# ROSARIO S. PANUNCIO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

*G.R. No. 165678. July 17, 2009*

Ponente: CARPIO, J.

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**CARPIO, J.:**

The Case

Before the Court is a petition for review assailing the 15 June 2004 Decision[1] and 15 October 2004 Resolution[2] of the Court of Appeals in CA-G.R. CR No. 25254.

The Antecedent Facts

On 3 August 1992, at about 4 o' clock in the afternoon, operatives of the Land Transportation Office (LTO) and the Special Mission Group Task Force Lawin of the Presidential Anti-Crime Commission (PACC) led by then Philippine National Police Superintendent Panfilo Lacson and Police Senior Inspector Cesar Ouano, Jr., armed with Search Warrant No. 581-92 issued by then Regional Trial Court Judge Bernardo P. Pardo, raided the residence of Rosario S. Panuncio (petitioner), a jeepney operator, at 204 E. Rodriguez, Sr. Avenue, Quezon City. The operatives confiscated LTO documents, 17 pieces of private vehicle plates, a copying machine, several typewriters, and other tools and equipment. One of the LTO documents confiscated was MVRR No. 63231478 issued to Manlite Transport Corporation (Manlite). The document was photographed during the raid while it was still mounted on one of the typewriters.

Petitioner signed a certification of orderly search, together with Barangay Chairman Antonio Manalo (Manalo), petitioner's employee Myrna Velasco (Velasco), and one Cesar Nidua (Nidua). Petitioner, Manalo, Velasco, and Nidua also signed a Receipt of Property Seized issued by PO3 Manuel Nicolas Abuda. Petitioner and one Jaime L. Lopez (Lopez) were arrested and brought to the PACC.

Juan V. Borra, Jr., Assistant Secretary for the LTO, Department of Transportation and Communications, who was representing his office, filed a complaint against petitioner for violation of Articles 171, 172, 176, and 315 of the Revised Penal Code (RPC), as amended; Presidential Decree No. 1730; Sections 31 and 56 of Republic Act No. 4136; and Batas Pambansa Blg. 43. Lopez was not charged since it was shown that he was only a visitor of the house when the raid took place. An Information for violation of Article 172(1) in relation to Article 171 of the RPC was filed against petitioner, thus:

> That on August 3, 1992 at about 4:00 p.m., accused ROSARIO PANUNCIO y SY, a private individual and owner/operator of a residence/office located at 204 E. Rodriguez Avenue, Quezon City, did, then and there, willfully, unlawfully and feloniously with intent to cause damage falsified the vital informations as appearing on Land Transportation Office (LTO) official receipt no. MVRR No. 63231478 dated July 31, 1992 changing the meaning of the document and causing the document to speak something false, when in truth and in fact, accused knew fully well that the document as falsified do not legally exist and is different from the official file of the LTO, to the prejudice of public interest.

CONTRARY TO LAW.[3]

Petitioner filed a motion for reinvestigation, which the Regional Trial Court of Quezon City, Branch 107 (trial court), granted in its order of 1 March 1993.[4] The trial court gave the public prosecutor 20 days within which to submit his report on the reinvestigation. On 1 June 1994, the Department of Justice, through State Prosecutor Mario A.M. Caraos, submitted its Resolution[5] recommending that petitioner be prosecuted for falsification. The trial court set the arraignment, and on 28 June 1994, petitioner entered a plea of not guilty. Thereafter, pre-trial and the trial of the case ensued.

During the trial, a photocopy of the duplicate original of MVRR No. 63231478 dated 31 July 1992, which was a faithful reproduction of the document in LTO's file, was presented and compared with MVRR No. 63231478 confiscated from petitioner's residence. The following discrepancies were noted:

As Per EDP/LTO File

As Per Photocopy of Owner's Copy
(recovered from petitioner's residence)

File No.

4B-0476-20101

0478-50065

Plate No.

DFK 587

DEU 127

Route

Arroceros-Project 4, Quezon City
via España

Binangonan-Cubao via Marcos
Highway and vice- versa

Motor No.

179837

100002

Serial No.

SP-MM-12857-87-C

MEL-3002-C

Gross Weight

3,000

2,700

Net Capacity

1,500


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1,350

Payment of 1992
Renewal Registration

P513

P468

Owner

Manlite Transport Co., Inc.

Manlite Transport Co., Inc.

Address

204 E. Rodriguez Ave., Q.C.

204 E. Rodriguez Ave., Q.C.[6]

Petitioner denied that she was the source of the falsified documents. She alleged that Manlite, which she used to co-own with her late husband, already stopped operating in April 1992 and her business was operating under the name Rosario Panuncio. She alleged that she was not at home when the raid took place, and when she returned home, the police authorities had already emptied her shelves and she was just forced to sign the search warrant, inventory receipt, and the certificate of orderly search. She further alleged that she was charged with falsification because she refused the police authorities' demand for money.

The Decision of the Trial Court

In its 2 September 1997 Decision,[7] the trial court found petitioner guilty beyond reasonable doubt of the crime of falsification of a public document under Articles 171 and 172 of the RPC. The trial court ruled that the facts established by the prosecution were not substantially disputed by the defense. The trial court ruled that the raid yielded incriminatory evidence to support the theory that petitioner was engaged in falsifying LTO documents and license plate registration receipts. The dispositive portion of the trial court's Decision reads:

> WHEREFORE, the prosecution having proven the guilt of the accused beyond reasonable doubt, the accused is found guilty as charged with the crime of Falsification of Public Document under Art. 171 and Art. 172 of the Revised Penal Code which carries the penalty of prision correccional in its medium and maximum period and a fine of not more than P5,000.00. Applying the Indeterminate Sentence Law, accused Rosario Panuncio y Sy is hereby sentenced to suffer the penalty of imprisonment of Six (6) Months and One (1) Day of arresto mayor as minimum to FOUR (4) Years or prision correccional as maximum, and a fine of P2,000.00 with subsidiary imprisonment in case of insolvency. Without costs.
>
> SO ORDERED.[8]

Petitioner appealed from the trial court's Decision.

The Decision of the Court of Appeals

In its 15 June 2004 Decision, the Court of Appeals affirmed the trial court's Decision with modification. The Court of Appeals held that petitioner committed falsification of a public document. The Court of Appeals ruled that the search warrant did not suffer from any legal infirmity because the items to be seized were already specified and identified in the warrant. The Court of Appeals declared that the court's designation of the place to be searched and the articles to be seized left the police authorities with no discretion, ensured that unreasonable

searches and seizures would not take place and abuses would be avoided. The Court of Appeals further ruled that the Rules of Court do not require that the owner of the place to be searched be present during the conduct of the raid. The Court of Appeals noted that the search was conducted not only in the presence of petitioner but also in the presence of Manalo, Velasco, and Nidua.

The dispositive portion of the Decision of the Court of Appeals reads:

> WHEREFORE, the judgment of conviction rendered by the trial court against accused-appellant Rosario Panuncio y Sy is AFFIRMED, but with the MODIFICATION that she should be, as she hereby is, sentenced to serve an indeterminate penalty of two (2) years and four (4) months of prision correccional as minimum to six (6) years of prision correccional as maximum. No pronouncement as to costs.
>
> SO ORDERED.[9]

Petitioner filed a motion for reconsideration. In its 15 October 2004 Resolution, the Court of Appeals denied the motion.

Hence, the petition before this Court.

The Issues

Petitioner raises the following issues:

- Whether the elements of falsification of a public document under Article 172(1) in relation to Article 171 of the RPC have been established;

- Whether the search was regularly conducted;

- Whether the evidence gathered during the search are admissible in evidence; and

- Whether the Court of Appeals properly applied the Indeterminate Sentence Law (ISL).

The Ruling of this Court

The petition has no merit.

Falsification of Public Documents

At the outset, petitioner argues that the Information was defective because it did not specifically mention the provision that she violated. As such, she was not informed of the specific violation for which she was held liable.

We cannot sustain petitioner's argument. Petitioner failed to raise the issue of the defective information before the trial court through a motion for bill of particulars or a motion to quash the information. Petitioner's failure to object to the allegation in the information before she entered her plea of not guilty amounted to a waiver of the defect in the information.[10] Objections as to matters of form or substance in the information cannot be made for the first time on appeal.[11]

Falsification of documents under paragraph 1, Article 172[12] in relation to Article 171[13] of the RPC refers to falsification by a private individual, or a

public officer or employee who did not take advantage of his official position, of public, private, or commercial documents.[14] The elements of falsification of documents under paragraph 1, Article 172 of the RPC are:

> (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.[15]

In this case, petitioner is a private individual. MVRR No. 63231478, denominated as LTO Form No. 2, is an official document issued by the LTO. It is the owner's copy of the Official Receipt of the payment of the vehicle's registration fee. Petitioner falsified the owner's copy of MVRR No. 63231478 by making it appear that it was an owner's copy issued to a vehicle of Manlite with Plate No. DEU 127 when in the LTO's files, it was issued to a vehicle of Manlite with Plate No. DFK 587. The discrepancies between the document in LTO's files and the document confiscated in petitioner's house were duly noted by the trial court and remained undisputed. The alteration made by petitioner changed the meaning of the document within the context of Article 171(6) of the RPC which punishes as falsification themaking of "any alteration or intercalation in a genuine document which changes its meaning."

Petitioner argues that MVRR No. 63231478 was not found in her possession and that it was not proved that she had participation in the criminal act. The Court disagrees with petitioner. The falsified copy of MVRR No. 63231478 was found during a valid search conducted in petitioner's residence. It was issued in the name of Manlite which petitioner admitted as co-owned by her together with her late husband. Thus, there is a presumption that she falsified it and she was using it for her benefit. The falsified document, purportedly issued in the name of Manlite, could be used for another vehicle operated by Manlite to make it appear that it was validly registered with the LTO. In this case, the original document in LTO's files was issued to a Manlite vehicle with Plate No. DFK 587 plying Arroceros-Project 4, Quezon City via España. The falsified document was purportedly issued to a Manlite vehicle with Plate No. DEU 127 plying Binangonan-Cubao via Marcos Highway.

Petitioner further argues that only a photocopy of the purported owner's copy was presented to the trial court and there could be no falsification of a mere photocopy.

Again, we do not agree with petitioner. It has been established that there is a genuine copy of MVRR No. 63231478 in the LTO's files and the owner's copy of it was in petitioner's possession. The original copy of MVRR No. 63231478 was not presented during the trial because petitioner kept it in her possession. However, it has been established during the trial that as per usual practice, the owner's copy is usually photocopied and it is the photocopy which is usually kept inside the vehicle.[16] As pointed out by the Solicitor General, the presentation of a mere photocopy of the document to any traffic enforcer is enough to convince the traffic enforcer that the public vehicle was validly and lawfully registered. The fact remains that LTO Form No. 2, which petitioner falsified, is a genuine and public document.

Validity of the Search and Admissibility of the Articles Seized

Petitioner assails the validity of the search which was allegedly conducted while she was not in the house. Petitioner alleges that since the search warrant was defective, the items seized during the search could not be used in evidence against her.

We will discuss these issues together.

Section 8, Rule 126 of the Rules of Court provides:

> SEC. 8. Search of house, room, or premises, to be made in presence of two witnesses - No search of a house, room, or any other premise shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two witnesses of sufficient age and discretion residing in the same locality.


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Even assuming that petitioner or any lawful occupant of the house was not present when the search was conducted, the search was done in the presence of at least two witnesses of sufficient age and discretion residing in the same locality. Manalo was the barangay chairman of the place while Velasco was petitioner's employee.[17] Petitioner herself signed the certification of orderly search when she arrived at her residence. Clearly, the requirements of Section 8, Rule 126 of the Rules of Court were complied with by the police authorities who conducted the search. Further, petitioner failed to substantiate her allegation that she was just forced to sign the search warrant, inventory receipt, and the certificate of orderly search. In fact, the records show that she signed these documents together with three other persons, including the barangay chairman who could have duly noted if petitioner was really forced to sign the documents against her will.

Articles which are the product of unreasonable searches and seizures are inadmissible as evidence pursuant to Article III, Section 3(2) of the Constitution.[18] However, in this case, we sustain the validity of the search conducted in petitioner's residence and, thus, the articles seized during the search are admissible in evidence against petitioner.

Application of the ISL

Falsification of a public document by a private individual under Article 172(1) in relation to Article 171 of the RPC is punishable by prision correccional in its medium and maximum periods, which ranges from two years, four months and one day to six years, and a fine of not more than P5,000. Applying the ISL, petitioner may be sentenced to an indeterminate penalty the minimum of which must be within the range of arresto mayor in its maximum period to prision correccional in its minimum period, or four months and one day to two years and four months.

In this case, the Court of Appeals sentenced petitioner to serve an indeterminate penalty of two years and four months of prision correccional as minimum to six years of prision correccional as maximum. There being no mitigating or aggravating circumstances, we deem it proper in this case to lower the maximum penalty imposed by the Court of Appeals from six years to four years, nine months and eleven days of prision correccional. Further, the penalty for falsification of a public document under Article 172(1) in relation to Article 171 of the RPC includes a fine of not more than P5,000 which the Court of Appeals failed to impose. Hence, we also modify the penalty to include the fine.

WHEREFORE, we DENY the petition. We AFFIRM with MODIFICATION the 15 June 2004 Decision and 15 October 2004 Resolution of the Court of Appeals in CA-G.R. CR No. 25254. We find petitioner Rosario S. Panuncio guilty beyond reasonable doubt of the crime of falsification of a public document under Article 172(1) in relation to Article 171 of the Revised Penal Code and hereby sentence her to suffer the indeterminate penalty of IMPRISONMENT from two years and four months of prision correccional as minimum to four years, nine months and eleven days of prision correccional as maximum and to pay a FINE of P3,000.

Costs against petitioner.

**SO ORDERED.**

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

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[1] Rollo, pp. 35-50. Penned by Associate Justice Mariano C. Del Castillo with Associate Justices Roberto A. Barrios and Magdangal M. De Leon, concurring.

[2] Id. at 76.


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[3] Records, p. 1.

[4] Id. at 33.

[5] Id. at 39-42.

[6] Id. at 318.

[7] Rollo, pp. 29-34. Penned by Judge Marcelino F. Bautista, Jr.

[8] Id. at 33-34.

[9] Id. at 49.

[10] People v. Almendral, G.R. No. 126025, 6 July 2004, 433 SCRA 440.

[11] Id.

[12] 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 pesos shall be imposed upon:

- 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; and

- Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who, with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

[13] ART. 171. Falsification by public officer, employee or notary or ecclesiastic minister. -- The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

- Counterfeiting or imitating any handwriting, signature or rubric;

- Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

- Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;

- Making untruthful statements in a narration of facts;

- Altering true dates;

- Making any alteration or intercalation in a genuine document which changes its meaning;

- Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy of a statement contrary to, or different from, that of the genuine original; or

- Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character


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that its falsification may affect the civil status of persons.

[14] Santos, Jr. v. People, G.R. No. 167671, 8 September 2008, 564 SCRA 60, 65.

[15] Id.

[16] TSN, Menelia Mortel, 29 August 2005, p. 19.

[17] In her testimony, petitioner denied that Velasco was her employee although she admitted that Velasco used to work for her. Petitioner also admitted that Velasco is her neighbor. TSN, 11 March 1997, p. 7.

[18] People v. Sarap, 447 Phil. 642 (2003). Sections 2 and 3, Article III of the 1987 Constitution provide:

Section 2. The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

Section 3. (1) The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.

(2) Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.


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