

## SECOND DIVISION

[ G.R. No. 138696, July 07, 2010 ]

**FELIZARDO S. OBANDO AND JUAN S. OBANDO, PETITIONERS,  
VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### DECISION

**PERALTA, J.:**

Before us is a petition for review on *certiorari* filed by petitioners Felizardo and Juan Obando seeking to annul and set aside the Decision<sup>[1]</sup> dated August 13, 1998 and the Resolution<sup>[2]</sup> dated May 17, 1999 of the Court of Appeals (CA) in CA-G.R. CR No. 20187.

The antecedent facts are as follows:

Sometime in 1964, Alegria Strebel Vda. de Figueras (Alegria), together with Eduardo and Francisco Figueras, sons of her husband Jose Figueras by previous marriage, filed a petition for the intestate proceedings of the estate of Jose Figueras, docketed as Special Proceedings No. 61567. Alegria was named administratrix of Jose's estate without opposition from her stepsons.

While the settlement of Jose's estate was still pending considerations in the Regional Trial Court (RTC), Alegria died in May 1979. Eduardo was issued new Letters of Administration with the duty to administer both Jose's and Alegria's estates. Fritz Strebel, as brother of Alegria, came forth claiming part of Alegria's estate as Alegria died without issue which the Figueras brothers made no opposition.

Subsequently, the Figueras brothers and Fritz Strebel were served with copies of a Petition for Probate of the alleged last will and testament of Alegria filed by petitioner Felizardo Obando, which petition was docketed as Special Proceeding No. 123948. In his petition, petitioner Felizardo asked to be named as executor of Alegria's last will and testament, which bequeathed Alegria's rights and interest in the real properties left by the Figueras couple, as well as personal properties, including all her pieces of jewelry to petitioners Felizardo and Juan, and their families. The Figueras brothers opposed the probate of the alleged will, as well as petitioner Felizardo's prayer for the issuance of a letter of administration, on the ground that the alleged will was done either under duress or the same was a forgery.

Later, both Special Proceeding Nos. 61567 and 123948 were consolidated under Branch 17 of the RTC of Manila which, after hearing, denied petitioner Felizardo's prayer to be named as executor. Petitioner Felizardo appealed the matter to the CA which partially reversed the RTC by appointing Eduardo and petitioner Felizardo as co-administrators of the joint estates of Jose and Alegria Figueras.

Eduardo and Fritz still opposed the probate of the alleged Alegria's will, insisting that the will was a forgery. Subsequently, these conflicting parties agreed to submit the alleged will to the National Bureau of Investigation (NBI) for examination and comparison with the common standard signatures of Alegria.<sup>[3]</sup>

After the examination and comparison of the submitted documents, NBI Document Examiner Zenaida Torres submitted her report<sup>[4]</sup> dated March 26, 1990, with the findings that the questioned and standard sample signatures of Alegria S. Vda. de Figueras were NOT written by one and same person.

By reason of the forged will which was the basis of the CA in appointing Felizardo as co-administrator of the Figueras estates, petitioners had taken possession of the pieces of jewelry, furniture and other personal properties enumerated in the alleged will, as well as the rentals of the Figueras residence in Gilmore Street, Quezon City being leased to the Community of Learners.

Eduardo and Fritz questioned these acts of petitioner Felizardo and, since the latter could not account for these properties which were under his possession when the probate court required him to do so, they sued him for Estafa thru Falsification of Public Document since the alleged will which petitioner Felizardo submitted for probate was found to be forged.

On July 26, 1990, an Information was filed with the RTC of Manila, charging petitioners Felizardo S. Obando and Juan S. Obando, together with the persons who signed in the alleged will, namely, Cipriano C. Farrales, Mercedes B. Santos, Victorino Cruz, and Franklin A. Cordon, with the crime of estafa thru falsification of public document, committed as follows:

That on or about November 11, 1978, and for sometime prior or subsequent thereto, in the City of Manila, Philippines, the said accused Felizardo S. Obando, Juan S. Obando, Mercedes B. Santos, [Victorino] Cruz and Franklin A. Cordon, being then private individuals, and accused Cipriano C. Farrales, a Notary Public, conspiring and confederating together and helping one another, did then and there willfully, unlawfully and feloniously defraud Eduardo F. Figueras thru falsification of public document in the following manner, to wit: the said accused forged and falsified or caused to be forged and falsified, a document denominated as the Last Will and Testament of Alegria Strebel Vda. de Figueras, dated November 11, 1978, duly notarized by accused Cipriano C. Farrales and, therefore, a public document, by stating in said Last Will and Testament, among others, that the said Alegria Strebel Vda. de Figueras had bequeathed to her nephews, herein accused Felizardo S. Obando and Juan S. Obando, all her rights and interests over all her jewelries (sic), except those given to her other relatives, with an aggregate total value of P2,000,000.00, that she had appointed accused Felizardo S. Obando as the sole executor of her Last Will and Testament and the exclusive administrator of her estate, and thereafter, feigning, simulating and counterfeiting or causing to be feigned, simulated and counterfeited the signature of the said Alegria Strebel Vda. de Figueras appearing on the left hand margin of pages 1 and 2 and over the typewritten name Alegria Strebel Vda. de Figueras on page 3 of said document, thus making it

appear, as it did appear, that the said Alegria Strebel Vda. de Figueras had, in fact, bequeathed all her rights and interests over the said jewelries (sic) to accused Felizardo S. Obando and Juan S. Obando, and that she had appointed the said Felizardo S. Obando as the sole executor of her Last Will and Testament and the exclusive Administrator of her estate, and causing it to appear further that the said Alegria Strebel Vda. de Figueras participated and intervened in the signing of said document when in truth and in fact as the said accused well knew, such was not the case in that the said Last Will and Testament is an outright forgery; that the late Alegria Strebel Vda. de Figueras did not bequeath all her rights or interests over the aforementioned jewelries to accused Felizardo S. Obando and Juan S. Obando, that she did not appoint accused Felizardo S. Obando as the sole executor of her Last Will and Testament and the exclusive Administrator of her estate, and that she did not participate and intervene in the signing of said document, much less did she authorize the said accused, or anybody else, to sign her name or affix her signature thereon; that once the said document has been forged and falsified in the manner above set forth, the said accused Felizardo S. Obando and Juan S. Obando presented the same for probate with the Regional Trial Court of Manila wherein an ensuing litigation which ultimately reached the Court of Appeals, said accused Felizardo S. Obando was appointed co-administrator of said Eduardo F. Figueras, and who, as such co-administrator, forthwith took possession of the jewelries mentioned above which the said accused subsequently, with intent to defraud, misappropriated, misapplied and converted to their own personal use and benefit to the damage and prejudice of the said Eduardo F. Figueras in the aforesaid amount of P2,000,000.00, Philippine currency.

Contrary to law.<sup>[5]</sup>

Notary Public Farrales asked for a re-investigation claiming innocence and good faith and was, subsequently, deleted from the Information.

When arraigned, all the accused, with the exception of Franklin Cordon who is at-large, assisted by counsel *de parte*, pleaded not guilty to the charge. They posted bail for their temporary liberty.

Trial thereafter ensued.

In its Order dated October 10, 1992, the RTC stated that the parties stipulated that whatever testimony of witnesses utilized in the intestate and probate proceedings of the will, as well as the documentary evidence submitted therein, shall be utilized in the criminal case *in toto* subject to further cross of the defense lawyer only on matters not touched in the former proceedings.<sup>[6]</sup>

On October 7, 1996, the RTC rendered its Decision,<sup>[7]</sup> the dispositive portion of which reads, thus:

WHEREFORE, PREMISES CONSIDERED, this Court holds accused FELIZARDO S. OBANDO and JUAN S. OBANDO GUILTY of violating Article 315, paragraph 1, sub-paragraph (b) of the Revised Penal Code, in relation to Article 172, paragraph 1, Revised Penal Code, their culpability having been proven beyond reasonable doubt and are hereby sentenced to suffer the penalty of *reclusion temporal* in its maximum period, from seventeen (17) years, four (4) months, and one (1) day to twenty (20) years. Finding no evidence of culpability in their persons, accused MERCEDES B. SANTOS and VICTORINO CRUZ are hereby ACQUITTED.

With respect to accused FRANKLIN A. CORDON, who remains at-large up to the present, this case against him is hereby ordered ARCHIVED, to be revived upon his apprehension. Let an Alias Warrant of Arrest be issued against accused Franklin A. Cordon for his immediate apprehension.

SO ORDERED.<sup>[8]</sup>

In so ruling, the RTC found that: the fact of damage was sufficiently established with the testimonies of Felizardo and Juan that Alegria's rights and interests in the real and personal properties of the Figueras couple were to go to them, and that they already gave the pieces of jewelry to their sister, to Juan's wife and his two daughters, and Felizardo's daughter which showed that they had already profited from the estate of the Figueras couple even before the same was brought to the court for settlement. As to the matter of forgery, the RTC gave more credence to the findings of NBI Document Examiner Zenaida Torres than that of PNP Document Section Chief Francisco Cruz, since (1) Torres was the common choice of all the parties, thus by which act, petitioners became bound to the results of said findings; (2) Torres was definite in her conclusion that the question and standard/ sample signatures of Alegria S. Vda. de Figueras were not written by one and same person unlike Cruz's report stating that no definite conclusion can be made due to the limited amount of appropriate standard signatures for comparison; and (3) Torres was not paid for her services and, therefore, impartial while Cruz received honorarium from Juan Obando; that while petitioners presented copies of pictures showing Alegria allegedly signing the will in the presence of Mercedes Santos Cruz, Victorino Cruz and Franklin Cordon, nothing would establish what document was being held by them.

The RTC found petitioners to have conspired to commit forgery as established by the following evidence, to wit: (a) Felizardo admitted that the last will and testament which Alegria voiced out to him was dictated by him to a certain Atty. Alcantara; (b) that Felizardo retained the services of Atty. Alcantara and Atty. Farrales who notarized the alleged will; (c) Juan was the one who enticed Mercedes Santos Cruz, his sister-in-law, and Victorino Cruz into acting as attesting witnesses and Juan's taking pictures of the entire signing ceremony which was a sign of evil intention because it was an expectancy of future rift or trouble; (d) Felizardo held and kept the alleged will from the time of alleged signing up to Alegria's death which possession and control lasted for several months; (e) the testimony of Torres that the first two pages of Exhibit "A," which contained the dispositions of the properties of the Figueras estates, as well as the forged signatures were substitutes for the originals; and (g) that petitioners and their respective families gained enormously by reason of said will.

The RTC said that even if the alleged will was found to be authentic, it will still be contested as the dispositions made therein were contrary to law most particularly that portion bequeathing to petitioners the whole residential property of the spouses Jose and Alegria Figueras, which was conjugal, to the exclusion of Eduardo and Francisco Figueras and Fritz Strebel who are forced heirs; that because of such disposition, the RTC was convinced that the alleged will was not that of Alegria but of petitioners, since Alegria being the administratrix of the estate of her husband Jose would be the last person to give this property outside of the Figueras family. Mercedes Santos and Victorino Cruz were acquitted for lack of evidence.

Petitioners filed their appeal with the CA.

On August 13, 1988, the CA issued its assailed Decision affirming *in toto* the decision of the RTC.

Petitioners' motion for reconsideration was denied in a Resolution dated May 17, 1999.

Hence, this petition for review filed by petitioners on the following grounds:

A. THE HONORABLE COURT OF APPEALS HAD OVERLOOKED AND FAILED TO CONSIDER THE SIGNIFICANT FACTS AND CIRCUMSTANCES OF THIS CASE WHICH, IF PROPERLY CONSIDERED, SHOULD HAVE DRAWN A DIFFERENT CONCLUSION AND WHICH SHALL CONSIDERABLY AFFECT THE RESULT OF THIS CASE.

B. THE NON-PRODUCTION AND/OR NON-PRESENTATION OF THE ORIGINAL COPY OF THE ALLEGED FALSIFIED LAST WILL AND TESTAMENT OF ALEGRIA STREBEL VDA. DE FIGUERAS BEFORE THE TRIAL COURT IS A FATAL DEFECT WHICH ENTITLES HEREIN APPELLANTS TO ACQUITTAL.

C. THERE IS ABSOLUTELY NO CONSPIRACY TO WARRANT CONVICTION OF FELIZARDO AND [JUAN] OBANDO.

D. THE WILL OF ALEGRIA STREBEL VDA. DE FIGUERAS DISPOSES ONLY OF HER RIGHTS AND INTERESTS OVER THE PROPERTIES BEQUEATHED TO FELIZARDO AND JUAN OBANDO.

E. CONFLICTING EXPERT TESTIMONIES, COUPLED WITH THE POSITIVE EVIDENCE AS TO THE DUE EXECUTION AND AUTHENTICITY OF THE WILL SHOULD FAVOR APPELLANTS.

F. THE ABSENCE IN THE NBI FINDINGS (EXHIBIT "D-1") AS TO THE GENUINENESS AND/OR FALSITY OF THE SIGNATURES OF MERCEDES SANTOS CRUZ, VICTORINO CRUZ AND ATTY. FRANKLIN CORDON ON THE "LAST WILL AND TESTAMENT" (EXHIBIT "A"), NEGATES THE FALSIFICATION AND/OR SUBSTITUTION OF THE FIRST AND SECOND PAGES OF THE SAID "LAST WILL AND TESTAMENT OF DOXA ALEGRIA STREBEL VDA. DE FIGUERAS."