

THE PEOPLE OF THE PHILIPPINE ISLANDS, PLAINTIFF AND APPELLEE, VS. TAN BOMPING ET AL., DEFENDANTS AND APPELLANTS.

G. R. No. 24187. March 15, 1926

Ponente: OSTRAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-24187/>

OSTRAND, J.:

The defendants Tan Bumping, Leon Galindo, Policarpo Tambor, Lucio Macalisang and Andres Burias are accused of the crime of falsification of public documents, it being alleged in the information upon which the case went to trial "that on or about the 21st and 22d of November, 1923, in the municipality of Jimenez, Province of Misamis, Philippine Islands, and within the jurisdiction of this court, the above-named accused, confederating together and co- operating with one another, did willfully, unlawfully and criminally prepare and cause to be prepared eight fictitious and simulated documents acknowledged before a notary public wherein the accused Tan Bumping conveys to his co-accused Leon Galindo, Policarpo Tambor, Lucio Macalisang and Andres Burias eight parcels of land belonging to said accused Tan Bumping, making it to appear in said documents that the same were executed on previous dates, about the years 1919, 1920, 1921, 1922 and August of 1923, when as a matter of fact said documents were executed and signed by all the five defendants on November 21, 1923, and acknowledged by them before a notary public on November 22d of the same year."

Upon trial the Court of First Instance found all of the defendants guilty of the falsification of private documents and sentenced Tan Bumping to suffer one year, eight months and twenty-one days of presidio correctional and to pay a fine of 625 pesetas. Each of the other defendants was sentenced to six months of arresto mayor with the same fine as that imposed on Tan Bumping. All of the defendants appeal to this court.

The evidence shows beyond a reasonable doubt that the defendant Tan Bumping, in order to escape the attachment of his property in a civil action then pending, on the 21st of November, 1923, executed eight deeds of conveyance of various parcels of land, of which he was the owner, to his co-defendants, and that he intentionally antedated the documents. Duly certified copies of the deeds are in evidence and are marked Exhibits A to H, inclusive. Two of them, Exhibits A and B were executed in favor of Leon Galindo and given the date of January 15, 1920. These documents were witnessed by Policarpo Tambor and Andres Burias. Two other deeds, Exhibits C and D, were made out in favor of Policarpo Tambor and dated October 10, 1921, and October 15, 1920, respectively, and were witnessed by Leon Galindo and Andres Burias. Exhibits E and F were executed in favor of Andres Burias, dated August 15, 1923, and witnessed by Leon Galindo and Policarpo Tambor. Exhibits G and H were executed in favor of Lucio Macalisang and dated January 20, 1919. The subscribing witnesses were Leon Galindo and Policarpo Tambor. On the following day Tan Bumping took the documents to a notary public and acknowledged them in the usual manner. The notary, observing that the documents bore earlier dates, apparently became suspicious and at his instance, Tan Bumping stated under oath that they were-executed and signed on the dates therein stated.

Upon the facts stated, Tan Boming is manifestly guilty of the falsification of public documents and not merely of private ones as found by the trial court; he not only falsified the documents, but was also directly instrumental in causing them to be made public documents. The case against his co-defendants is not quite as clear and there is room for a reasonable doubt as to their knowledge of the true character of the transactions described. The majority of the members of this court are therefore of the opinion that said co-defendants should be acquitted.

In his assignments of error, counsel for the appellants raises several questions of law which we shall briefly discuss. In the original information filed in the present case, the defendants were accused of the crime of estafa with falsification of public documents. A demurrer to this information was sustained and the court ordered the fiscal to amend the information or present a new one. In compliance with this order, the fiscal amended the information so as to charge falsification of public documents only and counsel for the appellants now argues that under section 23 of General Orders No. 58 the court may order the filing of a new information, but has no power to order an amendment. This contention must be regarded as having been set at rest by the case of *United States vs. Muyot* (2 Phil., 177), in which this court held that the trial court has authority to direct amendments to an information or complaint in a criminal case. There is in fact no difference in substance between an amended information and a new one, and whether the information upon which the case goes to trial is styled "New Information" or "Amended Information" is wholly immaterial.

Counsel for the appellants also argues that the trial court erred in admitting in evidence certified copies of the falsified documents instead of the originals. It appears, however, that the originals were in the hands of the defendants; that the fiscal made demand upon them for the production of the documents in court; and that the defendants refused to comply with this demand. In these circumstances the duly certified copies were clearly admissible (see sections 321 and 322 of the Code of Civil Procedure). No proposition of law is better established than the rule that secondary evidence is admissible whenever primary evidence is not obtainable, and this rule applies to criminal as well as to civil cases (*Allen vs. State*, 21 Ga., 217; *Commonwealth vs. Jeffries*, 7 Allen, 548).

The case of *United States vs. Gregorio and Balistoy* (17 Phil., 522), cited by counsel for the appellants in support of his contention, is not in point. In that case it does not appear that a reasonable effort was made to procure the original of the document alleged to have been falsified. The statement in the decision that "in criminal proceedings for falsification of a document, it is indispensable that the judges and courts have before them the document alleged to have been simulated, counterfeited, or falsified" is much too broad if it is thereby meant that the production of the original of the document is indispensable in all criminal prosecutions for falsification. In any event, the statement can only be considered obiter dicta.

As we have already stated, the court below erred in holding that the crime committed was falsification of private documents. A deed acknowledged before a notary public is a public document and the fact that the false dates were written into the documents here in question before said documents were presented to the notary, does not alter the case if they were so presented by the parties who committed the falsification or at their instance.

For the reasons hereinbefore stated, the appellants Leon Galindo, Policarpo Tambor, Lucio Macalisang and Andres Burias are hereby acquitted of the crime charged in the complaint with their proportional shares of the costs de oficio.

We find the appellant Tan Boming guilty of the crime of the falsification of public documents and hereby sentenced him to suffer prision correccional for the term of four years, nine months, and eleven days, and to pay a fine of 250 pesetas, with subsidiary imprisonment in case of insolvency, and to pay one-fifth of the costs of both instances. So ordered.

Malcolm, Villamor, Johns, and Villa-Real, JJ., concur.

DISSENTING

STREET, J.,

I am constrained to record my dissent from so much of this decision as convicts the appellant, Tan Boming, of the offense of falsification of a public document. The decision opens a new and wide range of the application of article 300 and related provisions of the Penal Code relative to falsification,—an extension of the law which appears to me not only at variance with views heretofore entertained by the legal profession but contrary to the spirit if not the letter of said provisions. The very novelty of the idea, now for the first time advanced, that the making of a false statement of facts by the grantor of a deed in the act of acknowledging the instrument before a notary public constitutes the crime of falsification of a public document should, it seems to me, alone be enough to admonish us that something is wrong. If this decision is correct any person who deviates from the truth in a narrative of facts in any document that may affect others may incur the severe penalties provided for the crime of falsification in some form or other. But we already have statutes, relating to perjury and the giving of false testimony, intended to penalize acts of this character in so far as the law-makers have conceived that they should be made the subject of penal provisions.

One thing that strikes me as a real anomaly in the decision is that the notarial certificate which is said to have been falsified is true in its recitals in every particular, since this certificate only purports to state that the appellant acknowledged, under oath, that the deed to which the certificate is appended was executed freely and voluntarily on the day the same bears date. The notarial document does not state that the deed was in fact executed on the date indicated therein but only that the appellant stated under oath that it had been executed on that date. Nevertheless, according to this decision, the appellant has become amenable to article 301 of the Penal Code, in relation with subsection 4 of article 300, by reason of his having supplied to the notary untrue information with respect to the date upon which the instrument was executed.

The error into which I believe the court has fallen results from the failure to take proper account of the reach of subsections 1 to 8 of article 300 of the Penal Code in relation with article 301. In interpreting these provisions we should bear in mind that subsections 1 to 8, inclusive, of article 300 were drafted in unison with the first paragraph of article 300, and all of the forms of falsification specified in said subsections can be committed by public officers and the other persons mentioned in said first paragraph. But it is obvious that some of these forms of falsification cannot be committed by a private individual within the purview of article 301. It can readily be admitted that a private individual can counterfeit or imitate handwriting, signatures, or rubrics, or make alterations or insertions in a genuine document which change its meaning, but the particular form of falsification mentioned in subsection 4 which consists of the making of a false narrative of facts can, it seems to me, only be committed by the officer, employee or notary whose duty it is to formulate the narrative of facts constituting the memorial, that is, by the official, employee or notary acting as principal. Of course if the fact recorded in the acknowledgment with which we are here concerned had been false, the appellant might conceivably have been convicted as author by induction, it appearing that he had procured the false acknowledgment to be made; but where the acknowledgment limits itself to the statement of the fact that the appellant had stated under oath that the instrument was executed on the day the same bears date, it cannot be fairly said that the crime of falsification has been committed but only that the appellant made before the notary public a false oath with respect to the instrument which was acknowledged.

I pass without extended comment the minor incongruity that while the amended information charges the accused

with falsification of several deeds, which are alleged to be simulated and fictitious, the conviction is based on the falsification of the notarial certificate of acknowledgment, something not charged in the information. I submit that if the court is correct, as I believe it was, in acquitting the co-accused, who were named as vendees in the several deeds, the appellant Boming should also have been acquitted.

Although no decision from the supreme court of Spain has been called to our attention upon the exact point presented in this case, I submit that there are several decisions of that court tending strongly to show that the offense committed by Tan Boming, if any, cannot properly be described as falsification of a public document. These precedents are reported in the second volume of Viada, 4th ed., under Questions XXXI and XXXIII, on pages 406, 407, and Question V, page 428.

Romualdez, J., with whom concurs

DISSENTING

AVANCEÑA, C. J.,

I think that the accused should be convicted only of falsification of private document.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.