

BY: YSA
TIME: 1:54 PM



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

LUIS L. CO and ALVIN S. CO,
Petitioners,

G.R. No. 233015

Present:

- versus -

BERSAMIN, C.J.,
***PERLAS-BERNABE,**
GESMUNDO,
CARANDANG, and
ZALAMEDA, JJ.

PEOPLE OF THE PHILIPPINES,
BANGKO SENTRAL NG
PILIPINAS and PHILIPPINE
DEPOSIT INSURANCE
CORPORATION,
Respondents.

Promulgated:

OCT 16 2019

m. [signature]

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DECISION

BERSAMIN, C.J.:

When the information charges the accused to have forged a private document to commit fraud against another, the crime is falsification of a private document instead of *estafa*. It is the recital of the facts constitutive of the offense, not the designation of the offense in the information, that determines the crime being charged against the accused.

There can be no complex crime of falsification of private documents and *estafa* because the element of damage essential in both is the same.

The Case

We resolve the appeal filed by the petitioners to seek the review and reversal of the decision promulgated on December 22, 2015,¹ whereby the Court of Appeals (CA) affirmed with modification the judgment rendered on

* On official business.

¹ *Rollo*, pp. 50-67; penned by Associate Justice Normandie B. Pizarro, with the concurrence of Associate Justice Samuel H. Gaerlan and Associate Justice Ma. Luisa C. Quijano-Padilla.

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February 11, 2013 by the Regional Trial Court (RTC), Branch 15, in Manila convicting them of *estafa* as defined and penalized under Article 315, paragraph 2(a), of the *Revised Penal Code*.²

Antecedents

The CA summarized the factual and procedural antecedents thusly:

Accused-[a]ppellants Luis L. Co (Luis) and his son Alvin Milton S. Co (Alvin) were originally charged before the RTC with Estafa, as defined and penalized under Art. 315, paragraph 1(b) of the RPC, in an Information, which reads:

*That sometime during the period of March 1997 to December 1997, in the City of Manila and within the jurisdiction of this Honorable Court, the above-named accused[,] namely: **LUIS L. CO** and **ALVIN MILTON S. CO**[,] as principals by direct participation, with unfaithfulness or abuse of confidence, in their capacity (sic) as President and Assistant Vice President[,] respectively[,] of Jade Progressive Savings and Mortgage Bank, a thrift bank organized under the existing laws of the Republic of the Philippines, conspiring, confederating[,] and mutually helping one another, did then and there, willfully, unlawfully, and feloniously defraud Jade Progressive Savings and Mortgage Bank, its depositors and creditors[,] through the use of deceit by authorizing the release of the total amount of **THREE MILLION**, (sic) **THIRTY-TWO THOUSAND NINE HUNDRED NINE PESOS (₱3,032,909.00)** of the bank's funds supposedly as payment for services rendered by **ACME INVESTIGATION SERVICES, INC.** (a non-existent security agency), when in truth and in fact, no such contract existed and no such security services were rendered by said **ACME INVESTIGATION SERVICES, INC.**[,] in favor of Jade Progressive Savings and Mortgage Bank. Thereafter, once in possession of the aforesaid amount of ₱3,032,909.00[,] the accused willfully, unlawfully, and feloniously misappropriate and convert the same for their own personal use and benefit, to the damage and prejudice of Jade Progressive Savings and Mortgage Bank, its depositors, creditors[,] and the Bangko Sentral ng Pilipinas, in the amount of ₱3,032,909.00, Philippine Currency.*

CONTRARY TO LAW.

The Accused-Appellants moved for the quashal of the Information on the ground that the same failed to allege facts constitutive of the crime of Estafa under Art. 315, paragraph 1(b) of the RPC. Their motion was denied; nonetheless, the RTC directed the prosecution to amend the Information.

² Id. at 168-203; penned by Acting Presiding Judge Buenaventura Albert J. Tenorio, Jr.

The prosecution subsequently filed an amended Information this time charging the Accused-Appellants of Estafa, as defined and penalized under Art. 315, paragraph 2(a) of the RPC, the accusatory portion of which reads as follows:

That in or about and during the period comprised between March 1997 to December 1997, inclusive, in the City of Manila, Philippines, the said accused, conspiring and confederating together and mutually helping each other, did then and there, willfully, unlawfully and feloniously defraud JADE PROGRESSIVE SAVINGS AND MORTGAGE BANK, a banking institution duly organized and existing under Philippine Laws, located at G/F Birchtree Plaza Bldg., 825 Muelle de Industria Binondo, this City, in the following manner[;] to wit: the said accused, Luis L. Co and Alvin Milton S. Co, President and Assistant Vice-President, respectively, of the said bank, and taking advantage of their position as such, by means of false pretenses or fraudulent acts which they made prior to or simultaneous with the commission of the fraud to the effect that there exists a contract between the said bank and ACME INVESTIGATION SERVICES, INC., a non-existent security agency, that the said security services of which were rendered in favor of the said bank, did in fact[;] with the intent to defraud, authorize the release of the amount of THREE MILLION, (sic) THIRTY[-]TWO THOUSAND NINE HUNDRED NINE PESOS (₱3,032,909.00) and collect the same from the bank's funds for the purpose of paying the said security agency, said accused knowing fully well that no such security agency existed, no such contract exists between the said bank and the said agency[;] and no such security services were rendered in favor of the said bank and[;] therefore, no payment in the said amount of ₱3,032,909.00 having been made to the agency, that such acts/pretenses were only made by the accused for the purpose of obtaining (sic) as in fact, they did obtain the said total amount of ₱3,032,909.00 from the funds of the bank for their own personal use and benefit, thereby defrauding the said bank and its depositors and creditors, to the damage and prejudice of the said JADE PROGRESSIVE SAVINGS AND MORTGAGE BANK, its depositors and creditors[;] and the Bangko Sentral ng Pilipinas, in the said total amount of ₱3,032,909.00 Philippine Currency.

CONTRARY TO LAW.

The Accused-Appellants moved to quash the amended Information. They questioned the lack of signature of the Chief State Prosecutor and the Certification by any representatives of the State in the amended Information and the addition of new matters which changed the crime from Estafa under Art. 315, par. 1(b) to Estafa under Art. 315, par. 2(a) of the RPC. Their motion was denied by the RTC.

When arraigned, the Accused-Appellants, assisted by counsel, pleaded not guilty to the crime charged. Pre-trial was conducted and terminated on June 7, 2004.

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Thereafter, a hold departure order was issued against Accused-Appellants. Trial on the merits thereafter ensued.

The prosecution presented eight (8) witnesses: Catalina Zamora (Zamora), former Chief Accountant of Jade Bank; Minviluz Rubrico, former Deputy Liquidator of Jade Bank; Col. Ernesto Jimeno, General Manager of Philippine Association of Detective and Protective Agency (PADPAO); Julie Mae Barrios, Branch Head of Metrobank, Rada-Rodriguez branch; Spenser Say, Cluster Head of Metrobank Boni Avenue branch; PSI Wilfredo Rayos, Chief of Records section of the Security Agencies and Guards Supervision Division of the Philippine National Police (PNP); Raul Permejo, former messenger of Jade Bank; and Rodolfo Rante, Assisting Deputy Liquidator of Jade Bank.

On the other hand, the defense presented the two (2) Accused-Appellants on the witness stand. The RTC denied the testimony of Josephine Bravo, a practicing accountant, as to the procedure and banking practice of Jade Bank for she has no personal knowledge thereof.

The Version of the Prosecution:

Jade Bank was a thrift bank duly organized and existing under Philippine laws, with principal office address at G/F Birchtree Plaza Bldg., 825 Muelle de Industria, Binondo, Manila. In 2001, it was placed under liquidation by the Philippine Deposit and Insurance Corporation (PDIC).

The Accused-Appellants were both shareholders and officers of Jade Bank at the time material to the case. Accused-Appellant Luis was a director in 1996 and Acting President in 1997 while Accused-Appellant Alvin was Assistant Vice President in 1996 and 1997.

On April 21, 1997, Accused-Appellant Luis' secretary, Myla Jardeleza, handed Violeta Gella (Gella), disbursing clerk of Jade Bank, a request for payment with letter billing from Acme for investigation services and surveillance. The request was with the approval of Accused-Appellant Luis. The letter billing signed by Arturo dela Cruz as Managing Director of Acme.

The check voucher and the checks were prepared by Gella and forwarded to Zamora, then Chief Accountant of Jade Bank. After verifying the entries and signing the billing statements, Zamora forwarded it to Accused-Appellant Alvin for certification and then back to Accused-Appellant Luis for approval of the check voucher and manager's check. Both the Accused-Appellants signed and certified the check vouchers and the manager's check. At the time, Zamora noticed that the letterhead of Acme had no contact number and therein signature of Arturo dela Cruz was similar to the signature of Accused-Appellant Alvin.

Several transactions of the same nature as above followed. Overall, the Accused-Appellants caused the release of eight (8) manager's checks supposedly for payment for services rendered by Acme amounting to Three Million Thirty-Two Thousand and Nine Hundred Nine Pesos (PhP3,032,909.00), as follows:

Transaction Date	Date of Letter Billing	Voucher Number	Manager's Check Number	Amount
April 21, 1997	March 31, 1997	2235	348	₱242,900.00
April 21, 1997	April 23, 1997	2238	350	₱262,250.00
May 16, 1997	May 15, 1997	2239	468	₱400,250.00
June 17, 2007	June 15, 2007	2554	584	₱401,250.00
July 21, 1997	May 15, 1997	2826	722	₱313,838.00
August 14, 1997	July 31, 1997	3291	845	₱524,500.00
September 16, 1997	June 30, 1997	3585	1077	₱627,676.00
December 2, 1997	December 1, 1997	4246	1438	₱260,245.00

As it turned out, Acme was a fictitious agency as it was neither registered with the Securities and Exchange Commission nor granted with the required license by the Security Agencies and Guards Supervision Division of the PNP. It was also not a registered member of PADPAO.

Investigations revealed that seven (7) of the eight (8) checks were deposited to Metrobank Account No. 7-310-500212 under the names of Nelson Sia and/or Antonio Santos, alleged officers of Acme. Said bank account, however, was opened and is owned and controlled by the Accused-Appellants; Nelson Sia and Antonio Santos being the alias used by Accused-Appellants Alvin and Luis, respectively.

Check No. 468, on the other hand, was deposited in Citytrust Bank Account No. 04-020-00743-1 in the names of Henry Chua, Al Mendoza, Antonio Santos, and/or Amelia Santos. This bank account was likewise opened and is owned and controlled by the Accused-Appellants. Zamora, who was directed to open the Citytrust account, witnessed Accused-Appellant Luis sign as Antonio Santos and Accused-Appellant Alvin as Al Mendoza. The total amount has since been withdrawn from the accounts.

The Version of the Defense:

The Accused-Appellants denied the allegations against them.

Accused-Appellant Alvin stated that, as Sales/Product Manager and Assistant Vice President of Jade Bank, he was responsible for expanding the sales and creating new products and was under the supervision of Arcatomy Guarin, then the Chief Operating Officer and Executive Vice President of Jade Bank. He denied having any connection with Acme and maintained that he only signed the check vouchers after Zamora certified the correctness of the billing. He asserted further that the order for payment of Acme was approved by Accused-Appellant Luis.

On the other hand, Accused-Appellant Luis claimed that he signed the checks intended for Acme because all the initials from the accounting department were there. According to him, he was in no position to approve or disapprove billing statements because such is within the authority of the accounting department and he only signs the check if the payment is approved by said department and the check voucher is issued with all the required initials or signatures. He also testified that Acme provided security services to Jade Bank but that he has no direct

participation in the said agency. On cross examination, however, he admitted that he cannot remember if Acme provided Jade Bank with security guards.

Accused-appellant Luis did not file his formal offer of evidence; thus, the RTC deemed him to have waived his right to file his formal offer of evidence.³

Judgment of the RTC

After trial, the RTC convicted the petitioners of the crime of *estafa*. It concluded that the witnesses and the documents presented by the Prosecution established that the petitioners had conspired to defraud Jade Progressive Savings and Mortgage Bank (Jade Bank) and its depositors by making it appear that Acme Investigation Services had actually rendered security services to Jade Bank despite said security agency being a fictitious entity.

The RTC disposed thusly -

WHEREFORE, premises considered, this Court finds accused **LUIS L. CO** and **ALVIN MILTON S. CO**, **GUILTY beyond reasonable doubt** of the crime of Estafa under paragraph 2 (a) of the Revised Penal Code. They are hereby sentenced to suffer four (4) years of prision correccional in its medium period as minimum to fourteen (14) years, eight (8) months and one (1) day of reclusion temporal in its medium period as maximum and to **indemnify Jade Progressive Savings and Mortgage Bank, its depositors and creditors and the Bangko Sentral Ng Pilipinas** in the amount of Three Million Thirty-two Thousand Nine Hundred and Nine Pesos (₱3,032,909.00) representing the total amount of checks paid for the alleged services rendered by Acme Investigation Services, Inc.,

SO ORDERED.⁴

Decision of the CA

On appeal, the CA affirmed the RTC but modified the penalty, *viz.*:

WHEREFORE, the appeal is **DENIED**. The assailed *Decision* of the RTC, as well as the Order denying the motion for reconsideration thereof, is **AFFIRMED** with **MODIFICATION** in that the Accused-Appellants are hereby sentenced to suffer the indeterminate penalty of Four (4) years and Two (2) months of *prision correccional*, as minimum, to Twenty (20) years of *reclusion temporal* as maximum; and to indemnify Jade Bank the sum of Three Million Thirty-Two Thousand

³ Id. at 51-58.

⁴ Id. at 202-203.

Nine Hundred and Nine Pesos (PhP3,032,909.00), plus legal interests from the filing of the complaint until fully paid, plus costs.

SO ORDERED.⁵

With the denial of their motion for reconsideration on July 19, 2017,⁶ the petitioners now bring this appeal.

Issue

The petitioners mainly contend that the Prosecution did not present sufficient evidence to prove that they had conspired to defraud Jade Progressive Savings and Mortgage Bank (Jade Bank). They submit the following issues to be considered and resolved, namely:

1. WHETHER OR NOT THE ESTABLISHED FACTS SUPPORT THE CONCLUSION OF BOTH THE TRIAL COURT AND THE COURT OF APPEALS THAT THE ACCUSED IS GUILTY BEYOND REASONABLE DOUBT OF THE CRIME OF ESTAFA DEFINED AND PENALIZED UNDER ARTICLE 315, PAR. 2 (A) OF THE REVISED PENAL CODE.

2. WHETHER OR NOT THE CONVICTION OF THE PETITIONERS IS DEVOID OF ANY EVIDENTIARY BASIS SINCE IT WAS ANCHORED ON THE TESTIMONIES OF WITNESSES WHICH LACK PROBATIVE VALUE.

3. WHETHER OR NOT THE ESTABLISHED FACTS PROVED THE EXISTENCE OF CONSPIRACY BETWEEN THE TWO PETITIONERS.⁷

Ruling of the Court

We find merit in the appeal.

I.

**The crime charged was
falsification of a private document, not *estafa***

The RTC and the CA convicted the petitioners for the crime of *estafa* under Article 315, paragraph 2(a) of the *Revised Penal Code*, which provides:

⁵ Id. at 66-67.

⁶ Id. at 69-70.

⁷ Id. at 19-20.

ARTICLE 315. Swindling (Estafa). — 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.

x x x x

To properly charge an accused with *estafa* under Article 315, par. 2(a), supra, the information should aver the following essential elements, to wit: (1) that the accused used a fictitious name or false pretense that he possesses, power, influence, qualifications, property, credit, agency, business, imaginary transaction, or other similar deceits; (2) that the accused used such deceitful means prior to or simultaneous with the execution of the fraud; (3) that the offended party relied on such deceitful means to part with his money or property; and (4) that the offended party suffered damage.⁸

It is a fundamental tenet in criminal procedure that the recital in the information of the facts constitutive of the offense, not the designation of the offense therein, determines the crime being charged against the accused. Thus, we turn to the amended information to know what crime the petitioners have been charged with.

The amended information designated the offense the petitioners committed as *estafa*, stating therein that they so committed it by:

x x x taking advantage of their position as such, by means of false pretenses or fraudulent acts which they made prior to or simultaneous with the commission of the fraud to the effect that there exists a contract between the said bank and ACME INVESTIGATION SERVICE, INC., a non-existent security agency, that the said security services of which were rendered in favor of the said bank, did in fact[,] with the intent to defraud, authorize the release of the amount of THREE MILLION, (sic) THIRTY[-]TWO THOUSAND NINE HUNDRED NINE PESOS (₱3,032,909.00) and collect the same from the bank's funds for the purpose of paying the said security agency, said accused knowing fully well that no such security agency existed no such contract exists between the said bank and the said agency[,] and no such security services were rendered in favor of the said bank and[,] therefore, no payment in the said amount of ₱3,032,909.00 having been made to the agency, that such acts/pretenses were only made by the accused for the purpose of obtaining (sic) as in fact they did obtain the said total amount of ₱3,032,909.00 from

⁸ *Lopez v. People*, G.R. No. 199294, July 31, 2013, 703 SCRA 118, 127.

the funds of the bank for their own personal use and benefit, thereby defrauding the said bank and its depositors and creditors, to the damage and prejudice of the said JADE PROGRESSIVE SAVINGS AND MORTGAGE BANK, its depositors and creditors[,] and the Bangko Sentral ng Pilipinas, in the said total amount of ₱3,032,909.00 Philippine Currency.

The aforementioned allegations indicate that the petitioners signed the billing statements and requested payments on the basis that Acme Investigation Service, Inc. (Acme) had actually rendered security services to Jade Bank, prompting Jade Bank to pay. In other words, the amended information claimed that the fraud could not have been committed without the falsification of the private documents. Under such alleged circumstances, the crime charged was falsification of private documents instead of *estafa*.

It is not amiss to observe that there is no complex crime of *estafa* through falsification of a *private* document considering that the damage essential to both is the same. As a result, having such offenses compounded or complexed in accordance with Article 48⁹ of the *Revised Penal Code* is inherently disallowed. We reiterate the pronouncement made in *Batulanon v. People*,¹⁰ to wit:

As there is no complex crime of *estafa* through falsification of private document, it is important to ascertain whether the offender is to be charged with falsification of a private document or with *estafa*. **If the falsification of a private document is committed as a means to commit estafa, the proper crime to be charged is falsification. If the estafa can be committed without the necessity of falsifying a document, the proper crime to be charged is estafa.** Thus, in *People v. Reyes*, the accused made it appear in the time book of the Calamba Sugar Estate that a laborer, Ciriaco Sario, worked 21 days during the month of July, 1929, when in reality he had worked only 11 days, and then charged the offended party, the Calamba Sugar Estate, the wages of the laborer for 21 days. The accused misappropriated the wages during which the laborer did not work for which he was convicted of falsification of private document.

In *U.S. v. Infante*, the accused changed the description of the pawned article on the face of the pawn ticket and made it appear that the article is of greatly superior value, and thereafter pawned the falsified ticket in another pawnshop for an amount largely in excess of the true value of the article pawned. He was found guilty of falsification of a private document. In *U.S. v. Chan Tiao*, the accused presented a document of guaranty purportedly signed by Ortigas Hermanos for the payment of ₱2,055.00 as the value of 150 sacks of sugar, and by means of said falsified documents, succeeded in obtaining the sacks of sugar, was held

⁹ Article 48. *Penalty for complex crimes.* — When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.

¹⁰ G.R. No. 139857, September 15, 2006, 502 SCRA 35.

guilty of falsification of a private document.¹¹ [Bold underscoring supplied]

II

The Prosecution did not establish the crime of falsification of a private document

Falsification of a private document under Article 172, paragraph 2 of the *Revised Penal Code*, has the following elements, namely: (1) that the offender committed any of the acts of falsification, except those in paragraph 7, enumerated in Article 171 of the *Revised Penal Code*; (2) that the falsification was committed in any private document; and (3) that the falsification caused damage to a third party or at least the falsification was committed with intent to cause such damage.¹²

The Prosecution sought to establish that Acme did not exist; that Jade Bank did^e not benefit from any security services that could have been rendered by Acme; that petitioner Luis Co had signed the request for payment in favor of Acme; and that the checks issued as payments had been deposited under fictitious accounts the petitioners owned and controlled.

The first element of the crime of falsification of a private document was not established beyond reasonable doubt. Several circumstances we outline hereafter show why.

First of all, the testimonial and documentary evidence adduced herein did not reliably establish the authorship by either petitioner of the billing statements that would have stemmed from the non-existent contract of security services. Although Prosecution witness Catalina Zamora, the former Chief Accountant of Jade Bank, attested that she had seen petitioner Alvin Co sign the billing statements over the printed name of Arturo dela Cruz, the managing director of Acme, and insisted that such billing statements would have proved the fictitiousness of the contract averred in the amended information, we have noted the observation by the RTC that on her cross-examination Zamora had *denied* actually witnessing petitioner Alvin Co affixing his signature over the printed name Arturo dela Cruz in the billing statements.¹³ It thus appeared that Zamora's only basis to declare that petitioner Alvin Co had authored the fictitious and falsified billing statements was her impression about the signatures of Arturo dela Cruz and petitioner Alvin Co looking similar.

¹¹ Id. at 52.

¹² *Dizon v. People*, G.R. No. 144026, June 15, 2006, 490 SCRA 593, 605.

¹³ *Rollo*, p. 173.

Zamora's impression on the similarity in the signatures, which was clearly not derived from objective facts but upon her opinion, was testimony that had no probative value by virtue of its being the opinion of an ordinary witness. Indeed, the Prosecution did not show that her opinion came under any of the exceptions enumerated in Section 50, Rule 130 of the *Rules of Court*, viz.:

Sec. 50. *Opinion of ordinary witnesses.* - The opinion of a witness for which proper basis is given, may be received in evidence regarding -

- (a) The identity of a person about whom he has adequate knowledge;
- (b) A handwriting with which he has sufficient familiarity; and
- (c) The mental sanity of a person with whom he is sufficiently acquainted.

The witness may also testify on his impressions of the emotion, behavior, condition or appearance of a person. (44 a)

Secondly, Zamora declared that petitioner Alvin Co had used the aliases of Nelson Sia and Al Mendoza; and that petitioner Luis Co had used the alias of Antonio Santos. Her declarations became relevant to enable the tracing of the money back to the petitioners. But because she apparently had no personal knowledge on the use of the aliases by the petitioners, her declarations to that effect were hearsay and unreliable.

Thirdly, Zamora stated that petitioner Luis Co had ordered her to fill out the application card to open an account at Citytrust's Reina Regente Branch; and that petitioner Luis Co and three others had signed the card in her presence. Her statement did not suffice to incriminate the petitioners in the crime of falsification simply because there was no showing that the card thus filled out and signed had actually been used to open the Citytrust account. The doubt against Zamora's statement became pronounced in view of her admission that she had not herself delivered the card to Citytrust.

Moreover, although in most situations corroboration is not necessary for as long as the details of the crime have already been proved with sufficient clarity, we should point out that Zamora's statement, standing alone, did not credibly establish the receipt by the petitioners of the proceeds of the fraud. As such, corroboration by other evidence became necessary herein to substantiate Zamora's statement if the objective therefor was to enable the traceback of the proceeds of the fraud to either of the petitioners. The lack of corroboration accented that the Prosecution had been remiss in discharging its duty by leaving its proof of guilt inconclusive and incomplete. It also exposed her incrimination of the petitioners to be far from reliable and clear.

Fourthly, the Prosecution presented bank officers as witnesses against the petitioners. However, it was notable that said witnesses did not categorically certify that petitioner Alvin Co, on one hand, and either Nelson Sia or Al Mendoza, on the other, were one and the same person.

Lastly, Raul Permejo, another witness for the Prosecution, recalled that petitioner Alvin Co had instructed him to deposit checks in the accounts held in Citytrust and Metrobank; and that petitioner Alvin Co had used the name Nelson Sia in several bank transactions. Yet, Permejo was discredited as an unreliable witness in the face of his candid admission that he had received money from the counsel after each time he had testified in court against the petitioners. The financial incentives cast grave doubts on his sincerity and truthfulness, and negated the credibility of his recollections as a witness. The money was possibly a sufficient incentive for him to pervert his recollection and capacity for truth telling, rendering him untrustworthy for being fully biased *against* the petitioners. In this connection, a witness is said to be biased when his relation to the cause or to the parties is such that he has an incentive to exaggerate or give false color to his statements, or to suppress or to pervert the truth, or to state what is false.¹⁴

Faced with all the foregoing circumstances, the Court cannot but consider doubtful and suspicious the proof on the existence of the first element of the crime of falsification of a private document. A further discussion of the remaining elements of the offense has become unnecessary. Acquittal of the petitioners of the crime of falsification of a private document for failure to prove guilt beyond reasonable doubt should follow.

Absolving the petitioners of the crime of falsification of a private document likewise clears them of the crime of *estafa*. We adopt with approval the commentary expressed by a respected treatise on criminal law on the matter, *viz.*:

When the offender commits on a document any of the acts of falsification enumerated in Article 171 as a necessary means to commit another crime, like *estafa*, theft or malversation. The two crimes form a complex crime under Article 48. However, the document falsified must be *public, official or commercial*.

¹⁴ *People v. Lusabio, Jr.*, G.R. No. 186119, October 27, 2009, 604 SCRA 565, 584-585.

The falsification of a public, official or commercial document may be a means of committing estafa, because before the falsified document is actually utilized to defraud another, the crime of falsification has already been consummated, damage or intent to cause damage not being an element of the crime of falsification of public, official or commercial document. (*Intestate Estate of Manolita Gonzales Vda. De Carungcong v. People, GR No. 181409, February 11, 2010*). In other words, the crime of falsification has already existed. Actually utilizing that falsified public, official or commercial document to defraud another is estafa. But damage to another is caused by the commission of estafa, not by the falsification of the document. Therefore, the falsification of the public, official or commercial document is only a necessary means to commit estafa.

On the other hand, in the falsification of a private document, there is no crime unless another fact, independent of that of falsifying the document, is proved: *i.e.* damage or intent to cause it. Therefore, when one makes use of a private document, which he falsified, to defraud another, there results only one crime: the falsification of a private document. The damage to another is caused by the commission of the crime of falsification of falsification of private document. **The intent to defraud in using the falsified private document is part and parcel of the crime, and cannot give rise to the crime of estafa, because the damage, if it resulted, was caused by, and became the element of, the crime of falsification of private document. The crime of estafa in such case was not committed, as it could not exist without its own element of damage.**¹⁵ [Bold emphasis supplied]

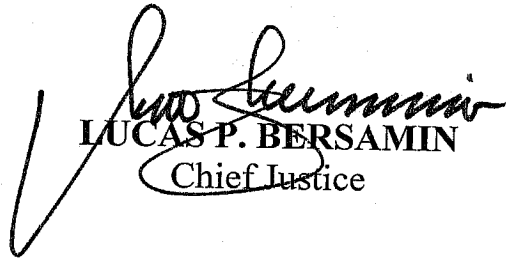
A final word needs to be said. We normally accord the trial court's evaluation of the credibility of witnesses the highest respect, and will not disturb the evaluation on appeal, but we also state that findings on the issue of credibility of witnesses and the consequent findings of fact could be reviewed and undone if we, as the ultimate dispenser of justice, find matters of substance and value whose proper significance and impact have been overlooked or incorrectly appreciated and which, if duly considered or properly appreciated, would alter the result of the case. No findings by the trial court are impervious to the onslaught of a just and fair appreciation by a higher court. After all, every appeal of a criminal conviction opens the entire records to review, and this is because our oaths as judges bind and commit us to ensure that no one should be held criminally responsible and condemned to suffer punishment unless the evidence against him has been sufficient and amounts to the moral certainty of his guilt.

WHEREFORE, the Court **REVERSES** and **SETS ASIDE** the decision promulgated on December 22, 2015 by the Court of Appeals in C.A.-G.R. CR No. 35911; **ACQUITS** petitioners **LUIS L. CO** and **ALVIN S. CO** of the crime charged for failure of the Prosecution to prove their guilt

¹⁵ II Reyes, L.B., *The Revised Penal Code*; 18th ed., Rex Bookstore, Manila, 2012, p. 235.

beyond reasonable doubt; and **ORDERS** the **DISMISSAL** of Criminal Case No. 03-211251 without pronouncement on costs of suit.

SO ORDERED.

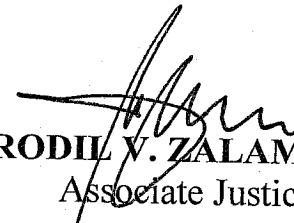

LUCAS P. BERSAMIN
Chief Justice

WE CONCUR:

(On Official Business)
ESTELA M. PERLAS-BERNABE
Associate Justice

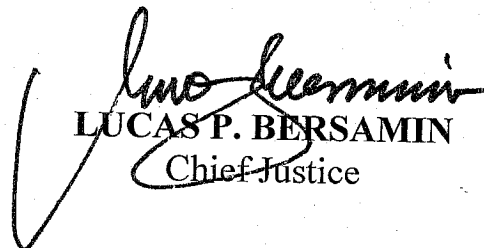

ALEXANDER G. GESMUNDO
Associate Justice


ROSMARIE B. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
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.


LUCAS P. BERSAMIN
Chief Justice