

PEOPLE OF THE PHILIPPINES PETITIONER, VS. JOSE C. GO, AIDA C. DELA ROSA, AND FELECITAS D. NECOMEDES, RESPONDENTS.

G.R. No. 191015. August 06, 2014

Ponente: DEL CASTILLO, J.

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DEL CASTILLO, J.:

The power of courts to grant demurrer in criminal cases should be exercised with great caution, because not only the rights of the accused – but those of the offended party and the public interest as well – are involved. Once granted, the accused is acquitted and the offended party may be left with no recourse. Thus, in the resolution of demurrers, judges must act with utmost circumspection and must engage in intelligent deliberation and reflection, drawing on their experience, the law and jurisprudence, and delicately evaluating the evidence on hand.

This Petition for Review on Certiorari[1] seeks to set aside the September 30, 2009 Decision[2] of the Court of Appeals (CA) in CA-G.R. SP No. 101823, entitled “People of the Philippines, Petitioner, versus Hon. Concepcion Alarcon-Vergara et al., Respondents,” as well as its January 22, 2010 Resolution[3] denying reconsideration of the assailed judgment.

Factual Antecedents

The following facts appear from the account of the CA:

On October 14, 1998, the Monetary Board of the Bangko Sentral ng Pilipinas (BSP) issued Resolution No. 1427 ordering the closure of the Orient Commercial Banking Corporation (OCBC) and placing such bank under the receivership of the Philippine Deposit Insurance Corporation (PDIC). PDIC, as the statutory receiver of OCBC, effectively took charge of OCBC’s assets and liabilities in accordance with its mandate under Section 30 of Republic Act 7653.

x x x x

While all the aforementioned events were transpiring, PDIC began collecting on OCBC’s past due loans receivable by sending demand letters to its borrowers for the immediate settlement of their outstanding loans. Allegedly among these borrowers of OCBC are Timmy’s, Inc. and Asia Textile Mills, Inc. which appeared to have obtained a loan of [P]10 Million each. A representative of Timmy’s, Inc. denied being granted any loan by OCBC and insisted that the signatures on the loan documents were falsified. A representative of Asia Textile Mills, Inc. denied having applied, much less being granted, a loan by OCBC.

The PDIC conducted an investigation and allegedly came out with a finding that the loans purportedly in the names of Timmy’s, Inc. and Asia Textile Mills, Inc. were released in the form of manager’s checks in the name of Philippine Recycler’s and Zeta International, Inc. These manager’s checks were then allegedly deposited to the savings account of the private respondent Jose C. Go with OCBC and, thereafter, were automatically transferred to his current account in order to fund personal checks issued by him earlier.

On September 24, 1999, PDIC filed a complaint[4] for two (2) counts of Estafa thru Falsification of Commercial Documents in the Office of the City Prosecutor of the City of Manila against the private

respondents in relation to the purported loans of Timmy's, Inc. and Asia Textile Mills, Inc.

On November 22, 2000, after finding probable cause, the Office of the City Prosecutor of the City of Manila filed Informations[5] against the private respondents which were docketed as Criminal Case Nos. 00-187318 and 00-187319 in the RTC in Manila.

Upon being subjected to arraignment by the RTC in Manila, the private respondents pleaded not guilty to the criminal cases filed against them. A pre-trial was conducted. Thereafter, trial of the cases ensued and the prosecution presented its evidence. After the presentation of all of the prosecution's evidence, the private respondents filed a Motion for Leave to File Demurrer to Evidence and a Motion for Voluntary Inhibition. The presiding judge granted the private respondents' Motion for Voluntary Inhibition and ordered the case to be re-raffled to another branch. The case was subsequently re-raffled to the branch of the respondent RTC judge.[6]

In an Order dated December 19, 2006, the respondent RTC judge granted the private respondents' Motion for Leave to File Demurrer to Evidence. On January 17, 2007, the private respondents filed their Demurrer to Evidence[7] praying for the dismissal of the criminal cases instituted against them due to the failure of the prosecution to establish their guilt beyond reasonable doubt.

On July 2, 2007, an Order[8] was promulgated by the respondent RTC judge finding the private respondents' Demurrer to Evidence to be meritorious, dismissing the Criminal Case Nos. 00-187318 and 00-187319 and acquitting all of the accused in these cases. On July 20, 2007, the private prosecutor in Criminal Case Nos. 00-187318 and 00-187319 moved for a reconsideration of the July 2, 2007 Order but the same was denied by the respondent RTC judge in an Order[9] dated October 19, 2007.[10]

Surprisingly, and considering that hundreds of millions of Orient Commercial Banking Corporation (OCBC) depositors' money appear to have been lost – which must have contributed to the bank's being placed under receivership, no motion for reconsideration of the July 2, 2007 Order granting respondents' demurrer to evidence was filed by the handling public prosecutor, Manila Prosecutor Marlo B. Campanilla (Campanilla). Only complainant Philippine Deposit Insurance Corporation (PDIC) filed a Motion for Reconsideration, and the same lacked Campanilla's approval and/or conformé; the copy of the Motion for Reconsideration filed with the RTC[11] does not bear Campanilla's approval/conformé; instead, it indicates that he was merely furnished with a copy of the motion by registered mail.[12] Thus, while the prosecution's copy of PDIC's Motion for Reconsideration[13] bore Campanilla's subsequent approval and conformity, that which was actually filed by PDIC with the RTC on July 30, 2007 did not contain the public prosecutor's written approval and/or conformity.

Ruling of the Court of Appeals

On January 4, 2008, the prosecution, through the Office of the Solicitor General (OSG), filed an original Petition for Certiorari[14] with the CA assailing the July 2, 2007 Order of the trial court. It claimed that the Order was issued with grave abuse of discretion amounting to lack or excess of jurisdiction; that it was issued with partiality; that the prosecution was deprived of its day in court; and that the trial court disregarded the evidence presented, which undoubtedly showed that respondents committed the crime of estafa through falsification of commercial documents.

On September 30, 2009, the CA issued the assailed Decision with the following decretal portion:

WHEREFORE, in view of the foregoing premises, the petition filed in this case is hereby DENIED and the assailed Orders of the respondent RTC judge are AFFIRMED and deemed final and executory.

SO ORDERED.[15]

Notably, in dismissing the Petition, the appellate court held that the assailed July 2, 2007 Order of the trial court

became final since the prosecution failed to move for the reconsideration thereof, and thus double jeopardy attached. The CA declared thus –

More important than the fact that double jeopardy already attaches is the fact that the July 2, 2007 Order of the trial court has already attained finality. This Order was received by the Office of the City Prosecutor of Manila on July 3, 2007 and by the Private Prosecutor on July 5, 2007. While the Private Prosecutor filed a Motion for Reconsideration of the said Order, the Public Prosecutor did not seek for the reconsideration thereof. It is the Public Prosecutor who has the authority to file a Motion for Reconsideration of the said order and the Solicitor General who can file a petition for certiorari with respect to the criminal aspect of the cases. The failure of the Public Prosecutor to file a Motion for Reconsideration on or before July 18, 2007 and the failure of the Solicitor General to file a Petition for Certiorari on or before September 1, 2007 made the order of the trial court final.

As pointed out by the respondents, the Supreme Court ruled categorically on this matter in the case of *Mobilia Products, Inc. vs. Umezawa* (452 SCRA 736), as follows:

“In a criminal case in which the offended party is the State, the interest of the private complainant or the offended party is limited to the civil liability arising therefrom. Hence, if a criminal case is dismissed by the trial court or if there is an acquittal, a reconsideration of the order of dismissal or acquittal may be undertaken, whenever legally feasible, insofar as the criminal aspect thereof is concerned and may be made only by the public prosecutor; or in the case of an appeal, by the State only, through the OSG. The private complainant or offended party may not undertake such motion for reconsideration or appeal on the criminal aspect of the case. However, the offended party or private complainant may file a motion for reconsideration of such dismissal or acquittal or appeal therefrom but only insofar as the civil aspect thereof is concerned. In so doing, the private complainant or offended party need not secure the conformity of the public prosecutor. If the court denies his motion for reconsideration, the private complainant or offended party may appeal or file a petition for certiorari or mandamus, if grave abuse amounting to excess or lack of jurisdiction is shown and the aggrieved party has no right of appeal or given an adequate remedy in the ordinary course of law.”[16]

In addition, the CA ruled that the prosecution failed to demonstrate that the trial court committed grave abuse of discretion in granting the demurrer, or that it was denied its day in court; that on the contrary, the prosecution was afforded every opportunity to present its evidence, yet it failed to prove that respondents committed the crime charged.

The CA further held that the prosecution failed to present a witness who could testify, based on personal knowledge, that the loan documents were falsified by the respondents; that the prosecution should not have relied on “letters and unverified ledgers,” and it “should have trailed the money from the beginning to the end;”[17] that while the documentary evidence showed that the signatures in the loan documents were falsified, it has not been shown who falsified them. It added that since only two of the alleged 13 manager’s checks were being questioned, there arose reasonable doubt as to whether estafa was committed, as to these two checks; instead, there is an “inescapable possibility that an honest mistake was made in the preparation of the two questioned manager’s checks since these checks were made out to the names of different payees and not in the names of the alleged applicants of the loans.”[18] The appellate court added –

x x x Finally, the petitioner failed to present evidence on where the money went after they were deposited to the checking account of the private respondent Jose C. Go. There is only a vague reference that the money was used to fund the personal checks earlier issued by x x x Go. The petitioner should have gone further and identified who were the recipients of these personal checks and if these personal checks were negotiated and honored. With all the resources of the public prosecutor’s office, the petitioner should have done a better job of prosecuting the cases filed against the private respondents. It is a shame that all the efforts of the government will go for naught due to the negligence of the public prosecutors in tying up the chain of evidence in a criminal case.[19]

As a final point, the CA held that if errors were made in the appreciation of evidence, these are mere errors of judgment – and not errors of jurisdiction – which may no longer be reviewed lest respondents be placed in double jeopardy.

The OSG moved for reconsideration, but in the assailed January 22, 2010 Resolution, the CA stood its ground. Hence, the instant Petition was instituted.

Issues

In the Petition, it is alleged that –

THE COURT OF APPEALS COMMITTED A REVERSIBLE ERROR WHEN IT RULED THAT –

(a) NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY RESPONDENT RTC JUDGE IN GRANTING THE DEMURRER TO EVIDENCE;

(b) THE ORDER OF ACQUITTAL HAS ALREADY ATTAINED FINALITY WHEN IT WAS NOT CHALLENGED IN A TIMELY AND APPROPRIATE MANNER; AND

(c) THE LOWER COURT MERELY COMMITTED ERRORS OF JUDGMENT AND NOT OF JURISDICTION.[20]

Petitioner's Arguments

Petitioner argues that the public prosecutor actually filed a Motion for Reconsideration of the assailed July 2, 2007 Order of the trial court granting respondents' demurrer – that is, by "joining" the private prosecutor PDIC in the latter's July 20, 2007 Motion for Reconsideration. Nonetheless, it admitted that while it joined PDIC in the latter's July 20, 2007 Motion for Reconsideration, it had only until July 18, 2007 within which to seek reconsideration since it received the order on July 3, 2007, while the private prosecutor received a copy of the Order only on July 5, 2007; it pleads that the two-day delay in filing the motion should not prejudice the interests of the State and the People.

Petitioner assumes further that, since it was belated in its filing of the required Motion for Reconsideration, it may have been tardy as well in the filing of the Petition for Certiorari with the CA, or CA-G.R. SP No. 101823. Still, it begs the Court to excuse its mistake in the name of public interest and substantial justice, and in order to maintain stability in the banking industry given that the case involved embezzlement of large sums of depositors' money in OCBC.

Petitioner goes on to argue that the CA erred in affirming the trial court's finding that demurrer was proper. It claims that it was able to prove the offense charged, and it has shown that respondents were responsible therefor.

In its Reply,[21] petitioner claims that the July 2, 2007 Order of the trial court granting respondents' demurrer was null and void to begin with, and thus it could not have attained finality. It adds that contrary to respondents' submission, the private prosecutor's Motion for Reconsideration contained the public prosecutor's written conformity, and that while it may be said that the public prosecutor's motion was two days late, still the trial court took cognizance thereof and passed upon its merits; by so doing, the trial court thus validated the public prosecutor's action of adopting the private prosecutor's Motion for Reconsideration as his own. This being the case, it should therefore be said that the prosecution's resultant Petition for Certiorari with the CA on January 4, 2008 was timely filed within the required 60-day period, counted from November 5, 2007, or the date the public prosecutor received the trial court's October 19, 2007 Order denying the Motion for Reconsideration.

Petitioner submits further that a Petition for Certiorari was the only available remedy against the assailed Orders of the trial court, since the granting of a demurrer in criminal cases is tantamount to an acquittal and is thus

immediately final and executory. It adds that the denial of its right to due process is apparent since the trial court's grant of respondents' demurrer was purely capricious and done with evident partiality, despite the prosecution having adduced proof beyond reasonable doubt that they committed estafa through falsification of commercial documents.

Petitioner thus prays that the assailed CA dispositions be reversed and that Criminal Case Nos. 00-187318 and 00-187319 be reinstated for further proceedings.

Respondents' Arguments

Praying that the Petition be denied, respondents Jose C. Go (Go), Aida C. Dela Rosa (Dela Rosa), and Felecitas D. Necomedes (Nicomedes) – the accused in Criminal Case Nos. 00-187318 and 00-187319 – argue in their Comment[22] that the trial court's grant of their demurrer to evidence amounts to an acquittal; any subsequent prosecution for the same offense would thus violate their constitutional right against double jeopardy. They add that since the public prosecutor failed to timely move for the reconsideration of the trial court's July 2, 2007 Order, it could not have validly filed an original Petition for Certiorari with the CA. Nor can it be said that the prosecution and the private prosecutor jointly filed the latter's July 20, 2007 Motion for Reconsideration with the trial court because the public prosecutor's copy of PDIC's motion was merely sent through registered mail. Therefore if it were true that the public prosecutor gave his approval or conformity to the motion, he did so only after receiving his copy of the motion through the mail, and not at the time the private prosecutor actually filed its Motion for Reconsideration with the trial court.

Next, respondents submit that petitioner was not deprived of its day in court; the grant of their demurrer to evidence is based on a fair and judicious determination of the facts and evidence by the trial court, leading it to conclude that the prosecution failed to meet the quantum of proof required to sustain a finding of guilt on the part of respondents. They argue that there is no evidence to show that OCBC released loan proceeds to the alleged borrowers, Timmy's, Inc. and Asia Textile Mills, Inc., and that these loan proceeds were then deposited in the account of respondent Go. Since no loans were granted to the two borrowers, then there is nothing for Go to misappropriate. With respect to the two manager's checks issued to Philippine Recycler's Inc. and Zeta International, respondents contend that these may not be considered to be the loan proceeds pertaining to Timmy's, Inc. and Asia Textile Mills, Inc.'s loan application because these checks were not in the name of the alleged borrowers Timmy's, Inc. and Asia Textile Mills, Inc. as payees. Besides, these two checks were never negotiated with OCBC, either for encashment or deposit, since they did not bear the respective indorsements or signatures and account numbers of the payees; thus, they could not be considered to have been negotiated nor deposited with Go's account with OCBC.

Next, respondents argue that the cash deposit slip used to deposit the alleged loan proceeds in Go's OCBC account is questionable, since under banking procedure, a cash deposit slip may not be used to deposit checks. Moreover, it has not been shown who prepared the said cash deposit slip. Respondents further question the validity and authenticity of the other documentary evidence presented, such as the Subsidiary Ledger, Cash Proof,[23] Schedule of Returned Checks and Other Cash Items (RTCOCI), etc.

Finally, respondents claim that not all the elements of the crime of estafa under Article 315, par. 1(b) of the Revised Penal Code have been established; specifically, it has not been shown that Go received the alleged loan proceeds, and that a demand was made upon him for the return thereof.

Our Ruling

The Court grants the Petition.

Criminal Case Nos. 00-187318 and 00-187319 for estafa through falsification of commercial documents against the respondents are based on the theory that in 1997, fictitious loans in favor of two entities – Timmy’s, Inc. and Asia Textile Mills, Inc. – were approved, after which two manager’s checks representing the supposed proceeds of these fictitious loans were issued but made payable to two different entities – Philippine Recycler’s Inc. and Zeta International – without any documents issued by the supposed borrowers Timmy’s, Inc. and Asia Textile Mills, Inc. assigning the supposed loan proceeds to the two payees. Thereafter, these two manager’s checks – together with several others totaling P120,819,475.00[24] – were encashed, and then deposited in the OCBC Savings Account No. 00810-00108-0 of Go. Then, several automatic transfer deposits were made from Go’s savings account to his OCBC Current Account No. 008-00-000015-0 which were then used to fund Go’s previously dishonored personal checks.

The testimonial and documentary evidence of the prosecution indicate that OCBC, a commercial bank, was ordered closed by the BSP sometime in October 1998. PDIC was designated as OCBC receiver, and it took over the bank’s affairs, assets and liabilities, records, and collected the bank’s receivables.

During efforts to collect OCBC’s past due loan receivables, PDIC as receiver sent demand letters to the bank’s debtor-borrowers on record, including Timmy’s, Inc. and Asia Textile Mills, Inc. which appeared to have obtained unsecured loans of P10 million each, and which apparently remained unpaid. In response to the demand letters, Timmy’s, Inc. and Asia Textile Mills, Inc. denied having obtained loans from OCBC. Timmy’s, Inc., through its designated representative, claimed that while it is true that it applied for an OCBC loan, it no longer pursued the application after it was granted a loan by another bank. When the OCBC loan documents were presented to Timmy’s, Inc.’s officers, it was discovered that the signatures therein of the corporate officers were forgeries. In their defense and to clarify matters, Timmy’s, Inc.’s corporate officers executed affidavits and furnished official documents such as their passports and the corporation’s Articles of Incorporation containing their respective signatures to show PDIC that their purported signatures in the OCBC loan documents were forgeries. After its investigation into the matter, PDIC came to the conclusion that the signatures on the Timmy’s, Inc. loan documents were indeed falsified.[25]

On the other hand, in a written reply[26] to PDIC’s demand letter, Asia Textile Mills, Inc. vehemently denied that it applied for a loan with OCBC. On this basis, PDIC concluded that the Asia Textile Mills, Inc. loan was likewise bogus. Moreover, PDIC discovered other bogus loans in OCBC.

Through the falsified loan documents, the OCBC Loan Committee – composed of Go, who was likewise OCBC President, respondent Dela Rosa (OCBC Senior Vice President, or SVP, and Chief Operating Officer, or COO), Arnulfo Aurellano and Richard Hsu – approved a P10 million unsecured loan purportedly in favor of Timmy’s, Inc. After deducting finance charges, advance interest and taxes, Dela Rosa certified a net loan proceeds amounting to P9,985,075.00 covered by Manager’s Check No. 0000003347[27] dated February 5, 1997.[28] The face of the check bears the notation “Loan proceeds of CL-484,” the alpha numeric code (“CL-484”) of which refers to the purported loan of Timmy’s, Inc.[29] However, the payee thereof was not the purported borrower, Timmy’s, Inc., but a certain “Zeta International”. Likewise, on even date, Manager’s Check No. 0000003340[30] for P9,985,075.00 was issued, and on its face is indicated “Loan proceeds of CL-477”, which alpha numeric code (“CL-477”) refers to the purported loan of Asia Textile Mills, Inc.[31] Manager’s Check No. 0000003340 was made payable not to Asia Textile Mills, Inc., but to “Phil. Recyclers Inc.”

On the same day that the subject manager’s checks were issued, or on February 5, 1997, it appears that the two checks – together with other manager’s checks totaling P120,819,475.00 – were encashed; on the face of the checks, the word “PAID” was stamped, and at the dorsal portion thereof there were machine validations showing that Manager’s Check No. 0000003347 was presented at 6:16 p.m., while Manager’s Check No. 0000003340

was presented at 6:18 p.m.[32]

After presentment and encashment, the amount of P120,819,475.00 – which among others included the P9,985,075.00 proceeds of the purported Timmy's, Inc. loan and the P9,985,075.00 proceeds of the supposed Asia Textile Mills, Inc. loan – was deposited in Go's OCBC Savings Account No. 00810-00108-0 at OCBC Recto Branch, apparently on instructions of respondent Dela Rosa.[33] The deposit is covered by OCBC Cash Deposit Slip[34] dated February 5, 1997, with the corresponding machine validation thereon indicating that the deposit was made at 6:19 p.m.[35] The funds were credited to Go's savings account.[36]

It appears that previously, or on February 4, 1997, seven OCBC checks issued by Go from his personal OCBC Current Account No. 008-00-000015-0 totaling P145,488,274.48 were dishonored for insufficiency of funds.[37] After Manager's Check Nos. 0000003340 and 0000003347, along with several other manager's checks, were encashed and the proceeds thereof deposited in Go's OCBC Savings Account No. 00810-00108-0 with automatic transfer feature to his OCBC Current Account No. 008-00-000015-0, funds were automatically transferred from the said savings account to the current account, which at the time contained only a total amount of P26,332,303.69. Go's OCBC Current Account No. 008-00-000015-0 was credited with P120,819,475.00, and thereafter the account registered a balance of P147,151,778.69. The seven previously dishonored personal checks were then presented for clearing, and were subsequently cleared that same day, or on February 5, 1997.[38] Apparently, they were partly funded by the P120,819,475.00 manager's check deposits – which include Manager's Check Nos. 0000003340 and 0000003347.

During the examination and inquiry into OCBC's operations, or on January 28, 1998, Go issued and sent a letter[39] to the BSP, through Maria Dolores Yuviengco, Director of the Department of Commercial Banks, specifically requesting that the BSP refrain from sending any communication to Timmy's, Inc. and Asia Textile Mills, Inc., among others. He manifested that he was "willing to assume the viability and full payment" of the accounts under investigation and examination, including the Timmy's, Inc. and Asia Textile Mills, Inc. accounts.

Demurrer to the evidence[40] is "an objection by one of the parties in an action, to the effect that the evidence which his adversary produced is insufficient in point of law, whether true or not, to make out a case or sustain the issue. The party demurring challenges the sufficiency of the whole evidence to sustain a verdict. The court, in passing upon the sufficiency of the evidence raised in a demurrer, is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or to support a verdict of guilt. x x x Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused." [41] Thus, when the accused files a demurrer, the court must evaluate whether the prosecution evidence is sufficient enough to warrant the conviction of the accused beyond reasonable doubt.[42]

"The grant or denial of a demurrer to evidence is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of such discretion." [43] As to effect, "the grant of a demurrer to evidence amounts to an acquittal and cannot be appealed because it would place the accused in double jeopardy. The order is reviewable only by certiorari if it was issued with grave abuse of discretion amounting to lack or excess of jurisdiction." [44] When grave abuse of discretion is present, an order granting a demurrer becomes null and void.

As a general rule, an order granting the accused's demurrer to evidence amounts to an acquittal. There are certain exceptions, however, as when the grant thereof would not violate the constitutional proscription on double jeopardy. For instance, this Court ruled that when there is a finding that there was grave abuse of discretion on the part of the trial court in dismissing a criminal case by granting the accused's demurrer to

evidence, its judgment is considered void, as this Court ruled in *People v. Laguio, Jr.*:

By this time, it is settled that the appellate court may review dismissal orders of trial courts granting an accused's demurrer to evidence. This may be done via the special civil action of certiorari under Rule 65 based on the ground of grave abuse of discretion, amounting to lack or excess of jurisdiction. Such dismissal order, being considered void judgment, does not result in jeopardy. Thus, when the order of dismissal is annulled or set aside by an appellate court in an original special civil action via certiorari, the right of the accused against double jeopardy is not violated.

In the instant case, having affirmed the CA finding grave abuse of discretion on the part of the trial court when it granted the accused's demurrer to evidence, we deem its consequent order of acquittal void.[45]

Grave abuse of discretion is defined as "that capricious or whimsical exercise of judgment which is tantamount to lack of jurisdiction. 'The abuse of discretion must be 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, as where the power is exercised in an arbitrary and despotic manner by reason of passion and hostility.' The party questioning the acquittal of an accused should be able to clearly establish that the trial court blatantly abused its discretion such that it was deprived of its authority to dispense justice." [46]

In the exercise of the Court's "superintending control over inferior courts, we are to be guided by all the circumstances of each particular case 'as the ends of justice may require.' So it is that the writ will be granted where necessary to prevent a substantial wrong or to do substantial justice." [47]

Guided by the foregoing pronouncements, the Court declares that the CA grossly erred in affirming the trial court's July 2, 2007 Order granting the respondent's demurrer, which Order was patently null and void for having been issued with grave abuse of discretion and manifest irregularity, thus causing substantial injury to the banking industry and public interest. The Court finds that the prosecution has presented competent evidence to sustain the indictment for the crime of estafa through falsification of commercial documents, and that respondents appear to be the perpetrators thereof. In evaluating the evidence, the trial court effectively failed and/or refused to weigh the prosecution's evidence against the respondents, which it was duty-bound to do as a trier of facts; considering that the case involved hundreds of millions of pesos of OCBC depositors' money – not to mention that the banking industry is impressed with public interest, the trial court should have conducted itself with circumspection and engaged in intelligent reflection in resolving the issues.

The elements of estafa through abuse of confidence under Article 315, par. 1(b) of the Revised Penal Code [48] are: "(a) that money, goods or other personal property is received by the offender in trust or on commission, or for administration, or under any other obligation involving the duty to make delivery of or to return the same; (b) that there be misappropriation or conversion of such money or property by the offender, or denial on his part of such receipt; (c) that such misappropriation or conversion or denial is to the prejudice of another; and (d) there is demand by the offended party to the offender." [49]

Obviously, a bank takes its depositors' money as a loan, under an obligation to return the same; thus, the term "demand deposit."

The contract between the bank and its depositor is governed by the provisions of the Civil Code on simple loan. Article 1980 of the Civil Code expressly provides that "x x x savings x x x deposits of money in banks and similar institutions shall be governed by the provisions concerning simple loan." There is a debtor-creditor relationship between the bank and its depositor. The bank is the debtor and the depositor is the creditor. The depositor lends the bank money and the bank agrees to pay the depositor on demand. x x x [50]

Moreover, the banking laws impose high standards on banks in view of the fiduciary nature of banking. "This

fiduciary relationship means that the bank's obligation to observe 'high standards of integrity and performance' is deemed written into every deposit agreement between a bank and its depositor. The fiduciary nature of banking requires banks to assume a degree of diligence higher than that of a good father of a family." [51]

In *Soriano v. People*, [52] it was held that the President of a bank is a fiduciary with respect to the bank's funds, and he holds the same in trust or for administration for the bank's benefit. From this, it may be inferred that when such bank president makes it appear through falsification that an individual or entity applied for a loan when in fact such individual or entity did not, and the bank president obtains the loan proceeds and converts the same, estafa is committed.

Next, regarding misappropriation, the evidence tends to establish that Manager's Check Nos. 0000003340 and 0000003347 were encashed, using the bank's funds which clearly belonged to OCBC's depositors, and then deposited in Go's OCBC Savings Account No. 00810-00108-0 at OCBC Recto Branch – although he was not the named payee therein. Next, the money was automatically transferred to Go's OCBC Current Account No. 008-00-000015-0 and used to fund his seven previously-issued personal checks totaling P145,488,274.48, which checks were dishonored the day before. Simply put, the evidence strongly indicates that Go converted OCBC funds to his own personal use and benefit. "The words 'convert' and 'misappropriate' connote an act of using or disposing of another's property as if it were one's own, or of devoting it to a purpose or use different from that agreed upon. To misappropriate for one's own use includes not only conversion to one's personal advantage, but also every attempt to dispose of the property of another without right. x x x In proving the element of conversion or misappropriation, a legal presumption of misappropriation arises when the accused fails to deliver the proceeds of the sale or to return the items to be sold and fails to give an account of their whereabouts. Thus, the mere presumption of misappropriation or conversion is enough to conclude that a probable cause exists for the indictment x x x." [53]

As to the third element of estafa, there is no question that as a consequence of the misappropriation of OCBC's funds, the bank and its depositors have been prejudiced; the bank has been placed under receivership, and the depositors' money is no longer under their unimpeded disposal.

Finally, on the matter of demand, while it has not been shown that the bank demanded the return of the funds, it has nevertheless been held that "[d]emand is not an element of the felony or a condition precedent to the filing of a criminal complaint for estafa. Indeed, the accused may be convicted of the felony under Article 315, paragraph 1(b) of the Revised Penal Code if the prosecution proved misappropriation or conversion by the accused of the money or property subject of the Information. In a prosecution for estafa, demand is not necessary where there is evidence of misappropriation or conversion." [54] Thus, strictly speaking, demand is not an element of the offense of estafa through abuse of confidence; even a verbal query satisfies the requirement. [55] Indeed, in several past rulings of the Court, demand was not even included as an element of the crime of estafa through abuse of confidence, or under paragraph 1(b). [56]

On the other hand, the elements of the crime of falsification of commercial document under Art. 172 [57] are: "(1) that the offender is a private individual; (2) that the offender committed any of the acts of falsification; and (3) that the act of falsification is committed in a commercial document." [58] As to estafa through falsification of public, official or commercial documents, it has been held that –

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 public, official or commercial document. In other words, the crime of falsification has already existed. Actually utilizing that falsified public, official or commercial document to defraud another is estafa. But the damage is

caused by the commission of Estafa, not by the falsification of the document. Therefore, the falsification of the public, official or commercial document is only a necessary means to commit the estafa.[59]

Simulating OCBC loan documents – such as loan applications, credit approval memorandums, and the resultant promissory notes and other credit documents – by causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate, and by counterfeiting or imitating their handwriting or signatures constitute falsification of commercial and public documents.

As to the respondents' respective participation in the commission of the crime, suffice it to state that as the beneficiary of the proceeds, Go is presumed to be the author of the falsification. The fact that previously, his personal checks totaling P145,488,274.48 were dishonored, and the day after, the amount of P120,819,475.00 was immediately credited to his account, which included funds from the encashment of Manager's Check Nos. 0000003340 and 0000003347 or the loan proceeds of the supposed Timmy's, Inc. and Asia Textile Mills, Inc. accounts, bolsters this view. "[W]henever someone has in his possession falsified documents [which he used to] his advantage and benefit, the presumption that he authored it arises." [60]

x x x This is especially true if the use or uttering of the forged documents was so closely connected in time with the forgery that the user or possessor may be proven to have the capacity of committing the forgery, or to have close connection with the forgers, and therefore, had complicity in the forgery.

In the absence of a satisfactory explanation, one who is found in possession of a forged document and who used or uttered it is presumed to be the forger.

Certainly, the channeling of the subject payments via false remittances to his savings account, his subsequent withdrawals of said amount as well as his unexplained flight at the height of the bank's inquiry into the matter more than sufficiently establish x x x involvement in the falsification.[61]

Likewise, Dela Rosa's involvement in the scheme has been satisfactorily shown. As OCBC SVP and COO and member of the OCBC Loan Committee, she approved the purported Timmy's, Inc. loan, and she certified and signed the February 2, 1997 OCBC Disclosure Statement and other documents.[62] She likewise gave specific instructions to deposit the proceeds of Manager's Check Nos. 0000003340 and 0000003347, among others, in Go's OCBC Savings Account No. 00810-00108-0 at OCBC Recto Branch.[63] Finally, she was a signatory to the two checks.[64]

On the other hand, respondent Nicomedes as OCBC Senior Manager for Corporate Accounts – Account Management Group, among others prepared the Credit Approval Memorandum and recommended the approval of the loans.[65]

In granting the demurrer, the trial court – in its assailed July 2, 2007 Order – concluded that based on the evidence adduced, the respondents could not have falsified the loan documents pertaining to Timmy's, Inc. and Asia Textile Mills, Inc. since the individuals who assert that their handwriting and signatures were forged were not presented in court to testify on such claim; that the prosecution witnesses – Honorio E. Franco, Jr. (Franco) of PDIC, the designated Assisting Deputy Liquidator of OCBC, and Virginia Rowella Famirin (Famirin), Cashier of OCBC Recto Branch – were not present when the loan documents were executed and signed, and thus have no personal knowledge of the circumstances surrounding the alleged falsification; and as high-ranking officers of OCBC, respondents could not be expected to have prepared the said documents. The evidence, however, suggests otherwise; it shows that respondents had a direct hand in the falsification and creation of fictitious loans. The loan documents were even signed by them. By disregarding what is evident in the record, the trial court committed substantial wrong that frustrates the ends of justice and adversely affects the public interest. The trial court's act was so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty

enjoined by law.

An act of a court or tribunal may only be considered as committed in grave abuse of discretion when the same was performed in a capricious or whimsical exercise of judgment which is equivalent to lack of jurisdiction. The abuse of discretion must be so patent and gross as to amount to an evasion of positive duty or to a virtual refusal to perform a duty enjoined by law, or to act at all in contemplation of law, as where the power is exercised in an arbitrary and despotic manner by reason of passion and personal hostility. x x x[66]

On the charge of estafa, the trial court declared that since the payees of Manager's Check Nos. 0000003340 and 0000003347 were not Asia Textile Mills, Inc. and Timmy's, Inc., respectively, but other entities – Phil. Recyclers Inc. and Zeta International, and there are no documents drawn by the borrowers assigning the loan proceeds to these two entities, then it cannot be said that there were loan proceeds released to these borrowers. The trial court added that it is doubtful that the two manager's checks were presented and negotiated for deposit in Go's savings account, since they do not contain the required indorsements of the borrowers, the signatures of the tellers and individuals/payees who received the checks and the proceeds thereof, and the respective account numbers of the respondents; and the checks were presented beyond banking hours. The trial court likewise held that the fact that a cash deposit slip – and not a check deposit slip – was used to allegedly deposit the checks raised doubts as to the truth of the allegation that the manager's checks were deposited and credited to Go's savings account.

The CA echoed the trial court's observations, adding that the evidence consisted of mere "letters and unverified ledgers" which were thus insufficient; that there was an "inescapable possibility that an honest mistake was made" in the preparation and issuance of Manager's Check Nos. 0000003340 and 0000003347, since these two checks are claimed to be just a few of several checks – numbering thirteen in all – the rest of which were never questioned by the receiver PDIC. The appellate court added that the prosecution should have presented further evidence as to where the money went after being deposited in Go's savings and current accounts, identifying thus the recipients of Go's personal checks.

What the trial and appellate courts disregarded, however, is that the OCBC funds ended up in the personal bank accounts of respondent Go, and were used to fund his personal checks, even as he was not entitled thereto. These, if not rebutted, are indicative of estafa, as may be seen from the aforecited Soriano case.

The bank money (amounting to P8 million) which came to the possession of petitioner was money held in trust or administration by him for the bank, in his fiduciary capacity as the President of said bank. It is not accurate to say that petitioner became the owner of the P8 million because it was the proceeds of a loan. That would have been correct if the bank knowingly extended the loan to petitioner himself. But that is not the case here. According to the information for estafa, the loan was supposed to be for another person, a certain "Enrico Carlos"; petitioner, through falsification, made it appear that said "Enrico Carlos" applied for the loan when in fact he ("Enrico Carlos") did not. Through such fraudulent device, petitioner obtained the loan proceeds and converted the same. Under these circumstances, it cannot be said that petitioner became the legal owner of the P8 million. Thus, petitioner remained the bank's fiduciary with respect to that money, which makes it capable of misappropriation or conversion in his hands.[67]

Thus, it is irrelevant that the proceeds of the supposed loans were made payable to entities other than the alleged borrowers. Besides, the manager's checks themselves indicate that they were the proceeds of the purported Timmy's, Inc.'s and Asia Textile Mills, Inc.'s loans, through the alpha numeric codes specifically assigned to them that are printed on the face of the checks; the connection between the checks and the purported loans is thus established. In the same vein, the CA's supposition that there is an "inescapable possibility that an honest mistake was made in the preparation of the two questioned manager's checks" is absurd; even so, the bottom line is that they were encashed using bank funds, and the proceeds thereof were deposited in Go's bank savings and current accounts and used to fund his personal checks.

Furthermore, as correctly pointed out by petitioner, it is superfluous to require that the recipients of Go's personal checks be identified. For purposes of proving the crime, it has been shown that Go converted bank funds to his own personal use when they were deposited in his accounts and his personal checks were cleared and the funds were debited from his account. This suffices.

Likewise, the Court agrees that the prosecution's reliance on the supposed loan documents, subsidiary ledgers, deposit slip, cash proof, RTCOCI and other documents was proper. They are both public and private documents which may be received in evidence; notably, petitioner's documentary evidence was admitted in full by the trial court.[68] With respect to evidence consisting of private documents, the presumption remains that "the recording of private transactions has been fair and regular, and that the ordinary course of business has been followed." [69]

Go's January 28, 1998 letter to the BSP stating that he was "willing to assume the viability and full payment" of the accounts under examination – which included the Timmy's, Inc. and Asia Textile Mills, Inc. accounts, among others – is an offer of compromise, and thus an implied admission of guilt under Rule 130, Section 27 of the Revised Rules on Evidence.[70]

In addition, appellant's act of pleading for his sister-in-law's forgiveness may be considered as analogous to an attempt to compromise, which in turn can be received as an implied admission of guilt under Section 27, Rule 130 x x x.[71]

As a result of the Court's declaration of nullity of the assailed Orders of the trial court, any dissection of the truly questionable actions of Prosecutor Campanilla – which should merit appropriate disciplinary action for they reveal a patent ignorance of procedure, if not indolence or a deliberate intention to bungle his own case – becomes unnecessary. It is conceded that the lack of Campanilla's approval and/or conformé to PDIC's Motion for Reconsideration should have rendered the trial court's assailed Orders final and executory were it not for the fact that they were inherently null and void; Campanilla's irresponsible actions almost cost the People its day in court and their right to exact justice and retribution, not to mention that they could have caused immeasurable damage to the banking industry. Just the same, "[a] void judgment or order has no legal and binding effect, force or efficacy for any purpose. In contemplation of law, it is non-existent. Such judgment or order may be resisted in any action or proceeding whenever it is involved. It is not even necessary to take any steps to vacate or avoid a void judgment or final order; it may simply be ignored." [72] More appropriately, the following must be cited:

x x x Clearly, the assailed Order of Judge Santiago was issued in grave abuse of discretion amounting to lack of jurisdiction. A void order is no order at all. It cannot confer any right or be the source of any relief. This Court is not merely a court of law; it is likewise a court of justice.

To rule otherwise would leave the private respondent without any recourse to rectify the public injustice brought about by the trial court's Order, leaving her with only the standing to file administrative charges for ignorance of the law against the judge and the prosecutor. A party cannot be left without recourse to address a substantive issue in law.[73]

Finally, it must be borne in mind that "[t]he granting of a demurrer to evidence should x x x be exercised with caution, taking into consideration not only the rights of the accused, but also the right of the private offended party to be vindicated of the wrongdoing done against him, for if it is granted, the accused is acquitted and the private complainant is generally left with no more remedy. In such instances, although the decision of the court may be wrong, the accused can invoke his right against double jeopardy. Thus, judges are reminded to be more diligent and circumspect in the performance of their duties as members of the Bench x x x." [74]

WHEREFORE, the Petition is GRANTED. The September 30, 2009 Decision and January 22, 2010 Resolution of the Court of Appeals are REVERSED and SET ASIDE. The July 2, 2007 and October 19, 2007 Orders of the

Regional Trial Court of Manila, Branch 49 in Criminal Case Nos. 00-187318 and 00-187319 are declared null and void, and the said cases are ordered REINSTATED for the continuation of proceedings.

SO ORDERED.

Carpio, (Chairperson), Brion, Perez, and Villarama, Jr.,[*] JJ., concur.

[*] Per Raffle dated August 4, 2014.

[**] Also spelled as “Felicitas D. Nicomedes” in some parts of the records.

[1] Rollo, pp. 10-83.

[2] Id. at 85-93; penned by Associate Justice Isaias P. Dicdican and concurred in by Associate Justices Remedios A. Salazar-Fernando and Romeo F. Barza.

[3] Id. at 94-95.

[4] Id. at 96-105.

[5] Id. at 106-109.

[6] Presiding Judge Concepcion Alarcon-Vergara of the Regional Trial Court of Manila, Branch 49.

[7] Rollo, pp. 215-246.

[8] Id. at 339-350. The decretal portion of the Order reads, thus:

WHEREFORE, in view of the foregoing, and finding the Demurrer to Evidence meritorious, the same is hereby granted. The Informations against accused Jose C. Go, Aida C. De la Rosa and Felicitas D. Nicomedes are hereby DISMISSED and all said accused are ACQUITTED of the charge.

SO ORDERED.

[9] Id. at 405-406.

[10] Id. at 86-88.

[11] Records, Vol. II, pp. 501-555.

[12] Id. at 554.

[13] Rollo, pp. 351-404.

[14] Id. at 407-479.

[15] Id. at 92.

[16] Id. at 91-92.

[17] Id. at 89.

[18] Id. at 90.

[19] Id.

[20] Id. at 25.

[21] Id. at 583-607.

[22] Id. at 533-564.

[23] Exhibit “W,” Folder of Exhibits.

[24] P120,819,000.00, in other portions of the record.

[25] Rollo, pp. 97-99, 155-156; Annex “C” of the Petition, Complaint-Affidavit dated September 13, 1999 of Honorio E. Franco, Jr. of PDIC, and designated Assisting Deputy Liquidator of OCBC, filed before the Office of the City Prosecutor of Manila; Exhibit “BB,” Affidavit of Arthur Leong dated September 6, 1999 denying that Timmy’s, Inc. obtained a loan from OCBC; Exhibit “HH,” Letter of Timmy’s, Inc. to PDIC denying that it obtained a loan from OCBC; Exhibit “KK,” Certification issued by the Bureau of Immigration of the travel record of Artimson Leong, dated July 27, 2005, showing that Artimson Leong, purported signatory to Timmy’s, Inc.’s OCBC loan documents dated February 5, 1997, was out of the country at the time he allegedly signed said loan documents; Transcript of Stenographic Notes (TSN), Arthur Leong, September 13, 2005.

[26] Id. at 118; Exhibit “A,” Letter of Asian Textile Mills, Inc. dated February 2, 1999 signed by Carmen G. So, Vice President for Finance.

[27] Id. at 136; Exhibit “R.”

[28] Exhibit “AA,” OCBC Disclosure Statement dated February 2, 1997, Folder of Exhibits.

[29] Rollo, p. 99; Annex “C” of the Petition, Complaint-Affidavit dated September 13, 1999 of Honorio E. Franco, Jr. of PDIC, and designated Assisting Deputy Liquidator of OCBC, filed before the Office of the City Prosecutor of Manila.

[30] Id. at 129; Exhibit “K.”

[31] Id. at 103, 122, 123; Annex “C” of the Petition, Complaint-Affidavit dated September 13, 1999 of Honorio E. Franco, Jr. of PDIC, and designated Assisting Deputy Liquidator of OCBC, filed before the Office of the City Prosecutor of Manila; Exhibit “C,” OCBC Promissory Note dated February 5, 1997 purportedly executed by Asian Textile Mills, Inc.; Exhibit “D,” OCBC Disclosure Statement dated February 5, 1997, Folder of Exhibits.

[32] TSN, Honorio E. Franco, Jr., October 8, 2002, pp. 6-20; TSN, Virginia Rowella Famirin, June 29, 2005, pp. 6-11.

[33] Id.; Exhibit “T,” Folder of Exhibits.

[34] Rollo, p. 137; Exhibit “S,” id.

[35] Id.; Exhibits “S-9” and “S-10,” id.

[36] TSN, Honorio E. Franco, Jr., October 8, 2002, p. 20; Exhibit “T,” Subsidiary Ledger of Go’s OCBC Savings Account No. 00810-00108-0, id.

[37] TSN, Honorio E. Franco, Jr., October 29, 2002, pp. 3-7; TSN, Virginia Rowella Famirin (Cashier of OCBC Recto Branch), June 28, 2005, pp. 15-25, 32; Exhibit “X,” OCBC Recto Branch Schedule of Returned Checks and Other Cash Items (RTCOCI) dated February 4, 1997, id.

[38] Id.; Exhibits “T,” “U,” “V,” and “W,” id; Honorio E. Franco, Jr., October 8, 2002 and October 29, 2005, pp. 22-33 and 4-15, respectively; TSN, Virginia Rowella Famirin, June 28, 2005, pp. 59-68.

[39] Exhibit “DD,” Folder of Exhibits.

[40] Under Section 23, Rule 119 of the Rules of Court:

Sec. 23. Demurrer to evidence. – After the prosecution rests its case, the court may dismiss the action on the ground of insufficiency of evidence (1) on its own initiative after giving the prosecution the opportunity to be heard or (2) upon demurrer to evidence filed by the accused with or without leave of court.

If the court denies the demurrer to evidence filed with leave of court, the accused may adduce evidence in his defense. When the demurrer to evidence is filed without leave of court, the accused waives the right to present evidence and submits the case for judgment on the basis of the evidence for the prosecution.

The motion for leave of court to file demurrer to evidence shall specifically state its grounds and shall be filed within a non-extendible period of five (5) days after the prosecution rests its case. The prosecution may oppose the motion within a non-extendible period of five (5) days from its receipt.

If leave of court is granted, the accused shall file the demurrer to evidence within a non-extendible period of ten (10) days from notice. The prosecution may oppose the demurrer to evidence within a similar period from its receipt.

The order denying the motion for leave of court to file demurrer to evidence or the demurrer itself shall not be reviewable by appeal or by certiorari before judgment.

[41] Gutib v. Court of Appeals, 371 Phil. 293, 300, 305 (1999).

[42] See Bautista v. Cuneta-Pangilinan, G.R. No. 189754, October 24, 2012, 684 SCRA 521, 538.

[43] Te v. Court of Appeals, 400 Phil. 127, 139 (2000).

[44] People v. Sandiganbayan (Third Division), G.R. No. 174504, March 21, 2011, 645 SCRA 726, 731.

[45] Mupas v. People, G.R. No. 189365, October 12, 2011, 659 SCRA 56, 67.

[46] Bangayan, Jr. v. Bangayan, G.R. Nos. 172777 & 172792, October 19, 2011, 659 SCRA 590, 602.

[47] Gutib v. Court of Appeals, supra note 41 at 307.

[48] Art. 315. Swindling (estafa). – Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

x x x x

1. With unfaithfulness or abuse of confidence, namely:

x x x x

(b) By misappropriating or converting, to the prejudice of another, money, goods, or any other personal property received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property.

[49] Magtira v. People, G.R. No. 170964, March 7, 2012, 667 SCRA 607, 618-619.

[50] Central Bank of the Philippines v. Citytrust Banking Corporation, G.R. No. 141835, February 4, 2009, 578 SCRA 27, 32, citing The Consolidated Bank & Trust Corporation v. Court of Appeals, 457 Phil. 688, 705 (2003).

[51] The Consolidated Bank & Trust Corporation v. Court of Appeals, id. at 706.

[52] G.R. No. 162336, February 1, 2010, 611 SCRA 191, 210-211.

[53] *Burgundy Realty Corporation v. Reyes*, G.R. No. 181021, December 10, 2012, 687 SCRA 524, 533, 535.

[54] *Lee v. People*, 495 Phil. 239, 250 (2005); see also *Ceniza-Manantan v. People*, 558 Phil. 104, 118 (2007); *Cosme, Jr. v. People*, 538 Phil. 52, 70 (2006).

[55] *Asejo v. People*, 555 Phil. 106, 114 (2007), citing *Tubb v. People and Court of Appeals*, 101 Phil. 114, 119 (1957).

[56] *Real v. People*, 567 Phil. 14, 21-22; *Ceniza-Manantan v. People*, supra note 54; *Lee v. People*, supra note 54.

[57] The Revised Penal Code provides:

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

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

Art. 172. Falsification by private individual and use of falsified documents. — The penalty of prision correccional in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and
2. Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

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

[58] *Domingo v. People*, G.R. No. 186101, October 12, 2009, 603 SCRA 488, 502.

[59] *Ambito v. People*, G.R. No. 127327, February 13, 2009, 579 SCRA 69, 100-101, citing *Reyes*, *The Revised Penal Code*, Book II, 2001 ed., p. 226.

[60] *Chua v. People*, G.R. No. 183132, February 8, 2012, 665 SCRA 468, 476.

[61] *Id.* at 476-477, citing *Serrano v. Court of Appeals*, 452 Phil. 801, 819-820 (2003).

[62] Exhibits “D,” “Y,” “AA,” Folder of Exhibits.

[63] TSN, Virginia Rowella Famirin, June 29, 2005, pp. 6-11.

[64] TSN, Virginia Rowella Famirin, June 28, 2005, pp. 19-23.

[65] Exhibit “Y,” Folder of Exhibits.

[66] *Litton Mills, Inc. v. Galleon Trader, Inc.*, 246 Phil. 503, 509 (1988).

[67] *Soriano v. People*, *supra* note 52 at 210-211.

[68] Records, Vol. II, pp. 657-658, Order of the court dated May 29, 2006.

[69] *New Sampaguita Builders Construction, Inc. (NSBCI) v. Philippine National Bank*, 579 Phil. 483, 513 (2004).

[70] Sec. 27. Offer of compromise not admissible. – In civil cases, an offer of compromise is not an admission of any liability, and is not admissible in evidence against the offeror.

In criminal cases, except those involving quasi-offenses (criminal negligence) or those allowed by law to be compromised, an offer of compromise by the accused may be received in evidence as an implied admission of guilt.

[71] *People v. Español*, 598 Phil. 793, 807 (2009).

[72] *Land Bank of the Philippines v. Orilla*, G.R. No. 194168, February 13, 2013, 690 SCRA 610, 618-619.

[73] *Narciso v. Sta. Romana-Cruz*, 385 Phil. 208, 223 (2000).

[74] *Bautista v. Cuneta-Pangilinan*, *supra* note 42 at 542.

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