

FELIXBERTO A. ABELLANA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SPOUSES SAAPIA B. ALONTO AND DIAGA ALONTO, RESPONDENTS.

G.R. No. 174654. August 17, 2011

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The only issue that confronts this Court is whether petitioner Felixberto A. Abellana could still be held civilly liable notwithstanding his acquittal.

Assailed before this Court are the February 22, 2006 Decision[1] of the Court of Appeals (CA) in CA-G.R. SP No. 78644 and its August 15, 2006 Resolution[2] denying the motion for reconsideration thereto. The assailed CA Decision set aside the May 21, 2003 Decision[3] of the Regional Trial Court (RTC) of Cebu City, Branch 13, in Criminal Case No. CBU-51385 and acquitted the petitioner of the crime of falsification of public document by a private individual because the Information charged him with a different offense which is estafa through falsification of a public document.[4] However, the CA still adjudged him civilly liable.[5]

Factual Antecedents

In 1985, petitioner extended a loan to private respondents spouses Diaga and Saapia Alonto (spouses Alonto),[6] secured by a Deed of Real Estate Mortgage over Lot Nos. 6471 and 6472 located in Cebu City.[7] Subsequently, or in 1987, petitioner prepared a Deed of Absolute Sale conveying said lots to him. The Deed of Absolute Sale was signed by spouses Alonto in Manila. However, it was notarized in Cebu City allegedly without the spouses Alonto appearing before the notary public.[8] Thereafter, petitioner caused the transfer of the titles to his name and sold the lots to third persons.

On August 12, 1999,[9] an Information[10] was filed charging petitioner with Estafa through Falsification of Public Document, the accusatory portion of which reads:

That on or about the 9[th] day of July, 1987, in the City of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the said accused, with deliberate intent, and with intent to defraud, did then and there falsify a public document consisting of a Deed of Absolute Sale of a parcel of land consisting of 803 square meters executed before Notary Public Gines N. Abellana per Doc. No. 383, Page No. 77, Book No. XXIII, Series of 1987 of the latter's Notarial Register showing that spouses Saapia B. Alonto and Diaga Alonto sold their parcel of land located at Pardo, Cebu City, for a consideration of P130,000.00 in favor of accused by imitating, counterfeiting, signing or [causing] to be imitated or counterfeited the signature[s] of spouses Saapia B. Alonto and Diaga Alonto above their typewritten names in said document as vendor[s], when in truth and in fact as the accused very well knew that spouses Saapia B. Alonto and Diaga Alonto did not sell their aforesated descri[b]ed property and that the signature[s] appearing in said document are not their signature[s], thus causing it to appear that spouses Saapia B. Alonto and Diaga Alonto participated in the execution of said document when they did not so participate[. Once] said document was falsified, accused did then and there cause the transfer of the titles of said land to his name using the said falsified document, to the damage and

prejudice of spouses Saapia B. Alonto and Diaga Alonto in the amount of P130,000.00, the value of the land .

CONTRARY TO LAW.[11]

During arraignment, petitioner entered a plea of "not guilty".[12] After the termination of the pre-trial conference, trial ensued.

Ruling of the Regional Trial Court

In its Decision dated May 21, 2003, the RTC noted that the main issue for resolution was whether petitioner committed the crime of estafa through falsification of public document.[13] Based on the evidence presented by both parties, the trial court found that petitioner did not intend to defraud the spouses Alonto; that after the latter failed to pay their obligation, petitioner prepared a Deed of Absolute Sale which the spouses Alonto actually signed; but that the Deed of Absolute Sale was notarized without the spouses Alonto personally appearing before the notary public. From these, the trial court concluded that petitioner can only be held guilty of Falsification of a Public Document by a private individual under Article 172(1)[14] in relation to Article 171(2)[15] of the Revised Penal Code (RPC) and not estafa through falsification of public document as charged in the Information.

The dispositive portion of the RTC Decision reads:

WHEREFORE, judgment is hereby rendered finding the accused Felixberto Abellana GUILTY of the crime of falsification of public document by private individuals under Article 172 of the Revised Penal Code and sentences him to an indeterminate penalty of TWO (2) YEARS and FOUR (4) MONTHS of Prison Correccional, as minimum, to SIX (6) YEARS, as maximum.

He is directed to institute reconveyance proceedings to restore ownership and possession of the real properties in question in favor of private complainants. After private complainants shall have acquired full ownership and possession of the aforementioned properties, they are directed to pay the accused the sum of P130,000.00 [with] legal interest thereon reckoned from the time this case was instituted.

Should the accused fail to restore full ownership and possession in favor of the private complainants [of] the real properties in question within a period of six (6) months from the time this decision becomes final and executory, he is directed to pay said complainants the sum of P1,103,000.00 representing the total value of the properties of the private complainants.

He is likewise directed to pay private complainants the following:

- P15,000.00 for nominal damages;
- P20,000.00 for attorney's fees;
- P50,000.00 as and for litigation expenses;
- P30,000.00 as and for exemplary damages;

plus the cost of this suit.

SO ORDERED.[16]

Ruling of the Court of Appeals

On appeal, petitioner raised the issue of whether an accused who was acquitted of the crime charged may nevertheless be convicted of another crime or offense not specifically charged and alleged and which is not necessarily included in the crime or offense charged. The CA, in its Decision dated February 22, 2006, ruled in the negative.[17] It held that petitioner who was charged with and arraigned for estafa through falsification of

public document under Article 171(1) of the RPC could not be convicted of Falsification of Public Document by a Private Individual under Article 172(1) in relation to Article 171(2). The CA observed that the falsification committed in Article 171(1) requires the counterfeiting of any handwriting, signature or rubric while the falsification in Article 171(2) occurs when the offender caused it to appear in a document that a person participated in an act or proceeding when in fact such person did not so participate. Thus, the CA opined that the conviction of the petitioner for an offense not alleged in the Information or one not necessarily included in the offense charged violated his constitutional right to be informed of the nature and cause of the accusation against him.[18] Nonetheless, the CA affirmed the trial court's finding with respect to petitioner's civil liability. The dispositive portion of the CA's February 22, 2006 Decision reads as follows:

WHEREFORE, premises considered, We resolve to set aside the Decision dated May 21, 2003 of the Regional Trial Court, 7th Judicial Region, Branch 13, Cebu City only insofar as it found the petitioner guilty of a crime that is different from that charged in the Information. The civil liability determinations are affirmed.

SO ORDERED.[19]

Petitioner filed a motion for reconsideration which was denied in the Resolution dated August 15, 2006.

Hence, petitioner comes before us through the present Petition for Review on Certiorari raising the lone issue of whether he could still be held civilly liable notwithstanding his acquittal by the trial court and the CA.

Our Ruling

The petition is meritorious.

It is an established rule in criminal procedure that a judgment of acquittal shall state whether the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt.[20] In either case, the judgment shall determine if the act or omission from which the civil liability might arise did not exist.[21] When the exoneration is merely due to the failure to prove the guilt of the accused beyond reasonable doubt, the court should award the civil liability in favor of the offended party in the same criminal action.[22] In other words, the "extinction of the penal action does not carry with it the extinction of civil liability unless the extinction proceeds from a declaration in a final judgment that the fact from which the civil [liability] might arise did not exist." [23]

Here, the CA set aside the trial court's Decision because it convicted petitioner of an offense different from or not included in the crime charged in the Information. To recall, petitioner was charged with estafa through falsification of public document. However, the RTC found that the spouses Alonto actually signed the document although they did not personally appear before the notary public for its notarization. Hence, the RTC instead convicted petitioner of falsification of public document. On appeal, the CA held that petitioner's conviction cannot be sustained because it infringed on his right to be informed of the nature and cause of the accusation against him.[24] The CA, however, found no reversible error on the civil liability of petitioner as determined by the trial court and thus sustained the same.[25]

We do not agree.

In *Banal v. Tadeo, Jr.*, [26] we elucidated on the civil liability of the accused despite his exoneration in this wise:

While an act or omission is felonious because it is punishable by law, it gives rise to civil liability not so much because it is a crime but because it caused damage to another. Viewing things pragmatically, we can readily see that what gives rise to the civil liability is really the obligation and moral duty of everyone to repair or make whole the damage caused to another by reason of his own act or omission, done intentionally or negligently, whether or not the same be punishable by law. x x x

Simply stated, civil liability arises when one, by reason of his own act or omission, done intentionally or negligently, causes damage to another. Hence, for petitioner to be civilly liable to spouses Alonto, it must be proven that the acts he committed had caused damage to the spouses.

Based on the records of the case, we find that the acts allegedly committed by the petitioner did not cause any damage to spouses Alonto.

First, the Information charged petitioner with fraudulently making it appear that the spouses Alonto affixed their signatures in the Deed of Absolute Sale thereby facilitating the transfer of the subject properties in his favor. However, after the presentation of the parties' respective evidence, the trial court found that the charge was without basis as the spouses Alonto indeed signed the document and that their signatures were genuine and not forged.

Second, even assuming that the spouses Alonto did not personally appear before the notary public for the notarization of the Deed of Absolute Sale, the same does not necessarily nullify or render void ab initio the parties' transaction.[27] Such non-appearance is not sufficient to overcome the presumption of the truthfulness of the statements contained in the deed. "To overcome the presumption, there must be sufficient, clear and convincing evidence as to exclude all reasonable controversy as to the falsity of the [deed]. In the absence of such proof, the deed must be upheld." [28] And since the defective notarization does not ipso facto invalidate the Deed of Absolute Sale, the transfer of said properties from spouses Alonto to petitioner remains valid. Hence, when on the basis of said Deed of Absolute Sale, petitioner caused the cancellation of spouses Alonto's title and the issuance of new ones under his name, and thereafter sold the same to third persons, no damage resulted to the spouses Alonto.

Moreover, we cannot sustain the alternative sentence imposed upon the petitioner, to wit: to institute an action for the recovery of the properties of spouses Alonto or to pay them actual and other kinds of damages. First, it has absolutely no basis in view of the trial court's finding that the signatures of the spouses Alonto in the Deed of Absolute Sale are genuine and not forged. Second, "[s]entences should not be in the alternative. There is nothing in the law which permits courts to impose sentences in the alternative." [29] While a judge has the discretion of imposing one or another penalty, he cannot impose both in the alternative. [30] "He must fix positively and with certainty the particular penalty." [31]

In view of the above discussion, there is therefore absolutely no basis for the trial court and the CA to hold petitioner civilly liable to restore ownership and possession of the subject properties to the spouses Alonto or to pay them P1,103,000.00 representing the value of the properties and to pay them nominal damages, exemplary damages, attorney's fees and litigation expenses.

WHEREFORE, the petition is GRANTED. The February 22, 2006 Decision of the Court of Appeals in CA-G.R. SP No. 78644 and its August 15, 2006 Resolution are AFFIRMED insofar as they set aside the conviction of the petitioner for the crime of falsification of public document. The portion which affirmed the imposition of civil liabilities on the petitioner, i.e., the restoration of ownership and possession, the payment of P1,103,000.00 representing the value of the property, and the payment of nominal and exemplary damages, attorney's fees and litigation expenses, is deleted for lack of factual and legal basis.

SO ORDERED.

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

[1] CA rollo, pp. 176-184; penned by Associate Justice Apolinario D. Bruselas, Jr. and concurred in by Associate Justices Arsenio J. Magpale and Vicente L. Yap.

[2] Id. at 238.

[3] Id. at 30-41; penned by Judge Meinrado P. Paredes.

[4] Id. at 180.

[5] Id. at 184.

[6] Id. at 33.

[7] Id.

[8] Id.

[9] Id. at 6.

[10] Id. at 42-43.

[11] Id.

[12] Id. at 31.

[13] Id. at 34.

[14] ART. 172. Falsification by private individuals and use of falsified documents. - The penalty of prison correccional in its medium and maximum periods and a fine of not more than 5,000 [pesos] shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article [Article 171] in any public or official document or letter of exchange or any other kind of commercial document; and

x x x x

[15] ART. 171. Falsification by public officer, employee; or notary or ecclesiastical minister. - The penalty of prison 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:

x x x x

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

x x x x

[16] CA rollo, p. 41.

[17] Id. at 180.

[18] Id. at 183.

[19] Id. at 183-184.

[20] Herrera, Oscar M., "Remedial Law", Volume IV, 2001 Ed., p. 178.

[21] Id.

[22] Id.

[23] Calalang v. Intermediate Appellate Court, G.R. No. 74613, February 27, 1991, 194 SCRA 514, 523-524.

[24] CA rollo, p. 183.

[25] Id.

[26] 240 Phil. 326, 331 (1987).

[27] St. Mary's Farm, Inc. v. Prima Real Properties, Inc., G.R. No. 158144, July 31, 2008, 560 SCRA 704, 713.

[28] Id.

[29] United States v. Chong Ting and Ha Kang, 23 Phil. 120, 124 (1912).

[30] Id. at 125.

[31] Id.

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