

## FIRST DIVISION

[ G.R. Nos. 107041-42, May 15, 1996 ]

**FELICIANO MALIWAT, PETITIONER, VS. HON. COURT OF APPEALS, FORMER SPECIAL FIRST DIVISION, AND THE REPUBLIC OF THE PHILIPPINES, RESPONDENTS.**

### D E C I S I O N

**PADILLA, J.:**

Assailed in this petition for review on certiorari under Rule 45 of the Rules of Court is the decision<sup>[1]</sup> of public respondent Court of Appeals (CA) dated 29 November 1991 in CA-G.R. Nos. 09428-09429, entitled *People of the Philippines versus Feliciano Maliwat*, as well as the resolution dated 17 September 1992 which denied petitioner's motion for reconsideration. The CA decision and resolution affirmed the decision of the Regional Trial Court of Cavite City which convicted herein petitioner of falsification of public documents as defined and penalized under Article 172 par. 1 of the Revised Penal Code.

In a resolution dated 16 November 1992, this Court denied the present petition for review for failure to comply with the Rules of Court and Circular 28 -9 1.<sup>[2]</sup> Petitioner filed a motion for reconsideration which the Court denied with finality on 18 January 1993.<sup>[3]</sup> Petitioner followed with a second motion for reconsideration which the Court noted without action in its 3 March 1993 resolution.<sup>[4]</sup>

On 21 June 1993, petitioner filed a motion for declaration of mistrial, pleading for the first time that his constitutional right to due process was impaired when Judge Rolando Diaz rendered the judgment of conviction in Criminal Cases Nos. 158-77 and 159-77, knowing fully well that he (Judge Diaz) previously testified against the petitioner (then accused) in said cases, while then the Clerk of Court of the Court of First Instance (CFI) Branches 2 and 3 of Cavite City.

The Court issued a resolution<sup>[5]</sup> on 7 July 1993 requiring Judge Diaz to comment on the said motion for declaration of mistrial. On 14 July 1993, petitioner filed a motion for the issuance of a temporary restraining order and inhibition order against Judge Diaz. On 21 July 1993, the Court issued a temporary restraining order enjoining Judge Diaz from conducting further proceedings in Criminal Cases Nos. 158-77 and 159-77 (entitled *People of the Philippines vs. Feliciano Maliwat*, Regional Trial Court, Branch 17).<sup>[6]</sup>

Judge Diaz filed his comment on petitioner's motion.<sup>[7]</sup> After careful deliberations, the Court resolved on 14 March 1994 to lift the entry of final judgment dated 3 February 1993 and to reinstate and give due course to this petition for review. The parties were required to file their respective memoranda as the Court ordered the RTC of Cavite City to forward the records of the cases to the Court.<sup>[8]</sup>

The antecedent facts of the case may be summarized as follows:

On 18 November 1977, two (2) separate informations were filed before the then CFI of Cavite, Branch 3 (now RTC, Branch 17) charging petitioner with the crime of Falsification of Public and Official Documents.

The first information, docketed as Criminal Case No. 158-77, reads as follows:

"That on or about the first week of November 1975, in the City of Cavite, Republic of the Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a private person, having somehow obtained possession of a blank form of a transfer certificate of title with Serial No. 1403456, which is a public and official document, did, then and there, wilfully, unlawfully and feloniously commit acts of falsification, by then and there, filling, typing and inserting on the blank spaces therein or causing to be filled, typed and inserted on said public and official document, the technical descriptions of a parcel of land, Lot No. 5825 of the Imus Estate Subdivision, Province of Cavite, with an area of 553,853 sq. meters including the corresponding title number, and making it appear that the same is the owner's reconstituted copy of Transfer Certificate of Title No. RT-11850 of the Register of Deeds of the Province of Cavite, with the herein accused as the registered owner and that the said public and official document was reconstituted by virtue of the order of the Court of First Instance of Cavite dated November 13, 1963 and causing it to appear further that the then Register of Deeds of the Province of Cavite, Escolastico Cuevas had participated in the preparation and signing of the said falsified Owner's copy of TCT No. RT-11850, when in truth and in fact, the said accused well knew that said parcel of land is already registered in the name of Green Valley Realty Corporation and that then Register of Deeds Escolastico Cuevas never intervened in the preparation and signing of said falsified document much less did he authorize anybody to write his name or affix his signature therein nor was there any judicial proceedings for reconstitution nor order from the Court regarding TCT RT-11850, and thereafter, the above-named accused presented the said falsified owner's duplicate copy of Transfer Certificate of Title No. RT-11850, in the office of the Register of Deeds of Cavite, for the purpose of reconstituting the original thereof.

Contrary to law."<sup>[9]</sup>

The second information was docketed as Criminal Case No. 159-77 and recited the same allegations as in the first information, except that the number of the TCT involved in the second information was TCT No. RT 11854 with serial no. 1403457, allegedly covering lot no. 5826 of the Imus Estate Subdivision, with an area of 299,403 sq. meters.

Petitioner was arraigned on 2 August 1978 at which, he pleaded not guilty to each charge. Thereafter, joint trial of the two (2) cases ensued.

On 12 February 1986, the trial court rendered a decision, later amended on 28 June 1988, the dispositive part of which, as amended, reads as follows:

"WHEREFORE, in view of the foregoing, the Court finds the accused Feliciano Maliwat guilty beyond reasonable doubt of Falsification of Public Documents as defined and penalized in par. 1, Article 172 of the Revised Penal Code and he is hereby sentenced to - in Crim. Case No. 158-77 to an indeterminate prison term of from six (6) months of arresto mayor as minimum, to four (4) years and two (2) months of prison correccional as maximum and to pay a fine of P5,000.00; in Crim. Case No. 159-77 to an indeterminate [prison] term of from six (6) months of arresto mayor as minimum, to four (4) years and two (2) months of prison correccional as maximum and to pay a fine of P5,000.00 without subsidiary imprisonment in case of insolvency and to pay the costs in both instances.

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

The evidence for the prosecution sought to establish that sometime in October 1975, Maliwat, accompanied by two (2) other persons, went to the office of Atty. Milagros Santiago, then the acting Register of Deeds of Cavite, to inquire about the originals of TCT Nos. T-11850 and T-11854 covering lots 5825 and 5826 of the Imus Estate Subdivision. The original copies of said titles, however, could not be located by the vault keeper of the office. Meanwhile, Atty. Santiago examined the owner's duplicate copies presented to her by Maliwat and upon closer scrutiny, she noticed the annotations on the lower part of the two (2) titles which read: "reconstituted as per order of CFI/Cavite City dated November 13, 1963 Sgd. Escolastico Cuevas." The same annotation on the two (2) titles aroused her suspicion because she was familiar with the customary signature of Escolastico Cuevas, and the signatures of Cuevas appearing in the two (2) titles,<sup>[11]</sup> appeared to be forged.

Atty. Santiago did not confront Maliwat about the said signatures, instead, she referred the latter to the Clerk of Court (of the CFI) to verify the existence of such an order from the court records. Maliwat allegedly obliged but did not return to the office of the Register of Deeds. That same afternoon, Atty. Santiago went to see the Clerk of Court, Atty. Rolando Diaz, who informed her that the court had no record of the said orders.

On 6 November 1975, Atty. Santiago wrote a letter to the NBI Director to report the existence of the alleged dubious certificates of title in Maliwat's possession and requested for an investigation of the matter.<sup>[12]</sup> The following year, Atty. Santiago went on sick leave and Atty. Jorge Gutierrez was designated by the Land Registration Commission Head Office to act in her stead from 26 January - 17 February 1976. When Atty. Santiago resumed her position on 17 February, she received a letter<sup>[13]</sup> from Atty. Gutierrez informing her that during her absence, Feliciano Maliwat had applied for administrative reconstitution of title and that he (Gutierrez) approved the same, based on the owner's duplicate certificates of title submitted to him.

Concerned with these developments, Atty. Santiago informed the NBI about the

reconstitution of the two (2) alleged fake titles and requested for an immediate investigation. The NBI acted swiftly and sent subpoenas to Feliciano Maliwat, Atty. Gutierrez, Atty. Santiago and Atty. Cuevas who all appeared and testified before NBI agent Tobias Lozada.

Agent Tobias Lozada's investigation<sup>[14]</sup> revealed that on his first day in office as acting Register of Deeds (of Cavite), Atty. Gutierrez met a person in his office who introduced himself as Feliciano Maliwat. Maliwat inquired why certain titles he had presented for reconstitution as early as 14 January 1976 had not been acted upon. Atty. Gutierrez had the papers located and seeing no formal defects and believing them to be in order, reconstituted the titles. Due to some typing errors, however, only one title was delivered to Maliwat on that day.

The following day, when the deputy Register of Deeds Atty. Alejandro Villanueva reported for work, Atty. Gutierrez recounted to him the events of the previous day including the fact that he had reconstituted the titles belonging to Feliciano Maliwat.

Atty. Villanueva informed Atty. Gutierrez that he should not have reconstituted the titles since Atty. Santiago believed that they were spurious and had in fact requested the NBI to look into the matter. Atty. Villanueva also informed Atty. Gutierrez that Maliwat had been previously convicted for estafa thru falsification of public document and was generally believed to be part of a criminal syndicate operating in Cavite.

With this information, Atty. Gutierrez told the NBI that he made his own investigation and discovered that Maliwat had subsequently tried to obtain a tax declaration from the Provincial Assessor's Office (PAO) but this was denied because the PAO personnel doubted the authenticity of his titles. Upon verification with the LRC main office, he (Gutierrez) was further informed that no such titles were originally issued to Maliwat. A similar Verification with the Bureau of Lands yielded the same results. Atty. Gutierrez alleged that the formal requisites presented by Maliwat for reconstitution were the following:

(a) a verified petition for issuance of new titles under R.A. 26 signed and sworn to by Feliciano Maliwat before Salvador R. Aguinaldo, a notary public for Manila and recorded in the latter's notarial book as Document No. 1215 on Page 3 of Book No. 116, Series of 1976 (Annex D).

(b) Transfer Certificate of Title No. RT-11850 on Form No. 1403456 (Annex E) and TCT No. RT-11854 on Form No. 1403457 (Annex E-2).

Atty. Gutierrez properly identified these documents before the NBI.

Atty. Escolastico Cuevas, retired Register of Deeds of Cavite Province, whose signatures on the certificates of title were allegedly forged, testified before the court *a quo* denying his alleged signature appearing on the two (2) titles, i.e., TCT No. RT-11850 on form No. 1403456 and TCT No. RT-11854 on form No. 1403457. He also stated that he executed a sworn statement<sup>[15]</sup> before the NBI where he similarly made the same denial. In that affidavit, he recalled that as witness for the prosecution in a certain criminal case before Judge Coquia (of the CFI Manila) several years before the present incident, he encountered the very same titles in

open court, and he testified that the signatures attributed to him in the two (2) titles were not his, but were plain forgeries.

Maliwat, for his part, denied authorship of the two (2) forged titles and claimed that he bought the two (2) parcels of land from a certain Benigno T. Aseo as evidenced by a Deed of Absolute Sale<sup>[16]</sup> dated 2 January 1963. He registered the same and surrendered Aseo's titles to the Register of Deeds for cancellation, after which he was issued two (2) new titles, namely: TCT No. RT- 11850 with Serial No. 603461 and RT- 11854 with Serial number 603462.<sup>[17]</sup> Maliwat further claimed that he witnessed Escolastico Cuevas, the then Register of Deeds, actually sign his name over the said titles before they were issued to him.<sup>[18]</sup>

Thus, from the issuance of his titles in 1963 up to 1975, Maliwat averred that he took physical possession of the lands covered thereby, and paid real estate taxes thereon except in 1974 when he went to Canada. He was not aware of any title adverse to his own titles and that he was informed only during the trial that a certain Green Valley Corporation had titles to said property and had been paying the real estate taxes thereon. Although he had a location plan over the said properties, he did not have them relocated anymore to determine whether or not there was an overlap of titles.

In 1975, Maliwat alleged that certain buyers were interested in his property. Together with a friend named Judge Alejo, they went to the Register of Deeds to have his titles verified but the Register of Deeds allegedly could not locate the original file copy of Maliwat's owner's duplicate TCTs in their records. Maliwat was then informed that since the Registry of Deeds was burned twice in the past, the file (original) titles were presumably destroyed.

Maliwat admitted that in January 1976, he filed two (2) petitions for reconstitution of the titles before the Register of Deeds, after which he received a letter from then acting, Register of Deeds Gutierrez requiring him to submit the owner's duplicate copies before the Register of Deeds as basis for the reconstitution of title. Maliwat claimed that Atty. Gutierrez got back the letter<sup>[19]</sup> when his wife and his lawyer, Moreno Gaid, went to the office of Atty. Gutierrez to surrender the owner's duplicate copies - which bore Serial Nos. 603461 and 603462 respectively, and not Serial Nos. 1403456 and 1403457 as evidenced by a receipt<sup>[20]</sup> issued by Atty. Gutierrez. Maliwat denied having any knowledge of the existence of TCT-11850 RT and T-11854 RT with serial nos. 1403456 and 1403457 which found their way into the Register of Deeds of Cavite and maintained that what were surrendered to Atty. Gutierrez were genuine owner's duplicate copies of TCT 11850-RT and T-11854 RT bearing serial numbers 603461 and 603462.

After giving due course to the petition at bar, the Court painstakingly reviewed the records to inquire and determine whether or not petitioner was given a fair trial in the lower court.

The Court notes that from the time of petitioner's arraignment on 2 August 1978 up to the time the prosecution offered its evidence, and rested, the hearings were either reset or cancelled no less than thirty (30) times owing to a variety of reasons proffered by petitioner. As early as 20 May 1982, the case was set for hearing of the evidence for the defense, but the case was reset for another eight (8) times, again