

THIRD DIVISION

[G.R. No. 194367, June 15, 2011]

**MARK CLEMENTE Y MARTINEZ @ EMMANUEL DINO, PETITIONER,
VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

D E C I S I O N

VILLARAMA, JR., J.:

Before us is a petition for review on certiorari under Rule 45 of the 1997 Rules of Civil Procedure, as amended, seeking to reverse the March 29, 2010 Decision^[1] of the Court of Appeals (CA) which denied petitioner's appeal and affirmed the November 3, 2008 Judgment^[2] of the Regional Trial Court (RTC) of Manila, Branch 7, convicting petitioner of illegal possession and use of false bank notes under Article 168^[3] of the Revised Penal Code (RPC), as amended. Also assailed is the CA Resolution dated October 14, 2010^[4] denying petitioner's motion for reconsideration.

Petitioner was charged before the RTC with violation of Article 168 of the RPC under an Information^[5] which reads:

That on or about August 5, 2007, in the City of Manila, Philippines, the said accused, with intent to use, did then and there willfully, unlawfully, feloniously and knowingly have in his possession and under his custody and control twenty[-]four (24) pcs. [of] P500.00 bill with Markings ["] IIB-1" to "IIB-24", respectively and specifically enumerated, to wit:

| <u>SERIAL NO.</u> | <u>PCS.</u> | <u>AMOUNT</u> | <u>SERIAL NO.</u> | <u>PCS.</u> | <u>AMOUNT</u> |
|-------------------|-------------|---------------|-------------------|-------------|---------------|
| PX626388 | 1 | P500.00 | CC077337 | 1 | P500.00 |
| CC077337 | 1 | 500.00 | CC077337 | 1 | 500.00 |
| CC077337 | 1 | 500.00 | CC077337 | 1 | 500.00 |
| BR666774 | 1 | 500.00 | CC077337 | 1 | 500.00 |
| CC077337 | 1 | 500.00 | BR666774 | 1 | 500.00 |
| BB020523 | 1 | 500.00 | BR666774 | 1 | 500.00 |
| PX626388 | 1 | 500.00 | CC077337 | 1 | 500.00 |
| BR666774 | 1 | 500.00 | WW164152 | 1 | 500.00 |
| PX626388 | 1 | 500.00 | WW164152 | 1 | 500.00 |
| BR666774 | 1 | 500.00 | BR666774 | 1 | 500.00 |
| UU710062 | 1 | 500.00 | PX626388 | 1 | 500.00 |
| CC077337 | 1 | 500.00 | PX626388 | 1 | 500.00 |

Which are false and falsified.

Contrary to law.

Upon arraignment, petitioner entered a plea of not guilty. Trial thereafter ensued.

The version of the prosecution and the defense, as summarized by the CA, are as follows:^[6]

The prosecution presented three (3) witnesses, namely: Jail Officer 1 (JO1) Michael Michelle Passilan, the Investigator of the Manila City Jail; JO1 Domingo David, Jr.; and Loida Marcega Cruz, the Assistant Manager of the Cash Department of the *Bangko Sentral ng Pilipinas*.

[Their testimonies established the following:]

Appellant is a detainee at the Manila City Jail. On August 7, 2007, at around 3:30 pm, an informant in the person of inmate Francis dela Cruz approached JO1s Domingo David, Jr. and Michael Passilan. The informant narrated that he received a counterfeit P500.00 bill from appellant with orders to buy a bottle of soft drink from the Manila City Jail Bakery. The bakery employee, however, recognized the bill as a fake and refused to accept the same. Consequently, JO1s David and Passilan, along with the informant, proceeded to appellant's cell for a surprise inspection. Pursuant to their agreement, the informant entered the cubicle first and found appellant therein, lying in bed. The informant returned to appellant the latter's P500.00 bill. The jail guards then entered the cell and announced a surprise inspection. JO1 Passilan frisked appellant and recovered a black wallet from his back pocket. Inside the wallet were twenty-three (23) pieces of P500.00, all of which were suspected to be counterfeit. They confiscated the same and marked them sequentially with "IIB-2" to "II-B24". They likewise marked the P500.00 bill that was returned by informant to appellant with "IIB-1". Appellant was consequently arrested and brought out of his cell into the office of the Intelligence and Investigation Branch (IIB) of the Manila City jail for interrogation.

Meanwhile, the twenty-four (24) P500.00 bills confiscated from appellant were turned over to the *Bangko Sentral ng Pilipinas* for analysis. Pursuant to a Certification dated August 7, 2007, Acting Assistant Manager Loida Marcega Cruz of the *Bangko Sentral ng Pilipinas* examined and found the following bills as counterfeit, viz: one (1) P500.00 bill with Serial Number BB020523; six (6) P500.00 bills with Serial Number BR666774; nine (9) P500.00 bills with Serial Number CC077337; five (5) P500.00 bills with Serial Number PX626388; one (1) P500.00 bill with Serial Number UU710062; and two (2) P500.00 bills with Serial Number WW164152.

For the defense, appellant was the lone witness presented on the stand.

Appellant simply raised the defense of frame-up. He testified that in the afternoon of August 5, 2007, he was inside his room located at Dorm 1 of the Manila City Jail. At around 3:00 pm, JO1 Michael Passilan entered appellant's room while JO1 Domingo David, Jr. posted himself outside.

Without any warning, JO1 Passilan frisked appellant and confiscated his wallet containing one (1) P1,000.00 bill. JO1s David and Passilan left immediately thereafter. Appellant was left with no other choice but to follow them in order to get back his wallet. Appellant followed the jail officers to the Intelligence Office of the Manila City Jail where he saw JO1 Passilan place the P500.00 bills inside the confiscated black wallet. Appellant was then told that the P500.00 bills were counterfeit and that he was being charged with illegal possession and use thereof. Appellant also added that JO1 Passilan bore a grudge against him. This was because appellant refused to extend a loan [to] JO1 Passilan because the latter cannot offer any collateral therefor. Since then, JO1 Passilan treated him severely, threatening him and, at times, putting him in isolation.

After trial, the RTC found petitioner guilty beyond reasonable doubt of the crime charged. The RTC gave credence to the prosecution's witnesses in finding that the counterfeit money were discovered in petitioner's possession during a surprise inspection, and that the possibility that the counterfeit money were planted to incriminate petitioner was almost nil considering the number of pieces involved.^[7] The RTC also did not find that the jail officers were motivated by improper motive in arresting petitioner,^[8] and applied in their favor the presumption of regularity in the performance of official duties considering the absence of contrary evidence. As to petitioner's defense of frame-up, the RTC held that the purported frame-up allegedly staged by JO1 Passilan would not affect the prosecution's evidence since the testimony of JO1 David could stand by itself. The RTC likewise found that it was strange that petitioner did not remonstrate despite the fact that he was allegedly being framed.^[9]

As to the elements of the crime, the RTC held that the fact that the P500.00 bills found in petitioner's possession were forgeries was confirmed by the certification issued by the Cash Department of the *Bangko Sentral ng Pilipinas*, which was testified into by Acting Assistant Manager Loida A. Cruz.^[10] The RTC also ruled that petitioner knew the bills were counterfeit as shown by his conduct during the surprise search and his possession of the bills. As to the element of intention to use the false bank notes, the RTC ruled that the fact that petitioner intended to use the bills was confirmed by the information received by the jail officers from another inmate.^[11]

Aggrieved, petitioner sought reconsideration of the judgment. Petitioner argued that the evidence used against him was obtained in violation of his constitutional right against unreasonable searches and seizures. Petitioner also argued that the prosecution failed to prove his guilt beyond reasonable doubt because of the non-presentation of the informant-inmate, Francis dela Cruz, who could have corroborated the testimonies of the jail officers.

Unconvinced, the RTC denied petitioner's motion for reconsideration. The RTC, however, only ruled that there was no violation of petitioner's constitutional right against unreasonable searches and seizures because the seizure was done pursuant to a valid arrest for violation of Article 168 of the RPC. The trial court pointed out that prior to the search, a crime was committed and the criminal responsibility

pointed to petitioner.^[12]

On appeal before the CA, petitioner argued that the RTC erred in finding him guilty beyond reasonable doubt for violating Article 168 of the RPC. Petitioner contended that one of the elements of the crime which is intent to use the counterfeit bills was not established because the informant Francis dela Cruz did not take the witness stand.^[13]

The CA, however, found the appeal unmeritorious and denied petitioner's appeal.^[14] The appellate court found that the fact the petitioner was caught in possession of twenty-four (24) pieces of fake P500.00 bills already casts doubt on his allegation that he was merely framed by the jail guards. The CA agreed with the RTC that even without the testimony of JO1 Passilan, the testimony of JO1 David was already sufficient to establish petitioner's guilt since petitioner did not impute any ill motive on the latter except to point out that JO1 David was JO1 Passilan's friend.^[15]

Regarding the element of intent to use, the CA found that there are several circumstances which, if taken together, lead to the logical conclusion that petitioner intended to use the counterfeit bills in his possession. The CA pointed out that jail officers were informed by inmate Francis dela Cruz that he received a fake P500.00 bill from petitioner who told him to buy soft drinks from the Manila City jail bakery. After Francis dela Cruz identified petitioner as the person who gave him the fake money, the jail officers conducted a surprise inspection. Said inspection yielded twenty-three (23) pieces of counterfeit P500.00 bills inside petitioner's black wallet, which was taken from his back pocket. The CA further held that the non-presentation of Francis dela Cruz would not affect the prosecution's case because even without his testimony, petitioner's intent to use the counterfeit bills was established. The CA added that the matter of which witnesses to present is a matter best left to the discretion of the prosecution.^[16]

Petitioner sought reconsideration of the above ruling, but the CA denied petitioner's motion for reconsideration in the assailed Resolution dated October 14, 2010.^[17] Hence, the present appeal.

Petitioner raises the following assignment of errors, to wit:

I.

THE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT, CONVICTING PETITIONER OF THE CRIME CHARGED, DESPITE THE FAILURE OF THE PROSECUTION TO PROVE AN ELEMENT OF THE OFFENSE.

II.

THE COURT OF APPEALS ERRED IN NOT EXCLUDING THE COUNTERFEIT BILLS SINCE THEY WERE DERIVED FROM UNREASONABLE SEARCH AND SEIZURE.^[18]