

**THE PEOPLE OF THE PHILIPPINES (IN SUBSTITUTION FOR
MUNICIPAL JUDGE JULIAN B. POGOY OF CORDOVA, CEBU),
PETITIONER, VS. HON. RAMON E. NAZARENO, JUDGE OF THE COURT
OF FIRST INSTANC...**

G.R. No. L-40037. April 30, 1976

Ponente: AQUINO, J.

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AQUINO, J.:

The legal issue in this case is whether the theft of two goats valued at one hundred fifty pesos is qualified theft falling within the concurrent jurisdiction of the municipal court and the Court of First instance.

On June 22, 1974 Manuel R. Tiro, Carlos Potot and Rogelio Inoc, with three other persons, were charged with qualified theft by the chief of police in the municipal court of Cordova, Cebu for having allegedly stolen two female goats valued at one hundred fifty pesos belonging to Hilario Añoza (Criminal Case No. R-424).

Four of the accused assailed the municipal court's jurisdiction on the ground that under articles 309[4] and 310 of the Revised Penal Code qualified theft involving one hundred fifty pesos is punishable with prision mayor medium to reclusion temporal minimum (eight years and one day to fourteen years and eight months) and that under section 87[c] of the Judiciary Law the jurisdiction of the municipal court extends only to offenses punishable with imprisonment for not more than three years or a fine of not more than three thousand pesos, or both such fine and imprisonment.

The municipal court ruled that it had jurisdiction over the case. It relied on *Cruz vs. Martin and Cabrera*, 75 Phil. 11; *People vs. Peñas*, 86 Phil. 596; *People vs. Colicio*, 88 Phil. 196, and *Brecinio vs. Papica*, L-20347, October 31, 1964, 12 SCRA 349.

The said four accused filed in the Court of First Instance of Cebu at Lapulapu City a petition for certiorari, mandamus and prohibition against the municipal court. They contended that the qualified theft imputed to them was within the exclusive original jurisdiction of the Court of First Instance.

The Court of First Instance sustained that contention. It held that, following the ruling in *Esperat vs. Avila*, L-25922, June 30, 1967, 20 SCRA 596, "the prior ruling that municipal courts and city courts have concurrent jurisdiction with the Court of First Instance to try a case of qualified theft is no longer applicable" because "in the case of qualified theft it is not the amount involved that confers jurisdiction but the penalty prescribed by law".

Municipal Judge Julian B. Pogoy moved for the reconsideration of the ruling of the Court of First Instance that it had jurisdiction over the case. Judge Pogoy relied on the ruling in *People vs. Dimana*, L-26668, April 27, 1972, 44 SCRA 457 "that Courts of First Instance and municipal courts have concurrent jurisdiction over all criminal cases specifically mentioned in section 87[b] of the Judiciary Act of 1948, as amended, when the penalty provided by law is imprisonment for more than six months or a fine of more than two hundred pesos, taking into consideration section 44[f] of the same Act".

The lower court denied Judge Pogoy's motion. He filed the instant certiorari action against the Court of First Instance to annul its order that it has jurisdiction over the supposed qualified theft case. We ordered the substitution of the People of the Philippines for Judge Pogoy.

The Solicitor General agrees with the Court of First Instance that the municipal court has no jurisdiction over the theft of two goats valued at P150. He assumes that the theft is qualified theft. He relies on the dictum in the *Esperat* case, a grave coercion case, that offenses punishable with imprisonment of more than three years or a fine of more than three thousand pesos, are outside the zone of concurrent jurisdiction assigned to the ordinary municipal court and the Court of First Instance.

We hold that the Court of First Instance and the Solicitor General are in error because the theft of two goats is not qualified theft. It is simple theft. Goats do not belong to the category of "large cattle" as contemplated in article 310 of the Revised Penal Code.

The term "cattle" refers to domesticated quadrupeds such as sheep, horses and swine, or to bovine animals such as cows, bulls and steers (Merriam-Webster's 3rd New Int. Dictionary). The term "large cattle" in article 310 refers to ganado mayor such as mules, as distinguished from ganado menor like sheep. Small cattle are known as ganado lanar y cabrio. The terms lanar and cabrio refer to sheep and goats, respectively. (Velasquez, Spanish and English Dictionary, 1967 Edition, pages 124, 354, 421 and 115).

Act No. 2030, which amended articles 503, 508, 512 and 520 of the old Penal Code regarding theft of large cattle, provides that for purposes of that law the term "large cattle" includes "carabaos, horses, mules, asses, and all members of the bovine family". (Art. 367 of the Revised Penal Code repealed Act No. 2030).[1]

According to the dictionary, the word "bovine" refers to animals related to or resembling oxen or cows. They belong to the genus *Bos* (Bovidae). While goats may be included in the term "cattle" (*Hall vs. Marshall*, 27 Pac. 2nd 193, 145 Ore. 221; *Black's Law Dictionary*, 4th Edition, p. 277), or belong to the bovine family (genus *Capra*), they cannot be included in the term "large cattle". To include goats in the term "large cattle" would render meaningless the adjective "large". The law evidently has made a distinction between large cattle and small cattle.

As goats cannot be categorized as large cattle, the larceny of two goats valued at P150 is simple theft punishable under article 309(4) of the Revised Penal Code by imprisonment for two months and one day of arresto mayor medium to two years and four months of prision correccional minimum.

Therefore, if the criterion used is the imposable penalty, the theft of two goats valued at P150 is within the zone of concurrent jurisdiction of the municipal court and the Court of First Instance as provided for in paragraph (c) of section 87 and as underscored in the *Esperat* case.

If the criterion used is the value of the property stolen, which is less than two hundred pesos, the case still falls within the concurrent jurisdiction of the municipal court and the Court of First Instance as provided for in paragraph (b) of section 87 (*Davis vs. Director of Prisons*, 17 Phil. 168; *Brecinio vs. Papica*, L-20347, October 31, 1964, 12 SCRA 349, regarding qualified theft of a carabao valued at P150).

The foregoing ruling is sufficient to dispose of the case or grant the petition for certiorari and set aside the lower court's order.

However, in view of the misleading impression created by the dictum in the *Esperat* case, *supra*, with respect to the concurrent jurisdiction of the inferior courts and the Court of First Instance in criminal cases under sections 44 [f] and 87 of the Judiciary Law, a clarification of that dictum appears to be imperative and unavoidable.

The Judiciary Law, as amended by Republic Acts Nos. 2613 and 3828, provides:

"SEC. 44. Original jurisdiction. – Courts of First Instance shall have original jurisdiction:

* * * * *

"(f) In all criminal cases in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two hundred pesos;

* * * * *

"SEC. 87. Original jurisdiction to try criminal cases. – Municipal judges and judges of city courts of chartered cities shall have original jurisdiction over:

"(a) All violations of municipal or city ordinances committed within their respective territorial jurisdictions;

"(b) All criminal cases arising under the laws relating to:

- (1) Gambling and management or operation of lotteries;
- (2) Assaults where the intent to kill is not charged or evident upon the trial;
- (3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;
- (4) Sale of intoxicating liquors;
- (5) Falsely impersonating an officer;
- (6) Malicious mischief;
- (7) Trespass on Government or private property;
- (8) Threatening to take human life;
- (9) Illegal possession of firearms, explosives and ammunition;
- (10) Illegal use of aliases; and
- (11) Concealment of deadly weapons.

"(c) Except violations of election laws all other offenses in which the penalty provided by law is imprisonment for not more than three years, or a fine of not more than three thousand pesos, or both such fine and imprisonment.

"Said municipal judges and judges of city courts may also conduct preliminary investigation for any offense alleged to have been committed within their respective municipalities and cities which are cognizable by Courts of First Instance and the information filed with their courts without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.

"No warrant of arrest shall be issued by any municipal judge in any criminal case filed with him unless he first examines the witness or witnesses personally, and the examination shall be under oath and reduced to writing in the form of searching questions and answers.

"Municipal judges in the capitals of provinces and sub-provinces and judges of city courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within their respective jurisdictions, in which the penalty provided by law does not exceed prison correctional or imprisonment for not more than six years or fine not exceeding six thousand pesos or both, and in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail.

"All cases filed under the next preceding paragraph with municipal judges of capitals and city court judges shall be tried and decided on the merits by the respective municipal judges or city judges. Proceedings had shall be recorded and decisions therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be."

With respect to city courts, Republic Act No. 5967, which took effect on June 21, 1969, provides that aside from their original and concurrent jurisdiction as provided in section 87, they shall likewise have concurrent jurisdiction with the Court of First Instance "over offenses involving damage to property through reckless imprudence regardless of amount involved or the penalty to be imposed."

Section 44[f] and paragraphs (b) and (c) and the penultimate paragraph of section 87 in effect provide for three kinds of concurrent jurisdiction of the Court of First Instance and the municipal and city courts.

(1) There is the concurrent jurisdiction over the eleven offenses (gambling, assaults, larceny, etc.) enumerated in paragraph (b) (formerly [c] of section 87 as long as the penalty exceeds six months' imprisonment or a fine of P200 (People vs. Palmon, *infra*; People vs. Laba; *infra*; People vs. Valencia, L-29396, August 29, 1969, 29 SCRA 252; People vs. Tapayan, L-26885, November 28, 1969, 30 SCRA 529).

There is no maximum limit as to the penalty to which the concurrent jurisdiction extends in those eleven crimes. The inferior court's jurisdiction over those offenses is independent of the penalty (Natividad vs. Robles, 87 Phil. 834).[2]

As to the first eight offenses, the concurrent jurisdiction is expressly provided for in the charters of Manila and Baguio (Secs. 2468 and 2562-A, Revised Administrative Code; Sec. 41, Republic Act No. 409. See charters of Cebu, Iloilo, Cavite and San Pablo Cities. See People vs. Laba, L-28022, July 30, 1969, 28 SCRA 988; Dimagiba vs. Geraldez, 102 Phil. 1016).

The existence of such concurrent jurisdiction has been recognized in several decided cases such as the leading case of People vs. Palmon, 86 Phil. 350, involving lesiones graves under article 263(2) of the Revised Penal Code punishable by prison correctional medium and maximum or two years, four months and one day to six years.[3]

Other cases involving the concurrent jurisdiction of the Court of First Instance and the inferior courts over the eleven offenses enumerated in section 87(b) are collated in the footnote.[4]

(2) By virtue of paragraph (c) of section 87, the Court of First Instance and municipal and city courts have concurrent jurisdiction over offenses, other than violations of election laws and the eleven offenses enumerated in paragraph (b) of the same section 87, where the imposable penalty exceeds six months' imprisonment or a fine of two hundred pesos and does not exceed three years' imprisonment or a fine of three thousand pesos or both such fine and imprisonment. Such concurrent jurisdiction is provided for in Republic Act No. 3828 which took effect on June 22, 1963.

(3) Under the penultimate paragraph of section 87 the Court of First Instance and city courts and the municipal courts of capitals of provinces and subprovinces have concurrent jurisdiction over offenses where the penalty exceeds six months' imprisonment or a fine of two hundred pesos but does not exceed six years' imprisonment or a fine of six thousand pesos or both. That concurrent jurisdiction overlaps with the concurrent jurisdiction over offenses mentioned in paragraphs (b) and (c) of section 87.

In the Esperat case it was noted that the exclusive original jurisdiction of the city and municipal courts is confined only to offenses where the prescribed penalty is six months' imprisonment or less or a fine of P200 or less, whereas the exclusive original jurisdiction of the Court of First Instance covers crimes where the penalty is

imprisonment for more than three years (or six years in case of city courts and municipal courts of provincial capitals), or a fine of more than P3,000 (or P6,000 in proper cases), or both such imprisonment and fine.

There is an obiter dictum in the Esperat decision that "between these exclusive jurisdictions lies a zone where the jurisdiction is concurrent."

It is evident that the dictum refers not to all offenses but generally to the crimes covered by paragraph (c) of section 87, meaning offenses other than the eleven offenses enumerated in paragraph (b) where the concurrent jurisdiction arises as long as the penalty exceeds six months' imprisonment or a fine of P200 and has no maximum limit as to the penalty. That is a settled ruling which could not have been abrogated by Republic Act No. 3828 since that law in amending paragraph (c) of section 87 retained the phrase "all other offenses" found in that para-graph.

The phrase "all other offenses" would be inutile if the maximum limit of three years' imprisonment (six years in case of city courts and municipal courts of provincial capitals) or a fine of P3,000 (P6,000 in proper cases) should invariably include the eleven offenses enumerated in paragraph (b) of section 87 where the zone of concurrent jurisdiction has no maximum limit as to the penalty (*People vs. Valencia*, supra).

Illustrative rulings on the zone of concurrent jurisdiction for offenses not enumerated in paragraph (b) but embraced in paragraph (c) and the penultimate paragraph of section 87 are digested below.[5]

Two cases not falling under paragraph (b) (3) of section 87 may be noted: Thus, estafa involving the sum of P5,100 does not fall under paragraph (b) (3) of section 87 because that paragraph speaks of estafa involving an amount which does not exceed P200. But since the penalty for estafa involving the sum of P5,100 is imprisonment up to two years and four months, the Court of First Instance and the city and municipal courts have concurrent jurisdiction over that particular offense by virtue of paragraph (c) and the penultimate paragraph of section 87 and not because of paragraph (b) (3) (*People vs. Cook*, L-25305, January 31, 1969, 26 SCRA 698).

Again, paragraph (b) (3) of section 87 mentions theft involving an amount not exceeding P200. In case of theft involving the sum of P2,131, punishable with a maximum imprisonment of four years and two months, the city court and the Court of First Instance have concurrent jurisdiction over the case by virtue of the penultimate paragraph of section 87 (*People vs. Laba*, L-28022, July 30, 1969 28 SCRA 988).

Since in the instant case the theft of the two goats valued at P150 is punishable with imprisonment up to two years and four months, the Court of First Instance of Cebu and the municipal court of Cordova have concurrent jurisdiction by virtue of paragraph (b) (3) of section 87.

And since the municipal court of Cordova has jurisdiction over the offense, the Court of First Instance of Cebu has no jurisdiction to entertain the petition for certiorari, mandamus and prohibition which the accused had filed for the purpose of assailing the municipal court's order of August 21, 1974 holding that it has jurisdiction over the crime.

The Court of First Instance of Cebu has no supervisory jurisdiction over the municipal court in connection with its actuations in a case where it has concurrent jurisdiction with the Court of First Instance. The petition for certiorari should have been filed in the Court of Appeals or in this Court (*Bermejo vs. Barrios*, L-23614 and *Carmorin vs. Barrios*, L-23615, February 27, 1970, 31 SCRA 764 and cases cited therein).

As the municipal court has already acquired jurisdiction over the theft case, it can continue exercising such jurisdiction (*Laquian vs. Baltazar*, L-27514, February 18, 1970, 31 SCRA 552).

WHEREFORE, the lower court's orders of November 8 and 28, 1974, holding that it has original and exclusive

juris-diction over the theft case, are set aside. No Costs.

SO ORDERED.

Fernando, Acting C.J., Barredo, Antonio, and Concepcion, Jr., JJ., concur.

[1] Section 1 of Act No. 1147 (regulating the registration, branding, conveyance, and slaughter of large cattle) provides that for its purposes the term "large cattle" includes "carabaos, horses, mules, asses, and all members of the bovine family".

That definition was substantially reproduced in section 511 of the Revised Administrative Code (found in Chapter 22, also dealing with registration, branding, conveyance, and slaughter of cattle) which defines "large cattle" as including "the horse, mule, ass, carabao, or other domesticated member of the bovine family".

[2] The jurisdiction of the city court in theft, estafa and embezzlement cases is based on the value of the property involved (it should not exceed P200) and not on the penalty (Cruz vs. Martin and Cabrera, 75 Phil. 11, 15). It does not depend upon the extent of the penalty but upon the value of the property stolen or embezzled (People vs. Blanco, 85 Phil. 296).

The concurrent jurisdiction of the city court and the Court of First Instance in a theft case is measured, not by the penalty, but by the amount involved which should not be more than P200. If the amount involved does not exceed P200, the city court has jurisdiction even if it has to impose an additional penalty of six years and one day of prision mayor because the accused is a habitual delinquent (People vs. Acha, 68 Phil. 664). "La jurisdiccion del Juzgado Municipal de Manila en los casos de hurto se determina, no por la pena, lino por la cuantia de lo hurtado y cuando esta no excede P200, dicho Juzgado tiene jurisdiccion cualquiera que sea la pena señalada al delito." (Pueblo contra Del Mundo, R.G. No. 46351, 18 de Octubre, 1939).

"El hecho de que el acusado y apelante es delincuente habitual, condición que la hace acreedor una pena adicional, no descualifica al Juzgado Municipal de Manila pan conocer de una causa en que se alega tal condición, siempre y cuando el delito de que se le acusa es de hurto y el valor de la cosa hurtada no excede de P200" (People vs. San Juan, 69 Phil. 347).

But if the total penalty for the theft and that for habitual delinquency exceeds six months' imprisonment, the Court of First Instance and the city court have concurrent jurisdiction (People vs. Costosa, 70 Phil. 10).

The inferior court has jurisdiction over the eight offenses enumerated in paragraph (c), now (b), of section 87 irrespective of the penalties and the amount of the civil liability (Paringit vs. Masakayan, 112 Phil. 861, 867).

[3] It was noted in the Palmon case that the "assault where the intent to kill is not charged or evident upon the trial" mentioned in subparagraph (2) of paragraph (c), now (b), of section 87 refers to physical injuries and does not refer to an aggression which does not produce any physical injury. Such an aggression is punished in paragraph 3 of article 266 of the Revised Penal Code by arresto menor, an offense falling within the exclusive original jurisdiction of the municipal or city court. See Sia vs. Reyes, 23 SCRA 53.

It was further noted in the Palmon case that gambling, operation of lotteries, malversation or embezzlement, and estafa through falsification (involving an amount of less than P200), which fall under the jurisdiction of the municipal and city courts also fall under the original jurisdiction of the Court of First Instance because the impossible penalty exceeds six months' imprisonment or a fine of two hundred pesos (See arts. 195, par. 2; art. 217 and 172 of the Revised Penal Code).

The Judiciary Law placed justices of the peace courts and municipal courts (now municipal courts and city courts) "on the same level by giving them the same jurisdiction in both criminal and civil cases" (People vs.

Palmon, supra). The justification for placing justice of the peace courts in the same category as municipal or city courts is that justices of the peace (now municipal judges) are required to be lawyers (Sec. 71, Judiciary Law, *Natividad vs. Robles*, 87 Phil 834).

Indeed, under section 71; as amended, to qualify as a municipal judge, an applicant should be at least twenty-five years old and should have practiced law in this country at least five years or held during the like period within the Philippines an office requiring admission to the practice of law as an indispensable requisite (Republic Acts Nos. 2613, 3749 and 3828).

Section 8 of Republic Act No. 3828 changed the designation of justice of the peace courts to municipal courts. Section 2 of Republic Act No. 3820 changed the designation of municipal courts to city courts.

Under existing law, municipal and city courts are courts of record. All municipal and city courts are required to keep records of their proceedings in the same manner as Courts of First Instance. All judgments determining the merits of cases are required to be in writing personally and directly prepared by the municipal or City Judge, stating clearly the facts and the law on which they are based, signed by him, and filed with the clerk of court. (Sec. 77 of the Judiciary Law, as amended by Republic Act No. 6031 which took effect on August 4, 1969).

The salaries of municipal judges were increased by Republic Act No. 6031 (Sec. 82, Judiciary Law). By reason of the increase in salary, the municipal judge (formerly justice of the peace) can no longer pursue any other vocation or hold any other office or position. He is merely allowed after office hours and with the permission of the District Judge to engage in teaching or in any other vocation not involving the practice of law (Sec. 77, Judiciary Law as amended by Republic Act No. 6031).

[4] The Court of First Instance and the municipal and city courts have concurrent jurisdiction in these cases:

(a) *Lesiones graves* (*Neñaria vs. Veluz*, 91 Phil. 473; *People vs. Padios*, 97 Phil. 19, 23; *Andico vs. Roan*, L-26563, April 16, 1968, 25 SCRA 93), or assaults without intent to kill (*Villanueva vs. Ortiz*, 108 Phil. 493).

(b) Qualified theft where the amount stolen was less than P200 and the imposable penalty was prison correccional (*People vs. Peñas*, 86 Phil. 596) or may reach reclusion temporal (*Neñaria vs. Veluz*, supra) and qualified theft of coconuts valued at P33 punishable by prison mayor (*People vs. Colicio*, 88 Phil. 196; *Cruz vs. Martin and Cabrera*, 75 Phil. 11, 15), and qualified theft of a carabao valued at P150 (*Brecinio vs. Papica*, L-20347, October 31, 1964, 12 SCRA 349; *De Guzman vs. Court of Appeals*, L-27671, July 27, 1967, 20 SCRA 803, 807).

(c) Qualified trespass to dwelling (*Natividad vs. Robles* 87 Phil. 834).

(d) Destruction of public forest which is trespass on government property punishable under section 2751 (b) of the Revised Administrative Code by imprisonment for not less than six months and not more than one year and a fine of eight times the regular government charges (*People vs. Dimana*, L-26668, April 27, 1972, 44 SCRA 457).

(e) Malicious mischief involving a civil liability of P5,600 (*Paringit vs. Masakayan*, 112 Phil. 861, 867). See *Dimagiba vs. Geraldez*, 102 Phil. 1016, an estafa case.

(f) Illegal possession of firearms which is punishable by imprisonment of not less than one year and one day nor more than five years or both such imprisonment and a fine of not less than P1,000 nor more than P5,000 (*People vs. Dose*, L-23540, June 29, 1968, 23 SCRA 1345; *People vs. Valencia*, L-29396, August 29, 1969, 29 SCRA 252; *People vs. Tapayan*, L-26885, November 28, 1969, 30 SCRA 529).

(g) Grave threats punishable under article 282(2) of the Revised Penal Code with arresto mayor and a fine not exceeding P500 (*People vs. Fernando*, L-25942, May 28, 1968, 23 SCRA 867).

See *People vs. Adolfo*, L-24191, March 31, 1965, 13 SCRA 599, a case of damage to property through reckless imprudence punishable with a maximum fine of P2,671.47, instituted in the Court of First Instance of Manila on July 30, 1963, when Republic Act No. 3828 was already in force. It was held that the offense was exclusively cognizable by the municipal court of Manila and that the Court of First Instance had no jurisdiction. Under the ruling in the *Esperat* case, the jurisdiction of the two courts was concurrent.

[5] (a) Grave coercion, a crime punished by article 286 of the Revised Penal Code with imprisonment not exceeding six months and a fine of P500 (*Esperat* case; *People vs. Dalton*, L-23539, February 22, 1968, 22 SCRA 673; *People vs. Tayao*, L-26457, March 25, 1970, 32 SCRA 44).

(b) Violation of section 16 of the Civil Registry Law which is punishable with imprisonment of not less than one month nor more than six months or a fine of not less than P200 nor more than P500, or both (*People vs. Judge Purisima*, L-40902, February 18, 1976).

(c) Violation of Republic Act No. 4713 punishable by a fine of not less than P600 nor more than P5,000 and imprisonment of not less than four years, the case having been filed in the City Court of Naga (*Templo vs. De la Cruz*, L-37393, October 23, 1974, 60 SCRA 295).

(d) Dereliction of duty punished under article 208 of the Revised Penal Code punishable with prison correccional minimum and suspension (*People vs. Anino*, L-25997, May 28, 1968, 23 SCRA 870).

(e) [1] Offenses punishable with imprisonment up to two years and four months such as grave oral defamation (*People vs. Doriquez*, L-24444, July 29, 1968, 24 SCRA 163; *Mangila vs. Lantin*, L-24735, October 31, 1969, 30 SCRA 81; *Balite vs. People*, L-21475, September 30, 1966, 18 SCRA 280; *Cariagays vs. Justo-Guerrero*, L-24494, June 22, 1968, 23 SCRA 1061);

[2] Grave slander by deed (*Encarnacion vs. Baltazar and Kayanan*, 111 Phil. 459, 464);

[3] Perjury (*Pinza vs. Aldovino*, L-25226, September 27, 1968, 25 SCRA 220; *Carmorin vs. Barrios*, L-23615, February 27, 1970, 31 SCRA 764), and

[4] Falsification punishable by imprisonment up to six years (*Bermejo vs. Barrios*, L23614, February 27, 1970, 31 SCRA 764).

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