



Republic of the Philippines
 Supreme Court
 Manila

FIRST DIVISION

JORGE E. AURO, represented
 by his heirs, **JOMAR O. AURO**
 and **MARJORIE O. AURO-**
GONZALES,

Petitioners,

- versus -

G.R. No. 246674

Present:

PERALTA, C.J., Chairperson,
CAGUIOA,
REYES, J. JR.,
LAZARO-JAVIER, and
LOPEZ, JJ.

JOHANNA A. YASIS,
 represented by **ACHILLES A.**
YASIS,

Respondent.

Promulgated:

JUN 30 2020

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DECISION

REYES, J. JR., J.:

Assailed in this Petition for Review on *Certiorari*¹ under Rule 45 of the Rules of Court are the Decision² dated September 27, 2018 and the Resolution³ dated March 15, 2019, both promulgated by the Court of Appeals (CA) in CA-G.R. SP No. 155932 entitled, “*Jorge E. Auro v. Honorable Presiding Judge of Branch 41, RTC Daet, Johanna A. Yasis represented by Achilles A. Yasis, and People of the Philippines.*”

The facts, as established by the evidence presented by the parties, are as follows:

¹ Rollo, pp. 3-15.

² Penned by Associate Justice Apolinario D. Bruselas, Jr., with Associate Justices Myra V. Garcia-Fernandez and Ronaldo Roberto B. Martin, concurring; id. at 19-26.

³ Id. at 28-29.

Petitioner Jorge E. Auro (Jorge) was charged with the crime of falsification of public document, as defined and penalized under Article 172,⁴ in relation to Article 171⁵ of the Revised Penal Code (RPC) before the Municipal Trial Court (MTC) of Mercedes, Camarines Norte. The accusatory portion of the Information reads as follows:

That on or about January 7, 2005 at Brgy. Del Rosario, [M]unicipality of Mercedes, [P]rovince of Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring, confederating and mutually helping one another to attain a common purpose, being then private individuals, did, then and there, willfully, unlawfully and feloniously falsify a notarized Deed of Absolute Sale, a public document, by making it appear that private complainant JOHANNA A. YASIS, participated in the said Deed of Absolute Sale as vendor and by affixing her signature as such, that is, accused made it appear that complainant sold her 2.5000 hectares fishpond situated in Brgy. Del Rosario, Mercedes, Camarines Norte, where in truth and in fact said complainant never participated in the preparation, execution or signing thereof, as she was actually residing in the United States of America and has never returned to the Philippines on that particular year (2005), and as a direct consequence thereof, the tax declaration of the complainant was cancelled and in lieu thereof a new declaration was issued in favor of the accused Jorge E. Auro, to the great damage and prejudice of the private complainant.

CONTRARY TO LAW.⁶

⁴ Art. 172. *Falsification by private individual and use of falsified documents.* – The penalty of *prision correccional* in its medium and maximum periods and a fine of not more than [P5,000.00] shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and
2. Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

⁵ Art. 171. *Falsification of public officer, employee or notary or ecclesiastic minister.* – The penalty of *prision mayor* and a fine not to exceed [P5,000.00] shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
3. Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

⁶ *Rollo*, p. 20.

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Ruling of the MTC

In its Decision dated June 21, 2017, the MTC found Jorge guilty beyond reasonable doubt of the felony of Falsification of Public Document and imposed the penalty of imprisonment of four months and one day of *arresto mayor* as minimum to three years, six months and 21 days of *prision correccional* as maximum, and to pay a fine of ₱1,000.00. Co-accused Fred Cornelio was acquitted by the lower court for failure of the prosecution to prove his guilt beyond reasonable doubt. With his motion for reconsideration denied by the lower court, Jorge filed his appeal before the Regional Trial Court (RTC).

Ruling of the RTC

Finding that the prosecution failed to present sufficient evidence to prove the genuineness or falsity of the questioned signature on the subject Deed of Sale, the RTC, on January 31, 2018, rendered a Decision, the dispositive portion of which reads as follows:

WHEREFORE, under the foregoing considerations, judgment is hereby rendered by:

- a) setting aside the Judgment appealed from and a new one is entered acquitting the accused-appellant of the crime; and
- b) ordering the cancellation of the tax declaration issued in favor of the accused-appellant by virtue of the subject deed (Exhibit "D").

SO ORDERED.⁷

The RTC acquitted Jorge, but ordered the cancellation of the tax declaration issued in his name by virtue of the alleged Deed of Sale. It ruled that while it was established that the notary public who notarized the said Deed of Sale had no existing notarial commission, the prosecution failed to present a handwriting expert to prove the genuineness or falsity of the questioned signature of respondent Johanna A. Yasis (Johanna) in the said Deed of Sale. The RTC opined that an individual could have several ways of affixing his/her signature. Applying the equipoise rule, the trial court ruled that the acquittal of Jorge is warranted.

However, the lower court treated the Deed of Sale as a mere private document that is not registrable, thus, the cancellation of the tax declaration is justified.

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Id. at 19-20.

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Not contented with the ruling of the trial court, Jorge seasonably filed his appeal with the CA. During the pendency of his appeal, he died and was substituted by herein petitioners as his lawful heirs.

Ruling of the CA

On September 27, 2018, the CA issued the now appealed Decision denying petitioners' appeal, and affirming the ruling of the trial court.

The CA notes that Jorge was not acquitted because there was no evidence against him, but by reason that the evidence for the prosecution and the defense were so evenly balanced as to call for the tilting of the scales in favor of Jorge. It does not necessarily mean that he did not commit the felony charged.

The appellate court pointed out that the cancellation of the tax declaration was related to the felony charged against him because the said tax declaration would not have been issued in Jorge's name without the alleged Deed of Sale executed in his favor. Since the Deed of Sale was defective, it cannot possibly give rise to a change of ownership in the tax declaration in favor of Jorge.

The CA agreed with the findings of the RTC that while there is doubt on whether or not the signature of respondent Johanna A. Yasis (Johanna) in the alleged Deed of Sale was falsified, it is already established that Atty. David S. Eñano, Jr. (Atty. Eñano), who signed the notarial part, was not a commissioned notary officer in Quezon City or anywhere else in the Philippines in 2005. Furthermore, while the said Deed of Sale was allegedly notarized on January 7, 2005, the purported proof of identification from Johanna in the form of a Community Tax Certificate was issued only on January 27, 2005. Further still, Johanna had claimed that she was residing in the United States of America at the time the alleged Deed of Sale was executed, thus, making it impossible that she was present during the time that the same was notarized before Atty. Eñano. Given that the alleged Deed of Sale was not validly notarized, it shall be treated as a mere private document that cannot be registered and give rise to a transfer of ownership, and, moreover, it cannot be a cause for the issuance of a corresponding tax declaration in favor of Jorge.

Therefore, on the basis of Article 104 of the Revised Penal Code (RPC), and as a consequence of the finding that the enabling document which gave rise to the erroneous issuance of the tax declaration in favor of Jorge was defective, the appellate court deemed it just that the said tax

declaration be cancelled as a form of restitution and Johanna be placed in the condition as she was before she had been defrauded.

Hence, this Petition.

The Issue

Petitioners posit the sole assignment of error: “[t]hat the lower court and the CA committed serious error of law in ordering the cancellation of the tax declaration of the petitioner over the subject property as part of its adjudication in the civil aspect of a criminal case for falsification of a public document, such cancellation being a totally different issue should be threshed out in a separate proceeding.”⁸

The Court’s Ruling

The appeal is without merit.

The civil action for the recovery of civil liability arising from the offense charged shall be deemed instituted with the criminal action

As a general rule, the prosecution cannot appeal or bring error proceedings from a judgment rendered in favor of the defendant in a criminal case. The reason is that a judgment of acquittal is immediately final and executory, and the prosecution is barred from appealing lest the constitutional prohibition against double jeopardy be violated.⁹ Section 21, Article III of the Constitution provides that “[n]o person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.”

Be as it may, either party may appeal the civil aspect of the decision, separate from the judgment of acquittal of the defendant.¹⁰ This is because our jurisdiction recognizes that when a criminal action is instituted, the civil action for the recovery of the civil liability arising from the offense is deemed instituted as well.¹¹

⁸ Rollo, p. 8.

⁹ *People v. Court of Appeals*, 755 Phil. 80, 97 (2015).

¹⁰ *Id.* at 98

¹¹ REVISED RULES ON CRIMINAL PROCEDURE, Rule 111, Sec. 1(a).

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In this case, it is Jorge himself, who appealed the civil liability imposed upon him arising from the same act or omission that is the subject of the instant criminal case. Petitioners cannot now, in its appeal, raise into issue the alleged error of the trial court regarding Jorge's civil liability in the criminal case instituted against him and at the same time, deny that the said civil action was ever deemed to be instituted with the criminal action.

In any case, the reservation of the right to institute separately the civil action should have been made before the prosecution starts presenting its evidence and under circumstances affording the offended party a reasonable opportunity to make such reservation.¹² Failing to do so, the civil action *ex delicto* shall automatically be deemed to be instituted with the present criminal action.

Civil liability of an accused may consist of more than an award of damages in favor of the offended party

Petitioners begrudge the RTC's order, which cancelled the tax declaration issued in the name of Jorge by reason that the alleged Deed of Sale was a mere private document that is not registrable. They argue that there is no basis for the award of civil indemnity in favor of Johanna since the act of falsification was not proven by the prosecution. Even assuming *arguendo* that Jorge had been convicted, the civil aspect would merely pertain to the actual, moral, exemplary damages and/or loss of earning capacity that may be due to the offended party.

We disagree.

Under Article 104 of the RPC, civil liability includes: 1) restitution; 2) reparation of the damage caused; and 3) indemnification of the consequential damages. Restitution means the return or the restoration of a thing or condition back to its original status, wherever or whatever it may be. Unlike indemnification, as when the court orders the offender to pay for damages for the loss incurred by the offended party, in restitution, the offender is forced to give up the thing or condition that he/she had gained back to the situation before he/she became the owner/possessor of the thing or benefited from the condition that had already occurred or happened.

Restitution of the thing or the subject matter of the action instituted must be made whenever possible, with allowance for any deterioration, or

¹² Id.

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diminution of value, as determined by the court.¹³ Furthermore, even though the thing may be found in the possession of third parties, who acquired it by lawful means, it may be recovered and its possession may be restored to its original owner or possessor, as the case may be.¹⁴

Acquittal of accused in a criminal case for failure of the prosecution to prove his/her guilt beyond reasonable doubt does not automatically preclude a judgment against him/her on the civil aspect of the case

Indeed, for justice to prevail, the scales must balance; justice is not to be dispensed for the accused alone. The interests of society and the offended parties, including the State, which have been wronged, must be equally considered. Verily, a verdict of conviction is not necessarily a denial of justice; and an acquittal is not necessarily a triumph of justice; for, to the society offended and the party wronged, it could also mean injustice. Justice then must be rendered even-handedly to both the accused, on one hand, and the State and the offended party, on the other.¹⁵

This Court had the occasion to rule that if the acquittal of the accused of the felony or crime charged against him/her is based on reasonable doubt, he/she is not automatically exempt from civil liability, which may be proved by preponderance of evidence only. In this regard, preponderance of evidence is the weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term “greater weight of the evidence” or “greater weight of the credible evidence.” Preponderance of evidence is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.¹⁶

This distinction between civil and criminal proceedings is in accord with the essential principle in law that while a criminal liability carries with it a corresponding civil liability, they are nevertheless separate and distinct. In other words, these two liabilities may co-exist, but their existence is not dependent on each other.¹⁷

This is supported by the Rules of Court, which provides that the extinction of the criminal action does not result in the extinction of the

¹³ REVISED PENAL CODE, Art. 105.

¹⁴ Id.

¹⁵ *Macapagal-Arroyo v. People*, 308 Phil. 1042, 1079-1080 (2017).

¹⁶ *Castillo v. Salvador*, 740 Phil. 115, 127 (2014), citing *Encinas v. National Bookstore, Inc.*, 485 Phil. 683, 695 (2004).

¹⁷ *Dy v. People*. 792 Phil. 672, 682 (2016).

corresponding civil action.¹⁸ Consistent with this, the Rules require that in judgments of acquittal, the court must state whether “the evidence of the prosecution absolutely failed to prove the guilt of the accused or merely failed to prove his guilt beyond reasonable doubt.”¹⁹ The latter may only be extinguished when there is a finding in a final judgment in the criminal action that the act or omission from which the civil liability may arise did not exist.²⁰

In this case, the CA affirmed the ruling of the RTC regarding the existence of Jorge’s civil liability in the criminal case charged against him, despite the fact that he was acquitted to the same, to wit:

At the outset, the Court notes that [Jorge] was acquitted not because there was no evidence against [Jorge], but because the evidence of the prosecution and the defense were so evenly balanced as to call for the tilting of the scales in favor of [Jorge]. Hence, while the RTC did acquit [Jorge], it did not necessarily mean that he did not commit the felony charged. The RTC only granted him the benefit of doubt under the equipoise doctrine. In other words, the evidence that [Jorge] committed falsification failed to hurdle the test or standard of proof beyond reasonable doubt.²¹

Thus, while the trial court had ruled that the prosecution had failed to prove Jorge’s guilt beyond reasonable doubt to the felony of falsification, it (prosecution) had nevertheless presented sufficient preponderance of evidence to establish the invalidity of the tax declaration issued in his name.

It is undisputed that the Deed of Sale was not validly notarized by an existing notary public in Quezon City or anywhere in the Philippines in 2005. Well-settled is the rule that deeds, conveyances, encumbrances, discharges, and other voluntary instruments, whether affecting registered or unregistered lands, should be notarized in order to be registrable.²² Since the enabling document, *i.e.*, the Deed of Sale was not validly notarized, it remains to be a private document that could not affect or cause the transfer of ownership of the tax declaration to the name of Jorge. Contrary to petitioners’ contention, the cancellation of the tax declaration is a necessary and direct consequence of the finding that the unnotarized Deed of Sale cannot give rise to any transfer of ownership to Jorge. Petitioners cannot have its cake and eat it too.

¹⁸ REVISED RULES ON CRIMINAL PROCEDURE, Rule 111, Sec. 2.

¹⁹ *Id.*, Rule 120, Sec. 2.

²⁰ *Dy v. People*, supra note 17, at 683.

²¹ *Rollo*, p. 24.

²² Presidential Decree No. 1529, Sec. 112.

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Finally, petitioners bewail that they were not afforded due process and were not presented an opportunity to present their evidence to the contrary. Case law states that the touchstone of due process is the opportunity to be heard.²³ “To be heard” does not mean only verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.²⁴

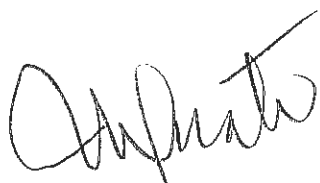
In conclusion, while the evidence presented does not establish the fact of the crime with moral certainty, the civil action still prevails for as long as the greater weight of evidence tilts in favor of a finding of liability. This means that while the mind of the court cannot rest easy in penalizing the accused for the commission of the crime, it nevertheless finds that he/she committed or omitted to perform acts which serve as a separate source of obligation.²⁵

WHEREFORE, in view of the foregoing, the instant Petition is **DENIED** due to lack of merit. The Decision dated September 27, 2018 and the Resolution dated March 15, 2019 issued by the Court of Appeals in CA-G.R. SP No. 155932 are hereby **AFFIRMED**.

SO ORDERED.


JOSE C. REYES, JR.
Associate Justice


WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice
Chairperson


²³ *Cambe v. Office of the Ombudsman*, 802 Phil. 190, 230 (2016).

²⁴ *Vivo v. Philippine Amusement and Gaming Corporation*, 721 Phil. 34, 43 (2013).

²⁵ *Dy v. People*, supra note 17, at 685.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



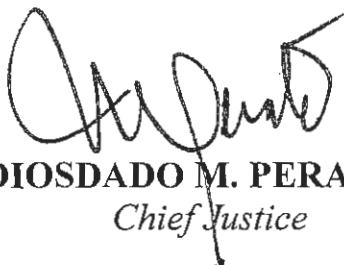
AMY C. LAZARO-JAVIER
Associate Justice



MARIO V. LOPEZ
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice

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