

## THIRD DIVISION

[ G.R. No. 233598, March 27, 2019 ]

**JUVY DESMOPARAN A.K.A. "MASYADOR," PETITIONER, VS.  
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**PERALTA, J.:**

Before this Court is an appeal from the Decision and Resolution dated March 14, 2017<sup>[1]</sup> and July 20, 2017,<sup>[2]</sup> respectively, of the Court of Appeals (CA) in CA-G.R. CEB CR No. 02680, where the CA affirmed the Judgment<sup>[3]</sup> dated November 6, 2015 of the Regional Trial Court (RTC) of Negros Oriental, 7<sup>th</sup> Judicial Region, Branch 35, Dumaguete City, in Criminal Case No. 21334 which convicted petitioner Juvy Desmoparan (*Desmoparan*) of estafa through falsification of commercial documents.

The facts are as follows:

On February 27, 2012, Desmoparan applied for a salary loan in the amount of P105,000.00 from Cebu CFI Community Cooperative -Dumaguete City Branch (*CFI*). He misrepresented himself to be an employee of the City Engineer's Office, by using the name "Rodulfo M. Cordura," to Chiyenne Mirasol (*Mirasol*), loan clerk of CFI. When Mirasol asked for his identification card, Desmoparan presented his employee's I.D. from the City Engineer's Office with his picture on it, but bearing the name "Rodulfo M. Cordura." To support his application for loan, Desmoparan submitted the following documents, namely: a) application for membership form of CFI; b) special power of attorney coupled with interest; c) deed of assignment; d) certification from the City Human Resource Office; e) certificate of employment from the City Human Resource Office; f) service record signed by Henrietta N. Zerna; and g) promissory note dated February 27, 2012. All said documents reflected the name of "Rodulfo M. Cordura" as the loan applicant and debtor.<sup>[4]</sup>

In order to receive the initial cash advance, Desmoparan also presented his purported employee's I.D., bearing the name "Rodulfo M. Cordura," to Menerva Perocho (*Perocho*), Cashier/Teller of CFI.<sup>[5]</sup> Thus, because of Desmoparan's misrepresentation, Perocho released to him the cash advances amounting to P20,000.00 on March 2, 2012, an additional P10,000.00 on March 9, 2012, and another P10,000.00 on March 10, 2012. Upon receipt of the said monies, Desmoparan also signed the name of "Rodulfo Cordura" in all three cash vouchers.<sup>[6]</sup>

However, on March 16, 2012, the real Rodulfo Cordura (*Cordura*) went to CFI to verify the information that somebody had fraudulently applied for a salary loan using his name and qualifications. He identified himself as the real Cordura, a retired

government employee previously connected with the City Engineer's Office. Cordura informed CFI that he discovered the fraud after he received the bill for his alleged loan transaction from CFI, through their payroll maker. He told them that he did not apply for any loan nor did he apply for membership with CFI. Cordura then requested an investigation and withholding of the remaining check in the amount of P69,000.00 as part of the salary loan.<sup>[7]</sup>

On the same day, Arden Sinco (*Sinco*), branch manager of CFI,<sup>[8]</sup> and his team caught one Efrain Baena Mercado (*Mercado*) using the name and credentials of a certain Aldrin John Z. Catan to apply for a loan. During the investigation, Mercado revealed that it was Desmoparan who recruited him to submit bogus loan applications with CFI.<sup>[9]</sup>

In his judicial affidavit, Mercado testified that sometime on March 14, 2012, Desmoparan approached him at JT's Pocket Billiard Hall and told him that he has a simple job for him. He alleged that Desmoparan told him that all he needed to do was submit documents to CFI. Desmoparan assured Mercado that he had already done this twice and was even able to have a check encashed in his favor. Mercado further alleged that Desmoparan brought him to a carwash shop in Larena Drive, Dumaguete City, where he was introduced to a certain "Bossing." Desmoparan told his Bossing that Mercado would be the one to go to CFI since he cannot do it anymore as he had already done it twice. Mercado added that Desmoparan later brought him to a house in Purok Kalubihan, Barangay Daro, Dumaguete City, where he saw a number of documents bearing the mark "CFI," as well as several persons practicing imitation of signatures.<sup>[10]</sup> On cross-examination, Mercado admitted all he has stated in his judicial affidavit.

Desmoparan was eventually apprehended. He was charged with estafa through falsification of commercial documents. The information reads as follows:

That on or about 27 February 2012 in the City of Dumaguete, Philippines and within the jurisdiction of the Honorable Court, the said accused, JUVY DESMOPARAN a.k.a. "MASYADOR", did then and there, willfully, unlawfully and feloniously falsify the following documents, to wit:

- (1) application for membership of CFI;
- (2) special power of attorney coupled with interest;
- (3) deed of assignment;
- (4) certification from the City Human Resource Office;
- (5) Certificate of Employment;
- (6) Service Record; and
- (7) a promissory note dated 27 February 2012

by making and causing it to appear that one Rodolfo Cordura applied for a salary loan and executed and filed afore-mentioned documents at Cebu CFI Community Cooperative - Dumaguete Branch when in truth and in

fact, Rodulfo M. Cordura neither applied for any loan at CFI nor execute and file the afore-mentioned documents and that by virtue of said falsification, false pretenses, deceit, and fraudulent acts and with intent to cause damage, has been able to obtain and receive from CFI the loan proceeds/cash advances amounting to a total of Forty Thousand Pesos (P40,000.00), Philippine Currency, on 2 March 2012 and 9 March 2012 and thereafter converted the same amount to his own personal gain and benefit to the damage and prejudice of CFI in the said amount of Forty Thousand Pesos (P40,000.00), Philippine Currency.

CONTRARY TO LAW.<sup>[11]</sup>

Subsequently, Desmoparan was arraigned and pleaded "not guilty" to the crime charged.<sup>[12]</sup>

Trial ensued. The prosecution presented the following witnesses: Mirasol, Mercado, Perocho, Cordura and Sinco.

On the other hand, Desmoparan did not present any testimonial evidence.

On November 6, 2015, the RTC of Negros Oriental, 7<sup>th</sup> Judicial Region, Branch 35, Dumaguete City, in Criminal Case No. 21334, rendered Judgment, the dispositive portion of which reads:

WHEREFORE, the court finds the accused, JUVY DESMOPARAN a.k.a. "Masyador," guilty beyond reasonable doubt of the offense of Estafa through Falsification of Commercial Documents and there being no mitigating and aggravating circumstances proven in the trial, the Court hereby sentences the accused to an indeterminate penalty of Four (4) years and two (2) months of Prision Correccional as minimum to Nine (9) years of Prision Mayor as maximum and to pay FORTY THOUSAND (Php40,000.00) PESOS for the amount he has taken from Cebu CFI Community Cooperative, Dumaguete branch with legal interest of six (6%) percent from the filing of this case.

SO ORDERED.<sup>[13]</sup>

Aggrieved, Desmoparan filed an appeal and sought the reversal of his conviction before the CA. However, on March 14, 2017, the appellate court denied his appeal. The dispositive portion of the CA decision reads:

WHEREFORE, the appeal is DENIED. The Judgment dated November 6, 2015, of the Regional Trial Court of Negros Oriental, Seventh Judicial Region, Branch 35, Dumaguete City, in Crim. Case No. 21334 is AFFIRMED with MODIFICATION in that accused-appellant shall suffer indeterminate penalty of four (4) years of prision correccional, as minimum, to seven (7) years, eight months and 21 days of prision mayor, as maximum. The amount of P40,000.00 must earn 6% per annum computed from finality of the Court's Decision until satisfied.

Costs against accused-appellant.

SO ORDERED.<sup>[14]</sup>

Desmoparan moved for reconsideration. However, in the assailed Resolution<sup>[15]</sup> dated July 20, 2017, the CA denied the motion for lack of merit.

Hence, this petition for review on *certiorari*,<sup>[16]</sup> raising the sole issue of:

WHETHER THE COURT OF APPEALS ERRED IN CONVICTING THE PETITIONER OF THE CRIME CHARGED DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.<sup>[17]</sup>

Desmoparan would like to impress upon this Court that the prosecution failed to prove that he was the one who falsified the loan documents. He claimed that the prosecution witnesses admitted that they never saw him fill up the loan documents. He argued that, assuming that he personally appeared at CFI, the only documents that he personally signed were the cash vouchers representing the receipt of cash advances. Desmoparan, however, insisted that cash vouchers are not commercial documents; thus, he cannot be convicted of estafa through falsification of commercial documents.

The petition lacks merit.

The elements of the crime of falsification of commercial documents under Article 172 (1),<sup>[18]</sup> in relation to Article 171,<sup>[19]</sup> of the Revised Penal Code, as amended by Republic Act No. (RA) 10951,<sup>[20]</sup> are: "(1) that the offender is a private individual x x x; (2) that [the offender] committed any of the acts of falsification enumerated in Article 171 of the [Revised Penal Code]; and, (3) that the [act of] falsification [is] committed in a x x x commercial document."<sup>[21]</sup>

In the instant case, we likewise find that all the above-mentioned elements were sufficiently established. *First*, Desmoparan is a private individual; *second*, the acts of falsification consisted in Desmoparan's act of causing it to appear that Cordura had participated in the act of applying for a loan when, in fact, he did not do so; and *third*, the falsification was committed in a loan application, a deed of assignment, and a promissory note dated February 27, 2012, which are all commercial documents considering that, in general, these documents or instruments are "used by merchants or businessmen to promote or facilitate trade or credit transactions."<sup>[22]</sup> Promissory notes facilitate credit transactions, while a check is a means of payment used in business, in lieu of money, for convenience in business transactions.<sup>[23]</sup>

While Desmoparan alleged that the prosecution failed to prove that he was the perpetrator of the falsified loan documents, we note that he never denied, however, that he was actually the one who personally came to CFI to apply for a salary loan using Cordura's name. He also never denied to be the one in possession of the falsified loan documents which were submitted to CFI to support the loan application purportedly under Cordura's name. He likewise never denied that he fraudulently used Cordura's name and qualifications to apply for the salary loan.

It must be likewise stressed that the loan clerks who processed the loan

transactions were consistent in their testimonies that it was Desmoparan, and not Cordura, who: (1) personally applied for the salary loan; (2) submitted the documentary requirements under the name of Cordura; (3) presented an I.D. with his photo, but bearing the name of Cordura; (4) received the initial cash advances amounting to a total of P40,000.00; and (5) signed Cordura's name on the cash voucher. It cannot be said that just because none of the prosecution witnesses actually saw Desmoparan do the act of falsifying, the latter cannot be held liable for falsification. Clearly, given the enumerated circumstances, and considering that Desmoparan had in his possession the falsified loan documents and had actually taken advantage of and profited from them, the presumption is that he is the material author of the falsification.

The absence of a direct proof that Desmoparan was the author of the falsification is of no moment for the rule remains that whenever someone has in his possession falsified documents and uttered or used the same for his advantage and benefit, the presumption that he authored it arises.<sup>[24]</sup>

This is especially true if the use or uttering of the forged documents was so closely connected in time with the forgery that the user or possessor may be proven to have the capacity of committing the forgery, or to have close connection with the forgers, and therefore, had complicity in the forgery.<sup>[25]</sup>

In the absence of a satisfactory explanation, as in this case, one who is found in possession of a forged document and who used or uttered it is presumed to be the forger.<sup>[26]</sup>

Corrollarily, after the existence of falsification of commercial documents has been established, we also find that the falsification of loan documents was a necessary means to commit estafa.

In general, the elements of estafa are: (1) that the accused defrauded another (a) by abuse of confidence or (b) by means of deceit; and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person. Deceit is the false representation of a matter of fact, whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed; and which deceives or is intended to deceive another so that he shall act upon it, to his legal injury.<sup>[27]</sup>

In the instant case, Desmoparan used the falsified documents bearing the name and qualifications of Cordura in fraudulently applying for a salary loan, which resulted in the eventual release and withdrawing of the cash advance amounting to a total of P40,000.00 from CFI. Clearly, Desmoparan employed deceit by falsifying loan documents in order to take hold of the money and, thereafter, convert it to his own personal use and benefit, resulting in the damage and prejudice of CFI and Cordura.

It must be emphasized anew that when the offender commits on a public, official, or commercial document any of the acts of falsification enumerated in Article 171<sup>[28]</sup> of the Revised Penal Code as a necessary means to commit another crime like estafa, the two crimes form a complex crime. Under Article 48 of the Revised Penal Code,<sup>[29]</sup> there are two classes of a complex crime. A complex crime may refer to a single