



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

JUANITO GALLANO y
OBRAR,

Petitioner,

-versus-

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 230147

Present:

CAGUIOA, J., Chairperson,
INTING,*
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.**

Promulgated:

February 21, 2024

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DECISION

CAGUIOA, J.:

This is a Petition for Review on *Certiorari*¹ (Petition) under Rule 45 of the Revised Rules of Court, assailing the Decision² (CA Decision) dated August 31, 2016, and the Resolution³ (CA Resolution) dated January 5, 2017, of the Court of Appeals – Manila, Special Sixth Division (CA) in CA-G.R.CR No. 37787. The CA affirmed with modification the conviction of petitioner Juanito Gallano y Obrar (petitioner) for illegal possession and use of false

* On official business.

** On official business.

¹ *Rollo*, pp. 12–39.

² *Id.* at 41–57. Penned by Associate Justice Fernanda Lampas Peralta and concurred in by Associate Justices Jane Aurora C. Lantion and Zenaida T. Galapate-Laguilles.

³ *Id.* at 67.

treasury or bank notes and other instruments of credit, as punished by Article 168 in relation to Article 166 of the Revised Penal Code, as amended.

The Information reads:

That on or about the 11th day of August 2011, at about 8:05 in the evening at the Lotto outlet owned and managed by [private complainant George Arellano (Arellano)] located in Arellano Bldg., Rizal Street, Sorsogon City, Philippines and within the jurisdiction of this Honorable Court, the above named [petitioner], did and then and there willfully, unlawfully and feloniously have in his possession, control and custody one (1) fake, false, and counterfeit ONE THOUSAND PESO BILL with serial number LB685736 and with intent to use and knowingly use, as in fact, he knowingly and intentionally use in betting in the forthcoming lotto draw at the said lotto outlet, to the damage of [Arellano] and the Republic of the Philippines.

CONTRARY TO LAW.⁴

On August 15, 2011, petitioner posted bail for his temporary liberty.⁵ When arraigned, petitioner pleaded “not guilty” to the charges.⁶ Thereafter, trial ensued.

Version of the Prosecution

The version of the prosecution, as culled from the CA Decision, reads:

On August 11, 2011, around [8:05 p.m.], at the lotto outlet of [Arellano] located at Arellano Building, Rizal Street, Sorsogon City, [petitioner] filled-in a lotto card with his preferred numbers, using as payment for his bet a [PHP 1,000.00] bill with serial number LB685736. [Janet Janoras (Janoras)], the teller on duty, did not accept the money tendered and informed [petitioner] that his [PHP 1,000.00] bill was counterfeit, to which the latter replied, “*Peke ba pera ko?*” [Petitioner] then left.

After a minute, [petitioner] returned and again tendered the money to the teller as payment for the lotto card he accomplished. [Arellano], who was then manning the cash register, took hold of the money and noticed that the paper was of poor quality and easily crumpled. When [Arellano] checked the money using the outlet’s UV light scanner, he discovered that the security thread characteristic of an authentic [PHP 1,000.00] bill, did not appear. [Arellano] then reported the incident to the police, composed of Police Officer 1 (PO1) Mariano Diaz, Jr., [PO2 Caesar Divina (PO2 Divina)] and PO2 Eleno Gaymo, who confiscated the [PHP 1,000.00] bill with serial number LB685736 and brought [petitioner] to the Cabid-an Police Station. At the police station, [PO2 Divina] turned-over [petitioner] and the confiscated money to the evidence custodian, [PO1 Ather Marz, Jr. (PO1 Marz, Jr.)]

⁴ *Id.* at 98.

⁵ *Id.*

⁶ *Id.*

The duty investigator, [Senior Police Officer 1 (SPO1) Rolando Valladolid (SPO1 Valladolid)], personally examined the confiscated money and found the same to be counterfeit. [PO1 Marz, Jr.] wrote on a separate sheet of paper the names of [petitioner] and [Arellano], the law violated, the time and date the evidence was confiscated and the description of the confiscated specimen. Thereafter, he scanned said sheet of paper and the front and back of the confiscated money. The scanned copy, which was a miniscule copy of the sheet of paper and the counterfeit money, was retained by the police. The sheet of paper and counterfeit money were given to [Arellano] together with the endorsement letter signed by Police Chief Arturo Brual, Jr. so that [Arellano] could have the confiscated money examined by the *Bangko Sentral ng Pilipinas* (BSP).

That same day, August 12, 2011, [Arellano] sent via LBC Air the endorsement letter and the confiscated [PHP 1,000.00] bill to someone in Manila to bring the same to the BSP for examination. On August 16, 2011, [Arellano] received from his sister a certification from the BSP's Cash Department stating that after examination, its Currency Analysis and Redemption Division found the [PHP 1,000.00] bill with serial number LB685736 was counterfeit. The BSP retained the money that had been stamped "COUNTERFEIT."⁷

Version of the Defense

Meanwhile, petitioner testified that on the evening of August 11, 2011, he was at the lotto stand of Arellano to purchase a ticket. After petitioner placed his bet, the teller, Janoras refused to accept his payment because there was no change for the PHP 1,000.00 bill that he paid. Petitioner returned to get a smaller denomination of PHP 30.00 and took the same from the U-box of his motorcycle. Upon paying, Janoras and Arellano asked for the PHP 1,000.00 bill and informed petitioner that the same was a counterfeit. In good faith, petitioner had the same examined by Janoras and Arellano.⁸

Thereafter, Arellano ordered that the gate of the lotto outlet be closed and called the police authorities. Petitioner said he was apprehended by the police and he was brought to the police station in Brgy. Sirangan, Sorsogon City where the PHP 1,000.00 bill was examined by the police officers.⁹

Petitioner testified that the PHP 1,000.00 bill was given to him by his brother Andres Gallano (Andres) and that he did not know that the same was a counterfeit.¹⁰

While petitioner used the bill in question to pay for the lotto ticket, he did not know yet that the same was a counterfeit. Janoras only told him that there was no change for the said bill. Petitioner said he no longer returned to the booth to pay with the same money. Petitioner insists that Janoras had possession of the said money even if it was returned to him because when he

⁷ *Id.* at 42-43.

⁸ *Id.* at 99.

⁹ *Id.* at 100.

¹⁰ *Id.*

returned to the booth and paid in a smaller amount, he was told to bring out the money to be reexamined so he voluntarily gave it to them.¹¹

On re-direct, petitioner testified that Arellano could determine that the money was a counterfeit because the latter used a UV machine. It was only when petitioner returned that he was informed that the same was fake. Petitioner had the money examined so that he would no longer use the same for buying or paying if it was found to be a counterfeit.¹² After petitioner was informed that the money was counterfeit, the gate of the lotto establishment was closed, and Arellano called the police to apprehend him. Petitioner could not say a word because he was disoriented at that time.¹³ Apart from the one recovered from petitioner, he did not have any other PHP 1,000.00 bill that he actually got from his brother in Samar.¹⁴

Andres testified that on August 11, 2011, petitioner called him to tell him that he was apprehended by the police authorities for paying with an alleged fake bill. Andres said that he got the same from a friend in Catarman, Samar.¹⁵ Andres gave the money to petitioner on August 9, 2011, before he left for Manila.¹⁶ It was supposed to be used by petitioner to augment his funds for a digital camera. Andres did not know that his borrowed money was counterfeit and he had no chance of determining whether the same was genuine or fake.¹⁷

RTC Ruling

On January 19, 2015, Branch 53, Regional Trial Court of Sorsogon City (RTC) rendered its Decision.¹⁸ The dispositive portion reads:

WHEREFORE, the court hereby finds [petitioner] to be GUILTY beyond reasonable doubt of violating the provision of Art. 168, in relation to Art. 166, of the Revised Penal Code and he is hereby accordingly sentenced to suffer the indeterminate penalty of three (3) years of *prision correccional* medium as minimum to six (6) years and one (1) day of *prision mayor* minimum as maximum, and to pay the government the fine of [PHP 5,000.00]. No pronouncement as to civil liability.

SO ORDERED.¹⁹

The elements of the crime of illegal possession and use of false treasury or bank notes and other instruments of credit are as follows: (1) that any treasury or bank note of certificate or other obligation and security payable to bearer, or any instrument payable to order or other document of credit not

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.* at 98–104. Penned by Presiding Judge Rofebar F. Gerona.

¹⁹ *Id.* at 103.

payable to bearer is forged or falsified by another person; (2) that the offender knows that any of those instruments is forged or falsified; and (3) that he or she performs any of these acts: a) using any of such forged or falsified instruments; or b) possessing with intent to use any of such forged or falsified instruments.²⁰

The RTC found all the elements of the offense present in the case. The bill was found to be counterfeit, fulfilling the first element. The RTC also determined that the second element was established by the prosecution because of petitioner's action of trying to pay for the lotto ticket again with the same bill even after he was informed that it was counterfeit. This second attempt by petitioner fulfills the second element as he already knew that the PHP 1,000.00 bill he had in his possession was fake.²¹ The third element is also present because petitioner used the said bill to pay for his lotto ticket, even if the said sale was not consummated.²²

CA Ruling

On appeal, the CA Decision dated August 31, 2016 affirmed the RTC with modification. The dispositive portion reads:

WHEREFORE, the trial court's Decision dated January 19, 2015 is **AFFIRMED**, subject to the **MODIFICATION** that [petitioner] is sentenced to suffer an indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to ten (10) years, eight (8) months and one (1) day of *prision mayor*, as maximum.

SO ORDERED.²³ (Emphasis in the original)

The CA affirmed the existence of all three (3) elements. To the CA, the direct, straightforward, and categorical testimony of Arellano showed that petitioner was informed that the PHP 1,000.00 bill was a forgery, but despite said advice, petitioner still used the counterfeit money to pay for the lotto ticket.²⁴

The CA did not give credence to petitioner's statement, *i.e.* "*Peke ba pera ko?*" after being told that the bill is fake. The bare denial of the knowledge of the counterfeit nature of the PHP 1,000.00 bill cannot prevail over the positive evidence of the prosecution. Andres' testimony did not negate petitioner's criminal liability because the fact remains that petitioner used the fake bill to pay for the lotto tickets.²⁵ Moreover, jurisprudence instructs that testimonies of close relatives and friends are necessarily suspect

²⁰ *Id.* at 101.

²¹ *Id.* at 101-103.

²² *Id.*

²³ *Id.* at 56.

²⁴ *Id.* at 47.

²⁵ *Id.* at 50-51.



and cannot prevail over the unequivocal declaration of a complaining witness.²⁶

Finally, the CA rejected petitioner's argument that the *corpus delicti* of the alleged fake bill was not established, and the failure of the prosecution to present the bill to the court casts doubt as to the identity of the same. In rejecting this argument, the CA said that the *corpus delicti* may be proven by circumstantial evidence, and it is not necessary to prove the same by direct evidence.²⁷

The CA then modified the penalty. It found that the maximum term of the indeterminate sentence should be within the range of *prision mayor* maximum its medium period, or from ten (10) years, eight (8) months and one (1) day to eleven (11) years and four (4) months. Meanwhile, the minimum term should be *prision mayor* medium, or within the range of eight (8) years and one (1) day to ten (10) years. The CA thereafter sentenced petitioner to suffer an indeterminate penalty of eight (8) years and one (1) day of *prision mayor*, as minimum, to ten (10) years, eight (8) months and one (1) day of *prision mayor*, as maximum.²⁸

Petitioner moved for the reconsideration of the CA Decision, but the same was denied in the CA Resolution dated January 5, 2017.

Hence, this Petition.

Petitioner argues in his Petition and his Reply²⁹ that the Court may review the facts of the case because the lower courts misapprehended facts and overlooked relevant facts, which, if properly considered, will justify a different conclusion.

Mainly, petitioner argues that the lower courts erred in relying on the lone testimony of Arellano, from which they concluded that after being so informed of the counterfeit nature of the bill, petitioner nevertheless insisted on paying with it. Petitioner notes that the Complaint-Affidavit³⁰ of Arellano does not mention that he insisted on paying with the PHP 1,000.00 bill nor that he said, "This is what I am going to pay." Instead, Arellano's Complaint-Affidavit and Janoras' Affidavit³¹ only said that petitioner left for a minute, returned, and showed again his PHP 1,000.00 bill. This shows that Arellano merely altered his testimony and inserted the crucial phrase during the trial. The severe discrepancies between the sworn statement and testimonial declaration should cast doubt on the veracity of Arellano's testimony. In addition, the claim that petitioner insisted on paying with a fake bill, knowing

²⁶ *People v. Laurian, Jr.*, G.R. No. 199868, December 11, 2013, 712 SCRA 636, 14 [Per J. Leonardo-De Castro, First Division].

²⁷ *Id.* at 51-52.

²⁸ *Id.* at 56.

²⁹ *Id.* at 167-169.

³⁰ *Id.* at 74.

³¹ *Id.* at 73.

it to be so, is an inherent impossibility and renders Arellano's testimony incredible. Petitioner maintains that he only gave the money to ask for the same to be examined. Given the vulnerability of the prosecution's position, good faith must be presumed, and the equipoise rule must be applied. Finally, the failure of the prosecution to present the counterfeit money should cast doubt on the identity of the fake bill. Verily, petitioner must be acquitted.³²

Meanwhile, the Office of the Solicitor General (OSG) maintains in its Comment³³ that the issues raised by petitioner are factual and can no longer be passed upon by the Court in a petition for review on *certiorari*. The OSG also argues that petitioner's conviction is warranted given that the prosecution proved all three (3) elements of the crime. The argument of petitioner that Arellano merely concocted petitioner's insistence to pay with the counterfeit bill counts as a bare denial that cannot stand against the categorical and positive declarations of the prosecution witness. Also, since the trial court had the opportunity to observe the parties' demeanor during their testimony, it cannot be faulted for giving more weight and credence to Arellano's testimony. Finally, the prosecution's failure to present the *corpus delicti*, the PHP 1,000.00 bill, is not detrimental to the case as jurisprudence states that the *corpus delicti* may be established by circumstantial evidence. In this case, those were the testimonies of Arellano and SPO1 Valladolid, the scanned copy of the money, and the Certification issued by the Bangko Sentral ng Pilipinas (BSP) certifying that the PHP 1,000.00 bill with serial number LB685736 is counterfeit. Accordingly, the conviction of petitioner must stand.

Issue

The principal issue before the Court is whether the CA erred in affirming petitioner's conviction for illegal possession and use of false treasury or bank notes and other instruments of credit, as punished by Article 168 in relation to Article 166 of the Revised Penal Code, as amended.

Our Ruling

The Petition has merit.

In this Petition, the Court is called upon to stress the concepts of *mala in se* and *mens rea*, particularly in relation to the crime of illegal possession and use of false treasury or bank notes and other instruments of credit, as punished by Article 168 in relation to Article 166 of the Revised Penal Code, as amended.

Mala in se felonies are crimes which are inherently immoral and such crimes are generally defined and penalized in the Revised Penal Code.

³² *Id.* at 18-37.

³³ *Id.* at 147-166.



However, even if a crime is punished by a special law, when the acts complained of are inherently immoral, they are deemed *mala in se*.³⁴

Actus non facit reum, nisi mens sit rea is a legal maxim which establishes a fundamental aspect of *mala in se* crimes, namely that “ordinarily, evil intent must unite with an unlawful act for there to be a crime.”³⁵ Thus, the existence of a *mala in se* crime hinges on the concurrence of both *actus reus* and *mens rea*.³⁶ *Actus reus* pertains to the external or overt acts or omissions included in a crime’s definition, while *mens rea* refers to the accused’s guilty state of mind or criminal intent accompanying the *actus reus*.³⁷ Hence, the classification of a crime as *mala in se* hinges not solely on the inherently wrong or depraved nature of the prohibited acts; it also requires that the penalizing law’s language explicitly delineates the requisite mental element.³⁸ Thus, in crimes *mala in se*, good faith and lack of criminal intent are available defenses.³⁹

On the other hand, in *mala prohibita* crimes, the criminal acts are not inherently immoral but become punishable only because the law says so. With these crimes, the sole issue is whether the law has been violated; criminal intent is not necessary, for the acts are prohibited for reasons of public policy.⁴⁰ In *mala prohibita* crimes, there is no need to prove criminal intent, for the same is conclusively presumed to exist from the commission/omission of an act prohibited by law.⁴¹ To hold the offender guilty or accountable for the offense, it is sufficient that there is a conscious intent to perpetrate the act prohibited by the special law. The essence of *mala prohibita* is voluntariness in the commission of the act constitutive of the crime.⁴²

Article 168 of the Revised Penal Code provides for the crime of illegal possession and use of false treasury or bank notes and other instruments of credit, while Article 166 of the same code as amended by Republic Act No. 10951,⁴³ relates to the applicable penalty to be imposed. The provisions read:

Article 166. Forging treasury or bank notes or other documents payable to bearer; Importing, and uttering such false or forged notes and documents. — The forging or falsification of treasury or bank notes or certificates or other obligations and securities payable to bearer and the

³⁴ See *Garcia v. Court of Appeals*, 519 Phil. 591, 596 (2006) [Per J. Quisumbing, Third Division].

³⁵ *Valenzuela v. People*, 552 Phil. 381 (2007) [Per J. Tinga, *En Banc*]. Citation omitted.

³⁶ See *id.*

³⁷ *XXX v. People*, G.R. No. 255877, March 29, 2023 [Per J. Gaerlan, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁸ *Acharon v. People*, G.R. No. 224946, November 9, 2021 [Per J. Caguioa, *En Banc*]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

³⁹ See *Arriola v. People*, 871 Phil. 585, 609 (2020) [Per J. Hernando, Second Division].

⁴⁰ See *Garcia v. Court of Appeals*, *supra* note 34.

⁴¹ See *People v. Ramoy*, G.R. No. 212738, March 9, 2022 [Per J. Gaerlan, First Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website.

⁴² *Id.*

⁴³ An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based, and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as “The Revised Penal Code”, as Amended, approved on August 29, 2017.

importation and uttering in connivance with forgers or importers of such false or forged obligations or notes, shall be punished as follows:

1. By *reclusion temporal* in its minimum period and a fine not to exceed Two million pesos (PHP 2,000,000.00), if the document which has been falsified, counterfeited, or altered is an obligation or security of the Philippines.

The words obligation or security of the Philippines shall mean all bonds, certificates of indebtedness, national bank notes, coupons, Philippine notes, treasury notes, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the Philippines, and other representatives of value, of whatever denomination, which have been or may be issued under any act of Congress.

2. By *prision mayor* in its maximum period and a fine not to exceed One million pesos (PHP 1,000,000.00), if the falsified or altered document is a circulating note issued by any banking association duly authorized by law to issue the same.

3. By *prision mayor* in its medium period and a fine not to exceed One million pesos (PHP 1,000,000.00), if the falsified or counterfeited document was issued by a foreign government.

4. By *prision mayor* in its minimum period and a fine not to exceed Four hundred thousand pesos (PHP 400,000.00), when the forged or altered document is a circulating note or bill issued by a foreign bank duly authorized therefor.

....

Article 168. *Illegal possession and use of false treasury or bank notes and other instruments of credit.* — Unless the act be one of those coming under the provisions of any of the preceding articles, any person who shall knowingly use or have in his possession, with intent to use any of the false or falsified instruments referred to in this section, shall suffer the penalty next lower in degree than that prescribed in said articles.

A close reading of the provisions shows that there are two ways by which a violation of Article 168 is committed: *first*, when a person **knowingly uses** any of the false or falsified instruments; and *second*, **when a person has in his or her possession, with intent to use**, a false or falsified instrument. Then, depending on the instrument falsified, the person shall suffer the penalty next lower in degree than what is prescribed in Article 166.

Jurisprudence has established that to be liable for the violation of the said crime, the following essential elements must be present: (1) that any treasury or bank note or certificate or other obligation and security payable to bearer, or any instrument payable to order or other document of credit not

payable to bearer is forged or falsified by another person; (2) that the offender knows that any of the said instruments is forged or falsified; and (3) that he or she either used or possessed with intent to use any of such forged or falsified instruments.⁴⁴

It is easily discernible from the foregoing that the violation of Article 168 is a crime *mala in se*. The *actus reus* for this crime is captured in the first element—the use or possession of false treasury or bank notes. Meanwhile, the *mens rea* is covered by the second and third elements—that the accused has knowledge of the counterfeit nature of the note but nevertheless uses the same or otherwise possesses the same with intent to use.

As such, jurisprudence has established that the possession of false treasury or bank notes alone is not punished under Article 168 of the Revised Penal Code. For it to constitute an offense defined therein, the possession of false treasury or bank notes must be proved to be with intent to use said false treasury or bank notes.⁴⁵ In other words, **intent to use the falsified note is an integral element of the crime.**⁴⁶

This was the pronouncement of the Court in *People v. Digoro (Digoro)*.⁴⁷ In *Digoro*, the information only alleged an “intent to possess” false treasury notes without alleging intent to use the same. Although the accused pleaded guilty to the charge against him, the Court set aside the judgment of conviction because the requisite element of “intent to use” could not be inferred from the information.⁴⁸

The Court ruled similarly in *Clemente v. People*.⁴⁹ Petitioner therein was a detainee at the Manila City Jail, and 24 pieces of PHP 500.00 bills were found in his possession. The prosecution failed to establish that petitioner instructed a fellow inmate to buy a bottle of soft drinks from the Manila City Jail bakery with one of the fake bills, as the alleged inmate was not even presented in court. Failing to establish that the possession of the counterfeit PHP 500.00 bills was with intent to use the same, the Court acquitted petitioner.⁵⁰

The concept of intent to use was also demonstrated in *Tecson v. Court of Appeals*,⁵¹ where the Court affirmed the conviction for illegal possession and use of counterfeit U.S. dollar notes. The Court noted that petitioner’s possession and act of offering to sell counterfeit U.S. dollar notes, when caught *in flagrante delicto* during a buy-bust operation, fulfills the integral element of intent to utter or use such falsified notes.⁵²

⁴⁴ See *Clemente v. People*, 667 Phil. 515, 524 (2011) [Per J. Villarama, Jr., Third Division].

⁴⁵ *People v. Digoro*, G.R. No. L-22032, March 4, 1966, 16 SCRA 376, 378 [Per J. Bengzon, J.P., *En Banc*].

⁴⁶ *Id.*

⁴⁷ *Supra* note 45.

⁴⁸ *Id.*

⁴⁹ *Supra* note 44.

⁵⁰ *Id.* at 525–526.

⁵¹ G.R. No. 113218, November 22, 2001, 370 SCRA 181 [Per J. De Leon Jr., Second Division].

⁵² *Id.* at 192.

Further, in *Del Rosario v. People*,⁵³ the Court also emphasized the presence of intent in committing the crime. In this case, petitioners were charged with illegal possession and use of false treasury notes. Petitioners admitted to having altered and changed some portions of the serial numbers of genuine treasury notes. Petitioners made it appear to private complainant that the counterfeit paper was manufactured by them, although in fact they were genuine treasury notes of the Philippine Government, wherein one of the digits of each of which had been altered and changed. As a result, petitioners obtained a sum of PHP 1,700.00 from private complainant to finance the manufacture of more counterfeit treasury notes. In appealing their conviction, petitioners raised that they cannot be held guilty of illegal possession of false notes since the falsified treasury notes were genuine in the first place. The Court rejected this argument. Considering that it was admitted that one of the digits of each genuine treasury note was altered and changed, and petitioners sold such altered notes to private complainant, they were properly found to have violated Article 168 in relation to Article 166 of the Revised Penal Code.⁵⁴

Upon reviewing the relevant cases, it is evident that the law places significant emphasis on intent. The structure of the elements makes it clear that mere possession of a counterfeit note is not punishable in itself. Thus, a person caught in the act of uttering or using counterfeit notes cannot be held liable unless there is clear evidence that they were aware of the note's counterfeit status. The knowledge and intent behind the actions are key to establishing legal culpability for the crime of illegal possession and use of false treasury or bank notes.

In the present case, petitioner stands accused of illegally possessing one (1) counterfeit PHP 1,000.00 bill to use the same in betting in a lotto draw.⁵⁵

That the bill is counterfeit is a fact that can no longer be contested by the parties. While petitioner questions the non-presentation of the counterfeit bill, as the CA held, the circumstantial evidence presented in this case was enough to prove the counterfeit nature of the note. The Court quotes with approval the rationale of the CA on this score, thus:

[Petitioner] also argues that his conviction by the trial court was improper because the *corpus delicti* or the "alleged fake bill" had not been established. He claimed that this failure of the prosecution "to present the bill which certainly was the best evidence of the crime casts doubt as to the identity of the same."

Corpus [d]elicti, a Latin term which literally means "the body of the crime," "is the body, foundation and substance of the crime." It refers to the fact of the commission of the crime charged or to the body or substance of

⁵³ G.R. No. L-16806, December 22, 1961, 3 SCRA 650 [Per J. Concepcion, *En Banc*].

⁵⁴ *Id.* at 651-652.

⁵⁵ *Rollo*, p. 98.

the crime. “In its legal sense, it does not refer to the ransom money in the crime of kidnapping for ransom or to the body of the person murdered” or, in this case, to the counterfeit money. Because *corpus delicti* may be proven by circumstantial evidence, it is not necessary for the prosecution to present direct evidence to prove the *corpus delicti*.

In the present case, the *corpus delicti* was positively established by the prosecution through the following pieces of evidence: (i) a Certification dated August 16, 2011 issued by the Cash Department of the *Bangko Sentral ng Pilipinas* that a [PHP 1,000.00] bill with serial number LB685736 is a counterfeit based on the examination conducted by its Currency Analysis and Redemption Division; (ii) the testimony of [Arellano], who witnessed [petitioner] trying to use a [PHP 1,000.00] bill with serial number LB685736 in paying for his lotto ticket and who personally examined the same using a UV scanner; (iii) the testimony of [SPO1 Valladolid], the police investigator who personally examined the [PHP 1,000.00] bill when the same was brought, together with [petitioner], to the police station, and who witnessed the scanning by evidence custodian [PO1 Marz, Jr.] of the [PHP 1,000.00] bill with serial number LB685736; and, (iv) the scanned copy of a [PHP 1,000.00] bill with serial number LB685736.

It bears emphasis that the presentation of a continuous and unbroken chain of custody in narcotics cases is due to the fact that evidence involved in illegal drugs cases is fungible that may be easily altered or tampered with. The requirement that the identity and integrity of the dangerous drug must definitely be shown to have been preserved, necessarily arises from the illegal drug’s unique characteristic that renders it indistinct, not readily identifiable, and easily open to tampering, alteration or substitution either by accident or otherwise as in fact it has to be subjected to scientific analysis to determine its composition and nature.

In this case, the subject counterfeit [PHP 1,000.00] bill is not fungible. It is readily identifiable with its serial number LB685736 which was even stipulated upon by the parties. There is also a certification issued by the BSP’s Cash Department that the same was counterfeit. As the counterfeit [PHP 1,000.00] bill is readily identifiable and hardly open to substitution, the custody requirement does not strictly apply.⁵⁶

Therefore, the first element, and the *actus reus* for that matter, are undoubtedly present in this case. After all, most compellingly, the prosecution adduced a Certification from the Currency Analysis and Redemption Division of the BSP stating that the PHP 1,000.00 bill with serial number LB685736 is counterfeit. Hence, what requires belaboring over are the second and third elements, which, as discussed, relate to the presence of *mens rea* in the commission of the crime under Article 168 of the Revised Penal Code.

Here, the lower courts determined the presence of the second and third elements, relying only on the testimony of Arellano, the owner of the lotto establishment.

⁵⁶ *Id.* at 51–53.

The testimonies of Arellano and petitioner as to what transpired tend to be similar in all respects, except for that part of Arellano's testimony tending to prove the second and third elements.

In Arellano's direct examination, he claimed that after Janoras, the teller on duty, informed petitioner that the PHP 1,000.00 bill was fake, petitioner left for a few seconds, returned to the lotto establishment, and supposedly said, "*This is what I am going to pay*" and still attempted to pay with the said bill.⁵⁷ It was after that when Arellano called for the police's assistance in arresting petitioner.

The lower courts observed that, at this point, petitioner was already aware that his bill was fake. Nevertheless, petitioner still returned to attempt to pay with the very same bill. As such, the lower courts ruled that these factors established the presence of the second and third elements of the crime.

However, Arellano's account during the direct examination is egregiously inconsistent with his own Complaint-Affidavit and the Affidavit executed by Janoras. In both these sworn statements, there was no assertion that petitioner had insisted on paying for the lotto ticket with the PHP 1,000.00 bill. Instead, both Affidavits merely state that after petitioner was told that his PHP 1,000.00 bill was fake, to which petitioner retorted, "*[P]eke ba ang pera ko?*" Then, petitioner left for one (1) minute but returned, showing his PHP 1,000.00 bill.

Arellano's testimony, as relied upon by the courts *a quo*, is also starkly different from petitioner's recollection of what happened after he was told of the counterfeit nature of the PHP 1,000.00 bill. Petitioner testified that, after being told by Arellano and Janoras that his PHP 1,000.00 bill was fake, he left briefly to get PHP 30.00 from his motorcycle to pay for the lotto ticket. Petitioner also returned to the outlet to verify the bill's authenticity, asking, "*[P]eke ba pera ko?*", so that he would not use it anymore to purchase any other thing.⁵⁸

In fine, petitioner's testimony hews more closely to the narrations made in the Affidavits of Arellano and Janoras.

Generally, whenever there is an inconsistency between the affidavit and the testimony of a witness in court, the testimony commands greater weight considering that affidavits taken *ex parte* are inferior to testimonies in court, the former being almost invariably incomplete and oftentimes inaccurate, sometimes from partial suggestions and sometimes from want of suggestions and inquiries, without the aid of which the witness may be unable to recall the connected circumstances necessary for his or her accurate recollection of the subject.⁵⁹

⁵⁷ *Id.* at 48.

⁵⁸ *Id.* at 42-43.

⁵⁹ *People v. Lumikid*, G.R. No. 242695, June 23, 2020, 940 SCRA 90 [Per C.J. Peralta, First Division].

However, the facts of this case do not support the application of the rule mentioned above. The inconsistency between Arellano's statements pertains to the facts that prove the presence of *mens rea* and in turn, criminal liability. As mentioned, petitioner's testimony parallels the account of Arellano and Janoras, as stated in the Affidavits which accompanied the filing of the Information. Markedly, the Affidavits and Information were filed on August 12, 2011, only one day after the incident. Moreover, as will be discussed below, petitioner's account appears more credible, given the circumstances of the case.

Thus, while generally only questions of law may be raised in a Petition for Review on *Certiorari* under Rule 45 of the Rules of Court, nevertheless, when an exception to the rule is present, such as when the judgment is based on a misapprehension of facts, the Court may evaluate and review the facts of the case,⁶⁰ as it does here. Indeed, although the credibility of witnesses is best left to the trial court's judgment, its findings may be disregarded if the trial court has "ignored or overlooked certain facts or circumstances of weight and significance, which, if taken into consideration, would alter the outcome of the case."⁶¹

Accordingly, after assiduously poring over the records, the affidavits and the testimonies given, the Court believes, and so finds, that the trial court erred in heavily relying on the statement of Arellano and overlooking the more credible testimony made by petitioner.

The time-honored test in determining the value of the testimony of a witness is its compatibility with human knowledge, observation, and common experience of man.⁶² To be sure, the Court cannot accept a story that defies reason and leaves much to the imagination.⁶³ These principles should also come in useful for determining the presence of criminal intent or *mens rea*.

In this case, it is hardly plausible that someone knowingly possessing counterfeit money would still try to pay with the same bill, even after being

⁶⁰ *Pascual v. Burgos*, G.R. No. 171722, January 11, 2016, 778 SCRA 189 [Per J. Leonen, Second Division]. The exceptions admitted are as follows:

- (1) When the conclusion is a finding grounded entirely on speculation, surmises or conjectures;
- (2) When the inference made is manifestly mistaken, absurd or impossible;
- (3) Where there is a grave abuse of discretion;
- (4) When the judgment is based on a misapprehension of facts;
- (5) When the findings of fact are conflicting;
- (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee;
- (7) The findings of the Court of Appeals are contrary to those of the trial court;
- (8) When the findings of fact are conclusions without citation of specific evidence on which they are based;
- (9) When the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents; and
- (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record. (Citations omitted)

⁶¹ *Bustillo v. People*, G.R. No. 216933, March 15, 2021 [Per J. Leonen, Third Division]. This pinpoint citation refers to the copy of the Decision uploaded to the Supreme Court website. Citation omitted.

⁶² *People v. De Guzman*, G.R. No. 192250, July 11, 2012, 676 SCRA 347, 360 [Per J. Mendoza, Third Division].

⁶³ *Id.* at 359.

made aware that the payee already knows that the bill is fake. After all, it is common sense for individuals who are aware that they have counterfeit money to refrain from drawing attention to themselves or would have likely tried to avoid confrontation when caught. Instead, it is more believable that when petitioner returned with his bill to the lotto outlet briefly after being told that his money was fake, he only sought to have this PHP 1,000.00 bill re-examined with the machine. And such was the account of petitioner in this case.

In addition, Arellano himself testified that petitioner was only trying to purchase one (1) lotto ticket worth around PHP 10.00 or PHP 20.00.⁶⁴ Meanwhile, petitioner testified that after being informed that his bill was fake, he returned to his motorcycle to get PHP 30.00 as payment for the ticket. Given that what is at stake here is only a PHP 30.00 lotto ticket, it is especially ludicrous for petitioner to insist on paying for one (1) lotto ticket with the said fake bill, especially when the counterfeit nature of the bill has just been exposed. The Court is not prepared to believe that any criminal would attempt such a daring caper just within seconds of being exposed.

In fact, petitioner's proactive step of returning to the lotto outlet to re-verify the bill's authenticity with the machine is antithetical to what one would expect from someone with a guilty mind. This behavior underscores a genuine lack of knowledge about the bill's counterfeit nature.

As well, petitioner's disoriented reaction upon learning about the counterfeit bill and his subsequent arrest further supports the narrative that he was genuinely taken aback and unaware of the bill's authenticity.

The fact that petitioner could immediately trace the source of the counterfeit bill to Andres indicates transparency and a genuine lack of knowledge about its counterfeit nature. Andres' testimony provides a plausible backstory to how the subject bill came into their possession without them knowing that the same was a counterfeit.

All told, the surrounding facts of the case belie the conclusion that petitioner's act of returning to the lotto outlet and handing over the fake PHP 1,000.00 bill was attended by malicious intent. Petitioner harbored no criminal intent. Instead, the facts tend to show that petitioner's actions after being told that the bill was fake were all made in good faith. As earlier discussed, good faith is an available defense in crimes *mala in se*. This is because in such crimes, the penal act is only punished when the person committing it is morally blameworthy. On the other hand, if a person commits the *actus reus* without intending any wrongdoing, then there is no *mens rea* that can fulfill the elements of the crime pertaining to intent.

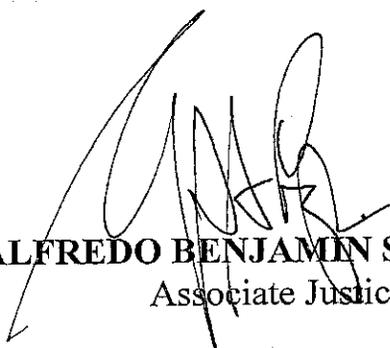
⁶⁴ TSN, George Arellano, May 30, 2012, p. 16.

Finally, it must be stressed that in our criminal justice system, the overriding consideration is not whether the court doubts the innocence of the accused but whether it entertains a reasonable doubt as to their guilt. Where there is no moral certainty as to their guilt, they must be acquitted even though their innocence may be questionable. The constitutional right to be presumed innocent until proven guilty can be overturned only by proof beyond reasonable doubt.⁶⁵ Here, given the implausibility of the presence of *mens rea* given the specific facts of this case, it is only fair that petitioner is given the benefit of the doubt. When there is a shadow of doubt on the guilt of the accused, the Court must acquit him. No less than the Constitution has afforded every person the presumption of his or her innocence. Unless his or her guilt is proven beyond reasonable doubt, an accused must be acquitted.⁶⁶

ACCORDINGLY, the Petition is **GRANTED**. The Decision dated August 31, 2016 and the Resolution dated January 5, 2017 of the Court of Appeals in CA-G.R.CR No. 37787 are **REVERSED** and **SET ASIDE**. Petitioner JUANITO GALLANO y OBRAR is hereby **ACQUITTED** of the crime of illegal possession and use of false treasury or bank notes and other instruments of credit, as punished by Article 168 in relation to Article 166 of the Revised Penal Code, as amended.

Let an entry of judgment be issued immediately.

SO ORDERED.



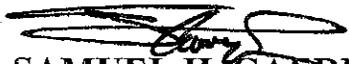
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

⁶⁵ *Macayan, Jr. v. People*, G.R. No. 175842, March 18, 2015, 753 SCRA 445, 473 [Per J. Leonen, Second Division].

⁶⁶ *See People v. Catulang*, G.R. No. 245969, November 3, 2020, 960 SCRA 234 [Per J. Carandang, First Division].

WE CONCUR:

(On official business)
HENRI JEAN PAUL B. INTING
Associate Justice

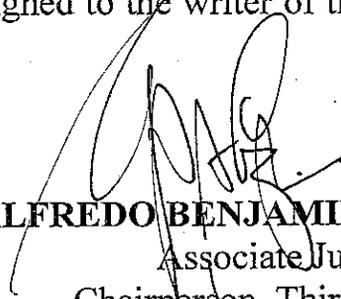

SAMUEL H. GAERLAN
Associate Justice


JAPAR B. DIMAAMPAO
Associate Justice

(On official business)
MARIA FILOMENA D. SINGH
Associate Justice

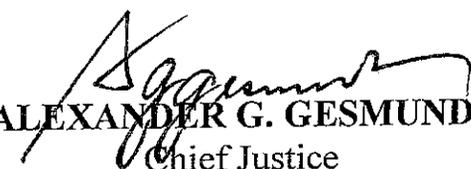
ATTESTATION

I attest 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.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution and the Division Chairperson's Attestation, it is hereby certified 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.


ALEXANDER G. GESMUNDO
Chief Justice

