

**DANILO D. ANSALDO, PETITIONER, PEOPLE OF THE PHILIPPINES,
RESPONDENT.***G.R. No. 159381. March 26, 2010*

Ponente: DEL CASTILLO, J.

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For a complex crime of estafa through falsification of a public document to prosper, all the elements of both the crimes of estafa and falsification of a public document must exist. In this case, not all the elements of the crime of falsification of a public document are present. Consequently, petitioner can only be found guilty of estafa.

This petition for review on certiorari assails the Decision[1] of the Court of Appeals (CA) dated March 20, 2003 in CA-G.R. CR. No. 25122 which affirmed with modification the Decision[2] of the Regional Trial Court (RTC) of Malolos, Bulacan, Branch 21 in Criminal Case No. 97-156477, finding petitioner Danilo D. Ansaldo guilty beyond reasonable doubt of the complex crime of estafa through falsification of public/official document. Likewise assailed is the Resolution dated July 24, 2003 which denied the Motion for Reconsideration.

Factual Antecedents

The Information against the petitioner and his wife, Rosalinda Ansaldo, contained the following accusatory allegations:

That [on] or about February 15, 1995 or sometime prior and subsequent thereto, in the City of Manila, Philippines, the said accused, conspiring and confederating together, and mutually helping each other, being private individuals, did then and there willfully, unlawfully and feloniously commit estafa thru falsification of public/official document, in the following manner, to wit: the said accused, with intent to defraud and cause damage, forged and falsified a Deed of Real Estate Mortgage which was subsequently notarized by Notary Public Juan N. Domingo and entered in his Notarial Register as Doc. No. 47; Page No. 59; Book No. VI; Series of 1995 and therefore a public and/or official document, by then and there misrepresenting that they are the real spouses Nina Z. Ramirez and Mariano Ramirez, the registered and absolute owners of a piece of land described as TCT No. 188686 situated in Barrio Bagbagan, Municipality of Muntinlupa, Province of Rizal valued at P500,000.00 by signing, feigning or simulating or causing to be signed, feigned and simulated the signatures of spouses Niña Z. Ramirez and Mariano Z. Ramirez, thereby making it appear as it did appear that spouses Niña Z. Ramirez & Mariano Ramirez participated and intervened in the preparation and execution of the aforesaid Deed of Real Estate Mortgage, said accused well knowing that such was not the case, in that said spouses did not participate and execute the same, much less signed the said document, nor did they authorized [sic] herein accused or anybody else for that matter to sign and affix their signatures in said document, which is an outright forgery and falsification; that after the said Deed of Real Estate Mortgage was forged and falsified in the manner above set-forth, accused presented the same to one Nora L. Herrera, who, believing in the authenticity and genuineness of the same as represented to her by the said accused, gave and delivered the mortgage consideration in the amount of P300,000.00 to the said accused, who, once in their possession thereof, with abuse of trust and confidence and with intent to defraud, willfully, unlawfully and feloniously misappropriated, misapplied and converted the same to their own personal use and benefit, to the damage and

prejudice of Niña Z. Ramirez in the amount of P500,000.00, the value of the property in question.[3]

On arraignment, petitioner entered a plea of not guilty. However, his wife and co-accused, remains at large. Thereafter, trial ensued.

The Version of the Prosecution

Niña Z. Ramirez (Ramirez) wanted to subdivide her lot in Muntinlupa City. In 1993, her niece, Edna Tadeo introduced the petitioner and his wife while they were inside her store in 509 Plaza Sta. Cruz, Manila, as the people who could help with her problem. Petitioner and his wife represented themselves as having direct connections with the Land Registration Authority (LRA) and assured Ramirez that they could have her property subdivided. Ramirez thus entrusted to them her owner's duplicate copy of Transfer Certificate of Title (TCT) No. 188686, which covered the said lot, on condition that it would be returned after a month. This prerequisite is evidenced by an Acknowledgment Receipt dated January 5, 1995.[4]

The one-month period agreed upon elapsed with the petitioner and his wife failing to inform Ramirez of the status of the anticipated subdivision. Ramirez repeatedly demanded them to return her owner's duplicate title of the land to no avail. Ramirez was later surprised to find out that the land covered by her TCT was the subject of a document in which it appeared that she mortgaged the same to a certain Nora Herrera. The deed was even annotated at the back of the TCT. However, Ramirez claimed that her signature in the document was a forgery. At the time of the mortgage, there were no other persons other than the petitioner and his wife to whom she entrusted her TCT.

The Version of the Petitioner

Petitioner denied that he was introduced to Ramirez in 1993. He claimed that in the early morning of January 5, 1995, he was in his house when he saw Ramirez talking to his wife. He had no knowledge of the topic of their conversation. He later signed a piece of paper without reading the contents thereof since Ramirez assured him that it was merely for formality. The paper turned out to be the Acknowledgment Receipt.

Petitioner denied participation in the preparation, execution and registration of the deed of real estate mortgage. He also denied residing at the address where Ramirez sent a demand letter for the return of her TCT. However, he admitted that his wife was engaged in the registration and follow-up of documents covering real property.

According to the petitioner, he went to Japan with his wife on June 7, 1998. He came home but his wife stayed behind. Upon his arrival, he was apprehended.

Ruling of the Regional Trial Court

On December 6, 2000, the trial court rendered a Decision convicting the petitioner of falsification. The dispositive portion reads:

WHEREFORE, in view of the above observations and findings, accused Danilo Ansaldo is hereby convicted of the crime charged in the information, defined and punished under Article 172 paragraph 1 without any mitigating nor aggravating circumstances attendant in its commission, granting the accused the benefit of the Indeterminate Sentence Law, he is hereby sentenced to suffer an indeterminate prison term from six (6) months of arresto mayor maximum as minimum to four (4) years, two (2) months of prison correccional medium as maximum and to pay a fine of P5,000.00 and to indemnify the complainant the sum of P300,000.00 representing the amount received by the Ansaldos in mortgaging the property.

Accused Danilo Ansaldo shall be credited with the full extent of his preventive imprisonment under Article 29 of the Revised Penal Code. The bond posted for his provisional liberty is hereby cancelled.

Danilo Ansaldo's body is hereby committed to the custody of the Director of the Bureau of Corrections, National Penitentiary, Muntinlupa City through the City Jail Warden of Manila.

The charge against Rosalinda Ansaldo is hereby archived to be brought back to the active calendar of the court upon her apprehension. Let warrant of arrest be issued for that purpose.

The complainant is hereby ordered to pay the docket fee corresponding to the civil damages awarded.

SO ORDERED.[5]

In finding petitioner guilty of falsification, the trial court noted that no other person was in possession of the TCT prior to the falsification other than petitioner and his wife. Based thereon, the court a quo concluded that petitioner and his wife were the ones who mortgaged the property by pretending to be the spouses Ramirez.

The Decision of the Court of Appeals

Petitioner appealed his conviction to the CA which affirmed with modification the Decision of the RTC. The appellate court found petitioner guilty of the complex crime of estafa thru falsification of a public document. The dispositive portion reads as follows:

WHEREFORE, the Decision of the court a quo finding accused-appellant guilty of the crime of Estafa through Falsification of a Public Document and ordering him to pay the fine in the amount of P5,000.00 are hereby AFFIRMED with MODIFICATION as to the penalty imposed upon him. Accordingly, there being no mitigating or aggravating circumstance to consider, accused-appellant is hereby sentenced to suffer an indeterminate penalty of four (4) years, two (2) months and one (1) day of Prision Correccional maximum as Minimum, to ten (10) years of Prision Mayor medium as Maximum. He is further ordered to cause the release/discharge of the mortgage constituted on the property in the amount of P300,000.00 and return to private complainant Transfer Certificate of Title No. 188686 free from liens and encumbrances. No costs.

SO ORDERED.[6]

Petitioner filed a Motion for Reconsideration but it was denied by the CA in its Resolution[7] dated July 24, 2003.

Issues

Hence, this petition for review raising the following issues:

- 1.) Whether x x x the trial court's ruling, as affirmed by [the] court a quo erroneously applied the legal presumption that "the possessor or user of a forged document is the author of the forgery" in arriving at its findings that the petitioner (and his wife) committed the complex crime of Estafa by the act of falsifying the subject "Deed of Real Estate Mortgage".
- 2.) Whether x x x the court a quo, seriously erred in affirming [the] trial court's ruling which accorded probative value to a mere certified true copy of a document entitled "Deed of Real Estate Mortgage" in support of the latter's factual conclusion that the signatures respectively written above the printed names of Niña Z. Ramirez and that of her husband (which appear therein as the parties-mortgagors) were `forged".
- 3.) Whether x x x the court a quo committed serious error in its assailed Decision in affirming the factual findings and rulings of the trial court, and in further modifying the latter's decision by increasing the original sentence from an imprisonment of "six (6) months of arresto mayor maximum as minimum to four (4) years two (2) months of prision correccional medium as maximum" to a longer prison term of "[four] (4) years, two (2) months and one (1) day of Prision Correccional maximum as Minimum, to ten (10) years of Prision Mayor medium as Maximum" (and also in further ordering the petitioner "to cause the release/discharge of the mortgage constituted on the property in the amount of P300,000.00 and to return to private complainant Transfer Certificate of Title No. 188686 free from liens and encumbrances") declaring the conviction of the

petitioner for complex crime of Estafa through Falsification of a Public Document despite the fact that the appealed decision of the trial court clearly shows that the petitioner was found guilty of committing only the simple crime of Falsification of a Public Document penalized under paragraph 1 of Article 172 of the Revised Penal Code.

4.) Whether x x x the court a quo has departed from the accepted and usual course of judicial proceedings, or so far sanctioned such departure by the trial court, as to call for an exercise of the power of supervision, when it -- failed to carefully evaluate and weigh the evidence presented by prosecution which clearly does not support the judgment of conviction against the petitioner; -- overlooked certain facts of substance and value that, if properly considered, would certainly affect the outcome of the case; -- based its findings on misapprehension of facts, from erroneous inferences, and surmises or conjectures; and -- rendered its rulings contrary to law, the rules on evidence, and existing jurisprudence in violation of the petitioner's constitutional rights to due process and to be presumed innocent.

5.) Whether x x x the court a quo has also departed from the accepted and usual course of judicial proceedings when it failed to squarely resolve or pass upon each and every assignment of error and properly consider supporting arguments set forth by the petitioner herein in his Appellant's Brief, as well as the specific grounds and corresponding arguments set forth in his Motion for Reconsideration.[8]

Our Ruling

The petition is partly granted.

For petitioner to be convicted of the complex crime of estafa through falsification of public document committed in the manner described in the Information, all the elements of the two crimes of estafa and falsification of public document must exist.[9]

To secure a conviction for estafa under Article 315, paragraph 2(a) of the Revised Penal Code (RPC), the following requisites must concur:

- (1) The accused made false pretenses or fraudulent representations as to his power, influence, qualifications, property, credit, agency, business or imaginary transactions;
- (2) The false pretenses or fraudulent representations were made prior to or simultaneous with the commission of the fraud;
- (3) The false pretenses or fraudulent representations constitute the very cause which induced the offended party to part with his money or property;
- (4) That as a result thereof, the offended party suffered damage.[10]

It is undisputed that petitioner committed estafa. He and his wife falsely represented to Ramirez that they had the influence and capability to cause the subdivision of the lot. In view of said false representation, Ramirez was induced to part with the owner's copy of her TCT on the condition that the same would be returned after a month as evidenced by the Acknowledgment Receipt.

However, petitioner and his wife never complied with their obligations. It is also on record that Ramirez made a formal demand for the return of the TCT but petitioner and his wife failed to comply. Their failure to return the said title despite demand is evidence of deceit that resulted in damages to Ramirez. It was also established that the property covered by TCT No. 188686 was eventually mortgaged for P300,000.00 to a third person without the knowledge and consent of Ramirez.

The following testimony of Ramirez clearly established that petitioner falsely represented that he has the capacity to cause the subdivision of the property; that false pretenses induced her (Ramirez) to entrust her TCT to

petitioner; and that as a result thereof, Ramirez suffered damage to the extent of P300,000.00, thus:

Q

Tell us when did you come to meet both Rosalinda and Danilo Ansaldo?

A

In 1993.

Q

Where did you meet these people?

A

They went to my stall.

Q

Where is your stall located?

A

509 Plaza Sta. Cruz, Manila.

Q

How did it happen that the accused came to meet you?

A

She was introduced to me by my niece.

Q

What is the name of your niece?

A

Edna Tadeo.

Q

And why [were] these persons introduced to you by your niece?

A

I might need the help of the spouses, I can trust them.

Q

Help is a general term would you be more specific?

A

According to my niece if I have problems about land I can ask the help of these spouses.

Q

What about the spouses did they tell you anything?

A

According to them they can help regarding [my problem with my lot].

Q

Did you not elaborate to them the kind of problem you [were] having with the lot?

A

If they can help me subdivide my lot in Muntinlupa with title no. 188686.

Q

In whose name is the title?

A

In our name, the two of us.

PROS GLORIOSO:

Witness producing a certified Xerox copy of Transfer Certificate of Title 188686 in the name of Niña Ramirez which we request that this be marked Exhibit B, the second page Exhibit B-1.

COURT:

Mark them.

PROS GLORIOSO:

Q

Did you believe in their representations?

A

Yes, sir, because of their good words.

Q

Immediately on that first meeting you believe in them?

A

Yes, sir.

Q

And so after that what did you do?

A

I endorsed to them the title of my land because according to them they can help me.

Q

On that first meeting you endorsed to them the title?

A

We first talked with each other.

Q

In other words you are telling us there [were] so many things that transpired before you finally surrendered to them the title?

A

Yes, sir.

Q

How long [after . . .] from that first meeting up to the time that you gave the title to them?

A

About two years.

Q

What kind of copy did you give to them?

A

The original owner's copy.

Q

When did you give it to them?

A

January 5, 1995.

Q

Why do you say that it was on January 5, 1995 that this original copy was given to them?

A

They signed an acknowledgement receipt

(witness producing a document and handing the same to the prosecutor).

PROS GLORIOSO:

Witness producing a receipt which she handed to this representation.

Q

There are signatures appearing at the bottom portion like received by a certain Ansaldo who is this?

A

Rosalinda Ansaldo.

Q

Why did you say that?

A

She signed in my presence.

Q

And there is another signature contained on the left portion whose is this?

A

Danilo Ansaldo.

Q

Why did you say that?

A

He signed in [my] presence.

Q

They were together when they signed this acknowledgement receipt?

A

Yes, sir.[11]

Petitioner did not deny his signature on the Acknowledgement Receipt.[12] On the contrary he claimed that he merely affixed his signature without reading the contents thereof[13] and that he did not bother to inquire from his wife the contents of the Acknowledgement Receipt,[14] which we find not worthy of credence. However, he admitted that his wife was engaged in facilitating the registration of documents involving real property.[15]

On the other hand, we find that we cannot convict petitioner of the crime of falsification of a public document penalized under Article 172 of the RPC. The following requisites must concur, to wit:

- (1) That the offender is a private individual or a public officer or employee who took advantage of his official position;
- (2) That he committed any of the acts of falsification enumerated in article 171 of the Revised Penal Code (which in this case involves forging a signature);
- (3) That the falsification was committed in a public or official or commercial document.[16]

There is no doubt that petitioner is a private individual,[17] being a businessman. It is likewise not disputed that the Deed of Mortgage is a public document, having been notarized by a notary public with the solemnities required by law. However, we find no evidence on record showing that the petitioner and his wife falsified the subject Deed of Mortgage. There is simply no evidence showing that petitioner had any participation in the execution of the mortgage document. There is no proof at all that he was the one who signed the Deed of Mortgage. The testimony of Ramirez consisted only of the following:

Q

How did you come to know that the property was mortgaged?

A

A woman came to me named Lina Santos and showed me the document, a mortgage document.

Q

And when was that?

A

That same year.

Q

Before this Lina Santos came to you were you not bothered when they did not return to you your title after one month?

A

At first I was not bothered because we have an agreement but I [got] worried when this Lina Santos came to me.

Q

What proof can you show us that this lot was mortgaged instead of subdivided as promised by the accused?

A

There is an entry at the back an encumbrance.

PROS GLORIOSO:

We request that this be encircled and marked Exhibit B-2.

COURT:

Mark it.

PROS GLORIOSO:

Q

What else aside from this encumbrance?

A

Real estate mortgage document.

PROS GLORIOSO:

Witness producing a real estate mortgage consisting of four pages which we request to be marked Exhibits D, D-1, D-2 and D-3, wherein the mortgagors are the spouses Niña Ramirez and Mariano Ramirez and the mortgagee is one Nora Herrera.

COURT:

Mark them.

PROS GLORIOSO:

Q

I noticed that this Exhibit D-2 signatures appearing atop the typewritten name Niña Ramirez will you tell us whose signature is that?

A

I do not know but this is not my signature.

Q

What about the signature appearing atop the typewritten name Mariano Ramirez whose signature is that?

A

I do not know but definitely this is not the signature of my husband.

Q

You deny these are your signatures, will you please show to us your actual signature?

A

(Witness signing on a piece of paper handed to her by the prosecutor.)(18]

On cross-examination, Ramirez also narrated that:

Q

And due to the alleged failure of both accused to deliver to you the subdivision of the lot that was the time that you made an inquiry and found out that your lot was already mortgaged, is it not?

A

A woman informed me about it.

Q

After informing you what you did was to verify your title at the office of the Register of Deeds, is it not?

A

Yes, sir.

Q

And you found out that your lot was actually mortgaged?

A

Yes, sir.

Q

Did you secure a copy, - and [did] you know from that very moment the name in whose favor your lot was mortgaged?

A

Yes, sir.

Q

Did you secure a copy of the deed of mortgage of your lot?

A

It is there.

Q

And you noticed the residence of the person in whose favor your lot was mortgaged?

A

Yes, sir.

Q

The name of the mortgagee was a certain Nora Herrera?

A

Yes, sir.

Q

Did you go to the residence of Nora Herrera?

A

No, sir.

Q

Did it not occur to your mind to do that in order to tell Nora Herrera that [you were] not the person who mortgaged the land in her favor?

A

Nora Herrera was already informed by somebody that I was not the same person who mortgaged the lot to her.

Q

From the date you discovered that the lot was already mortgaged to Nora Herrera did you see personally Nora Herrera?

A

No, sir, no more.[19]

Based on the foregoing, we cannot conclude beyond reasonable doubt that it was petitioner and his wife who committed the forgery. In the first place, Lina Santos (Santos) was not presented to corroborate the testimony of Ramirez that she was the one who informed the latter regarding the mortgage or she could shed light on the circumstances leading to her alleged discovery that the subject property had been mortgaged. Moreover, as narrated by Ramirez, Santos did not categorically point to herein petitioner as the author of the forgery. If at all, Santos only claimed that the property of Ramirez had been mortgaged but did not mention the personalities involved therein. Likewise, the failure to present the so-called mortgagee, Nora Herrera, casts doubt as to the participation of the petitioner in the execution of the mortgage instrument. Undoubtedly, Nora Herrera could have testified on the persons she dealt with relative to the mortgage.

The denial of Ramirez that she affixed her signature on the Deed of mortgage does not prove that it was petitioner and his wife who signed in her behalf. Neither could it be considered as proof that petitioner, together with his wife, falsely represented themselves as the spouses Ramirez.

For committing the offense of estafa against Ramirez, the petitioner must be penalized in the manner provided by law. In this regard, Article 315 of the RPC states that the penalty of prision correccional in its maximum period to prision mayor in its minimum period shall be imposed if the amount of the fraud is over P12,000.00 but does not

exceed P22,000.00. Should the amount exceed the latter sum, the penalty provided shall be imposed in its maximum period, adding one year for each additional P10,000.00. However, the total penalty that may be imposed should not exceed 20 years. In such cases, the penalty shall be referred to as prision mayor or reclusion temporal.

Under the Indeterminate Sentence Law (ISL), whenever an offense is punished by the RPC or its amendments, the accused shall be sentenced by the court to an indeterminate penalty, the maximum term of which, in view of the attending circumstances, can properly be imposed under the RPC, while the minimum term of which shall be within the range of the penalty next lower to that prescribed for the offense.

The amount defrauded in this case is P300,000.00 which is the mortgage amount. Thus, the maximum imposable penalty shall be 20 years of reclusion temporal. Applying the ISL, the minimum penalty is prision correccional in its minimum and medium periods with a range of six (6) months and one (1) day to four (4) years and two (2) months.

WHEREFORE, the petition is PARTLY GRANTED. The Decision of the Court of Appeals is MODIFIED. Petitioner Danilo D. Ansaldo is hereby found guilty of the crime of estafa and is sentenced to suffer an indeterminate penalty of four (4) years and two (2) months of prision correccional as minimum to twenty (20) years of reclusion temporal as maximum.

SO ORDERED..

Carpio, (Chairperson), Brion, Abad, and Perez, JJ., concur.

[1] Rollo, pp. 51-65; penned by Associate Justice Josefina Guevara Salonga and concurred in by Associate Justices Marina L. Buzon and Danilo B. Pine.

[2] Id. at 73-79; penned by Acting Presiding Judge Romulo A. Lopez.

[3] Records, pp. 1-2.

[4] Id. at 54-55.

[5] Id. at 125-126.

[6] CA rollo, p. 128.

[7] Rollo, p. 67.

[8] Id. at 24-25.

[9] Gonzaludo v. People, G.R. No. 150910, February 6, 2006, 481 SCRA 569, 577.

[10] Id.

[11] TSN, May 19, 1998, pp. 6-10.

[12] See TSN, March 17, 2000, p. 14.

[13] Id.

[14] Id. at 10.

[15] Id. at 9.

[16] Luis B. Reyes, The Revised Penal Code, Book II, 17[th] Edition (2008), p. 232.

[17] TSN, March 17, 2000, p. 2.

[18] TSN, May 19, 1998, pp.11-13.

[19] Id. at 19-21.

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