

GRACE DAVID Y CESAR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 208320. August 19, 2015

Ponente: CARPIO, J.

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CARPIO, J.:

This is a petition for review[1] assailing the 23 January 2013 Decision[2] of the Court of Appeals in CA-G.R. CR No. 33310, affirming the trial court's decision, finding petitioner Grace David y Cesar (petitioner) guilty beyond reasonable doubt of the complex crime of estafa through falsification of commercial documents.

The Facts

Petitioner was charged with estafa through falsification of commercial documents. The Information against petitioner reads:

CRIM. CASE NO. 9693-02

That or (sic) about or within the period from August 24, 1999 to January 21, 2000, in the Municipality of Dasmariñas, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud, with deceit and abuse of confidence, while then being an employee of Hella Philippines, Inc., did [then and there] willfully, unlawfully and feloniously falsified Land Bank commercial documents, making it appear that said Hella Philippines, Inc., was assessed additional customs duties amounting to EIGHT HUNDRED FIFTY FIVE THOUSAND NINE HUNDRED NINETY FIVE PESOS (P855,995.00) more or less for the release of its imports and obtaining from said Hella Philippines, Inc., the said amount purportedly for payment of assessed additional customs duties when in fact and in truth no such additional duties have been assessed and misappropriating the said amount for her own personal use and benefits, to the damage and prejudice of Hella Philippines, Inc.

CONTRARY TO LAW.[3]

On 16 November 1989, Hella Philippines, Inc. (Hella), which imports automotive lighting and signaling equipment, hired petitioner as Traffic and Customs Coordinator.[4] Petitioner's principal duties and responsibilities as the in-house Traffic and Customs Coordinator were to: (1) perform activities relating to shipment, delivery, documentation and clearing of importations; (2) ensure the economical and efficient transportation of shipment or deliveries; (3) update information on current transportation facilities and rates; (4) coordinate with various government agencies, like the Bureau of Customs (BOC), regarding the company's imports and exports; and (5) perform tasks according to quality systems procedure.[5]

The standard operating procedure regarding Hella's imports was as follows: (1) whenever Hella's suppliers abroad would ship supplies to Hella, petitioner would handle all the shipping documents relative thereto, compute and assess the taxes due, and fill up BOC Import Entry Release Document (IERD); (2) petitioner's initial computations and assessments were then written on the IERD; (3) petitioner would submit the completed IERD forms to Hella which would then instruct its depository banks, namely Bank of the Philippine Islands and Security Bank to debit the computed amount in the name of the BOC; (4) petitioner would then process the release of the

shipments; (5) the shipments would then be released, provided the taxes and duties paid were correct; (6) if there was discrepancy in the computation and the assessment of taxes due, the BOC would impose additional duties and taxes; (7) if there were additional duties and taxes imposed, petitioner would fill up and submit a cash advance request at Hella's accounting department; (8) based on petitioner's requested amount, Hella would then release a check in petitioner's name; (9) petitioner would then encash the check and use the proceeds to pay the additional assessed taxes and duties at BOC's authorized banks such as the Land Bank of the Philippines (Land Bank); (10) the authorized collecting bank would then issue BOC Form No. 38-A to be filled up by petitioner; (11) upon validation, the BOC Form No. 38-A would serve as an official receipt supplied by the BOC General Services Department to the Land Bank BOC-MICP; (12) after payment, the BOC Form No. 38-A, with its serial number, would also bear the Land Bank's rubber stamp and the bank teller's name, evidencing receipt of payment by Land Bank; (13) upon completion of this procedure, the goods would then be released to Hella, and petitioner would begin liquidating her cash advances by submitting the same validated BOC Form No. 38-A to the accounting department; (14) after liquidation, petitioner would then be cleared of her cash advances.

The prosecution alleged that sometime in January 2000, Hella learned that petitioner had been misrepresenting the amounts she wrote on several BOC Form No. 38-A. Petitioner made it appear that payments of additional taxes were made to BOC, when in fact there was none. Petitioner falsified Land Bank commercial documents by making it appear that Hella was assessed additional customs duties totaling P855,995 for the release of its imports. The various amounts which were purportedly for the payment of the assessed additional customs duties were misappropriated by petitioner for her own personal use and benefit to the damage and prejudice of Hella.

Upon learning that Hella discovered her misrepresentations, petitioner filed her irrevocable letter of resignation on 12 January 2000. In a memorandum[6] dated 1 February 2000, Hella required petitioner to settle first all her unliquidated cash advances and clear all her accountabilities, without prejudice to whatever actions Hella might take under the circumstances.

In a letter[7] dated 24 March 2000, Hella requested Land Bank "to check/verify the authenticity of the "Official Receipt, Date, Amount, Series Number and the Teller who accepted payment" of several BOC Forms No. 38-A. In her reply, the Land Bank Manager wrote:

April 07, 2000

MR. ANTONIO A. YULO
Managing Director
HELLA-PHILS, INC.

In response to your letter dated March 24, 2000 requesting our office to check/verify the authenticity of the attached photocopies and upon presentment of the original copies of BOC Form No. 38-A based on our reports, we noted the following:

1. Serial Numbers BOC Official Receipt were not issued to Land Bank Philippines MICP EO;
2. BOC Additional Duties System will decline entry of the same Official Receipt Numbers;
3. Teller name and Number do not match;
4. Rubber stamp used differs from LandBank, and
5. Fonts of the computer printing differs from the prints produced by LandBank printer.

We hope that the informations above cited answers you[r] inquiries regarding the above subject.

Very truly yours,
(signed)
LEONOR E. YAP

Dept. Manager III[8]

Hella conducted an investigation on the matter and required petitioner to explain but she failed to reasonably justify her involvement in the matter. The minutes of the 26 April 2000 meeting with Hella and petitioner were read and signed by petitioner.[9]

For her part, petitioner argued that she merely followed the standard operating procedure of BOC in processing documents for the release of Hella's imports. Petitioner denied that she committed estafa, insisting that she did not make erroneous computations or assessments. She clarified that she did not always encash checks since Hella sometimes just gave her cash for the payment of additional taxes and duties. Besides, she claimed that she always submitted supporting documents for liquidation purposes.

On 6 January 2010, the trial court rendered a decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused Grace David guilty beyond reasonable doubt of the complex crime of Estafa [through] Falsification of Commercial Documents. Accordingly, she is sentenced to suffer the indeterminate penalty of Four (4) Years and Two (2) Months of prison correccional as minimum to Twenty (20) Years of reclusion temporal as maximum.

Accused is likewise ordered to pay a fine of P3,000.00 and to indemnify the offended party the total amount of P855,995.00 by way of actual damages with interest at the legal rate from date of filing of the information until fully paid, attorney's fees in the amount of P100,000.00 and to pay the costs.

SO ORDERED.[10]

The Ruling of the Court of Appeals

On appeal, the Court of Appeals affirmed the trial court's decision. The Court of Appeals agreed with the trial court that petitioner falsified commercial documents, as defined under Article 171, and penalized under Article 172, of the Revised Penal Code (RPC). It was established during the trial that in her liquidation reports, petitioner submitted various BOC Forms No. 38-A wherein she made it appear that Hella was assessed additional customs duties for the release of Hella's imports, and that she paid the additional customs duties to the BOC through authorized Land Bank branches. The testimonies of the officers and employees of Land Bank proved that the BOC forms submitted by petitioner were falsified. The Court of Appeals held that petitioner committed estafa when she used the falsified BOC Form No. 38-A to deceive Hella to release money to her, allegedly for the payment of additional taxes or duties with the BOC through the different branches of Land Bank.

Petitioner filed a Motion for Reconsideration, which the Court of Appeals denied in its Resolution dated 19 July 2013. Hence, this appeal.

The Issues

Petitioner raises the following issues:

(1) THE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE PLAINTIFF-APPELLEE (RESPONDENT HEREIN) WAS ABLE TO PROVE THE GUILT OF THE ACCUSED- APPELLANT (PETITIONER HEREIN) BEYOND REASONABLE DOUBT, NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PRESENT AS WITNESS ANY BUREAU OF CUSTOMS (BOC) OFFICIAL OR REPRESENTATIVE TO TESTIFY ON THE VARIOUS BOC FORM 38-A WHICH HAD ALLEGEDLY BEEN FALSIFIED.

(2) THE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE RESPONDENT HEREIN WAS ABLE TO PROVE THE GUILT OF THE PETITIONER HEREIN BEYOND REASONABLE DOUBT, NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PRESENT IN EVIDENCE

THE LIQUIDATION REPORTS OF SAID PETITIONER SHOWING THE CASH ADVANCES SHE MADE AND SUBMITTED BY HER TO HELLA PHILIPPINES, INC.

(3) THE COURT OF APPEALS GRAVELY ERRED WHEN IT OVERLOOKED THE FACT OR CIRCUMSTANCE THAT THE PROSECUTION FAILED TO PRESENT CLEAR AND CONVINCING EVIDENCE SHOWING THAT HELLA PHILIPPINES, INC. WAS ASSESSED ADDITIONAL CUSTOMS DUTIES AMOUNTING TO P855,995.00 FOR THE RELEASE OF ITS IMPORTS.[11]

The Court's Ruling

We find the appeal without merit. The Court of Appeals was correct in affirming the ruling of the trial court that petitioner is guilty of the complex crime of estafa through falsification of commercial documents. The categorical testimonies of the prosecution witnesses and the voluminous documentary evidence submitted by the prosecution clearly established petitioner's guilt.

Well-settled is the rule that the trial court, having the opportunity to observe the witnesses and their demeanor during the trial, can best assess the credibility of the witnesses and their testimonies.[12] Petitioner's mere denial cannot prevail over the positive and categorical testimonies of the prosecution witnesses.[13] Factual findings of the trial court, especially when affirmed by the Court of Appeals, are deemed binding and conclusive unless substantial facts and circumstances have been overlooked or misconstrued, which if considered might affect the result of the case,[14] and absent any clear showing of abuse, arbitrariness or capriciousness.[15]

Under Article 48[16] of the RPC, when a single act constitutes two or more crimes, a complex crime is committed for which only one penalty is imposed. Complex crimes under Article 48 refer to either (1) an act which constitutes two or more grave or less grave offenses; or (2) an offense which is a necessary means for committing another.[17] The phrase "necessary means" in Article 48 does not mean indispensable; otherwise, the offense as a "necessary means" to commit another would be an indispensable element of the latter and would be an ingredient thereof.[18] For instance, the crime of simple estafa is ordinarily committed in the manner defined under the RPC; but if the accused resorts to falsification merely to facilitate and insure the commission of estafa, then he is guilty of the complex crime of estafa through falsification.[19]

In this case, it was duly proven during the trial that petitioner falsified several BOC Form No. 38-A, a commercial document, in order to facilitate and insure the commission of estafa. BOC Form No. 38-A is a commercial document used by authorized collecting banks, such as Land Bank, as official receipt for the payment of additional or deficiency customs taxes and duties.[20] The falsification of the BOC forms, which are commercial documents, was a necessary means to commit estafa.[21]

The testimonies of the prosecution witnesses clearly established that petitioner used fake BOC forms to liquidate her cash advances for the alleged payment of additional taxes and duties to the BOC through the authorized Land Bank branches. In particular, Ms. Leonor Yap, the department manager of the Land Bank Bureau of Customs MICP, belied the authenticity of the BOC forms submitted by petitioner to Fella to justify the additional taxes and duties allegedly assessed by BOC. In her testimony, Ms. Yap explained how she arrived at the conclusion that the BOC forms sent to them by Hella for verification were falsified, thus:

Q: As Department Manager of Land Bank of the Philippines Bureau of Customs MICP, will you please tell the court your duties and responsibilities?

A: I was assigned to the Land Bank Bureau of Customs last August 2, 1999. I am responsible for the oversee (sic), the Branch Operation regarding deposit of client[s], the acceptance of payment from Brokers for payment to Bureau of Customs and the marketing operation of the plaintiff.

Q: You mentioned about the acceptance of payment as one of your responsibilities?

A: Yes, sir.

Q: Do you remember having receive[d] sometime 24 March 2000 a letter from Hella Philippines?

A: Yes, sir.

Q: If this letter will be shown to you, will you be able to recognize the same?

A: Yes, sir.

Atty. Roxas: For record purposes, we would manifest that the letter she is referring was previously marked Exh. "V". I am showing to you this document dated March 24, 2000 consisting of two pages, addressed to the Land Bank of the Philippines, Attention to Leonor Yap, signed by Antonio Yulo at the left hand corner of the document. Will you kindly go over the document and tell this court if this is the letter that you received on 24 March 2000?

A: This is the document we received dated March 27, 2000. That is received by the cashier of Land Bank Bureau of Customs, Conchita, I forgot the surname.

Q: But after this was received by one of the employees, this was referred to you?

A: Yes, sir.

Q: As a result of this letter, what did you do after Mrs. Yap?

A: I gathered the document[s], I verified the record[s] and we found out that the document being presented or stated in the letter by Mr. Yulo is xxx not issued by Land Bank Bureau of Customs MICP.

Q: When you say that's not issued by Land Bank of the Philippines Bureau of Customs MICP, what did you do?

A: The serial number of the Official receipt stated on the request [was] not part [of] the Bureau of Customs report[s], the daily reports produced by the bank.

Q: And what else if there are? (sic)

A: The front of the official report as presented, the original copy of the official receipt presented to us does not tally [with] the bank['s] official receipt that we had issued.

Q: And what else if there are? (sic)

A: The rubber stamp does not (sic) the official receipt presented to us, is not the one we are presently using.

Q: Are there anything more observation?

A: The initial of the teller differentiate the one using (sic).

Q: Being the Department Manager of Land Bank and based on what you testified, am I correct to say that the Bureau of Custom forms submitted to you for inspection were all fake?

x x x x

Court: The question propounded [to] the witness was - what was your observation?

x x x x

Court: Witness may answer.

A: When the original receipt was presented to us as the attachment document in the letter of Mr. Yulo, we immediately saw the discrepancy like the serial number of the stated official receipt in the request [was] not issued by Land Bank.

Arty. Roxas: What else did you observe?

x x x x

A: The serial number when the data entered into the computer of additional system of the Bureau of Customs, the computer rejects the serial number because [it] is not authorize[d], [it] is not the sequence authorize[d] by the Bureau of Customs.

x x x x

Atty. Roxas: What other observation?

A: The teller's name and the number do not match.

x x x x

A: The rubberstamp using are in the branch (sic) is not the rubberstamp used in the original official receipt presented to us.

x x x x

A: The last observation is the printing of official receipt, computer printing in the official receipt, the original official receipt presented to us differs from the bank file copy, sir.

x x x x

Atty. Roxas: As far as your No. 1 observation (sic), you said that the serial number of Bureau of Customs Official receipt [was] not issued to Land Bank of the Philippines MICP?

A: Yes sir.

Q: What do you mean by serial number of the Bureau of Customs official receipt?

A: The form of Bureau of Customs official receipt.

x x x x

Atty. Roxas: x x x [Y]ou are mentioning something about the serial number official receipt?

A: The Bureau of Customs official receipts used in this request are supplied by the Bureau of Customs General Services Department and the serial (sic) as stated in the request were not the series issued to us by the Bureau of Customs General Services Department.[22]

Ms. Leonor Yap also testified that most of the BOC forms in the list of BOC Form No. 38-A stated in Hella's letter requesting for verification were not reflected in the reports[23] generated from the BOC system called the Automated Matching of Payments and Payables, which indicates the date of payments, official receipts of the BOC forms, the names of the consignees and the importers, and the amount of payments made by the broker or importer. Ms. Leonor Yap explained that if the BOC Form No. 38-A is not included in the daily report of collection, it means that there was no payment made to Land Bank Bureau of Customs MICP.

The prosecution proved that the total amount defrauded was P2,074,326. However, since the Information only charged petitioner with estafa through falsification of commercial documents for the amount of P855,995, the trial court ruled that petitioner can only be held liable for such amount as charged and not the P2,074,326 which was the total amount defrauded as proved by the prosecution. To hold otherwise would be violative of the constitutional right of the accused to be informed of the nature and cause of the accusation against her.

We agree with the trial court that petitioner cannot be held liable for more than the amount stated in the Information. The Information only charged petitioner with estafa through falsification of commercial documents for the amount of P855,995. The allegations of facts constituting the offense charged are substantial matters, and

the right of the accused to question his or her conviction based on facts not alleged in the Information cannot be waived.[24] Thus, petitioner can only be held liable for P855,995, and not the P2,074,326 proved by the prosecution.

Petitioner argues that the presentation of a BOC official as witness to testify on the falsified BOC forms is crucial to establish her guilt. Petitioner insists that the testimonies of the Land Bank officials and employees are not sufficient to establish her guilt.

Petitioner's argument is flawed. It should be emphasized that petitioner never denied that she used the falsified BOC forms for the liquidation of her cash advances supposedly for additional taxes or duties imposed by the BOC. These BOC forms (BOC Form No. 38-A) are used by authorized collecting banks, such as Land Bank, as official receipts for the payment of additional or deficiency taxes and duties. Since the falsified BOC forms were made to appear as issued by Land Bank as receipts for the payments of additional customs duties and taxes, the Land Bank officials and employees are the most qualified to testify on their authenticity.

Petitioner likewise harps on the non-presentation of the liquidation reports as evidence. As held by the Court of Appeals, the overwhelming evidence presented against petitioner are more than enough to prove her culpability for the crime charged and the non-presentation of the liquidation reports did not make the other evidence against her less convincing.

On petitioner's third assignment of error, suffice it to say that Hella is precisely disputing the alleged assessed additional customs duties amounting to P855,995 by proving that petitioner used falsified BOC forms to support her claim of payment of the alleged additional customs duties.

Thus, we affirm the finding of both the trial court and the appellate court that petitioner is guilty beyond reasonable doubt of the complex crime of estafa through falsification of commercial documents.

WHEREFORE, the 23 January 2013 Decision of the Court of Appeals in CA-G.R. CR No. 33310 is AFFIRMED.

SO ORDERED.

Brion, Del Castillo, Mendoza, and Leonen, JJ., concur.

[1] Under Rule 45 of the Rules of Court.

[2] Rollo, pp. 34-44. Penned by Associate Justice Edwin D. Sorongon, with Associate Justices Hakim S. Abdulwahid and Marlene Gonzales-Sison, concurring.

[3] Records, p. 1.

[4] Annex "B," Folder of Exhibits for the Prosecution (Volume 1), p. 2.

[5] Exhibit "B," Folder of Exhibits for the Prosecution (Volume 1), p. 3.

[6] Exhibit "D," Folder of Exhibits for the Prosecution (Volume 1), p. 5.

[7] Exhibits "V" and "V-1," Folder of Exhibits for the Prosecution (Volume 1), pp. 229-230.

[8] Exhibits "W" and "W-1," Folder of Exhibits for the Prosecution (Volume 1), p. 231.

[9] Exhibits. "X," "X-1," "X-2," "X-3," "X-4," and "X-5," Folder of Exhibits for the Prosecution (Volume 1), pp. 232-237.

[10] CA rollo, p. 73.

[11] Rollo, pp. 18-19.

[12] *People v. Santos*, G.R. No. 205308, 11 February 2015; *People v. Joson*, G.R. No. 206393, 21 January 2015; *People v. Pareja*, G.R. No. 202122, 15 January 2014, 714 SCRA 131; *People v. Bonaagua*, G.R. No. 188897, 6 June 2011, 650 SCRA 620; *People v. Diunsay-Jalandoni*, 544 Phil. 163 (2007).

[13] *Domingo v. People*, 618 Phil. 499 (2009); *People v. Calimon*, 597 Phil. 110 (2009); *People v. Ballesteros*, 435 Phil. 205 (2002).

[14] *People v. Chi Chan Liu*, G.R. No. 189272, 21 January 2015; *Heirs of Spouses Liwagon v. Heirs of Spouses Liwagon* G.R. No. 193117, 26 November 2014.

[15] *Uyboco v. People*, G.R. No. 211703, 10 December 2014.

[16] Art. 48. Penalty for complex crimes. - When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means of committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

[17] *Paera v. People*, 664 Phil. 630 (2011).

[18] L. B. Reyes, *THE REVISED PENAL CODE* 661 (15th ed, 2001), citing the Dissenting Opinion of Justice Montemayor in *People v. Hernandez*, 99 Phil. 515, 557 (1956).

[19] *Id.*

[20] TSN, 16 June 2004, pp. 44-46.

[21] See *Tanenggee v. People*, G.R. No. 179448, 26 June 2013, 699 SCRA 639; *Domingo v. People*, 618 Phil. 499 (2009).

[22] TSN, 9 June 2004, pp. 5-10, 45-53.

[23] Notice of Deposited National Collections and the Daily Collection Report of Land Bank, Exhibits "ZZZZZ" to "HHHHHHH-4," Folder of Exhibits for the Prosecution (Volumes 4 and 5), pp. 694-886.

[24] *Andaya v. People*, 526 Phil. 480 (2006).

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