

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. PO GIOK TO, DEFENDANT AND APPELLEE.

G.R. No. L-7236. April 30, 1955

Ponente: REYES, J.B.L., J.

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REYES, J.B.L., J.:

In the Court of First Instance of Cebu, the defendant-appellee Po Giok To was charged with the crime of falsification under the following information:

"That on or about the 7th day of January 1952, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with intent to falsify or forge a public document, did then and there wilfully, unlawfully and feloniously falsify, or forge a public document consisting of residence certificate No. A—1618529 issued to him in the City of Cebu, on January 7, 1952, by a representative of the City Treasurer of Cebu, to wit: by misrepresenting to the said representative of the City Treasurer of Cebu that his name is Antonio Perez, that his place of birth is Jaro, Leyte and that his citizenship is Filipino, and by means of such misrepresentation, said representative of the City Treasurer of Cebu was made to issue and write, and in fact did issue and write, on the corresponding lines on said residence certificate No. A-1618529 the name of Antonio Perez, as the name of the taxpayer, Jaro, Leyte as his place of birth, and Filipino as his citizenship, thus causing it to appear that the said residence certificate No. A-1618529 dated January 7, 1952, was issued to one Antonio Perez with his place of birth as Jaro, Leyte, and with his citizenship as Filipino, when in truth and in fact, as the accused well knew, his true name is Po Giok To, his place of birth is Amoy, China, and his citizenship is Chinese."

Contrary to law."

(Appellant's Brief, pp. 2-3).

The accused filed a motion to quash on the ground that the information does not allege (1) that the accused had the obligation to disclose the truth in the document allegedly falsified, nor (2) that the accused had the wrongful intent to injure a third person. The City Fiscal opposed the motion to quash, claiming that the information alleges all the integral elements of the offense charged as defined by the statute. The lower Court, however, found the motion to quash meritorious and ordered the amendment of the information. Upon insistence of the City Fiscal that the information was sufficient and that he was not in possession of any evidence that the accused made use of the residence certificate containing the alleged false entries, the Court a quo dismissed the case without prejudice. Hence, this appeal by the Government.

The sole issue is whether or not the information in question alleges sufficient facts to constitute the crime of falsification of public document. The defense contends that the information is insufficient for failure to recite two alleged essential elements of the crime charged; namely, the obligation on the part of the accused to disclose the truth, and wrongful intent on the part of the accused to injure third persons.

We agree with the Solicitor-General that the first element allegedly lacking in the information, viz., the obligation

on the part of the accused to disclose the truth as to the facts that should appear in a residence certificate, is inherent in the very nature and purpose of said document. Section 3 of Commonwealth Act 465 (otherwise known as the Residence Tax Act) provides "that the residence certificate for persons shall contain the full name, place and date of birth, citizenship, civil status, length of residence in the Philippines, length of residence in the city or municipality where the certificate is issued, occupation or calling", all of which facts are required to appear therein for the purpose of establishing the true and correct identity of the person to whom the certificate is issued. Needless to say, this provision implies that the person to whom the certificate is issued must state to the officer who issues the same, the true facts, required to appear therein, the latter having merely the ministerial function of recording thereon the facts as supplied by this person. And to guarantee that the facts given correctly and truly identify the holder of the certificate, he is also required by Sec. 3, supra, to sign the document and affix his right hand thumb mark thereon. There is, therefore, no question that the accused had the duty to disclose the true facts about his name, place of birth, and citizenship to the officer or employee who issued his residence certificate No. A-1618529; and such duty being inherent in the transaction, there was no need for the criminal charge to allege that the accused had such duty. Anent the second element allegedly lacking in the information in question, the law is clear that wrongful intent on the part of the accused to injure a third person is not an essential element of the crime of falsification of public document.

Article 172, par. 1, in connection with Art. 171, par. 4, of the Revised Penal Code, under which provision the accused is charged, provides as follows:

"Art. 171. Falsification by public officer, employee or notary or ecclesiastic minister.—The penalty of prison mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

* * * * *

4. Making untruthful statements in a narration of facts."

"Art. 172. Falsification by private individuals and use of falsified documents.—The penalty of prison correctional in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

* * * * *

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document."

On the other hand, Art. 172, par. 2, defining the crime falsification of private document, provides:

"2. Any person who, to the damage of a third party, or with intent to cause such damage, shall in any private document . commit any of the acts of falsification enumerated in the next preceding article."

The distinction made by the law between falsification by private persons, first, of public documents, and secondly of private documents, is clear; the first is committed by mere performance of any of the acts of falsification enumerated in Art. 171; while the second is committed not only by the performance of any of the acts of falsification enumerated in Art. 171; but it must likewise be shown that such act of falsification was committed to the damage of a third party or with intent to cause such damage.

The reason for the distinction is given in a decision of the Supreme Court of Spain dated December 23, 1885, cited by this Court in the case of *People vs. Pacana*, 47 Phil. 48; i.e., that in the falsification of public or official documents, whether by public officials or by private persons, it is unnecessary that there be present the idea of gain or the intent to injure a third person, for the reason that, in contradistinction to private documents, the

principal thing punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed.

Our own commentators on the Revised Penal Code are also agreed on this distinction. (Francisco, Revised Penal Code.) Sec. ed., Vol. II, Part 1, p. 301; Guevara, Comm. on the Revised Penal Code, IV Ed., p. 172; Albert, Revised Penal Code, 1948 Ed., p. 398).

Moreover, the acts charged, if true, would result in confusion in the government records, since the fingerprint of the accused would not correspond to that of the person whose personal circumstances are recited in the certificate. Such confusion in its records evidently operates to the Government's prejudice. Being the natural and direct result of the criminal act charged, the accused must be presumed to have intended it.

Defendant-appellee also advances the theory that a private person can not commit the crime of falsification charged, i. e., by making untruthful statements in a narration of facts, referring to the opinion of the late Justice Albert that "only three of the eight ways of committing falsifications enumerated in Article 171, to wit, the first, the fifth, and the sixth, are open to a private individual" (Albert, *supra*, p. 405); and stresses that if there had been any falsification at all in this case, it was committed by the employee who, though innocently, wrote the allegedly untrue facts on defendant's residence certificate. The opinion quoted plainly refers to direct falsification by a private person, and does not contemplate situations where the accused, though a private person, becomes a principal to the act of falsification committed by a public official or employee, by induction, cooperation, or planned conspiracy (cf. Sent. of Tribunal Supremo of Spain of 23 Mar. 1885; 28 Apr. 1905; 28 Mar. 1893). In the present case, although it is true that it was the employee of the Office of the City Treasurer of Cebu who performed the overt act of writing the allegedly false facts on the defendant's residence certificate, it was, however, the defendant who induced him to do so by supplying him with those facts. Consequently, the employee was defendant's mere innocent agent in the performance of the crime charged, while defendant was a principal by inducement.

Finally, it is argued for the defendant-appellee that there being a special law with respect to residence certificates expressly punishing their falsification (Commonwealth Act No. 465), this special law, and not the provisions of the Revised Penal Code, should apply in this case; and since Commonwealth Act No. 465, sec. 11, punishes the falsification of a residence certificate only when it is done "for the purpose of using the same in the payment of revenue or in securing any exemption or privilege conferred by law", which element is not alleged in the information, the same was properly dismissed by the lower Court. Again this contention is without merit. The fact that Commonwealth Act No. 465 punishes the falsification of residence certificates in the cases mentioned therein does not prevent the application of the general provisions of the Revised Penal Code on other acts of falsification not covered by the special law, since under Art. 10 of the Rev. Penal Code, it has supplementary application to all special laws, unless the latter should specially provide the contrary, and Commonwealth Act No. 465 makes no provision that it exclusively applies to all falsifications of residence certificates. Then, again, section 12 of Commonwealth Act No. 465 penalize all other violations of the residence certificate law not covered by the preceding sections thereof. Which law is applicable should be determined when the case is decided on its merits. At the present stage of the proceedings, however, it can be stated that whether the crime charged be punishable under the Revised Penal Code, or sec. 12 of Comm. Act No. 465, the information was sufficient, and its dismissal for insufficiency by the Court below was improper and erroneous. The order of the trial court dismissing the information filed in this case is, therefore; reversed, and the case is remanded to the Court below for further proceedings, with costs against the defendant-appellee.

Pablo, Acting C.J., Bengzon, Montemayor, Reyes, A., Bautista Angelo, Labrador and Concepcion, JJ., concur.

Order reversed, case remanded to lower Court for further proceedings.

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