

THIRTEENTH DIVISION

[CA-G.R. CR NO. 35212, March 27, 2014]

**PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS.
EDITHA SARMIENTO AND NENITA RAMOS (DECEASED),
ACCUSED, EDITHA SARMIENTO, ACCUSED-APPELLANT.**

D E C I S I O N

DIMAAMPAO, J.:

Repugned before Us is the *Decision*^[1] dated 10 October 2011 of the Regional Trial Court, Fourth Judicial Region, Calapan City, Oriental Mindoro, Branch 40, convicting accused-appellant of the crime of *Estafa Through Falsification of Public Documents*, in Criminal Case No. C-04-7664, the *fallo* of which reads—

“ACCORDINGLY, finding the guilt of herein accused Editha Sarmiento y Caguete of the crime beyond reasonable doubt as principal by direct participation of the crime charged punishable under Article 315, par. 2 (a) and Article 172, par. (1) both of the Revised Penal Code in relation to Article 48 thereof and applying the Indeterminate Sentence Law, said accused is hereby sentenced to suffer imprisonment ranging from **FOUR (4) MONTHS and ONE (1) DAY OF Arresto Mayor to NINE (9) YEARS of Prision Mayor in its medium period**, with all the accessory penalties as provided for by law.

SO ORDERED.”^[2]

In an *Information*^[3] dated 21 May 2004, accused-appellant Editha Sarmiento (SARMIENTO) and co-accused Nenita Ramos (Ramos) were inculpated for the crime of *Estafa Through Falsification of Public Documents*, the accusatory averments read as follows:

“That during the months from February to March 1998, in the City of Calapan, Philippines and within the jurisdiction of the Honorable, the above-named accused conspiring, confederating and mutually helping one another, did then and there willfully, unlawfully and feloniously prepare or cause to be prepared 'SPECIAL POWER OF ATTORNEY' more particularly described as Doc. No. 66, Page No. 14, Book No. 1, Series of 1998 of the Notarial Register of Notary Public CALIXTO A. BACULO and an 'AFFIDAVIT OF NON-TENANCY' subscribed and sworn to before Atty. CALIXTO A. BACULO, a notary public, causing it to appear that CORONA SANCHEZ executed the said affidavit of non-tenancy and the special power of attorney giving them the authority to mortgage or re-mortgage with the Rural Bank of Victoria the parcel of land covered and embraced by Transfer Certificate of Title No. 33662 issued by the Registry of Deeds of Oriental Mindoro registered in the name of CORONA SANCHEZ, when said accused well knew, that said CORONA SANCHEZ could have not

executed said 'AFFIDAVIT OF NON-TENANCY' and 'SPECIAL POWER OF ATTORNEY' because Corona Sanchez was not in the Philippines at the time of the execution of the said documents; and thereafter, mortgage(d) said property covered by TCT No. 33662 with the Rural Bank of Victoria in the amount of **SIXTY THOUSAND (Php60,000.00) PESOS**, Philippine Currency, to the damage and prejudice of CORONA SANCHEZ represented by NEMESIA RAMOS SANCHEZ.

CONTRARY TO LAW.”

Upon arraignment, SARMIENTO and Ramos pled not guilty to the charge.^[4] Pending resolution of the case, Ramos died ensuing in the dismissal of the case against her. Thereafter, trial on the merits proceeded as regards SARMIENTO.

Culled from the records are the following undisputed facts:

One. Private complainant Corona Sanchez (Sanchez) is the registered owner of a parcel of land covered by Transfer Certificate of Title (TCT) No. T-33662 located in *Barangay Malinao, Naujan, Oriental Mindoro*.^[5]

Two. SARMIENTO, armed with a *Special Power of Attorney and Affidavit of Non-Tenancy*,^[6] obtained a loan in the amount of P60,000.00 from the Rural Bank of Victoria, Oriental Mindoro. To secure payment thereof, she executed a *Real Estate Mortgage and Promissory Note* over the subject realty.^[7]

The prosecution endeavored to demonstrate that SARMIENTO and Ramos conspired with each other and forged the signature of Sanchez in the *Special Power of Attorney and Affidavit of Non-Tenancy*, and used the falsified documents to obtain a loan from the bank. Sanchez neither prepared nor signed the *Special Power of Attorney and Affidavit of Non-Tenancy* given that at the time of its execution she was working at the Israeli Embassy in Vienna, Austria. Moreover, she did not authorize SARMIENTO and Ramos to mortgage her property or receive the proceeds of the mortgage loan as she did not personally know them.^[8]

Professing innocence, SARMIENTO denied falsifying or participating in falsifying the *Special Power of Attorney and Affidavit of Non-Tenancy*, and avowed that it was Ramos and her husband, Divino Ramos, who facilitated the mortgage loan and received the proceeds thereof. They, in turn, gave it to private complainant's mother.^[9]

Ploughing through the discordant evidence of the prosecution and the defense, the court *a quo* rendered the challenged *Decision*.

Unflustered, SARMIENTO (now, appellant) seeks refuge before Us asseverating that the court *a quo* gravely erred in:

I

FINDING ACCUSED-APPELLANT GUILTY DESPITE THE PROSECUTION'S FAILURE TO PROVE HER GUILT BEYOND REASONABLE DOUBT.

II

**DISREGARDING THE ACCUSED-APPELLANT'S VERSION AND
RELYING HEAVILY ON THE PROSECUTION'S VERSION.**

At the maelstrom of this *Appeal* is the following query— Did the court *a quo* err in convicting appellant of the complex crime of *Estafa Through Falsification of Public Documents*?

Upon this point, We answer in the affirmative.

Section 14(2), Article III of the 1987 Constitution provides that an accused has the right to be informed of the nature and cause of the accusation against him. In the same vein, Section 6, Rule 110 of the Revised Rules of Criminal Procedure requires that the acts or omissions complained of as constituting the offense must be alleged in the Information. Section 8 thereof likewise provides that the Information shall state the designation of the offense given by the statute and aver the acts or omissions constituting the offense.

The real nature of the crime charged is determined by the facts alleged in the Information and not by the title or designation of the offense contained in the caption of the Information. It is fundamental that every element of which the offense is comprised must be alleged in the Information. What facts and circumstances are necessary to be alleged in the Information must be determined by reference to the definition and the essential elements of the specific crimes.^[10]

Paragraph 2(a), Article 315 of the Revised Penal Code penalizes fraud or deceit when committed as follows:

"Art. 315. (Swindling (Estafa).- Any person who shall defraud another by any of the means mentioned herein below shall be punished by: x xx x

x x x

x x x

"2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) By using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits."

From the foregoing, the elements of the crime of estafa are: (1) there must be false pretense, fraudulent act or fraudulent means; (2) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (3) the offended party must have relied on the false pretense, fraudulent act or fraudulent means, that is, he must have been induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; and (4) as a result thereof, the offended party suffered damage.

^[11]

Deeply-embedded in Our jurisprudence is the rule that for a complex crime of estafa through falsification of a public document to prosper all the elements of both crimes of estafa and falsification of a public document must exist.^[12]

In the case at bench, the records reflect that the *Information* is devoid of any allegation as to the aforesaid elements. Ergo, appellant could not be charged with