

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. CHERYL DEGUMA Y TAYONG, ACCUSED-APPELLANT.

Ponente: INTING, J.

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INTING, J.:

Before Us is an Appeal[1] filed by accused-appellant (Cheryl) assailing the Joint Judgment[2] of Branch 20, Regional Trial Court (RTC), Tacurong City, finding her guilty of falsification of two public documents, the dispositive portion of which states:

Wherefore, upon all the foregoing considerations, the court finds the evidence for the prosecution as having met the required quantum of evidence to sustain a guilty verdict to the crimes charged in the Informations beyond reasonable doubt and hereby renders judgment as follows:

IN CRIMINAL CASE NO. 3006

Finding the guilt of Cheryl Deguma y Tayong to the crime of Falsification of Public Document beyond reasonable doubt and sentencing her as follows, to wit:

To suffer the indeterminate penalty of imprisonment ranging from four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum; and

To pay the fine of five thousand (5,000) pesos.

To pay the costs.

IT IS SO ORDERED.

IN CRIMINAL CASE NO. 3007

Finding the guilt of Cheryl Deguma y Tayong to the crime of Falsification of Public Document beyond reasonable doubt and sentencing her as follows, to wit:

To suffer the indeterminate penalty of imprisonment ranging from four (4) years and two (2) months of prision correccional, as minimum, to eight (8) years and one (1) day of prision mayor, as maximum; and

To pay the fine of five thousand (5,000) pesos.

To pay the costs.

IT IS SO ORDERED.

The facts of the case are as follows:

Version of the Prosecution[3]

Cheryl was the Sanggunian Kabataan (SK) Chairman of Barangay Kalandagan, Tacurong City, Sultan Kudarat from May 2002 to October 2007.

Sometime in January 2006, Cheryl requested Vilma Jamison (Vilma), then the Barangay Secretary, to encode the drafts of two SK Resolutions, SK Resolutions No. 01 and 02, relating to the SK budget. Vilma encoded the drafts and handed it back to Cheryl for correction. Cheryl then gave Vilma the final draft which the latter encoded, printed and handed to Cheryl for signature and approval.

Resolution No. 01 involved the approval of the amount of PhP100,000.00 as share of the SK from the City Aid of Tacurong while Resolution No. 02 involved the amount of PhP88,448.50 as the annual budget of the SK. The two Resolutions were unanimously approved by all members of the SK who were all present during the session held on January 8, 2006, a Sunday, and attested/approved by Cheryl as SK Chairman.

Subsequently, Cheryl presented to Barangay Chairman Jocelyn Clomata (Jocelyn) the two SK Resolutions passed by the SK. Upon being asked by Jocelyn whether the SK held any session in approving the Resolutions, Cheryl answered that there was none since three members of the SK were in Manila.

Also in January 2006, Nelyn Victoriano (Nelyn), friend of Cheryl and SK Kagawad, learned of the two Resolutions. At the time of approval of the Resolutions, she was working at the NOVO Store in Tacurong City. She was then surprised to see her name as among those who approved the Resolutions. She was even the movant of Resolution No. 01. The SK Secretary, Marifel Galimba, and SK Kagawad Josefa Lazona were also not around during the time of approval of the Resolutions. Narciso Distor, key custodian of the SK Hall, testified no SK session was held in January 2006 and neither Cheryl nor her representatives borrowed the keys to the SK hall.

Consequently, per Resolution[4] of the Office of the Ombudsman, Complaints for Falsification of a Public Document under Article 171(2) of the Revised Penal Code were filed against Cheryl. The Informations read:

Criminal Case No. 3006

That on 08 January 2006 or sometime prior or subsequent thereto, at Barangay Kalandagan, Tacurong City, Philippines, and within the jurisdiction of this Honorable Court, above-named accused CHERYL DEGUMA y TAYONG, a low-ranking public official, being the Sangguniang Kabataan (SK) Chairman of Barangay Kalandagan, Tacurong City, while in the performance of her official duty, taking advantage of her official position, and committing the offense in relation to office, did then and there willfully, unlawfully and feloniously cause it to appear that the SK of Barangay Kalandagan, Tacurong City passed Resolution No. 02, series of 2006, dated 08 January 2006 when in truth and in fact as the accused fully knew, the SK of Barangay Kalandagan, Tacurong City did not so participate in the passage of the said resolution.

CONTRARY TO LAW.

Criminal Case No. 3007

That on 08 January 2006 or sometime prior or subsequent thereto, at Barangay Kalandagan, Tacurong City, Philippines, and within the jurisdiction of this Honorable Court, above-named accused CHERYL DEGUMA y TAYONG, a low-ranking public official, being the Sangguniang Kabataan (SK) Chairman of Barangay Kalandagan, Tacurong City, while in the performance of her official duty, taking advantage of her official position, and committing the offense in relation to office, did then and there willfully, unlawfully and feloniously cause it to appear that the SK of Barangay Kalandagan, Tacurong City passed Resolution No. 01, series of 2006, dated 08 January 2006 when in truth and in fact as the accused fully knew, the SK of Barangay Kalandagan, Tacurong City did not so participate in the passage of the said resolution.

CONTRARY TO LAW.

Version of the Defense[5]

Cheryl testified that on the session on January 8, 2006, the two Resolutions were passed. The two Resolutions

were duly encoded by Vilma. She hurriedly signed the printout given to her by Vilma as she was catching up with her classes. She denied saying to Jocelyn that there was no session on January 8, 2006. Cpl. Giovanni Amantiad testified that Cheryl has keys to the SK hall.

SK Secretary Marifel Galimba and SK Kagawad Josefa Lazona both testified that there was a session on January 8, 2006 and refuted the prosecution's version that they were not around during the session.

Rowena Calazara also testified as to the session conducted on January 8, 2006 and that it was upon her motion that the two Resolutions were passed.

The RTC convicted Cheryl of the crimes. Aggrieved, she filed the instant appeal and raised following errors:

I. THE COURT A QUO ERRED IN CONVICTING APPELLANT OF THE OFFENSE CHARGED NOTWITHSTANDING (sic) THE FAILURE OF THE PROSECUTION TO PROVE HER GUILT BEYOND REASONABLE DOUBT;

II. THE COURT A QUO ERRED IN GIVING WEIGHT AND CREDENCE TO THE INCREDIBLE TESTIMONY OF THE PROSECUTION WITNESSES.

Our Ruling

The appeal is with merit.

For clarity, both Informations alleged:

- xxx did then and there willfully, unlawfully and feloniously cause it to appear that the SK of Barangay Kalandagan, Tacurong City passed Resolution No. 01, series of 2006, dated 08 January 2006 when in truth and in fact as the accused fully knew, the SK of Barangay Kalandagan, Tacurong City did not so participate in the passage of the said resolution.

- xxx did then and there willfully, unlawfully and feloniously cause it to appear that the SK of Barangay Kalandagan, Tacurong City passed Resolution No. 02, series of 2006, dated 08 January 2006 when in truth and in fact as the accused fully knew, the SK of Barangay Kalandagan, Tacurong City did not so participate in the passage of the said resolution.

The Informations against Cheryl clearly refer to the holding of a session.

“For complaint or information to be sufficient, it must state the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate time of the commission of the offense, and the place wherein the offense was committed. What is controlling is not the title of the complaint, nor the designation of the offense charged or the particular law or part thereof allegedly violated, these being mere conclusions of law made by the prosecutor, but the description of the crime charged and the particular facts therein recited. The acts or omissions complained of must be alleged in such form as is sufficient to enable a person of common understanding to know what offense is intended to be charged, and enable the court to pronounce proper judgment. No information for a crime will be sufficient if it does not accurately and clearly allege the elements of the crime charged.[6]”

The resolution of whether or not there was a session held is the core issue of the instant case. And while it is true that both Resolutions indicated that no one was absent, the Informations against Cheryl did not charge her with making it appear that all SK Kagawads are present even if some were absent but that there was no session held at all. “The allegations in the information are controlling in the ultimate analysis.[7]” “The sufficiency of the allegations of the facts and circumstances constituting the elements of the crime charged is crucial in every criminal prosecution because of the ever-present obligation of the State to duly inform the accused of the nature

and cause of the accusation.[8]”

To prove the allegations in the Informations as to the lack of session, the prosecution presented the following witnesses:

1)

Barangay Chairman Clomata who testified that Cheryl personally told her that there was no session conducted;

2)

SK Kagawad Nelyn Victoriano who testified that she did not attend the alleged session because she was working at that time;

3)

The Barangay Secretary who testified that it was Cheryl who asked her to type the resolutions;

4)

The key keeper who testified that Cheryl did not borrow the key to the SK Session Hall and thus there could have been no session at that time;

5)

A neighbor who testified that during that time, SK Kagawads Marifel Galimba and Josefa Lazona were not in the area and therefore could not attend the session.

The trial court, in its Decision, did not lend credibility to Cheryl. It questioned why Cheryl did not present the Minutes of the alleged session, the affidavits of the other SK Kagawads, and the written Notice of the meeting, a requirement under the law.

On the other hand, Cheryl and SK Kagawads Marifel Galimba, Josefa Lazona and Rowena Calazara testified that they attended the session together with Joy Fabular. Interestingly, prosecution witness Barangay Chairman Clomata on direction examination testified: “I asked her how many were present and she answered me, five (5) and the other three (3) were in Manila.[9]” With 5 of the 8 SK officials present, there was a quorum. Section 427 of the Local Government Code provides in part that a majority of the members of the Sangguniang Kabataan shall constitute a quorum. And with the presence of a quorum, a session can be validly held.

“[T]he Due Process Clause protects the accused against conviction except upon proof beyond a reasonable doubt of every fact necessary to constitute the crime with which he is charged.[10]”

The testimony of the Barangay Captain is, to say the least, hearsay. The testimony essentially stated that he was told by Cheryl that there was no session. She has no personal knowledge of the fact of the non-holding of the session. At best, her testimony relates to the utterance of Cheryl but not to the truth of the utterance itself.

The two other pieces of evidence presented by the prosecution are circumstantial. The key holder asserts that Cheryl did not borrow the key to the SK Session Hall so that there was no session. The neighbor testified that

certain Kagawads were not in their residences during those times so that there was no session. Even if it may be true that the key was not borrowed and the neighbor did not see SK Kagawads Marifel Galimba and Josefa Lazona in their area during that time, the conclusion that there was no session is speculative. Speculations cannot be a basis of a conviction in the light of the constitutional right of presumption of innocence. These witnesses are not SK officials and thus have no personal knowledge on the internal arrangements and conduct of the SK officials. The fact remains that Cheryl and 3 SK Kagawads testified on the holding of a session, which includes the very people alleged to be absent in the session. Moreover, the defense also presented a witness saying that Cheryl has a duplicate key in the session hall. Their positive testimonies must prevail over a speculative conclusion from the testimonies of the prosecution's witnesses. This is especially so since the very two Kagawads, that were allegedly absent according to the neighbor, testified in court and declared that there was a session which they attended. "An affirmative testimony is far stronger than a negative testimony.[11]"

The testimony of Nelyn that she was not present during the alleged session because she was working in NOVO at that time does not prove that there was no session held. Her allegation that SK Kagawad Marifel Galimba could not attend the session because the latter was in Manila is contradicted by the testimony of Marifel Galimba herself. She has no personal knowledge of the fact of the holding of a session because, by her own testimony, she was not there. The testimony of the Barangay Secretary who encoded the resolutions does not relate to the core issue of whether or not there was a session held.

In its Decision, the trial court asked, among others, why Cheryl did not present the Minutes of the session, the written Notice of the meeting and the affidavits of the other SK Kagawads. The trial court overlooked the fact that Cheryl, who has in her favor the constitutional presumption of innocence, has in her favor 3 other testimonies of 3 SK Kagawads who all assert that they attended the session and that there was a session. Lest it be forgotten, the burden of proof on the allegation of no session is with the prosecution.

To reiterate, Cheryl and three other SK Kagawads testified to the holding of a session. These are direct and categorical testimonies grounded on personal knowledge.

In criminal prosecutions, the prosecution must rely on the strength of its case and not simply harp on the inconsistencies and failures of the defense. It has the duty to convince the court that the crime was committed by the accused by proof beyond reasonable doubt. "It is the primordial duty of the prosecution to present its side with clarity and persuasion, so that conviction becomes the only logical and inevitable conclusion, with moral certainty.[12]" There can be no moral certainty if the prosecution cannot prove all the elements of a crime.

In the instant case, the finding that there was no session is founded on inferences, conjectures and speculations. Proof beyond reasonable doubt demands facts. Thus, the constitutional presumption of innocence must prevail because of the failure of the prosecution to prove beyond reasonable doubt the guilt of Cheryl.

WHEREFORE, the instant appeal is GRANTED. The Joint Judgment dated August 13, 2013 of the Regional Trial Court of Tacurong City, Branch 20, in Criminal Cases Nos. 3006 and 3007 is hereby REVERSED and SET ASIDE. Accused-appellant Cheryl Deguma y Tayong is ACQUITTED for the crimes charged on the ground of reasonable doubt.

The Division Clerk of Court is directed to issue an Entry of Judgment.

SO ORDERED.

Camello, J. Ch., and Perez, JJ., concur.

- [1] Rollo, pp. 19-41
- [2] Rollo, pp. 43-95
- [3] Rollo, pp. 119-121
- [4] Records, pp. 4-10
- [5] Rollo, pp. 25-26
- [6] People v. Valdez, G.R. No. 175602, January 18, 2012
- [7] People v. Valdez, G.R. No. 175602, January 18, 2012
- [8] People v. Valdez, G.R. No. 175602, January 18, 2012
- [9] TSN, July 14, 2008, p. 10
- [10] People v. Morales, G.R. No. 172873, March 19, 2010
- [11] People v. Anticamara et al., G.R. No. 178771, June 8, 2011
- [12] Amanquiton v. People, G.R. No. 186080, August 14, 2009

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