

MAXIMINO GAMIDO Y BUENAVENTURA, PETITIONER, VS. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 111962-72. December 08, 1995

Ponente: MENDOZA, J.

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MENDOZA, J.:

This is a petition for review on certiorari of the decision of the Court of Appeals which affirmed with modification[1] petitioner Maximino B. Gamido's conviction by the Regional Trial Court on eleven counts of having forged the signature of the Chief Executive. Specifically, petitioner was accused in 11 cases of forging the signature of the President of the Philippines in the following documents and making it appear that the documents were genuine official documents of the Republic of the Philippines:

1. Criminal Case No. 85-40361 - Special Appointment of Maximino Gamido as Confidential Presidential Representative dated November 30, 1984;[2]
2. Criminal Case No. 85-40362 - Memorandum/Order No. 1489 informing all Heads of Ministries, Bureaus, Instrumentalities of the Government, and Government Controlled Corporations and others on the existence of Presidential Regional Assistant Monitoring Services (PRAMS) dated July 29, 1985;[3]
3. Criminal Case No. 85-40363 - Appointment of Maximino Gamido as Presidential Regional Executive Assistant and Executive Director of the PRAMS dated November 7, 1983;[4]
4. Criminal Case No. 85-40364 - Memorandum to Land, Air and Navigation Transportation Operators in the Philippines dated July 11, 1985;[5]
5. Criminal Case No. 85-40365 - Memorandum Order to all Heads of Ministries, Bureaus, Government Corporations, Government Agencies and Instrumentalities, and Government Controlled Corporations dated July 29, 1985;[6]
6. Criminal Case No. 85-40366 - Memorandum Order No. 1480 - To: Hon. Maximino B. Gamido, Presidential Regional Executive Assistant/Executive Director PRAMS--PREMO dated November 23, 1984;[7]
7. Criminal Case No. 85-40367 - Memorandum/Circular to all Operators: (1) Land Transportation; (2) Shipping Transportation; (3) Air Line Transportation dated November 30, 1984;[8]
8. Criminal Case No. 85-40368 - A letter addressed to President Ferdinand E. Marcos, thru the Minister of the Budget, submitting the required STANDARD OPERATING PROCEDURES (SOP) specifying the functions and duties of PRAMS personnel and their salaries allegedly approved by the President on November 23, 1984;[9]
9. Criminal Case No. 85-40369 - Executive Order No. 820 Creating the Presidential Regional Assistant Monitoring Services (PRAMS) in all Regions of the Philippines dated October 11, 1983;[10]
10. Criminal Case No. 85-40370 - Special Presidential Certification dated September 9, 1985;[11] and

11. Criminal Case No. 85-40371 - Presidential Permission for Free of Fare (sic) in any Transportation in the Philippines dated February 28, 1985.[12]

The prosecution was made under Art. 161 of the Revised Penal Code which provides as follows:

Art. 161. Counterfeiting the great seal of the Government of the Philippine Islands, forging the signature or stamp of the Chief Executive. - The penalty of reclusion temporal shall be imposed upon any person who shall forge the Great Seal of the Government of the Philippine Islands or the signature or stamp of the Chief Executive.

It appears that on March 25, 1985, then Executive Assistant Juan C. Tuvera issued Memorandum Circular No. 1281[13] which read:

INFORMING ALL HEADS OF MINISTRIES, AGENCIES, GOVERNMENT CORPORATIONS AND INSTRUMENTALITIES OF THE GOVERNMENT, INCLUDING PROVINCIAL AND LOCAL GOVERNMENTS OF THE NON-EXISTENCE OF THE PRESIDENTIAL REGIONAL ASSISTANT MONITORING SERVICES (PRAMS) WITHIN THE OFFICE OF THE PRESIDENT.

The Presidential Regional Assistant Monitoring Services (PRAMS) is a non-existent agency within the Office of the President. Its alleged Executive Director, Mr. Maximino B. Gamido is likewise not connected, in any capacity, with this Office.

It is gathered that personnel from the PRAMS have been using Presidential directives, particularly Executive Order No. 819; Memorandum Order No. 811; and Memorandum Circular No. 1278, to support its fraudulent activities. These issuances, however, refer to the creation, designation/appointment, and operationalization of the Presidential Regional Monitoring Officer (PREMO) System, the duly authorized regional monitoring arm of the Office of the President, which is charged to provide the President with the information on development in the region.

Furthermore, Mr. Gamido has not been given any authorization to sign for and on behalf of the President of the Philippines. As such, all memorandum/directives issued by Mr. Gamido on behalf of the Office of the President are fraudulent. All memorandum/directives issued by alleged PRAMS personnel are likewise fraudulent.

By Authority of the President:

JUAN C. TUVERA

Presidential Executive Assistant

Following the issuance of this memorandum, the Presidential Security Command and the Office of the President, through the Malacañang Complaints and Investigation Office (CIO), investigated petitioner.

On September 27, 1985, upon the invitation of Atty. Quirino Sagario, CIO Hearing Officer, petitioner appeared and presented the 11 documents, claiming that President Ferdinand E. Marcos had signed them in his (petitioner's) presence.

The lone witness for the prosecution, Melquiades T. de la Cruz, Presidential Staff Director of the Malacañang Records Office (MRO), testified that there were no copies of the documents on file in his office and that the signatures thereon did not appear to be those of the former President.

For his part, petitioner said that he was the Executive Director of the Presidential Regional Assistant Monitoring Services, or PRAMS, having been appointed by then President Marcos and that his appointment and the related documents, subject of the prosecution, had been signed by the former President in petitioner's presence.

The Regional Trial Court of Manila, Branch 3, in finding the petitioner guilty, held:

The defense put up by the accused, that all the subject documents were actually signed by then President Ferdinand E. Marcos, in his office at Malacañang, and in the presence of said accused, is as preposterous as it is unbelievable, the said defense, besides being completely negated and belied by the established facts (that subject documents, do not exist in the Malacañang Records Office, and therefore, are spurious) is an imposition on human belief and all sense of propriety. Further, the accused does not appear to the Court, and has not shown himself, to be of such stature as to enjoy the privilege of having the former Chief Executive sign documents in his presence. Moreover, the testimony of the accused in support of his defense is totally untrustworthy and unreliable.

On the basis of the foregoing factual and legal considerations, the Court is convinced, beyond any shadow of doubt, that the felony of the forging the signature of the President, as defined and penalized under Art. 161 of the Revised Penal Code, was committed by the accused on eleven (11) counts.

WHEREFORE, this Court finds the accused guilty beyond reasonable doubt of the crime forging the signature of the Chief Executive, and/or violation of Art. 161 of the Revised Penal Code, without any mitigating or aggravating circumstances, and hereby sentences him to suffer the indeterminate penalty of eight (8) years and one (1) day of prision mayor, as minimum, to fourteen (14) years and one (1) day of reclusion temporal, as maximum, in each of these eleven (11) criminal cases, or a total of eighty (88) years up to one hundred fifty-four (154) years, with costs against the accused.

SO ORDERED.

On appeal, the Special First Division of the Court of Appeals[14] affirmed with the modification already noted on the margin of this opinion.

In this petition, petitioner argues that the Court of Appeals committed reversible error in affirming his conviction for the following reasons:

- (1) The fact that the documents in question are not on file in the Malacañang Records Office does not ipso facto prove that they are forged but only that they were lost or destroyed.
- (2) The lone prosecution witness, Melquiades T. de la Cruz, is incompetent to testify that the documents were forgeries since there is no evidence to show that he had seen then President Marcos sign documents. Indeed, this witness could not say with certainty that the signature on each of the 11 documents was not that of President Marcos.
- (3) No handwriting expert was presented in court to give an opinion as to the genuineness of President Marcos' signatures.
- (4) The Court of Appeals and the RTC committed the fallacy of "argumentum ad elenchi" in concluding that the signatures in the documents were forgeries from the documents' "unusual format and atrocious grammar" when these documents were not offered to prove their appearance and grammar.
- (5) Assuming these defects in format and grammar, there is no forgery since the documents could not have deceived any person.
- (6) A writing or instrument in order to constitute a forgery must possess some apparent legal efficacy (36 Am. Jur. 2d 690), and if PRAMS is a non-existent entity as Memorandum Circular No. 1281 declared, then the documents executed under it cannot acquire such "apparent legal efficacy."
- (7) Assuming further that the signature of former President Marcos on the document creating the PRAMS was a counterfeit (Exh. C), the criminal liability of the author thereof absorbed all acts of forgery committed under the

fictitious office, because there was only one intent, i.e. to discharge the imagined functions of a non-existent office.

(8) Assuming that the signatures of then President Marcos in the documents were spurious, petitioner, the possessor of the documents, must be exempted from criminal responsibility because no person of sound mind would make it appear that the President created an office and appointed him to that office.

The petition has no merit.

First. Melquiades T. de la Cruz, Director of the Malacañang Records Office, testified that his office did not have a record of the documents. For his part Executive Secretary Juan C. Tuvera declared the Presidential Regional Assistant Monitoring Services as nonexistent and its alleged Executive Director, herein petitioner, as not in any capacity connected with the Office of the President. From these premises it is rational to conclude that the documents in question, which purport to have been signed by then President Marcos, are bogus documents. The trial court and Court of Appeals correctly found petitioner to be the author of the forgery. The presumption is that the possessor and user of a falsified document is the forger thereof.[15]

Second. Petitioner contends that Melquiades T. dela Cruz was incompetent to testify as to whether the signatures on the documents, purporting to be those of President Marcos, were forgeries because there is no showing that he had witnessed President Marcos signing his name.

What dela Cruz said that is that he was familiar with the signature of President Marcos and that the signatures on the documents in question were not those of President Marcos.[16] This is sufficient to establish the signatures as forgeries. Under Rule 132, §22 of the Revised Rules on Evidence, it is not required that the person identifying the handwriting of another must have seen the latter write the document or sign it. It is enough if the witness "has seen writing purporting to be his [the subject's] upon which the witness has acted or been charged, and has thus acquired knowledge of the handwriting of such person." De la Cruz has been record custodian at Malacañang for so many years; it is inconceivable he had not acquired familiarity with the signature not only of President Marcos but of other Presidents under whom he had served.

There was thus no necessity for a handwriting expert testify on the genuineness of the challenged signatures. As this Court has once observed, the authenticity of signatures "is not a highly technical issue in the same sense that questions concerning, e.g., quantum physics or topology or molecular biology, would constitute matters of a highly technical nature. The opinion of a handwriting expert on the genuineness of a questioned signature is certainly much less compelling upon a judge than an opinion rendered by a specialist on a highly technical issue. The signatures on a questioned document can be sighted by a judge who can and should exercise independent judgment on the issue of authenticity of such signatures." [17] Here, as the trial court observed, "the forgeries were not only established by the evidence, but they are also as clearly discernible to the naked eye or mere ocular inspection, as they are conspicuously evident from their appearance. . . ." [18]

Third. Nor is there merit in petitioner's claim that forgery could not be said to exist since the documents, because of their "unusual format, atrocious grammar, and misspelled words" could not have defrauded or deceived anyone, and that moreover they lack "apparent legal efficacy." That is not so. If the documents were fanciful or whimsical, as for example, a commission appointing petitioner mayor of a mythical kingdom, the forgery could simply be dismissed as a spoof. But as pointed out by the Solicitor General, the Office of the President had to issue a memorandum denouncing the legality of PRAMS because of the possibility that the less wary would be deceived, especially because that the documents pertaining to it bear the Great Seal and were typed on stationary which have the appearance of official stationery of the Office of the President.

Fourth. Petitioner also argues that he should have been charged under only one information because there was only one intent "to discharge the imagined functions of a non-existent office." The argument has no merit. The documents in this case were forged on different dates. One act was not done to commit another. There is therefore no basis for considering the various acts as constituting only one crime of forgery.

Fifth. As a last-ditch effort of sorts to escape criminal liability, petitioner claims that since "no person of sound mind would [make] it appear that the Chief Executive created an office for him and appointed him thereto," he must be exempt from criminal liability under Art. 12, par. 1 of the Revised Penal Code. This, again, is not necessarily so since the purpose may be to deceive others. Moreover, this defense now invoked should have been raised below. At all events, the presumption is in favor of sanity.^[19] In this case there is no evidence to show that petitioner was insane at the time he committed the acts for which he is being prosecuted.

WHEREFORE, petitioner's petition for review and petition for bail pending appeal are DENIED for lack of merit.

SO ORDERED.

Narvasa, C.J., (Chairman), Regalado, Puno, and Francisco, JJ., concur.

[1] The RTC sentenced petitioner to suffer the indeterminate penalty of 8 years and 1 day of prision mayor, as minimum, to 14 years and 1 day of reclusion temporal, as maximum, for each of the 11 criminal cases, or a total of 88 years up to 154 years, with costs. The Court of Appeals modified the sentence by imposing on petitioner the indeterminate penalty of 8 years and 1 day of prision mayor, as minimum, to 14 years, 8 months and 1 day of reclusion temporal, as maximum, in each of the 11 criminal cases.

[2] Exh. F.

[3] Exh. M.

[4] Exh. G.

[5] Exh. H.

[6] Exh. J.

[7] Exh. L.

[8] Exh. N.

[9] Exh. K.

[10] Exh. C.

[11] Exh. D.

[12] Exh. E.

[13] Exh. JJ.

[14] Gutierrez, J., (ponente), with Imperial and Austria-Martinez, JJ., concurring.

[15] *Caubang v. People*, 210 SCRA 377 (1992).

[16] TSN, January 7, 1987, pp. 15-22.

[17] *Alcon v. Intermediate Appellate Court*, 162 SCRA 833 (1988).

[18] RTC decision, p. 10, Rollo, p. 34.

[19] *People v. Bascos*, 44 Phil. 204 (1922).

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