

SECOND DIVISION

[G.R. No. 196685, December 14, 2011]

**GOODLAND COMPANY, INC., PETITIONER, VS. ABRAHAM CO AND
CHRISTINE CHAN, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

G.R. No. 196685 is an appeal^[1] from the Decision^[2] promulgated on 20 December 2010 as well as the Resolution^[3] promulgated on 27 April 2011 by the Court of Appeals (CA) in CA-G.R. SP No. 112769. The CA affirmed the 2 September 2009 Resolution^[4] of Branch 146 of the Regional Trial Court of Makati City (RTC) in Civil Case No. 09-219. In turn, the RTC denied the petition for annulment of the Orders of Branch 64 of the Metropolitan Trial Court of Makati City (MeTC) in Criminal Case No. 332313.

The 16 October 2008 Order^[5] of the MeTC granted the Demurrer to Evidence filed by Abraham Co (Co) and Christine Chan (Chan) (collectively, respondents). The MeTC dismissed Criminal Case No. 332313 for failure of the prosecution to present sufficient and competent evidence to rebut the presumption of innocence in favor of respondents. The 13 January 2009 Order⁶ of the MeTC denied for utter lack of merit the Motion for Inhibition and Motion for Reconsideration of the 16 October 2008 Order.

The Facts

The appellate court narrated the facts of the case as follows:

Petitioner-appellant Goodland Company, Inc. ("Goodland"), a corporation duly organized and existing in accordance with Philippine laws, is the registered owner of a parcel of land covered by TCT No. (192674) 114645 located at Pasong Tamo, Makati City containing an area of 5,801 square meters, more or less (hereinafter "Makati property").

Goodland and Smartnet Philippines, Inc. ("Smartnet"), likewise a duly organized and registered corporation, are part of the Guy Group of Companies, owned and controlled by the family of Mr. Gilbert Guy.

Sometime in 2000, Goodland allowed the use of its Makati property, by way of accommodation, as security to the loan facility of Smartnet with Asia United Bank (AUB). Mr. Guy, Goodland's Vice President, was allegedly made to sign a Real Estate Mortgage (REM) document in blank.

Upon signing the REM, Mr. Guy delivered the same to AUB together with the original owner's copy of the TCT covering the the Makati property.

Mr. Rafael Galvez, the Executive Officer of Goodland, who had custody of the title to the Makati property, handed over the original of the said title to Mr. Guy, after being reassured that it would be turned over to AUB along with a blank REM, and that it would serve as mere comfort document and could be filled up only if and when AUB gets the conformity of both Smartnet and Goodland.

About two (2) years thereafter, Goodland found out that the REM signed in blank by Mr. Guy has been allegedly filled up or completed and annotated at the back of the title of the Makati property. Goodland thus wrote a letter to the National Bureau of Investigation (NBI) requesting for an investigation of the fraud committed by private respondents. The NBI, thru a Letter-Report dated February 10, 2003, recommended the filing of criminal charges of falsification against private respondents Abraham Co and Christine Chan, and Atty. Joel Pelicano, the notary public who notarized the questioned REM.

After the requisite preliminary investigation, the Makati Prosecutor's Office filed an Information for Falsification of Public Document defined and penalized under Article 172 in relation to Article 171 (2) of the Revised Penal Code against private respondents Co and Chan and Atty. Pelicano. The Information states:

That on or about the 29th day of February 2000, in the City of Makati, a place within the jurisdiction of this Honorable Court, the above-named accused Abraham Co and Christine Chan who are private individuals and Joel T. Pelicano, a Notary Public, conspiring and confederating together and mutually helping and aiding with each other, did then and there willfully, unlawfully and feloniously falsify Real Estate Mortgage, a public document, causing it to appear, as it did appear, that Mr. Gilbert Guy, Vice President of Goodland Company, Inc., participated in the preparation and execution of said Real Estate Mortgage whereby complainant corporation mortgaged to Asia United Bank a real property covered by Transfer Certificate of Title No. 11645 and by then and there causing aforesaid Real Estate Mortgage to be notarized by accused Atty. Joel Pelicano, who in fact notarized said document on August 3, 2000 under Document No. 217, Page No. 44, Book No. XVII, Series of 2000 of his Notarial Register, thus making it appear, that Gilbert Guy has acknowledged the said Real Estate [Mortgage] before him, when in truth and in fact Gilbert Guy did not appear nor acknowledge said document before Notary Public Joel T. Pelicano and thereafter herein accused caused the aforesaid Real Estate [Mortgage] document to be registered with the office of the Register of Deeds of Makati City on March 8, 2001."

The case was raffled to the Metropolitan Trial Court, Branch 64, Makati City and docketed as Criminal Case No. 332313. The prosecution presented the testimonies of (1) Rafael Galvez, Executive Officer of Goodland, (2) Leo Alberto Pulido, Systems Manager of Smartnet, (3) NBI Special Agent James Calleja, (4) Atty. Joel Pelicano, and (5) Atty. Alvin Agustin Tan Ignacio, Corporate Secretary of Goodland.

After the prosecution formally offered its evidence and rested its case, herein private respondents filed a Motion for Leave of Court to File Demurrer to Evidence with attached Demurrer to Evidence claiming that the prosecution failed to substantiate its claim that they are guilty of the crime charged. Private respondents alleged that the prosecution failed to establish the second and third elements of the crime as the prosecution was unable to provide any proof that private respondents caused it to appear in a document that Mr. Gilbert Guy participated in an act and that the prosecution failed to establish that Mr. Gilbert Guy did not participate in said act. Thus, private respondents alleged that the prosecution's evidence itself showed that Mr. Gilbert Guy signed the REM, delivered the original transfer certificates of title to AUB and that Mr. Guy was duly authorized by Goodland's Board of Directors to execute the REM. They likewise claimed that the prosecution failed to prove that the REM was submitted as a comfort document as the testimonies of the witnesses (referring to Galvez, Pulido, Calleja, Pelicano and Ignacio) proving this matter were hearsay and lacked probative value. Also, the prosecution failed to present direct evidence showing the involvement of private respondents in the alleged falsification of document.

The prosecution opposed the Demurrer to Evidence contending that it was able to prove [that] Mr. Guy did not participate in the execution of the REM because Goodland did not consent to the use of its Makati property to secure a loan and it has no outstanding credit for any peso loan. The loan of Smartnet was not secured by any collateral. The REM shows signs of falsification: Mr. Guy signed the REM in blank in the presence of Atty. Ignacio and before the adoption of the board resolution authorizing the use of the subject property to secure Smartnet's credit; the REM filed in Pasig City is different from the one filed in the Makati Register of Deeds; and the CTCs appearing in the REM (particularly of Mr. Gilbert Guy) were issued in 2001 when the REM was executed on 2000. Atty. Pelicano also denies having affixed his signature in the notarization.

[7]

The Metropolitan Trial Court's Ruling

In its Order^[8] dated 16 October 2008, the MeTC granted the Demurrer to Evidence of respondents. The MeTC enumerated the elements for the crime of Falsification of Public Document by making it appear that a party participated in an act or proceeding when he/she did not:

1. That the offender is a private individual or a public officer or employee who did not take advantage of his official position;
2. That the offender caused it to appear that a person or persons have participated in any act or proceeding;
3. That such person or persons did not in fact so participate in the act or proceeding;
4. The falsification was committed in a public or official document.^[9]

The MeTC found that although Goodland established the first and fourth elements, it failed to prove the second and third elements of the crime. Goodland was unable to present competent evidence that the Real Estate Mortgage was indeed falsified. Hence, Goodland erred in relying on the presumption that the person in possession of the falsified document is deemed the falsifier. Assuming that the Real Estate Mortgage is indeed falsified, Goodland presented no competent evidence to show that the Real Estate Mortgage was transmitted to any of the respondents. Guy's affidavit stated that he delivered the Real Estate Mortgage to Chan; however, the affidavit is merely hearsay as Guy never testified, and the affidavit referred to properties in Laguna which are not the subject of the present case.

The MeTC declared that the record shows that other than the fact that Co and Chan are President and Vice President of Asia United Bank, no other evidence was presented by Goodland to show that Co and Chan performed acts which amounted to falsification in the execution of the questioned Real Estate Mortgage.

The MeTC found insufficient the testimonies of Mr. Pulido, Mr. Galvez, NBI Agent Calleja and Atty. Ignacio to prove that Guy merely signed the Real Estate Mortgage as a comfort document. None of the witnesses have any personal knowledge of the circumstances of the discussions between Guy and Asia United Bank. Guy's non-presentation as a witness raised the disputable presumption that his testimony would have been adverse to Goodland.

The dispositive portion of the MeTC's Order states thus:

WHEREFORE, premises considered, the Demurrer to Evidence of the accused is hereby granted. The case is dismissed for failure of the prosecution to present sufficient and competent evidence to rebut the presumption of innocence of the accused.

SO ORDERED.^[10]

Goodland moved to reconsider the MeTC's 16 October 2008 Order. Goodland stated that the MeTC made an error in concluding that Guy participated in the execution of the Real Estate Mortgage, as well as in disregarding evidence of the spuriousness of the Real Estate Mortgage.

The MeTC issued another Order^[11] on 13 January 2009, and resolved the Motion for