

REOLANDI DIAZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND INTERMEDIATE APPELLATE COURT, RESPONDENTS.

G.R. No. 65006. October 31, 1990

Ponente: PARAS, J.

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PARAS, J.:

In Criminal Case No. 934 of the Court of First Instance of Pampanga, Fifth Judicial District, Branch VI, San Fernando, Pampanga, petitioner Reolandi Diaz was charged with the crime of Falsification of Official Document committed as follows:

“That on or about the 5th day of December 1972, in the Municipality of San Fernando, Province of Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, REOLANDI M. DIAZ, then a Senior Clerk at the Jose Abad Santos High School and, therefore, a public employee, did then and there willfully, unlawfully and feloniously commit falsification of official documents, to wit: by executing and filing in the office of the Civil Service Commission of said municipality a Personal Data Sheet, CS Form No. 212(65), an official document, stating and making it appear therein that he was a fourth year Bachelor of Arts student in 1950-54 at the Cosmopolitan and Harvardian Colleges which document is a requirement for his reappointment as School Administrative Assistant I of the Jose Abad Santos High School and wherein the academic requirement to said position is at least a fourth year college undergraduate, when in truth and in fact, the said accused well knew that the said statement is false and he did not reach the fourth year in a Bachelor of Arts degree course, and consequently, by reason of said untruthful narration of facts, his appointment to the said position was approved by the Civil Service Commission.

“All contrary to law.” (p. 44, Rollo)

After trial following a plea of not guilty upon arraignment, petitioner was found guilty as charged. The dispositive portion of the trial court’s decision is as follows:

“WHEREFORE, and in view of all the foregoing, this Court finds the accused Reolandi M. Diaz guilty as charged of the crime of falsification of official document penalized under Article 171, paragraph 4, of the Revised Penal Code, and he is therefore sentenced to suffer the indeterminate penalty of imprisonment of two (2) years, four (4) months and one (1) day of prision correccional, as minimum, to six (6) years and (1) day of prision mayor, as maximum, and to pay a fine of ONE THOUSAND (P1,000.00) PESOS without subsidiary imprisonment in case of insolvency.

“Costs against the accused.” (pp. 55-56, Rollo)

Petitioner appealed the aforesaid judgment of conviction to the intermediate Appellate Court, said appeal being docketed thereat as CA-GR No. 24580-Cr.

In its Decision promulgated on April 7, 1983, the respondent court modified the trial court’s decision by increasing the maximum of the indeterminate penalty of imprisonment in the event of non-payment of the fine due to insolvency, but affirmed the verdict of conviction in all other respects. The pertinent and dispositive

portions of respondent court's decision read:

"The penalty for the offense of falsification of an official document committed under Article 171, paragraph 4 of the Revised Penal Code is prison mayor and a fine not to exceed P5, 000.00. The correct penalty that should be imposed on the appellant applying the Indeterminate Sentence Law is imprisonment of Two (2) Years, Four (4) Months and One (1) Day of prison correccional as minimum to Eight (8) Years and One (1) Day of prison mayor as maximum. In case of non-payment of the fine of P1,000.00 due to insolvency, the appellant should be subject to subsidiary imprisonment.

"WHEREFORE, with the above modification as to the penalty and the imposition of subsidiary imprisonment in case of insolvency, the decision appealed from is affirmed in all other respects with costs against accused-appellant." (p. 68, Rollo)

Petitioner's motion for reconsideration was denied, hence, the present recourse.

It is the contention of petitioner that he is entitled to an acquittal because -

1. The findings of the lower court adopted by the respondent Intermediate Appellate Court that he was not a fourth year A.B. College student is contrary to the evidence presented.
2. The respondent Intermediate Appellate Court gravely committed an error of law in convicting him as he did not have any legal obligation to state in CS Form 212 that he was a fourth year college student.
3. The Intermediate Appellate Court committed a grave abuse of discretion in finding that the transcript of records (Exhibit I) is spurious.

Upon the following facts, found by both the trial court and respondent Intermediate Appellate Court, to have been sufficiently and satisfactorily established by the evidence on record, it appears that petitioner Reolandi Diaz was a senior clerk at the Jose Abad Santos High School in San Fernando, Pampanga.

In 1972 he sought appointment as School Administrative Assistant I of the same school and as one of the requirements for appointment to said position, filled up the prescribed personal information sheet, Civil Service Form 212, and swore to the truth and veracity of the data and information therein furnished by him before the proper administering officer. As one of the required informations, he indicated in Exh. "A" that his highest educational attainment was Fourth Year A.B. (Liberal Arts) allegedly pursued or obtained at the Cosmopolitan and Harvardian Colleges, respectively, during the years 1950 to 1954 inclusive. On the basis thereof, he was extended an appointment as School Administrative Assistant I (Exh. "B"). His personal information sheet (Exh. "A") together with his appointment paper (Exh. "B"), the certification as to the availability of funds for the position (Exh. "C") and the resolution of the Provincial Board of Pampanga creating the position (Exh. "D") were all forwarded to the Civil Service Commission for the approval of petitioner's appointment.

But contrary to petitioner's claim that his highest educational attainment was Fourth Year A.B. which he allegedly took at the Cosmopolitan and Harvardian Colleges during the years 1950 to 1954, he was never enrolled at the Cosmopolitan Colleges - which later became the Abad Santos Educational Institution and still later the Ortanez University - at any time during the period covering the years from 1950 to 1954, inclusive as certified to by the Registrar of Ortanez University, Mr. Atilano D. Solomon. Likewise, petitioner was never a student at the Harvardian Colleges in Tondo, Manila during the first quarter of school year 1953-1954, inclusive, as certified to by the school's President, Mrs. Virginia King Vda. de Yap.

Neither did petitioner ever enroll as a collegiate student at the Harvardian Colleges in San Fernando, Pampanga after he finished his secondary course in the same school in June 1950, as certified to by its Executive Director, Atty. Arnulfo Garcia.

Also, the name of petitioner was not included in all the enrollment lists of college students submitted to the then Bureau Private Schools of the Department of Education by the Harvardian Colleges at San Fernando, Pampanga and at Tondo, Manila, during the period during which petitioner claimed to have been enrolled. The same thing is true with the lists submitted by the Cosmopolitan Colleges to the said bureau.

The petitioner did not take the witness stand. He only presented in evidence an alleged transcript of record (Exh. 1) purporting to show that he took up collegiate courses at the Philippine Harvardian College in Tondo, Manila, beginning from the first quarter of the school year 1951-1952 up to the first quarter of school year 1953-1954 which transcript of record was allegedly signed by Mrs. Virginia King Vda. de Yap, for and in behalf of the then President of the school, Ildefonso Yap. But Mrs. Virginia Yap, testifying for the prosecution disowned the said signature. Besides, at the bottom portion of the transcript is a printed notation reading -- this is only valid with the college seal and signature of Pres. Ildefonso D. Yap. Exhibit "1" lacks the imprint of the college seal and the signature of President Ildefonso Yap himself. No other corroborating piece of evidence was presented by petitioner.

Contrary to petitioner's posture, there was ample, solid and conclusive evidence adduced by the prosecution to prove that he was not a fourth year A.B. undergraduate.

It was clearly established that the statement made by the accused -- that he reached fourth year A.B. and that he studied for this course (Liberal Arts) at the Cosmopolitan Colleges and the Harvardian Colleges from the years 1950 to 1954, is devoid of truth. The records of these colleges do not at all reveal that petitioner was even enrolled at any time from 1950 to 1954 in its College of Liberal Arts. His name does not appear and could not found in the enrollment lists submitted to the Bureau of Private Schools by these colleges.

While the petitioner in his defense presented an alleged transcript (Exh. "1") purporting to show that he took up collegiate course at the Philippine Harvardian College in Tondo, Manila, beginning from the first quarter of the school year 1951-1952 up to the first quarter of the school year 1953-1954, both the trial court and the respondent court correctly disregarded said transcript as having emanated from a spurious source. The transcript presented lacks the authenticating marks -- the imprint of the college seal and the signature of the President of the college.

As correctly observed by the trial court -

"It is also quite significant to note in this score that the accused in his defense failed to present any corroborating piece of evidence which will show that he was indeed enrolled in the Philippine Harvardian Colleges from the first quarter of the school year 1953-1954. If he had enrolled as a student during this period of time and he was positive that the transcript of records issued to him and in his possession is genuine and valid, it could have been easy for him to introduce corroborating evidence, i.e., the testimony of any of his classmates or teachers in the different subjects that he took to support his claim that he studied and passed these collegiate courses at the said school. But this he failed to do despite all the opportunities open to him and in the face of damning evidence all showing that he had not really enrolled in this school or in the other school mentioned by him in the personal information sheet that he filed up as requirement for his appointment." (p. 53, Rollo)

Following the doctrine laid down, however, in the case of *People v. Rufo B. Cruz*, No. L-15132, May 25, 1960, 108 Phil. 255 and the earlier case of *United States v. Tupasi Molina*, 29 Phil. 119, the crime committed under the foregoing facts, is perjury. This offense, as defined in Article 183 of the Revised Penal Code is the willful and corrupt assertion of a falsehood under oath or affirmation administered by authority of law on a material matter. The said article provides -

"Art. 183. False testimony in other cases and perjury in solemn affirmation. The penalty of *arresto mayor* in its

maximum period to prision correccional in its minimum period shall be imposed upon any person who, knowingly making untruthful statements and not being included in the provisions of the next preceding articles, shall testify under oath or make an affidavit upon any material matter before a competent person authorized to administer an oath in cases in which the law so requires.

“Any person who, in case of a solemn affirmation made in lieu of an oath, shall commit any of the falsehoods mentioned in this and the three preceding articles of this section shall suffer the respective penalties provided therein.”

In that case of *People v. Cruz supra*, the accused Rufo B. Cruz filled up an application form (Civil Service Form No. 2) for the patrolman examination. He stated therein that he had never been accused, indicted or tried for violation of any law, ordinance or regulation before any court, when in truth and in fact, as the accused well knew, he had been prosecuted and tried before the Justice of the Peace of Cainta, Rizal, for different crimes. The application was signed and sworn to by him before the municipal mayor of Cainta, Rizal.

This Court in that case held:

“This article is similar to section 3 of Act No. 1697 of the Philippine Commission, which was formerly the law punishing perjury. Under said section 3 of that Act, this Court, in the case of *United States v. Tupasi Molina* (29 Phil. 119), held that a person, who stated under oath in his application to take police examination that he had never been convicted of any crime, when as a matter of fact he has previous convictions, committed perjury. The facts in that case are almost exactly analogous to those in the present, and we find no reason, either in law or in the arguments of the Solicitor General to modify or reverse the conclusion of this Court therein. More so, because all the elements of the offense of perjury defined in Art. 183 of the Revised Penal Code concur in the present case.”

The elements of the crime of perjury are -

- (a) That the accused made a statement under oath or executed an affidavit upon a material matter.
- (b) That the statement or affidavit was made before a competent officer, authorized to receive and administer oath.
- (c) That in that statement or affidavit, the accused made a willful and deliberate assertion of a falsehood.
- (d) That the sworn statement or affidavit containing the falsity is required by law or made for a legal purpose.

All the foregoing elements are present in the case at bar.

Perjury under Art. 183 of the Revised Penal Code carries a lesser penalty. The penalty for this crime is arresto mayor in its maximum period to prision correccional in its minimum period. Since there is no mitigating and aggravating circumstance the penalty should be imposed in its medium period. Applying the Indeterminate Sentence Law, the penalty should be from four (4) months of arresto mayor as minimum to one (1) year and one (1) day of prision correccional as maximum.

WHEREFORE, in view of the foregoing considerations, the decision appealed from is modified as follows:

- (a) The accused Reolandi Diaz is found guilty of the crime of perjury defined and penalized under Art. 183 of the Revised Penal Code; and
- (b) The accused is hereby sentenced to suffer the penalty of from four (4) months of arresto mayor as minimum to one (1) year and one (1) day of prision correccional as maximum.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, Sarmiento, and Regalado, JJ., concur.

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