

THIRD DIVISION

[G.R. No. 225696, April 08, 2019]

ATTY. BERNARDO T. CONSTANTINO, PETITIONER, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.

DECISION

LEONEN, J.:

For a notary public to be found guilty of falsifying a notarial will, the prosecution must prove that he or she has falsified or simulated the signatures of the testator or the instrumental witnesses to make it appear that they participated in the execution of the document when they did not.

This resolves a Petition for Review on Certiorari^[1] assailing the January 19, 2016 Decision^[2] and June 9, 2016 Resolution^[3] of the Court of Appeals in CA-G.R. CR No. 36327. The Court of Appeals affirmed the Regional Trial Court November 28, 2013 Judgment^[4] finding Atty. Bernardo T. Constantino (Atty. Constantino) guilty of falsification of a public document under Article 171(2) of the Revised Penal Code.

On May 27, 2008, an Information was filed against Atty. Constantino and Teresita C. Saliganan (Saliganan), charging them with falsification of a public document.^[5] The Information read:

That on or about September 9, 2001 in the City of Laoag, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, ATTY. BERNARDO CONSTANTINO taking advantage of his being a notary public for Laoag City and Ilocos Norte, together with TERESITA C. SALIGANAN, conspiring, confederating and mutually helping each other, did then and there willfully, unlawfully and feloniously cause to appear in the LAST WILL AND TESTAMENT executed by Severino C. Cabrales in favor of the accused TERESITA C. SALIGANAN, known as Doc. No. 15909, Page No. 71, Book No. XXXI, Series of 2001 of the Notarial Register of Atty. BERNARDO CONSTANTINO, a notary public for Laoag City and Province of Ilocos Norte, that SEVERINO C. CABRALES participated in the execution of the LAST WILL AND TESTAMENT, when in fact he did not so participate, and making it appear that the testator Severino Cabrales and the attesting witnesses, Dr. Eliezer Asuncion, Mary Balintona and Dr. Justino Balintona acknowledge the Last Will and Testament before Atty. Bernardo Constantino while in truth they never appeared to acknowledge the same.^[6]

On June 13, 2008, warrants of arrest were issued against Atty. Constantino and Saliganan. On September 24, 2008, Atty. Constantino filed a Motion for Recognizance in Lieu of Bail as he was unable to post the required bond of P24,000.00.^[7]

In its October 28, 2008 Order, the Regional Trial Court denied the Motion. Atty. Constantino, through his wife Editha, was able to post bail on August 23, 2010. Saliganan, however, remained at large.^[8]

On arraignment, Atty. Constantino pleaded not guilty to the crime charged. Thus, trial on the merits ensued.^[9]

According to the prosecution, sometime in June 1998, Severino Cabrales (Severino), the father of Saliganan, suffered a stroke and was rushed to the hospital, where he was confined for two (2) weeks. When he was discharged, he returned to the family home in Laoag City. There, Saliganan stayed and took care of Severino until his death on December 6, 2003.^[10]

On February 8, 2005, a Petition for Probate of Severino's alleged Last Will and Testament was filed before the Regional Trial Court of Laoag City.

Upon learning of the probate proceedings, Fernando Cabrales (Fernando), a son of Severino, secured a copy of the purported Last Will and Testament. He claimed that the signature in the document was not Severino's. The document was notarized by Atty. Constantino and registered in Book No. 31, Page No. 71 of Atty. Constantino's Notarial Register, series of 2001. The witnesses who signed it were Rosalinda Cu (Cu), Dr. Justino Balintona and his wife Mary Balintona (the Balintona Spouses), and Dr. Eliezer John Asuncion (Dr. Asuncion).^[11]

The Joint Acknowledgment in the Last Will and Testament read:

JOINT ACKNOWLEDGMENT

BEFORE ME, a notary public for and in the City of Laoag, Philippines, this 9th day of September, 2001, personally appeared:

The testator, SEVERINO CABRALES, with Community Tax Certificate No. 06002287 dated January 2, 2001, issued in Laoag City;

Witness, DR. JUSTINO G. BALINTONA, with Community Tax Certificate No. _____ dated _____[;]

Witness, MRS. MARY B. BALINTONA, with Community Tax Certificate No. 06030819 dated April 10, 2001[;]

Witness, DR. ELIEZER ASUNCION, with Community Tax Certificate No. 08214902 dated January 6, 2001;

Witness, MRS. ROSALINDA F. CU, with Community Tax Certificate No. 06022789 dated 03, 18, 2001 [;] (*sic*)

All known to me to be the same persons who signed the foregoing will, the first as testator and the last four as instrumental witnesses, and they respectively acknowledged to me that they signed the same as their own free act and deed.

This Will consists of three (3) pages, including this page of the acknowledgment, and has been signed on the left hand margin of the first and third pages and above their respective names on the second page, by the testator and his witnesses and sealed with my notarial seal.

IN WITNESS HEREOF, I have hereunto set my hand the, [sic] month,
year and place above written.

[sgd]
BERNARDO T.
CONSTANTINO
Notary Public^[12]

Fernando immediately spoke to Dr. Asuncion, who told him that Rene Ferrer, Jr. (Ferrer), Saliganan's son-in-law, had gone to his clinic and asked him to sign the document. Dr. Asuncion did as asked, having known Ferrer as a member of his motorcycle club. He also told Fernando that only he, Ferrer, and some patients were present when he signed the document.^[13]

In his defense, Atty. Constantino alleged that Severino had been of sound mind and could walk with a cane when he started visiting Atty. Constantino to prepare his Last Will and Testament. Atty. Constantino had advised him to bring a listing of his assets and properties, with which Severino complied.^[14]

Atty. Constantino further alleged that when he asked Severino why he was executing a will, Severino told him that he wanted his only child, Saliganan, to have his properties since Fernando was going around claiming to be his son. Atty. Constantino claimed that Severino had also admitted promising to bequeath Fernando all his properties in Solsona, Ilocos Norte, provided that Saliganan approve of it.^[15]

Atty. Constantino further narrated that in the morning of September 9, 2001, he brought three (3) typed copies of the Last Will and Testament to Severino's house for signing. Together in the room were Severino, Atty. Constantino, his wife Editha and son Bernard Christian, the Balintona Spouses, Cu, Saliganan, and one (1) other person.^[16]

Atty. Constantino stated that Severino's hands were trembling as he attempted to sign the first page of the document, so he asked Saliganan to hold his wrist to sign all three (3) copies. The three (3) instrumental witnesses present—the Balintona Spouses and Cu—then signed the document, after which Atty. Constantino affixed his signature. Upon seeing a stamp pad nearby, Atty. Constantino asked Severino if he would like to place his thumbmark on the documents. Severino agreed and again asked Saliganan to assist him.^[17]

Addressing the absence of Dr. Asuncion, whose name was indicated as an instrumental witness, Atty. Constantino assured Severino that only three (3) witnesses were needed for the document. He then allegedly instructed Severino to leave the document as it was and "not make any erasures or crossing-out on it [in] order not to make it dirty."^[18] Atty. Constantino took a copy of the document and gave the other two (2) to Severino.^[19]

On his way out, Atty. Constantino alleged that Saliganan took his copy of the document, telling him that Dr. Asuncion had already arrived. Sometime later, Saliganan returned the copy, but Atty. Constantino stated that he did not check if Dr. Asuncion had signed it.^[20]

In its November 28, 2013 Judgment,^[21] the Regional Trial Court found Atty. Constantino guilty beyond reasonable doubt of falsification of a public document under Article 171(2) of the Revised Penal Code. It pointed out that while only a photocopy of the allegedly falsified document was presented, the parties nonetheless did not dispute its execution.^[22] The trial court, however, found that the prosecution failed to establish that Severino had not been of sound mind when the Last Will and Testament was executed.^[23]

Nonetheless, the trial court found Atty. Constantino liable for making it appear that Dr. Asuncion appeared before him and witnessed the execution of the Last Will and Testament. It ruled that Atty. Constantino should have been aware of the legal consequences to leaving Dr. Asuncion's name on the document despite his absence.^[24]

Likewise, the trial court cited the 2004 Rules on Notarial Practice, which prohibited notaries public from notarizing incomplete documents or false information. It pointed out that removing Dr. Asuncion's name from the document was easy and could have been accomplished within minutes. Thus, it did not give credence to Atty. Constantino's defense that he instructed Severino not to make any markings on the document.^[25]

Moreover, the trial court considered Atty. Constantino's failure to immediately surrender to authorities as indicative of his guilt, as he only posted bail two (2) years after warrants of arrest had been issued.^[26]

The dispositive portion of the Regional Trial Court Judgment read:

WHEREFORE, the accused Atty. Bernardo Constantino is found GUILTY beyond reasonable doubt of Falsification of Public Document under Article 171 (2) of the Revised Penal Code and is sentenced to an indeterminate penalty ranging from two years of *prision correccional* as minimum to eight years and one day of *prision mayor* as maximum. He is also ordered to pay a fine of three thousand pesos (P3,000.00). Costs against the said accused.

SO ORDERED.^[27]

Atty. Constantino appealed before the Court of Appeals.^[28]

In its January 19, 2016 Decision,^[29] the Court of Appeals affirmed the Decision of the Regional Trial Court.

Agreeing with the trial court, the Court of Appeals found that Atty. Constantino could have easily removed Dr. Asuncion's name if he believed in good faith that only three (3) witnesses were needed. Instead, the Court of Appeals pointed out that Atty. Constantino made it appear as if Dr. Asuncion were present before him as a witness. It also noted his testimony that he knew Dr. Asuncion would still want to sign the document, which was why he gave his copy to Saliganan. It held that Atty. Constantino should have checked the copy when it was returned to him.^[30]

The Court of Appeals, likewise, affirmed the trial court's finding that Atty. Constantino's failure to immediately surrender was a manifestation of his guilt, as he had no persuasive reason to do so.^[31]

Atty. Constantino moved for reconsideration, but his Motion was denied in the Court of Appeals June 9, 2016 Resolution.^[32] Hence, he filed this Petition.^[33]

Petitioner claims that it would have been difficult for him to remove Dr. Asuncion's name at the time of signing. Due to his muscular dystrophy, he had to be accompanied by his wife and two (2) sons to climb to the second floor of the house. Additionally, there was no typewriter, clerk, or typist in Severino's house for the corrections to be done. Petitioner also alleges that he wanted the notarization to be made in Severino's residence to honor the testator's wish. Then and there, he asserts, he notarized the document to avoid going up the steep stairway again.^[34]

Petitioner argues that precisely due to his physical condition, he has relied on his secretary to file the office documents. As such, he was not able to check the Last Will and Testament when Saliganan returned it to his secretary. While he admits that he had been negligent for failing to cross out Dr. Asuncion's name in the document, he asserts that it should not be taken against him, but on Dr. Asuncion, who admitted to signing the document without reading it.^[35]

Petitioner, likewise, explains that his failure to immediately surrender was due to his failing health and his wife being abroad to take care of their two (2) daughters. He alleges that as litigation had started in 2008, Saliganan assured him on the phone not to worry as she was trying to settle the case as a family misunderstanding, which was why he did not pay attention to the case.^[36]

The Office of the Solicitor General, on the other hand, claims that petitioner raises questions of fact improper in a Rule 45 petition.^[37] Maintaining that there was no error in the finding of guilt, it asserts that all the elements of the crime of falsification of a public document under Article 171 (2) of the Revised Penal Code were duly proven by the evidence on record.^[38] However, it requests that this Court impose with leniency any penalty it will have ruled due to petitioner's advanced age and physical condition.^[39]

In rebuttal, petitioner contends that there are recognized exceptions to Rule 45 that apply to this case, considering that his conviction was "overtly based on conjectures, presumptions[,] and speculations, not proof beyond reasonable doubt[.]"^[40]

The issue for this Court's resolution is whether or not the prosecution has proven beyond reasonable doubt that petitioner Atty. Bernardo T. Constantino was guilty of falsifying a public document under Article 171(2) of the Revised Penal Code.

Before this issue can be passed upon, however, this Court must first address the procedural question of whether the Petition presents questions of fact not cognizable in a petition for review on certiorari under Rule 45 of the Rules of Court.

I

The Constitution guarantees that an accused is presumed innocent until the contrary is proven.^[41] Thus, every conviction requires no less than proof beyond reasonable doubt. Rule 133, Section 2 of the Rules of Court provides:

SECTION 2. Proof beyond reasonable doubt. — In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a