

THE PEOPLE OF THE PHILIPPINES, PETITIONER VS. HON. BIENVENIDO A. TAN AS JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, BR. XIII, PACITA MADRIGAL-GONZALES, ANGELITA CENTENO, JUL...

G.R. No. L-14257. July 31, 1959

Ponente: LABRADOR, J.

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LABRADOR, J.:

In Criminal Case No. 36885 of the Court of First Instance of Manila, respondents Pacita Madrigal-Gonzales and others are charged with the crime of falsification of public documents, in their capacities as public officials and employees, by having made it appear that certain relief supplies and/or merchandise were purchased by Pacita Madrigal-Gonzales for distribution to calamity indigents or sufferers, in such quantities and at such prices and from such business establishments or persons as are made to appear in the said public documents, when in fact and "in truth, no such distributions of such relief and supplies as valued and supposedly purchased by said Pacita Madrigal Gonzalez in the public and official documents had ever been made.

In order to prove the charge of falsification, the prosecution presented to a witness a booklet of receipts, which was marked Exh. "D", containing blue invoices numbered 101301 to 101400 of the Metro Drug Corporation, Magallanes corner Jakosalem, Cebu City. The booklet contained the triplicate copies, and according to said witness the original invoices were sent to the Manila office of the company, the duplicates to the customers, so that the triplicate copies remained in the booklet. Witness further explained that in preparing receipts for sales, two carbons were used between the three sheets, the original, the duplicate and the triplicate, so that the duplicates and the triplicates were filled out by the use of the carbons in the course of the preparation and signing of the originals. The witness giving the testimony was the salesman who issued the triplicates marked as Exh. "D-1".

As the witness was explaining the figures or words appearing on the triplicates, Hon. Bienvenido M. Tan, then presiding in the court below, interrupted the proceeding holding that the triplicates are not admissible unless it is first proven that the originals were lost and can not be produced. Said the court:

"Triplicates are evidence when it is proven first that the original is lost and cannot be produced. But as the witness has alleged that the original is in the Manila Office, why not produce the original?"

Another witness, accountant of the Metro Drug Corporation in Manila, was also called by the prosecution to testify. He declared that sales in the provinces were reported to the Manila office of the Metro Drug Corporation, and that the originals of the sales invoices are transmitted to the main office in support of cash journal sheets, but that the original practice of keeping the original white copies no longer prevails as the originals are given to the customers, while only the duplicate or pink copies are submitted to the central office in Manila. Testifying on certain cash journal sheets, Exhs. "A", "A-1" to "A-10" he further declared that he received these from the Metro Drug Corporation, Cebu branch, and that the said cash journal sheets contained the sales made in the Cebu branch.

After the cross-examination of this last witness, the prosecution again went back to the identification of the triplicate invoice, Exh. "D-1", already above referred to. It was at this stage that the judge below told the prosecution that the law applicable is Section 46, Rule 123 of the Rules of Court, which requires the production of the originals. In response to the above ruling, the special prosecutor claimed that the evidence of the prosecution would be adversely affected by said ruling. In other words, the prosecution would not be able to secure the production of the originals on account of their loss.

In view of the above circumstances, the prosecution announced its intention to file a petition for certiorari against the ruling of the court below to which the court below agreed. Hence this petition.

It is alleged that the invoice sought to be introduced, which were produced by the use of carbon sheets, and which thereby produced a facsimile of the originals, including the figures and the signatures on the originals, are regarded as duplicate originals And may be introduced as such, even without accounting for the non-production of the, originals.

The decision of the question is far from difficult. The admissibility of duplicates or triplicates has long been a settled question and we need not elaborate on the reasons for the rule. This matter has received consideration from the foremost commentator on the Rules of Court thus:

"When carbon sheets are inserted between two or more sheets of writing paper so that the writing of a contract upon the outside sheet, including the signature of the party to be charged thereby, produces facsimile upon the sheets beneath, such signature being thus reproduced by the same stroke of the pen which made the surface or exposed impression, all of the sheets so written on are regarded as duplicate originals and either of them may be introduced in evidence as such without accounting for the nonproduction of the others.' (Moran, 1952 ed., p. 444.)

It has also been decided in favor of the petitioner by Us in the case of *People vs. Quinones*, 44 Off. Gaz., No. 5, 1520, 1525, thus:

"It is argued in the second assignment of error that the confession Exhibit B is not admissible because it is merely a carbon copy. The said confession Exhibit 8, being a carbon copy of the original and bearing as it does the signature of the appellant, is admissible in evidence and possess all the probative value of the original, and the same does not require an accounting for the non-production of the original. (Sec. 47, Rule 123, Rules of Court)".

Two principal authors on the law on evidence have sustained the theory of the admissibility of duplicate originals, as follows:

"SEC. 386. . . . the best evidence rule is that rule which requires the highest grade of evidence obtainable to prove a disputed fact. p. 616. A 'duplicate sales slip' (*People vs. Stone*, 349 111. 52, 181 N. E. 648) has been held to be primary evidence, p. 616.

"Sec. 420. Duplicate originals.—Where letters are produced by mechanical means and, concurrently with the original, duplicate are produced, as by placing carbon paper between sheets of writing paper and writing on the exposed surface at the same time, all are duplicate originals, and any one of them may be introduced in evidence without accounting for the nonproduction of the other. Citing *International Harvester Co. vs. Elfstrom*, 101 Minn. 263, 112 N. W. 252. See also 12 L.R.A. (N.S.) 343, *People of Hauke*, 335 111. 217, 167 N. E. 1; *State vs. Keife*, 165 La. 47, 115 So. 363; *Taylor vs. Com.* 117 Va. 909, 85 S. E. 499." (Wharton's Criminal Evidence, Vol. I, p. 661).

"SEC. 100. Carbon copies, however, when made at the same time and on the same machine as the original, are duplicate originals, and these have been held to be as much primary evidence as the originals. Citing *U. S. vs.*

Manton, 107 Fed. (2d) 834, Cert. denied 309 U. S. 664, 84 L. ed. 1012; O'Shea vs. U. S., 93 F. 2d), 169; Leonard vs. State, 36 Ala. App. 397, 58 So. (2d) 138; State vs. Lee, 173 La. 770, 138 So. 662; Newman vs. State 65 Ga. App. 288, 16 S. E. 2d) 87." (Underhill's Criminal Evidence, 5th ed., Vol. I, p. 168.)

We find that the ruling of the court below to the effect that the triplicates formed by the used of carbon papers are not admissible in evidence, without accounting first for the loss of the originals is incorrect and must be reversed. The court below is hereby ordered to proceed in the trial of the case in accordance with this ruling. No costs. So ordered.

Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Endencia, and Barrera, JJ., concur.

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