

C/INSP. RUBEN LIWANAG, SR. Y SALVADOR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 205260. July 29, 2019

Ponente: LAZARO-JAVIER, J.

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LAZARO-JAVIER, J.:

The Case

This Petition for Review assails the dispositions of the Court of Appeals in CA-G.R. CR No. 25943 entitled "People of the Philippines v. C/Insp. Ruben Liwanag, Sr. y Salvador".

1)

Decision[1] dated June 27, 2011, affirming petitioner C/Insp. Ruben Liwanag's conviction for falsification of public document; and

2)

Resolution[2] dated October 21, 2011, denying petitioner's motion for reconsideration.

The Proceedings Before the Trial Court

The Charge

By Information[3] dated November 15, 1996, petitioner C/Insp. Ruben Liwanag, a police officer of the Western Police District Command, was indicted for falsification of public document, as defined and penalized by Article 171 of the Revised Penal Code (RPC), viz:

That on or about June 10, 1994, in the City of Manila, Philippines, the said accused being then a police officer of the Western Police District Command, this City, and therefore, a public officer, with intent to cause damage, did then and there willfully, unlawfully and feloniously commit acts of falsification of a public document, in the following manner, to wit: the said accused having somehow obtained possession of a Temporary Operator's Permit (TOP) No. 02774452-A of the Land Transportation Office (LTO), Quezon City, an instrumentality of the Republic of the Philippines and, therefore, a public document which was originally issued to C/Insp[.] Antonio D. Salas of the said Western Police District Command, this City, prepared, forged and falsified the said Temporary Operator's Permit (TOP) No. 02774452-A, by then and there filling up or caused to be filled up the blank spaces thereon, among others, by writing the date, "10 June 94"; the name of the accused's son "RUBEN RUBIO LIWANAG, JR."; the entry pertaining to the badge no. of the accused which was misdeclared from 04580 to 50480 and leaving the space blank intended for the permit/registration number which should reflect to the driver's license of said RUBEN RUBIO LIWANAG, [JR.] thereby making it appear, as it did appear, that said TOP No. 02774452-A dated June 19, 1994 was issued to the latter, when it (sic) truth and in fact as the said accused fully well knew that the said Temporary Operator's Permit (TOP) is spurious as the same was not duly authorized to issue the said TOP to RUBEN RUBIO LIWANAG, JR. neither did the said LTO nor Chief Inspector Antonio D. Salas to whom the said TOP booklet containing the

said serial number was issued, participate or intervene in the preparation and execution of the said document, thereby making untruthful statements in a narration of facts which the said accused has the legal obligation to disclose the truth; that once the said document has been forged and falsified in the manner above set forth (sic), the son of the accused, said RUBEN RUBIO LIWANAG[,] JR. while driving a car, Kia Pride with Plate No. PSX 844 was involved in a vehicular accident with Nelia E. Enoc and Noel Agcopra, introduced and presented the said TOP No. 02774452-A to the PNCC guards, knowing the same to be spurious, to the damage and prejudice of the said Nelia E. Enoc and Noel Agcopra and/or public interest.

Contrary to law.

The case was raffled to the Regional Trial Court, Branch 6, Manila. On arraignment, petitioner pleaded not guilty.[4]

Prosecution's Version

On July 3, 1994, a vehicular accident occurred in Biñan, Laguna. Petitioner's son, Ruben Liwanag, Jr. drove a Kia Pride car which collided with a military jeep driven by Noel Agcopra. Ruben Liwanag, Jr. was not able to present a valid driver's license but showed Temporary Operator's Permit (TOP) No. 02774452-A instead to the investigating officer, Conrado Tamayo of the Philippine National Construction Company (PNCC). The TOP showed that it was issued on June 10, 1994 to "Ruben Rubio Liwanag" who was purportedly born on June 27, 1974. It also appeared that petitioner issued the TOP to his own son.[5]

During the investigation, it was discovered that per certification by the Land Transportation Office (LTO), Ruben Liwanag, Jr. indeed did not have a driver's license. At the time of the accident, Ruben Liwanag, Jr., who was born on June 27, 1977 according to his birth certificate, was still a minor and was not eligible to hold a driver's license. His birth date on the TOP, however, was "June 27, 1974." [6]

In view of the dubious entries on the TOP, Nelia Enoc and Noel Agcopra, owners of the military jeep, filed an affidavit-complaint for falsification of public document against petitioner, which led to his indictment therefor in court.[7]

C/Insp. Antonio Salas, who was also a police officer at the Western Police District Command, testified that when a driver commits a traffic violation and his driver's license is confiscated by the apprehending officer, a TOP is issued. TOP permits the violator to drive for the period that his actual license is not in his possession. The TOP is valid for fifteen days.[8]

C/Insp. Salas further stated that TOP No. 02774452-A was part of the booklet issued to him by the LTO. He denied ever issuing the TOP in question and he only came to know of its issuance when the same was traced to have come from him. In truth, the TOP in question was among the other TOPs which were detached from the LTO booklet issued to him. He also confirmed that petitioner was a fellow officer at the Western Police District Traffic Command. He and petitioner used to share a room together at their headquarters and he sometimes forgot to secure his locker where he kept his TOP booklet.[9]

The prosecution submitted the following documentary evidence: a) LTO Certification dated November 4, 1994, certifying that petitioner was not a deputized agent; b) LTO Certification dated August 4, 1994, certifying that TOP No. 02774452-A was issued to C/Insp. Salas; c) LTO Certification dated August 16, 1994, certifying that Ruben Liwanag, Jr. who was born on June 29, 1974, was not a licensed driver; and d) Ruben Rubio Liwanag, Jr.'s certificate of live birth.[10]

The Defense's Version

Petitioner admitted that he filled out the TOP but denied issuing it to his son. He only used the TOP as part of his

instructional materials when he lectured on the duties and functions of traffic aides. He was deputized to issue TOPs, including the one subject of the case. His son had his own driver's license and the TOP was only recovered from his son's car during the accident.[11]

The Trial Court's Ruling

By Decision dated August 24, 2001, the trial court found petitioner guilty as charged. It took into account petitioner's admission that it was his handwriting and signature which appeared on the TOP. Also, per LTO certification, petitioner was not authorized to issue TOPs. The TOP in question formed part of the LTO booklet issued to C/Insp. Salas. Further, petitioner's son was issued a driver's license only on June 13, 1994, three (3) days after the accident. PNCC investigator Conrado Tamayo categorically testified that petitioner's son himself showed what he claimed was his TOP in lieu of his supposed driver's license.[12] The trial court decreed:

WHEREFORE, premises considered, the Court finds accused C/INSP. RUBEN LIWANAG, SR. Y SALVADOR GUILTY beyond reasonable doubt of the crime of FALSIFICATION OF PUBLIC DOCUMENT and hereby sentences him to suffer an indeterminate sentence of FOUR (4) YEARS, TWO (2) MONTHS AND ONE (1) DAY TO SIX (6) YEARS.

SO ORDERED.[13]

The Proceedings before the Court of Appeals

On appeal, petitioner faulted the trial court for rendering the verdict of conviction despite the alleged failure of the prosecution to formally offer the testimonies of the prosecution witnesses. There was no evidence that he illegally obtained and issued the TOP to his son. The certifications presented by the prosecution were not identified by the persons who issued them.[14]

In refutation, the Office of the Solicitor General (OSG), countered that petitioner failed to object, hence, was deemed to have waived any objection to the presentation of Nelia Enoc, Antonio Salas, Noel Agcopra, and Conrado Tamayo as prosecution witnesses. Besides, through its Order dated May 5, 1999, the trial court had admitted the prosecution's documentary exhibits and testimonial evidence.[15]

The Court of Appeals' Ruling

By its assailed Decision dated June 27, 2011, the Court of Appeals affirmed. It noted that although the transcript of stenographic notes reveal that the testimonies of the prosecution witnesses were not formally offered, the defense did not object to their presentation. In fact, the defense counsel even cross-examined the prosecution witnesses.[16]

Petitioner moved for reconsideration which the Court of Appeals denied through its assailed Resolution dated October 21, 2011.

The Present Petition

Petitioner now implores the court to exercise its discretionary appellate jurisdiction to review and reverse the assailed dispositions of the Court of Appeals. He asserts that he never had any malicious or wrongful intent to injure a third person, which is an essential element of the offense. His son Ruben Rubio Liwanag, Jr. never used the TOP which was merely recovered from his car. He merely filled out the TOP on June 10, 1994 only as a visual aid or educational tool when he gives lectures to traffic enforcers.[17]

On the other hand, the OSG submits that the petition raises a factual, not a legal issue. In any event, the trial court's factual findings, especially affirmed by the Court of Appeals, are binding on this Court.[18]

Issue

Did the Court of Appeals err in affirming the verdict of conviction for falsification of public document against petitioner?

Ruling

The petition lacks merit.

Falsification of a public document is defined and penalized under Article 171[19] of the Revised Penal Code. It requires the following elements: 1) the offender is a public officer, employee, or notary public; 2) he takes advantage of his official position; and 3) he falsifies a document by committing any of the aforementioned acts.[20]

In falsification of public or official documents, the presence of intent to gain or intent to injure a third person is not necessary. For what is punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed.[21]

Here, petitioner was indicted for and convicted of falsification of public document under Article 171 (par. 4) of the Revised Penal Code because when he issued TOP No. 02774452-A he made untruthful statements in a narration of facts, i.e. a) he entered his son's name "Ruben Rubio Liwanag, Jr." on the TOP; b) he made a false entry pertaining to his son's birthdate i.e. June 27, 1974 instead of June 27, 1977 (his son's true birthdate); and c) he altered his badge number from "04580" to "50480," thus, making it appear that he had authority to issue the subject TOP.[22]

To be convicted under Article 171(par. 4) of the Revised Penal Code, the following elements must concur: 1) the offender makes in a public document untruthful statements in a narration of facts; 2) he has a legal obligation to disclose the truth of the facts narrated by him; and 3) the facts narrated by him are absolutely false.[23]

Petitioner does not deny the presence of these elements here. He, nonetheless, insists on his plea that he had no malicious or wrongful intent to injure a third person.

On this score, suffice it to state that intent to gain or intent to injure is not an element of the crime of falsification of public document. Nor is it a valid defense. *Typoco, Jr. v. People*[24] is apropos:

In addition, petitioners argue that damage to the government should have been proven considering that this was alleged in the Information. We do not agree. In falsification of public or official documents, it is not necessary that there be present the idea of gain or the intent to injure a third person because in the falsification of a public document, what is punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed.

The law is clear that wrongful intent on the part of the accused to injure a third person is not an essential element of the crime of falsification of public document. It is jurisprudentially settled that in the falsification of public or official documents, whether by public officers or private persons, it is not necessary that there be present the idea of gain or the intent to injure a third person for the reason that, in contradistinction to private documents, the principal thing punished is the violation of the public faith and the destruction of truth as therein solemnly proclaimed. In falsification of public documents, therefore, the controlling consideration is the public character of a document; and the existence of any prejudice caused to third persons or, at least, the intent to cause such damage becomes immaterial.

So must it be.

Indeed, absent any showing of any glaring errors, gross misapprehension of facts or unsupported conclusions, the

trial court's findings are accorded the highest respect and conclusiveness especially if affirmed in full by the Court of Appeals,[25] as in this case.

Lastly, we modify the penalty imposed on petitioner. The trial court imposed the penalty of "FOUR (4) YEARS, TWO (2) MONTHS AND ONE (1) DAY TO SIX (6) YEARS" This is not correct. *Goma v. Court of Appeals*[26] dictates what the impossible indeterminate penalty is for the crime of falsification of public document under Article 171 of the Revised Penal Code if there are no aggravating or mitigating circumstances, thus:

Finally, the penalty imposed by the RTC, as affirmed by the CA, is proper. Art. 171 of the RPC provides for a single divisible penalty of prision mayor to public officers or employees who, taking advantage of their official positions, shall cause it to appear that persons have participated in any act or proceeding when they did not in fact participate. And where neither aggravating nor mitigating circumstance attended the execution of the offense, as here, the impossible penalty is, according to Art. 64 of the RPC, that of the medium period provided. The medium period for prision mayor is from eight (8) years and one (1) day to ten (10) years.

Applying the Indeterminate Sentence Law, the penalty impossible would be that of a degree lower than the medium period of prision mayor as minimum, and the maximum is any period included in the medium period of prision mayor. The degree lower than the medium period of prision mayor is the medium period of prision correccional which ranges from two (2) years, four (4) months, and one (1) day to four (4) years and two (2) months.

Applying *Goma*, we sentence petitioner to two (2) years, four (4) months, and one (1) day, as minimum, to eight (8) years and one (1) day, as maximum.

ACCORDINGLY, the petition is DENIED. The assailed Decision dated June 27, 2011 and Resolution dated October 21, 2011 of the Court of Appeals in CA-G.R. CR No. 25943 are AFFIRMED with MODIFICATION, sentencing petitioner C/Insp. Ruben Liwanag, Sr. to two (2) years, four (4) months, and one (1) day, as minimum, to eight (8) years and one (1) day, as maximum.

SO ORDERED.

Carpio, (Chairperson), Perlas-Bernabe, Caguioa, and J. Reyes, Jr., concur.

[1] Penned by Associate Justice Danton Q. Bueser with the concurrence of Associate Justices Hakim S. Abdulwahid and Ricardo R. Rosario, rollo, pp. 40-55.

[2] Rollo, pp. 37-38.

[3] Id. at 41-42.

[4] Id. at 42.

[5] Id. at 42-43.

[6] Id. at 43.

[7] Id. at 41-42.

[8] Id. at 43.

[9] Id. at 43-44.

[10] Id. at 44.

[11] Id. at 45.

[12] Id. at 45-46.

[13] Id. at 40-41.

[14] Id. at 48-49.

[15] Id. at 49.

[16] Id. at 51.

[17] Id. at 14-17.

[18] Id. at 75-91.

[19] Article 171. Falsification by public officer, employee or notary or ecclesiastic minister. - The penalty of prison mayor and a fine not to exceed P5,000 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 a 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.

[20] Regidor, Jr. v. People, 598 Phil. 714, 732 (2009).

[21] Id.

[22] Rollo, pp. 46-47.

[23] Galeos v. People, 657 Phil. 500, 520 (2011).

[24] G.R. No. 221857, August 16, 2017, 837 SCRA 306, 328-329.

[25] See Espino v. Amora, 571 Phil. 210, 214 (2008).

[26] 596 Phil. 1, 13-14 (2009).

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