



Republic of the Philippines
Supreme Court
Manila

SUPREME COURT OF THE PHILIPPINES
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THIRD DIVISION

JOSEPHINE G. BRISENIO, **G.R. No. 241336**
Petitioner,

Present:

LEONEN, J., *Chairperson,*
CAGUIOA,*
INTING,
DELOS SANTOS, and
LOPEZ, J., *JJ.*

- versus -

Promulgated:

PEOPLE OF THE PHILIPPINES,
Respondent. **June 16, 2021**

X-----*Mis-DCB-H*-----X

RESOLUTION

INTING, J.:

This resolves the Motion for Reconsideration of the Resolution dated 21 November 2018¹ filed by Josephine G. Brisenio (petitioner) which denied her Petition for Review (under Rule 45 of the 1997 Rules of Civil Procedure)² and affirmed the Decision³ dated May 8, 2018 and the Resolution⁴ dated July 30, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39253.

The Antecedents

Petitioner was charged with *Estafa* through Falsification of Public Documents committed as follows:

* Designated additional member per Raffle dated July 1, 2019.
¹ *Rollo*, pp. 68-80.
² *Id.* at 18-44.
³ *Id.* at 46-54; penned by Associate Justice Marlene B. Gonzales-Sison with Associate Justices Ramon Paul L. Hernando (now a member of the Court) and Pedro B. Corales, concurring.
⁴ *Id.* at 57-58.

“That sometime in the month of February 2003, in the City of Angeles, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to prejudice and defraud the complainant CLARITA G. MASON, did then and there willfully, unlawfully and feloniously, induced the complainant to part her money in favor of a certain Virginia Mendoza and Michael Joseph Mendoza, and as such security to the said loan thereof, the accused surrendered an original owner's copy of TCT No. N-245848 of the Registry of Deeds for Quezon City, pretending and making it appear that the said original Transfer Certificate of Title No. N-245848 is genuine and authentic, when in truth and in fact, as said accused well knew that the said owner's copy of said title is fake and spurious, and the said accused using a falsified and spurious copy of TCT No. 245848 of the Registry of Deeds for the Quezon City secured and obtained from the complainant as in fact, she obtained and received the total amount of P1,666,666.70, exclusive of interest and notwithstanding repeated demands to return the said amount of money, when the fraudulent transaction was discovered by the complainant, the accused failed and continue to fail to return the same up to the present time to the damage and prejudice of the complainant CLARITA G. MASON, in the aforementioned amount of ONE MILLION SIX HUNDRED SIXTY SIX THOUSAND SIX HUNDRED SIXTY SIX PESOS AND 70/100, (P1,666,666,70) Philippine Currency.

ALL CONTRARY TO LAW.”⁵

On arraignment, petitioner pleaded not guilty to the charge.


Trial on the merits ensued.

The facts of the case, as summarized by the Office of the Solicitor General, are as follows:

Sometime in February 2003, petitioner asked her sister, Clarita G. Mason (private complainant), to enter into a business venture with her and a certain Manuel S. Diño (Dino). They agreed to contribute P1,666,666.70 each to the venture involving a parcel of land located in Quezon City covered by Transfer Certificate of Title (TCT) No. N-245848.⁶

⁵ *Id.* at 47.

⁶ *Id.* at 48.



Believing that the title showed by petitioner was genuine, private complainant and her husband withdrew ₱1,440,000.00 from the bank and handed it over to petitioner. On March 4, 2003, private complainant also signed a Deed of Assignment stating that for and in consideration of ₱1,666,666.70, she was assigning, transferring, and conveying all her rights and interest over her 1/3 portion of the land in favor of petitioner and another 1/3 in favor of Dino.⁷

In December 2003, petitioner asked the private complainant to return all the documents in her possession and promised her to return the amount of ₱1,666,666.70 plus interest. Later on, private complainant found out that the title given to her was spurious as the serial number appearing on its face referred to titles issued not to the Office of the Registry of Deeds of Quezon City but to the Office of the Registry of Deeds of Quezon Province. She also discovered that per the genuine title, the subject land was sold to one Benito Chan as early as May 2, 2003.⁸

Despite demands, petitioner failed to return the money to private complainant. Thus, the filing of the Information charging petitioner with *Estafa* through Falsification of Public Documents.⁹

On August 1, 2016, the RTC found petitioner guilty beyond reasonable doubt of the crime charged. The RTC sentenced her to suffer an indeterminate penalty of imprisonment ranging from four (4) years and two (2) months of *prision correccional*, as minimum, to twenty (20) years of *reclusion temporal*, as maximum. The RTC further ordered her to indemnify private complainant in the amount of ₱1,666,666.70.¹⁰

Unperturbed, petitioner sought recourse from the CA.

In the Decision¹¹ dated May 8, 2018, the CA affirmed petitioner's conviction. Petitioner moved for reconsideration, but the CA denied the motion in a Resolution¹² dated July 30, 2018. Consequently, petitioner elevated the case *via* a petition for review on *certiorari* before the Court.

⁷ *Id.*

⁸ *Id.* at 49

⁹ *Id.*

¹⁰ *Id.* at 46.

¹¹ *Id.* at 46-54.

¹² *Id.* at 57-58.

In the Resolution¹³ dated November 21, 2018, the Court denied the petition for failure of petitioner to sufficiently show that the CA committed any reversible error in the challenged Decision and Resolution.

Not satisfied with the disposition of the Court, petitioner filed the instant Motion for Reconsideration on March 14, 2019.

Petitioner maintains that the Court wrongfully concluded that she forged TCT No. N-245848. According to her, there is no evidence to prove that she falsified TCT No. N-245848 and that she received from private complainant the sum of ₱1,440,000.00.¹⁴ She likewise asks the Court to apply Republic Act No. (RA) 10951¹⁵ in her favor and modify the penalty imposed against her. She avers that under RA 10951, the maximum penalty for *Estafa* thru Falsification of Public Documents should only be *prision correccional* in its maximum period which entitles her to apply for probation.¹⁶

The Court's Ruling

The Court finds no cogent reason to overturn petitioner's conviction in this case.

Records show that petitioner was in possession of TCT No. N-245848, a spurious and falsified document. It was likewise established that petitioner, through false pretenses or fraudulent representations, had lured private complainant into entering into a business venture with her by falsifying TCT No. N-245848, and thereafter obtained from the latter the sum of ₱1,440,000.00 as shown by the statement of account presented during trial. In other words, petitioner used the falsified title, took advantage and profited from it, and successfully convinced private complainant to invest her money to her own damage and detriment.

¹³ *Id.* at 62-63.

¹⁴ *Id.* at 72.

¹⁵ Entitled, "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.

¹⁶ *Rollo*, p. 78.

“In the absence of a satisfactory explanation, one who is found in possession of a forged document and who used or uttered it is presumed to be the forger.”¹⁷ Thus, the lower courts correctly convicted petitioner of the complex crime of *Estafa* through Falsification of Public Documents.

However, the Court grants the Motion for Reconsideration insofar as the penalty imposed upon petitioner is concerned. With the effectivity of RA 10951, the penalty imposed on petitioner must be modified.

Below is a comparison of the penalty for *Estafa* under the relevant provision of the Revised Penal Code (RPC) and RA 10951:

RPC	RA 10951
<p>Art. 315. <i>Swindling (estafa)</i>. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:</p> <p>1st. The penalty of <i>prision correccional</i> in its maximum period to <i>prision mayor</i> in its minimum period, if the amount of the fraud is over 12,000 pesos but does not exceed 22,000 pesos, and <u>if such amount exceeds the latter sum, the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional 10,000 pesos; but the total penalty which may be imposed shall not exceed twenty years.</u> In such cases, and in connection with the accessory penalties which may be imposed under the provisions of this Code, the penalty shall be termed <i>prision mayor</i> or <i>reclusion temporal</i>, as the case may be. (Underscoring supplied.)</p>	<p>Art. 315. <i>Swindling (estafa)</i>. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:</p> <p style="text-align: center;">xxx xxx xxx</p> <p>2nd. The <u>penalty of <i>prision correccional</i> in its minimum and medium periods,</u> if the amount of the fraud is over One million two hundred thousand pesos (₱1,200,000) but does not exceed Two million four hundred thousand pesos (₱2,400,000). (Underscoring supplied.)</p>

On the other hand, the comparison of the penalties for falsification by private individuals and use of falsified documents under the old provision of the RPC and RA 10951 is as follows:

¹⁷ *People v. Go, et al.*, 740 Phil. 583, 609 (2014).

RPC	RA 10951
<p>Art. 172. <i>Falsification by private individual and use of falsified documents.</i> — The penalty of <i>prision correccional</i> in its medium and maximum periods and a fine of not more than P5,000 pesos shall be imposed upon:</p> <p>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</p> <p>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.</p> <p>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. (Underscoring supplied.)</p>	<p>Art. 172. <i>Falsification by private individual and use of falsified documents.</i> — The penalty of <i>prisión correccional</i> in its medium and maximum periods and a fine of not more than One million pesos (P1,000,000) shall be imposed upon:</p> <p>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;</p> <p>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; and</p> <p>3. 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. (Underscoring supplied.)</p>

In both the RPC and RA 10951, the penalty to be imposed upon a person guilty of *Estafa* is based on the amount of damage. Here, the amount defrauded is P1,440,000.00 representing the total amount of money actually released and received by petitioner from private complainant as shown in the statement of account.

Under Article 315 of the RPC, before the amendment, the penalty for the crime of *Estafa* is *prision correccional*, in its maximum period,

to *prision mayor*, in its minimum period, if the amount of the fraud is over ₱12,000.00, but does not exceed ₱22,000.00. If such amount exceeds the latter sum, the penalty is in its maximum period, adding one (1) year for each additional ₱10,000.00. With the passage of RA 10951, the prescribed penalty as provided under paragraph 2, Article 315 of the RPC is now *prision correccional* in its minimum and medium periods if the amount does not exceed ₱2,400,000.00.

Thus, the penalty for the crime of *Estafa* under RA 10951 should be given *retroactive effect* considering that it is more favorable to petitioner.¹⁸

With regard to the crime of falsification, the penalty of imprisonment imposed is the same for both paragraph 1, Article 172 of the RPC and RA 10951 which is *prision correccional* in its medium and maximum periods. But under the RPC, the penalty of fine to be imposed is not more than ₱5,000.00 while under RA 10951, the penalty of fine to be imposed shall not exceed ₱1,000,000.00.

Evidently, the penalty of imprisonment in the crime of *Estafa* under RA 10951 is now lighter compared to the penalty of imprisonment for falsification under paragraph 1, Article 172 of the RPC. Applying the provisions of Article 48 of the RPC, the penalty for the graver offense should be imposed in the maximum period. Thus, the penalty for Falsification by private individuals and Use of Falsified Documents under Article 172 of the RPC should be imposed in the maximum period, being the more serious crime than *Estafa*. However, the penalty of fine of not more than ₱5,000.00 under the old law should be imposed against petitioner because this is more favorable to her than the penalty of fine of not more than ₱1,000,000.00 under the present law.¹⁹

Based on the considerations, the Court hereby *modifies* the indeterminate sentence to be imposed on petitioner so that the minimum term should come from the penalty next lower in degree, that is, *arresto mayor* in its maximum period to *prision correccional* in its minimum period with a range of four (4) months and one (1) day to two (2) years and four (4) months. Meanwhile, the maximum term should come from

¹⁸ *Desmoparan v. People of the Philippines*, G.R. No. 233598, March 27, 2019.

¹⁹ *Id.*

prision correccional, medium, to *prision correccional*, maximum, in its maximum period which is four (4) years, nine (9) months and eleven (11) days to six (6) years.²⁰ The actual damages of ₱1,440,000.00 must also be subjected to legal interest at 6% *per annum* from the date of finality of this Resolution until full payment, in consonance with recent jurisprudence.


WHEREFORE, the motion for reconsideration is **PARTIALLY GRANTED**. The Resolution dated November 21, 2018 is **AFFIRMED** with **MODIFICATION** in that petitioner Josephine G. Brisenio is sentenced to suffer the indeterminate penalty of imprisonment for a period of four (4) months and one (1) day of *arresto mayor*, as minimum, to five (5) years of *prision correccional*, as maximum and to pay a **FINE** in the amount of ₱5,000.00 with subsidiary imprisonment in case of insolvency.

The Court likewise **ORDERS** petitioner Josephine G. Brisenio to pay private complainant Clarita G. Mason of ₱1,440,000.00 with legal interest at 6% *per annum* to be reckoned from the finality of this Resolution until full payment thereof.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice

²⁰ *Id.*


JHOSEP V. LOPEZ
Associate Justice

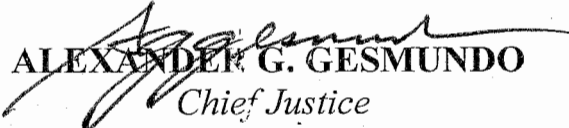
ATTESTATION

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution 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

