

TERENCIO RAÑON, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 62126. March 25, 1985

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This is a petition for review of the decision of the Court of Appeals finding the petitioner guilty of the crime of estafa thru falsification of a public and/or official document. The questioned decision affirmed the earlier decision of the Court of First Instance of Manila, the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered finding accused Terencio C. Rañon guilty beyond reasonable doubt as principal in the complex crime of estafa thru falsification of a public or official document by a private individual, as defined and penalized in Article 172, paragraph 1, and Article 315, both in relation to Article 48, all of the Revised Penal Code; and, in default of any modifying circumstance in attendance, hereby sentences him to an indeterminate penalty ranging from Four (4) Years and Two (2) Months of prision correccional, as minimum, to Eight (8) Years of prision mayor, as maximum, with the accessories provided by law and with credit for preventive imprisonment undergone, if any, in accordance with Article 29 of the Revised Penal Code, as amended by Republic Act 6127; to indemnify the Apollo Surveying Company, Inc. in the sum of Twenty Three Thousand Two Hundred Fifty Seven Pesos and 80/100 (P23,257.80); and to pay the costs."

The antecedent facts of the case upon which the decision of the appellate court is based are:

"Rañon was the President and General Manager of the Apollo Surveying Co., Inc. engaged in undertaking surveys of private lands, mineral lands and cadastral lands. Under Resolution No. 15 dated August 30, 1973, the firm's board of Directors authorized him to deposit and withdraw money and/or to cash checks for and in its behalf in any bank within the Manila Metropolitan area or at the National Treasury with the counter-signature of its Treasurer, Augusto Apo or any of its directors Romeo Iglesia, Prescillano Aguinaldo and Ceferino Rivera. Resolution No. 15 was modified by Resolution No. 17 dated January 7, 1974 where said authority was granted alternatively to either Rañon or the incumbent treasurer, Augusto Apo, with the countersignature of director Aguinaldo subject to the provision that, in Aguinaldo's absence from the Metropolitan area, said authority may be exercised by Rañon with the counter-signature of Apo.

"One of the projects undertaken by the Apollo Surveying Company, Inc. was the contract for the subdivision survey of the Agusan Settlement in Tocologon, Agusan del Sur worth P91,000.00 awarded by the Department of Agrarian Reform. From this amount, about P46,000.00 had been paid to the Company in two (2) separate payments, the second of which was the sum of P23,257.80 which was covered by Treasury Warrant No. B-03840352 dated July 11, 1974 (Exh. "A"). This warrant was received by the accused Rañon on July 15, 1974 and on the same date he went to the National Treasury Office to encash the same.

"Upon presentment of the warrant by the accused, Antonio G. Luna, National Cashier of the Bureau of Treasury required the accused to affix his signature thereto while Luna attended to his other visitors. As Luna examined the warrant, he noticed that the signature of Augusto Apo also appeared at the back thereof and when he asked why such signature already appeared in the warrant, the accused Rañon answered: 'Eh pirmado

na ng dalhin ko rito eh' (pp. 2-3, tsn., March 14, 1977). Luna further required Rañon to sign on the back of the papers relating to the contract a notation regarding the payment involved and, thus satisfied, Luna placed his counter-initial on the back of the warrant and called the paying--teller Pio Valenzuela and told him to pay the proceeds of the warrant. Upon Rañon's request, for security reasons, Valenzuela took the amount to Luna's room and delivered the same to Rañon who alone received it.

"Upon learning that Rañon had already collected the proceeds of the warrant from the Department of Agrarian Reform, Augusto Apo called up Rañon and inquired about the warrant. Rañon denied having received the same so Apo verified from the National Cashier where he learned that the warrant had already been encashed on July 15, 1974. He also noted his alleged signature appearing in the back of the warrant but he disclaimed having affixed said signature, so, on August 26, 1974, in a special meeting called by Romeo Iglesia as Chairman of the Board, the Board of Directors passed Resolution No. 26 removing Rañon as President/General Manager on the grounds of mismanagement, misconduct and abuse of power including the irregular encashment of the treasury warrant (Exh. "F"). A copy of said resolution was recorded in the Securities and Exchange Commission and Rañon was also notified thereof. Furthermore, the firm officers filed a complaint against Rañon with the PC Office of Civil Relations which was then referred to the Judge Advocate General's Office which, in turn, referred the matter to the Office of the City Fiscal of Manila. On the other hand, Rañon filed an action for damages against the Corporate Officers charging them with harassment. His complaint was dismissed for failure to prosecute but it was later revived and because of the failure of the defendants to appear at the pre-trial, judgment by default was rendered in favor of Rañon based on evidence adduced ex-parte. The judgment in said Civil Case became final and proceedings for its execution have been initiated.

"On November 7, 1974, then Assistant Fiscal Benigno Puno of the City Fiscal's Office of Manila ruled that the appellant did not know who signed and encashed the treasury warrant and did not misappropriate any corporate funds and thus recommended the dropping of the charge against him. Later, however, the charge was revived before the same City Fiscal's Office on the basis of firmer evidence based on the sworn statements of Antonio Luna and Pio Valenzuela and the findings of hand-writing examiner Tabayoyong of the NBI. A new investigation was thus conducted as a result of which the appellant was charged of Estafa Thru Falsification of Public and/or Official Document."

Upon arraignment, Rañon pleaded not guilty. How-ever, after due trial on the merits, Rañon was found guilty as charged.

Rañon questions the findings of the respondent court on the following grounds:

I

THE INTERMEDIATE APPELLATE COURT ERRED IN NOT HOLDING THAT THE PRESUMPTION THAT THE POSSESSOR OF A FALSIFIED DOCUMENT IS THE AUTHOR THEREOF WAS OVERCOME.

II

THE INTERMEDIATE APPELLATE COURT ERRED IN NOT HOLDING THAT THE EVIDENCE DOES NOT SUFFICIENTLY SHOW THAT THE PETITIONER PROFITED FROM THE PROCEEDS OF THE TREASURY WARRANT.

III

THE INTERMEDIATE APPELLATE COURT ERRED IN NOT HOLDING THAT THE PROSECUTION FAILED TO ESTABLISH THE GUILT OF THE PETITIONER BEYOND REASONABLE DOUBT.

IV

GRANTING ONLY, WITHOUT ADMITTING BUT FOR THE PURPOSE OF ARGUMENT, THAT PETITIONER COMMITTED THE ACTS COMPLAINED OF, THE INTERMEDIATE APPELLATE COURT ERRED IN NOT CONSIDERING THE MITIGATING CIRCUMSTANCES IN IMPOSING THE

PENALTY.

The first three assignments of errors are inter-related and are discussed together.

Rañon was charged with estafa for wilfully, unlawfully and feloniously misapplying, misappropriating, and converting to his own personal use and benefit the sum of P23,257.80 to the damage and prejudice of the Apollo Surveying Co., Inc.

The appellant in an earlier case, *Concepcion v. People* (74 Phil. 63), was a civil engineer who gratuitously offered his services to direct and administer the construction of the house of his niece, the complainant. For this purpose, he received from his niece the amount of P753.54 for the purchase of materials and to pay the wages of laborers. Of this amount, the appellant spent only P39.55 for materials and nothing for labor. He was charged with the crime of estafa under Article 315, paragraph 1(b) of the Revised Penal Code. This Court ruled:

xxx xxx xxx

"x x x That appellant is not guilty of estafa under the cited article, for the essence of this crime is the act of misappropriating or converting to the prejudice of another, money, goods or other personal property, and the decision of the Court of Appeals did not make any clear and positive finding that the appellant had actually misappropriated or converted the amount involved. A careful reading of said decision fails to show such unmistakable finding. The fact that appellant, at the time of the trial, had spent only P39.55 for materials and that he had not then paid the laborers does not in itself prove that he had misappropriated or converted the rest of the sum."

In this case, Rañon received the proceeds of the encashed treasury warrant but it does not necessarily follow that he was guilty of misappropriating the same. Rañon was the organizer of the Apollo Surveying Co., Inc. His position as President and General Manager called for the disbursement of funds to pay the salaries of personnel and to defray the operating expenses of the firm. It was his job to encash the firm's checks and to use the funds for the business of the company.

The appellate court totally ignored Rañon's testimony that he used the P23,257.80 proceeds of the subject treasury warrant to pay the salaries of the employees and the projects of the surveying firm. He testified:

"Q

After getting the cash repre-senting the value of the check Exhibit A for the prosecution, what did you do?

"A

I went to our office, sir.

"Q

And where did you place the cash of P23,000.00?

"A

In our office, sir.

"Q

Alright, what did you do with that cash?

"A

I paid the obligation for the operational expenses of our project, sir.

"Q

Where did you pay these expenses?

"A

The other is in our office and the remaining, sir, is in Talacogon for the payment of the salaries of the personnel.

xxx xxx xxx

"Q

Could you present to this Honorable Court, you said you have paid salaries and expenses of the company in Surigao, Agusan del Sur?

"A

This is the one, sir. (t.s.n., pp. 20-23, June 8, 1977)."

Exhibit "12" is a list of disbursements containing a detailed accounting of the expenses disbursed for the company from July 15, 1974 to August 26, 1974. The disbursements amounted to P26,315.00 which was more than the proceeds of the subject treasury warrant. The list of disbursements in Exhibit "12" started on July 15, 1974, the date when Rañon received the proceeds of the subject treasury warrant. These circumstances belie the trial court's finding that Rañon failed to account for the proceeds of the subject treasury warrant.

Insofar as estafa is concerned, the evidence fails to sustain the charge that the petitioner misappropriated and converted to his own personal use, funds of the firm he headed. The money of the surveyor company was used for its legitimate business by the officer whose job it was to supervise their disbursement.

The question remains, however, whether or not the petitioner may be held criminally liable for the falsification of a public or official document.

It is clear from the records that the signature of Augusto Apo on the treasury warrant was forged. Was petitioner Rañon, the author of the forgery?

There is no direct evidence to show that Rañon forged Apo's signature himself. However, the lower courts found that there are circumstances to suggest that he could have been the one who asked somebody else to forge it. The treasury warrant was received on July 15, 1974 and encashed that same afternoon. When Rañon presented the

warrant for encashment, the signature of Apo already appeared at the back of the check. Rañon received the P23,257.80 proceeds of the check. His only explanation was that somebody else must have affixed Apo's signature before the check came to him for bringing to the cashier.

The appellate court applied the established rule that "in the absence of a satisfactory explanation, one found in possession of and who used a forged document is the forger or the one who caused the forgery and, therefore, guilty of falsification." (Alarcon v. Court of Appeals, 19 SCRA 688 citing the earlier cases of People v. De Lara, 45 Phil. 754, 760--761; People v. Cu Unjieng, 61 Phil. 906, 922; People v. Camia, 40 O.G. No. 15, 11 Supp. pp. 46, 48-52; People v. Loteyro, et al., 50 O.G. No. 2 pp. 632, 635; People v. Dala, 50 O.G. No. 6, pp. 2675, 2677; People v. Manansala, L-13142, January 30, 1959).

There are, however, certain facts in this case which raise elements of doubt. In the first place, Terencio Rañon did not, himself, falsify the signature of Augusto Apo. In the indorsement of the firm's checks, the signatures of both Terencio Rañon and Augusto Apo are required. The trial court stated that "no one has come up to categorically finger the accused as the one who actually wrote the forged signatures x x x." The court stressed that the NBI handwriting expert was brought in only to establish whether or not the signature of Augusto Apo was genuine. We note, however, that the signatures of Rañon and Apo were written one on top of the other on the same check. It should have been a matter of course for the expert to go a little bit further and ascertain whether or not the two signatures were written by the same hand. There is no indication that anybody, expert or layman, ever saw any such possibility.

Secondly, the records fail to indicate any reason why Rañon should forge the signature of Apo or order someone else to forge it. The funds generated by the check were to be used for the regular operations of their firm. They were actually disbursed for salaries and operating expenses. There is no evidence that the petitioner pocketed the money or profited in any way from the forgery.

Third, the reinvestigation and the "firmer evidence" were in retaliation for the filing of a civil case for malicious prosecution. The initial complaint for estafa through falsification of treasury warrant was dropped by the Manila Fiscal's Office for lack of merit. The investigating fiscal believed that the charges were filed "as a leverage against complainant's and his witnesses being included as parties."

Upon being cleared of the charges, the petitioner filed a civil case against Augusto Apo, Prescillano S. Aguinaldo, Romeo B. Iglesia, and Ceferino Rivera for damages. When the defendants and their counsel failed to appear, Rañon was allowed to introduce evidence ex-parte. The trial court awarded P41,500.00 damages for the "illegal conspiracy of maliciously filing the estafa case" to harass the respondent Rañon.

Stung by the filing of a damage suit and by the decision, the former colleagues of Rañon re-opened the criminal case. This time they came up with "firmer evidence" thus leading to the sentence of conviction now before us.

Incidentally, the decision in the damage case has been executed. In the case of Augusto D. Apo, et al. v. Court of Appeals and Terencio C. Rañon (104 SCRA 472) this Court approved a compromise agreement whereby Apo paid P50,000.00 cash to Rañon while Rañon released an attached property earlier sold at a public auction to satisfy the judgment in favor of Rañon. While the civil case is not proof of innocence in the criminal case, it does seem odd that the complainants in the criminal case have paid damages for malicious prosecution of the very same estafa case where the accused was later found guilty.

The respondent court's finding of guilt was premised solely on the petitioner's having in his possession a document bearing a falsified signature. The petitioner, being president and general manager of the firm, was naturally the possessor of the firm's negotiable instruments and other important business papers. The

circumstances of this case create doubts on the petitioner's having been the one who ordered the forging of Mr. Apo's signature. We are constrained to reverse the respondent court's decision.

WHEREFORE, the petition for review is GRANTED. The decision of the former Court of Appeals dated July 22, 1982 and its resolution dated October 5, 1982 denying the motion for reconsideration for having been filed late are hereby SET ASIDE. Petitioner TERCENCIO C. RAÑON is ACQUITTED on grounds of REASONABLE DOUBT.

SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Plana, Relova, De La Fuente, and Alampay, JJ., concur.

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