC No. 439, April 12, 1961, 1 SCRA 954; Benitez v. Concepcion, Jr., L-14646, May 30, 1961, 2 SCRA 178; People v. Madrigal-Gonzales, L-16688-90, April 30, 1963, 7 SCRA 942; People v. Cainglet, L-21493-94, April 19, 1966, 16 SCRA 748.

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