

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS.
PACITA MADRIGAL-GONZALES, (FORMERLY PACITA M. WARNS), ET
AL., ACCUSED AND APPELLEES.**

G. R. Nos. L-16688-90. April 30, 1963

Ponente: PAREDES, J.

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PAREDES, J.:

This is an appeal interposed by the State against the decision of Branch XVIII of the CFI of Manila, dismissing Criminal Cases. Nos. 36894, 36899 & 36904, all entitled "The People of the Philippines vs. Pacita Madrigal Gonzales, et als", for falsification of official and public documents. When the appeal was in the stage of preparation and submission of briefs, the Solicitor General presented with this Court a pleading captioned "MANIFESTATION AND PETITION FOR LEAVE TO WITHDRAW APPEAL", instead of an appeal brief for the State, as appellant. The above manifestation was opposed by the City Fiscal of Manila, Hermogenes Concepcion, Jr., who appeared in this Court, as amicus curiae.

The pertinent antecedents of the instant proceedings are contained in the "Statement of the Case" in the Manifestation and Petition to Withdraw presented by the Solicitor General, to which both the Amicus curiae and the appellees concur, and which we reproduce hereunder:

"That on or about August 23, 1956, the herein accused-appellee Pacita Madrigal-Gonzales was charged with malversation of public funds, in the amount of P104,000.00 before the Court of First Instance of Manila, said case having been docketed as Criminal Case No. 36877 of said Court, under an information alleging that said accused, while administrator of the Social Welfare Administration (SWA), appropriated, took and misappropriated the said amount on five different occasions comprised within the period from February, 1954 to September, 1955, in the City of Manila;

"That simultaneously on the same date, the same accused-appellee Pacita Madrigal-Gonzales was charged together with Angellta Centeno, Anita Paggabao, Lourdea Alburo, Remedios Serrano, Julia Carpio, CaLixto Herinosa and Crispula R. Pagaran alias 'Pula', with the crime of falsification of public documents under 27 separate informations filed before the same Court of First Instance of Manila. In said 27 separate informations, the eight accused were alleged to have conspired in the commission of said offense in or about and during the period comprised between December, 1954 and September, 1955, by having allegedly caused it to appear: That cash aids were given when no such aids were indeed distributed to the persons named and at the time and place and in such amounts specified, or by making and/or causing it to appear that certain relief supplies or merchandise were purchased by the accused Pacita Madrigal-Gonzales when in truth and in fact no such relief supplies were purchased, thereby making untruthful statements in a narration of fact in said public and official documents (Annexes A-1 to A-27, pp. 4-161, rec. of L-16688-90). The aforesaid separate informations for falsification were couched in the same form and language, alleged the same period of time of the commission of the felonious acts, i.e., between December, 1954, and September, 1955, and invariably described only the different modes of commission of the alleged falsifications, to wit;

"* * * by taking advantage of their official positions falsified and/or caused to be falsified the following

described public documents by making and/or causing it to appear that certain cash aids were distributed and given personally by said PACITA MADRIGAL-GONZALES (formerly Pacita M. Warns) to the persons named, and at the time and place and in such amounts specified, in said public documents, when in truth and in fact no such cash aids were ever distributed or even personally by said accused PACITA MADEIGAL-GONZALES (formerly Pacifca M. Warns) to said persons named, fit the time and place and in such amounts specified, in the following described public documents and otherwise making untruthful statements or narration of fact in, the said public and official documents to the effect that social cases studies had been made when in truth and in fact no such social' case studies were ever made, * * *."

"* * *y taking advantage of their official positions falsified and/or caused to be falsified the following described public documents by making and/or causing it to appear that, certain relief supplies or merchandise were purchased by said accused PACITA MADRIGAL-GONZALES (formerly Pacita M. Warns) "in such quantities and at such prices, from such business establishments or persons as appear to be specified in the following described public, documents, when in truth and in fact no such relief supplies or merchandise was purchased by the accused PACITA MADRIGAL-GONZALES (formerly Pacita M. Warns) in such quantities and at such prices," at such times and places and from such business establishments or persons as are mentioned and specified in the said public documents, and otherwise making untruthful statements or narration of facts in the' said public and official documents to the effect that such relief supplies as are appearing to .have been purchased by the accused PACITA MADRIGAL-GONZALES (formerly Pacita M. Warns) at such, priesvand from such persons or business establishments, at such times and places, mentioned in the following described public and official documents, were immediately distributed to calamity victims' or sufferers when in truth and in fact no such distributions of such relief supplies, valued and purchased by said accused PACITA MADRIGAL-GONZALES (formerly Pacita M. Warns) at so much prices as are mentioned and stated in said public and official documents, were, ever made. * * *."

That on the same date, August 23, 1956, and accompanying the filing of said 27 separate informations, for falsification and one single information for malversation, the prosecution filed ex parte petition for the consolidation of all said 27 falsification cases and one malversation case before only one branch or gala of the Court of First Instance of Manila; or ex parto petition being couched in the tenor following:

"The plaintiff, thru the undersigned, respectfully moves exparte that all the above-entitled cases be assigned to one sala or branch of the Court and a joint trial be held thereon-all the charges being related to similar if not the same transactions and the evidence of the prosecution being in great part the same for all said charges. As can be seem from the allegations of the informations, the falsifications were' committed to conceal the malversation. Having been committed to conceal rather than to commit the malversation, the offense is not a complex one and the separate charges had to be made in several, informations."

and accordingly granted by the trial court.

That after the Court of First Instance of Manila granted the ex-parte petition consolidating¹ the said cases before Branch II of the Manila Court, then presided by the Honorable Francisco E. Jose, the prosecution suddenly reversed its stand and sought a reconsideration of said order of consolidation and prayed instead for the distribution or farming out of said 27 falsification cases before all branches of the Court of First Instance of Manila, as a consequence of which, and over the repeated objections of the defense, said 27 cases for falsification were ordered distributed among the 18 different branches of said Court, to wit:

* * * * *

The prosecution, however, maintained the assignment of the lone case for malversation with Branch II of the lower Court to which was assigned also three cases for falsification as above enumerated.

That after protracted quibbling on various procedural and technical aspects of the distribution of said 27

falsification cases in the manner above described before the 18 branches of the lower court, the herein accused-appellees filed on or about October 15, 1956, a motion to quash Criminal Cases Nos. 36878 and 36883 to 36884, inclusive, assigned to Branch XVIII of the lower Court on the ground of double jeopardy, said motion having been filed also in each of the other 16 salas or branches of the lower court before which the said, cases were docketed, accused-appellees predicated the aforesaid motion on the grounds: (a) that said 27 separate informations for falsification indeed constitute only one indictable offense of falsification considering that the falsifications allegedly committed separately as described under said separate informations were but the result or product of one single criminal-impulse or interil, and the same are therefore in the nature of a continuing offense which should be alleged and prosecuted only under one information; and (b) that the accused Pacita Madrigal Gonzales and her 7 co-accused had already been arraigned and entered pleas of not guilty in Criminal Case No. 36885 before Branch XIII of said lower court and in Criminal Case 'No,' 36882 assigned to Branch X of the same court, by reason of which all the eight accused were already placed in jeopardy with, respect to the-25 other falsification charges before the 16 other branches of said court;

That after hearing the arguments pro and con on the said motion to quash * * * with the prosecution and the defense¹ filing memorandum and rebuttal memorandum on the issue of double jeopardy, Branch XVIII of the Court of First Instance of Manila, presided by the Honorable Ruperto Kapunan, Jr., to which was assigned Criminal Cases. Nos, 36894, 36899 and 36904, all for falsification, in an order promulgated on January 19, 1960, granted the aforesaid motion to quash on the ground of double jeopardy, and held (a) that the 27 separate Cases of falsification should indeed be tried and/or prosecuted only under one information for the crime of falsification as a continuing offense resulting from only one criminal intent or impulse, and (b) that according to the spirit rather than the letter of the constitutional safeguard against double jeopardy and the complementary provision on the matter in our Rules of Court, the accused Pacita Madrigal Gonzales and her seven co-accused were 'placed in jeopardy of trial for the same offense immediately after entering their pleas with Branch X of the said court, and therefore, said plea could be pleaded as a bar to their further prosecution for the other offenses of falsification pending before said Branch XVIII;

That dissatisfied with the foregoing dismissal, the prosecution has interposed the instant appeal on purely questions of law on January 21, 1960;

That after the perfection of the instant appeal, however, and during the pendency hereof, Branch X of the Court of First Instance, of Manila, presided by the Honorable Higinio Macadaeg, dismissed the information in Criminal Case No. 36882 against the said accused-appellees herein without their consent; while Branch XIII of the same Court of First Instance, presided by the Hon. Bienvenido Tan, after presentation by the prosecution of the available evidence against the same accused-appellees herein in Criminal Case No. 36885 for falsification, dismissed the said case by finding all said accused innocent, with costs de oficio, in its decision promulgated on March 24, 1960.

The Solicitor General is of the belief that the dismissals of the cases by the three branches of the Manila CFI, constituted double jeopardy and, therefore, they are a bar to the further prosecution of the remaining 24 informations for falsification. Upon the other hand, the amicus curias claims that the appeal of the State is meritorious; there is no double jeopardy; and the Orders granting the motions to quash (Cases Nos. 36894, 36899 and 36904) were erroneous.

It would seem that the dominant issue which needs determination in the instant cases, is "whether the Orders of the three (3) different branches of the Manila CFI, namely: the Order of Dismissal issued by Judge Ruperto Kapunan (Branch XVIII) dated January 19, 1960, in Criminal Cases Nos. 36894, 36899 and 36904; the Order of Judge Macadaeg, dated March 23, 1960 (Branch X) dismissing Criminal Cases No. 36882; and the decision of

Judge Tan (Branch XIII) dated March 24, 1960, in 'Criminal Case No. 36885, acquitting the accused, constitute a bar to the prosecution of the remaining 22 falsification charges, filed against the same accused-appellees, which were lodged and still pending resolution with the other branches of said Court, on the ground of double jeopardy." The resolution of this legal issue revolves on the circumstance of whether or not the twenty-seven (27) falsifications, were the product of only one criminal intent. It is argued that since all the falsifications were supposedly committed within a specific period (from December 1954 to September, 1955), and that the allegations in the different informations for falsification are the same, said acts were but the product or result of a singular criminal intent; that no less than the prosecution in said cases, had admitted in a manifestation, that the charges are "related to similar if not the same transactions and the evidence of the prosecution being in great part the same for all said charges"; and that the falsifications were committed to conceal the malversation.

One reason advanced by the trial court and the Solicitor General in holding that the falsifications constituted a continuing offense, proceeding from, a single criminal intent is that, according to the manifestation of the City Fiscal and Special Prosecutor, the motive for these falsifications, was to conceal the malversation. The appellees seem to confuse motive with criminal intent. Motive is not an element of a felony; it is merely a prospectant circumstantial evidence. Criminal intent renders an act a felony. Motive is a state of the mind of the accused, and it is he who can state his real motive in committing a crime. Whatever the fiscal had manifested," as to the motive which had impelled the accused to transgress the law, was but a speculation gathered in the process of investigation. The existence of a motive, not having been alleged in the informations for falsification, in order to be available to the accused in his defense of double jeopardy, or any ground for that matter, must have to be proven, being, as heretofore stated, a prospectant circumstantial evidence. In other words, the existence of the motive to conceal the malversation, in the cases at bar, is a question of fact which should be ventilated in a formal trial, in connection with the "defense of double jeopardy. The Court cannot assume that the purpose of committing the twenty-seven (27) falsifications was to conceal the malversation. This is so because there is no showing that for every particular amount they had malversed on a certain period, they had purposely perpetrated the corresponding falsification, to cover up such amount, until the whole amount proposed to be malversed, shall have been completely misappropriated. In the absence of such showing, it is to be presumed that in the falsification of each document, the criminal intent was separate and distinct.

In effect, it will be noted that although all the informations in the 27 falsification cases were uniformly worded, the numbers of the vouchers alleged to have been falsified and the amounts thereof, are different. We have in the three (3) cases, subject of the proceeding at bar. Voucher No. 4, dated September 3, 1955, for P2,275.00; Voucher No. 6 dated September 6, 1955, for P3,590.00 and Voucher No. 13, dated September 6, 1955, for P3,410.00. The other informations also show different vouchers, dates and amounts. These undeniable facts, alleged in the informations, evidently show that different acts of falsification were committed on different vouchers and covering distinct amounts. Each information did not refer to all said acts of falsification. Neither is there merit in the argument that said acts of falsification constituted a continuing offense, so as to have them all prosecuted in only one information. This Court in a number of cases, dealing on the same subject, held:

"The two pawn tickets were wholly separate and distinct documents. They had no relation to each other as members of a series of instruments, so intimately related, that the falsification of one individual of the series would be, in effect, a falsification of the entire series. The crime of falsification of a private document was complete and consummated when, with intent to prejudice a third person, the first pawn ticket was actually falsified; and a wholly separate and distinct crime was initiated and consummated when the second ticket was falsified. That both documents may have been falsified to be used together in the perpetration of an embezzlement in no wise affects the case, as under the definition of the crime of the falsification of private documents set out in Article 304 of the Penal Code, the crime is consummated and complete at the moment when such a document is actually falsified, to the prejudice of, or with intent to prejudice a third person, it

matters not to what use the document may be put thereafter. * * * " (U.S. vs. Infante & Barreto, 36 Phil., 148-149).

"The falsification of each of these six money orders committed separately by means of different acts constitutes independent crimes of falsification (U.S. vs. Infante & Barreto, 36 Phil., 146), and the appropriation of the respective amounts thereof by the defendant, likewise constitutes different crimes of malversation. In the record of payments then kept by the defendant, it appears that the respective amounts of the money orders, had been paid on different dates, proving that the appropriation thereof was made on different occasions. Furthermore, no objection had been filed to any of the informations presented in the trial court." (People v. Villanueva, * * * By reading the four informations, inserted above, It clearly appears that the alleged acts of falsification and malversation imputed to the accused-appellant were, committed by him. * * *. It may therefore be said that the malversations as well as the falsifications imputed to the accused in the four cases under consideration were not the result of only one purpose or of only resolution to embezzle and falsify, but of four or as many abstractions or misappropriations of the funds entrusted to his care, and of as many falsifications also committed to conceal each of said acts. * * * (People vs. Cid, 66 Phil., 354). "The conclusion of the Court of Appeals that the falsifications committed on April 30, 1931 and on May 2 of the same year were not necessary means for the commission of the malversations on the same dates, is correct. Each falsification and each malversation constitute independent offenses which must be punished separately * * *. The acts being independent from each other and executed by different voluntary actions, each constitutes an independent offense." (Regis vs. People, 67 Phil., 43).

Upon the basis of the above authorities, we need not proceed any further to determine whether the 27 falsifications perpetrated on separate vouchers, at different dates and in various amounts, constitute 27 separate and independent crimes, which were not continuous. It becomes, likewise, unnecessary to inquire into the merits of the question of double jeopardy, because of the above opinion.

"In respect of the defense of former jeopardy, made to a prosecution for forgery, it must appear by the plea that the offense charged in both cases was the same in law and in fact. The plea will be bad if the offenses charged in the two indictments are perfectly distinct in point of law, however nearly they may be connected in fact. As to several acts of forgery, each generally constitutes a separate crime, even though they are committed in the course of a continuous transaction, on the same date, or even on the same piece of paper, unless each act constitutes merely component part of an indivisible instrument. * * *." (23 Am. Jur., p. 700-701).

Moreover, under the facts and circumstances appearing in the record, the grounds upon which the appellees their defense of double jeopardy in the motion to quash, are not clear and indubitable. One cannot build up the defense of double jeopardy on mere hypothesis.

Wherefore, the Order of the lower court (Branch XVIII) dismissing Criminal Cases Nos. 36894, 36899 and 36904 on the ground of double jeopardy is set aside and another entered remanding the said case for further proceedings. The Motion for Leave to Withdraw Appeal, presented by the Solicitor General should be, as it is hereby denied. No special pronouncement as to costs.

Bengzon, C. J., Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Barrera, Dizon, Regala, and Makalintal, J.J., concur.

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