PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, V. SPS. HILDELBERTO T. ESPEJO & OBDULIA H. ESPEJO, ACCUSED-APPELLANTS.

Ponente: ELBINIAS, J.

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ELBINIAS, J.:

Subject of this Appeal[1] is the Decision[2] dated August 22, 2007 of the Regional Trial Court, Branch 66, Makati City ("trial court" for brevity) in Criminal Case No. 05-766 for "Estafa Through Falsification of Public Document".

The conviction of accused-appellants Hildelberto T. Espejo ("accused-appellant Hildelberto" for brevity), and Obdulia H. Espejo ("accused-appellant Obdulia" for brevity) stemmed from an Information[3] dated March 14, 2005 that read as follows:

> "That on or about the 11[th] day of July 2003, in the City of Makati, Metro Manila, Philippines, a place within the jurisdiction of this Honorable Court, the above-named accused, being then private individuals, conspiring and confederating together and both of them mutually helping and aiding one another, with intent to cause damage, did then and there wilfully, unlawfully and feloniously defraud complainants DIOSDADO G. HEMEDES, ROEL HEMEDES, and BERNARDINO H. BAILON, who are the heirs of the Late Teodora Gana vda. de Hemedes, in the following manner, to wit: the said accused Hildelberto T. Espejo being then the lawyer and Administrator of the estate of the late Teodora Gana vda. de Hemedes [prepared] and [executed] and/or [caused] to be prepared and executed in favor of accused Obdulia Espejo, wife of accused Hildelberto T. Espejo a Donation of Real Property Inter Vivos dated July 21, 1981 of two (2) parcels of land situated at the Municipality of Makati, Rizal and covered by T.C.T. Nos. 148461/T-1019 and 148462/T-1019 registered in the name of Teodora Gana vda. de Hemedes, a public document, thereby attributing that the Late Teodora Gana vda. de Hemedes participated in the execution of the aforesaid document, when in truth and in fact, as the said accused well knew, that said Teodora Gana vda. de Hemedes did not so participate or intervene in the signing of said document as said Teodora Gana vda. de Hemedes when she was still alive had executed a Last Will and Testament where she decreed 'inter alia' that all her properties should be divided equally among her children and therein declared in clear and explicit language, that she had neither donated nor given away any of her properties and that if there was any such transfer, the same is simulated and void, and Teodora Gana vda. de Hemedes had also executed a General Revocation/Cancellation/Declaration of Nullity' wherein she voluntarily revoked, cancelled, and declared null and void any Special Power of Attorney, agreement, will, partition, sale, transfer, donation or any such transfer/disposition of any personal and real estate properties made or executed in favor of Sps. Obdulia Gana Hemedes and Hildelberto Espejo or either of them that involved Teodora's property at Catmon Street, San Antonio Village, Makati, Metro-Manila as well as any of her real estate property, after the falsification of the aforesaid document, said accused then and there presented the said Donation of Real Property Inter Vivos at the Makati City Registry of Deeds, which issued two (2) Transfer Certificate of Title Nos. T-219266 and T-219267, in their names, to the damage and prejudice of said complainants in the amount of P1,000,000.00, more or less.
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> CONTRARY TO LAW."[4] (Emphasis was made in the original)

The prosecution presented Roel Hemedes (“Roel” for brevity), Dr. Bernardino Bailon (“Dr. Bailon” for brevity), and Diosdado Hemedes, Jr. (“Diosdado” for brevity), in order to prove the following:

Spouses Teodora Gana vda. De Hemedes (“Teodora” for brevity) and Eduardo Hemedes (“Eduardo” for brevity) had six children, namely: Francisco, Rogelio, Aida, Efren, Diosdado and accused-appellant Obdulia.[5] Sometime in 1965, Eduardo died.

Accused-appellant Hildelberto was the husband of Teodora's daughter, accused-appellant Obdulia. Accused-appellant Hildelberto was designated as the administrator of the estate of Teodora and served as legal counsel to both Teodora and Eduardo.

According to Roel, grandchild of Teodora, he was told by Teodora that accused-appellant Hildelberto had made Teodora sign blank documents[6] when Teodora was still living in the house of accused-appellants Hildelberto and Obdulia. Teodora also told Roel that she wanted to divide her property equally among her children.[7]

On June 13, 1990, prior to Teodora's death, Teodora executed a “General Revocations/Cancellations/Declaration of Nullity”[8] concerning any Special Power of Attorney, Agreement, Will, Partition, Sale/Transfer, Donation or any such transfer/disposition of any personal and real estate properties made or executed in favor of accused-appellants Hildelberto and Obdulia that involved the Catmon properties or any property of Teodora located in Laguna.[9]

On December 28, 1990, Teodora executed her “Huling Tagubilin” (“Teodora's Will” for brevity) where she willed that her properties be divided equally among her children.[10]

Sometime in 1990, Teodora filed a case against accused-appellants Hildelberto and Obdulia, for the Revocation of Special Power of Attorney (SPA) to nullify such SPA given by Teodora to accused-appellants, and in order to return the two lots with seven apartment units located in Catmon St., San Antonio Village, Makati (“Catmon properties” for brevity) to Teodora.[11] However, a Compromise Agreement[12] was entered into between the parties where they agreed that Teodora was the registered owner of the Catmon properties.[13] Another civil case was filed by Teodora against accused-appellants Hildelberto and Obdulia for the recovery of the Catmon properties. However, in February 1991, Teodora died.[14] The court then dismissed the case “without prejudice to the subject matter of the action being raised and settled in the probate proceedings for the settlement” of the late Teodora.[15]

Afterwards, Teodora's Will was submitted by the other surviving heirs for probate in Sp. Proc. Case No. B-1383, which proceeding is still pending before the Regional Trial Court of Biñan, Laguna[16]. The probate of Teodora's Will was opposed by accused-appellants Hildelberto and Obdulia.[17]

Sometime in 2003, the other surviving heirs of Teodora learned of the existence of the titles for the Catmon properties under the name of accused-appellants Hildelberto and Obdulia and of the Deed of “Donation of Real Property Inter Vivos”[18] (“Deed of Donation” for brevity) dated July 21, 1981[19] in favor of accused-appellant Obdulia, when accused-appellants Hildelberto and Obdulia showed the documents to them.[20]

As testified to by Roel and Dr. Bailon, all of the titles of Teodora's properties were in the possession of accused-appellant Hildelberto.[21]

The heirs of Teodora then filed an action for “Quieting of Title” over the Catmon properties with the Regional Trial Court of Makati.[22] They also filed a notice of lis pendens on the Catmon properties with the Register of Deeds of Makati,[23] and a Criminal Complaint for “Estafa through Falsification of Public Document” before the City Prosecution Office of Makati City against accused-appellants Hildelberto and Obdulia.

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The defense, on the other hand, presented the sole testimony of accused-appellant Hildelberto, in order to prove the following:

Accused-appellant Hildelberto was the counsel and administrator of Teodora's properties.[24] Accused-appellant Hildelberto was also the administrator of the Catmon properties. As administrator, accused-appellant Hildelberto was the one who collected the rents from the tenants of the apartment. Accused-appellant Hildelberto would then give the amounts collected to the owner, Teodora.[25]

According to accused-appellant Hildelberto, in 1981, a Deed of Donation[26] was executed by Teodora in favor of his wife, who was also Teodora's daughter, the accused-appellant Obdulia.[27]

Accused-appellant Hildelberto added that because of the donation made by Teodora to accused-appellant Obdulia, he and accused-appellant Obdulia became the owners of the Catmon properties.[28]

On July 11, 2003, the titles of the Catmon properties were transferred to the names of accused-appellants Hildelberto and Obdulia under TCT Nos. 219266 and 219267 which were issued by the Register of Deeds of Makati.[29] Accused-appellants Hildelberto and Obdulia also declared the Catmon properties for taxation purposes.[30]

Resulting from the Criminal Complaint filed by the other heirs of Teodora, an Information[31] for “Estafa through Falsification of Public Document” dated March 14, 2005 was filed against accused-appellants.

Accused-appellants Hildelberto and Obdulia both pleaded “NOT GUILTY”.[32]

Eventually, the trial court rendered its Decision[33] that is appealed from, convicting accused-appellants Hildelberto and Obdulia for “Estafa through Falsification of Public Document”. The dispositive portion of the Decision disclosed the following:

> “WHEREFORE, premises considered, the Court finds the accused Hilberto (sic) Espejo and Obdulia Espejo guilty beyond reasonable doubt as principal of the complex crime of estafa through falsification of public document defined and penalized under Articles 171 and 318, in relation to Article 48, of the Revised Penal Code. Absent any modifying circumstances, and applying the Indeterminate Sentence Law, they are hereby sentenced to an indeterminate penalty ranging from two (2) years, four (4) months and one (1) day of prision correccional, as minimun, to ten (10) years of prision mayor, as maximum.
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> SO ORDERED.”[34]

In appealing from the Decision[35], accused-appellants prayed as follows:

> “The Decision being NULL and VOID and that the facts, circumstances, evidence, documentary or testimonial, and otherwise are not sufficient to prove the guilt of the Accused beyond reasonable doubt; therefore the DECISION of the trial Court must be reversed and the Accused acquitted of the crime charge[d].”[36]

Accused-appellants raised the following assignment of errors:

> “ASSIGNMENT OF ERRORS
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> Error No. 1: That the Judge rendering the questioned Decision made an untruthful statement in making it appear that three prosecution witnesses testified in his presence on the witness stand and that he personally saw and heard the testimonies of three prosecution witnesses on the witness stand.
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> Error No. 2: That the questioned Decision failed to give complete and unbiased summation or substance of the testimonies of the prosecution witnesses and concentrated only on those unfavorable to the accused.

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Error No. 3: The Court erred in making a finding that accused Atty. Hildelberto T. Espejo refused to surrender the titles in his possession to the court-appointed-administrator.

Error No. 4: That the questioned Decision made an unreasonable, unsupported and immaterial finding questioning the integrity of a public officer.

Error No. 5: That the trial Court acted contrary to the Rules of Evidence when it disregarded a notarized document which is a public document.

Error No. 6: That the trial Court acted contrary to the Rules of Evidence when it disregarded a certification and authentication issued by the National Archives of public documents consisting of entries in its public records.

Error No. 7: The Court erred in making contradictory findings which are chronologically impossible.

Error No. 8: The Court erred in giving credence to a document which absolutely has no probative value.

Error No. 9: The Court erred in mentioning a 'lis pendens' which is an extraneous fact not in evidence.

Error No. 10: That the trial Court made contradictory and inconclusive findings as to the alleged falsity of the signature of the Donor in subject Deed of Donation of Real Property Inter Vivos.

Error No. 11: That, [in] convicting the accused, the trial Court erred in not finding that the prosecution failed to establish or present any evidence, documentary or testimonial, to prove the date, time and place of the commission of the offense.

Error No. 12: That, [in] convicting the accused under Articles 171 and 316, in relation to Article 48 of the Revised Penal Code, the trial Court erred in not finding that the prosecution failed to establish or present any evidence, documentary or testimonial, to prove any of the essential elements of the said crime.

Error No. 13: That the gravest error in this Decision of Errors that the trial Court committed is to convict both the accused under Article 171 of the Revised Penal Code when neither of them is a 'public officer, employee or notary or ecclesiastic minister'.

Error No. 14: That the questioned Decision quoted some excerpts of documents and court proceedings which have already been declared as fake, falsified and fabricated.

Error No. 15: That the questioned Decision adopted 'presumption' and 'motive' against the positive and uncontradicted statements of the accused.

Error No. 16: That the trial Court mentioned some stipulations of fact that are not true nor supported by any evidence.

Error No. 17: That the Decision is not based on the merits of the case in that it does not express therein clearly and distinctly the facts and the law on which it is based."[37] (Emphasis and italics were made in the original)

For being interrelated, accused-appellants' assignment of errors are discussed jointly.

In Danilo D. Ansaldo vs. People of the Philippines[38], the Supreme Court declared that in order for a complex crime of Estafa through Falsification of a Public Document to prosper, all the elements of both crimes of Estafa and Falsification of a Public Document must exist.[39]

Accordingly, prosecution for Falsification of Public Document by a private individual under Article 172 (1) in relation to Article 171 of the Revised Penal Code, must prove these elements: (1) that the offender is a private individual or a public officer or employee who did not take advantage of his official position; (2) that he committed any of the acts of falsification enumerated in Article 171 of the RPC; and (3) that the falsification was committed in a public, official or commercial document.[40]

Prosecution for Estafa under Article 318 of the Revised Penal Code, for its part, must prove these elements: (a) false pretense, fraudulent act or pretense other than those in the preceding articles; (b) such false pretense, fraudulent act or pretense must be made or executed prior to or simultaneously with the commission of the fraud; and (c) as a result, the offended party suffered damage or prejudice.[41]

Here, prosecution witnesses Roel, Dr. Bailon, and Diosdado, positively identified private individuals, accused-appellants Hildelberto and Obdulia, as the persons who presented to them a notarized Deed of Donation[42], which is a public document, and who made it appear that Teodora executed such Deed of Donation[43] when in truth, Teodora did not. Moreover, by virtue of such Deed of Donation[44], accused-appellants Hildelberto and Obdulia were able to cause the transfer of the titles of the Catmon properties to their names, to the damage and prejudice of the other surviving heirs of Teodora.[45]

Such positive identification of accused-appellants Hildelberto and Obdulia by the prosecution's witnesses Hemedes, Dr. Bailon, and Diosdado triumphs over accused-appellants' defense of denial in that accused-appellants Hildelberto and Obdulia did not falsify the Deed of Donation on their argument that Teodora willingly executed such Deed in favor of her daughter, accused-appellant Obdulia.[46] Such defense of denial is negative and is self-serving evidence undeserving of weight in law.[47]

In claiming that the prosecution had failed to prove their guilt beyond reasonable doubt, accused-appellants Hildelberto and Obdulia assailed the propriety of the trial court's Decision. Accused-appellants had argued that:

> “The trial Court cannot RIGHTFULLY and TRUTHFULLY state so because records will prove that the three (3) prosecution witnesses: Roel Hemedes, Bernardino Bailon and Diosdado Hemedes, Jr. testified before the then presiding Judge Rommel C. Baybay and not before the deciding Judge Villarosa. After the termination of the testimonies of the first two (2) witnesses, it was very evident that the prosecution was not proving its case and the trial was headed nowhere, such that the Honorable Judge Rommel C. Baybay proposed that the next witness, i. e., Diosdado Hemedes, Sr. be considered as merely corroborative. Both parties consented.

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> This is very apparent as the Decision gave importance only to the testimonies of prosecution witnesses which always referred to the acts of the deceased Teodora Gana Vda. De Hemedes in relation to the two (2) court actions, the alleged revocation and cancellation of the donation and the Huling Tagubilin xxx

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> The prosecution witnesses' testimonies were entirely self-serving as it has been established by Exhibits '29', '29-A' and Exhibit '30' that the 'envious heirs', complainants in this criminal case, falsified and fabricated the two (2) court actions and two (2) documents enumerated as such in Exhibit '29-A'.

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> There is a chronological impossibility arrived at by the Decision. Accused were charged and arraigned for committing the offense specifically on July 11, 2003 (INFORMATION, pages 1-4, Record). However the Decision states: 'In a letter dated July 10, 2003 to the Register of Deeds of Makati xxx both accused submitted the supporting documents...' (Decision, page 6, par. 6) referring to Exhibits 'M' to 'M-29'. How can there exist on July 10, 2003, supporting documents already prepared and sourced from the Register of Deeds and executed by the Accused before the BIR, the City Assessor's Office, etc., and submitted to the Register of Deeds for registration of the Deed of Donation xxx which allegedly (per INFORMATION) shall only be executed next day, i.e., July 11, 2003?. This is an evident chronological impossibility, inexplicable by means and makes the Decision null and void.

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> The Decision states: 'That on November 18, 1987, Hildelberto presented a Partition Agreement with Sale (Exhibit 'W')' (Decision, 2[nd] par on page 8)(Decision, pp. 444-457, Record). This document has absolutely no probative value in proving the offense charged because it is a unsigned document and violates the requirements of the Statute of Frauds and is void ab initio under provisions of the Civil Code.

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> The Decision also mentions an extraneous fact not in evidence nor offered and nor established by the prosecution, that is, the lis pendens. A lis pendens does not exist in the records of this case. Even if it does, it has no relevancy, materiality or probative value in this criminal case.

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> However, all three (3) witnesses failed to even mention the date, time and place of the commission of the offense charged in the information, thus this element of the crime was not established."[48] (Emphasis supplied)

Prevailing over accused-appellants Hildelberto and Obdulia's arguments however, is that the errors attributed by accused-appellants' would not affect the guilt of accused-appellants Hildelberto and Obdulia. The alleged errors pointed out by accused-appellants were irrelevant in seeking to show that not all of the elements of the crime of "Estafa through Falsification of Public Document" were established. Most of accused-appellants' arguments were trivial and minor, because they referred to the trial court's alleged errors and biased judgment in arriving at its conclusions. Considering further that accused-appellants' allegations of bias, bad faith, malice, and palpable error of the trial court in its Decision were unsupported by substantial evidence, such allegations would not render the trial court's Decision[49] null and void — contrary to accused-appellants Hildelberto and Obdulia's assignment of error 1, 2, 3, 7, 8, 9, 11, 14, 15, 16, and 17.

Moreover, the trial court's appreciation of facts and its evaluation of the testimonies and of the credibility of the witnesses, as is the deeply entrenched rule, deserves much weight and respect, and should not be disturbed.[50] This is because the trial court had the distinct opportunity, not available to the reviewing courts, to hear the testimonies of the witnesses and to observe their conduct and demeanor on the stand.[51]

Contrary to accused-appellants' assignment of errors 4, 5, 6, and 10, the notarized Deed of Donation[52] involving the Catmon properties executed by Teodora in favor of accused-appellant Obdulia was falsified. Accused-appellants Hildelberto and Obdulia had argued that:

> "The statement in the Decision that 'Unknown to the Register of Deeds..'xxx is a surplusage intended to make it appear that the Accused were registering a falsified document. This is a baseless, immaterial and irrelevant statement of the trial Court. It must be presumed that official duty has been regularly performed.
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> In Non vs. Court of Appeals, xxx
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> The registration of documents was a ministerial act (The registrar of deed is not authorized to determine whether or not fraud was committed in the deed sought to be registered. xxx and merely created a constructive notice of its contents against all third persons. xxx Among the parties, the instruments remained completely valid and binding. xxx

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> In questioning a notarized document and the certification and authentication thereof issued by the National Archives without any clear and convincing contradictory evidence, the trial Court acted contrary to law and prevailing jurisprudence.
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> Having been notarized, the documents have in their favor the presumption of regularity, and to contradict the same, there must be evidence that is clear, convincing and more than merely preponderant. (Salami vs. Court of Appeals. 239 SCRA 356 [1994]) Petitioners failed to rebut said presumption, hence the presumption stands. xxx

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> That the Decision states: 'Evidently, the Deed of Donation upon which the accused' title depends, was caused to be executed by the accused who were able to acquire Teodora's signatures in blank papers adding therein provisions that were contrary to her express wishes...' (Decision, page 10, last sentence of penultimate paragraph) (Decision, pp 444-457[,] Record). This presumes that the signature is genuine, having been made by the donor herself. The prosecution however, has not presented any convincing evidence to controvert the fact that the signature of the donor was true, genuine and authentic. Neither did the prosecution establish any act of falsification of the signature committed by the Accused."[53] (Emphasis supplied)

Overcoming accused-appellants Hildelberto and Obdulia's arguments however, is that the irregularity in the execution of the notarized Deed of Donation[54] may be questioned directly by the surviving heirs of Teodora. The Deed of Donation[55] having been notarized, thus showing it to be a public document, did not guarantee the validity of its contents. This is pursuant to the pronouncement of the Supreme Court in Andrea Mayor and Vergel Romulo vs. Lourdes Masangkay y Belen and Leonardo Belen, G.R. No. 151035, June 3, 2004, to wit:

> "Concededly, both the Kasulatan ng Bilihang Tuluyan and the Kasulatan ng Sanglaan are public documents and there is no dispute that generally, a notarized document carries the evidentiary weight conferred upon it with respect to its due execution. In addition, documents acknowledged before a notary public have in their favor the presumption of regularity. However, the presumption is not absolute and may be rebutted by clear and convincing evidence to the contrary. The presumption cannot be made to apply in this case because the regularity in the execution of the documents were challenged in the proceedings below where their prima facie validity was overthrown by the highly questionable circumstances pointed out by both trial and appellate courts. Furthermore, notarization per se is not a guarantee of the validity of the contents of a document. Indeed, as stated by the Supreme Court in Nazareno v. CA:
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> The fact that the deed of sale was notarized is not a guarantee of the validity of its contents. As held in Suntay v. Court of Appeals:
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> Though the notarization of the deed of sale in question vests in its favor the presumption of regularity, it is not the intention nor the function of the notary public to validate and make binding an instrument never, in the first place, intended to have any binding legal effect upon the parties thereto. The intention of the parties still and always is the primary consideration in determining the true nature of the contract.
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> The impugned documents cannot be presumed as valid because of the direct challenge posed thereto by respondents, which is precisely the reason for the commencement of this case: to bring to the fore the irregularity in their execution." (Emphasis supplied; Italics and underlinings were made in the original)

The Deed of Donation[56] here was repudiated as being invalid by Teodora's execution of the "General Revocations/Cancellations/ Declaration of Nullity"[57]. Teodora also repudiated the Deed of Donation[58] by filing cases against accused-appellants Hildelberto and Obdulia to nullify the Donation and to invalidate the transfer or disposition in favor of accused-appellants.[59]

The nullity of the Deed of Donation[60] allegedly executed by Teodora sometime in 1981 was further shown when, as a result of one of the cases filed by Teodora against accused-appellants Hildelberto and Obdulia, a Compromise Agreement[61] was entered into between Teodora and accused-appellants Hildelberto and Obdulia where in that agreement, accused-appellants acknowledged that Teodora was still the lawful owner of the Catmon

properties. Thus, because of the Compromise Agreement, accused-appellants Hildelberto and Obdulia could no longer claim ownership over the property by virtue of the Deed of Donation[62].

Moreover, Teodora's Will stated that Teodora wanted her estate to be divided in equal shares among her children.[63] Teodora also mentioned in her Will that Teodora was nullifying any document that she had signed or executed that was contrary to her Will.[64]

All of these were as similarly found by the trial court, to wit:

> "The evidence for the prosecution constitutes convincing proof of both accused' (sic) guilt.
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> Prior to Teodora's death, she executed public documents that belie the truthfulness of the contents of the Deed of Donation which both accused utilized to have the Catmon property registered under their names to the damage of the private complainants who are also heirs of Teodora.
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> Records show that Teodora after leaving the home of the accused spouses executed in 1991 a General Revocation/ Cancellation/ Declaration of Nullity where she explicitly declared that she revokes whatever disposition of personal or real properties which she may have made in favor of accused spouses and that in fact during her stay with the accused spouses she was made to sign blank papers for purposes that are not known to her.
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> She also filed a case for Revocation of Special Power of Attorney before the RTC Makati against the accused spouses which concluded in the execution of a Compromise Agreement where the latter acknowledged Teodora's ownership of the Catmon property and that they have spent the rentals Hildelberto have collected on Teodora's apartments.
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> Subsequently, Teodora filed another case against the accused spouses. In all three instance, accused spouses could have alleged their ownership of the Catmon property since the Deed of Donation had been executed as early as 1981. They however chose to disclose the existence of the donation only 1995 but without even showing copy thereof and even acknowledged Teodora's ownership.
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> Upon Teodora's death, her Huling Tagubilin expressed her intention to bequeath upon her children or their heirs her properties in equally (sic) shares. Even in her last will, Teodora stressed her desire to have her estate divided equally among her heirs and warned that accused spouses during her lifetime made her sign several papers in blank which papers could turn up as document with contrary to her will. In all these instances, Teodora made express mention and warned of both accused as possible perpetrators of deceit.
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> Evidently, the Deed of Donation upon which accused' title depends was caused to be executed by the accused who were able to acquire Teodora's signatures in blank papers adding therein provisions that were contract to her express wishes to have her children or their heirs share equally in her properties."[65] (Emphasis supplied)

Contrary to the assignment of errors 12 and 13 of accused-appellants Hildelberto and Obdulia, the Information sufficiently alleged that the crimes committed by accused-appellants Hildelberto and Obdulia fell under Article 172 in relation to Articles 318 and 48 of the Revised Penal Code. Although the dispositive portion of the Decision stated that the crime committed by accused-appellants was the Complex Crime of "Estafa through Falsification of Public Document" under "Article 171 and 318, in relation to Article 48, of the Revised Penal Code"[66], the body of the assailed Decision clearly discussed the criminal liability of accused-appellants Hildelberto and Obdulia under Article 172 (1) in relation to Article 318 of the Revised Penal Code. As was set forth in the body of the assailed Decision, accused-appellants, being private individuals, committed Falsification which is penalized under Article 172 of the Revised Penal Code, and not under Article 171, which crime can only be committed by a public officer or employee or by a notary or ecclesiastical minister. Therefore, the body of the Decision should prevail over the dispositive portion of the Decision, such that accused-appellants should be convicted under

Article 172 of the Revised Penal Code.

That the body of the Decision prevails over its dispositive portion is pursuant to the pronouncement of the Supreme Court in Judelio Cobarrubias vs. People of the Philippines, The Honorable Court of Appeals Special Former Second Division, and Hon. Bonifacio Sanz Maceda, Acting Judge of the Regional Trial Court of Las Piñas City, Branch 255, G.R. No. 160610, August 14, 2009, to wit:

> "The general rule is that where there is a conflict between the fallo, or the dispositive part, and the body of the decision or order, the fallo prevails on the theory that the fallo is the final order and becomes the subject of execution, while the body of the decision merely contains the reasons or conclusions of the court ordering nothing. However, where one can clearly and unquestionably conclude from the body of the decision that there was a mistake in the dispositive portion, the body of the decision will prevail. Thus, in Spouses Rebuldea v. Intermediate Appellate Court, the Court held that the trial court did not gravely abuse its discretion when it corrected the dispositive portion of its decision to make it conform to the body of the decision, and to rectify the clerical errors which interchanged the mortgagors and the mortgagee." (Italics made in the original)

Given all these, no compelling or cogent reason was therefore shown to justify any deviation from the trial court's findings, which were based on the facts and the law, to wit:

> "Hildelberto who was a lawyer was expected to have understood the implications of Teodora's having executed a General Revocation/Cancellation/Declaration of Nullity on June 13, 1990 or a last will but he nevertheless went ahead in causing the registration of the Catmon property in their name thirteen years after its supposed donation in his wife's favor despite knowledge as early as 1978 that the Catmon property was to be divided equally among Teodora's children or their heirs. As administrator of Teodora's and even her late husband's properties, he chose to betray the trust that was reposed upon him by his act which are clearly in sync with his wife's. Through their joint concerted efforts, they were able to successfully register the Catmon property in their names and cause damage to herein private complainants.
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> It is undisputed that both accused were in possession of the falsified Deed of Donation with Hildelberto even admitting to having facilitated the registration of the Catmon property in his and his spouse's name. The records will also show that Obdulia signed the forms required to be submitted by the Bureau of Internal Revenue for the registration of their title over the Catmon property. The accused spouses' possession of the falsified deed gives rise to the presumption of their authorship of the falsification where it was made to appear that Teodora donated practically all her properties to accused Obdulia.
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> The person in possession of a falsified document is presumed to have falsified the same, especially so if he had the opportunity and the motive to do so (People vs. Manansala, 105 Phil. 1253).
>
> Teodora was right to have given warnings in the several documents she executed and the steps she has taken while she was still alive. Accused spouses in their usual hardheadedness went ahead and stealthily caused the registration of the Catmon property in their names in 2003 directly going against the last will of Teodora and Hidelberto even when his act was in conflict with the Code of Ethics.
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> Deceit is evident when the accused spouses in their joint Affidavit of Explanation (Exhibit 'M-36') misrepresented that Teodora had earlier between 1971 and 1972 distributed some of her properties among her six children. This is baseless. And they went on to say that in 1981, Teodora suddenly remembered that she still has some properties which she decided to give to her youngest child Obdulia. Hildelberto in phrasing said Affidavit consciously downplayed the Teodora had in effect disinherited her other heirs with the falsified Deed of Donation.
>
> The offenses for which accused spouses are being charged are intentional felonies for which liability attaches only when it is shown that the malefactors acted with criminal intent or malice. The court failed to find any manifestations of good faith and lack of criminal intent on the part of both accused which justify their

> conviction.
>
> The Court gives credence to the straightforward testimony of prosecution witnesses Roel Hemedes, Bernardino Bailon and Diosdado Hemedes Jr. over that of accused Hildelberto who was always evasive or even misleading in his answers such as when he testified that the case filed before Judge Abrogar was dismissed because Teodora did not know what to do in court nor understood what she went to court for. The testimony of Roel Hemedes on the proceedings taken before Judge Abrogar is more consistent with the Decision rendered by Judge Abrogar in said case than the testimony made by Hildelberto.
>
> Hildelberto's testimony that Teodora was already senile the year before he died is inconsistent with Roel, Bernardino and Diosdado Jr.'s testimonies that the woman had full comprehension on what happens to her surroundings and had even allowed her voice message to be recorded at the time she executed her last will.
>
> The use of deceit in having the Catmon property registered in the accused spouses' name is also evident from the fact that no original copy of the Deed of Donation was ever produced by the defense. No explanation was ever offered to answer the question as to the whereabouts of said document before secondary evidence was offered. While Hildelberto claims the Deed of Donation he presented to the Court was sourced from the National Archives, he failed to call on a representative of said office to confirm the authenticity of said important document."[67] (Emphasis supplied)

However, there is a need to reduce the penalty that was meted out by the trial court on each of the accused-appellants Hildelberto and Obdulia, of two (2) years, four (4) months and one (1) day of Prision Correccional, as minimum, to ten (10) years of Prision Mayor, as maximum. This is because under Article 48 of the Revised Penal Code, the penalty for the complex crime is the penalty for the most serious crime, which to be applied in its maximum period. Thus, the penalty to be imposed should have been Prision Correccional in its maximum period and a fine of not more than Php 5,000, as pursuant to Article 172 of the Revised Penal Code for "Falsification by private individuals and use of falsified documents". Article 172 (1) of the Revised Penal Code provides:

> "Art. 172. Falsification by private individuals and use of falsified documents. - The penalty of prision correccional in its medium and maximum periods and a fine of not more than 5,000 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; xxx" (Emphasis supplied)

In turn, applying the Indeterminate Sentence Law, the proper penalty imposable is Arresto Mayor in its maximum period, or from four (4) months and one (1) day to six (6) months, as minimum, to Prision Correccional in its maximum period, or from four (4) years, two (2) months and one (1) day to six (6) years, as maximum.

After careful consideration of all the facts, arguments, and issues appearing on the records, as well as of the pertinent laws and jurisprudence, and, in accordance with what is best determined to be proper under the circumstances, the following disposition is therefore made on these matters.

WHEREFORE, the Decision of the trial court is AFFIRMED, with the MODIFICATIONS that the penalty of each of the accused-appellants is REDUCED to the indeterminate penalty of six (6) months of Arresto Mayor, as minimum, to six (6) years of Prision Correccional, as maximum, and that accused-appellants are ordered to pay the fine of Php 5,000.00.

SO ORDERED.

Dicdican (Chairman) and Dimagiba[*], JJ., concur.

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[*] Acting Junior Member vice J. Paredes per Office Order No. 34-14-RSF dated January 30, 2014.

[1] Rollo, pp. 72 - 111

[2] Record II, pp. 444 - 455

[3] Records I, pp. 1- 2

[4] Record I, pp. 1 - 2

[5] TSN, September 20, 2005, pp. 12 - 13

[6] TSN, September 20, 2005, p. 57

[7] TSN, September 20, 2005, pp. 59 - 60

[8] Record I, pp. 34 - 35

[9] Record I, p. 34

[10] Record I, pp. 27 - 33

[11] TSN, September 20, 2005, pp. 68 - 69

[12] Record I, pp. 24-25

[13] TSN, September 20, 2005, p. 75 - 76

[14] TSN, September 20, 2005, p. 16

[15] Record I, p. 26

[16] TSN, September 20, 2005, pp. 26 - 27

[17] TSN, September 20, 2005, pp. 19 - 20

[18] Record I, pp. 20 – 21, “DONATION OF REAL PROPERTY INTER VIVOS”

[19] TSN, September 20, 2005, p. 46

[20] TSN, September 20, 2005, pp. 28 – 30; TSN, January 26, 2006, pp. 38 - 39

[21] TSN, September 20, 2005, pp. 37; TSN, Januray 26, 2006, pp. 70 - 72

[22] TSN, September 20, 2005, pp. 52 - 53

[23] TSN, September 20, 2005, pp. 50 - 51

[24] TSN, August 16, 2006, p. 46

[25] TSN, August 16, 2006, p. 32

[26] Record I, pp. 20 – 21, “DONATION OF REAL PROPERTY INTER VIVOS”

[27] TSN, July 27, 2006, pp. 48 – 49; Rollo, p. 82

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[28] TSN, July 27, 2006, p. 25; TSN, August 16, 2006, p. 29

[29] TSN, July 27, 2006, pp. 25 – 27; TSN, August 16, 2006, p. 22, 24

[30] TSN, July 27, 2006, pp. 26 - 28

[31] Record I, pp. 1 - 2

[32] Record I, p. 152

[33] Record II, pp. 444 - 455

[34] Record II, p. 455

[35] Record II, pp. 444 - 455

[36] Rollo, p. 111

[37] Rollo, pp. 78 - 80

[38] G.R. No. 159381, March 26, 2010

[39] Danilo D. Ansaldo vs. People of the Philippines, G.R. No. 159381, March 26, 2010

[40] Rosario S. Panuncio vs. People of the Philippines, G.R. No. 165678, July 17, 2009

[41] Jaime Guinhawa vs. People of the Philippines, G.R. NO. 162822, August 25, 2005

[42] Records I, pp. 20 - 21

[43] Record I, pp. 20 – 21, “DONATION OF REAL PROPERTY INTER VIVOS”

[44] Records I, pp. 20 - 21

[45] TSN, January 26, 2006, pp. 39, 42 – 45, 62, 64

[46] Rollo, pp. 82-111

[47] People of the Philippines vs. Antonio Baldomar y Liscano, G.R. No. 197043, February 29, 2012

[48] Rollo, pp. 86 - 100

[49] Record II, pp. 444 - 455

[50] People of the Philippines vs. Reynaldo Albalate, Jr., G.R. No. 174480, December 18, 2009

[51] People of the Philippines vs. Sammy Ramos, G.R. No. 172470, April 8, 2008

[52] Records I, pp. 20 - 21

[53] Rollo, pp. 92 - 98

[54] Records I, pp. 20 - 21

[55] Records I, pp. 20 - 21

[56] Records I, pp. 20 - 21

[57] Record I, pp. 34 - 35

[58] Records I, pp. 20 - 21

[59] Record I, pp. 24 - 26

[60] Records I, pp. 20 - 21

[61] Records I, pp. 24 - 25

[62] Records I, pp. 20 - 21

[63] Records I, p. 27

[64] Records I, p. 30

[65] Record II, p. 453

[66] Rollo, p. 39

[67] Record II, pp. 454 - 455

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