

## **PILAR S. LUAGUE, PETITIONER, VS. THE HONORABLE COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

*G.R. Nos. 55683 & 55903-04. February 22, 1982*

Ponente: ABAD SANTOS, J.

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### **ABAD SANTOS, J.:**

Certiorari to review a decision of the Court of Appeals in CA-G.R. Nos. 22414-16 CR, which affirmed the decision of the Court of First Instance of Samar, Branch X, convicting the petitioner of three counts of falsification of commercial documents in Criminal Cases Nos. 599, 600 and 601.

The facts are stated in the poorly written decision of the Court of Appeals thus:

"Iluminado Luague, a teacher clerk in the district office of Laoang II, Northern Samar, died at the G.B. Tan Memorial Hospital at around 7:00 o'clock in the evening of January 24, 1972 after he was confined in said hospital since January 3, 1972.

"Thereafter, the then Bureau of Public Schools sent the deceased's salary warrants [Exhibits A (599), A(600) and A (601)] to the Superintendent of schools at Catarman, Northern Samar who in turn forwarded them to the District Supervisor, Florencio Guillermo. A payroll-warrant register accompanied the checks.

"The paychecks delivered, Florencio Guillermo signed the payroll-warrant registers certifying that on his official oath, each employee whose name appeared on the rolls had received the salary warrant indicated opposite his name on February 7, 1972, February 17, 1972 and February 25, 1972, respectively, and returned the same to Jose Figueroa, the District Administrative Officer of Northern Samar.

"Exhibit A (599) was personally received by Pilar S. Luague, while Exhibit A (600) was received by Glen S. Luague. Exhibit A (601) was received by Edmundo Echano, a relative of Iluminado Luague and who claimed to be employed in the Office of the District Supervisor.

"Florencio Guillermo claimed that upon discovering his mistake, he asked appellant to return the treasury warrants issued in the name of her husband Iluminado Luague, further claiming that appellant promised to do so, but actually did not. Upon the receipt of the xerox copies from the IBM Section of the Bureau of Public Schools, Guillermo discovered that the treasury warrants in question had been encashed by appellant and Glen Luague with different local stores at Laoang. Exhibit A (599) was cleared on February 22, 1972, while Exhibit A (600) was deposited to the account of a certain Lee and/or Nicolas Chu, Jr. at Philippine Bank of Communications; and Exhibit A (601) was deposited to the account of Colgate-Palmolive Philippines, Inc. Appellant admitted having endorsed the treasury warrants by means of which she was able to encash the same.

"For signing the name of her husband Iluminado Luague as payee on three treasury warrants for purposes of endorsement, appellant stands charged with the crime of Estafa thru Falsification of Commercial Document." [Note: The appellant was charged with three counts of estafa thru falsification of commercial document but was convicted of falsification only.]

It is the petitioner's contention before Us as well as in the Court of Appeals that she acted in good faith or had no

criminal intent when she cashed her deceased husband's paychecks. As stated in the decision of the Court of Appeals:

"Appellant puts up the defense of good faith in signing the name of her deceased husband in the treasury warrants in question.

"Her version: The late Iluminado Luague was on leave from January 3 to February 9, 1972, as evidenced by his approved application for sick leave. On January 23, 1972, the Principal, Jose Infante, while visiting Iluminado Luague in the hospital, handed to Luague a check representing his differentials. Luague in turn handed over the check to his wife, the herein appellant, who was then present. Before Infante left, he informed the Luague spouses that Luague's pay check for the second half of January 1972 had arrived and advised Mrs. Luague to get the same from Florencio Guillermo so that she could use it to pay for medicine and hospital expenses of her husband.

"Iluminado Luague instructed her [his (sic)] wife to get the check from Florencio Guillermo. Appellant went to the house of Guillermo in the afternoon of January 23, 1972. Guillermo asked her to sign the name of her husband on the payroll-warrant register and counter-sign with her initials. Guillermo then handed her the treasury warrant [Exhibit A (599)].

"Iluminado Luague died on January 24, 1972. From the proceeds of the warrants they received were paid the amount the Luague family owed the drugstores owned by Amor Carandang, Purisima Saba and Luz Tan. A treasury warrant was also paid to Edward Kam from whom they bought construction materials for the tomb of the deceased and to Ong Kiat store for the payment of materials used for the coffin of the late Iluminado Luague which were purchased on credit.

"Upon the instruction of Amor Carandang and on her belief and upon suggestion of Florencio Guillermo himself that the warrants could be used to settle their financial obligations incurred by the hospitalization and death of her late husband, appellant indorsed the said treasury warrants by signing the name of Iluminado Luague.

"Heirs of deceased government employees are entitled to whatever unpaid salaries the deceased employee failed to receive. Appellant claims that it was upon this honest belief that she endorsed the treasury warrants of her late husband to defray for the necessary expenses incurred due to the latter's hospitalization, funeral and burial."

The Court of Appeals did not reject the petitioner's version, except in respect of the date when the first paycheck was delivered. In affirming the decision of the trial court, the Court of Appeals followed the simplistic procedure of applying literally the letter of the law, namely: there was falsification because the petitioner "signed her husband's name in indorsing the treasury warrants in question." The Court of Appeals failed to take into account the following facts: That the petitioner signed her husband's name to the checks because they were delivered to her by no less than her husband's district supervisor long after the husband's death which was known to the supervisor; that she used the proceeds of the checks to pay for the expenses of her husband's last illness and his burial; and that she believed that she was entitled to the money as an advance payment for her husband's vacation and sick leave credits the money value of which exceeded the value of the checks. In the light of these circumstances, We cannot ascribe criminal intent to the petitioner. We sustain her claim that she acted in good faith.

During the hearing, it was brought out that the government did not sustain any financial loss due to the encashment of the checks because the petitioner's husband had accumulated vacation and sick leaves the money value of which exceeded the value of the three paychecks and the value of the checks was simply deducted from the money value of the leaves. This explains why the petitioner was not convicted of estafa but of falsification

only. While we do not mean to imply that if there is no damage there can be no falsification, We do say that the absence of damage is an element to be considered to determine whether or not there is criminal intent.

We notice here the lack of compassion on the part of the prosecuting fiscal, the trial judge, and the Court of Appeals. Even the Solicitor General who is alert in seeking to correct improper convictions by trial courts has somehow misappreciated the evidence in this case.

The accused is a poor widow who was obviously in a state of bewilderment due to the recent death of her husband when she cashed the paychecks. She was also in dire need of money to settle the expenses for her husband's last illness and his burial. A compassionate attitude repeatedly urged by the First Lady, Mrs. Imelda R. Marcos, would have been highly in order under the circumstances.

WHEREFORE, the petition is hereby granted; the decision of the Court of Appeals is reversed; the petitioner is acquitted of the charges against her. No costs.

**SO ORDERED.**

Barredo (Chairman), Aquino, Concepcion, Jr., De Castro, and Ericta, JJ., concur.

Escolin, J., no part.

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