

**METROPOLITAN BANK & TRUST CO. (METROBANK),
REPRESENTED BY ROSELLA A. SANTIAGO, PETITIONER, VS.
ANTONINO O. TOBIAS III, RESPONDENT.**

G.R. No. 177780. January 25, 2012

Ponente: BERSAMIN, J.

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BERSAMIN, J.:

This appeal assails the adverse decision of the Court of Appeals (CA)[1] that dismissed the petition for certiorari brought by the petitioner to nullify and set aside the resolutions issued by the Secretary of Justice on July 20, 2004[2] and November 18, 2005[3] directing the City Prosecutor of Malabon City to withdraw the information in Criminal Case No. 27020 entitled *People v. Antonino O. Tobias III*.

We affirm the CA in keeping with the principle of non-interference with the prerogative of the Secretary of Justice to review the resolutions of the public prosecutor in the latter's determination of the existence of probable cause, absent any showing that the Secretary of Justice thereby commits grave abuse of his discretion.

Antecedents

In 1997, Rosella A. Santiago, then the OIC-Branch Head of Metropolitan Bank & Trust Company (METROBANK) in Valero Street, Makati City, was introduced to respondent Antonino O. Tobias III (Tobias) by one Jose Eduardo Gonzales, a valued client of METROBANK. Subsequently, Tobias opened a savings/current account for and in the name of Adam Merchandising, his frozen meat business. Six months later, Tobias applied for a loan from METROBANK, which in due course conducted trade and credit verification of Tobias that resulted in negative findings. METROBANK next proceeded to appraise the property Tobias offered as collateral by asking him for a photocopy of the title and other related documents.[4] The property consisted of four parcels of land located in Malabon City, Metro Manila with a total area of 6,080 square meters and covered by Transfer Certificate of Title (TCT) No. M-16751.[5] Based on the financial statements submitted by Tobias, METROBANK approved a credit line for P40,000,000.00. On August 15, 1997, Joselito Bermeo Moreno, Lead Internal Affairs Investigator of METROBANK, proceeded to the Registry of Deeds of Malabon to cause the annotation of the deed of real estate mortgage on TCT No. M-16751. The annotation was Entry No. 26897.[6]

Thereafter, Tobias initially availed himself of P20,000,000, but took out the balance within six months.[7] He paid the interest on the loan for about a year before defaulting. His loan was restructured to 5-years upon his request. Yet, after two months, he again defaulted. Thus, the mortgage was foreclosed, and the property was sold to METROBANK as the lone bidder.[8] On June 11, 1999, the certificate of sale was issued in favor of METROBANK.[9]

When the certificate of sale was presented for registration to the Registry of Deeds of Malabon, no corresponding original copy of TCT No. M-16751 was found in the registry vault. Atty. Sarah Principe-Bido, Deputy Register of Deeds of Malabon, went on to verify TCT No. M-16751 and learned that Serial No. 4348590 appearing therein had been issued for TCT No. M-15363 in the name of one Alberto Cruz; while TCT No. 16751 (now TCT No.

390146) appeared to have been issued in the name of Eugenio S. Cruz and Co. for a parcel of land located in Navotas.[10]

Given such findings, METROBANK requested the Presidential Anti-Organized Crime Task Force (PAOCTF) to investigate.[11] In its report dated May 29, 2000,[12] PAOCTF concluded that TCT No. M-16751 and the tax declarations submitted by Tobias were fictitious. PAOCTF recommended the filing against Tobias of a criminal complaint for estafa through falsification of public documents under paragraph 2 (a) of Article 315, in relation to Articles 172(1) and 171(7) of the Revised Penal Code.[13]

The Office of the City Prosecutor of Malabon ultimately charged Tobias with estafa through falsification of public documents through the following information,[14] viz:

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That on or about the 15[th] day of August, 1997 in the Municipality of Malabon, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, by means of deceit, false pretense, fraudulent acts and misrepresentation executed prior to or simultaneous with the commission of fraud, represented to METROBANK, as represented by MS. ROSELLA S. SANTIAGO, that he is the registered owner of a parcel of land covered by TCT No. M-16751 which he represented to be true and genuine when he knew the Certificate of Title No. M-16751 is fake and spurious and executed a Real Estate Mortgage in favor of Metrobank and offered the same as collateral for a loan and Rosella S. Santiago relying on said misrepresentation gave to accused, the amount of P20,000,000.00 and once in possession of the amount, with intent to defraud, willfully, unlawfully and feloniously failed to deliver the land covered by spurious title and misappropriate, misapply and converted the said amount of P20,000,000.00 to his own personal use and benefit and despite repeated demands accused failed and refused and still fails and refuses to return the amount to complainant METROBANK, and/or delivered the land covered in the spurious title in the aforementioned amount of P20,000,000.00.

CONTRARY TO LAW.[15]

Tobias filed a motion for re-investigation,[16] which was granted.

In his counter-affidavit submitted during the re-investigation,[17] Tobias averred that he had bought the property from one Leonardo Fajardo through real estate brokers Augusto Munsuyac and Carmelito Pilapil; that Natalio Bartolome, his financial consultant from Carwin International, had convinced him to purchase the property due to its being an ideal site for his meat processing plant and cold storage business; that the actual inspection of the property as well as the verification made in the Registry of Deeds of Malabon City had ascertained the veracity of TCT No. 106083 under the name of Leonardo Fajardo; that he had applied for the loan from METROBANK to pay the purchase price by offering the property as collateral; that in order for the final application to be processed and the loan proceeds to be released, METROBANK had advised him to have the title first transferred to his name; that he had executed a deed of absolute sale with Fajardo covering the property, and that said instrument had been properly registered in the Registry of Deeds; that the transfer of the title, being under the account of the seller, had been processed by seller Fajardo and his brokers Munsuyac and Pilapil; that his title and the property had been inspected and verified by METROBANK's personnel; and that he did not have any intention to defraud METROBANK.

Nonetheless, on December 27, 2002, the City Prosecutor of Malabon still found probable cause against Tobias, and recommended his being charged with estafa through falsification of public document.[18]

Tobias appealed to the Department of Justice (DOJ).

On July 20, 2004, then Acting Secretary of Justice Ma. Merceditas N. Gutierrez issued a resolution directing the

withdrawal of the information filed against Tobias,[19] to wit:

WHEREFORE, the assailed resolution is hereby REVERSED and SET ASIDE. The City Prosecutor of Malabon City is directed to cause the withdrawal of the Information in Crim. Case No. 27020 against respondent Antonino O. Tobias III, and report the action taken thereon within ten (10) days from receipt hereof.

SO ORDERED.

Acting Secretary of Justice Gutierrez opined that Tobias had sufficiently established his good faith in purchasing the property; that he had even used part of the proceeds of the loan to pay the seller; that it was METROBANK that had caused the annotation of the mortgage on the TCT, thereby creating an impression that the title had been existing in the Registry of Deeds at that time; that, accordingly, the presumption that the possessor of a falsified document was the author of the falsification did not apply because it was always subject to the qualification or reference as to the approximate time of the commission of the falsification.

METROBANK moved to reconsider,[20] arguing that Tobias had employed deceit or false pretense in offering the property as collateral by using a fake title; and that the presumption that the possessor of the document was the author of the falsification applied because no other person could have falsified the TCT and would have benefitted therefrom except Tobias himself.

On November 18, 2005, Secretary of Justice Raul M. Gonzalez denied METROBANK's motion for reconsideration.[21]

Ruling of the CA

METROBANK challenged the adverse resolutions through certiorari.

On December 29, 2006, the CA promulgated its decision,[22] dismissing METROBANK's petition for certiorari by holding that the presumption of authorship might be disputed through a satisfactory explanation, viz:

We are not unaware of the established presumption and rule that when it is proved that a person has in his possession a falsified document and makes use of the same, the presumption or inference is that such person is the forger (Serrano vs. Court of Appeals, 404 SCRA 639, 651 [2003]), citing Koh Tieck Heng vs. People, 192 SCRA 533, 546-547 [1990]). Yet, the Supreme Court declared that in the absence of satisfactory explanation, one who is found in possession of a forged document and who used it is presumed to be the forger (citing People vs. Sendaydiego, 81 SCRA 120, 141 [1978]). Very clearly then, a satisfactory explanation could render ineffective the presumption which, after all, is merely a disputable one.

It is in this score that We affirm the resolution of the Department of Justice finding no probable cause against private respondent Tobias for estafa thru falsification of public document. The record speaks well of Tobias' good faith and lack of criminal intention and liability. Consider:

(a) Tobias has in his favor a similar presumption that good faith is always presumed. Therefore, he who claims bad faith must prove it (Prinsipio vs. The Honorable Oscar Barrientos, G.R. 167025, December 19, 2005). No such evidence of bad faith of Tobias appears on record;

(b) Tobias' actuation in securing the loan belies any criminal intent on his part to deceive petitioner Bank. He was not in a hurry to obtain the loan. He had to undergo the usual process of the investigative arm or machine of the Bank not only on the location and the physical appearance of the property but likewise the veracity of its title. Out of the approved P40,000,000.00 loan he only availed of P20,000,000.00, for his frozen meat business which upon investigation of the Bank failed to give negative results;

(c) Tobias paid the necessary interests for one (1) year on the loan and two (2) installments on the restructured

loan; and

(d) More importantly, the loan was not released to him until after the mortgage was duly registered with the Registry of Deeds of Malabon City and even paid the amount of P90,000.00 for the registration fees therefor.

These actuations, for sure, can only foretell that Tobias has the least intention to deceive the Bank in obtaining the loan. It may not be surprising to find that Tobias could even be a victim himself by another person in purchasing the properties he offered as security for the loan.[23]

The CA stressed that the determination of probable cause was an executive function within the discretion of the public prosecutor and, ultimately, of the Secretary of Justice, and the courts of law could not interfere with such determination;[24] that the private complainant in a criminal action was only concerned with its civil aspect; that should the State choose not to file the criminal action, the private complainant might initiate a civil action based on Article 35 of the Civil Code, to wit:

In the eventuality that the Secretary of Justice refuses to file the criminal complaint, the complainant, whose only interest is the civil aspect of the case and not the criminal aspect thereof, is not left without a remedy. In *Vda. De Jacob vs. Puno*, 131 SCRA 144, 149 [1984], the Supreme Court has this for an answer:

“The remedy of complainant in a case where the Minister of Justice would not allow the filing of a criminal complaint against an accused because it is his opinion that the evidence is not sufficient to sustain an information for the complaint with which the respondents are charged of, is to file a civil action as indicated in Article 35 of the Civil Code, which provides:

‘Art. 35. When a person, claiming to be injured by a criminal offense, charges another with the same, for which no independent civil action is granted in this Code or any special law, but the justice of the peace finds no reasonable grounds to believe that a crime has been committed, or the prosecuting attorney refuses or fails to institute criminal proceedings, the complainant may bring a civil action for damages against the alleged offender. Such civil action may be supported by a preponderance of evidence. Upon the defendant’s motion, the court may require the plaintiff to file a bond to indemnify the defendant in case the complainant should be found to be malicious.

‘If during the pendency of the civil action, an information should be presented by the prosecuting attorney, the civil action shall be suspended until the termination of the criminal proceedings.’”[25]

METROBANK sought reconsideration, but the CA denied its motion for that purpose, emphasizing that the presumption that METROBANK firmly relied upon was overcome by Tobias sufficiently establishing his good faith and lack of criminal intent. The CA relevantly held:

Petitioner should be minded that the subject presumption that the possessor and user of a forged or falsified document is presumed to be the falsifier or forger is a mere disputable presumption and not a conclusive one. Under the law on evidence, presumptions are divided into two (2) classes: conclusive and rebuttable. Conclusive or absolute presumptions are rules determining the quantity of evidence requisite for the support of any particular averment which is not permitted to be overcome by any proof that the fact is otherwise, if the basis facts are established (1 Greenleaf, Ev 44; 29 Am Jur 2d, Evidence 164; 1 Jones on Evidence 6 ed, page 132). Upon the other hand, a disputable presumption has been defined as species of evidence that may be accepted and acted on when there is no other evidence to uphold the contention for which it stands, or one which may be overcome by other evidence (31A C.J.S., p. 197; *People v. de Guzman*, G.R. No. 106025, Feb. 9, 1994; *Herrera*, Remedial Law, Vol. VI, 1999 Edition, pp. 40-41). In fact, Section 3 of Rule 131 provides that the disputable presumptions therein enumerated are satisfactory if uncontradicted but may be contradicted and overcome by other evidence. Thus, as declared in Our decision in this case, private respondent had shown evidence of good faith and lack of criminal intention and liability that can overthrow the controversial

disputable presumption.[26]

Issue

In this appeal, METROBANK raises the lone issue of—

WHETHER OR NOT THE HONORABLE COURT OF APPEALS HAS DECIDED A QUESTION OF SUBSTANCE PROBABLY NOT IN ACCORD WITH LAW OR WITH THE APPLICABLE DECISIONS OF THIS HONORABLE COURT AND THUS, COMMITTED PATENT ERROR IN RENDERING THE ASSAILED DECISION DATED 29 DECEMBER 2006, DISMISSING METROBANK'S PETITION FOR CERTIORARI AND AFFIRMING THE RESOLUTIONS DATED 20 JULY 2004 AND 18 NOVEMBER 2005 OF THE HON. SECRETARY OF JUSTICE AND IN DENYING METROBANK'S MOTION FOR RECONSIDERATION.

METROBANK submits that the presumption of authorship was sufficient to establish probable cause to hold Tobias for trial; that the presumption applies when a person is found in possession of the forged instrument, makes use of it, and benefits from it; that contrary to the ruling of the CA, there is no requirement that the legal presumption shall only apply in the absence of a valid explanation from the person found to have possessed, used and benefited from the forged document; that the CA erred in declaring that Tobias was in good faith, because good faith was merely evidentiary and best raised in the trial on the merits; and that Tobias was heavily involved in a modus operandi of using fake titles because he was also being tried for a similar crime in the RTC, Branch 133, in Makati City.

METROBANK maintains that what the Secretary of Justice did was to determine the innocence of the accused, which should not be done during the preliminary investigation; and that the CA disregarded such lapse.

On the other hand, Tobias posits that the core function of the Department of Justice is to prosecute the guilty in criminal cases, not to persecute; that although the prosecutors are given latitude to determine the existence of probable cause, the review power of the Secretary of Justice prevents overzealous prosecutors from persecuting the innocent; that in reversing the resolution of Malabon City Assistant Prosecutor Ojer Pacis, the Secretary of Justice only acted within his authority; that, indeed, the Secretary of Justice was correct in finding that there was lack of evidence to prove that the purported fake title was the very cause that had induced the petitioner to grant the loan; and that the Secretary likewise appropriately found that Tobias dealt with the petitioner in good faith because of lack of proof that he had employed fraud and deceit in securing the loan.

Lastly, Tobias argues that the presumption of forgery could not be applied in his case because it was METROBANK, through a representative, who had annotated the real estate mortgage with the Registry of Deeds; and that he had no access to and contact with the Registry of Deeds, and whatever went wrong after the annotation was beyond his control.

Ruling

The appeal has no merit.

Under the doctrine of separation of powers, the courts have no right to directly decide matters over which full discretionary authority has been delegated to the Executive Branch of the Government,[27] or to substitute their own judgments for that of the Executive Branch,[28] represented in this case by the Department of Justice. The settled policy is that the courts will not interfere with the executive determination of probable cause for the purpose of filing an information, in the absence of grave abuse of discretion.[29] That abuse of discretion must be so patent and gross as to amount to an evasion of a positive duty or a virtual refusal to perform a duty enjoined by law or to act at all in contemplation of law, such as where the power is exercised in an arbitrary and despotic

manner by reason of passion or hostility.[30] For instance, in *Balanganan v. Court of Appeals, Special Nineteenth Division, Cebu City*,^[31] the Court ruled that the Secretary of Justice exceeded his jurisdiction when he required “hard facts and solid evidence” in order to hold the defendant liable for criminal prosecution when such requirement should have been left to the court after the conduct of a trial.

In this regard, we stress that a preliminary investigation for the purpose of determining the existence of probable cause is not part of a trial.^[32] At a preliminary investigation, the investigating prosecutor or the Secretary of Justice only determines whether the act or omission complained of constitutes the offense charged.^[33] Probable cause refers to facts and circumstances that engender a well-founded belief that a crime has been committed and that the respondent is probably guilty thereof.^[34] There is no definitive standard by which probable cause is determined except to consider the attendant conditions; the existence of probable cause depends upon the finding of the public prosecutor conducting the examination, who is called upon not to disregard the facts presented, and to ensure that his finding should not run counter to the clear dictates of reason.^[35]

Tobias was charged with estafa through falsification of public document the elements of which are: (a) the accused uses a fictitious name, or falsely pretends to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or employs other similar deceits; (b) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (c) the offended party must have relied on the false pretense, fraudulent act or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; and (d) as a result thereof, the offended party suffered damage.^[36] It is required that the false statement or fraudulent representation constitutes the very cause or the only motive that induced the complainant to part with the thing.^[37]

METROBANK urges the application of the presumption of authorship against Tobias based on his having offered the duplicate copy of the spurious title to secure the loan; and posits that there is no requirement that the presumption shall apply only when there is absence of a valid explanation from the person found to have possessed, used and benefited from the forged document.

We cannot sustain METROBANK’s urging.

Firstly, a presumption affects the burden of proof that is normally lodged in the State.^[38] The effect is to create the need of presenting evidence to overcome the prima facie case that shall prevail in the absence of proof to the contrary.^[39] As such, a presumption of law is material during the actual trial of the criminal case where in the establishment thereof the party against whom the inference is made should adduce evidence to rebut the presumption and demolish the prima facie case.^[40] This is not so in a preliminary investigation, where the investigating prosecutor only determines the existence of a prima facie case that warrants the prosecution of a criminal case in court.^[41]

Secondly, the presumption of authorship, being disputable, may be accepted and acted upon where no evidence upholds the contention for which it stands.^[42] It is not correct to say, consequently, that the investigating prosecutor will try to determine the existence of the presumption during preliminary investigation, and then to disregard the evidence offered by the respondent. The fact that the finding of probable cause during a preliminary investigation is an executive function does not excuse the investigating prosecutor or the Secretary of Justice from discharging the duty to weigh the evidence submitted by the parties. Towards that end, the investigating prosecutor, and, ultimately, the Secretary of Justice have ample discretion to determine the existence of probable cause,^[43] a discretion that must be used to file only a criminal charge that the evidence and inferences can properly warrant.

The presumption that whoever possesses or uses a spurious document is its forger applies only in the absence of a satisfactory explanation.[44] Accordingly, we cannot hold that the Secretary of Justice erred in dismissing the information in the face of the controverting explanation by Tobias showing how he came to possess the spurious document. Much less can we consider the dismissal as done with abuse of discretion, least of all grave. We concur with the erudite exposition of the CA on the matter, to wit:

It would seem that under the above proposition of the petitioner, the moment a person has in his possession a falsified document and has made use of it, probable cause or prima facie is already established and that no amount of satisfactory explanation will prevent the filing of the case in court by the investigating officer, for any such good explanation or defense can only be threshed out in the trial on the merit. We are not to be persuaded. To give meaning to such argumentation will surely defeat the very purpose for which preliminary investigation is required in this jurisdiction.

A preliminary investigation is designed to secure the respondent involved against hasty, malicious and oppressive prosecution. A preliminary investigation is an inquiry to determine whether (a) a crime has been committed, and (b) whether there is probable cause to believe that the accused is guilty thereof (*De Ocampo vs. Secretary of Justice*, 480 SCRA 71 [2006]). It is a means of discovering the person or persons who may be reasonably charged with a crime (*Preferred Home Specialties, Inc. vs. Court of Appeals*, 478 SCRA 387, 410 [2005]). Prescindingly, under Section 3 of Rule 112 of the Rules of Criminal Procedure, the respondent must be informed of the accusation against him and shall have the right to examine the evidence against him and submit his counter-affidavit to disprove criminal liability. By far, respondent in a criminal preliminary investigation is legally entitled to explain his side of the accusation.

We are not unaware of the established presumption and rule that when it is proved that a person has in his possession a falsified document and makes use of the same the presumption or inference is that such person is the forger (*Serrano vs. Court of Appeals*, 404 SCRA 639, 651 [2003]), citing *Koh Tieck Heng vs. People*, 192 SCRA 533, 546-547 [1990]). Yet, the Supreme Court declared that in the absence of satisfactory explanation, one who is found in possession of a forged document and who used it is presumed to be the forger (citing *People vs. Sendaydiego*, 81 SCRA 120, 141 [1978]). Very clearly then, a satisfactory explanation could render ineffective the presumption which, after all, is merely a disputable one.[45]

We do not lose sight of the fact that METROBANK, a commercial bank dealing in real property, had the duty to observe due diligence to ascertain the existence and condition of the realty as well as the validity and integrity of the documents bearing on the realty.[46] Its duty included the responsibility of dispatching its competent and experience representatives to the realty to assess its actual location and condition, and of investigating who was its real owner.[47] Yet, it is evident that METROBANK did not diligently perform a thorough check on Tobias and the circumstances surrounding the realty he had offered as collateral. As such, it had no one to blame but itself. Verily, banks are expected to exercise greater care and prudence than others in their dealings because their business is impressed with public interest.[48] Their failure to do so constitutes negligence on its part.[49]

WHEREFORE, the Court DENIES the petition for review on certiorari, and AFFIRMS the decision of the Court of Appeals promulgated on December 29, 2006. The petitioner shall pay the costs of suit.

SO ORDERED.

Corona, C.J., (Chairperson), Leonardo-De Castro, Villarama, Jr., and [*]Perlas-Bernabe, JJ., concur.

[*] Vice Associate Justice Mariano C. Del Castillo, who took part in the proceedings in the Court of Appeals, per raffle of October 19, 2011.

[1] Rollo, pp. 40-51; penned by Associate Justice Conrado M. Vasquez, Jr. (later Presiding Justice, but retired), with Associate Justice Mariano C. Del Castillo (now a Member of the Court) and Associate Justice Ricardo R. Rosario concurring.

[2] Id., pp. 54-57.

[3] Id., p. 58.

[4] Id., p. 79.

[5] Id., p. 61-64.

[6] Id., p. 71.

[7] Id., p. 80.

[8] Id., p. 80.

[9] Id., pp. 65-67.

[10] Id., pp. 72-73.

[11] Id., pp. 79-81.

[12] Id., pp. 68-78.

[13] Id., p. 76.

[14] Id., pp. 85-86.

[15] Id., p. 85.

[16] Id., pp. 87-88.

[17] Id., pp. 89-93.

[18] Id., p. 60.

[19] Id., pp. 54-57.

[20] Id., pp. 106-125.

[21] Id., p. 58.

[22] Id., pp. 40-51.

[23] Id., pp. 45-47.

[24] Id., pp. 47-49.

[25] Id., pp. 50-51.

[26] Id., p. 53.

[27] Public Utilities Department, Olongapo City v. Guingona, Jr., G.R. No. 130399, September 20, 2001, 365 SCRA 467, 474.

[28] Alcaraz v. Gonzalez, G.R. No. 164715, September 20, 2006, 502 SCRA 518, 529.

[29] Reyes v. Pearlbank Securities, Inc., G.R. No. 171435, July 30, 2008, 560 SCRA 518, 535; Insular Life

Assurance Company, Limited v. Serrano, G.R. No. 163255, June 22, 2007, 525 SCRA 400, 410.

[30] Galario v. Office of the Ombudsman (Mindanao), G.R. No. 166797, July 10, 2007, 527 SCRA 190, 204, 205; First Women's Credit Corporation v. Perez, G.R. No. 169026, June 15, 2006, 490 SCRA 774, 777-778.

[31] G.R. No. 174350, August 13, 2008, 562 SCRA 184.

[32] Metropolitan Bank and Trust Company v. Reynado, G.R. No. 164538, August 9, 2010, 627 SCRA 88.

[33] Id., p. 103; also, Villanueva v. Secretary of Justice, G.R. No. 162187, November 18, 2005, 475 SCRA 495, 511.

[34] Osorio v. Desierto, G.R. No. 156652, October 13, 2005, 472 SCRA 559, 573; Filadams Pharma, Inc. v. Court of Appeals, G.R. No. 132422, March 30, 2004, 426 SCRA 460, 470.

[35] Lastrilla v. Granda, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 347.

[36] Ambito v. People, G.R. No. 127327, February 13, 2009, 579 SCRA 69, 97; Flores v. Layosa, G.R. No. 154714, August 12, 2004, 436 SCRA 337, 347.

[37] Reyes, The Revised Penal Code, Book II (2006), p. 773.

[38] Wa-acon v. People, G.R. No. 164575, December 6, 2006, 510 SCRA 429, 438.

[39] Lastrilla v. Granda, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 342-342; Salonga v. Paño, G.R. No. 59524, February 18, 1985, 134 SCRA 438, 450.

[40] Wa-acon v. People, supra, note 38.

[41] Alonzo v. Concepcion, A.M. No. RTJ-04-1879, January 17, 2005, 448 SCRA 329, 337.

[42] Sevilla v. Cardenas, G.R. No. 167684, July 31, 2006, 497 SCRA 428, 442-443; citing People v. De Guzman, G.R. No. 106025, February 9, 1994, 229 SCRA 795, 798-799.

[43] United Coconut Planters Bank v. Looyuko, G.R. No. 156337, September 28, 2007; First Women's Credit Corporation v. Perez, G.R. No. 169026, June 15, 2006, 490 SCRA 774, 777.

[44] Lastrilla v. Granda, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 342; People v. Enfermo, G.R. Nos. 148682-85, November 30, 2005, 476 SCRA 515, 532.

[45] Rollo, pp. 44-45.

[46] Cruz v. Bancom, G.R. No. 147788, March 19, 2002, 379 SCRA 490, 505.

[47] Rural Bank of Siaton (Negros Oriental), Inc. v. Macajilos, G.R. No. 152483, July 14, 2006, 495 SCRA 127; Rural Bank of Sta. Ignacia, Inc. v. Dimatulac, G.R. No. 142015, April 29, 2003, 401 SCRA 742.

[48] Cavite Development Bank v. Sps. Lim, G.R. No. 131679, February 1, 2000, 324 SCRA 346, 359; Rural Bank of Siaton (Negros Oriental), Inc. v. Macajilos, G.R. No. 152483, July 14, 2006, 495 SCRA 127, 140.

[49] Rural Bank of Sta. Ignacia, Inc. v. Dimatulac, supra, note 47, at p. 752.

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