

FIRST DIVISION

[G.R. No. 240458, January 08, 2020]

**HILARIO P. SORIANO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

REYES, J. JR., J.:

Before this Court is a Petition for Review on *Certiorari*,^[1] assailing the Decision^[2] dated February 28, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39252, which affirmed with modification, only as to the penalty imposed, the Decision^[3] dated October 13, 2015 of the Regional Trial Court (RTC) of Malolos City, Bulacan, finding petitioner Hilario P. Soriano (petitioner) guilty beyond reasonable doubt of violating Section 83 of Republic Act (R.A.) No. 337, as amended by Presidential Decree (P.D.) No. 1795 or the General Banking Act, and of estafa thru falsification of commercial documents.

Factual Antecedents

Two separate Information were filed against petitioner as follows:

Criminal Case No. 1719-M-2000

That on or about June 27, 1997 and thereafter and within the jurisdiction of this Honorable Court, the said accused, in his capacity as president of the Rural Bank of San Miguel (Bulacan), Inc., did then and there, unlawfully and feloniously, indirectly borrow or secure a loan with the Rural Bank of San Miguel, San Miguel Branch, a domestic rural banking institution created, organized and existing under Philippine Laws, amounting to Ph[P]15 million, knowing fully well that the same has been done by him without the written consent and approval of the majority of the board of directors of the said bank, and which consent and approval the said accused deliberately failed to obtain and enter the same upon the records of said banking institution and to transmit a copy of which to the supervising department of the said bank as required by the General Banking Act, by using the name of one depositor VIRGILIO J. MALANG of San Miguel, Bulacan, who have no knowledge of the said loan, and once in possession of the said amount of Ph[P]14,775,000.00 net of interest, converted the same to his own personal use and benefit, in flagrant violation of the said law.

CONTRARY TO LAW.^[4]

Criminal Case No. 1720-M-2000

That on or about June 27, 1997 and thereafter, in San Miguel, Bulacan and within the jurisdiction of this Honorable Court, the said accused

HILARIO P. SORIANO and ROSALINDA ILAGAN, as principals by direct participation, with unfaithfulness or abuse of confidence and taking advantage of their position as president of the Rural Bank of San Miguel (Bulacan) Inc., and Manager of the Rural Bank of San Miguel-San Miguel Branch, a duly organized banking institutions (sic) under Philippine laws, conspiring, confederating and mutually helping one another, did then and there, willfully and feloniously falsify loan documents consisting of loan application/information sheet, promissory note dated June 27, 1997, disclosure statement on loan/credit transaction, credit proposal report, manager's check no. 06514 (sic) dated June 27, 1997 and undated RBSM-San Miguel Branch check voucher, by making it appear that one VIRGILIO J. MALANG filed the aforementioned loan documents when in truth and in fact, VIRGILIO J. MALANG did not participate in the execution of the said loan documents and that by virtue of the said falsification and with deceit and intent to cause damage, the accused credited the loan proceeds of the loan (sic) amounting to Ph[P]14,777,000.00, (sic) net of interest to the account of VIRGILIO J. MALANG with the RBSM and thereafter converted the same amount to their own personal gain and benefit, to the damage and prejudice of the Rural Bank of San Miguel-San Miguel Branch, its creditors and the Bangko Sentral ng Pilipinas in the amount of Ph[P]14,775,000.00.

CONTRARY TO LAW.^[5]

Petitioner was charged of securing an indirect loan from Rural Bank of San Miguel (RBSM) while being an officer thereof by falsifying loan documents and making it appear that a certain Virgilio Malang (Malang) obtained the same, and thereafter, converting the proceeds for his personal gain and benefit.

To prove the charges, the prosecution presented, aside from pertinent documentary evidence, the following witnesses, to wit: (1) Herminio Principio (Principio) of the Department of Rural Bank Supervision and Examination Section, Bangko Sentral ng Pilipinas (DRB-BSP);^[6] (2) Malang, a businessman and depositor of the (RBSM) in Bulacan;^[7] (3) Andres Santillana (Santillana), president of Mechants Rural Bank of Talavera, Inc. (MRBTI);^[8] (4) Epifanio Posada (Posada), branch manager of MRBTI, Sta. Rosa Branch;^[9] (5) Evelyn Ramos (Ramos), a representative of the Land Bank of the Philippines (Land Bank), Gapan Branch;^[10] (6) Nancy Angeles (Angeles), a cashier from Land Bank-Gapan;^[11] (7) Francisco Gementiza (Gementiza) of the Philippine Clearing House (PCH);^[12] (8) Nonito Cristobal (Cristobal), former branch manager of Land Bank-Gapan;^[13] and (9) Elmer Haber (Haber) of the Philippine Deposit Insurance Corporation (PDIC).^[14]

Principio testified that he was tasked to ascertain the financial conditions of rural banks and determine if these banks comply with the banking laws and the regulations, as well as the directives of the BSP. He became in-charge of RBSM. During the general examination, RBSM was found to have several violations, particularly the grant of loans "without proper and complete loan documentation" and "clean or unsecured loans were being granted in such a large amount that would be considered excessive for the substance of needs of the borrowers."^[15]

Upon further investigation, it was discovered that on June 27, 1997, RBSM released an unsecured loan with a principal amount of P15,000,000.00 to Malang, without a co-maker and collateral; without approval from the Credit Committee or the Board of Directors; and through an incomplete loan application, the same being signed in blank except for the name and address.^[16] In a Letter^[17] dated September 15, 1997 addressed to the BSP, petitioner stated that said loan was "approved/confirmed under BR No. 64A-1997 dated July 9, 1997" and that the same was "secured with the following collaterals: TCT-RT25807 (T-111040) situated in San Miguel, Bulacan, TCT-T34464 situated in Baliuag, Bulacan, [and] TCT-285848 situated in Caloocan City."^[18] Records, however, show that no report regarding said loan was submitted to the DRB-BSP and that there were no annotations on the transfer certificates of title purportedly subject of the real estate mortgage.^[19]

Principio demanded from petitioner's co-accused, Rosalinda Ilagan (Ilagan), RBSM General Manager, to produce the credit folder of the subject loan. Ilagan furnished Principio the following documents: (a) Loan Application/Information Sheet, signed in blank and without any information except the name and address of the alleged borrower; (b) Promissory Note No. 101-97-110 dated June 27, 1997, in the principal amount of P15,000,000.00, purportedly executed by Malang; (c) Disclosure Statement on Loan/Credit Transaction, purportedly signed by Malang; and (d) unnumbered Credit Proposal Report dated May 14, 1997, for spouses Malang, which was prepared, recommended for approval and signed by Hagan, approved by petitioner as member of the Board of Directors of RBSM, and does not bear the signatures of the majority of the Board of Directors of RBSM.^[20]

Pursuant to the said loan, Manager's Check No. 016514^[21] dated June 27, 1997 in the amount of P14,775,000.00 payable to Malang was released.

Malang, however, denied having applied for and received any proceeds of the said loan. This was corroborated by an Affidavit^[22] executed by Hagan. Instead, Malang testified that he knew petitioner as the president of RBSM and because they were both stockholders of MRBTI. He narrated that petitioner encouraged him to apply for a loan and gave him documents to fill up and sign. He, however, withdrew the application later on due to his wife's objection thereto, and also due to their lawyer's advice that the loan will not be granted because of the insufficient collateral. He was, thus, surprised to discover that the loan proceeds were deposited to his purported current account with RBSM, when he does not have one. Two personal checks with Nos. 0122077^[23] and 0122076^[24] dated July 1, 1997, amounting to P12,409,791.99 and P2,365,000.00, respectively, payable to himself, were thereafter issued and drawn from the said current account.^[25] These checks were then deposited to another purported account of Malang in MRBTI.^[26]

Upon confronting Santillana, MRBTI's president, about the deposit, he found out that it was Ilagan, upon petitioner's instruction, who deposited the two checks to the account.^[27]

Santillana testified that, indeed, sometime in July 1997, Ilagan deposited checks in Malang's account and thereafter, also withdrawn by Ilagan, per petitioner's instruction. According to Santillana, petitioner instructed him as follows: "*x x x Andy may padadala akong tseke riyon ideposito mo [sa] account ni Malang pagka clear ika, pabalikan ko kay Rose dyan, kukunin sayo ipalit mo ng kuwan ipakiusap mo*

sa Landbank na ipalit ng tseke sa ganong pangalan."^[28] Thus, the deposited amount was withdrawn through the issuance of 30 MRBTI checks,^[29] drawn against MRBTI's Land Bank account, payable to Malang. Thereafter, as arranged, said checks were taken by a certain Diosa Marquez with Ilagan and used to buy two Land Bank cashier's checks, amounting to P12,409,791.99 (Check No. 000000992) and P2,365,000.00 (000000993) both dated July 3, 1997, payable to Norma Rayo (Rayo) and Teresa Villacorta (Villacorta), respectively.^[30]

Ramos and Angeles of Land Bank-Gapan corroborated this testimony.^[31]

These Land Bank checks, among others, were then deposited to RBSM to pay off petitioner's previous irregular loans. Said payments were evidenced by official receipts issued by RBSM.^[32]

Despite several opportunities given, the defense failed to file its formal offer of evidence.^[33]

Incidentally, on May 18, 2014, the RTC received a copy of the Certificate of Death dated February 13, 2014 of Ilagan.^[34]

In a Decision^[35] dated October 13, 2015, the RTC found petitioner guilty as charged, viz.:

WHEREFORE, judgment is hereby rendered finding the accused **Hilario P. Soriano**:

a) [I]n Criminal Case No. 1719-M-2000, **GUILTY** beyond reasonable doubt for violation of Section 83, R.A. No. 337 as amended by P.D. No. 1795 (General Banking Act) and hereby sentences him to suffer imprisonment of ten years and a fine of Ph[P]200,000.00;

b) In Criminal Case No. 1720-M-2000, **GUILTY** beyond reasonable doubt of Estafa thru Falsification of Commercial Documents and hereby sentences him to an indeterminate prison sentence ranging from ten years and one day of prison mayor as minimum, to twenty years of reclusion temporal as maximum, and to indemnify the Rural Bank of San Miguel-San Miguel Branch, its creditors and Bangko Sentral ng Pilipinas the total sum of Php14,775,000.00, with interests thereon at the rate of 12% per annum from the filing of the Informations until paid, plus costs. Further, the accessory penalties as provided by law shall be imposed upon the accused.

On the other hand, the liability of accused, **Rosalinda Ilagan**, is extinguished in view of her death, as per Death Certificate dated 13 February 2014.

SO ORDERED.^[36]

On appeal, the CA affirmed the RTC's Decision with modification only as to the penalties imposed as follows:

WHEREFORE, the foregoing considered, the appeal is **DENIED**. The Decision dated 13 October 2015 of the Regional Trial Court (Branch 17, Malolos City) in Crim. Case Nos. 1719-M-2000 and 1720-M-2000 is **AFFIRMED WITH MODIFICATION** as to the following penalties prescribed:

(a) In Criminal Case No. 1719-M-2000, accused-appellant Hilario P. Soriano is found **GUILTY** beyond reasonable doubt for violation of Section 83, R.A. No. 337 as amended by P.D. No. 1795 (General Banking Act) and is hereby sentenced to suffer imprisonment of Ten (10) Years and a fine of Ten Thousand Pesos (P10,000.00); and

(b) In Criminal Case No. 1720-M-2000, accused-appellant Hilario P. Soriano is found **GUILTY** beyond reasonable doubt for the complex crime of Estafa thru Falsification of Commercial Documents and is hereby sentenced to an indeterminate sentence of imprisonment ranging from Four (4) Years and Two (2) Months of *prision correccional* as minimum to Thirteen (13) Years of *reclusion temporal* as maximum, and to indemnify the Rural Bank of San Miguel-San Miguel Branch, its creditors and Bangko Sentral ng Pilipinas the total sum of P14,775,000.00, with interests thereon at the rate of 12% per annum from the filing of the Informations until paid, plus costs. Further, the accessory penalties as provided by law shall be imposed upon the accused.

SO ORDERED.^[37]

Petitioner's motion for reconsideration was likewise denied by the CA in its June 26, 2018 assailed Resolution.^[38]

Hence, this petition.

Issues

1. Was petitioner's guilt in Criminal Case No. 1719-M-2000 for violation of Section 83 of R.A. No. 337, as amended, proved beyond reasonable doubt?
2. Was petitioner's guilt in Criminal Case No. 1720-M-2000 for the complex crime of estafa thru falsification of commercial documents proved beyond reasonable doubt?

Petitioner maintains that he did not violate Section 83 of R.A. No. 337, as amended, or the DOSRI^[39] law. Specifically, petitioner avers that the prosecution attempted to establish that he obtained an indirect loan under Malang's name in the net amount of P14,775,000.00 but its evidence, namely the General Examination Report, refers to a different loan, *i.e.*, his irregular loan amounting to P34,000,000.00. Petitioner also argues that the prosecution's failure to present Rayo as witness was fatal to its case. Petitioner also points out that the prosecution failed to check his bank account to see if the subject went straight to his coffers to prove that it inured to his benefit.

Petitioner also argues that the prosecution evidence was insufficient to prove his participation in the commission of the crime of estafa through falsification of commercial documents. Specifically, petitioner stresses the fact that it was actually Malang who signed the loan application was established. Further, petitioner points out that as RBSM's president, he was not engaged in frontline services for him to be able to process loan applications.