

SECOND DIVISION

[G.R. No. 204873, July 27, 2016]

**ESTHER PASCUAL, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

DEL CASTILLO, J.:

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeks to reverse and set aside the April 13, 2012 Decision^[1] and the October 18, 2012 Resolution^[2] of the Court of Appeals (CA) in CA-GR. CR No. 32138, which affirmed the July 25, 2008 Decision^[3] of the Regional Trial Court (RTC) of Las Piñas City, Branch 201, in Criminal Case No. 04-1039, finding petitioner Esther Pascual (Pascual) guilty beyond reasonable doubt of the complex crime of Estafa through Falsification of Public Document.

Proceedings before the Regional Trial Court

Pascual and Remegio Montero (Montero) were indicted for the crime of Estafa through Falsification of Public Document for colluding and making it appear that they had facilitated the payment of the capital gains tax of private complainant Ernesto Y. Wee to the Bureau of Internal Revenue (BIR) when, in truth and in fact, they converted and misappropriated the money for their own personal benefit. The charge against these two stemmed from the following Information filed by the Office of the Ombudsman:

That on or about June 26, 2003 in Las Piñas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused ESTHER PASCUAL a low ranking public officer, being an employee of the City Assessor's Office, Las Piñas City, while in the performance of her official function, committing the offense in relation to her office, and taking advantage of her official position, conspiring and confederating with one REMEGIO MONTERO, a private citizen and helping each other, did then and there willfully, unlawfully and feloniously defraud one ERNESTO Y. WEE thru LEONOR A. TIONGCO in the following manner, to wit: the said accused received from said ERNESTO Y. WEE thru LEONOR A. TIONGCO the amount of P130,000.00 for the purpose of paying the Capital Gains Tax on a real estate property which complainant bought in Las Piñas City, with the Bureau of Internal Revenue (BIR), forge and falsify or cause to be forged and falsified BIR Official Receipt No. 2145148, in the amount of P102,810.00 as payment of Capital Gains Tax of said ERNESTO Y. WEE by making it appear that they paid said amount of P102,810.00 with the BIR, when in truth and in fact, accused fully well knew that there was no payment made with the BIR and did then and there willfully, unlawfully and criminally take, convert and misappropriate

for their own personal use and benefit the aforesaid amount of P130,000.00, Philippine Currency, to the damage and prejudice of said ERNESTO Y. WEE in the aforesaid sum.

CONTRARY TO LAW.^[4]

Montero was arraigned on April 11, 2005, but was later acquitted of the crime charged for insufficiency of evidence in a Decision rendered on March 31, 2008. On the other hand, Pascual was arraigned on January 10, 2007; she entered a negative plea to the crime charged.

During the trial, the State presented the following witnesses: private complainant Ernesto Y. Wee (Wee), Leonor A. Tiongco (Tiongco), Wee's secretary, and Ma. Nimfa Penalosa De Villa (De Villa), the Assistant Revenue District Officer of the BIR at Las Piñas City. Their collective testimonies tended to establish these facts:

Sometime in 2003, Wee and his wife Susana Wee purchased a real property in Las Piñas City. Since Wee was based in Bacolod City, he directed his secretary, Tiongco, to go to Manila to process the transfer of title to the said property and to pay the capital gains tax thereon. On June 27, 2003, Tiongco informed Wee that she had paid the capital gains tax through Pascual, an employee at the City Assessor's Office of Las Piñas City, who was referred to her by Montero, a part-time businessman from Bacolod City and an acquaintance of Wee.

According to Tiongco, Montero told her to prepare P130,000.00 as payment for the capital gains tax. Thereafter, she met Pascual and Montero at SM Megamall, along EDSA. Pascual personally offered to facilitate the payment through her alleged "connections" or "contacts" at the BIR office. Tiongco asked if she could meet Pascual's "connection" or "contact" at the BIR, but Pascual replied in the negative. Upon Pascual's and Montero's insistence, Tiongco issued a check for the said amount, in Montero's name, and Montero encashed the check at the Robinson's Savings Bank, Ortigas Branch. Montero then gave the money back to Tiongco for "safekeeping." After this, Tiongco, Pascual, and Montero went to the BIR office located inside the Metropolis Mall in Las Piñas City. When they got there, Pascual then asked for the money so she could "facilitate payment of the taxes." At first, Tiongco was apprehensive about giving the money to Pascual, so she asked Pascual if she could meet the person, *i.e.*, Pascual's alleged "contact" or "connection" inside the BIR office. But Pascual replied that "the person would not face me at the time," and added that she was just accommodating her (Tiongco), and that if Tiongco wanted to pay less tax, then she had better trust her and just give her the money. Because Pascual was insisting on getting possession of the money, saying that she even had to go on leave from work for two days just to accommodate her (Tiongco); and because Montero also told her (Tiongco) that she (Tiongco) might as well make use of the opportunity to conclude the business for that day since that was her purpose in being there after all, Tiongco gave the P130,000.00 to Pascual and made her sign a voucher dated June 26, 2003.

Pascual and a lady companion then went inside the BIR office with the money, and after some time Pascual came out with a photocopy of BIR Receipt No. 2145148. Pascual told Tiongco that the original of this BIR receipt was left inside her "contact" at the BIR. Pascual then hastened to assure Tiongco that the certificate of title to Wees' property would be issued in three months' time. But the three months came

and went, and despite repeated demands, Pascual still did not deliver on her promise. Worse, the Wee spouses discovered that the photocopy of BIR Receipt No. 2145148 was fake.

The other State witness, Las Piñas City Assistant Revenue District Officer De Villa, testified that her office did not have BIR Receipt No. 2145148 in its possession, nor did her office ever issue one such receipt to Pascual. She affirmed that the photocopy of the receipt in question is in fact a fake BIR receipt.

Pascual waived her right to present countervailing evidence in her defense.

Ruling of the Regional Trial Court

On July 25, 2008, the RTC of Las Piñas City, Branch 201, rendered judgment finding Pascual guilty beyond reasonable doubt of the crime of Estafa through Falsification of Public Document. The dispositive part of the RTC's Decision reads:

WHEREFORE, premises considered, the Court hereby finds the accused Esther Pascual GUILTY beyond reasonable [doubt] of the complex crime of Estafa [through] Falsification of a Public Document and pursuant to the provisions of Article 315 and Article 171 of the Revised Penal Code, she is sentenced to suffer the penalty of Prision Mayor. Applying the Indeterminate Sentence Law, the accused is sentenced to a prison term of Three (3) years of Prision [C]orrec[c]ional to Eight (8) years of Prision Mayor and a fine of P5,000.00.

By way of civil liability, the accused is ordered to pay the offended party the sum of P130,000.00 representing the sum given by private complainant duly received by the accused and the sum of P20,000.00 as attorney's fees.

SO ORDERED.^[5]

Pascual filed a Motion for Reconsideration but same was denied by the RTC; hence Pascual elevated her case to the CA.

Ruling of the Court of Appeals

Before the CA, Pascual argued that she was convicted of an offense that was different from that alleged in the Information; that although she was accused of Estafa through Falsification of Public Document, she was however convicted by the RTC under Article 171 (Falsification by public officer, employee, or ecclesiastical minister) in relation to Article 315 (Estafa) of the Revised Penal Code (RPC). Pascual insisted that no evidence had been adduced tending to prove that she falsified BIR Receipt No. 2155148.

But her arguments failed to impress the CA, which after review of the appealed case, disposed as follows:

WHEREFORE, premises considered, the instant appeal is hereby DISMISSED for lack of merit. Accordingly, the assailed Decision of the Regional Trial Court (RTC), Branch 201, Las Piñas City convicting the

accused of the complex crime of *estafa* through Falsification of Public Document is AFFIRMED.

SO ORDERED.^[6]

In reaching the foregoing conclusion, the CA ruled that Estafa through Falsification of Public Document is not a singular offense but a complex crime where two different offenses are tried as one because one offense was committed as a necessary means to commit the other, or because a single act constitutes two or more grave or less grave felonies.

The CA rejected Pascual's contention that the State failed to prove that she falsified the BIR receipt in question. On the contrary, the CA found that the State was able to satisfactorily establish clear and convincing evidence that Pascual was responsible for falsifying such receipt.

Hence, this Petition.

Issues

Pascual raises the following issues in this Petition:

I.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE JUDGMENT OF CONVICTION BY GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S VERSION.

II.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT DESPITE THE FACT THAT THE EVIDENCE ON RECORD FAILED TO SUPPORT A CONVICTION.

^[7]

Pascual now argues that the CA erred in upholding the judgment of the RTC and in giving full weight and credence to the State's account of the indictment against her.

Anent the alleged *estafa*, Pascual contends that she did not in any way beguile or mislead Tiongco into believing that she was connected with the BIR, as indeed the only representation she allegedly made was that she knew someone inside that office.

As to the alleged falsification, Pascual contends that she did not take advantage of her official position at the BIR at all because it was not her duty to make or prepare the BIR receipt in question.

Our Ruling

We deny the Petition. Both the RTC and the CA correctly found Pascual guilty beyond reasonable doubt of the crime of Estafa through Falsification of Public Document.