

ANA LOU B. NAVAJA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

Ponente: INGLES, G. T., J.

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INGLES, G. T., J.:

THE CASE

Before us is a petition for review filed under Rule 42 of the 1997 Rules of Civil Procedure, as amended, seeking a reversal of the Decision[1] dated 27 April 2011 of the Regional Trial Court , 6[th] Judicial Region, Branch 42, Bacolod City and its Order[2] dated 30 June 2011 denying reconsideration in Crim. Case Nos. 09-32674 and 09-32675. The RTC decision affirmed in toto the judgment[3] of the Municipal Trial Court in Cities convicting Ana Lou B. Navaja of Falsification of Private Documents under Art. 172(2) of the Revised Penal Code in relation to Article 171 (except paragraphs 7 & 8).

THE FACTUAL ANTECEDENTS

Ana Lou B. Navaja was charged with two (2) counts of Falsification of Private Document defined and penalized under par. 2 of Article 172 of the Revised Penal Code. The separate charge sheets read,

“Criminal Case No. 05-01-9055

That on or about the 11[th] day of June 2003, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused being then the Regional Sales Manager for Visayas of the herein offended party, DKT Philippines, Inc., represented in this case by its Sales Director Atty. Edgar Borje, and as such was entitled to reimbursement of expenses she incurred for the promotion and marketing of the company's products including meal expenses and said accused having obtained possession of Aboy's Restaurant Cash Slip No. 22827B dated June 11, 2003, did, then and there willfully, unlawfully and feloniously falsify said receipt by making it appear that the said cash slip was in the amount of Php1,435.00 showing a greater expense than what she actually paid, when in truth and in fact, as accused very well knew such was not the case as the amount of the cash slip was only for [Php435.00] and this act of falsification was committed by said accused for the purpose of enabling her to convert and misappropriate the amount of One Thousand Pesos (Php1,000.00) Philippine Currency, which was reimbursed to her thru her ATM account to the damage and prejudice of DKT Philippines, Inc. in the aforementioned amount.

Act contrary to law.”

“Criminal Case No. 05-01-9056

That on or about the 31[st] day of July 2003, in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court, the herein accused being then the Regional Sales Manager for Visayas of the herein offended party, DKT Philippines, Inc., represented in this case by its Sales Director Atty. Edgar Borje, and as such was entitled to reimbursement of expenses she incurred for the promotion and marketing of [the] company's products including meal expenses and said accused having obtained possession of Aboy's Restaurant Cash Slip No. 27416B dated July 31, 2003, did, then and there willfully, unlawfully and feloniously

falsify said receipt by making it appear that the said cash slip was in the amount of [Php1,490.00] showing a greater expense than what she actually paid, when in truth and in fact, as accused very well knew such was not the case as the amount of the cash slip was only for [Php490.00] and this act of falsification was committed by said accused for the purpose of enabling her to convert and misappropriate the amount of One Thousand Pesos (Php1,000.00) Philippine Currency, which was reimbursed to her thru her ATM account to the damage and prejudice of DKT Philippines, Inc. in the aforementioned amount.

Act contrary to law.”

The rollo reveals that Ana Lou B. Navaja, with assistance of counsel, pleaded[4] not guilty to the charges against her. Later on, a motion to quash information was filed but the same was denied[5] for lack of merit.

Upon motion, the presiding judge to whom the information was originally raffled inhibited[6] from hearing the case.

Trial on the merits ensued.

A reading of the MTCC decision reveals the pertinent facts as follows:

(1) The first witness for the prosecution, Atty. Edgar Borje, testified in the main that:

Ana Lou B. Navaja altered the amount on the receipts by increasing the numerical figures. As soon as he learned about the alteration or padding, he had the incident investigated. After which, a report dated October 28, 2003 was submitted by the investigator, Ronilo Tagaoen. Then, a team was formed whose task was to verify the receipts issued by the different restaurants.

He asked the owner of Aboy's Restaurant to certify the two subject receipts. After confirming the padding, Ana Lou B. Navaja was sternly warned. Later on, Ana Lou B. Navaja was terminated from the service on grounds of loss of confidence, late submission of reports and negligence. A portion of the first termination letter reads:

“Regrets of much confidence by committing Fraud by submitting falsified receipt and eliciting the participation of your staff wherein the charging to the company expenses that are not in reality part of the operational expenses.”

That, it was Tagaoen who told Ana Lou B. Navaja to resign from her work. He added that Ana Lou B. Navaja changed the phrase “miscellaneous expense” to “miscellaneous meeting” in her Weekly Travel Expense Report.

Aside from the two padded receipts, other receipts also appeared to have been padded but the establishments that issued them were not willing to testify in court. The company record shows that the reimbursement of the meal expenses covered by the padded receipts was received by Ana Lou B. Navaja thru her bank account No. 021-10-0-01463-2. By her acts, the company suffered losses.

The subject receipts when compared to those kept in the records of the restaurant owner, Mr. Ivaresto, although issued on the same date and to the same customer have different numerical amounts. On these two instances, Ana Lou B. Navaja added the numerical figure “1” to the two (2) amounts. And these two subject receipts were included in the weekly travel expenses report prepared by Ana Lou B. Navaja.

(2)

The next witness to testify for the prosecution is the owner of the restaurant, Nestor Evaresto. The latter testified on the following matters:

That, the originals of the receipts subject of the case were given to the customer. He noted that the duplicate originals of the receipts on file with their restaurant show the amounts of P490.00 and P450.00; while the receipts submitted by Ana Lou B. Navaja for reimbursement reflect the amounts of P1490.00 and P1450.00. He added that on one of the original copies of the receipts submitted by Ana Lou B. Navaja a peso sign precedes the numerical amount and there is, too, a comma added in the amounts; he emphasized, however, that these are not found on the duplicate originals of the receipts on file with them since his cashier never writes a peso sign or a comma in the numerical amounts on the receipts. He cannot be certain if he was in the area when the subject receipts were issued and to whom these were issued.

He, likewise, testified that he would not know whether their cashier in the Bacolod branch has effected changes by writing the peso sign and comma on the receipts. That, he saw and met with Atty. Borje for the first time when the latter came to ask him to certify the subject receipts. He continued to say that he does not know Ana Lou B. Navaja and what she looks like. Admittedly, he does not know who stamped the word "paid" on the receipts. That, the only time their cashier would put a particular name on the receipt and not the letter "C" is only when the customer specifically requests it.

(3) The third witness for the prosecution is Atty. Francisco Munez. He testified, among others, that,

He is the company's counsel and that he knows Ana Lou B. Navaja. He conducted an investigation on the falsification cases committed in Bohol, Cebu, Iloilo and even in Bacolod City. That, Mr. Terry Scott, a company director, agreed to withdraw the case against Ana Lou B. Navaja under the following conditions, to wit:

(a)

that the Labor case will be dropped also;

(b)

that the fraudulent acts must be satisfied/compensated;

(c)

that DKT must be reimbursed of all its expenses in the prosecution and the defense of their cases;

(d)

that the accused must issue a waiver and a statement releasing DKT Philippines, its officers and staff from any civil and criminal actions;

(e)

that the accused will submit a letter of apology to DKT, Philippines;

(f)

that accused must prepare and submit a letter of acceptance of all her responsibilities and acknowledge that DKT Philippines, reserves the right to file the case should there be no compliance. That accused and counsel were required to formalize their response.

That, Ana Lou B. Navaja, assisted by her counsel, Atty. Bonghanoy, agreed with the foregoing conditions. The subject receipts were not shown to Ana Lou B. Navaja and the latter's counsel, since anyway they already knew about it. That, there are cases pending between the company and Ana Lou B. Navaja – in the labor case, it is Ana Lou B. Navaja who is the complainant, while in the criminal case, the DKT Philippines is the private complainant.

(4)

The prosecution presented its fourth and last witness in the person of Crisald[7] Mapa Domingo, whose pertinent testimony is as follows:

Upon Ana Lou B. Navaja's request, he fetched her from the Bacolod airport on June 11, 2003 at around 5AM. They took their lunch at Aboy's Bacolod and which was paid for by Ana Lou B. Navaja. Upon payment, a receipt was issued to Ana Lou B. Navaja, which she kept for replenishment purposes. On the second time that Ana Lou B. Navaja was in Bacolod, they had lunch again at Aboy's Restaurant, which, just like the previous one, Ana Lou B. Navaja paid for. Again, a receipt was issued to her. Admittedly, he did not see Ana Lou B. Navaja write anything on the receipts. Too, he did not examine the receipts issued to Ana Lou B. Navaja. That,

Ana Lou B. Navaja is his direct superior, that is why if he has to make an expense report all he would do is to submit one to her. That, it is Ana Lou B. Navaja who approves the request for reimbursement.

For the defense:

(1)

The first witness presented by the defense was Noel T. Navaja, the husband of Ana Lou B. Navaja. He testified to the effect, that,

Many times, he mailed the reports of his wife's subordinates or representatives. That, it was his wife who prepared the travel expense reports of her subordinates. Sometimes, he saw the contents of the reports because there are instances the envelopes containing these reports are not sealed. That, he mailed the reports to Ronilo Tagaoen, whom he knew as the direct supervisor of Ana Lou B. Navaja. He admitted that he and the herein defense lawyer were convicted for Obstruction of Justice before Branch 2 of Tagbilaran City.

He claimed that he is not familiar with the signature of Ana Lou B. Navaja. Neither is Ana Lou B. Navaja familiar with his. While he recognized the report as the one prepared by Ana Lou B. Navaja, he could not say that the signature thereon belongs to her. He averred that he and Ana Lou B. Navaja have been married for more than ten years already.

When shown the signature on the weekly travel report marked by the prosecution as Exhibit "H", he admitted that it is Ana Lou B. Navaja's signature; but the numerical figures and comma are not in her handwriting. When shown another document and when asked if it is her wife's handwriting, he either replied "there is a similarity" or "cannot recall".

(2)

Next to testify was Ana Lou B. Navaja's relative and her godfather at her wedding, Lope A. Tallo.

He used to be a distributor of the products of DKT Philippines, which are mainly contraceptives. He admitted that Ana Lou B. Navaja had access to his stocks – she can withdraw stocks from him and then collect the payments therefor. This arrangement between them covered the period 1995 to 1996.

He testified that even after he was no longer connected with DKT he still continued communicating with Ana Lou B. Navaja. That, it was the defense counsel who requested him to testify in this case and also that case in Bohol. That, he was not aware that Ana Lou B. Navaja was convicted in Bohol.

(3) The third witness for the defense was Crizaldo Domingo. The pertinent portion of which reads to the effect, that,

It is possible that Ana Lou B. Navaja sent the reports, herself, to Manila but he cannot recall anymore when these were made. That, he knows Mr. Ronilo Togaoen but he does not know if the latter is the one who reviewed and checked the reports. He does not know where the reports are forwarded after their submission to Togaoen.

He does not recall Ana Lou B. Navaja signing any expense report neither does he know that she approved the same. He averred that he would be reimbursed for the expenses he incurred for his travel to Bacolod City to testify and loss of income during such time.

The MTCC did not believe the version of the defense, and thus, convicted Ana Lou B. Navaja.

THE RULING[8] OF THE MTCC

The case was disposed in this wise, to wit:

“From these facts, analogies and conclusions of the High Court this Court also logically derived a conclusion that based on the facts presented established, and proven, the accused is found guilty beyond reasonable doubt as charged for two Falsifications of Private Documents under Art. 172, paragraph 2 of the Revised Penal Code and thus sentences her to an indeterminate sentence of one (1) year and one day of prision correccional, as minimum to 3 years, 6 months and 20 days, [as] maximum, for each of the two cases and to pay a fine of P2,500.00 for each case plus costs.

SO ORDERED.”[9]

In sustaining the prosecution's version, the MTCC reasoned, that,

“Damage or intent to cause damage is an essential element in Falsification of Private Document” (Pp. v. Marasigan, CA G.R. No. 6040, Oct. 18, 1940).

In *People vs. Pacana*, 47 Phil. 48, the High Court said, 'The alteration must affect the integrity or change the effects of the document.'

'The change in a (public) document must be such as to affect the integrity of the same or to change the effects which it would otherwise produce, for unless it happens, there could not exist the essential elements of the intention to commit the crime.'

In connection with above case, it should be remembered that the offender under Art. 172 must be a private individual or even a public officer, employee or notary public who does not take advantage of his official position. Also, it should be borne in mind that the acts of falsification are the same as those in Art. 172 of the RPC. So that any one of the different modes of falsification in paragraphs 1 to 6 of Art. 171 must be employed by the offender in committing the crimes defined in paragraph no. 1 and no. 2 of Art. 172.

No. 6 of Art. 171 of the Revised Penal Code provides this mode of Falsification thus:

Making any alteration or intercalation in a genuine document which changes its meaning. This is to be connected to number 2 of Art. 172 of the RPC which the accused is being charged.

In *People vs. Manansala*, the High Court said: 'The possessor of a falsified document is presumed to be the author of the falsification.' The High Court further said that 'it is the established rule that when a person has in his possession a falsified document and makes use of the same, the presumption or inference is justified that such person is the forger. . .’[10]

Dissatisfied, Ana Lou B. Navaja appealed the MTCC decision to the Regional Trial Court.

On 27 April 2011, the RTC affirmed in toto the MTCC decision.

THE RULING[11] OF THE RTC

In affirmation with the MTCC, the RTC ratiocinated that:

“The criminal jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Court under Section 32(2) of B.P. Blg. 129, as amended by R.A. No. 7691 has been increased to cover offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of the fine.

Under Art. 172 of the Revised Penal Code, Falsification by private individual and use of falsified documents is punishable by prision correccional in its medium and maximum periods and a fine of not more than 5,000 pesos. The penalty of prision correccional in its entirety is from six (6) months and one (1) day to six (6) years. Hence, the crime charged are within the jurisdiction of the trial court.

Falsification of private documents as penalized under Art. 172 of the Revised Penal Code is committed in any of the ways specified in Art. 171 excepting pars. 7 and 8 thereof. The falsification must affect the truth and integrity of the document and at the same time must cause damage to third persons or must be committed with intent to cause such damage.

Art. 171 of the Revised Penal Code provides that a document is falsified by committing any of the following acts:

1.

Counterfeiting or imitating any handwriting, signature or rubric;

2.

Causing it to appear that persons have participated any act or proceeding when they did not fact so participate;

3.

Attributing to persons who have participated in an act or proceedings statements other than those in fact made by them;

4.

Making untruthful statements in a narration of facts;

5.

Altering true dates;

6.

Making any alteration or intercalation in a genuine document which changes its meaning;

7.

x x x

8.

x x x.'

Falsification of a private documents is thus consummated when the document is actually falsified to the prejudice of or with intent to prejudice a third person and it is immaterial whether such falsified document is not thereafter put to the illegal used for which it was intended.

A judicious evaluation of the prosecution's evidence, particularly the originals of Aboy's Restaurant's Cash Slip No. 27416 dated July 31, 2003 in the amount of Php1,490 and Cash Slip No. 22827 dated June 11, 2003 in the amount of Php1435.00 vis-a-vis the machine copies of Cash Slip No. 27416 and Cash Slip 22827, which were duly certified to by Aboy's Restaurant's Manager/Proprietor Nestor B. Evaristo that these are faithful reproduction of their copies on file, convincingly reveal that the accused falsified the receipts for her meals, adding the figure No. "1" before the amount 490.00 and 435.00 in each receipts making them appear that she paid a higher amount than what she actually paid for, to the damage and prejudice of her employer. The falsifications have indisputably affected the truth and integrity of the documents in controversy.

It is this Court's considered view that the prosecution has presented its side with clarity and persuasion which justifies the conviction of the accused in both cases.

Indeed, a conviction in criminal cases must rest on nothing but proof beyond reasonable doubt. But 'proof beyond reasonable doubt' does not mean that which produces absolute certainty – only moral certainty is required or that degree of proof which produces conviction in an unprejudiced mind.

This Court holds and opines that, the prosecution's documentary and testimonial evidence, particularly that of Nestor Evaristo have persuasively established the quantum of proof required in a criminal prosecution.

Furthermore, the legal aphorism is that, 'factual findings of the trial courts, its calibration of the testimonies of the witnesses and its assessment of their probative weight is given high respect if not conclusive effect, unless cogent facts and circumstances of substance, which, if considered would alter the outcome of the case were ignored, misconstrued or misinterpreted. We have meticulously reviewed the records and found no reason to deviate from the factual findings of the trial court.'

Ana Lou B. Navaja moved for the reconsideration of the afore-quoted decision.

On 30 June 2011, the RTC denied[12] the motion for reconsideration.

Hence, this petition wherein Ana Lou B. Navaja, now petitioner, alleges, that,

“I.

The Regional Trial Court erred in not dismissing the case based on improper venue.

1. The trial court has no jurisdiction over the instant cases since the prosecution failed to prove that any of the elements of the crime of falsification of a private document were committed in Bacolod City.

II.

The Regional Trial Court committed error in judgment when it failed to consider that the prosecution was unable to prove all of the elements of the crime of falsification of a private document as alleged in the Information subject of the instant cases.

- The prosecution failed to prove that it was the accused who falsified the subject receipts.
- The prosecution failed to establish damage or at least intent to cause damage.

III.

The Regional Trial Court committed error when it failed to consider that vital documentary evidence of the prosecution were identified and authenticated by witnesses who had no personal knowledge and direct participation in the preparation, submission, review and/or approval thereof.”

THE ARGUMENTS

The petitioner's

The prosecution miserably failed to prove that any one of the three (3) elements constituting the crime of falsification of private document Art. 171(2) of the Revised Penal Code was actually committed in Bacolod City. It may be well to stress that although the subject receipts were issued in Bacolod City this does not necessarily mean that it was in Bacolod City that the crime was committed. Lest it be forgotten, the place of issuance of the private document is not one of the essential elements in the crime of falsification of private document. It was held in *U.S. v. Barreto* that the crime of falsification of a private document is 'consummated at the time when and at the place where the document is falsified to the prejudice of or with intent to prejudice a third person, and this whether the falsified document is or is not put to the improper or illegal use for which it was intended. 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 x x x.'

The ruling in *Abalos v. People*, G.R. L-126994, September 17, 2002 is not applicable in the instant case. The issue in *Abalos* is the denial of the motion to quash based on improper venue and the Supreme Court therein ruled that the trial court has jurisdiction over the cases as charged in the information. Here, the allegations in the information that the crimes were committed in Bacolod City were never established. It is settled rule that one cannot be held to answer for the crime charged against him/her except in the place where it was committed.

What is more, the prosecution failed to prove that it was the petitioner who falsified the subject receipts. In fact, the RTC failed to examine closely and determine whether the subject receipts came from the accused.

Too, the prosecution failed to establish the element of damage or at least intent to damage since the existence of the revolving fund was never proven. Sans any proof that a revolving fund exists, the mere act of purportedly falsifying the receipts does not constitute any crime at all. At best, it is tantamount to altering a document without causing any damage to any person or entity.

For another, the affirmation by the RTC of her conviction is based on inadmissible or theoretically inexistent documents primarily because the prosecution's principal witness, Atty. Borje, has no personal knowledge about the circumstances and documentary evidence involved in this instance. Rightly so, his testimony is purely hearsay.

The Respondent-People's

Specious is the petitioner's argument that the prosecution failed to prove beyond reasonable doubt her guilt for two (2) counts of falsification of private document. The elements constituting the crime of falsification of private document defined and penalized under par. 2, Art. 172 of the Revised Penal Code are present in the instant case. For one, the petitioner's act of altering the subject receipts were duly proven both by documentary and testimonial evidence, foremost of which are the duplicate originals on file with the owner of the restaurant and the testimony of the restaurant owner, himself, who clearly and categorically testified that the amount actually paid to and received by the restaurant were only Php435.00 and Php490 and not Php1435.00 and Php1490.00. For another, the receipts falsified are private documents. Still for another, the private complainant suffered pecuniary damage when it was duped into reimbursing petitioner Php1,000.00 more than what the petitioner actually spent. Truly, the company was an innocent victim of deceit, machinations and chicanery committed by the petitioner.

The petitioner's defenses are insufficient to warrant her acquittal. Her allegations that: (1) the MTCC of Bacolod City has no jurisdiction to hear and try the case against her since the prosecution failed to prove that any of the

elements of the crime charged was committed in Bacolod City; (2) the prosecution failed to prove that the petitioner authored the falsification; (3) the prosecution failed to prove that the petitioner was paid or received money from DKT for the amounts stated in the falsified receipts; and (4) the prosecution's documentary evidence were not identified and authenticated by witnesses who had personal knowledge and direct participation in the preparation and approval thereof do not convince because,

Firstly, on the issue of venue, the case of *Abalos v. People* is applicable. As settled in that case, jurisdiction of a court over a criminal case is determined by the allegations in the complaint or information. In this case, since the information specifically alleged that the offense charged in each was committed in Bacolod, the MTCC of Bacolod, indeed, has jurisdiction over the same.

Secondly, well settled is the rule that in cases of falsification, the circumstance that the accused made use of and benefited from the falsified document is a strong evidence that he/she either himself/herself falsified it or caused the same to be falsified, he being criminally responsible. If the accused is the only person who stood to be benefited by the falsification of the document that was found in his possession, it is presumed that he is the material author of such falsification. [*Koh Tieck Heng v. People, et. al.*, 192 SCRA 533 (1990)]

In this instance, other than the petitioner, no other person benefited by the falsified receipts. In fact, the petitioner used said falsified receipts and actually benefited therefrom when she included the altered receipts in her claim for reimbursement from DKT and which subsequently, the latter paid to her. On these considerations, it is presumed that the petitioner authored the falsification notwithstanding the absence of any direct evidence of the petitioner's authorship thereof after having failed to rebut such presumption.

Thirdly, DKT Philippines suffered pecuniary damage and was prejudiced when it reimbursed the petitioner the amount reflected in the falsified receipts.

Fourthly, the falsified receipts/cash slips as well as the petitioner's Weekly Travel Expense Reports were submitted to Atty. Borje who had the opportunity to check on its regularity or irregularity. Thus, it cannot be denied that he can properly identify these documents if shown to him.

On the basis of all the foregoing, the petitioner's guilt for the two (2) counts of falsification of private document has been proven beyond reasonable doubt.

The private complainant

The private complainant filed its Comment/Opposition to the petition.

THE ISSUES

We are faced with the following issues, to wit:

- (1) whether the MTCC has jurisdiction over the case; and
- (2) if it has jurisdiction, whether or not the petitioner's guilt was proven beyond reasonable doubt

OUR RULING

The petition is devoid of merit.

Re: jurisdiction

If we are to agree with the petitioner that it is not the MTCC of Bacolod City that has jurisdiction over her cases then which court has? Should the cases against her have been filed before the MTC of Cebu City where she was

based[13] or the MTC of Talisay City where she resides[14]? But then she may question the jurisdiction of the MTC of Cebu City and of Talisay City by conveniently insisting that not any of the essential elements constituting the offense occurred therein. Or before the MeTC of Pasig City where the private complainant holds office and where her reimbursements were processed? Or before the MeTC of Quezon City where the depositary bank of the private complainant is located and thru which payments for the reimbursement of the petitioner's travel expenses are coursed?

Hence, mindful of the ruling in *Abalos v. People*,^[15] citing *Alfelor, Sr. v. Hon. Intia*, we hold that the MTCC of Bacolod City has jurisdiction over the cases. True, in *Abalos*, what was brought on appeal are the denials by the RTC of the petitioner's motion to quash. Nevertheless, the primordial issue in those cases is one of jurisdiction. In *Abalos*, the Supreme Court affirmed the ruling of the RTC that the MTCC of Dagupan City and Lingayen correctly acquired jurisdiction over the falsification cases against the petitioner and the affirmation thereof by this Court, viz -

On the issue of jurisdiction, we find enlightening the findings of the Court of Appeals:

Stripped to the core, the issue in these consolidated cases is whether or not the Dagupan and Lingayen trial courts have jurisdiction over the respective information for Falsification of Private Documents.

This question finds its answer in the case of *Alfelor, Sr. vs. Intia*, 70 SCRA 480, citing the case of *Lopez vs. City Judge*, 18 SCRA 616, where the Supreme Court stated:

xxx xxx xxx

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.

xxx xxx xxx

Coming now to the cases at bench (sic), it is clear that both the Dagupan and Lingayen courts may exercise jurisdiction over the respective criminal cases filed before it.

In the Dagupan case involving the cash receipts issued by the Pangasinan Photostat of Dagupan City, the Information alleges that the offense was committed in Dagupan City. This suffices to give said court jurisdiction over the crime of falsification as charged. Petitioner's argument that "the crime of falsification . . . arose ONLY when the intent to cause damage became evident, that is, when the receipts and invoices were 'submitted in court as proof of the Bill of Costs'" proves futile in light of the pronouncement in *Lopez* (supra), that the act of falsification is committed by the signing of the document and the coetaneous intent to cause damage and whether the falsified private document was thereafter put or not put to the illegal use for which it was intended is in no wise a material or essential element of the crime of falsification of a private document.

As for the Lingayen case, it appears that the subject invoices were issued by the Xerox Copying Machine of Lingayen, Pangasinan. Again, it suffices for jurisdiction to vest that the Information alleges that the crime of falsification, as charged, was committed within the municipality of Lingayen. (Underscoring ours)

A detailed disquisition could throw but little additional light on the issue of jurisdiction. Petitioner was charged with five counts of falsification. The first three, concerning Cash Receipts Nos. 39185, 39414, and 41775, were allegedly committed in Dagupan. The other two counts, involving Invoices Nos. 1070 and 1071, were allegedly committed in Lingayen. It is obvious the cases had to be filed where the offenses had been committed, either in Dagupan or in Lingayen, respectively.

For jurisdiction to be acquired by a court in a criminal case, the offense should have been committed or any one of its essential ingredients should have taken place within the territorial jurisdiction of the court. The Dagupan court could not validly take cognizance of offenses committed in Lingayen. Nor could the Lingayen court legally entertain charges for acts done in Dagupan. The fact that the falsified receipts and invoices were allegedly used at the same time in one court proceedings (at the Regional Trial Court of Lingayen, Branch 7, in connection with Civil Case No. 15958) is of no moment. The offenses of falsification took place much earlier, separately, when the cash receipts were produced repetitively in Dagupan and Lingayen.

At this juncture, we quote in full the pertinent portion of the Supreme Court ruling in *Alfelor, Sr. v. The Hon. Intia*,^[16] supra, viz -

Again, *Lopez v. City Judge* points the way: "We not 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." *United States v. Infante* was decided as far back as 1917, almost sixty years ago. Less than a month later that same year, *United States v. Barreto*, 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." (Underscoring ours)

In the instant case, the separate Informations filed against the petitioner before the MTCC of Bacolod City allege that she, on June 11, 2003 and July 31, 2003,

" . . ., in the City of Bacolod, Philippines, and within the jurisdiction of this Honorable Court. The herein accused being then the Regional Sales Manager for Visayas of the herein offended party, DKT Philippines, Inc., represented in this case by its Sales Director Atty. Edgar Borje, and as such was entitled to reimbursement of expenses she incurred for the promotion and marketing of the company's products including meal expenses and said accused having obtained possession of Aboy's Restaurant Cash Slip No. x x x dated x x x, did, then and there willfully, unlawfully and feloniously falsify said receipt by making it appear that the said cash slip was in the amount of Php x x x showing a greater expense than what she actually paid, when in truth and in fact, as accused very well knew such was not the case as the amount of the cash slip was only for Php x x x and this act of falsification was committed by said accused for the purpose of enabling her to convert and misappropriate the amount of One Thousand Pesos (Php1,000.00) Philippine Currency, which was reimbursed to her thru her ATM account to the damage and prejudice of DKT Philippines, Inc. in the aforementioned amount."

Applying *Abalos* and *Alfelor*, the allegation in the two (2) separate Informations that the petitioner falsified the subject receipts/cash slips in Bacolod City shall suffice to vest jurisdiction to the MTCC of that place. What was left for the prosecution to do is to prove the elements of the falsification charge.

That settled, we shall now resolve the issue on the conviction of the petitioner.

Re: guilt of the petitioner was duly proven

Basic is the rule that "in all criminal prosecutions, the burden of proof is on the prosecution to establish the guilt of the accused beyond reasonable doubt. It has the duty to prove each and every element of the crime charged in

the information to warrant a finding of guilt for the said crime or for any other crime necessarily included therein.”[17]

The elements of falsification of private document under Article 172, paragraph 2 of the Revised Penal Code are:

(1)

that the offender committed any of the acts of falsification, except those in paragraph 7, Article 171;

(2)

that the falsification was committed in any private document; and

(3)

that the falsification caused damage to a third party or at least the falsification was committed with intent to cause such damage.

Suffice it to say, “the gravamen of the crime of falsification of a private document is the damage done to another, or the intent to damage another by the falsification, and the falsifier may be convicted of this crime although it does appear that he profited or hoped to gain or profit by the falsification.”[18]

Upon the foregoing considerations, for petitioner, then, to be convicted of falsification under par. 2 of Art. 172 of the RPC the allegation in the Information “that she willfully, unlawfully, and feloniously made alterations in the subject receipts/cash slips thus by making it appear that she paid P1435.00 and P1490.00 when in truth and in fact, as said petitioner well knew, that what she paid for each meal expense is one thousand pesos less” must be clearly established. This, the prosecution was able to do so, viz -

First. The testimony of the restaurant owner proved the discrepancies between the receipts/cash slips in restaurant's files and those submitted by the petitioner together with her Weekly Travel Expense Report for the periods June 9-14, 2003 and August 12-16, 2003.

Second. The private documents in this case are the receipts or cash slips[19] issued by Aboy's Restaurant in Bacolod City where the petitioner and a co-employee had their lunch on two (2) separate occasions, specifically on June 11, 2003 and July 31, 2003.

Third. Weekly Travel Expense Report Nos. 10250 and 11964 prepared by the petitioner are stamped “PAID”, which means that the petitioner was already reimbursed for the expenses she incurred during a particular period. To prove such payment, the private complainant presented the two separate requests[20] made by its finance manager and MIS manager to the branch manager of the International Exchange Bank in T. Morato, Quezon City for the transfer of funds to the petitioner's savings account No. 021-10-0-01463-2 dated June 20, 2003 and August 26, 2003.

Worthy of noting are the statements of Atty. Francisco Munez, a witness for the prosecution, that the petitioner, thru counsel, was initially amenable to the conditions imposed by Mr. Scott, a director of the private complainant, in exchange for the withdrawal of the cases against her. Viz -

“That as he arrived in Cebu City, he received a call from Atty. Bonghanoy who suggested a meeting with him. That they met at Waterfront Hotel, Lahug, Cebu City, at around 3 p.m. That accused was there, too, with Atty. Jorvina, Atty. Borje. That they briefed Atty. Bonghanoy what Mr. Scott wanted them to do for the withdrawal of the cases. That the letter marked Exhibit “P” was shown.

That Atty. Bonghanoy, after reading the letter of Mr. Scott was amenable to the conditions imposed by Mr. Scott and even manifested that the accused will admit her wrongdoings. That the conditions were:

(a)

that the Labor case will be dropped also;

(b)

that the fraudulent acts must be satisfied/compensated;

(c)

that DKT must be reimbursed of all its expenses in the prosecution and the defense of their cases;

(d)

that the accused must issue a waiver and a statement releasing DKT Philippines, its officers and staff from any civil and criminal actions;

(e)

that the accused will submit a letter of apology to DKT, Philippines;

(f)

that accused must prepare and submit a letter of acceptance of all her responsibilities and acknowledge that DKT Philippines, reserves the right to file the case should there be no compliance. That accused and counsel were required to formalize their response.”[21]

Although the amicable settlement did not prosper, the testimony of Atty. Francisco Muñoz appears to be un rebutted by the petitioner. The petitioner's bare and uncorroborated denial is insufficient to refute the evidence presented by the prosecution. The petitioner was afforded ample opportunity to take the witness stand to oppose the same, interestingly, she chose not to present any evidence to the contrary. In any event, the testimonies of her witnesses hardly helped her case. Take the testimony of the petitioner's husband. All he could say is that he had for so many times did the mailing of the petitioner's weekly travel expense reports and that he also attached the official receipt. That, they have been married for ten years but still he is not familiar with the petitioner's signature; and when asked if the signature on the expense report belongs to the petitioner, he answered “I cannot recall” but he is familiar with the petitioner's penmanship. When confronted with the signature affixed in their children's report card, he answered “I am not familiar”. He was not even familiar with the signature affixed on the report cards of their children. But when shown the signature in their marriage certificate, he answered that it belongs to the petitioner's. That, he knew the immediate supervisor of the petitioner. As to the testimony of the petitioner's relative and godfather at her wedding, nothing therein can help to exculpate the petitioner as his testimony was more about his being a former distributor of the private complainant's products and that during that the he was a distributor he closely coordinated with the petitioner on bookings and purchase orders. That, he was replaced as distributor after failing to reach his quota. As for the petitioner's last witness who happened to be a witness for the prosecution, too, he re-iterated his earlier testimony that he was the petitioner's companion at Aboy's restaurant. As observed by the MTCC, there was not much the defense has extracted from him.

What is more, the available evidence point to the spuriousness of the questioned documents and that the petitioner authored such falsification. This, despite the absence of any direct proof pointing to the petitioner as the author. Thus, in *Chua v. People*, [22] the Supreme Court held, that,

The absence of direct proof x x x was the author of the falsification is of no moment for the rule remains that whenever someone has in his possession falsified documents and “uttered” or used the same for his advantage and benefit, the presumption that he authored it arises.

“x x x. This is especially true if the use or uttering of the forged documents was so closely connected in time with the forgery that the user or possessor may be proven to have the capacity of committing the forgery, or to have close connection with the forgers, and therefore, had complicity in the forgery.

In the absence of a satisfactory explanation, one who is found in possession of forged document and who used or uttered it is presumed the forger.”

Certainly, this presumption can be disputed by sufficient evidence but the petitioner, as we have stated earlier, failed in this respect as she did not give any plausible explanation as to why the amounts in the original copies of the receipts she presented for the reimbursement of meal expenses incurred at Aboy's Restaurant in Bacolod City differ from the duplicate originals thereof on file with the said restaurant. Neither did she deny that she prepared the weekly travel expense reports which served as bases for her request for reimbursement of travel-related expenses.

“Reimbursement is defined as the amount refunded for costs incurred or expenses paid.” So that if the petitioner paid only P435.00 for the lunch she and Crizaldo Domingo had at Aboy's Restaurant on June 11, 2003, fairness dictates that reimbursement is at actual amount paid by the petitioner and not at one thousand pesos (P1,000.00) more than what she actually paid for.

For the foregoing reasons, the decision appealed from being in accordance with law and pertinent jurisprudence and based on the evidence on record, we affirm the same except for the indeterminate penalty imposed.

The penalty

Article 172 punishes the crime of Falsification of a Private Document with the penalty of prision correccional in its medium and maximum periods with a duration of two (2) years, four (4) months and one (1) day to six (6) years. There being no aggravating or mitigating circumstances, the penalty should be imposed in its medium period, which is three (3) years, six (6) months and twenty-one (21) days to four (4) years, nine (9) months and ten (10) days. Taking into consideration the Indeterminate Sentence Law, the petitioner is entitled to an indeterminate penalty the minimum of which must be within the range of arresto mayor in its maximum period to prision correccional in its minimum period, or four (4) months and one (1) day to two (2) years and four (4) months for each count.

WHEREFORE, the petition is DENIED, the Decision dated 27 April 2011 of the Regional Trial Court, 6[th] Judicial Region, Br. 42, Bacolod City in Crim. Case Nos. 09-32674 and 09-32675 affirming the decision of the Municipal Trial Court in Cities, 6th Judicial Region, Br. 3, Bacolod City, is hereby AFFIRMED with the modification that Ana Lou B. Navaja is sentenced to the indeterminate penalty of four (4) months and one (1) day of arresto mayor, as minimum, to two (2) years and four (4) months of prision correccional, as maximum, for each count.

SO ORDERED.

Lagura-Yap, M.B., and Lopez, J.Y., JJ., concur.

[1] Rollo, pp. 54-59.

[2] Rollo, p. 60.

[3] Rollo, pp. 31-53.

[4] At page 3 of the MTCC decision, Rollo, p. 3.

- [5] Rollo, pp. 64-65.
- [6] Rollo, pp. 61-63.
- [7] Crizaldo and Crizald on the other pages of the MTCC decision.
- [8] Rollo, pp. 31-53.
- [9] Rollo, p. 53.
- [10] Rollo, pp. 52-53.
- [11] Rollo, pp. 54-59.
- [12] Rollo, p. 60.
- [13] As indicated in the Weekly Travel Expense Report, Rollo, pages 69 and 70.
- [14] As testified to by the petitioner's husband, at page 17 of the MTCC decision, Rollo, p. 45.
- [15] Braulio Abalos v. People of the Philippines, G.R. No. 136994, September 17, 2002.
- [16] Felix O. Alfelor, Sr., et. al. vs. The Honorable Bonifacio C. Intia, Municipal Judge, and Felix A. Fuentebella, G.R. No. L-27590, April 30, 1976, 70 SCRA 480.
- [17] En Banc. People of the Philippines v. Edgar Emoylan Lopez, G.R. No. 131151, August 25, 1999.
- [18] En Banc. The United States v. Roman Infante and Tomas Barreto, G.R. No. 11449, January 25, 1917.
- [19] Annexes “F” and “G”, Rollo, pages 66 and 67.
- [20] Annexes “L” and “M”, Rollo, pages 73 and 74.
- [21] Exhibit “P” as testified to by Atty. Francsico Muñoz, at page 12 of the MTCC decision, Rollo, p. 41.
- [22] Richard Chua v. People of the Philippines, G.R. No. 183132, February 8, 2012.

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