

## SECOND DIVISION

[ G.R. No. 188694, February 12, 2014 ]

**RICARDO L. ATIENZA AND ALFREDO A. CASTRO, PETITIONERS,  
VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**PERLAS-BERNABE, J.:**

Assailed in this petition for review on *certiorari*<sup>[1]</sup> is the Decision<sup>[2]</sup> dated November 28, 2008 of the Court of Appeals (CA) in CA-G.R. CR. No. 30650 which affirmed the Decision<sup>[3]</sup> dated June 8, 2006 of the Regional Trial Court of Manila, Branch 21 (RTC) in Criminal Case Nos. 01-197425 and 01-197426, finding petitioners Ricardo L. Atienza (Atienza) and Alfredo A. Castro (Castro) guilty beyond reasonable doubt of the crimes of Robbery and Falsification of Public Document.

#### The Facts

Atienza and Castro (petitioners) are employees of the CA, particularly assigned to its Budget Division and holding the positions of Budget Officer I and Utility Worker I,<sup>[4]</sup> respectively, at the time material to this case.

On March 20, 1995, at about past noon,<sup>[5]</sup> Juanito Atibula (Atibula), Records Officer I and Custodian of the CA Original Decisions in the CA Reporter's Division, was invited by Castro to attend Atienza's birthday party somewhere along Bocobo Street, Ermita, Manila. At the party, Atienza introduced Atibula to a certain Dario and asked him to assist the latter in searching for the CA decision<sup>[6]</sup> in the case entitled "*Mateo Fernando v. Heirs of D. Tuason, Inc.*"<sup>[7]</sup> (*Fernando*), docketed as CA-G.R. No. 36808-R.<sup>[8]</sup>

Thereafter, Atibula returned to the office – followed a few minutes later by Dario – and searched for the aforementioned decision which was found compiled in Volume 260 of the CA Original Decisions. As Dario was scanning through the said volume, Atibula observed that he was comparing its pages<sup>[9]</sup> to the discolored papers he was holding.<sup>[10]</sup> Dario likewise scanned Volumes 265 and 267,<sup>[11]</sup> and placed check marks on the papers he was holding.<sup>[12]</sup>

On March 24, 1995, after office hours, Atibula saw Dario outside the CA compound along Maria Orosa Street.<sup>[13]</sup> As they walked side by side towards the jeepney stop, Dario requested Atibula to insert a Decision dated September 26, 1968 in one of the volumes of the CA Original Decisions. However, Atibula refused and immediately left.<sup>[14]</sup>

On April 21, 1995, Atienza offered Atibula the amount of P50,000.00 in exchange for

Volume 260,<sup>[15]</sup> which the latter turned down. Atienza then ridiculed him saying, "*duwag ka, pera na nga ito ayaw mo pa,*" to which Atibula retorted, "*ikaw ang duwag dahil nagpapakita ka ng kabuktutan.*" Disturbed by the situation, Atibula reported the incident to Atty. Arnel Macapagal<sup>[16]</sup> (Atty. Macapagal), the Assistant Chief of the CA Reporter's Division, who then instructed him (Atibula) to hide Volumes 260, 265 and 267<sup>[17]</sup> in a safe place.<sup>[18]</sup>

On May 9, 1995, Atibula discovered that Volume 266<sup>[19]</sup> covering the period from January 28 to February 12, 1969 was missing<sup>[20]</sup> and, hence, immediately reported the same to Atty. Macapagal. Two days after the discovery of the loss, Atibula encountered Atienza near the canteen,<sup>[21]</sup> shouting "[p]utang ina mo, Juaning, pinahirapan mo kami!"<sup>[22]</sup>

On May 18, 1995, a certain Nelson de Castro, Clerk IV detailed at the CA Reporter's Division,<sup>[23]</sup> handed to Atibula a bag containing a gift-wrapped package which turned out to be the missing Volume 266. He claimed that it was Castro who asked him to deliver the said package to Atibula.<sup>[24]</sup>

Having been notified of Volume 266's return, Atty. Macapagal then directed Atibula to ascertain who borrowed the volume. Records, however, disclosed no one.<sup>[25]</sup> Separately, Atibula compared the contents of Volume 266 with the index of the decisions and noticed that there were two new documents inserted therein,<sup>[26]</sup> namely: (a) a Resolution<sup>[27]</sup> dated February 11, 1969 (subject resolution), ostensibly penned by Associate Justice Juan P. Enriquez (Justice Enriquez) and concurred in by Associate Justices Magno S. Gatmaitan and Edilberto Soriano, recalling and setting aside the Entry of Judgment earlier issued in the *Fernando* case; and (b) a Decision<sup>[28]</sup> dated April 16, 1970 (subject decision), also ostensibly penned by Justice Enriquez and concurred in by Associate Justices Jesus Y. Perez and Jose M. Mendoza, amending the original decision dated September 26, 1968 in the aforementioned case. Consequently, Atibula reported his findings to Atty. Macapagal who, in turn, informed Atty. Gemma Leticia F. Tablate (Atty. Tablate), then Chief of the CA Reporter's Division, of the same. They tried to verify the genuineness, authenticity and existence of the subject resolution and decision, and found that the compilation of the duplicate original decisions/resolutions of Justice Enriquez did not bear the said promulgations. Atty. Tablate reported the incident to then CA Presiding Justice Nathanael P. De Pano, Jr.<sup>[29]</sup> who immediately requested the National Bureau of Investigation (NBI) to conduct an investigation on the matter.<sup>[30]</sup>

Laboratory analysis and comparative examination of the subject resolution and decision<sup>[31]</sup> as well as of a decision in another case found in pages 906 to 922 of Volume 266 of the CA Original Decisions were conducted by the NBI.<sup>[32]</sup> As a result, it issued its Questioned Documents Report No. 937-1295,<sup>[33]</sup> finding that: (a) Volume 266 had indeed been altered;<sup>[34]</sup> and (b) the signatures of the CA Justices in the subject resolution and decision (questioned signatures) and their standard/sample signatures "were not written by one and the same person,"<sup>[35]</sup> leading to the conclusion that the questioned signatures were forgeries.<sup>[36]</sup>

Meanwhile, sometime in the second week of July 1995, an inspection of the air-conditioning units at the office of the CA Reporter's Division was conducted, whereby it was discovered that the improvised angle bar supporting the air conditioning unit at the right most end from the main door was corroded with rust and the portion of the wall holding the same was broken ("*may bak-bak na*").<sup>[37]</sup> NBI Agents, Atty. Daniel D. Daganzo<sup>[38]</sup> (Atty. Daganzo) and Norman R. Decampong<sup>[39]</sup> then conducted an ocular inspection of the premises, and, in the course thereof, interviewed several personnel of the CA Maintenance Division. Said investigation yielded the following findings: (a) there were no signs of forcible entry;<sup>[40]</sup> (b) the perpetrators gained entry to the office of the CA Reporter's Division "by passing through the hole on the concrete wall after removing the air conditioning unit"<sup>[41]</sup> located on the right most [sic] end from the main door;<sup>[42]</sup> (c) there was conspiracy to commit the crime of Falsification of Public Document between Atienza and Dario in view of their "concerted efforts through previous or simultaneous acts and deeds;"<sup>[43]</sup> and (d) Castro assisted Atienza and Dario "to profit from the effects of the crime by returning safely the missing volume to the [CA Reporter's Division]." <sup>[44]</sup> Consequently, a criminal complaint was filed by the NBI and the Fact-Finding and Intelligence Bureau of the Office of the Ombudsman against Atienza, Castro, and Dario before the Evaluation and Preliminary Investigation Bureau of the OMB, docketed as OMB-0-97-2054,<sup>[45]</sup> charging them for the following crimes: (a) Falsification of Public Document; (b) violation of Section 3(a)<sup>[46]</sup> of Republic Act No. (RA) 3019,<sup>[47]</sup> as amended; and (c) violation of Section 8<sup>[48]</sup> of RA 6713.<sup>[49]</sup>

After investigation, the charges involving the pertinent provisions of RAs 3019 and 6713 were dismissed for insufficiency of evidence,<sup>[50]</sup> but it was contrarily determined that there existed probable cause to charge Atienza, Castro, and Dario<sup>[51]</sup> for the crimes of Robbery under Article 299(a)(1)<sup>[52]</sup> of the Revised Penal Code<sup>[53]</sup>(RPC), as amended, and of Falsification of Public Document under Article 172(1)<sup>[54]</sup> in relation to Article 171(6)<sup>[55]</sup> of the same code. Thus, the corresponding Informations,<sup>[56]</sup> respectively docketed as Criminal Case Nos. 01-197425 and 01-197426, were filed before the RTC. Petitioners posted bail<sup>[57]</sup> and, thereafter, pleaded "not guilty"<sup>[58]</sup> to the charges during their arraignment, while Dario remained at large.

In his defense, Atienza denied having anything to do with the questioned incidents<sup>[59]</sup> as he was not even summoned by the CA Clerk of Court or the Chief of the Reporter's Division,<sup>[60]</sup> and became aware of the incident only when he and Castro were subpoenaed by the NBI Special Investigators.<sup>[61]</sup> Further, he gave the alibi that he was out of the office 4 days a week during the months of April to June 1995,<sup>[62]</sup> reporting only on Fridays,<sup>[63]</sup> since he had to perform his duties as Budget Officer I of the CA Budget Division and Liaison Officer to the Department of Budget and Management, the Committee on Appropriation of the Congress, Committee on Appropriation of the lower house, and the Committee on Finance of the Senate and the GSIS.

On the other hand, Castro did not endeavor to refute the allegations in the

Informations filed against him and the other accused.<sup>[64]</sup>

### **The RTC Ruling**

After trial on the merits, the RTC rendered a Decision<sup>[65]</sup> on June 8, 2006, finding petitioners guilty beyond reasonable doubt of the crimes of Robbery under Article 299(a)(1) of the RPC and Falsification of Public Document under Article 172(1) in relation to Article 171(6) of the RPC, and sentenced them to each suffer: (a) the indeterminate penalty of six (6) months and one (1) day, as minimum, to two (2) years and four (4) months of *prision correccional*, as maximum, for the first crime; and (b) the penalty of six (6) months and one (1) day, as minimum, to six (6) years of *prision correccional*, as maximum, and a fine of P5,000.00 for the second crime.

In convicting petitioners, the RTC found that “the evidence x x x of the prosecution is replete with situations and/or events to prove [petitioners’] guilt,”<sup>[66]</sup> namely: (a) Atienza requested Atibula to take out Volumes 260, 265 and 267 of the CA Original Decisions from the CA Reporter’s Division, which the latter rejected despite offer of remuneration; (b) Volume 266 was subsequently discovered to be missing; (c) access to the missing volume appears to have been acquired by entering through an opening in the premises of the CA’s Reporter’s Division because the air conditioning unit occupying the space thereat was taken out for repair earlier; (d) Castro returned Volume 266 after its loss;<sup>[67]</sup> (e) Volume 266 bore badges of tampering evidenced by the “non-continuity of the front and the back cover flaps x x x and the pages of the book/volume differences in the cutting marks on the sides of the volume and the presence of artificial aging on [its] sides”;<sup>[68]</sup> and (f) two (2) new documents which materially amended the original decision and resolution in the *Fernando* case were inserted in the said volume.<sup>[69]</sup> The RTC further added that the manner by which petitioners committed the felonious acts reveals a community of criminal design, and thereby held that conspiracy exists.<sup>[70]</sup>

Aggrieved, petitioners appealed their conviction to the CA.

### **The CA Ruling**

In a Decision<sup>[71]</sup> dated November 28, 2008, the CA affirmed the RTC’s judgment of conviction *in toto*. It held that while there is no direct evidence showing that the petitioners committed the crimes charged, the testimonies of Atibula and NBI Agent Atty. Daganzo with respect to what had transpired before and after Volume 266 was taken from its shelf, when viewed together with the other circumstances in the case, constitute circumstantial evidence which sufficiently point to the guilt of petitioners.<sup>[72]</sup> In addition, it found that Atienza’s defenses were self-serving negative evidence which cannot outweigh the circumstantial evidence clearly establishing his participation,<sup>[73]</sup> adding too that while there was no proof of previous agreement between petitioners to unlawfully take Volume 266 out of the office of the CA Reporter’s Division and falsify the subject documents, their conspiracy may be inferred from the fact that Castro was in possession of the missing Volume 266 which was eventually discovered to have been falsified.<sup>[74]</sup>

Undaunted, petitioners filed a motion for reconsideration<sup>[75]</sup> which was, however,

denied in a Resolution<sup>[76]</sup> dated July 7, 2009, hence, the instant petition.

### **The Issue Before the Court**

The essential issue for the Court's resolution is whether or not petitioners' conviction for the crimes of Robbery and Falsification of Public Document should be upheld on account of the circumstantial evidence in this case proving their guilt beyond reasonable doubt.

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

The petition is meritorious.

Circumstantial evidence consists of proof of collateral facts and circumstances from which the main fact in issue may be inferred based on reason and common experience.<sup>[77]</sup> It is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. To uphold a conviction based on circumstantial evidence, it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of the others, as the guilty person. Stated differently, the test to determine whether or not the circumstantial evidence on record is sufficient to convict the accused is that the series of circumstances duly proven must be consistent with each other and that each and every circumstance must be consistent with the accused's guilt and inconsistent with his innocence.<sup>[78]</sup>

Applying these principles to the facts that appear on record, the Court finds that no sufficient circumstantial evidence was presented in this case to establish the elements of Robbery under Article 299(a)(1)<sup>[79]</sup> of the RPC and Falsification of Public Documents under Article 172(1) in relation to Article 171(6)<sup>[80]</sup> of the same code, or of petitioners' supposed conspiracy therefor. To this end, the Court examines the participation of and evidence against each petitioner and forthwith explains its reasons for reaching the foregoing conclusions.

#### ***A. The Participation of and Evidence Against Castro***

Notwithstanding Castro's failure to refute the charges against him, the Court finds no evidence to link him to the commission of the crimes of Robbery and Falsification of Public Document, contrary to the conclusions reached by the RTC and concurred in by the CA. To begin with, it is essential to note that Castro's purported possession and eventual return of Volume 266 was only premised upon the statement of one Nelson de Castro (Nelson), *i.e.*, the Sinumpaang Salaysay<sup>[81]</sup> dated August 9, 1995, who averred that on May 18, 1995, at around 11:50 in the morning, Castro told him to pass by his office and there handed him a bag which, as it turned out, contained the missing Volume 266, *viz.*:<sup>[82]</sup>

Noong Mayo 18, 1995 bandang 11:50 ng tanghali ay tumawag sa telepono si ALFREDO CASTRO, ng Budget Division, at sinabihan ako na dumaan sa kanyang opisina dahil mayroon daw siyang ibibigay para sa opisina namin. Pumunta po naman ako kaagad kay ALFREDO CASTRO sa