

THIRD DIVISION

[G.R. No. 241336, June 16, 2021]

**JOSEPHINE G. BRISENIO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

R E S O L U T I O N

INTING, J.:

This resolves the Motion for Reconsideration of the Resolution dated 21 November 2018^[1] 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 Decision^[3] dated May 8, 2018 and the Resolution^[4] 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:

"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. Dino (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]

Believing that the title showed by petitioner was genuine, private complainant and her husband withdrew P1,440,000.00 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 P1,666,666.70, 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 P1,666,666.70 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 P1,666,666.70.^[10]

Unperturbed, petitioner sought recourse from the CA.

In the Decision^[11] dated May 8, 2018, the CA affirmed petitioner's conviction. Petitioner moved for reconsideration, but the CA denied the motion in a Resolution^[12] dated July 30, 2018. Consequently, petitioner elevated the case *via* a petition for review on *certiorari* before the Court.

In the Resolution^[13] 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 P1,440,000.00. [14] She likewise asks the Court to apply Republic Act No. (RA) 10951 [15] 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 P1,440,000.00 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.

"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</u></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 (P1,200,000) but does not exceed Two million four hundred thousand pesos (P2,400,000). (Underscoring supplied.)</p>