

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLANT, VS.
MARIANO TERRADO, PEDRO TERRADO, AND CASIMIRO FLORES,
DEFENDANTS-APPELLEES.**

G.R. No. L-23625. November 25, 1983

Ponente: CONCEPCION, JR., J.

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CONCEPCION, JR., J.:

APPEAL from the orders of the Court of First Instance of Camarines Sur, all dated April 15, 1963, which dismissed Criminal Case No. 7613 of said court, entitled: "The People of the Philippines, plaintiff, versus Mariano Terrado, et al., defendants"; Criminal Case No. 7614, entitled: "The People of the Philippines, plaintiff, versus Remedios Gundran, et al., defendants"; and Criminal Case No. 7615, entitled: "The People of the Philippines, plaintiff, versus Gertrudes Obo, et al., defendants", on the ground that "the crimes committed by the accused are either perjury defined under Section 129 of the Commonwealth Act No. 141 and punished under Art. 183 of the Revised Penal Code, or offenses relating to 'unlawful occupation and destruction of public forest' defined and punished under Section 2751 of the Revised Administrative Code, as amended by Acts 115 and 171" and had already prescribed.

The appellant maintains that the facts charged in the informations constitute the crimes of falsification of public documents, defined and penalized under Art. 171, par. 4, of the Revised Penal Code, and that the criminal actions have not yet prescribed.

The records of the cases show that in November, 1951 and May, 1952, Gertrudes Obo, Remedios Gundran, and Mariano Terrado applied for, and were issued free patents for contiguous parcels of land situated in Barrio Paculago, Ragay, Camarines Sur, each containing an area of more than 23 hectares, and more particularly known as Lots 7, 8 and 9 of Plan Psu-125902, respectively. As the said parcels of land were allegedly forest land and, hence, not dis-posable, Mariano Terrado, Remedios Gundran, and Gertrudes Obo were charged before the Court of First Instance of Camarines Sur on March 13, 1962, in three separate informations for falsification of public documents, defined and penalized under Art. 171 of the Revised Penal Code, docketed therein as Criminal Case Nos. 7613, 7614, and 7615, respectively, together with Pedro Terrado, a licensed private land surveyor; Casimiro Flores, a public land inspector of the Bureau of Lands; and Bruno Gundran, the District Land Officer of District No. 10 of the Bureau of Lands, for having conspired, confederated, cooperated together, and helped one another, through false and fraudulent misrepresentations in wilfully, unlawfully, and feloniously with full knowledge of their falsity, preparing or causing to be prepared, documents containing false narration of facts, more particularly, the (1) applications for free patent; (2) notices of application for free patent; (3) final inspection reports; and (4) first indorsements of District Land Officer Bruno Gundran, wherein they made it appear to the Director of Lands and the Secretary of Agriculture and Natural Resources that the applicants possessed all the necessary qualifications and had complied with all the requirements of law to entitle them to a free patent, when in truth and in fact, as they all fully well knew, all their manifestations were false and fraudulent and that the said applicants had not complied with any or all of the requirements of the law to entitle them to a free patent. The informations

further alleged that Casimiro Flores and Bruno Gundran had taken advantage of their respective official positions in making the un-truthful statements. Before the arraignment, the defendants filed separate motions to quash the informations on the ground that the crimes charged in the informations do not constitute the offense of falsification of public documents, and that the same had already prescribed. After proper hearing, the trial court dismissed the informations as aforesaid. Hence, the present recourse.

While the informations sufficiently alleged the commission of falsification of public documents under Art. 171 of the Revised Penal Code, the offenses alleged to have been committed have already prescribed since the preparation and submission of false affidavits in support of a petition or claim respecting lands of the public domain is also punishable as perjury under Sec. 129 of Commonwealth Act No. 141, as amended, which reads, as follows:

"Sec. 129. Any person who present or causes to be presented, or cooperates in the presentation of, any false application, declaration, or evidence, or makes or causes to be made or cooperates in the making of a false affidavit in support of any petition, claim, or objection respecting lands of the public domain, shall be deemed guilty of perjury and punished as such."

Falsification of public documents is punishable by prision mayor and a fine not to exceed P5,000.00.[1] Prision mayor is an afflictive penalty,[2] and hence, prescribes in 15 years.[3] Perjury, upon the other hand, is punishable by arresto mayor in its maximum period to prision correccional in its minimum period,[4] or from four (4) months and one (1) day to two (2) years and four (4) months, which is correctional in nature,[5] and prescribes in ten (10) years.[6] However, Public Act No. 3326, as amended by Act 3585 and Act 3763, provides that "violations penalized by special laws shall, unless otherwise provided in such acts, prescribe in accordance with the following rules: (a) after a year for offenses punished only by a fine or by imprisonment for not more than one month, or both; (b) after four years for those punished by imprisonment for more than one month, but less than two years; (c) after eight years for those punished by imprisonment for two years or more, but less than six years; and (d) after twelve years for any other offense punished by imprisonment for six years or more, except the crime of treason, which shall prescribe after twenty years", so that perjury which is punishable by imprisonment of from four (4) months and one (1) day to two (2) years and four (4) months prescribes after eight years.

Penal statutes, substantive and remedial or procedural are, by consecrated rule, to be strictly applied against the government and liberally in favor of the accused.[7] As it would be more favorable to the herein accused to apply Section 129 of Commonwealth Act 141 and Act 3326, as amended, in connection with the prescriptive period of the offenses charged, the same should be applied. Considering, therefore, that the offenses were alleged to have been committed during the period from May 15, 1952 to February 2, 1953, with respect to Criminal Case No. 7613; from May 28, 1952 to August 18, 1952, with respect to Criminal Case No. 7614; and from November 16, 1951 to February 21, 1952, with respect to Criminal Case No. 7615, and the informations were filed only on March 13, 1962, or more than eight (8) years after the said offenses were allegedly committed, the lower court correctly ruled that the crimes in question had already prescribed.

WHEREFORE, the judgment appealed from should be, as it is hereby, **AFFIRMED**. Without costs.

SO ORDERED.

Makasiar, (Chairman), Guerrero, Abad Santos, De Castro, and Escolin, JJ., concur.
Aquino, J., see dissent.

[1] Art. 171, Revised Penal Code.

[2] Art. 25, Ibid.

[3] Art. 90, Ibid.

[4] Art. 183, Ibid.

[5] Art. 25, Ibid.

[6] Art. 90, Ibid.

[7] People vs. Elkanish, 90 Phil. 53; People vs. Yu Hai, 99 Phil. 725.

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DISSENTING OPINION

AQUINO, J.:

I dissent with all due deference to Mr. Justice Concepcion's opinion.

The crime is perjury under article 183 of the Revised Penal Code punished by arresto mayor maximum to prision correccional minimum, a correccional penalty. The crime prescribes in ten years under article 90 of the Revised Penal Code.

Therefore, the ten-year prescriptive period under article 90 should be applied, not the eight-year period prescribed in Act No. 3326 as amended by Acts Nos. 3585 and 3763.

The crimes alleged in Criminal Cases Nos. 7613 and 7614 were committed from May 15, 1952 to February 2, 1983 and from May 28 to August 18, 1952, respectively. As the informations in those two cases were filed on March 13, 1962, the ten-year period had not yet elapsed.

Said ten-year period had elapsed with respect to the crime alleged in Criminal Case No. 7615. Only that crime had prescribed.

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