

METUROGAN L. SAREP, PETITIONER, VS. HONORABLE SANDIGANBAYAN, RESPONDENT.

G.R. No. 68203. September 13, 1989

Ponente: PADILLA, J.

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PADILLA, J.:

Petitioner, Meturogan L. Sarep, appeals from the decision[1] of the Sandiganbayan, dated 3 April 1984, in Criminal Case No. 4273, entitled "People of the Philippines vs. Meturogan Sarep y Lucman," convicting him of the crime of Falsification of Public Document through Reckless Imprudence, as defined and penalized in Article 171, paragraph 4, in relation to Article 365, paragraph 1, of the Revised Penal Code. The information, originally filed before the Court of First Instance of Cotabato, charged petitioner with the crime of Falsification of Official Document, committed as follows:

"That on or about December 30, 1977, or sometime prior thereto, in the City of Cotabato, Philippines, and within the jurisdiction of this Honorable Court, the said accused being then employed as Soil Technologist II under the Bureau of Soils, Region XII, Cotabato City, with a Temporary Appointment, did then and there wilfully, unlawfully and feloniously take with-out permission from the records of said Office the appointment paper proposed in his name dated January 19, 1976, which appointment paper was replaced due to an incorrect entry, by another one bearing the same date; and the accused once in possession of said appointment paper, did then and there willfully, unlawfully and feloniously change, alter and falsify the date, figures and words written thereon, thus changing its meaning and attributing to the person who caused the preparation of the same, statements other than those in fact made by him; that the falsification and alteration were committed for the purpose of converting the Temporary Status of his appointment to a Permanent Status, and which accused succeeded by having said falsified appointment paper attested by the Civil Service Commission in Manila without the knowledge of the Civil Service Commission, Region XII, who has the jurisdiction and authority to attest appointments under Region XII." [2]

From the aforesaid judgment of conviction, petitioner appealed to this Court, after his motion for reconsideration was denied by respondent court on 9 May 1984.

The antecedent facts are as follows:

On 19 January 1976, Director Kundo Pahm of the Bureau of Soils, Region XII, extended an appointment in favor of Meturogen L. Sarep (herein petitioner) to the position of Soil Technologist II (Exh. "C"). After signing the appointment paper, Pahm noticed an error in the item on civil service eligibility. The entry therein read "First Grade Unassembled" instead of "Unassembled Examination" which was the appropriate eligibility for the position of Soil Technologist; whereupon, Director Pahm called the attention of the acting personnel officer, Usman Salic, to the error and directed him to prepare another appointment paper (Exh. "B") which Pahm signed after noting the correction made by the personnel officer. The appointment was approved by the Assistant Regional Director of the Civil Service Commission (CSC) as "temporary."

Sarep's appointment was renewed on 23 May 1977 (Exh. "A") to expire on 1 April 1978 and, just like his 1976

appointment, the same was approved as "temporary" by the CSC Regional Office.

In March 1978, Director Pahm decided not to renew petitioner's appointment since the latter was not performing the duties of his position. Petitioner was accordingly informed of the director's decision. Three (3) days later, Pahm was surprised to receive a xerox copy of Sarep's appointment paper dated 30 December 1976 (Exh. "C") with erasures and superimpositions thereon, which was approved by the CSC Central Office in Manila as "permanent." When asked by Pahm to produce the original copy of the appointment paper, petitioner refused to do so. Consequently, Pahm went to the regional office of the Civil Service Commission to verify and he was advised to file a petition to recall or cancel Sarep's appointment (Exh. "C") which he did, by forwarding to the CSC Central Office in Manila a "Petition for Recall and/or Withdrawal and Cancel Supposed Permanent Appointment of Mr. Meturogan L. Sarep, Soil Technologist II, Lando del Sur Soil District Office."

On 21 December 1978, an Information for Falsification of Official Document was filed against Sarep before the Court of First Instance of Cotabato, which was docketed therein as Criminal Case No. 596. The case was later transferred to respondent Sandiganbayan pursuant to the lower court's Order dated 25 September 1981.

After trial, the respondent Sandiganbayan promulgated the now assailed decision, the dispositive part of which reads:

"WHEREFORE, judgment is hereby rendered finding accused Meturogan Sarep y Lucman GUILTY beyond reasonable doubt as principal in the offense of Falsification of Public Documents through Reckless Imprudence, as defined and penalized in Article 171, paragraph 4, in relation to Article 365, paragraph 1, of the Revised Penal Code, and there being present the mitigating circumstance of voluntary surrender, hereby sentences him to suffer the straight penalty of imprisonment for THREE (3) MONTHS, to pay a fine of P500.00, with subsidiary imprisonment in case of insolvency, and to pay the costs of this action." [3]

As earlier mentioned, petitioner appealed the said decision on the sole assignment of error.

"THAT THE LOWER COURT ERRED OF [sic] CONVICTING THE PETITIONER FOR FALSIFICATION THROUGH RECKLESS IMPRUDENCE." [4]

It is petitioner's submission that, based on the evidence presented by the prosecution and the defense, there is no evidence which proves that he caused the erasures, alterations and intercalations on Exh. "C" for which he was found guilty of falsification of public document through reckless imprudence. He points to the personnel officer, Usman Salic, or the latter's subordinates, as responsible for the erasures and alterations in said appointment paper. He likewise asserts that Director Kundo Pahm should also be held responsible. In support of this assertion, he quotes a portion of the cross-examination of witness Pahm, to wit:

"ATTY ORENCIA:

q Now it appears in Exhibit 1 that there is an erasure above the typewritten words December 30, 1976 which erasure can be read as February, which the month could be read as February; Do you still insist that this Exhibit C was dated January 19, 1976?

a Yes sir, of course when I first signed it.

ATTY ORENCIA:

May we respectfully request that the erasure above the words December 30 which reads February be encircled and be marked as Exhibit 1-a.

JUSTICE ESCAREAL:

Mark it.

JUSTICE MOLINA:

q The word that was originally printed was February and another superimposed to it?

a Yes sir, below December 30 which is also the date appearing in Exhibit C, Your Honor.

x x x

JUSTICE ESCAREAL:

q Why did you not cancel the document when you found out that there was something wrong with it?

a I trusted the personnel officer and that he will be the one, Your Honor.

q Sine [sic] the document bears your signa-ture, you should have crossed your signa-ture out?

a May be that was my fault, Your Honor."[5]

Petitioner thus claims that the appointment paper (Exhibit "C") already bore the erasures, alterations and intercalations even before Pahm signed it.

Petitioner also contends that the following elements of the crime charged under paragraph 4, Article 171, of the Revised Penal Code, are absent in the case:

1. The offender makes in a document false statement in a narration of facts;
2. He has a legal obligation to disclose the truth of the facts narrated by him;
3. The person making the narration of facts must be aware of the falsity of the facts narrated by him.

Petitioner submits that he is not a public officer who is in charge of preparing appointments of the employees in the agency; that he had no participation or intervention in the preparation of his appointment paper nor held it in custody in an official capacity. Moreover, petitioner argues that granting, for the sake of argument, but not admitting, that he did falsify the questioned document, no third person had been damaged thereby. He also points out that the alleged falsified document bears the correct item number and appropriate civil service eligibility. Hence, there is no falsification. He cites the case of U.S. vs. Lino Reyes, in which:

"It was ruled that there can be no con-viction for falsification of a public document in the absence of proof that the defendant maliciously perverted the truth with wrongful intent of injuring third person."[6]

Finally, petitioner invokes good faith in his defense. He claims that after the personnel officer handed him the questioned document, which bore the erasures and alterations as well as the Director's signature, he brought it to the Civil Service Commission in Manila upon suggestion and with the permission of the personnel officer.

The petition is without merit.

The core of petitioner's arguments is based on the testimony of witness Kundo Pahm, earlier quoted. Petitioner makes capital of the testimony of Director Pahm that the latter signed Exhibit "C" even if he already noticed the mistake in the stated eligibility. However, an analysis and examination of the same testimony and that of witness Usman Salic, the personnel officer, would show that Exhibit "C" was precisely discarded or cancelled after Director Pahm had inadvertently signed it before noticing the mistake in the entry on civil service eligibility only. On the other hand, petitioner's citation of the testimonies of both Kundo Pahm and Usman Salic disproves his contention that both officers are to be blamed for the falsification. Both officers categorically stated that Exhibit "C" was replaced by another appointment paper (Exh. "B") which was duly approved by the CSC Regional Office in Cotabato City. It is clear that Exhibit "C" was the cancelled appointment paper that was missing but later found

in the possession of petitioner already bearing erasures, alterations and superimpositions. Consider the following testimonies:

1. Kundo Pahm:

"FISCAL FERRER:

q What did you do then with this Exhibit C after the preparation of Exhibit B which was approved by the Civil Service Commission?

a When I noticed after going over for the second time, I called my personnel officer to prepare another one because of that term which I requested him to make another one because it is not appropriate term.

FISCAL FERRER:

q Did you ever ask the cancellation of this Exhibit C by your personnel officer?

ATTY ORENCIA:

Objection, leading.

JUSTICE ESCAREAL:

Reform.

FISCAL FERRER:

q What was your instruction if any for your personnel officer for him to do with respect to this Exhibit C because Exhibit B was prepared with the proper correction?

a I just gave that back to him and being a personnel officer I presume he knows his functions."[7]

x x x

2. Usman Salic:

q Meantime with the approval of this Exhibit B what did you do with Exhibit C which you were asked by the director to cancel?

a This is the appointment which I was looking for because it was lost.

q Where did you keep this Exhibit C after you were advised by the director to prepare another appointment for Mr. Sarep?

a I kept it in my drawer.

q After you kept this Exhibit C inside. I withdraw that question.

q What is your purpose any way in keeping this Exhibit C inside your drawer when there was already another appointment for Mr. Sarep?

a My purpose there is to cancel that. The only mistake I committed there was, I was not able to cancel it right away.

q Thereafter or in the following days months did you try to cancel this Exhibit C?

a I was not able to cancel it because it was already lost.

q When for the first time did you notice that this was already missing, Exhibit C?

a I noticed after I prepared the second appointment." [8]

The Court does not accept petitioner's defense of good faith. He admitted that he knew that Director Pahm was not only uninclined to extend him a permanent appointment due to his lack of civil service eligibility but he also did not authorize him (Sarep) to follow up his appointment with the Civil Service Commission in Manila. More importantly, he knew that if the falsified document had been presented before the CSC Regional Office, it would have surely been attested as temporary only. Hence, he purposely avoided filing the appointment paper with the CSC Regional Office, which is the practice and standard procedure in the regional office of the Bureau of Soils and, instead, personally brought it to Manila where somehow he was able to have it stamped approved as permanent.

The Court also rejects Sarep's argument that there is no falsification, as the alleged falsified document bears the correct item number and appropriate eligibility. We agree with the respondent court that "(I)t is falsification, and not a correction, which the law punishes (*People vs. Mateo*, 25 Phil. 324; *Arriola vs. Republic*, 103 Phil. 730)." Likewise, "(I)n the falsification of public or official documents, whether by public officials or by 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 contradiction to private documents, the principal thing punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed (*Decision of the Supreme Court of Spain of December 23, 1885*, cited in *People vs. Pacana*, 47 Phil. 56)." [9]

Since petitioner is the only person who stood to benefit by the falsification of the document that was found in his possession, it is presumed that he is the material author of the falsification. Petitioner has failed to convince the Court that a person other than himself made the erasures, alterations and superimpositions on the questioned appointment paper (Exh. "C").

The Sandiganbayan in qualifying the offense and arriving at the penalty imposed on the petitioner held:

"We are inclined, however, to credit the accused herein with the benefit of the circumstance that he did not maliciously pervert the truth with the wrongful intent of injuring some person (*People vs. Reyes*, 1 Phil. 341). Since he sincerely believed that his CSC eligibility based on his having passed the Regional Cultural Community Officer (Unassembled) Examination and educational attainment were sufficient to qualify him for a permanent position, then he should only be held liable for falsification through reckless imprudence (*People vs. Leopando*, 36 O.G. 2937, *People vs. Maleza*, 14 Phil. 468; *People vs. Pacheco*, 18 Phil. 399).

"Article 365 of the Revised Penal Code, which punishes criminal negligence or quasi-offenses, furnishes the middle way between a wrongful act committed with wrongful intent, which gives rise to a felony, and a wrongful act committed without any intent which may entirely exempt the doer from criminal liability. It is the duty of everyone to execute his own acts with due care and diligence in order that no prejudicial or injurious results may be suffered by others from acts that are otherwise offensive (*Aquino*, R.P.C. Vol. III, 1976, Ed., p. 1884). What is penalized is the mental attitude or condition behind the acts of dangerous recklessness and lack of care or foresight although such mental attitude might have produced several effects or consequences (*People vs. Cano*, L-19660, May 24, 1966).

"Consequently, the penalty to be imposed upon the accused herein should be that as provided for in the first paragraph of Article 365 of the Revised Penal Code, which is the penalty prescribed for any person who by reckless imprudence, shall commit any act which, had it been intentional, would constitute a grave felony, to wit: *arresto mayor* in its maximum period to *prision correccional* in its medium period. Accused is entitled to the mitigating circumstance of voluntary surrender (Page 38, Record). No other modifying circumstance appears proven on the record." [10]

The Court finds no reversible error in the Sandigan-bayan's decision finding petitioner, Meturogan L. Sarep,

guilty of the crime of falsification of public document through reckless imprudence. However, the penalty imposed should be imprisonment of THREE MONTHS AND ONE DAY TO ONE YEAR, SEVEN MONTHS AND TEN DAYS, instead of imprisonment of THREE MONTHS under the appealed decision, since the period of the penalty imposed, i.e., arresto mayor in its maximum period to prision correccional in its medium period is four months and one day to four years and two months reduced by appreciating the mitigating circumstance of voluntary surrender and applying the Indeterminate Sentence Law.

WHEREFORE, except as modified with respect to the penalty, the decision of the respondent Sandiganbayan is AFFIRMED. Costs against petitioner.

SO ORDERED.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Penned by Associate Justice Romeo M. Escareal, with the concurrence of Justices Ramon V. Jabson and Romulo S. Quimpo.

[2] Rollo, pp. 15-16

[3] Id., p. 37

[4] Id., p. 3

[5] T.S.N., August 12, 1982, pp. 41 and 44; Petition, pp. 3-4

[6] Petition, p. 10

[7] T.S.N., August 12, 1982, pp. 18-19, direct-examination of Kundo Pahm.

[8] Id., pp. 55-56, direct-examination of Usman Salic.

[9] Luis B. Reyes, The Revised Penal Code, 12th Ed., Bk. II, p. 233; People vs. Ro Giok To, L-7236, April 30, 1955, 96 Phil. 913.

[10] Rollo, pp. 35-37

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