

PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. FELICIDAD CARANDANG VILLALON AND FEDERICO DE GUZMAN, RESPONDENTS.

G.R. No. L-43659. December 21, 1990

Ponente: REGALADO, J.

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REGALADO, J.:

Assailed in this special civil action for certiorari is the order rendered by Judge Manuel Castañeda on January 28, 1976 dismissing Criminal Case No. D-868 of the former Court of First Instance of Pangasinan, and the order rendered in the same case on March 22, 1976 by his successor, the herein public respondent, denying petitioner's motion for reconsideration of the aforesaid order of dismissal.

Culled from the records,[1] it appears that complainant Mariano Carrera and his brother, Severo Carrera, are co-owners of a parcel of land located at Barrio Buenlag, Binmaley, Pangasinan, registered in their names under Transfer Certificate of Title No. 47682.

On February 5, 1964, complainant allegedly executed a special power of attorney before Notary Public Jaime B. Arzadon, Jr., naming private respondent Federico de Guzman as his lawful attorney-in-fact. On February 13, 1964, private respondent mortgaged the parcel of land with the People's Bank and Trust Company in Dagupan City using the said special power of attorney, and was able to obtain the amount of P8,500.00 as a loan from the mortgagee bank. Both the special power of attorney and the mortgage contract were duly registered in the Registry of Deeds of Pangasinan on February 13, 1964.

After the expiration of the term of the mortgage, and the mortgage account not having been paid, the mortgagee bank foreclosed said mortgage and the land was sold to one Ramon Serafica and Vileta Quinto who were issued Transfer Certificate of Title No. 85181 for said property. In January, 1972, complainant allegedly discovered that their property was already registered in the name of said Ramon Serafica when the latter filed on said date an action for the ejectment of the former from the premises.

On March 29, 1974 Criminal Case No. D-868 for estafa thru falsification of a public document was filed against private respondent in the then Court of First Instance of Pangasinan, the information reading as follows:

"That on or about the 5th day of February, 1964, in the City of Dagupan, Philippines, and within the jurisdiction of this Court, the above-named accused FEDERICO DE GUZMAN, being then a private individual, after having in his possession Transfer Certificate of Title No. 47682, did then and there, willfully, unlawfully and criminally falsify and forge the signature of one MARIANO F. CARRERA, in a Power of Attorney, causing and making it appear that the said MARIANO F. CARRERA, signed and affixed his signature in the said Power of Attorney, which is a public document, when as a matter of fact and in truth, said MARIANO F. CARRERA, did not in anyway (sic) participate in any acts thereof, nor gave his permission, and in order to make good the acts of falsification, with intent of gain and by means of fraud and other deceits, the said accused FEDERICO DE GUZMAN, thru the said falsified public document (Power of Attorney) did

succeed in securing the loan from the People's Bank and Trust Company in the amount of EIGHT THOUSAND FIVE HUNDRED PESOS (P8,500.00) Philippine currency, without the knowledge and consent of said MARIANO F. CARRERA, to the damage and prejudice of the latter in the amount of P4,250.00, and other consequential damages."[2]

After arraignment where private respondent pleaded not guilty, the case proceeded to trial and the prosecution presented complainant Mariano F. Carrera and one Melanio Esguig from the Office of the Register of Deeds for the Province of Pangasinan. Another witness, Col. Jose G. Fernandez, a handwriting expert, gave his partial testimony but the same was not continued as counsel for private respondent moved for and was granted leave to file a motion to dismiss.

On December 16, 1975, the motion to dismiss[3] was filed, wherein it was alleged that the crime charged would not lie due to the partial testimony of complainant allegedly to the effect that he authorized private respondent to mortgage the said one-half portion of the land owned by him and his brother. Said partial testimony of complainant was quoted, with the emphasized portions, as follows:

"Q Mr. Carrera, do you know what happened to the title of your property at present?

A Yes, sir, I know.

Q Could you tell us what happened to your title?

A It was foreclosed by the Bank, sir.

Q Now, you said that it was foreclosed by the Bank. Do you know the reason why it was foreclosed by the Bank?

A Yes, sir.

Q Could you tell this Honorable Court how it was foreclosed by the Bank?

A Yes, sir. On February 10, 1964, my brother Severo Carrera went to Manila and he asked me to sign a document as a witness and I asked him he interpreted that this is an authorization to Federico de Guzman to get a loan from the Bank on the half portion of the land which belongs to me, my brother said.

Q So sometime in 1964, your older brother Severo Carrera went to you in Manila and asked you to sign a power of attorney authorizing de Guzman to mortgage the one-half portion of that land owned by you and your brother. Do you have any document to show that?

x x x

Atty. Diaz:

Q Can you recognize that document which you signed in 1964 if shown to you?

A Yes, sir.

Q Now I am asking ... I am showing here a document which is, your Honor, for the purpose of identification, and may we request that it be marked as Exhibit B for the prosecution. This document consist (sic) of two pages, your Honor, and the first page be marked as Exhibit B and the second page be marked as Exhibit B-1, page two. Will you tell this Honorable Court what is this?

A This is the document brought by my brother to Manila for me to sign, sir.

x x x

(Hearing of June 18, 1974, pp. 8-10; Underscoring supplied)"[4]

Based on the aforequoted testimony, private respondent contends that there is no sufficient basis for the charge and this fact warrants the dismissal of the case.

Private respondent also claims that the crime has prescribed since more than ten (10) years had elapsed from the time the crime was committed. Since the information charges the complex crime of estafa thru falsification of a public document, then the penalty shall be that for the more serious crime which shall be applied in its maximum period, as provided for by Article 48 of the Penal Code. The more serious crime in the present case is the falsification of the public document which is punishable with prision correccional in its medium and maximum period and a fine not exceeding P5,000.00. Prision correccional being a correctional penalty, the same prescribes in ten (10) years.

It was noted in said motion to dismiss that the information filed in the case merely alleged the date of the commission of the crime which was February 5, 1964 and the information was filed only on March 29, 1974. This being the case, private respondent claims that more than ten (10) years had passed from the commission of the crime to the filing of the information. No other allegation having been made as to the discovery of the alleged crime, private respondent claimed that the period of prescription commenced on the day on which the crime was committed. He asserts that, from the date appearing in the transfer certificate of title covering the land mortgaged with the bank, the mortgage documents were duly registered with the Registry of Deeds of Dagupan City on February 13, 1964, hence the alleged crime became public knowledge on the same date. To support his theory, private respondent made the following citation:

"The period of prescription commences to run from the date of the commission of the crime if it is known at the time of its commission.

"Thus, if there is nothing that was concealed or needed to be discovered, because the entire series of transactions was by public instruments, duly recorded, the crime of estafa committed in connection with said transaction was known to the offended party when it was committed and the period of prescription commenced to run from the date of its commission. *People v. Dinsay*, C.A. 40 O.G. 12th Supp. 50 (The Revised Penal Code by Justice Luis B. Reyes, Revised Edition 1967, Vol. I, pp. 711-712)."[5]

The prosecution countered that the testimony of Mariano Carrera shows that what was intended was an authority to mortgage only the one-half portion pertaining to his brother and he was only quoting what his brother told him when he said that "x x x this is an authority to Federico de Guzman to get a loan from the bank on the half portion of the land which belongs to me, my brother said."[6]

It further submitted that the information was not filed out of time since the date to be considered should not be the date of registration of the alleged power of attorney on February 13, 1964. It argued that the crime was actually discovered only in January, 1972 when Ramon S. Serafica filed an action to eject complainant from the premises, which fact was not alleged in the information because it was considered by the prosecution as a mere evidentiary matter which would not be in accord with the legal truism that an "information must allege only ultimate facts and not evidentiary matters."[7]

With regard to the case of *People vs. Dinsay* cited by private respondent, petitioner submits that "(t)he same has only a persuasive effect and not to be considered as an interpretation of Article 91 of the Revised Penal Code as the same is the sole prerogative of the Supreme Court."[8]

As earlier noted, then Presiding Judge Manuel Castañeda of the Court of First Instance of Pangasinan, Branch III, dismissed the case on January 28, 1976 on the ground that the crime had prescribed. The People's motion for reconsideration was denied by the succeeding Presiding Judge Felicidad Carandang Villalon.

On March 25, 1976, the prosecution filed a notice of appeal from both orders of the trial court. In a resolution dated May 13, 1976, this Court required the prosecution to file a petition for review on certiorari in accordance with Republic Act No. 5440.[9] Thereafter, said petition for review and the corresponding comment and reply of the parties having been filed, on February 21, 1977 the Court resolved to treat said petition as a special civil action and required petitioner and private respondent to submit their respective memoranda.[10]

From the memoranda submitted, the Court is tasked with the resolution of the following issues:

1. Whether the People could appeal from the order of dismissal because the private respondent would thereby be placed in double jeopardy;
2. Whether the charge of estafa thru falsification of a public document filed against the private respondent has sufficient ground to exist in law and in fact; and,
3. Whether the offense charged in the aforementioned criminal case is already extinguished by prescription.[11]

The bar of double jeopardy is not involved in the present recourse. As enunciated in *People vs. City Court of Manila, etc., et al.*:

"As a general rule, the dismissal or termination of the case after arraignment and plea of the defendant to a valid information shall be a bar to another prosecution for the offense charged, or for any attempt to commit the same or frustration thereof, or for any offense which necessarily includes or is necessarily included in the complaint or information (Section 9, Rule 113). However, an appeal by the prosecution from the order of dismissal (of the criminal case) by the trial court shall not constitute double jeopardy if (1) the dismissal is made upon motion, or with the express consent, of the defendant, and (2) the dismissal is not an acquittal or based upon consideration of the evidence or of the merits of the case; and (3) the question to be passed upon by the appellate court is purely legal so that should the dismissal be found incorrect, the case would have to be remanded to the court of origin for further proceedings, to determine the guilt or innocence of the defendant." [12]

On the issue of whether the charge of estafa thru falsification of a public document has sufficient basis to exist in fact and in law, we hold in the affirmative. The falsification of a public document may be a means of committing estafa because before the falsified document is actually utilized to defraud another, the crime of falsification has already been consummated, damage or intent to cause damage not being an element of the crime of falsification of public, official or commercial documents. The damage to another is caused by the commission of estafa, not by the falsification of the document, hence, the falsification of the public, official or commercial document is only a necessary means to commit the estafa.[13]

Petitioner posits that the offense charged is supported by the fact that what was intended to be mortgaged was the one-half portion pertaining to Severo Carrera, not the portion pertaining to complainant, otherwise complainant would not have quoted his brother's words. The theory of petitioner and the findings of public respondent are substantially the same. We agree that the offense charged does exist in fact and in law, as explained in the findings of the court below:

"In the light of the circumstances revealed by the partial testimony of complainant Mariano Carrera and of the record, as regards the first ground, the court finds that the contention is the defense that the authorization given to him to mortgage the whole property is not sustained by the evidence because a cursory study of the answer made by the witness complainant clearly shows that what was intended to be mortgaged was the one-half (1/2) portion pertaining only to Severo Carrera, excluding that portion pertaining to said complainant. (tsn, pp. 8-10, hearing on June 18, 1974). In other words, the alleged authorization given to Federico de Guzman to get a loan from the Bank on the half portion of the land referred to the share of Severo Carrera only. This finding is based

on the following quoted answer:

'A x x x x x x x x x x

and when I asked him he interpreted that this is an authorization to Federico de Guzman to get a loan from the bank on the half portion of the land which belongs to me, my brother said.'

Mariano Carrera on June 18, 1974, gave the above-quoted testimony. He merely quoted his brother Severo Carrera to whom the half portion of the land belongs. Severo Carrera, as quoted by Mariano Carrera, did not use the phrase 'which belongs to you.'"[14]

Notwithstanding the foregoing disquisition on the sufficiency of the charge of estafa thru falsification of a public document, the resolution of the issue on prescription is, however, determinative of the validity of the impugned orders of public respondent.

Article 48 of the Revised Penal Code provides that the penalty for a complex crime is that for the most serious component offense, the same to be applied in its maximum period. In the crime of estafa thru falsification of a public document, the more serious crime is the falsification which carries with it the correctional penalty of prision correccional in its medium and maximum periods and a fine not more than P5,000.00 imposed by Article 172 of the Code. Crimes punishable by correctional penalties prescribe in ten (10) years pursuant to Article 90 of the Code, and Article 91 thereof states that the prescriptive period commences to run "from the day on which the crime is discovered by the offended party, the authorities, or their agents x x x."

The document which was allegedly falsified was a notarized special power of attorney registered in the Registry of Deeds of Dagupan City on February 13, 1964 authorizing private respondent to mortgage a parcel of land covered by Transfer Certificate of Title No. 47682 in order to secure a loan of P8,500.00 from the People's Bank and Trust Company. The information for estafa thru falsification of a public document was filed only on March 29, 1974. We reject petitioner's claim that the ten-year period commenced when complainant supposedly discovered the crime in January, 1972 by reason of the ejectment suit against him.

People vs. Reyes[15] cites authorities on the well established rule that registration in a public registry is a notice to the whole world. The record is constructive notice of its contents as well as all interests, legal and equitable, included therein. All persons are charged with knowledge of what it contains. On these considerations, it holds that the prior ruling in Cabral vs. Puno, etc., et al., [16] to the effect that in the crime of falsification of a public document the prescriptive period commences from the time the offended party had constructive notice of the alleged forgery after the document was registered with the Register of Deeds is not without legal basis.

It was also noted that in Armentia vs. Patriarca, et al.,[17] in interpreting the phrase "from the discovery" found in Article 1391 of the Civil Code which authorizes annulment, in case of mistake or fraud, within four years from the time of the discovery of the same, the Court also held that the discovery must be reckoned to have taken place from the time the document was registered in the Register of Deeds, for the familiar rule is that registration is a notice to the whole world and this should apply to both criminal and civil cases.

We are further in accord with the conclusion in Reyes that the application of said rule on constructive notice in the interpretation of Article 91 of the Revised Penal Code would most certainly be favorable to private respondent herein, since the prescriptive period of the crime shall have to be reckoned with earlier, that is, from the time the questioned documents were recorded in the Registry of Deeds.

In the instant case, the special power of attorney involved was registered on February 13, 1964. The criminal of information against private respondent having been filed only on March 29, 1974, or more than ten (10) years thereafter, the crime with which private respondent was charged has indubitably prescribed.

WHEREFORE, the petition is hereby DISMISSED for lack of merit and the challenged orders of public respondent are AFFIRMED.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, and Sarmiento, JJ., concur.

[1] Complainant's Affidavit, Original Record, 4-5, 193-194; TSN, June 18, 1974, 2-7; Nov. 28, 1975, 2-6.

[2] Original Record, 1.

[3] Rollo, 54-69.

[4] Ibid., 55-56.

[5] Ibid., 59.

[6] Ibid., 62.

[7] Ibid., 64.

[8] Ibid., 65.

[9] Ibid., 42.

[10] Ibid., 136.

[11] Ibid., 153, 165.

[12] 154 SCRA 175 (1987), reiterating *People vs. Desalisa, et al.*, 125 Phil. 27 (1966).

[13] Reyes, *The Revised Penal Code*, Twelfth Edition, 1981, Book II, 235.

[14] Original Record, 204-205.

[15] 175 SCRA 597 (1989).

[16] 70 SCRA 606 (1976).

[17] 18 SCRA 1253 (1966).

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