

## FIRST DIVISION

[ G.R. No. 167671, September 03, 2008 ]

**RICARDO S. SANTOS, JR.,<sup>[1]</sup> PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.<sup>[2]</sup>**

### D E C I S I O N

#### **CORONA, J.:**

In this petition for review on certiorari under Rule 45 of the Rules of Court, petitioner Ricardo S. Santos, Jr. assails the July 26, 2004 decision<sup>[3]</sup> and April 7, 2005 resolution<sup>[4]</sup> of the Court of Appeals (CA).

On October 8, 1969, four separate informations for malversation of public funds thru falsification of public documents were filed in the Court of First Instance<sup>[5]</sup> of Rizal (CFI), Branch V, Quezon City against petitioner and nine others.<sup>[6]</sup> These cases were docketed as Criminal Case Nos. Q-9783, Q-9784, Q-9787 and Q-9788.<sup>[7]</sup> After trial, the CFI found petitioner and his co-accused Pedro Velasco<sup>[8]</sup> guilty beyond reasonable doubt as principals of the complex crime of malversation thru falsification of public documents under Articles 217 and 171 of the Revised Penal Code (RPC).<sup>[9]</sup> All of the accused who were convicted appealed the consolidated decision<sup>[10]</sup> of the CFI to the CA. However, all of them except petitioner died during the pendency of the appeal. In the dispositive portion of its assailed decision, the CA held:

**WHEREFORE**, the instant appeal is **PARTIALLY GRANTED**. The assailed decision of the then Court of First Instance of Rizal, Branch V, Quezon City, in Criminal Case[s] Nos. Q-9783, Q-9784, Q-9787 and Q-9788, is hereby **MODIFIED**, in that the accused-appellant Ricardo S. Santos, Jr. is **ACQUITTED** in Criminal Case[s] Nos. Q-9783, Q-9784 and Q-9788, but is held guilty beyond reasonable doubt of the crime of FALSIFICATION OF PUBLIC DOCUMENT, as defined and penalized under Article 172, paragraph 1, of the Revised Penal Code, in relation to Article 171, paragraph 2, of the same code xxx<sup>[11]</sup>

The CA held that petitioner was a principal by inducement,<sup>[12]</sup> based on the testimony of state witness Henry Cruz<sup>[13]</sup> that petitioner induced him to sign the travel expense voucher (Exhibit AA-1), subject of Criminal Case No. Q-9787 in exchange for receiving a share of the proceeds of the claim even if he was not entitled thereto.

Petitioner finds it incredulous that the CA believed the testimony of Cruz with respect to "Exhibit AA-1" but not Cruz's testimony with respect to "Exhibits G, H, I, W, X, X1 and X2."<sup>[14]</sup> Hence, petitioner argues that the CA erred in finding him

guilty, as a principal by inducement, of falsification of a public document.

We disagree.

The credibility of a witness is left primarily to the judgment of the trial judge. He is in a vantage position to assess the witness' demeanor, conduct and attitude under grueling examination because he has the direct opportunity to observe the witness on the stand.<sup>[15]</sup> The factual findings of the appellate court are also given great weight especially if in complete accord with the findings of the lower court.<sup>[16]</sup> In holding that the evaluation of the testimonies of witnesses must be left to the trial court as the agency in the best position to observe the witnesses' demeanor on the witness stand,<sup>[17]</sup> the CA merely applied a well-settled rule. We find no reason to rule otherwise.

The CA acquitted petitioner in Criminal Case Nos. Q-9783, Q-9784 and Q-9788 after it found:

[That] the testimonies of both prosecution witnesses, Henry Cruz and Tolentino C. Mendoza [did] not establish with moral certainty the culpability of the accused-appellant for the falsification of the subject travel expense vouchers.<sup>[18]</sup>

This pronouncement did not state that Cruz lied. The CA merely stated that Cruz's testimony was insufficient or inadequate to sustain petitioner's conviction for falsification in Criminal Case Nos. Q-9783, Q-9784 and Q-9788. In Criminal Case No. Q-9787 however, the CA found Cruz's testimony in relation to "Exhibit AA-1" sufficient to prove that petitioner committed the crime of falsification of public documents under paragraph 1, Article 172 in relation to paragraph 2, Article 171 of the RPC.

Falsification of documents under paragraph 1 of Article 172 refers to falsification by a private individual or a public officer or employee who did not take advantage of his official position, of public, private or commercial documents. Its elements are:

- 1) that the offender is a private individual or a public officer or employee who did not take advantage of his official position;
- 2) that he committed any of the acts of falsification enumerated in Article 171; and
- 3) that the falsification was committed in a public, official or commercial document.<sup>[19]</sup>

Petitioner was a disbursing officer of the Bureau of Lands.<sup>[20]</sup> He was a public official. While the CFI did not state in its decision that petitioner took advantage of his position in the government in committing the crime, the CA made a more definite pronouncement to this effect.<sup>[21]</sup> Petitioner's functions as disbursing officer did not include the duty to make, prepare or otherwise intervene in the preparation of the falsified travel expense voucher. His function was only to pay payees of treasury warrants and other cash vouchers or payrolls.<sup>[22]</sup> Nonetheless, he took the liberty of intervening in the preparation of the travel expense voucher in question. The first element for the crime under paragraph 1 of Article 172 of the RPC was