

## SECOND DIVISION

[ G.R. No. 208320, August 19, 2015 ]

**GRACE DAVID Y CESAR, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CARPIO, J.:**

This is a petition for review<sup>[1]</sup> assailing the 23 January 2013 Decision<sup>[2]</sup> of the Court of Appeals in CA-G.R. CR No. 33310, affirming the trial court's decision, finding petitioner Grace David y Cesar (petitioner) guilty beyond reasonable doubt of the complex crime of estafa through falsification of commercial documents.

#### The Facts

Petitioner was charged with estafa through falsification of commercial documents. The Information against petitioner reads:

CRIM. CASE NO. 9693-02

That or (sic) about or within the period from August 24, 1999 to January 21, 2000, in the Municipality of Dasmariñas, Province of Cavite, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, with intent to defraud, with deceit and abuse of confidence, while then being an employee of Hella Philippines, Inc., did [then and there] willfully, unlawfully and feloniously falsified Land Bank commercial documents, making it appear that said Hella Philippines, Inc., was assessed additional customs duties amounting to EIGHT HUNDRED FIFTY FIVE THOUSAND NINE HUNDRED NINETY FIVE PESOS (P855,995.00) more or less for the release of its imports and obtaining from said Hella Philippines, Inc., the said amount purportedly for payment of assessed additional customs duties when in fact and in truth no such additional duties have been assessed and misappropriating the said amount for her own personal use and benefits, to the damage and prejudice of Hella Philippines, Inc.

CONTRARY TO LAW.<sup>[3]</sup>

On 16 November 1989, Hella Philippines, Inc. (Hella), which imports automotive lighting and signaling equipment, hired petitioner as Traffic and Customs Coordinator.<sup>[4]</sup> Petitioner's principal duties and responsibilities as the in-house Traffic and Customs Coordinator were to: (1) perform activities relating to shipment, delivery, documentation and clearing of importations; (2) ensure the economical and

efficient transportation of shipment or deliveries; (3) update information on current transportation facilities and rates; (4) coordinate with various government agencies, like the Bureau of Customs (BOC), regarding the company's imports and exports; and (5) perform tasks according to quality systems procedure.<sup>[5]</sup>

The standard operating procedure regarding Hella's imports was as follows: (1) whenever Hella's suppliers abroad would ship supplies to Hella, petitioner would handle all the shipping documents relative thereto, compute and assess the taxes due, and fill up BOC Import Entry Release Document (IERD); (2) petitioner's initial computations and assessments were then written on the IERD; (3) petitioner would submit the completed IERD forms to Hella which would then instruct its depository banks, namely Bank of the Philippine Islands and Security Bank to debit the computed amount in the name of the BOC; (4) petitioner would then process the release of the shipments; (5) the shipments would then be released, provided the taxes and duties paid were correct; (6) if there was discrepancy in the computation and the assessment of taxes due, the BOC would impose additional duties and taxes; (7) if there were additional duties and taxes imposed, petitioner would fill up and submit a cash advance request at Hella's accounting department; (8) based on petitioner's requested amount, Hella would then release a check in petitioner's name; (9) petitioner would then encash the check and use the proceeds to pay the additional assessed taxes and duties at BOC's authorized banks such as the Land Bank of the Philippines (Land Bank); (10) the authorized collecting bank would then issue BOC Form No. 38-A to be filled up by petitioner; (11) upon validation, the BOC Form No. 38-A would serve as an official receipt supplied by the BOC General Services Department to the Land Bank BOC-MICP; (12) after payment, the BOC Form No. 38-A, with its serial number, would also bear the Land Bank's rubber stamp and the bank teller's name, evidencing receipt of payment by Land Bank; (13) upon completion of this procedure, the goods would then be released to Hella, and petitioner would begin liquidating her cash advances by submitting the same validated BOC Form No. 38-A to the accounting department; (14) after liquidation, petitioner would then be cleared of her cash advances.

The prosecution alleged that sometime in January 2000, Hella learned that petitioner had been misrepresenting the amounts she wrote on several BOC Form No. 38-A. Petitioner made it appear that payments of additional taxes were made to BOC, when in fact there was none. Petitioner falsified Land Bank commercial documents by making it appear that Hella was assessed additional customs duties totaling P855,995 for the release of its imports. The various amounts which were purportedly for the payment of the assessed additional customs duties were misappropriated by petitioner for her own personal use and benefit to the damage and prejudice of Hella.

Upon learning that Hella discovered her misrepresentations, petitioner filed her irrevocable letter of resignation on 12 January 2000. In a memorandum<sup>[6]</sup> dated 1 February 2000, Hella required petitioner to settle first all her unliquidated cash advances and clear all her accountabilities, without prejudice to whatever actions Hella might take under the circumstances.

In a letter<sup>[7]</sup> dated 24 March 2000, Hella requested Land Bank "to check/verify the authenticity of the "Official Receipt, Date, Amount, Series Number and the Teller who accepted payment" of several BOC Forms No. 38-A. In her reply, the Land Bank

Manager wrote:

April 07, 2000

MR. ANTONIO A. YULO  
Managing Director  
HELLA-PHILS, INC.

In response to your letter dated March 24, 2000 requesting our office to check/verify the authenticity of the attached photocopies and upon presentment of the original copies of BOC Form No. 38-A based on our reports, we noted the following:

1. Serial Numbers BOC Official Receipt were not issued to Land Bank Philippines MICP EO;
2. BOC Additional Duties System will decline entry of the same Official Receipt Numbers;
3. Teller name and Number do not match;
4. Rubber stamp used differs from LandBank, and
5. Fonts of the computer printing differs from the prints produced by LandBank printer.

We hope that the informations above cited answers you[r] inquiries regarding the above subject.

Very truly yours,  
(signed)  
LEONOR E. YAP  
Dept. Manager  
III<sup>[8]</sup>

Hella conducted an investigation on the matter and required petitioner to explain but she failed to reasonably justify her involvement in the matter. The minutes of the 26 April 2000 meeting with Hella and petitioner were read and signed by petitioner.<sup>[9]</sup>

For her part, petitioner argued that she merely followed the standard operating procedure of BOC in processing documents for the release of Hella's imports. Petitioner denied that she committed estafa, insisting that she did not make erroneous computations or assessments. She clarified that she did not always encash checks since Hella sometimes just gave her cash for the payment of additional taxes and duties. Besides, she claimed that she always submitted supporting documents for liquidation purposes.

On 6 January 2010, the trial court rendered a decision, the dispositive portion of which reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered finding accused Grace David guilty beyond reasonable doubt of the

complex crime of Estafa [through] Falsification of Commercial Documents. Accordingly, she is sentenced to suffer the indeterminate penalty of Four (4) Years and Two (2) Months of *prision correccional* as minimum to Twenty (20) Years of *reclusion temporal* as maximum.

Accused is likewise ordered to pay a fine of P3,000.00 and to indemnify the offended party the total amount of P855,995.00 by way of actual damages with interest at the legal rate from date of filing of the information until fully paid, attorney's fees in the amount of P100,000.00 and to pay the costs.

SO ORDERED.<sup>[10]</sup>

### **The Ruling of the Court of Appeals**

On appeal, the Court of Appeals affirmed the trial court's decision. The Court of Appeals agreed with the trial court that petitioner falsified commercial documents, as defined under Article 171, and penalized under Article 172, of the Revised Penal Code (RPC). It was established during the trial that in her liquidation reports, petitioner submitted various BOC Forms No. 38-A wherein she made it appear that Hella was assessed additional customs duties for the release of Hella's imports, and that she paid the additional customs duties to the BOC through authorized Land Bank branches. The testimonies of the officers and employees of Land Bank proved that the BOC forms submitted by petitioner were falsified. The Court of Appeals held that petitioner committed estafa when she used the falsified BOC Form No. 38-A to deceive Hella to release money to her, allegedly for the payment of additional taxes or duties with the BOC through the different branches of Land Bank.

Petitioner filed a Motion for Reconsideration, which the Court of Appeals denied in its Resolution dated 19 July 2013. Hence, this appeal.

### **The Issues**

Petitioner raises the following issues:

(1) THE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE PLAINTIFF-APPELLEE (RESPONDENT HEREIN) WAS ABLE TO PROVE THE GUILT OF THE ACCUSED- APPELLANT (PETITIONER HEREIN) BEYOND REASONABLE DOUBT, NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PRESENT AS WITNESS ANY BUREAU OF CUSTOMS (BOC) OFFICIAL OR REPRESENTATIVE TO TESTIFY ON THE VARIOUS BOC FORM 38-A WHICH HAD ALLEGEDLY BEEN FALSIFIED.

(2) THE COURT OF APPEALS GRAVELY ERRED IN CONCLUDING THAT THE RESPONDENT HEREIN WAS ABLE TO PROVE THE GUILT OF THE PETITIONER HEREIN BEYOND REASONABLE DOUBT, NOTWITHSTANDING THE FAILURE OF THE PROSECUTION TO PRESENT IN EVIDENCE THE LIQUIDATION REPORTS OF SAID PETITIONER SHOWING THE CASH ADVANCES SHE MADE AND SUBMITTED BY HER TO HELLA PHILIPPINES,

INC.

(3) THE COURT OF APPEALS GRAVELY ERRED WHEN IT OVERLOOKED THE FACT OR CIRCUMSTANCE THAT THE PROSECUTION FAILED TO PRESENT CLEAR AND CONVINCING EVIDENCE SHOWING THAT HELLA PHILIPPINES, INC. WAS ASSESSED ADDITIONAL CUSTOMS DUTIES AMOUNTING TO P855,995.00 FOR THE RELEASE OF ITS IMPORTS.<sup>[11]</sup>

### **The Court's Ruling**

We find the appeal without merit. The Court of Appeals was correct in affirming the ruling of the trial court that petitioner is guilty of the complex crime of estafa through falsification of commercial documents. The categorical testimonies of the prosecution witnesses and the voluminous documentary evidence submitted by the prosecution clearly established petitioner's guilt.

Well-settled is the rule that the trial court, having the opportunity to observe the witnesses and their demeanor during the trial, can best assess the credibility of the witnesses and their testimonies.<sup>[12]</sup> Petitioner's mere denial cannot prevail over the positive and categorical testimonies of the prosecution witnesses.<sup>[13]</sup> Factual findings of the trial court, especially when affirmed by the Court of Appeals, are deemed binding and conclusive unless substantial facts and circumstances have been overlooked or misconstrued, which if considered might affect the result of the case,<sup>[14]</sup> and absent any clear showing of abuse, arbitrariness or capriciousness.<sup>[15]</sup>

Under Article 48<sup>[16]</sup> of the RPC, when a single act constitutes two or more crimes, a complex crime is committed for which only one penalty is imposed. Complex crimes under Article 48 refer to either (1) an act which constitutes two or more grave or less grave offenses; or (2) an offense which is a necessary means for committing another.<sup>[17]</sup> The phrase "necessary means" in Article 48 does not mean indispensable; otherwise, the offense as a "necessary means" to commit another would be an indispensable element of the latter and would be an ingredient thereof.<sup>[18]</sup> For instance, the crime of simple estafa is ordinarily committed in the manner defined under the RPC; but if the accused resorts to falsification merely to facilitate and insure the commission of estafa, then he is guilty of the complex crime of estafa through falsification.<sup>[19]</sup>

In this case, it was duly proven during the trial that petitioner falsified several BOC Form No. 38-A, a commercial document, in order to facilitate and insure the commission of estafa. BOC Form No. 38-A is a commercial document used by authorized collecting banks, such as Land Bank, as official receipt for the payment of additional or deficiency customs taxes and duties.<sup>[20]</sup> The falsification of the BOC forms, which are commercial documents, was a necessary means to commit estafa.<sup>[21]</sup>

The testimonies of the prosecution witnesses clearly established that petitioner used fake BOC forms to liquidate her cash advances for the alleged payment of additional taxes and duties to the BOC through the authorized Land Bank branches. In particular, Ms. Leonor Yap, the department manager of the Land Bank Bureau of