



Republic of the Philippines  
 Supreme Court  
 Manila

SPECIAL FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special First Division, issued a Resolution dated **March 3, 2021** which reads as follows:*

**“G.R. No. 238951 (*Emerito D. Terado v. People of the Philippines*)**

This is a Motion for Reconsideration<sup>1</sup> of the July 23, 2018 Resolution<sup>2</sup> of this Court denying the Petition for Review on *Certiorari* filed by Emerito D. Terado (*petitioner*). This Court affirmed with modification the August 2, 2017 Decision<sup>3</sup> and March 21, 2018 Resolution<sup>4</sup> of the Court of Appeals (*CA*) in CA-G.R. CR No. 02557. The CA affirmed with modification the October 10, 2012 Decision<sup>5</sup> of the Regional Trial Court of Abuyog, Leyte, Branch 10 (*RTC*) in Criminal Case Nos. 2024 and 2025, finding petitioner guilty of Falsification of Public Documents under Article 171, paragraphs 2 and 6<sup>6</sup> of the Revised Penal Code (*RPC*) and violation of Section 3(e) of Republic Act (*R.A.*) No. 3019, otherwise known as the *Anti-Graft and Corrupt Practices Act*, respectively.

- over – four (4) pages ...  
 11-C

<sup>1</sup> *Rollo*, pp. 166-173.

<sup>2</sup> *Id.* at 161-163.

<sup>3</sup> *Id.* at 128-143; penned by Associate Justice Gabriel T. Robeniol with Associate Justice Edgardo L. Delos Santos (now a Member of this Court) and Associate Justice Edward B. Contreras, concurring.

<sup>4</sup> *Id.* at 156-158.

<sup>5</sup> *Id.* at 79-96; penned by Presiding Judge Buenaventura A. Pajaron.

<sup>6</sup> ARTICLE 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* — The penalty of *prision 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:

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

6. Making any alteration or intercalation in a genuine document which changes its meaning;

x x x x

This Court upholds petitioner's conviction but modifies the assailed decision as to the characterization of the crime in Criminal Case No. 2024 for falsification of public document. Petitioner is hereby found guilty of the lesser offense of falsification of private document under par. 1, Art. 172 in relation to par. 2 of Art. 171 of the RPC.

Not all the elements of falsification under Art. 171 of the RPC had been established. Petitioner should not have been charged with falsifying a public document since the plane ticket is not considered a public document.

Nonetheless, this Court proceeds to peruse the nature of the crime established in the records of this case. 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.<sup>7</sup>

In *Guillergan v. People*,<sup>8</sup> this Court declared that the falsification of documents committed by public officers who take advantage of their official position under Art. 171 necessarily includes the falsification of commercial documents by private persons punished by par. 1 of Art. 172.<sup>9</sup>

Here, the prosecution had sufficiently alleged and proved all the elements of par. 1 of Art. 172. *First*, petitioner was a public officer when he committed the offense charged. *Second*, petitioner committed the offense charged by "causing it to appear that persons participated in an act, when they did not in fact so participate and making alterations in a genuine document which changes its meaning." *Third*, the falsification was committed on a plane ticket which falls under the category of commercial documents, which par. 1 of Art. 172 protects from falsification. Since the ticket functioned as a sales invoice that memorialized the consummation of the commercial transaction between the air carrier and the passenger, the CA should have considered the fact that petitioner had altered a commercial document.<sup>10</sup>

Given that some of the essential elements of Art. 171 constitute the lesser offense of falsification of public documents under Art. 172,

- over -

11-C

---

<sup>7</sup> *Malabanan v. Sandiganbayan*, 815 Phil. 183, 199 (2017, citing *People v. Castillo*, 76 Phil. 72 (1946).

<sup>8</sup> 656 Phil. 527 (2011).

<sup>9</sup> *Id.* at 535.

<sup>10</sup> See *Malabanan v. Sandiganbayan*, *supra* note 7, at 201.

then the allegations in the [information] were sufficient to hold petitioner liable under Art. 172.<sup>11</sup> All told, petitioner is found guilty of falsification under Art. 172 in relation to par. 2 of Art. 171 of the RPC.

Art. 172 punishes the crime of falsification of a private document with the penalty of *prision correccional* in its medium and maximum periods with a duration of two (2) years, four (4) months and one (1) day to six (6) years. There being no aggravating or mitigating circumstances, the penalty should be imposed in its medium period, which is three (3) years, six (6) months and twenty-one (21) days to four (4) years, nine (9) months and ten (10) days. Taking into consideration the Indeterminate Sentence Law, petitioner is entitled to an indeterminate penalty the minimum of which must be within the range of *arresto mayor* in its maximum period to *prision correccional* in its minimum period, or four (4) months and one (1) day to two (2) years and four (4) months.<sup>12</sup> Consequently, petitioner must be sentenced to suffer the penalty of imprisonment for the indeterminate period of six (6) months of *arresto mayor*, as minimum, to two (2) years, four (4) months, and one (1) day of *prision correccional*, as maximum.<sup>13</sup>

In sum, petitioner's motion for reconsideration is **DENIED**. Petitioner's conviction in Criminal Case No. 2025 for violation of Sec. 3(e) of R.A. No. 3019 stands. Nonetheless, this Court modifies petitioner's conviction in Criminal Case No. 2024, for falsification of public document under pars. 2 and 6 of Art. 171 of the RPC, and hereby finds petitioner guilty of the lesser offense of falsification of private document under par. 1 of Art. 172.

**WHEREFORE**, the Decision appealed from is **AFFIRMED** with the following **MODIFICATIONS**:

- 1) The August 2, 2017 Decision of the Court of Appeals in CA-G.R. CR No. 02557, insofar as it found petitioner guilty of violation of Section 3(e), Republic Act No. 3019, in Criminal Case No. 2025, is **AFFIRMED**.
- 2) However, said Decision, insofar as it found petitioner guilty of Falsification of Public Document under paragraphs 2 and 6 of Article 171 of the Revised Penal

- over -

11-C

<sup>11</sup> *Guillergan v. People*, supra note 8, at 535.

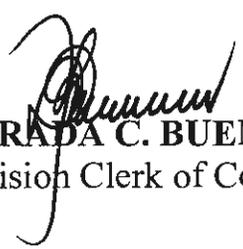
<sup>12</sup> *Batulanon v. People*, 533 Phil. 336, 353 (2006).

<sup>13</sup> *Manansala v. People*, 775 Phil. 514, 523 (2015).

Code, in Criminal Case No. 2024, is **MODIFIED**. Petitioner is found **GUILTY for the lesser offense of Falsification of Private Document under paragraph 1 of Article 172**, in relation to paragraph 2 of Article 171 of the Revised Penal Code. The Court hereby **SENTENCES** him to: (a) suffer an indeterminate prison term of six (6) months of *arresto mayor*, as minimum, to two (2) years, four (4) months, and one (1) day of *prision correccional*, as maximum; (b) to **PAY a FINE** of ₱5,000.00; and (c) to pay the costs of suit.

**SO ORDERED.”**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**11-C**

PUBLIC ATTORNEY'S OFFICE  
Regional Special and Appealed Cases Unit  
Counsel for Petitioner  
3<sup>rd</sup> Floor, Taft Commercial Center  
Metro Colon Carpark  
Osmeña Boulevard, 6000 Cebu City

Court of Appeals  
6000 Cebu City  
(CA-G.R. CR No. 02557)

The Solicitor General  
134 Amorsolo Street, Legaspi Village  
1229 Makati City

The Hon. Presiding Judge  
Regional Trial Court, Branch 10  
Abuyog, 6510 Leyte  
(Crim. Case Nos. 2024 & 2025)

Public Information Office (x)  
Library Services (x)  
Supreme Court  
(For uploading pursuant to A.M.  
No. 12-7-1-SC)

Judgment Division (x)  
Supreme Court

UR

MP

AW