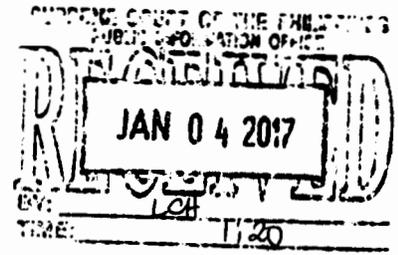




Republic of the Philippines
Supreme Court
 Manila



FIRST DIVISION

**ALBERTO GARONG y
 VILLANUEVA,**
 Petitioner,

G.R. No. 172539

Present:

- versus -

SERENO, *C.J.*,
 LEONARDO-DE CASTRO,
 BERSAMIN,
 PERLAS-BERNABE, and
 *CAGUIOA, *JJ.*

Promulgated:

PEOPLE OF THE PHILIPPINES,
 Respondent.

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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 21st 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

* On leave.

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.¹

There is no dispute about the factual antecedents, as found by both the RTC and the Court of Appeals (CA).²

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 ₱5,000.00 as processing fee, but later reduced it to ₱4,000.00.³ 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.⁴ 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

¹ *Rollo*, p. 22.

² *Id.* at 74-90; penned by Associate Justice Jose C. Mendoza (now a Member of this Court), with the concurrence of Associate Justice L. Sabio, Jr., and Associate Justice Arturo G. Tayag.

³ *Id.* at 75-76.

⁴ *Id.* at 76.

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.⁵

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.⁶ 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

⁵ Id.

⁶ Id. at 76-77.

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.⁷

The petitioner denied receiving ₱4,000.00 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.⁸

Judgment of the RTC

After trial, the RTC convicted the petitioner as charged.⁹ 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.¹⁰

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.¹¹

⁷ Id. at 77.

⁸ Id.

⁹ Id. at 22-32; penned by Judge Mario V. Lopez (now a Member of the Court of Appeals).

¹⁰ Id. at 28-30.

¹¹ Id. at 31.

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 ₱5,000.00** with the subsidiary penalty in case of insolvency and to reimburse the amount of ₱4,000.00 to the private offended party, Mr. Silverio Rosales, and to pay the COSTS.

SO ORDERED.¹²

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.¹³ It decreed thusly:¹⁴

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 ₱5,000.00; and to pay the costs.

The accused is further ordered to pay Silverio Rosales the amount of ₱4,000.00 plus interest at the legal rate reckoned from the filing of the Information until fully paid.

¹² Id. at 31-32.

¹³ Id. at 88-89.

¹⁴ Id. at 89-90.

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*.¹⁵ 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.¹⁶

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

x x x x

¹⁵ *Regidor, Jr. v. People*, G.R. Nos. 166086-92, February 13, 2009, 579 SCRA 244, 263.

¹⁶ *Daan v. Sandiganbayan*, G.R. Nos. 163972-77, March 28, 2008, 550 SCRA 233, 247.

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

x x x x

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

x x x x

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. I. Gines (Counsel)	Did you see the original of the order?
Alberto V. Garong	Yes, ma'am.
Atty. T.I. Gines	Did you verify if the same was signed?
Alberto V. Garong	Yes, ma'am. It bears the signature of Judge Dela Cruz, Your Honor, the Presiding Judge. ¹⁷

It is not also disputed that the petitioner was the individual who had delivered to Silverio and Ricar the court order (Exhibit B) subject of this case. Such circumstances established the sole authorship of Exhibit B by the petitioner. This was the unanimous finding of the RTC and the CA. On its part as the trial court, the RTC particularly observed thusly:

With the foregoing welter of evidence, both documentary and circumstantial, **this Court is morally convinced that the accused prepared, and he is the author of the document (Exhibit "B"), subject matter of this case.** This document is a public document because it was created, executed or issued in response to the exigency of the public service (U.S. v. Asensi, 34 PHIL 765). By his certification, the accused caused it to appear that persons have participated in an act or proceeding when they did not in fact participate, he committed falsification.¹⁸ (Bold emphasis supplied)

On appeal, the CA affirmed the factual findings of the RTC, discoursing as follows:

The instant appeal is bereft of merit.

¹⁷ *Rollo*, pp. 78-79.

¹⁸ *Id.* at 30-31.

A circumspect scrutiny of accused-appellant's version leaves Us unconvinced that he is innocent of the crime of falsification.

The straightforward and categorical testimony of the prosecution's main witness, Ricar Colocar, undermines accused-appellant's plea of "not guilty." x x x

x x x x

In the absence of any evidence that the prosecution's main witness harbored ill will towards the accused, his testimony must be presumed true. As held in the case of *People v. Pama*, where there is no evidence demonstrating any dubious reason or improper motive why a prosecution witness should testify against the accused, the witness' testimony should be accorded full faith and credit. In this case, therefore, Ricar's testimony must stand, there being no evidence of any ill motive on his part to testify falsely against accused-appellant.

It is settled that the determination of the credibility of witnesses is the domain of the trial court and the matter of assigning values to their testimonies is best performed by it. Thus, the evaluation by the trial judge on the credibility of witnesses is well nigh conclusive on the appellate court unless cogent reasons are shown. In the case at bar, We find no compelling reason to depart from the general rule.

In stark contrast to the spontaneous narration of facts by Ricar and later corroborated by Atty. Centron, accused-appellant offered only for his defense, his bare denial. Thus:

x x x x

Accused-appellant's version appears inconsistent. At first, he was saying that he could be of help as long as the pertinent documents are presented. Later, he was already saying that he merely indorsed Ricar to Mrs. Monica Sigue as he had no knowledge regarding the reconstitution of titles.

Accused-appellant further testified that he affixed his signature on the purported Order after verifying that the original thereof was duly signed by Judge Mario Dela Cruz. If verification was indeed made by him, he could have discovered that the 'original' Petition No. 12701 had Emerenciano Sarabia as petitioner and not Silverio Rosales.

The argument that the original copy must be presented for comparison holds no water. *How can such original be presented when the supposed original does not exist at all?*

All told, accused-appellant is guilty of falsification under Article 172 in relation to paragraph 2 of Article 171 of the Revised Penal Code. Thus, We agree with the reasoning of the trial court why it could not be a falsification under Art. 171. For easy reference, We again quote herein its ratiocination:

"The accused is a Court Interpreter and does not have the duty to prepare or intervene in the preparation of the subject document, neither doe he (accused) has (sic) official

custody of the documents falsified. It is not also the duty of the accused to certify document released or issued from the Court. Thus, by certifying that the duplicate copy is the true copy of the original, which does not exist, he did not abuse his official position as required under Article 171 (supra). He is, however, liable for falsification committed by a private individual under Article 172 x x.”

The foregoing is in line with the position of an expert in the field of criminal law who wrote:

The offender takes advantage of his official position in falsifying a document when (1) he has the duty to make or to prepare or otherwise to intervene in the preparation of the document; or (2) he has the official custody of the document which he falsifies. (See *People v. Santiago Uy*, 53 O.G. 7236, and *U.S. vs. Inosanto*, 20 Phil. 376)

Even if the offender was a public officer but if he did not take advantage of his official position, he would be guilty of falsification of a document by a private person under Art. 172.¹⁹

Having concluded on the petitioner’s authorship of the falsified court order, the RTC and the CA characterized the acts of the petitioner as falsification committed by a private individual *by causing it to appear that persons had participated in the act or proceeding when they did not in fact so participate*, as defined in paragraph 2 of Article 171, *Revised Penal Code*.

The characterization of the acts of the petitioner was erroneous.

In producing Exhibit B, and signing thereon beneath the words “CERTIFIED TRUE COPY” stamped on Exhibit B, and presenting the document to Ricar and Silverio, the petitioner unquestionably made Exhibit B appear like a true copy of the signed original order issued in Petition No. 12,701 by Presiding Judge Dela Cruz. But Petition No. 12,701 that supposedly involved the application for the judicial reconstitution of Transfer Certificate of Title No. T-40361 in the name of Silverio Rosales as reflected on Exhibit B had no relevance to the signed original order issued in the proceeding for the issuance of new owner’s duplicate copy of Transfer Certificate of Title No. T-3436 in the name of Emerenciano Sarabia. In short, Exhibit B was a simulated court order. Considering that the proceeding relating to Exhibit B was non-existent in the docket of the court, the acts of the petitioner constituted falsification. Indeed, the simulation of a public or official document like a court order, done in such a manner as to easily lead to error as to its authenticity, constitutes falsification; and it was

¹⁹ Id. at 80-89.

not essential that the falsification should have been made in a real public or official document.²⁰

Based on the foregoing, the petitioner committed falsification by a private individual in the manner as provided in paragraph 7, Article 171 of the *Revised Penal Code*, to wit:

x x x x

7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original;

x x x x

The RTC appreciated the fact of the petitioner being a court interpreter as the generic aggravating circumstance of taking advantage of his public position under paragraph 1, Article 14 of the *Revised Penal Code* against the petitioner. It explained why thusly:

x x x . He is, however, liable for falsification committed by a private individual under Article 172 with the generic aggravating circumstance of taking advantage of one's public position under Article 14, paragraph 1 of the Revised Penal Code. By reason of the accused public position as a Court Interpreter, the commission of falsification, which cannot ordinarily be committed by private individuals, was facilitated. The accused had used his influence, prestige, or ascendancy, which his office (the Court) gives him in falsifying an Order.²¹

The CA did not concur with the RTC, however, and ruled that the petitioner's position as court interpreter was not a generic aggravating circumstance, stating:

As to the maximum of the penalty, it should only be within the range of the medium period. **The reason is that the aggravating circumstance of taking advantage of his official position cannot be taken against him. We can see the logic of the court below in arriving at such a determination but We are guided by the teaching in the case of People v. Sumaoy, G.R. No. 105961, October 22, 1996, that: "If the accused could have perpetrated the crime without occupying his position, then there is no abuse of public position." In the situation at hand, the accused, as a court interpreter, might have some knowledge of the practical aspect of a petition for reconstitution and had easy access to court forms, patterns or records but, even as an outsider, he**

²⁰ *United States v. Corral*, 15 Phil. 383 (1910).

²¹ *Rollo*, p. 31 (the underscoring is part of the original).

could have still committed the crime. There is a gray area but We give him the benefit of a doubt.²²

We uphold the CA's ruling.

The falsification by the petitioner could have been committed without taking advantage of his public position as the court interpreter. His work for the court that had supposedly issued Exhibit B was of no consequence to his criminal liability, for the crime could have been committed even by any other individual, including one who did not work in the court in any official capacity. In his case, the petitioner committed the simulation of Exhibit B despite his not having the duty to make, or prepare, or otherwise intervene in the preparation of court orders.

The penalty for falsification committed by a private individual is *prision correccional* in its medium and maximum periods, and fine of not more than ₱5,000.00.²³ Having determined that taking advantage of his public office by the petitioner should not be appreciated as a generic aggravating circumstance, the CA fixed the indeterminate penalty of two years and four months of *prision correccional*, as the minimum, to four years, nine months and 10 days of *prision correccional*, as the maximum, and fine of ₱5,000.00. The CA thereby imposed the limit of the medium period of the penalty of imprisonment, and the maximum of the fine. However, the CA should have tendered a justification for imposing the limits of the compound penalty. It should have done so, considering that the *seventh rule* on the application of penalties containing three periods laid down in Article 64 of the *Revised Penal Code* expressly mandated that the courts “shall determine [within the limits of each period] the extent of the penalty according to the number and nature of the aggravating and mitigating circumstances and the greater or lesser extent of the evil produced by the crime.” Without tendering the requisite justification for imposing the limits of the penalties of imprisonment and the fine, the floor of the penalties would be warranted;²⁴ otherwise, the CA would be seen as arbitrary.

Nonetheless, the omission of the justification was an obvious oversight by the CA. We should rectify the oversight as a matter of course to conform to the law. The simulation perpetrated by the petitioner undeniably manifested his abject disregard of his responsibility as an employee of the Judiciary even as it revealed a perversity indicative of the greater extent of the evil produced by the crime. Upon due consideration of the circumstances of the case, we still uphold the CA thereon. He surely deserved the limits of the compound penalty.

²² Id. at 89 (bold emphasis supplied to highlight the relevant part).

²³ Article 172, *Revised Penal Code*.

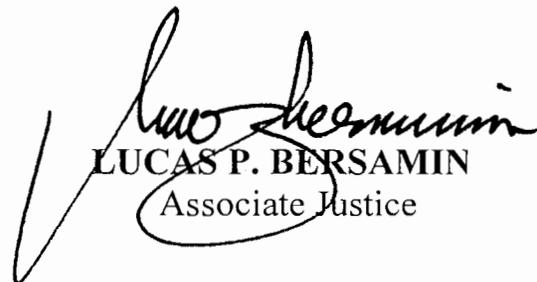
²⁴ See *People v. Bayker*, G.R. No. 170192, February 10, 2016.

In addition, although the RTC imposed subsidiary imprisonment in case the petitioner should be unable to pay the fine due to insolvency, the CA did not reimpose it in affirming the conviction without explaining why. This is another omission that demands rectification. Article 39 of the *Revised Penal Code* states that “[i]f the convict has no property with which to meet the fine mentioned in paragraph 3 of the next preceding article, he shall be subject to a subsidiary personal liability xxxx.” To conform with the provision, the imposition of the subsidiary imprisonment was necessary in order not to trivialize the prescription of the fine as part of the compound penalty for falsification. Accordingly, the subsidiary imprisonment is restored.

WHEREFORE, the Court **AFFIRMS** the decision promulgated on January 25, 2006 **IN ALL RESPECTS** subject to the **MODIFICATIONS** that: (1) the crime committed by petitioner **ALBERTO GARONG y VILLANUEVA** was falsification committed by a private individual as defined and penalized by Article 172, in relation to paragraph 7 of Article 171, both of the *Revised Penal Code*; and (2) the petitioner shall suffer subsidiary imprisonment in case of his insolvency.

The petitioner shall pay the costs of suit.

SO ORDERED.


LUCAS P. BERSAMIN
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice


TERESITA J. LEONARDO-DE CASTRO
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice

(On Leave)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice