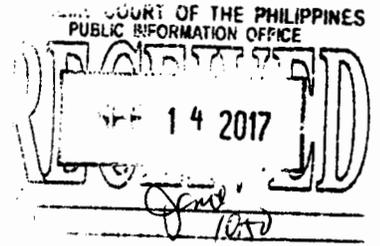




Republic of the Philippines
Supreme Court
Manila



FIRST DIVISION

DR. FRISCO M. MALABANAN,
Petitioner,

G. R. No. 186329

- versus -

SANDIGANBAYAN,
Respondent.

X ----- X

ABUSAMA MANGUDADATU ALID,
Petitioner,

G.R. Nos. 186584-86

- versus -

**THE HON. SANDIGANBAYAN – 1st
DIVISION, OFFICE OF THE
SPECIAL PROSECUTOR, HON.
SECRETARY OF THE
DEPARTMENT OF AGRICULTURE,**
Respondents.

X ----- X

ABUSAMA M. ALID,
Petitioner,

G.R. No. 198598

Present:

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

SERENO, *CJ*, Chairperson,
LEONARDO-DE CASTRO,
DEL CASTILLO,
PERLAS-BERNABE, and
CAGUIOA, *JJ*.

Promulgated:

AUG 02 2017

X ----- X

DECISION**SERENO, CJ:**

These three consolidated petitions stem from a common set of facts.

Abusama M. Alid (Alid) was the Assistant Regional Director of the Department of Agriculture (DA), Regional Field Office No. XII, Cotabato City.¹ Frisco M. Malabanan (Malabanan), on the other hand, was the Program Director of the *Ginintuang Masaganang Ani* Rice Program (GMA Rice Program) of the DA, Field Operations Office, Diliman, Quezon City.²

On 27 July 2004, Alid obtained a cash advance of ₱10,496 to defray his expenses for official travel. He was supposed to attend the turnover ceremony of the outgoing and the incoming Secretaries of the DA and to follow up, on 28 to 31 July 2004, funds intended for the GMA Rice Program. The turnover ceremony did not push through, however, and Alid's trip was deferred.³

On 22 August 2004, Alid took Philippine Airlines (PAL) Flight PR 188 from Cotabato City to Manila under PAL Ticket No. 07905019614316 (PAL Ticket).⁴ He attended the turnover ceremony at the DA Central Office in Quezon City on 23 August 2004.⁵ The following day, or on 24 August 2004, he took a flight from Manila to Cotabato City per another ticket issued in exchange for the PAL Ticket.⁶

On 1 September 2004, Alid instructed his secretary to prepare the necessary papers to liquidate the cash advance.

In his Post Travel Report, he declared that his official travel transpired on 28 to 31 July 2004.⁷

He likewise attached an altered PAL Ticket in support of his Post Travel Report. The date "22 AUG 2004" was changed to read "28 JULY 2004", and the flight route "Cotabato-Manila-Cotabato" appearing on the PAL Ticket was altered to read "Davao-Manila-Cotabato."⁸

¹ *Rollo* (G.R. No. 198598), p. 33; Sandiganbayan Decision dated 23 June 2011, penned by Associate Justice Rodolfo A. Ponferrada and concurred in by Associate Justices Efren N. de la Cruz and Rafael R. Lagos.

² *Id.* at 40.

³ *Id.*

⁴ *Id.* at 214; Certification dated 24 September 2004.

⁵ *Id.* at 40; Sandiganbayan Decision dated 23 June 2011.

⁶ *Id.*

⁷ *Id.* at 40-41.

⁸ *Id.* at 126-127; Information in SB-07-CRM-0073 dated 24 October 2007.

He further attached an undated Certificate of Appearance signed by Malabanan as Director of the GMA Rice Program.⁹ The document stated that Alid had appeared at the DA Central Office in Quezon City from 28 to 31 July 2004 for the turnover ceremony and to follow up the status of the funds intended for the GMA Rice Program.¹⁰

During post-audit, discrepancies in the supporting documents were found and investigated. Thereafter, the Office of the Special Prosecutor charged Alid and Malabanan before the Sandiganbayan with falsification of public documents.¹¹

In SB-07-CRM-0072, Alid was indicted for falsifying his Post Travel Report, as follows:

That [on] or about July 2004, and sometime prior or subsequent thereto, in Cotabato City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ABUSAMA MANGUDADATU ALID, a high ranking public officer holding the position of Assistant Regional Director with salary grade 27 of the Department of Agriculture, Regional Field Office No. XII, Cotabato City, taking advantage of his official position, with abuse of confidence, and committing the offense in relation to his office, did then and there willfully, unlawfully and feloniously falsify or cause to be falsified his Post Travel Report prepared on September 1, 2004, which is an official document, by making it appear therein that on July 28, 2004, he proceeded to Davao to take a flight bound for Manila and that he was in Manila up to July 30, 2004 to attend to the turn-over ceremony of incoming and outgoing DA Secretaries and to follow up the funds intended for the Ginintuang Masaganang Ani (GMA) Rice Program projects and that on July 31, 2004, he took a taxi from his hotel to the airport and boarded a flight back to Cotabato City, which document he submitted to support his Liquidation Voucher for Ten Thousand Four Hundred Ninety Six Pesos (₱10,496.00) which he cash advanced [sic] for traveling expenses to Manila for the period July 28-31, 2004, when in truth and in fact, as the accused well knew, he did not take the aforesaid official trip to Manila for the said period of July 28 to 30, 2004 and that the turn-over ceremony between the incoming and outgoing DA Secretaries was postponed and moved to August 2004, nor did the accused follow up the funds for GMA projects in the said month, thus accused made [an] untruthful statement in a narration of facts, the truth of which he was legally bound to disclose.

CONTRARY TO LAW.¹²

In SB-07-CRM-0073, the Acting Deputy Special Prosecutor charged Alid with falsifying the PAL Ticket. The Information stated:

⁹ Id. at 41.

¹⁰ Id. at 129-130; Information in SB-07-CRM-0074 dated 24 October 2007.

¹¹ Id. at 41-42.

¹² Id. at 123-124; Information in SB-07-CRM-0072 dated 24 October 2007.

That on or about July 2004, and sometime prior or subsequent thereto, in Cotabato City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ABUSAMA MANGUDADATU ALID, a high ranking public officer holding the position of Assistant Regional Director with salary grade 27 of the Department of Agriculture, Regional Field Office No. XII, Cotabato City, taking advantage of his official position and committing the offense in relation to his office, did then and there willfully, unlawfully and feloniously falsify or cause to be falsified the Philippine Airline (PAL) plane ticket No. 07905019614316[,] a genuine document which he attached and submitted as supporting document to his liquidation voucher for the purpose of liquidating his cash advance of Ten Thousand Four Hundred Ninety Six (₱10,496.00) Pesos as traveling expenses for the period July 28-31, 2004 thereby rendering the said plane ticket a public/official document, which falsification was committed in the following manner to wit: that in the upper right corner of the said plane ticket indicating the date and place of issue, accused inserted the figure/number 8 after the figure/number 2 and erased the original word Aug (August) and superimposed the [word] July to make it appear that the plane ticket was purchased/issued on July 28, 2004, when the original date of purchase/issue was August 2, 2004; that in the portion of the ticket indicating the flight route, accused also erased the original word "Cotabato" and superimposed therein the word "Davao" and under the column "Date" of flight, accused erased the original figure 22 and superimposed the figure "28" and also erased the word "Aug." and superimposed the word "Jul" to make it appear that the flight took place on July 28 originating from Davao, thus accused made alterations and intercalations in a genuine document which changed its original meaning and perverting the truth to make it appear that he made an official trip to Manila, originating from Davao on July 28, 2004 using a plane ticket issued/purchased on July 28, 2004 to conform with the entries in his liquidation voucher when accused knew [full] well that he did not make such official trip on said date and route as indicated in the aforesaid falsified PAL plane ticket.

CONTRARY TO LAW.¹³

In SB-07-CRM-0074, Alid and Malabanan were charged with falsifying the Certificate of Appearance that the former attached as a supporting document for the Post Travel Report. The Information reads:

That on or about July 2004, and sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused ABUSAMA MANGUDADATU ALID, a high ranking public officer holding the position of Assistant Regional Director with salary grade 27 of the Department of Agriculture (DA), Regional Field Office No. XII, Cotabato City, conspiring and conniving with accused FRISCO MERCADO [MALABANAN], Chief Science Research Specialist of the Philippine Rice Research Institute (Philrice) and Program Director of the Ginintuang Masaganang Ani (GMA) [Rice] Program of the Department of Agriculture, Field Operations Service, Diliman, Quezon City, holding a salary grade of 26, taking advantage of their official positions, with abuse of confidence and committing the offense in relation

¹³ Id. at 126-127; Information in SB-07-CRM-0073 dated 24 October 2007.

to their respective offices, did then and there willfully, unlawfully and feloniously falsify or cause to be falsified an undated Certificate of Appearance issued in the name of ABUSAMA MANGUDADATU ALID noted by accused FRISCO M. MALABANAN which is an official/public document and which the former submitted as one of the supporting document[s] to his liquidation voucher of his cash advance of Ten Thousand Four Hundred Ninety Six (P10,496.00) Pesos as traveling expenses for the period of July 28-31, 2004 by making it appear in the said Certificate of Appearance that accused Abusama Mangudadatu Alid appeared in the Office of the DA Central Office, Diliman, Quezon City for the period of July 28-31, 2004 to attend to the turn-over ceremony of incoming and outgoing DA Secretaries and to follow-up the funds intended for the GMA Projects Implementation; when in truth and in fact, as both accused well knew, accused Abusama Mangudadatu Alid did not travel to Manila on said date as the turn-over ceremony of the incoming and outgoing DA Secretaries was postponed and moved to August 2004 nor did accused Alid follow up with accused Malabanan on the said period the funds intended for the GMA projects, thus accused made an untruthful statement in a narration of facts, the truth of which they are legally bound to disclose.

CONTRARY TO LAW.¹⁴

Upon arraignment, both Alid and Malabanan entered pleas of “not guilty.”¹⁵

While the cases were pending before the Sandiganbayan, the prosecution filed a Motion to Suspend Accused *Pendente Lite*, praying for their preventive suspension pending trial.¹⁶

In a Minute Resolution dated 29 October 2008, the Sandiganbayan granted the motion and ordered the suspension *pendente lite* of Alid and Malabanan for 90 days.¹⁷

Both of the accused sought reconsideration, but the Sandiganbayan denied their motions in a Minute Resolution dated 30 January 2009.¹⁸

Malabanan then filed before this Court a Rule 65 Petition for Certiorari and Prohibition¹⁹ praying that the order of preventive suspension be set aside, and that a writ of prohibition be issued against the

¹⁴ Id. at 129-130; Information in SB-07-CRM-0074 dated 24 October 2007.

¹⁵ Id. at 33; Sandiganbayan Decision dated 23 June 2011.

¹⁶ *Rollo* (G.R. No. 186329), pp. 17-22; Motion to Suspend Accused *Pendente Lite* dated 28 April 2008.

¹⁷ *Rollo* (G.R. No. 186329), pp. 52-54; *rollo* (G.R. No. 186584-86), pp. 19-21; Minute Resolution of the Sandiganbayan First Division dated 29 October 2008, approved by then Presiding Justice Diosdado M. Peralta (now a member of this Court), and Associate Justices Rodolfo A. Ponferrada and Alexander G. Gesmundo.

¹⁸ *Rollo* (G.R. No. 186329), pp. 55-57; *rollo* (G.R. No. 186584-86), pp. 27-29; Minute Resolution of the Sandiganbayan First Division dated 30 January 2009, approved by Associate Justices Norberto Y. Geraldez, Rodolfo A. Ponferrada and Alexander G. Gesmundo.

¹⁹ *Rollo* (G.R. No. 186329), pp. 3-12; Petition for Certiorari and Prohibition dated 25 February 2009.

Sandiganbayan to forestall the threatened implementation of the Minute Resolutions.²⁰ This petition was docketed as **G.R. No. 186329**.

Alid filed a separate Rule 65 Petition for Certiorari and Prohibition²¹ before us, likewise praying that the order of preventive suspension be set aside, and that a writ of prohibition be issued against the Sandiganbayan's implementation of the Minute Resolution dated 29 October 2008.²² He further prayed for the issuance of a temporary restraining order pending the resolution of the principal case.²³ This petition was docketed as **G.R. Nos. 186584-86**.

In the meantime, the Sandiganbayan proceeded with the criminal cases and eventually rendered a Decision convicting Alid of falsification of a private document for altering the PAL Ticket.²⁴ The Sandiganbayan, however, acquitted both of the accused of the other charges. The dispositive portion of its ruling reads:

IN VIEW OF ALL THE FOREGOING, judgment is hereby rendered as follows –

1. In *SB-07-CRM-0072* – **ACQUITTING** accused ABUSAMA M. ALID for insufficiency of evidence, with costs *de officio*;
2. In *SB-07-CRM-0073* – finding accused ABUSAMA M. ALID **GUILTY** beyond reasonable doubt of the crime of falsification of a private document under paragraph 2 of Article 172 of the Revised Penal Code and, with the application of the Indeterminate Sentence Law and without any mitigating or aggravating circumstance, hereby sentencing him to suffer the indeterminate penalty of ONE (1) YEAR and ONE (1) DAY to THREE (3) YEARS, SIX MONTHS and TWENTY-ONE (21) DAYS of *prision correccional*, as minimum and maximum, respectively, and to pay a fine of FIVE HUNDRED PESOS (P500.00) with costs against the accused; and
3. In *SB-07-CRM-0074* – **ACQUITTING** accused ABUSAMA M. ALID and FRISCO M. MALABANAN for insufficiency of evidence, with costs *de officio*.

SO ORDERED.²⁵

Alid moved for the reconsideration of the Sandiganbayan's decision convicting him of the crime of falsification of a private document under paragraph 2 of Article 172 of the Revised Penal Code.²⁶ The prosecution

²⁰ Id. at 11.

²¹ *Rollo* (G.R. No. 186584-86), pp. 3-18; Petition for Certiorari and Prohibition dated 8 March 2009.

²² Id. at 15.

²³ Id. at 16.

²⁴ *Rollo* (G.R. No. 198598), pp. 30-54; Sandiganbayan Decision dated 23 June 2011.

²⁵ Id. at 52-53.

²⁶ Id. at 60-73; Motion for Reconsideration (of the June 23, 2011 Decision) dated 26 June 2011.

likewise moved for a partial reconsideration insofar as the acquittals were concerned.²⁷ However, the Sandiganbayan denied both motions.²⁸

Alid thereafter filed the present Rule 45 Petition for Review²⁹ before this Court, praying for the reversal of the Decision and the Resolution of the Sandiganbayan insofar as SB-07-CRM-0073 is concerned. This petition was docketed as **G.R. No. 198598**.

THE COURT'S RULING

We dismiss the petitions in G.R. Nos. 186329 and 186584-86 for being moot and academic. However, we grant the petition in G.R. No. 198598 and rule that the Sandiganbayan committed a reversible error in convicting Alid of the crime of falsification of a private document under Article 172, paragraph 2 of the Revised Penal Code.

I

The petitions questioning the order of preventive suspension are moot and academic.

A case becomes moot and academic when, by virtue of supervening events, it ceases to present a justiciable controversy, such that a declaration thereon would no longer be of practical value.³⁰ As a rule, courts decline jurisdiction over such a case or dismiss it on the ground of mootness.³¹

In G.R. Nos. 186329 and 186584-86, Alid and Malabanan pray that the Sandiganbayan's order imposing preventive suspension be set aside and its implementation restrained. It appears from the records, however, that the order of preventive suspension had already been implemented by the DA on 17 March 2009,³² and that Alid had already retired from government service on 30 June 2009.³³ Clearly, therefore, by virtue of supervening events, there is no longer any justiciable controversy with regard to this matter, and any pronouncement that we may make upon it will no longer be of practical value. Thus, we rule that the Rule 45 petitions in G.R. Nos. 186329 and 186584-86 should be dismissed for mootness.

²⁷ Id. at 74-82; Partial Motion for Reconsideration dated 6 July 2011.

²⁸ Id. at 55-59; Resolution dated 6 September 2011.

²⁹ Id. at 9-26; Petition for Review dated 28 October 2011.

³⁰ *Gunsi, Sr. v. Commissioners of the COMELEC*, 599 Phil. 223 (2009).

³¹ Id.

³² *Rollo* (G.R. No. 186584-86), p. 162; Manifestation dated 15 June 2009, citing an Order issued by DA Secretary Arthur C. Yap dated 17 March 2009.

³³ Id. at 114; Comment (on the Petition dated 25 February 2009 and the Petition dated 8 March 2009) dated 28 August 2009.

II***The Sandiganbayan erred in convicting Alid of the crime of falsification of a private document under paragraph 2 of Article 172 of the Revised Penal Code.***

In G.R. No. 198598, the Sandiganbayan convicted Alid of falsification of a private document for altering the PAL Ticket. We disagree with that conviction for two reasons.

First, a conviction for falsification of a private document under paragraph 2 of Article 172 violates the right of Alid to be informed of the nature and cause of the accusation against him given that his Information charged him only with falsification of documents committed by a public officer under Article 171. Second, for falsifying a commercial document, the penal provision allegedly violated by Alid was paragraph 1, and not paragraph 2, of Article 172.

Right to Be Informed of the Nature and the Cause of Accusation

At the outset, we note that the appeal of Alid is grounded on two points: (1) that he was not the one who altered the plane ticket; and (2) that he had no intent to cause damage. He has not raised the defense that his right to be informed of the nature and cause of the accusation against him has been violated. However, an appeal in a criminal case opens the whole matter for the review of any question, including those questions not raised by the parties.³⁴ In this case, a review is necessary because the conviction was made in violation of the accused's constitutional rights.

One of the fundamental rights of an accused person is the right to be "informed of the nature and cause of the accusation against him."³⁵ This means that the accused may not be convicted of an offense unless it is clearly charged in the Information.³⁶ Even if the prosecution successfully proves the elements of a crime, the accused may not be convicted thereof, unless that crime is alleged or necessarily included in the Information filed against the latter.³⁷

Pursuant to this constitutional right, Section 4, Rule 120 of the Rules of Criminal Procedure, commands:

Section 4. Judgment in case of variance between allegation and proof. — When there is variance between the offense charged in the complaint or information and that proved, and the offense as charged is included in or

³⁴ *People v. Yam-id*, 368 Phil. 131, 137 (1999).

³⁵ CONSTITUTION, Art. III, Sec. 14 (2).

³⁶ *People v. Manalili*, 355 Phil. 652, 684 (1998).

³⁷ *Laurel v. Abrogar*, 518 Phil. 409, 431 (2006).

necessarily includes the offense proved, the accused shall be convicted of the offense proved which is included in the offense charged, or of the offense charged which is included in the offense proved.

Therefore, the accused can only be convicted of an offense when it is both charged and proved. If it is not charged, although proved, or if it is proved, although not charged, the accused cannot be convicted thereof.³⁸ In other words, variance between the allegation contained in the Information and the conviction resulting from trial cannot justify a conviction for either the offense charged or the offense proved unless either is included in the other.

As to when an offense includes or is included in another, Section 5 of Rule 120 provides:

Section 5. When an offense includes or is included in another. — An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form a part of those constituting the latter.

Here, it cannot be overlooked that there is a variance between the felony as charged in the Information and as found in the judgment of conviction. Applying the rules, the conviction of Alid for falsification of a private document under paragraph 2, Article 172 is valid only if the elements of that felony constituted the elements of his indictment for falsification by a public officer under Article 171.

Article 171 – the basis of the indictment of Alid – punishes public officers for falsifying a document by making any alteration or intercalation in a genuine document which changes its meaning. The elements of falsification under this provision are as follows:³⁹

1. The offender is a public officer, employee, or a notary public.
2. The offender takes advantage of his or her official position.
3. The offender falsifies a document by committing any of the acts of falsification under Article 171.⁴⁰

³⁸ *Pecho v. Sandiganbayan*, 308 Phil. 120 (1993), citing *Esquerra v. People*, 108 Phil. 1078, 1084-85 (1960).

³⁹ *Garong v. People*, G.R. No. 172539, 16 November 2016.

⁴⁰ ARTICLE 171. *Falsification by Public Officer, Employee or Notary or Ecclesiastic Minister.* — The penalty of *prisión mayor* and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
 2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
 3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
 4. Making untruthful statements in a narration of facts;
- 

Article 172 of the Revised Penal Code contains three punishable acts. It reads:

Art. 172. Falsification by Private Individuals and Use of Falsified Documents. — The penalty of *prisión 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
2. Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who, with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

Paragraph 2 of Article 172 was the basis of Alid's conviction. Its elements are as follows:

1. The offender committed any of the acts of falsification, except those in Article 171(7).
2. The falsification was committed on a private document.
3. The falsification **caused damage or was committed with intent to cause damage to a third party.**⁴¹

Comparing the two provisions and the elements of falsification respectively enumerated therein, it is readily apparent that the two felonies are different. Falsification under paragraph 2 of Article 172 goes beyond the elements of falsification enumerated under Article 171. The former requires additional independent evidence of damage or intention to cause the same to a third person.⁴² Simply put, in Article 171, damage is not an element of the

cont.

5. Altering true dates;
6. **Making any alteration or intercatation in a genuine document which changes its meaning;**
7. Issuing in authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons. (Emphasis supplied)

⁴¹ *Manansala v. People*, G.R. No. 215424, 9 December 2015.

⁴² *Tan, Jr. v. Matsuura*, 701 Phil. 236 (2013).



crime; but in paragraph 2 of Article 172, or falsification of a private document, damage is an element necessary for conviction.

Therefore, not all the elements of the crime punished by paragraph 2, Article 172 are included under Article 171. Specifically, the former offense requires the element of damage, which is not a requisite in the latter. Indeed, the Information charging Alid of a felony did not inform him that his alleged falsification caused damage or was committed with intent to cause damage to a third party.

Since Alid was not specifically informed of the complete nature and cause of the accusation against him, he cannot be convicted of falsification of a private document under paragraph 2 of Article 172. To convict him therefor, as the Sandiganbayan did, violates the very proscription found in the Constitution and our Rules of Criminal Procedure. On this ground alone, we find that the court *a quo* erred in its decision.

Falsification under Articles 171 and 172 of the Revised Penal Code

Notwithstanding the erroneous conviction meted out by the Sandiganbayan, this Court proceeds to peruse the nature of the crime established in the records of this case. In *People v. Castillo*,⁴³ we emphasized a basic rule in criminal jurisprudence: that the defendant in a criminal case may be found guilty of any offense necessarily included in the allegation stated in the information and fully established by the evidence.

*Guillergan v. People*⁴⁴ declares that the falsification of documents committed by public officers who take advantage of their official position under Article 171 necessarily includes the falsification of commercial documents by private persons punished by paragraph 1 of Article 172. To reiterate, the elements of Article 171 are as follows:

1. The offender is a public officer, employee, or a notary public.
2. The offender takes advantage of his or her official position.
3. The offender falsifies a document by committing any of the acts of falsification under Article 171.

In turn, paragraph 1 of Article 172 contains these requisites:

1. That the offender is a private individual or a public officer or employee who did not take advantage of his or her official position.

⁴³ *People v. Castillo*, C.A. No. 227, 76 Phil. 72 (1946).

⁴⁴ 656 Phil. 527 (2011).

2. The falsification was committed in a public or official or commercial document.
3. The offender falsifies a document by committing any of the acts of falsification under Article 171.

Analyzing these felonies, we find that neither of them include damage or intent to cause damage as an element of the crime; and that Article 171 encompasses all the elements required in a conviction for falsification under paragraph 1 of Article 172. Thus, in *Daan v. Sandiganbayan*,⁴⁵ we allowed the accused facing Informations for falsification of public documents under Article 171 to plead guilty to falsification under Article 172. We specifically stated that “in the charge for Falsification of Public Documents, petitioner may plead guilty to the lesser offense of Falsification by Private Individuals inasmuch as it does not appear that petitioner took advantage of his official position in allegedly falsifying the timebook and payroll of the Municipality of Bato, Leyte.”⁴⁶

Here, if the records show sufficient allegations that would convict Alid of paragraph 1 of Article 172, the Sandiganbayan is bound to sentence him to that lesser offense. But, as mentioned, it overlooked this provision and jumped to convicting him of falsification under paragraph 2 of Article 172. As discussed, the latter felony is not covered by his indictment under Article 171.

This Court finds that the prosecution has sufficiently alleged all the elements of paragraph 1 of Article 172. As regards the first element, Alid was a public officer who did not take advantage of his official position.

Offenders are considered to have taken advantage of their official position in falsifying a document if (1) they had the duty to make or prepare or otherwise intervene in the preparation of the document; or (2) they had official custody of the falsified document.⁴⁷ Here, the accused definitely did not have the duty to make, prepare, or intervene in the preparation of the PAL Ticket. Neither was it in his official custody. Therefore, when he falsified the PAL Ticket, he did not take advantage of his official position as Assistant Regional Director of the DA.

Anent the second element, the Sandiganbayan concluded that because the PAL Ticket was a private document, Alid should not have been charged with falsifying a public document. However, the PAL Ticket fell under the category of commercial documents, which paragraph 1 of Article 172 protects from falsification.

⁴⁵ 573 Phil. 368 (2008).

⁴⁶ Id. at 382.

⁴⁷ *Adaza v. Sandiganbayan*, 502 Phil. 702 (2005).

Commercial documents or papers are those used by merchants or business persons to promote or facilitate trade or credit transactions. Examples include receipts, order slips, and invoices.⁴⁸ In *Seaoil Petroleum Corporation v. Autocorp Group*,⁴⁹ we considered a sales invoice a commercial document and explained:

The Vehicle Sales Invoice [Autocorp sold to Seaoil one unit Robex 200 LC Excavator paid for by checks issued by one Romeo Valera] is the best evidence of the transaction. A sales invoice is a commercial document. Commercial documents or papers are those used by merchants or businessmen to promote or facilitate trade or credit transactions. Business forms, e.g., order slip, delivery charge invoice and the like, are commonly recognized in ordinary commercial transactions as valid between the parties and, at the very least, they serve as an acknowledgment that a business transaction has in fact transpired.

In this case, since the PAL Ticket functioned as a sales invoice that memorialized the consummation of the commercial transaction between the air carrier and the passenger, the Sandiganbayan should have considered the fact that Alid had altered a commercial document.

Finally, the accused did not dispute that he had altered a genuine document. The date “22 AUG 2004” was changed to read “28 JULY 2004”; and the flight route “Cotabato-Manila-Cotabato” appearing on the PAL Ticket was altered to read “Davao-Manila-Cotabato.”⁵⁰ Hence, the third element of the felony punished by paragraph 1 of Article 172 is apparent in this case.

Criminal Liability of the Accused

Criminal intent or *mens rea* must be shown in felonies committed by means of *dolo*, such as falsification.⁵¹ Such intent is a mental state, the existence of which is shown by the overt acts of a person.⁵² Thus, the acts of Alid must have displayed, with moral certainty, his intention to pervert the truth before we adjudge him criminally liable. In cases of falsification, we have interpreted that the criminal intent to pervert the truth is lacking in cases showing that (1) the accused did not benefit from the falsification; **and** (2) no damage was caused either to the government or to a third person.

In *Amora, Jr. v. Court of Appeals*,⁵³ the accused construction contractor was absolved even if he had admittedly falsified time books and payrolls. The Court appreciated the fact that he did not benefit from the

⁴⁸ *David v. People*, 767 Phil. 290 (2015); *Lagon v. Hooven Comalco Industries, Inc.*, 402 Phil. 404 (2001); *People v. Benito*, 57 Phil. 587 (1932).

⁴⁹ *Seaoil Petroleum Corporation v. Autocorp Group*, 590 Phil. 410, 419 (2008).

⁵⁰ Sandiganbayan Records, Vol. I, p. 10.

⁵¹ *Mendoza-Arce v. Office of the Ombudsman*, 430 Phil. 101 (2002); REVISED PENAL CODE, Article 3.

⁵² *Lastrilla v. Granda*, 516 Phil. 667 (2006).

⁵³ 200 Phil. 777 (1982).

transaction and was merely forced to adjust the supporting papers in order to collect the piece of work he had actually constructed. On that occasion, we explained at length the nuanced appreciation of criminal intent in falsification of documents, *viz.*:

Although the project was truly a contract for a piece of work, nevertheless he used the daily wage method and not the contract vouchers. This was not his idea but by the municipal mayor and treasurer to prepare a payroll and list of laborers and their period of work and to pay them the minimum wage so that the total payment would equal the total contract price. This is the so-called *bayanihan* system practiced by former Mayor Bertumen and Engineer Bertumen of the 2nd engineering district. In the payrolls only some 20 names of the 200 laborers were listed as not all of them could be accommodated. Those not listed received their wages from those listed. As all of the utilized laborers were duly paid, not one complained. Neither did the municipality complain. x x x.

x x x x.

From the foregoing coupled with the fact that the town of Guindulman suffered no damage and even gained on the project (the cost of the boulders actually delivered was P18,285.00 but Murillo was paid only P13,455.00) plus the additional fact that the alleged complaining witness mentioned in the informations suffered no damage whatsoever and were in fact awarded no indemnity, it is obvious that the falsifications made by the petitioners were done in good faith; there was no criminal intent. x x x. In other words, although the accused altered a public document or made a misstatement or erroneous assertion therein, he would not be guilty of falsification as long as he **acted in good faith and no one was prejudiced by the alteration or error.** (Emphasis supplied)⁵⁴

In *Regional Agrarian Reform Adjudication Board v. Court of Appeals*,⁵⁵ the heirs of the deceased falsified the signature of the latter in a Notice of Appeal. The Court rejected the imputation of falsification because the forgery produced no effect:

In the instant case, given the heirs' admissions contained in several pleadings that Avelino and Pedro are already deceased and their submission to the jurisdiction of the Regional Adjudicator as the successors-in-interest of the decedents, the effect would be the same if the heirs did not sign the decedents' names but their own names on the appeal.⁵⁶

This Court is well aware that falsification of documents under paragraph 1 of Article 172, like Article 171, does not require the idea of gain or the intent to injure a third person as an element of conviction. But, as early as *People v. Pacana*,⁵⁷ we have said:

⁵⁴ Id. at 781-783.

⁵⁵ 632 Phil. 191 (2010).

⁵⁶ Id. at 214.

⁵⁷ 47 Phil. 48 (1924).

Considering that even though in the falsification of public or official documents, whether by public officials or by private persons, it is unnecessary that there be present the idea of gain or the intent to injure a third person, for the reason that, in contradistinction to private documents, the principal thing punished is the violation of the solemnly proclaimed, it must, nevertheless, be borne in mind that **the change in the public document must be such as to affect the integrity of the same or to change the effects which it would otherwise produce**; for unless that happens, there could not exist the essential element of the intention to commit the crime which is required by article 1 [now Article 3] of the Penal Code. (Emphasis supplied)⁵⁸

Here we find that, similar to *Amora, Jr.* and *Regional Agrarian Reform Adjudication Board*, there is no moral certainty that Alid benefitted from the transaction, with the government or any third person sustaining damage from his alteration of the document.

The peculiar situation of this case reveals that Alid falsified the PAL Ticket just to be consistent with the deferred date of the turnover ceremony for the outgoing and the incoming Secretaries of the DA Central Office in Quezon City. Notably, he had no control as to the rescheduling of the event he had to attend. Neither did the prosecution show that he had incurred any additional benefit when he altered the document. Moreover, after he submitted the PAL Ticket that he had used to support his liquidation for a cash advance of ₱10,496, the public funds kept by the DA remained intact: no apparent illegal disbursement was made; or any additional expense incurred.

Considering, therefore, the obvious intent of Alid in altering the PAL Ticket – to remedy his liquidation of cash advance with the correct date of his rescheduled travel – we find no malice on his part when he falsified the document. For this reason, and seeing the overall circumstances in the case at bar, we cannot justly convict Alid of falsification of a commercial document under paragraph 1 of Article 172.

WHEREFORE, the Rule 65 petitions in G.R. Nos. 186329 and 186584-86 are hereby **DISMISSED** for being moot and academic. The Rule 45 Petition for Review in G.R. No. 198598 is **GRANTED**. The assailed Decision and Resolution of the Sandiganbayan are **REVERSED** and **SET ASIDE**, and a new judgment is hereby rendered **ACQUITTING** petitioner Abusama M. Alid in SB-07-CRM-0073.

SO ORDERED.


MARIA LOURDES P. A. SERENO
Chief Justice, Chairperson

⁵⁸ Id. at 56.

WE CONCUR:

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
Associate Justice

Alfredo Benjamin S. Caguioa
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
MARIA LOURDES P. A. SERENO
Chief Justice