

## FIRST DIVISION

[ G.R. No. 172539, November 16, 2016 ]

**ALBERTO GARONG Y VILLANUEVA, PETITIONER, V. PEOPLE OF  
THE PHILIPPINES, RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

A court interpreter who simulated a court order purportedly issued in a non-existent judicial proceeding of the court he worked for was guilty of falsification by a private individual. The aggravating circumstance of taking advantage of his public office as a court interpreter could not be appreciated against him because his public office did not facilitate the commission of the crime.

### Antecedents

The petitioner was charged with falsification as defined by Article 172, in relation to Article 171, of the *Revised Penal Code* under the following information filed in the Regional Trial Court in Calapan, Oriental Mindoro (RTC), viz.:

That on or about the 21<sup>st</sup> day of September, 1989, and dates prior and subsequent thereto, in the Municipality of Calapan, Province of Oriental Mindoro, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, being a government employee, and as such took advantage of his official position as Court Interpreter, did then and there wilfully, unlawfully and feloniously cause, prepare and issue a Court Order dated August 11, 1989, entitled:

IN RE: PETITION FOR JUDICIAL  
RECONSTITUTION OF  
TRANSFER CERTIFICATE  
OF TITLE NO. T-40361,

PETITION NO.  
12,701

SILVERIO ROSALES,  
Petitioner.

making it appear that such Court Order was duly issued by the Presiding Judge of Regional Trial Court Branch 40, when in truth and in fact, as said accused well knew, that Petition No. 12,701 refers to a Petition for the Issuance of new Owner's Duplicate copy of Transfer Certificate of Title (TCT) No. T-3436, wherein EMERENCIANO SARABIA is the petitioner, and accordingly a corresponding Court Order was duly issued by the then Presiding Judge Mario de la Cruz, thereby affecting the integrity and changes the meaning and affect of the genuine Court Order.

Contrary to Law.<sup>[1]</sup>

There is no dispute about the factual antecedents, as found by both the RTC and the Court of Appeals (CA).<sup>[2]</sup>

Silverio Rosales (Silverio) and Ricar Colocar (Ricar) went to the home of the petitioner in the early morning of September 18, 1989 to seek his help in the judicial reconstitution of Silverio's Transfer Certificate of Title No. 40361 issued by the Office of the Register of Deeds of the Province of Oriental Mindoro (Register of Deeds). The petitioner, then a court interpreter, agreed to help, and instructed Silverio to prepare the necessary documents, namely: the certified survey plan, technical description of the property, tax declaration, and the certification from the Register of Deeds. He fixed the amount of P5,000.00 as processing fee, but later reduced it to P4,000.00.<sup>[3]</sup> Silverio and Ricar produced the amount and submitted the requested documents to the petitioner.

On September 21, 1989, the petitioner delivered to Ricar a copy of a court order (Exhibit B) captioned as indicated in the information.<sup>[4]</sup> Exhibit B bore the stamp mark "ORIGINAL SIGNED" above the printed name of Judge Mario de la Cruz, Presiding Judge of the Regional Trial Court (RTC), and the words "CERTIFIED TRUE COPY" with a signature but no printed name appeared beneath the signature. Upon the petitioner's instruction, Silverio and Ricar brought Exhibit B to the Register of Deeds for the issuance of the owner's duplicate of Transfer Certificate of Title No. 40361. Ricar handed Exhibit B to Meding Nacional, the person-in-charge of receiving court orders in the Register of Deeds.

On September 26, 1989, Nacional informed Ricar that Atty. Ricardo Legaspi, chief of the Office of the Register of Deeds, had returned Exhibit B because he had found some sentences thereof erroneous. She told him to return the next day. When he returned to the Register of Deeds as told, Nacional instructed him to go back to the RTC and to look for Atty. Luningning Centron, the Clerk of Court. Ricar went back to the RTC but did not find Atty. Centron. As he was going home from the RTC, he encountered the petitioner who inquired about the developments. Ricar apprised him about the problem, and told him that he had returned Exhibit B to the RTC. The latter got angry and reproved him for bringing Exhibit B back to the RTC without his knowledge.<sup>[5]</sup>

On September 27, 1989, Ricar and the petitioner went to the Register of Deeds. The latter argued with Nacional on the defects of Exhibit B. Later on, he told Ricar to retrieve Exhibit B from the Office of the Clerk of Court (OCC) in the RTC because it had problems. Upon returning to the OCC on the next day, Ricar conferred with Atty. Centron, who informed him that Exhibit B appeared to be falsified because it referred to a "ghost petition" because its docket number pertained to the petition of Emerciano Sarabia instead of to the petition of Silverio Rosales. After Ricar reported his findings to Silverio, the latter advised him to forthwith demand the refund of the processing fee from the petitioner. When Ricar went to see him, the petitioner only promised to personally process the reconstitution of title legally.

Realizing that what had transpired with the petitioner was illegal, Ricar filed a complaint to charge the petitioner with falsification of a public document in the office of Atty. Victor Bessat of the National Bureau of Investigation (NBI), who then assigned the investigation to Atty. Ricson Chiong.<sup>[6]</sup> The investigation ultimately resulted in the filing of the criminal charge in court for falsification of a public document.

In his defense, the petitioner stated that Silverio and Ricar had sought his assistance in the judicial reconstitution of Silverio's title; that he asked them to produce certain documents for the purpose, but informed Ricar that he would be endorsing them to Monica Sigue, the court stenographer, because he lacked the knowledge of the process of judicially reconstituting titles; that he went to the RTC and requested Sigue to attend to Silverio and Ricar; that he did not know what transpired between them afterwards until Ricar went to his house and turned over Exhibit B already bearing the stamp mark "CERTIFIED TRUE COPY" but without any signature; that Ricar then asked him to sign on top of the stamp mark, but he refused and advised Ricar to bring Exhibit B instead to Atty. Felix Mendoza, the Branch Clerk of Court; and that because Ricar was insistent, he then signed Exhibit B with hesitation.<sup>[7]</sup>

The petitioner denied receiving P4,000.00 as processing fee from Silverio and Ricar. He insisted that he had signed Exhibit B only to prove that it was a copy of the original; that he did not take advantage of his position as a court interpreter; that he had no knowledge of the petition filed by Emerenciano Sarabia in the RTC; and that it was Sigue who had placed the docket number of "Petition No. 12,701" on Exhibit B.<sup>[8]</sup>

### **Judgment of the RTC**

After trial, the RTC convicted the petitioner as charged.<sup>[9]</sup> It noted that Ricar and Silverio were strangers to the petitioner but the latter volunteered to help them in the judicial reconstitution of Silverio's title; that he delivered the court order in question to Ricar; that the petitioner admitted having signed and certified the court order as pertaining to Petition No. 12,701, thereby attesting to the fact of its existence; that the petitioner testified to seeing the original of the court order bearing the signature of Judge Dela Cruz, the Presiding Judge of the RTC, but the petitioner's testimony was false considering that the case pertained to another litigant; that the petitioner's contention that it was wrong to declare the court order as falsified without presenting the original thereof had no basis considering that there was no original document to speak of in the first place; and that being the person certifying to the authenticity of the document the petitioner made it appear that Judge Dela Cruz had participated in the act thereby stated when he did not in fact participate, he was liable for falsification.<sup>[10]</sup>

The RTC concluded that the petitioner committed falsification committed by a private individual as defined and punished under Article 172, with the generic aggravating circumstance of taking advantage of his public position under Article 14, paragraph 1, of the *Revised Penal Code*. The RTC opined that his position as a court interpreter had facilitated the commission of the offense by him as a private individual; and that his case did not come under Article 171 of the *Revised Penal Code* because it had not been his duty as the court interpreter to prepare the court order for the court in which he had been assigned.<sup>[11]</sup>

The RTC disposed as follows:

**WHEREFORE**, finding the accused **GUILTY BEYOND REASONABLE DOUBT** for the crime of falsification defined and penalized under Article 172 in relation to par. 2 of Article 171 of the Revised Penal Code with the generic aggravating circumstance of taking advantage of his public

position, the accused, **ALBERTO V. GARONG**, is hereby sentenced to suffer the indeterminate penalty of **TWO (2) YEARS of prision correccional as minimum, to SIX (6) YEARS of prision correccional as maximum, and to pay a fine of P5,000.00** with the subsidiary penalty in case of insolvency and to reimburse the amount of P4,000.00 to the private offended party, Mr. Silverio Rosales, and to pay the COSTS.

**SO ORDERED.**<sup>[12]</sup>

### **Decision of the CA**

On appeal, the petitioner mainly argued that the Prosecution did not prove his guilt beyond reasonable doubt because of the failure to present the original of the document in question.

On January 25, 2006, however, the CA, rejecting the petitioner's argument because no original of the court order had actually existed, affirmed his conviction with modification of the penalty. It disregarded the appreciation by the RTC of the aggravating circumstance of taking advantage of his official position by him because his being a court interpreter did not facilitate the falsification, observing that any person with access to or knowledge of the procedure for judicial reconstitution of titles could have committed the crime. It pointed out that his position as a court interpreter did not give him custody of the document, or enabled him to make or prepare the falsified document. <sup>[13]</sup> It decreed thusly:<sup>[14]</sup>

WHEREFORE, finding accused Alberto V. Garong guilty beyond reasonable doubt of the crime of Falsification under Art. 172 in relation to Art. 171 (par. 2), the Court hereby sentences him to suffer an indeterminate prison term ranging from TWO (2) YEARS and FOUR (4) MONTHS of *Prision Correccional* as minimum, to FOUR (4) YEARS, NINE (9) MONTHS, and TEN (10) DAYS of *Prision Correccional* as maximum; to pay a fine of P5,000.00; and to pay the costs.

The accused is further ordered to pay Silverio Rosales the amount of P4,000.00 plus interest at the legal rate reckoned from the filing of the Information until fully paid.

**SO ORDERED.**

Hence, this appeal by the petitioner.

### **Issue**

The petitioner continues to insist that the CA erred in affirming the conviction despite the failure to establish his guilt beyond reasonable doubt.

### **Ruling of the Court**

We uphold the petitioner's conviction but modify the decision as to the characterization of the crime.

The elements of falsification by a public officer or employee or notary public as defined in Article 171 of the *Revised Penal Code* are that: (1) the offender is a public officer or employee or notary public; (2) the offender takes advantage of his official

position; and (3) he or she falsifies a document by committing any of the acts mentioned in Article 171 of the *Revised Penal Code*.<sup>[15]</sup> On the other hand, the elements of falsification by a private individual under paragraph 1, Article 172 of the *Revised Penal Code* are that: (1) the offender is a private individual, or a public officer or employee who did not take advantage of his official position; (2) the offender committed any of the acts mentioned in Article 171 of the *Revised Penal Code*; (3) the falsification was committed in a public or official or commercial document.<sup>[16]</sup>

The information charged the petitioner with the crime of falsification by a private individual as defined and penalized under Article 172, in relation to Article 171, paragraph 2, both of the *Revised Penal Code*, which pertinently state:

Article 172. Falsification by private individual and use of falsified documents. - The penalty of *prision correccional* in its medium and maximum periods and a fine of not more than 5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and

xxxx

Article 171. Falsification by public officer, employee, or notary or ecclesiastical minister.

xxxx

2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;

xxxx

It is not disputed in this case that the petitioner admitted having seen the original of the court order issued in Petition No. 12,701 bearing the signature of the Presiding Judge Dela Cruz. He explicitly testified so on May 9, 2002, as follows:

Atty. T. Did you see the original of the order? (Counsel)  
I. Gines

Alberto Yes, ma'am.  
V.  
Garong

Atty. T.I. Did you verify if the same was signed?  
Gines

Alberto Yes, ma'am. It bears the signature of Jude Dela Cruz,  
V. Your Honor, the Presiding Judge. <sup>[17]</sup>  
Garong