

INTESTATE ESTATE OF MANOLITA GONZALES VDA. DE CARUNGCONG, REPRESENTED BY MEDIATRIX CARUNGCONG, AS ADMINISTRATRIX, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND WILLIAM SATO, RES...

G.R. No. 181409. February 11, 2010

Ponente: CORONA, J.

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CORONA, J.:

Article 332 of the Revised Penal Code provides:

ART. 332. Persons exempt from criminal liability. - No criminal, but only civil liability shall result from the commission of the crime of theft, swindling, or malicious mischief committed or caused mutually by the following persons:

- Spouses, ascendants and descendants, or relatives by affinity in the same line;
- The widowed spouse with respect to the property which belonged to the deceased spouse before the same shall have passed into the possession of another; and
- Brothers and sisters and brothers-in-law and sisters-in-law, if living together.

The exemption established by this article shall not be applicable to strangers participating in the commission of the crime. (emphasis supplied)

For purposes of the aforementioned provision, is the relationship by affinity created between the husband and the blood relatives of his wife (as well as between the wife and the blood relatives of her husband) dissolved by the death of one spouse, thus ending the marriage which created such relationship by affinity? Does the beneficial application of Article 332 cover the complex crime of estafa thru falsification?

Mediatrice G. Carungcong, in her capacity as the duly appointed administratrix^[1] of petitioner intestate estate of her deceased mother Manolita Gonzales vda. de Carungcong, filed a complaint-affidavit^[2] for estafa against her brother-in-law, William Sato, a Japanese national. Her complaint-affidavit read:

I, MEDIATRIX CARUNGCONG Y GONZALE[S], Filipino, of legal age, single, and resident of Unit 1111, Prince Gregory Condominium, 105 12th Avenue, Cubao, Quezon City, after being duly sworn, depose and state that:

1. I am the duly appointed Administratrix of the Intestate Estate of Manolita Carungcong Y Gonzale[s], docketed as Spec. Procs. No. [Q]-95-23621[.], Regional Trial Court of Quezon City, Branch 104, being one (1) of her surviving daughters. Copy of the Letters of Administration dated June 22, 1995 is hereto attached as Annex "A" to form an integral part hereof.

2. As such Administratrix, I am duty bound not only to preserve the properties of the Intestate Estate of Manolita Carungcong Y Gonzale[s], but also to recover such funds and/or properties as property belonging to

the estate but are presently in the possession or control of other parties.

3. After my appointment as Administratrix, I was able to confer with some of the children of my sister Zenaida Carungcong Sato[,] who predeceased our mother Manolita Carungcong Y Gonzales, having died in Japan in 1991.

4. In my conference with my nieces Karen Rose Sato and Wendy Mitsuko Sato, age[d] 27 and 24 respectively, I was able to learn that prior to the death of my mother Manolita Carungcong Y Gonzale[s], [s]pecifically on o[r] about November 24, 1992, their father William Sato, through fraudulent misrepresentations, was able to secure the signature and thumbmark of my mother on a Special Power of Attorney whereby my niece Wendy Mitsuko Sato, who was then only twenty (20) years old, was made her attorney-in-fact, to sell and dispose four (4) valuable pieces of land in Tagaytay City. Said Special Power of Attorney, copy of which is attached as ANNEX "A" of the Affidavit of Wendy Mitsuko Sato, was signed and thumbmark[ed] by my mother because William Sato told her that the documents she was being made to sign involved her taxes. At that time, my mother was completely blind, having gone blind almost ten (10) years prior to November, 1992.

5. The aforesaid Special Power of Attorney was signed by my mother in the presence of Wendy, my other niece Belinda Kiku Sato, our maid Mana Tingzon, and Governor Josephine Ramirez who later became the second wife of my sister's widower William Sato.

6. Wendy Mitsuko Sato attests to the fact that my mother signed the document in the belief that they were in connection with her taxes, not knowing, since she was blind, that the same was in fact a Special Power of Attorney to sell her Tagaytay properties.

7. On the basis of the aforesaid Special Power of Attorney, William Sato found buyers for the property and made my niece Wendy Mitsuko Sato sign three (3) deeds of absolute sale in favor of (a) Anita Ng (Doc. 2194, Page No. 41, Book No. V, Series of 1992 of Notary Public Vicente B. Custodio), (b) Anita Ng (Doc. No. 2331, Page No. 68, Book No. V, Series of 1992 of Notary Public Vicente B. Custodio) and (c) Ruby Lee Tsai (Doc. No. II, Page No. 65, Book No. II, Series of 1993 of Notary Public Toribio D. Labid). x x x

8. Per the statement of Wendy Mitsuko C. Sato, the considerations appearing on the deeds of absolute sale were not the true and actual considerations received by her father William Sato from the buyers of her grandmother's properties. She attests that Anita Ng actually paid P7,000,000.00 for the property covered by TCT No. 3148 and P7,034,000.00 for the property covered by TCT No. 3149. All the aforesaid proceeds were turned over to William Sato who undertook to make the proper accounting thereof to my mother, Manolita Carungcong Gonzale[s].

9. Again, per the statement of Wendy Mitsuko C. Sato, Ruby Lee Tsai paid P8,000,000.00 for the property covered by Tax Declaration No. GR-016-0735, and the proceeds thereof were likewise turned over to William Sato.

10. The considerations appearing on the deeds of sale were falsified as Wendy Mitsuko C. Sato has actual knowledge of the true amounts paid by the buyers, as stated in her Affidavit, since she was the signatory thereto as the attorney-in-fact of Manolita Carungcong Y Gonzale[s].

11. Wendy was only 20 years old at the time and was not in any position to oppose or to refuse her father's orders.

12. After receiving the total considerations for the properties sold under the power of attorney fraudulently secured from my mother, which total P22,034,000.00, William Sato failed to account for the same and never delivered the proceeds to Manolita Carungcong Y Gonzale[s] until the latter died on June 8, 1994.

13. Demands have been made for William Sato to make an accounting and to deliver the proceeds of the sales to me as Administratrix of my mother's estate, but he refused and failed, and continues to refuse and to fail to

do so, to the damage and prejudice of the estate of the deceased Manolita Carungcong Y Gonzale[s] and of the heirs which include his six (6) children with my sister Zenaida Carungcong Sato. x x x[3]

Wendy Mitsuko Sato's supporting affidavit and the special power of attorney allegedly issued by the deceased Manolita Gonzales vda. de Carungcong in favor of Wendy were attached to the complaint-affidavit of Mediatrix.

In a resolution dated March 25, 1997, the City Prosecutor of Quezon City dismissed the complaint.[4] On appeal, however, the Secretary of Justice reversed and set aside the resolution dated March 25, 1997 and directed the City Prosecutor of Quezon City to file an Information against Sato for violation of Article 315, paragraph 3(a) of the Revised Penal Code.[5] Thus, the following Information was filed against Sato in the Regional Trial Court of Quezon City, Branch 87:[6]

INFORMATION

The undersigned accuses WILLIAM SATO of the crime of ESTAFA under Article 315[,] par. 3(a) of the Revised Penal Code, committed as follows:

That on or about the 24[th] day of November, 1992, in Quezon City, Philippines, the above-named accused, by means of deceit, did, then and there, wil[l]fully, unlawfully and feloniously defraud MANOLITA GONZALES VDA. DE CARUNGCONG in the following manner, to wit: the said accused induced said Manolita Gonzales Vda. De Carungcong[,] who was already then blind and 79 years old[,] to sign and thumbmark a special power of attorney dated November 24, 1992 in favor of Wendy Mitsuko C. Sato, daughter of said accused, making her believe that said document involved only her taxes, accused knowing fully well that said document authorizes Wendy Mitsuko C. Sato, then a minor, to sell, assign, transfer or otherwise dispose of to any person or entity of her properties all located at Tagaytay City, as follows:

- One Thousand Eight Hundred Seven(ty) One (1,871) square meters more or less and covered by T.C.T. No. 3147;
- Five Hundred Forty (540) square meters more or less and covered by T.C.T. No. 3148 with Tax Declaration No. GR-016-0722, Cadastral Lot No. 7106;
- Five Hundred Forty (540) square meters more or less and covered by T.C.T. No. 3149 with Tax Declaration No. GR-016-0721, Cadastral Lot No. 7104;
- Eight Hundred Eighty Eight (888) square meters more or less with Tax Declaration No. GR-016-1735, Cadastral Lot No. 7062;

registered in the name of Manolita Gonzales Vda. De Carungcong, and once in the possession of the said special power of attorney and other pertinent documents, said accused made Wendy Mitsuko Sato sign the three (3) Deeds of Absolute Sale covering Transfer Certificate of Title [TCT] No. 3148 for P250,000.00, [TCT] No. 3149 for P250,000.00 and [Tax Declaration] GR-016-0735 for P650,000.00 and once in possession of the proceeds of the sale of the above properties, said accused, misapplied, misappropriated and converted the same to his own personal use and benefit, to the damage and prejudice of the heirs of Manolita Gonzales Vda. De Carungcong who died in 1994.

Contrary to law.[7]

Subsequently, the prosecution moved for the amendment of the Information so as to increase the amount of damages from P1,150,000, the total amount stated in the deeds of sale, to P22,034,000, the actual amount received by Sato.

Sato moved for the quashal of the Information, claiming that under Article 332 of the Revised Penal Code, his relationship to the person allegedly defrauded, the deceased Manolita who was his mother-in-law, was an

exempting circumstance.

The prosecution disputed Sato's motion in an opposition dated March 29, 2006.

In an order dated April 17, 2006,[8] the trial court granted Sato's motion and ordered the dismissal of the criminal case:

The Trial Prosecutor's contention is that the death of the wife of the accused severed the relationship of affinity between accused and his mother-in-law. Therefore, the mantle of protection provided to the accused by the relationship is no longer obtaining.

A judicious and thorough examination of Article 332 of the Revised Penal Code convinces this Court of the correctness of the contention of the [d]efense. While it is true that the death of Zenaida Carungcong-Sato has extinguished the marriage of accused with her, it does not erase the fact that accused and Zenaida's mother, herein complainant, are still son[-in-law] and mother-in-law and they remained son[-in-law] and mother-in-law even beyond the death of Zenaida.

Article 332(1) of the Revised Penal Code, is very explicit and states no proviso. "No criminal, but only civil liability[,] shall result from the commission of the crime of theft, swindling or malicious mischief committed or caused mutually by xxx 1) spouses, ascendants and descendants, or relatives by affinity in the same line."

Article 332, according to Aquino, in his Commentaries [to] Revised Penal Code, preserves family harmony and obviates scandal, hence even in cases of theft and malicious mischief, where the crime is committed by a stepfather against his stepson, by a grandson against his grandfather, by a son against his mother, no criminal liability is incurred by the accused only civil (Vicente Alavare, 52 Phil. 65; Adame, CA 40 OG 12[th] Supp. 63; Cristobal, 84 Phil. 473).

Such exempting circumstance is applicable herein.

WHEREFORE, finding the Motion to Quash Original Information meritorious, the same is GRANTED and, as prayed for, case is hereby DISMISSED.

SO ORDERED.[9] (underlining supplied in the original)

The prosecution's motion for reconsideration[10] was denied in an order dated June 2, 2006.[11]

Dissatisfied with the trial court's rulings, the intestate estate of Manolita, represented by Mediatrix, filed a petition for certiorari in the Court of Appeals[12] which, however, in a decision[13] dated August 9, 2007, dismissed it. It ruled:

[W]e sustain the finding of [the trial court] that the death of Zenaida did not extinguish the relationship by affinity between her husband, private respondent Sato, and her mother Manolita, and does not bar the application of the exempting circumstance under Article 332(1) of the Revised Penal Code in favor of private respondent Sato.

We further agree with the submission of the [Office of the Solicitor General (OSG)] that nothing in the law and/or existing jurisprudence supports the argument of petitioner that the fact of death of Zenaida dissolved the relationship by affinity between Manolita and private respondent Sato, and thus removed the protective mantle of Article 332 of the Revised Penal Code from said private respondent; and that notwithstanding the death of Zenaida, private respondent Sato remains to be the son-in-law of Manolita, and a brother-in-law of petitioner administratrix. As further pointed out by the OSG, the filing of the criminal case for estafa against private respondent Sato already created havoc among members of the Carungcong and Sato families as private respondent's daughter Wendy Mitsuko Sato joined cause with her aunt [Mediatrix] Carungcong y Gonzales, while two (2) other children of private respondent, William Francis and Belinda Sato, took the side of their father.

There is a dearth of jurisprudence and/or commentaries elaborating on the provision of Article 332 of the Revised Penal Code. However, from the plain language of the law, it is clear that the exemption from criminal liability for the crime of swindling (estafa) under Article 315 of the Revised Penal Code applies to private respondent Sato, as son-in-law of Manolita, they being "relatives by affinity in the same line" under Article 332(1) of the same Code. We cannot draw the distinction that following the death of Zenaida in 1991, private respondent Sato is no longer the son-in-law of Manolita, so as to exclude the former from the exempting circumstance provided for in Article 332 (1) of the Revised Penal Code.

Ubi lex non distinguit nec nos distinguere debemos. Basic is the rule in statutory construction that where the law does not distinguish, the courts should not distinguish. There should be no distinction in the application of law where none is indicated. The courts could only distinguish where there are facts or circumstances showing that the lawgiver intended a distinction or qualification. In such a case, the courts would merely give effect to the lawgiver's intent. The solemn power and duty of the Court to interpret and apply the law does not include the power to correct by reading into the law what is not written therein.

Further, it is an established principle of statutory construction that penal laws are strictly construed against the State and liberally in favor of the accused. Any reasonable doubt must be resolved in favor of the accused. In this case, the plain meaning of Article 332 (1) of the Revised Penal Code's simple language is most favorable to Sato.[14]

The appellate court denied reconsideration.[15] Hence, this petition.

Petitioner contends that the Court of Appeals erred in not reversing the orders of the trial court. It cites the commentary of Justice Luis B. Reyes in his book on criminal law that the rationale of Article 332 of the Revised Penal Code exempting the persons mentioned therein from criminal liability is that the law recognizes the presumed co-ownership of the property between the offender and the offended party. Here, the properties subject of the estafa case were owned by Manolita whose daughter, Zenaida Carungcong-Sato (Sato's wife), died on January 28, 1991. Hence, Zenaida never became a co-owner because, under the law, her right to the three parcels of land could have arisen only after her mother's death. Since Zenaida predeceased her mother, Manolita, no such right came about and the mantle of protection provided to Sato by the relationship no longer existed.

Sato counters that Article 332 makes no distinction that the relationship may not be invoked in case of death of the spouse at the time the crime was allegedly committed. Thus, while the death of Zenaida extinguished her marriage with Sato, it did not dissolve the son-in-law and mother-in-law relationship between Sato and Zenaida's mother, Manolita.

For his part, the Solicitor General maintains that Sato is covered by the exemption from criminal liability provided under Article 332. Nothing in the law and jurisprudence supports petitioner's claim that Zenaida's death dissolved the relationship by affinity between Sato and Manolita. As it is, the criminal case against Sato created havoc among the members of the Carungcong and Sato families, a situation sought to be particularly avoided by Article 332's provision exempting a family member committing theft, estafa or malicious mischief from criminal liability and reducing his/her liability to the civil aspect only.

The petition has merit.

The resolution of this case rests on the interpretation of Article 332 of the Revised Penal Code. In particular, it calls for the determination of the following: (1) the effect of death on the relationship by affinity created between a surviving spouse and the blood relatives of the deceased spouse and (2) the extent of the coverage of Article 332.

Effect of Death on Relationship

By Affinity as Absolutory Cause

Article 332 provides for an absolutory cause^[16] in the crimes of theft, estafa (or swindling) and malicious mischief. It limits the responsibility of the offender to civil liability and frees him from criminal liability by virtue of his relationship to the offended party.

In connection with the relatives mentioned in the first paragraph, it has been held that included in the exemptions are parents-in-law, stepparents and adopted children.^[17] By virtue thereof, no criminal liability is incurred by the stepfather who commits malicious mischief against his stepson;^[18] by the stepmother who commits theft against her stepson;^[19] by the stepfather who steals something from his stepson;^[20] by the grandson who steals from his grandfather;^[21] by the accused who swindles his sister-in-law living with him;^[22] and by the son who steals a ring from his mother.^[23]

Affinity is the relation that one spouse has to the blood relatives of the other spouse. It is a relationship by marriage or a familial relation resulting from marriage.^[24] It is a fictive kinship, a fiction created by law in connection with the institution of marriage and family relations.

If marriage gives rise to one's relationship by affinity to the blood relatives of one's spouse, does the extinguishment of marriage by the death of the spouse dissolve the relationship by affinity?

Philippine jurisprudence has no previous encounter with the issue that confronts us in this case. That is why the trial and appellate courts acknowledged the "dearth of jurisprudence and/or commentaries" on the matter. In contrast, in the American legal system, there are two views on the subject. As one Filipino author observed:

In case a marriage is terminated by the death of one of the spouses, there are conflicting views. There are some who believe that relationship by affinity is not terminated whether there are children or not in the marriage (*Carman vs. Newell*, N.Y. 1 [Denio] 25, 26). However, the better view supported by most judicial authorities in other jurisdictions is that, if the spouses have no living issues or children and one of the spouses dies, the relationship by affinity is dissolved. It follows the rule that relationship by affinity ceases with the dissolution of the marriage which produces it (*Kelly v. Neely*, 12 Ark. 657, 659, 56 Am Dec. 288). On the other hand, the relationship by affinity is continued despite the death of one of the spouses where there are living issues or children of the marriage "in whose veins the blood of the parties are commingled, since the relationship of affinity was continued through the medium of the issue of the marriage" (*Paddock vs. Wells*, 2 Barb. Ch. 331, 333).^[25]

The first view (the terminated affinity view) holds that relationship by affinity terminates with the dissolution of the marriage either by death or divorce which gave rise to the relationship of affinity between the parties.^[26] Under this view, the relationship by affinity is simply coextensive and coexistent with the marriage that produced it. Its duration is indispensably and necessarily determined by the marriage that created it. Thus, it exists only for so long as the marriage subsists, such that the death of a spouse ipso facto ends the relationship by affinity of the surviving spouse to the deceased spouse's blood relatives.

The first view admits of an exception. The relationship by affinity continues even after the death of one spouse when there is a surviving issue.^[27] The rationale is that the relationship is preserved because of the living issue of the marriage in whose veins the blood of both parties is commingled.^[28]

The second view (the continuing affinity view) maintains that relationship by affinity between the surviving spouse and the kindred of the deceased spouse continues even after the death of the deceased spouse, regardless of whether the marriage produced children or not.^[29] Under this view, the relationship by affinity endures even after the dissolution of the marriage that produced it as a result of the death of one of the parties to the said marriage. This view considers that, where statutes have indicated an intent to benefit step-relatives or in-laws, the

"tie of affinity" between these people and their relatives-by-marriage is not to be regarded as terminated upon the death of one of the married parties.[30]

After due consideration and evaluation of the relative merits of the two views, we hold that the second view is more consistent with the language and spirit of Article 332(1) of the Revised Penal Code.

First, the terminated affinity view is generally applied in cases of jury disqualification and incest.[31] On the other hand, the continuing affinity view has been applied in the interpretation of laws that intend to benefit step-relatives or in-laws. Since the purpose of the absolatory cause in Article 332(1) is meant to be beneficial to relatives by affinity within the degree covered under the said provision, the continuing affinity view is more appropriate.

Second, the language of Article 332(1) which speaks of "relatives by affinity in the same line" is couched in general language. The legislative intent to make no distinction between the spouse of one's living child and the surviving spouse of one's deceased child (in case of a son-in-law or daughter-in-law with respect to his or her parents-in-law)[32] can be drawn from Article 332(1) of the Revised Penal Code without doing violence to its language.

Third, the Constitution declares that the protection and strengthening of the family as a basic autonomous social institution are policies of the State and that it is the duty of the State to strengthen the solidarity of the family.[33] Congress has also affirmed as a State and national policy that courts shall preserve the solidarity of the family.[34] In this connection, the spirit of Article 332 is to preserve family harmony and obviate scandal.[35] The view that relationship by affinity is not affected by the death of one of the parties to the marriage that created it is more in accord with family solidarity and harmony.

Fourth, the fundamental principle in applying and in interpreting criminal laws is to resolve all doubts in favor of the accused. In dubio pro reo. When in doubt, rule for the accused.[36] This is in consonance with the constitutional guarantee that the accused shall be presumed innocent unless and until his guilt is established beyond reasonable doubt.[37]

Intimately related to the in dubio pro reo principle is the rule of lenity.[38] The rule applies when the court is faced with two possible interpretations of a penal statute, one that is prejudicial to the accused and another that is favorable to him. The rule calls for the adoption of an interpretation which is more lenient to the accused.

Lenity becomes all the more appropriate when this case is viewed through the lens of the basic purpose of Article 332 of the Revised Penal Code to preserve family harmony by providing an absolatory cause. Since the goal of Article 332(1) is to benefit the accused, the Court should adopt an application or interpretation that is more favorable to the accused. In this case, that interpretation is the continuing affinity view.

Thus, for purposes of Article 332(1) of the Revised Penal Code, we hold that the relationship by affinity created between the surviving spouse and the blood relatives of the deceased spouse survives the death of either party to the marriage which created the affinity. (The same principle applies to the justifying circumstance of defense of one's relatives under Article 11[2] of the Revised Penal Code, the mitigating circumstance of immediate vindication of grave offense committed against one's relatives under Article 13[5] of the same Code and the absolatory cause of relationship in favor of accessories under Article 20 also of the same Code.)

SCOPE OF ARTICLE 332 OF THE REVISED PENAL CODE

The absolatory cause under Article 332 of the Revised Penal Code only applies to the felonies of theft, swindling

and malicious mischief. Under the said provision, the State condones the criminal responsibility of the offender in cases of theft, swindling and malicious mischief. As an act of grace, the State waives its right to prosecute the offender for the said crimes but leaves the private offended party with the option to hold the offender civilly liable.

However, the coverage of Article 332 is strictly limited to the felonies mentioned therein. The plain, categorical and unmistakable language of the provision shows that it applies exclusively to the simple crimes of theft, swindling and malicious mischief. It does not apply where any of the crimes mentioned under Article 332 is complexed with another crime, such as theft through falsification or estafa through falsification.[39]

The Information against Sato charges him with estafa. However, the real nature of the offense is determined by the facts alleged in the Information, not by the designation of the offense.[40] What controls is not the title of the Information or the designation of the offense but the actual facts recited in the Information.[41] In other words, it is the recital of facts of the commission of the offense, not the nomenclature of the offense, that determines the crime being charged in the Information.[42] It is the exclusive province of the court to say what the crime is or what it is named.[43] The determination by the prosecutor who signs the Information of the crime committed is merely an opinion which is not binding on the court.[44]

A reading of the facts alleged in the Information reveals that Sato is being charged not with simple estafa but with the complex crime of estafa through falsification of public documents. In particular, the Information states that Sato, by means of deceit, intentionally defrauded Manolita committed as follows:

(a)

Sato presented a document to Manolita (who was already blind at that time) and induced her to sign and thumbmark the same;

(b)

he made Manolita believe that the said document was in connection with her taxes when it was in fact a special power of attorney (SPA) authorizing his minor daughter Wendy to sell, assign, transfer or otherwise dispose of Manolita's properties in Tagaytay City;

(c)

relying on Sato's inducement and representation, Manolita signed and thumbmarked the SPA in favor of Wendy Mitsuko Sato, daughter of Sato;

(d)

using the document, he sold the properties to third parties but he neither delivered the proceeds to Manolita nor accounted for the same and despite repeated demands, he failed and refused to deliver the proceeds, to the damage and prejudice of the estate of Manolita.

The above averments in the Information show that the estafa was committed by attributing to Manolita (who participated in the execution of the document) statements other than those in fact made by her. Manolita's acts of signing the SPA and affixing her thumbmark to that document were the very expression of her specific intention that something be done about her taxes. Her signature and thumbmark were the affirmation of her statement on such intention as she only signed and thumbmarked the SPA (a document which she could not have read) because of Sato's representation that the document pertained to her taxes. In signing and thumbmarking the document, Manolita showed that she believed and adopted the representations of Sato as to what the document was all about, i.e., that it involved her taxes. Her signature and thumbmark, therefore, served as her conformity to Sato's

proposal that she execute a document to settle her taxes.

Thus, by inducing Manolita to sign the SPA, Sato made it appear that Manolita granted his daughter Wendy a special power of attorney for the purpose of selling, assigning, transferring or otherwise disposing of Manolita's Tagaytay properties when the fact was that Manolita signed and thumbmarked the document presented by Sato in the belief that it pertained to her taxes. Indeed, the document itself, the SPA, and everything that it contained were falsely attributed to Manolita when she was made to sign the SPA.

Moreover, the allegations in the Information that

(1)

"once in the possession of the said special power of attorney and other pertinent documents, [Sato] made Wendy Mitsuko Sato sign the three (3) Deeds of Absolute Sale" and

(2)

"once in possession of the proceeds of the sale of the above properties, said accused, misapplied, misappropriated and converted the same to his own personal use and benefit"

raise the presumption that Sato, as the possessor of the falsified document and the one who benefited therefrom, was the author thereof.

Furthermore, it should be noted that the prosecution moved for the amendment of the Information so as to increase the amount of damages from P1,150,000 to P22,034,000. This was granted by the trial court and was affirmed by the Court of Appeals on certiorari. This meant that the amended Information would now state that, while the total amount of consideration stated in the deeds of absolute sale was only P1,150,000, Sato actually received the total amount of P22,034,000 as proceeds of the sale of Manolita's properties.[45] This also meant that the deeds of sale (which were public documents) were also falsified by making untruthful statements as to the amounts of consideration stated in the deeds.

Therefore, the allegations in the Information essentially charged a crime that was not simple estafa. Sato resorted to falsification of public documents (particularly, the special power of attorney and the deeds of sale) as a necessary means to commit the estafa.

Since the crime with which respondent was charged was not simple estafa but the complex crime of estafa through falsification of public documents, Sato cannot avail himself of the absolatory cause provided under Article 332 of the Revised Penal Code in his favor.

EFFECT OF ABSOLUTORY CAUSE UNDER ARTICLE 332 ON CRIMINAL LIABILITY FOR THE COMPLEX CRIME OF ESTAFA THROUGH FALSIFICATION OF PUBLIC DOCUMENTS

The question may be asked: if the accused may not be held criminally liable for simple estafa by virtue of the absolatory cause under Article 332 of the Revised Penal Code, should he not be absolved also from criminal liability for the complex crime of estafa through falsification of public documents? No.

True, the concurrence of all the elements of the two crimes of estafa and falsification of public document is required for a proper conviction for the complex crime of estafa through falsification of public document. That is the ruling in *Gonzaludo v. People*.^[46] It means that the prosecution must establish that the accused resorted to the

falsification of a public document as a necessary means to commit the crime of estafa.

However, a proper appreciation of the scope and application of Article 332 of the Revised Penal Code and of the nature of a complex crime would negate exemption from criminal liability for the complex crime of estafa through falsification of public documents, simply because the accused may not be held criminally liable for simple estafa by virtue of the absolatory cause under Article 332.

The absolatory cause under Article 332 is meant to address specific crimes against property, namely, the simple crimes of theft, swindling and malicious mischief. Thus, all other crimes, whether simple or complex, are not affected by the absolatory cause provided by the said provision. To apply the absolatory cause under Article 332 of the Revised Penal Code to one of the component crimes of a complex crime for the purpose of negating the existence of that complex crime is to unduly expand the scope of Article 332. In other words, to apply Article 332 to the complex crime of estafa through falsification of public document would be to mistakenly treat the crime of estafa as a separate simple crime, not as the component crime that it is in that situation. It would wrongly consider the indictment as separate charges of estafa and falsification of public document, not as a single charge for the single (complex) crime of estafa through falsification of public document.

Under Article 332 of the Revised Penal Code, the State waives its right to hold the offender criminally liable for the simple crimes of theft, swindling and malicious mischief and considers the violation of the juridical right to property committed by the offender against certain family members as a private matter and therefore subject only to civil liability. The waiver does not apply when the violation of the right to property is achieved through (and therefore inseparably intertwined with) a breach of the public interest in the integrity and presumed authenticity of public documents. For, in the latter instance, what is involved is no longer simply the property right of a family relation but a paramount public interest.

The purpose of Article 332 is to preserve family harmony and obviate scandal.[47] Thus, the action provided under the said provision simply concerns the private relations of the parties as family members and is limited to the civil aspect between the offender and the offended party. When estafa is committed through falsification of a public document, however, the matter acquires a very serious public dimension and goes beyond the respective rights and liabilities of family members among themselves. Effectively, when the offender resorts to an act that breaches public interest in the integrity of public documents as a means to violate the property rights of a family member, he is removed from the protective mantle of the absolatory cause under Article 332.

In considering whether the accused is liable for the complex crime of estafa through falsification of public documents, it would be wrong to consider the component crimes separately from each other. While there may be two component crimes (estafa and falsification of documents), both felonies are animated by and result from one and the same criminal intent for which there is only one criminal liability.[48] That is the concept of a complex crime. In other words, while there are two crimes, they are treated only as one, subject to a single criminal liability.

As opposed to a simple crime where only one juridical right or interest is violated (e.g., homicide which violates the right to life, theft which violates the right to property),[49] a complex crime constitutes a violation of diverse juridical rights or interests by means of diverse acts, each of which is a simple crime in itself.[50] Since only a single criminal intent underlies the diverse acts, however, the component crimes are considered as elements of a single crime, the complex crime. This is the correct interpretation of a complex crime as treated under Article 48 of the Revised Penal Code.

In the case of a complex crime, therefore, there is a formal (or ideal) plurality of crimes where the same criminal intent results in two or more component crimes constituting a complex crime for which there is only one criminal

liability.[51] (The complex crime of estafa through falsification of public document falls under this category.) This is different from a material (or real) plurality of crimes where different criminal intents result in two or more crimes, for each of which the accused incurs criminal liability.[52] The latter category is covered neither by the concept of complex crimes nor by Article 48.

Under Article 48 of the Revised Penal Code, the formal plurality of crimes (*concursum delictuorum* or *concurso de delictos*) gives rise to a single criminal liability and requires the imposition of a single penalty:

Although [a] complex crime quantitatively consists of two or more crimes, it is only one crime in law on which a single penalty is imposed and the two or more crimes constituting the same are more conveniently termed as component crimes.[53] (emphasis supplied)

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In [a] complex crime, although two or more crimes are actually committed, they constitute only one crime in the eyes of the law as well as in the conscience of the offender. The offender has only one criminal intent. Even in the case where an offense is a necessary means for committing the other, the evil intent of the offender is only one.[54]

For this reason, while a conviction for estafa through falsification of public document requires that the elements of both estafa and falsification exist, it does not mean that the criminal liability for estafa may be determined and considered independently of that for falsification. The two crimes of estafa and falsification of public documents are not separate crimes but component crimes of the single complex crime of estafa and falsification of public documents.

Therefore, it would be incorrect to claim that, to be criminally liable for the complex crime of estafa through falsification of public document, the liability for estafa should be considered separately from the liability for falsification of public document. Such approach would disregard the nature of a complex crime and contradict the letter and spirit of Article 48 of the Revised Penal Code. It would wrongly disregard the distinction between formal plurality and material plurality, as it improperly treats the plurality of crimes in the complex crime of estafa through falsification of public document as a mere material plurality where the felonies are considered as separate crimes to be punished individually.

FALSIFICATION OF PUBLIC DOCUMENTS MAY BE A NECESSARY MEANS FOR COMMITTING ESTAFA EVEN UNDER ARTICLE 315 (3[A])

The elements of the offense of estafa punished under Article 315 (3[a]) of the Revised Penal Code are as follows:

- (1) the offender induced the offended party to sign a document;
- (2) deceit was employed to make the offended party sign the document;
- (3) the offended party personally signed the document and
- (4) prejudice is caused to the offended party.

While in estafa under Article 315(a) of the Revised Penal Code, the law does not require that the document be falsified for the consummation thereof, it does not mean that the falsification of the document cannot be considered as a necessary means to commit the estafa under that provision.

The phrase "necessary means" does not connote indispensable means for if it did, then the offense as a "necessary means" to commit another would be an indispensable element of the latter and would be an ingredient thereof.[55]

In *People v. Salvilla*,^[56] the phrase "necessary means" merely signifies that one crime is committed to facilitate and insure the commission of the other.^[57] In this case, the crime of falsification of public document, the SPA, was such a "necessary means" as it was resorted to by Sato to facilitate and carry out more effectively his evil design to swindle his mother-in-law. In particular, he used the SPA to sell the Tagaytay properties of Manolita to unsuspecting third persons.

When the offender commits in a public document any of the acts of falsification enumerated in Article 171 of the Revised Penal Code as a necessary means to commit another crime, like estafa, theft or malversation, the two crimes form a complex crime under Article 48 of the same Code.^[58] The falsification of a public, official or commercial document may be a means of committing estafa because, before the falsified document is actually utilized to defraud another, the crime of falsification has already been consummated, damage or intent to cause damage not being an element of the crime of falsification of a public, official or commercial document.^[59] In other words, the crime of falsification was committed prior to the consummation of the crime of estafa.^[60] Actually utilizing the falsified public, official or commercial document to defraud another is estafa.^[61] The damage to another is caused by the commission of estafa, not by the falsification of the document.^[62]

Applying the above principles to this case, the allegations in the Information show that the falsification of public document was consummated when Sato presented a ready-made SPA to Manolita who signed the same as a statement of her intention in connection with her taxes. While the falsification was consummated upon the execution of the SPA, the consummation of the estafa occurred only when Sato later utilized the SPA. He did so particularly when he had the properties sold and thereafter pocketed the proceeds of the sale. Damage or prejudice to Manolita was caused not by the falsification of the SPA (as no damage was yet caused to the property rights of Manolita at the time she was made to sign the document) but by the subsequent use of the said document. That is why the falsification of the public document was used to facilitate and ensure (that is, as a necessary means for) the commission of the estafa.

The situation would have been different if Sato, using the same inducement, had made Manolita sign a deed of sale of the properties either in his favor or in favor of third parties. In that case, the damage would have been caused by, and at exactly the same time as, the execution of the document, not prior thereto. Therefore, the crime committed would only have been the simple crime of estafa.^[63] On the other hand, absent any inducement (such as if Manolita herself had been the one who asked that a document pertaining to her taxes be prepared for her signature, but what was presented to her for her signature was an SPA), the crime would have only been the simple crime of falsification.^[64]

WHEREFORE, the petition is hereby GRANTED. The decision dated August 9, 2007 and the resolution dated January 23, 2008 of the Court of Appeals in CA-G.R. S.P. No. 95260 are REVERSED and SET ASIDE. The case is remanded to the trial court which is directed to try the accused with dispatch for the complex crime of estafa through falsification of public documents.

SO ORDERED.

Velasco, Jr., Nachura, Peralta, and Mendoza, JJ., concur.

[1] Per letters of administration dated June 22, 1995 issued by the Regional Trial Court of Quezon City, Branch 104 in SP. Proc. Q-95-23621.

[2] Docketed as I.S. No. 96-19651. Rollo, pp. 89-90.

[3] Id.

[4] Id., pp. 85-88.

[5] Resolution No. 313, s. 2000 dated February 17, 2000. Id., pp. 81-84.

[6] Docketed as Criminal Case No. Q-00-91385. Id., pp. 91-92.

[7] Id.

[8] Penned by Judge Fatima Gonzales-Asdala. Id., pp. 126-129.

[9] Id.

[10] Dated April 26, 2006. Id., pp. 130-131.

[11] Id., p. 131.

[12] Docketed as CA-G.R. S.P. No. 95260.

[13] Penned by Associate Justice Celia C. Librea-Leagogo and concurred in by Associate Justices Regalado E. Maambong (retired) and Sixto C. Marella, Jr. of the Seventeenth Division of the Court of Appeals. Rollo, pp. 28-40.

[14] Id.

[15] Id., pp. 42-43.

[16] An absolatory cause is a circumstance which is present prior to or simultaneously with the offense by reason of which the accused who acts with criminal intent, freedom and intelligence does not incur criminal liability for an act that constitutes a crime (Regalado, Florenz, Criminal Law Conspectus, Third Edition, 61-62 [2007]).

[17] Id., p. 736.

[18] *People v. Alvarez*, 52 Phil. 65 (1928).

[19] Aquino, Ramon and Carolina Griño Aquino, *The Revised Penal Code*, Volume III, 374 (1997), citing *People v. Adame*, CA 40 O.G. Supp. No. 12, p. 63.

[20] Id. citing *People v. Tupasi*, 36 O.G. 2086.

[21] Id. citing *People v. Patubo*, CA-G.R. No. 10616-R, 15 August 1953.

[22] Id. citing *People v. Navas*, CA 51 O.G. 219.

[23] Id. citing *People v. Cristobal*, 84 Phil. 473 (1949).

[24] *Blodget v. Brinsmaid*, 9 Vt. 27, 1837 WL 1956 (Vt.).

[25] Sta. Maria, Melencio, *PERSONS AND FAMILY RELATIONS LAW*, Fourth Edition, 228-229 (2004).

[26] *Back v. Back*, L.R.A. 1916C,752, 148 Iowa 223, 125 N.W. 1009, Am. Ann. Cas. 1912B, 1025 citing *Blodget v. Brinsmaid*, 9 Vt. 27; *Noble v. State*, 22 Ohio St. 541; *State v. Brown*, 47 Ohio St. 102, 23 N. E. 747, 21 Am. St. Rep. 790; *Wilson v. State*, 100 Tenn. 596, 46 S. W. 451, 66 Am. St. Rep. 789; *Johnson v. State*, 20 Tex. App. 609, 54 Am. Rep. 535; *Pegues v. Baker*, 110 Ala. 251, 17 South. 943; *Tagert v. State*, 143 Ala. 88, 39 South. 293, 111 Am. St. Rep. 17; *Bigelow v. Sprague*, 140 Mass. 425, 5 N. E. 144; *Vannoy v. Givens*, 23 N. J. Law, 201; 1 Bishop, *New Crim. Procedure*, § 901; 26 Cyc. 845.

[27] In this connection, one of the commentators on the Revised Penal Code wrote:

Death of the spouse terminates the relationship by affinity (*Kelly v. Neely*, 12 Ark. 6[5]7, 659, 56 AmD 288; *Chase v. Jennings*, 38 Me. 44, 45) unless the marriage has resulted in issue who is still living, in which case the relationship of affinity continues (*Dearmond v. Dearmond*, 10 Ind. 191; *Bigelow v. Sprague*, 140 Mass. 425, 5 NE 144).

See Reyes, Luis B., Revised Penal Code, Book I, Fifteenth Edition Revised 188, (2001).

[28] *In re Bourdeux' Estate*, 37 Wash. 2d 561, 225 P.2d 433, 26 A.L.R. 2d 249.

[29] *Carman v. Newell*, N.Y. 1 Denio 25.

[30] *In re Bourdeux' Estate*, supra. This view has been adopted and applied in *Security Union Casualty Co. v. Kelly*, Tex.Civ.App., 299 S.W. 286; *American General Insurance Co. v. Richardson*, Tex.Civ.App., 132 S.W.2d 161; *Simcoke v. Grand Lodge of A. O. U. W. of Iowa*, 84 Iowa 383, 51 N.W. 8, 15 L.R.A. 114; *Faxon v. Grand Lodge Brotherhood of Locomotive Firemen and M. E. Rhea*, 87 Ill.App. 262; *McGaughey v. Grand Lodge A. O. U. W. of State of Minnesota*, 148 Minn. 136, 180 N.W. 1001; *Hernandez v. Supreme Forest Woodmen Circle*, Tex.Civ.App., 80 S.W.2d 346; *Renner v. Supreme Lodge of Bohemian Slavonian Benevolent Society*, 89 Wis. 401, 62 N.W. 80 following *Jones v. Mangan*, 151 Wis. 215, 138 N.W. 618; *Steele v. Suwalski*, 7 Cir., 75 F.2d 885, 99 A.L.R. 588; *Benefield v. United States*, D.C., 58 F.Supp. 904; *Lewis v. O'Hair*, Tex.Civ.App., 130 S.W.2d 379.

[31] Indeed, *Kelly v. Neely*, supra note 27, *Paddock v. Wells*, 2 Barb. Ch. 331, 333, *Chase v. Jennings*, supra note 27, *Dearmond v. Dearmond*, supra note 27 and *Bigelow v. Sprague*, supra note 27 are all jury disqualification cases.

[32] Or between the child of a living parent and the surviving child of a deceased parent (in case of a stepchild with respect to the stepparent).

[33] Section 12, Article II and Section 1, Article 15.

[34] Section 2, Republic Act No. 8369 (Family Courts Act of 1997).

[35] *Aquino and Griño Aquino*, supra note 19.

[36] See Justice Renato C. Corona's separate (concurring) opinion in *People v. Temporada* (G.R. No., 173473, 17 December 2008, 574 SCRA 258, 318-328).

[37] See Section 14 (2), Article III, Constitution.

[38] Justice Corona's separate (concurring) opinion in *People v. Temporada*, supra.

[39] *Regalado, Florenz*, supra note 16, p. 736.

[40] *Malto v. People*, G.R. No. 164733, 21 September 2007, 533 SCRA 643.

[41] *Id.* citing *People v. Resayaga*, G.R. No. 49536, 30 March 1988, 159 SCRA 426 and *Santos v. People*, G.R. No. 77429, 29 January 1990, 181 SCRA 487.

[42] *Id.* citing *People v. Elesterio*, G.R. No. 63971, 09 May 1989, 173 SCRA 243.

[43] *Herrera, Oscar*, Remedial Law, Volume Four - Criminal Procedure, 59 (1992 Edition reprinted in 2001).

[44] *People v. Gorospe*, 53 Phil. 960 (1928).

[45] While the parties as well as the CA and RTC decisions spoke of an amended Information, the said amended Information was not included in the records of this case.

[46] G.R. No. 150910, 06 February 2006, 481 SCRA 569.

[47] Aquino, Ramon and Carolina Griño Aquino, *The Revised Penal Code*, Volume III, 374 (1997).

[48] Regalado, *supra* note 16, p. 172.

[49] Aquino, Ramon and Carolina Griño Aquino, *supra* note 47 at p. 662.

[50] *Id.*

[51] Regalado, *supra* note 6, p. 172.

[52] *Id.*

[53] *Id.*, p. 176.

[54] Reyes, *supra* note 8, p. 650.

[55] *People v. Salvilla*, G.R. No. 86163, 26 April 1989, 184 SCRA 671.

[56] *Id.*

[57] *Id.*

[58] Reyes, *supra* note 20 at p. 226.

[59] *Id.*

[60] *Id.*

[61] *Id.*

[62] *Id.*

[63] See *United States v. Berry*, 5 Phil. 370 (1905) and *United States v. Malong*, 36 Phil. 821 (1917).

[64] See *United States v. Capule*, 24 Phil. 12 (1913).

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