

INOCENTES AMORA, JR., AND CLAUDIO MURILLO, PETITIONERS, VS. THE HON. COURT OF APPEALS AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 58973-76. July 20, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Petition to review a decision of the Court of Appeals.

Petitioners Inocentes Amora, Jr. and Claudio Murillo were accused of four (4) counts of Estafa thru Falsification of Public Documents in Criminal Cases Nos. 1220 to 1223 of the Court of First Instance of Bohol. Typical of the four informations is that filed in Criminal Case No. 1220 which reads as follows:

"The undersigned Assistant Provincial Fiscal hereby accuses Claudio Murillo and Inocentes Amora, Jr. of the crime of Estafa Thru Falsification of Public Documents, committed as follows:

"That on or about the 3rd day of October 1972, in the municipality of Guindulman, province of Bohol, Philippines, the above-named accused, conspiring, confederating and helping each other, with abuse of confidence, did then and there, wilfully, unlawfully and feloniously falsify Time Book and Payroll bearing Voucher No. 172 of the municipality of Guindulman, Bohol, covering the period from September 1 to 30, 1972 by making it appear in lines 18 and 20, Sheet II of said voucher that Vicente Begamano and Alfredo Bagtasos rendered 21 days services each in 'gathering boulders for shore protection' for the period from September 1 to 30, 1972 when they did not in fact render said services and by misappropriating and converting to their personal use, the amount indicated in said voucher as having been received by the said Vicente Begamano and Alfredo Bagtasos in the total sum of TWO HUNDRED TEN PESOS (P210.00) Philippine currency, belonging to and owned by the municipality of Guindulman, Bohol; to the damage and prejudice of the Republic of the Philippines, particularly the municipality of Guindulman, Bohol.

"Acts committed contrary to the provisions of Article 315 and 171 of the Revised Penal Code, in relation to Article 48 of the same Code."

After trial, the Court of First Instance of Bohol rendered the following judgment:

"WHEREFORE, the Court finds the accused Guilty as charged. Each of them is hereby imposed the indeterminate penalty of imprisonment of from Two (2) Years and One (1) Month to Six (6) Years and to pay a fine of P1,500.00 for each of the four (4) above-entitled cases, with subsidiary imprisonment in case of insolvency, and to pay the costs."

The accused appealed to the Court of Appeals which held that the accused were not guilty of estafa because -

"Evidently, as shown above, the Municipality of Guindulman did not suffer any loss or damage arising from the payrolls. On the contrary, the government gained from the said project. This stubborn fact was expressly admitted by Municipal Treasurer Salutan, Jr. in his testimony to the effect that said municipality suffered no loss or damage on any of these payrolls (tsn, pp. 42-43, May 26, 1976)."

However, the Court of Appeals found that Inocentes Amora, Jr. was a municipal employee and convicted him of falsification by public officer. Although Claudio Murillo was not in the government service he was also convicted of falsification by public officer on the ground that there was a conspiracy between him and Amora. The Court of Appeals also held that the appellants were motivated by a single intention and so found them guilty of only one (1) instead of four (4) crimes. The dispositive portion of its decision reads as follows:

"WHEREFORE, [the] judgment is hereby modified in that appellants Claudio Murillo and Inocentes Amora, Jr., are guilty of Falsification by public officers pena-lized under Article 171 of the Revised Penal Code and are hereby sentenced to suffer an indeterminate penalty of from Six (6) Years to Ten (10) Years and One (1) Day of Prison Mayor; the decision appealed from is hereby affirmed in all other respects, with costs against appellants."

The factual background is as follows:

The town of Guindulman, Bohol, had a project which required the placing of boulders as rip-rap in its wharf. The town appropriated P15,500 for the project and a canvass of prices for the boulders was made. Claudio Murillo, a private contractor, submitted the lowest bid of P10.00 per cubic meter of boulders so he was awarded a contract to supply the same, including their hauling and piling at the municipal wharf.

Pursuant to the request of Guindulman Mayor Lilio Amora, Murillo used around 200 workers supplied by barrio captains under the "bayanihan" system, so-called because the workers were paid P8.00 for every truckload of boulders loaded, unloaded and piled. A truckload was 3 cubic meters and was handled by about 6 to 7 workers who divided the P8.00 among themselves. Payment was sometimes made in the form of rice or corn grits.

In claiming payment from the town, Murillo prepared and accomplished 4 daily timebooks and payrolls which had the names and signatures of the workers, the number of days worked, the daily rate, the amount paid and information in respect of their residence certificates. The accomplished payrolls were certified by Inocentes Amora, Jr. as a government time-keeper and checker. Thereafter the payrolls were presented to Mayor Amora for approval and lastly to the Municipal Treasurer for payment. In this manner Murillo was able to obtain payment under his contract.

There is no question that the petitioners committed falsification of public documents. The issues presented in the instant petition are legal, not factual, and may be stated as follows:

1. Whether or not the petitioners may be convicted of falsification by public officer under Article 171 of the Revised Penal Code considering that there is no allegations in the four informations that they are public officers; and
2. Whether or not the Court of Appeals erred in disregarding their defense of good faith.

On the basis of the second issue alone, the petition is highly impressed with merit and should be granted.

The petitioners claim that "(1) they were simply following the 'bayanihan' system adopted by the municipality of Guindulman and by the engineering district since 1969 which consisted of making payrolls the total amount of which equal the price the municipality was to pay the contractor of a certain piece of work and (2) the municipality suffered no actual damage." Murillo specifically said, in the words of the trial court, that "that in July 1972, the municipality of Guindulman awarded him the contract, after bidding, to supply boulders and place them in rip-rap on the causeway to the wharf at P10.00 per cubic meter of boulder. He utilized between 100 to 200 laborers and he paid them under 'pakyao' system at P8.00 per truckload of boulders which included loading and unloading. He used another group of laborers to undertake the rip-rap. Although the project was truly a contract for a piece of work, nevertheless he used the daily wage method and not the contract vouchers. This was not his

idea but by the municipal mayor and treasurer to prepare a payroll and list of laborers and their period of work and to pay them the minimum wage so that the total payment would equal the total contract price. This is the so-called bayanihan system practiced by former Mayor Bertumen and Engineer Bertumen of the 2nd engineering district. In the payrolls only some 20 names of the 200 laborers were listed as not all of them could be accommodated. Those not listed received their wages from those listed. As all of the utilized laborers were duly paid, not one complained. Neither did the municipality complain. All the payrolls were thus prepared by him, had them approved by the municipal mayor and had them paid by the municipal treasurer. The group leaders of the laborers, who collected the sums indicated in the payrolls, then delivered them to his house and he issued no receipts therefor."

It is quite obvious that the proper method for claiming payment under the pakyaw contract was for Murillo to simply bill the town for so many cubic meters of boulders which had been delivered and piled at the municipal wharf. Instead he and Inocentes Amora, Jr. resorted to the payroll system which was not only cumbersome but also involved falsification. The reason could only be that they were ignorant and ill-advised as claimed.

Both Mayor Amora and Treasurer Salutan knew that Murillo's contract was of the pakyaw type and so there was no need for the presentation of payrolls. Both Amora and Salutan are not unlettered as their positions indicate; Amora is also a lawyer. But why did both officials cooperate in using the payroll system instead of a simple direct billing? If the petitioners are guilty of falsification, Mayor Amora and Treasurer Salutan are equally guilty because notwithstanding their knowledge of the nature of the contract Amora approved the payrolls and Salutan made payments pursuant thereto.

From the foregoing coupled with the fact that the town of Guindulman suffered no damage and even gained on the project (the cost of the boulders actually delivered was P18 ,285.00 but Murillo was paid only P13,455.00) plus the additional fact that the alleged complaining witness mentioned in the informations suffered no damage whatsoever and were in fact awarded no indemnity, it is obvious that the falsifications made by the petitioners were done in good faith; there was no criminal intent. "The maxim is, *actus non facit reum, nisi mens rea* - a crime is not committed if the mind of the person performing the act complained of be innocent." (U.S. vs. Catolico , 18 Phil. 504, 507 [1911].) There can be no conviction for falsification of a public document in the absence of proof that the defendants "maliciously perverted the truth with wrongful intent of injuring the complaining witness." (U.S. vs. Reyes, 1 Phil. 341, 344 [1902].) Thus the learned Mr. Justice Ramon C. Aquino has said, " there is no falsification of a public document if the acts of the accused are consistent with good faith. Thus, it has been held that 'a conviction for falsification of a public document by a private person will not be sustained when the facts found are consistent with good faith on the part of the accused.' In other words, although the accused altered a public document or made a misstatement or erroneous assertion therein, he would not be guilty of falsification as long as he acted in good faith and no one was prejudiced by the alteration or error." (II Revised Penal Code, pp. 986-987 [1976].)

WHEREFORE, the petition is hereby granted. The decision of the Court of Appeals which adjudged the petitioners guilty of falsification is hereby reversed and the petitioners are acquitted with costs de oficio.

SO ORDERED.

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

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