



Republic of the Philippines  
**Supreme Court**  
 Manila

**FIRST DIVISION**

**HILARIO P. SORIANO,**  
 Petitioner,

**G.R. No. 240458**

**Present:**

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

- versus -

**PEOPLE OF THE PHILIPPINES,**  
 Respondent.

**Promulgated:**

**JAN 08 2020**

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**DECISION**

**REYES, J. JR., J.:**

Before this Court is a Petition for Review on *Certiorari*,<sup>1</sup> assailing the Decision<sup>2</sup> dated February 28, 2018 of the Court of Appeals (CA) in CA-G.R. CR No. 39252, which affirmed with modification, only as to the penalty imposed, the Decision<sup>3</sup> dated October 13, 2015 of the Regional Trial Court (RTC) of Malolos City, Bulacan, finding petitioner Hilario P. Soriano (petitioner) guilty beyond reasonable doubt of violating Section 83 of Republic Act (R.A.) No. 337, as amended by Presidential Decree (P.D.) No. 1795 or the General Banking Act, and of estafa thru falsification of commercial documents.

\* On official leave.

<sup>1</sup> *Rollo*, pp. 13-37.

<sup>2</sup> Penned by Associate Justice Manuel M. Barrios, with Associate Justices Victoria Isabel A. Paredes and Jhosep Y. Lopez, concurring; *id.* at 41-53.

<sup>3</sup> Penned by Presiding Judge Ma. Theresa V. Mendoza-Arcega; *id.* at 85-102.

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### **Factual Antecedents**

Two separate Information were filed against petitioner as follows:

#### Criminal Case No. 1719-M-2000

That on or about June 27, 1997 and thereafter and within the jurisdiction of this Honorable Court, the said accused, in his capacity as president of the Rural Bank of San Miguel (Bulacan), Inc., did then and there, unlawfully and feloniously, indirectly borrow or secure a loan with the Rural Bank of San Miguel, San Miguel Branch, a domestic rural banking institution created, organized and existing under Philippine Laws, amounting to Ph[P]15 million, knowing fully well that the same has been done by him without the written consent and approval of the majority of the board of directors of the said bank, and which consent and approval the said accused deliberately failed to obtain and enter the same upon the records of said banking institution and to transmit a copy of which to the supervising department of the said bank as required by the General Banking Act, by using the name of one depositor VIRGILIO J. MALANG of San Miguel, Bulacan, who have no knowledge of the said loan, and once in possession of the said amount of Ph[P]14,775,000.00 net of interest, converted the same to his own personal use and benefit, in flagrant violation of the said law.

CONTRARY TO LAW.<sup>4</sup>

#### Criminal Case No. 1720-M-2000

That on or about June 27, 1997 and thereafter, in San Miguel, Bulacan and within the jurisdiction of this Honorable Court, the said accused HILARIO P. SORIANO and ROSALINDA ILAGAN, as principals by direct participation, with unfaithfulness or abuse of confidence and taking advantage of their position as president of the Rural Bank of San Miguel (Bulacan) Inc., and Manager of the Rural Bank of San Miguel-San Miguel Branch, a duly organized banking institutions (sic) under Philippine laws, conspiring, confederating and mutually helping one another, did then and there, willfully and feloniously falsify loan documents consisting of loan application/information sheet, promissory note dated June 27, 1997, disclosure statement on loan/credit transaction, credit proposal report, manager's check no. 06514 (sic) dated June 27, 1997 and undated RBSM-San Miguel Branch check voucher, by making it appear that one VIRGILIO J. MALANG filed the aforementioned loan documents when in truth and in fact, VIRGILIO J. MALANG did not participate in the execution of the said loan documents and that by virtue of the said falsification and with deceit and intent to cause damage, the accused credited the loan proceeds of the loan (sic) amounting to Ph[P]14,777,000.00, (sic) net of interest to the account of VIRGILIO J. MALANG with the RBSM and thereafter converted the same amount to their own personal gain and benefit, to the damage and

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<sup>4</sup> Amended Information; id. at 88.

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prejudice of the Rural Bank of San Miguel-San Miguel Branch, its creditors and the Bangko Sentral ng Pilipinas in the amount of Ph[P]14,775,000.00.

CONTRARY TO LAW.<sup>5</sup>

Petitioner was charged of securing an indirect loan from Rural Bank of San Miguel (RBSM) while being an officer thereof by falsifying loan documents and making it appear that a certain Virgilio Malang (Malang) obtained the same, and thereafter, converting the proceeds for his personal gain and benefit.

To prove the charges, the prosecution presented, aside from pertinent documentary evidence, the following witnesses, to wit: (1) Herminio Principio (Principio) of the Department of Rural Bank Supervision and Examination Section, Bangko Sentral ng Pilipinas (DRB-BSP);<sup>6</sup> (2) Malang, a businessman and depositor of the (RBSM) in Bulacan;<sup>7</sup> (3) Andres Santillana (Santillana), president of Mechants Rural Bank of Talavera, Inc. (MRBTI);<sup>8</sup> (4) Epifanio Posada (Posada), branch manager of MRBTI, Sta. Rosa Branch;<sup>9</sup> (5) Evelyn Ramos (Ramos), a representative of the Land Bank of the Philippines (Land Bank), Gapan Branch;<sup>10</sup> (6) Nancy Angeles (Angeles), a cashier from Land Bank-Gapan;<sup>11</sup> (7) Francisco Gementiza (Gementiza) of the Philippine Clearing House (PCH);<sup>12</sup> (8) Nonito Cristobal (Cristobal), former branch manager of Land Bank-Gapan;<sup>13</sup> and (9) Elmer Haber (Haber) of the Philippine Deposit Insurance Corporation (PDIC).<sup>14</sup>

Principio testified that he was tasked to ascertain the financial conditions of rural banks and determine if these banks comply with the banking laws and the regulations, as well as the directives of the BSP. He became in-charge of RBSM. During the general examination, RBSM was found to have several violations, particularly the grant of loans “without proper and complete loan documentation” and “clean or unsecured loans were being granted in such a large amount that would be considered excessive for the substance of needs of the borrowers.”<sup>15</sup>

Upon further investigation, it was discovered that on June 27, 1997, RBSM released an unsecured loan with a principal amount of ₱15,000,000.00 to Malang, without a co-maker and collateral; without approval from the Credit Committee or the Board of Directors; and through an incomplete loan application, the same being signed in blank except for

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<sup>5</sup> Id. at 87.

<sup>6</sup> Id. at 89-92.

<sup>7</sup> Id. at 92-93.

<sup>8</sup> Id. at 93-94.

<sup>9</sup> Id. at 94.

<sup>10</sup> Id.

<sup>11</sup> Id. at 95.

<sup>12</sup> Id.

<sup>13</sup> Id.

<sup>14</sup> Id. at 95-96.

<sup>15</sup> Id. at 16-17.

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the name and address.<sup>16</sup> In a Letter<sup>17</sup> dated September 15, 1997 addressed to the BSP, petitioner stated that said loan was “approved/confirmed under BR No. 64A-1997 dated July 9, 1997” and that the same was “secured with the following collaterals: TCT-RT25807 (T-111040) situated in San Miguel, Bulacan, TCT-T34464 situated in Baliuag, Bulacan, [and] TCT-285848 situated in Caloocan City.”<sup>18</sup> Records, however, show that no report regarding said loan was submitted to the DRB-BSP and that there were no annotations on the transfer certificates of title purportedly subject of the real estate mortgage.<sup>19</sup>

Principio demanded from petitioner’s co-accused, Rosalinda Ilagan (Ilagan), RBSM General Manager, to produce the credit folder of the subject loan. Ilagan furnished Principio the following documents: (a) Loan Application/Information Sheet, signed in blank and without any information except the name and address of the alleged borrower; (b) Promissory Note No. 101-97-110 dated June 27, 1997, in the principal amount of ₱15,000,000.00, purportedly executed by Malang; (c) Disclosure Statement on Loan/Credit Transaction, purportedly signed by Malang; and (d) unnumbered Credit Proposal Report dated May 14, 1997, for spouses Malang, which was prepared, recommended for approval and signed by Ilagan, approved by petitioner as member of the Board of Directors of RBSM, and does not bear the signatures of the majority of the Board of Directors of RBSM.<sup>20</sup>

Pursuant to the said loan, Manager’s Check No. 016514<sup>21</sup> dated June 27, 1997 in the amount of ₱14,775,000.00 payable to Malang was released.

Malang, however, denied having applied for and received any proceeds of the said loan. This was corroborated by an Affidavit<sup>22</sup> executed by Ilagan. Instead, Malang testified that he knew petitioner as the president of RBSM and because they were both stockholders of MRBTI. He narrated that petitioner encouraged him to apply for a loan and gave him documents to fill up and sign. He, however, withdrew the application later on due to his wife’s objection thereto, and also due to their lawyer’s advice that the loan will not be granted because of the insufficient collateral. He was, thus, surprised to discover that the loan proceeds were deposited to his purported current account with RBSM, when he does not have one. Two personal checks with Nos. 0122077<sup>23</sup> and 0122076<sup>24</sup> dated July 1, 1997, amounting to ₱12,409,791.99 and ₱2,365,000.00, respectively, payable to himself, were

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<sup>16</sup> Id. at 17.

<sup>17</sup> Exhibits “P-series,” records, Vol. V-A, pp. 249-253.

<sup>18</sup> Exhibit “P-5,” id. at 252.

<sup>19</sup> *Rollo*, p. 91; Exhibits “Q,” “R,” “S,” id. at 254-256.

<sup>20</sup> Id. at 17.

<sup>21</sup> Exhibit “Z,” records, Vol. V-A, pp. 288-290.

<sup>22</sup> Exhibit “Y,” id. at 287.

<sup>23</sup> Exhibit “BB,” id. at 293.

<sup>24</sup> Exhibit “CC,” id.

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thereafter issued and drawn from the said current account.<sup>25</sup> These checks were then deposited to another purported account of Malang in MRBTI.<sup>26</sup>

Upon confronting Santillana, MRBTI's president, about the deposit, he found out that it was Ilagan, upon petitioner's instruction, who deposited the two checks to the account.<sup>27</sup>

Santillana testified that, indeed, sometime in July 1997, Ilagan deposited checks in Malang's account and thereafter, also withdrawn by Ilagan, per petitioner's instruction. According to Santillana, petitioner instructed him as follows: "*x x x Andy may padadala akong tseke riyon ideposito mo [sa] account ni Malang pagka clear ika, pabalikan ko kay Rose dyan, kukunin sayo ipalit mo ng kuwan ipakiusap mo sa Landbank na ipalit ng tseke sa ganong pangalan.*"<sup>28</sup> Thus, the deposited amount was withdrawn through the issuance of 30 MRBTI checks,<sup>29</sup> drawn against MRBTI's Land Bank account, payable to Malang. Thereafter, as arranged, said checks were taken by a certain Diosa Marquez with Ilagan and used to buy two Land Bank cashier's checks, amounting to ₱12,409,791.99 (Check No. 000000992) and ₱2,365,000.00 (000000993) both dated July 3, 1997, payable to Norma Rayo (Rayo) and Teresa Villacorta (Villacorta), respectively.<sup>30</sup>

Ramos and Angeles of Land Bank-Gapan corroborated this testimony.<sup>31</sup>

These Land Bank checks, among others, were then deposited to RBSM to pay off petitioner's previous irregular loans. Said payments were evidenced by official receipts issued by RBSM.<sup>32</sup>

Despite several opportunities given, the defense failed to file its formal offer of evidence.<sup>33</sup>

Incidentally, on May 18, 2014, the RTC received a copy of the Certificate of Death dated February 13, 2014 of Ilagan.<sup>34</sup>

In a Decision<sup>35</sup> dated October 13, 2015, the RTC found petitioner guilty as charged, *viz.*:

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<sup>25</sup> *Rollo*, pp. 92-93.

<sup>26</sup> Deposit Slip dated July 3, 1997, Exhibit "EE," records, Vol. V-A, p. 295.

<sup>27</sup> *Rollo*, p. 88.

<sup>28</sup> *Id.* at 94.

<sup>29</sup> Exhibits "FF-series," records, Vol. V-A, pp.296-303.

<sup>30</sup> *Rollo*, pp. 93-94.

<sup>31</sup> *Id.* at 94-95.

<sup>32</sup> Exhibits "TT" and "UU," records, Vol. V-A, pp. 427-428.

<sup>33</sup> *Id.* at 97.

<sup>34</sup> *Id.*

<sup>35</sup> *Supra* note 3.

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**WHEREFORE**, judgment is hereby rendered finding the accused **Hilario P. Soriano**:

a) [I]n Criminal Case No. 1719-M-2000, **GUILTY** beyond reasonable doubt for violation of Section 83, R.A. No. 337 as amended by P.D. No. 1795 (General Banking Act) and hereby sentences him to suffer imprisonment of ten years and a fine of Ph[P]200,000.00;

b) In Criminal Case No. 1720-M-2000, **GUILTY** beyond reasonable doubt of Estafa thru Falsification of Commercial Documents and hereby sentences him to an indeterminate prison sentence ranging from ten years and one day of prision mayor as minimum, to twenty years of reclusion temporal as maximum, and to indemnify the Rural Bank of San Miguel-San Miguel Branch, its creditors and Bangko Sentral ng Pilipinas the total sum of Php14,775,000.00, with interests thereon at the rate of 12% per annum from the filing of the Informations until paid, plus costs. Further, the accessory penalties as provided by law shall be imposed upon the accused.

On the other hand, the liability of accused, **Rosalinda Ilagan**, is extinguished in view of her death, as per Death Certificate dated 13 February 2014.

**SO ORDERED.**<sup>36</sup>

On appeal, the CA affirmed the RTC's Decision with modification only as to the penalties imposed as follows:

**WHEREFORE**, the foregoing considered, the appeal is **DENIED**. The Decision dated 13 October 2015 of the Regional Trial Court (Branch 17, Malolos City) in Crim. Case Nos. 1719-M-2000 and 1720-M-2000 is **AFFIRMED WITH MODIFICATION** as to the following penalties prescribed:

(a) In Criminal Case No. 1719-M-2000, accused-appellant Hilario P. Soriano is found **GUILTY** beyond reasonable doubt for violation of Section 83, R.A. No. 337 as amended by P.D. No. 1795 (General Banking Act) and is hereby sentenced to suffer imprisonment of Ten (10) Years and a fine of Ten Thousand Pesos (P10,000.00); and

(b) In Criminal Case No. 1720-M-2000, accused-appellant Hilario P. Soriano is found **GUILTY** beyond reasonable doubt for the complex crime of Estafa thru Falsification of Commercial Documents and is hereby sentenced to an indeterminate sentence of imprisonment ranging from Four (4) Years and Two (2) Months of *prision correccional* as minimum to Thirteen (13) Years of *reclusion temporal* as maximum, and to indemnify the Rural Bank of San Miguel-San Miguel Branch, its creditors and Bangko Sentral ng Pilipinas the total sum of P14,775,000.00, with interests thereon at the rate of 12% per annum from the filing of the Informations until paid, plus costs. Further, the accessory penalties as

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<sup>36</sup> Rollo, pp. 101-102.

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provided by law shall be imposed upon the accused.

**SO ORDERED.**<sup>37</sup>

Petitioner's motion for reconsideration was likewise denied by the CA in its June 26, 2018 assailed Resolution.<sup>38</sup>

Hence, this petition.

**Issues**

1. Was petitioner's guilt in Criminal Case No. 1719-M-2000 for violation of Section 83 of R.A. No. 337, as amended, proved beyond reasonable doubt?

2. Was petitioner's guilt in Criminal Case No. 1720-M-2000 for the complex crime of estafa thru falsification of commercial documents proved beyond reasonable doubt?

Petitioner maintains that he did not violate Section 83 of R.A. No. 337, as amended, or the DOSRI<sup>39</sup> law. Specifically, petitioner avers that the prosecution attempted to establish that he obtained an indirect loan under Malang's name in the net amount of ₱14,775,000.00 but its evidence, namely the General Examination Report, refers to a different loan, *i.e.*, his irregular loan amounting to ₱34,000,000.00. Petitioner also argues that the prosecution's failure to present Rayo as witness was fatal to its case. Petitioner also points out that the prosecution failed to check his bank account to see if the subject went straight to his coffers to prove that it inured to his benefit.

Petitioner also argues that the prosecution evidence was insufficient to prove his participation in the commission of the crime of estafa through falsification of commercial documents. Specifically, petitioner stresses the fact that it was actually Malang who signed the loan application was established. Further, petitioner points out that as RBSM's president, he was not engaged in frontline services for him to be able to process loan applications.

**The Court's Ruling**

We find no merit in the instant petition.

At the outset, it must be noted that the arguments raised by petitioner inarguably require to inquire into the sufficiency of the evidence presented by the prosecution, a course of action which this Court will, generally, not

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<sup>37</sup> Id. at 52.

<sup>38</sup> Id. at 55-57.

<sup>39</sup> Director, Officer, Stockholder and Related Interest.

do, consistent with our repeated holding that this Court is not a trier of facts. It is basic that factual findings of trial courts, including their assessment of witnesses' credibility, are entitled to great weight and respect by this Court, especially when affirmed by the CA.<sup>40</sup> None of the jurisprudential exceptions<sup>41</sup> to this rule obtain in this case.

We find no cogent reason to deviate from the courts *a quo*'s ruling that petitioner was guilty beyond reasonable doubt of violating the DOSRI law, as well as of the complex crime of estafa through falsification of commercial documents. The clear, positive, and categorical testimonies of the nine prosecution witnesses that corroborate each other on all material points, coupled with the voluminous documentary evidence on record clearly establish petitioner's guilt on the offenses charged.

### *Violation of the DOSRI Law*

Section 83 of R.A. No. 337, as amended, states:

SEC. 83. No director or officer of any banking institution shall, either directly or indirectly, for himself or as the representative or agent of others, borrow any of the deposits of funds of such bank, nor shall he become a guarantor, indorser, or surety for loans from such bank to others, or in any manner be an obligor for moneys borrowed from the bank or loaned by it, except with the written approval of the majority of the directors of the bank, excluding the director concerned. Any such approval shall be entered upon the records of the corporation and a copy of such entry shall be transmitted forthwith to the Superintendent of Banks. The office of any director or officer of a bank who violates the provisions of this section shall immediately become vacant and the director or officer shall be punished by imprisonment of not less than one year nor more than ten years and by a fine of not less than one thousand nor more than ten thousand pesos.

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From the foregoing, the following elements must be present to constitute a violation of the above-quoted provision: (1) the offender is a director or officer of any banking institution; (2) the offender, either directly or indirectly, for himself or as a representative or agent of another, performs any of the following acts: (a) he borrows any of the deposits or funds of such bank; or (b) he becomes a guarantor, indorser, or surety for loans from such

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<sup>40</sup> *Pucay v. People*, 536 Phil. 1117, 1125 (2006).

<sup>41</sup> (1) when the findings are grounded entirely on speculation, surmises or conjectures; (2) when the inference made is manifestly mistaken, absurd or impossible; (3) when there is grave abuse of discretion; (4) when the judgment is based on a misapprehension of facts; (5) when the findings of facts are conflicting; (6) when in making its findings the Court of Appeals went beyond the issues of the case, or its findings are contrary to the admissions of both the appellant and the appellee; (7) when the findings are contrary to the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record; and (11) when the Court of Appeals manifestly overlooked certain relevant facts not disputed by the parties, which, if properly considered, would justify a different conclusion. *Id.* (Citation omitted)

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bank to others; or (c) he becomes in any manner an obligor for money borrowed from bank or loaned by it; and (3) the offender has performed any of such acts without the written approval of the majority of the directors of the bank, excluding the offender, as the director concerned.<sup>42</sup>

The essence of the crime is becoming an obligor of the bank without securing the necessary written approval of the majority of the bank's directors. The DOSRI law was enacted as the Congress deemed it essential to impose certain restrictions on the borrowings undertaken by directors and officers in order to protect the public, especially the depositors. Such restriction is necessary because of the advantage these bank officers have because of their position, in acquiring loans or borrowing funds from the bank funds. Indeed, banks were not created for the benefit of their directors and officers; they cannot use the assets of the bank for their own benefit, except as may be permitted by law.<sup>43</sup>

As borne by the records, the aforecited elements were established beyond reasonable doubt in this case. There is no question that petitioner was a director and officer of RBSM, being the president thereof. It was also established that the subject loan had no approval from RBSM's board of directors. Petitioner, however, questions the existence of the second element. Petitioner argues that the evidence of the prosecution was not able to prove that the subject loan under Malang's name, was his indirect loan as the prosecution evidence pertained to a different loan; nor was the prosecution able to establish that the alleged proceeds of said loan inured to his benefit to make him an obligor thereof.

According to petitioner, the prosecution evidence, particularly the General Examination Report of RBSM as of September 15, 1996, pertained to the another irregular loan under his name amounting to ₱34,000,000.00, which was divided into two names: his and Rayo's. Put differently, petitioner avers that what the prosecution was able to prove was his previous irregular loans, not the indirect loan under Malang's name, which was the subject of the Information in Criminal Case No. 1719-M-2000. Petitioner avers that the prosecution was "muddling the issues".

Contrary to petitioner's position, it is not the prosecution, but his averments, which muddle the factual circumstances.

Indeed, petitioner was charged and convicted under the DOSRI law because of his indirect loan under Malang's name. This was established through the testimonies of the prosecution witnesses, found credible by the trial court and the CA, coupled with the documentary evidence presented. Evidence on record clearly establish that petitioner orchestrated the release of the subject fictitious loan under Malang's name, the proceeds thereof were used to pay petitioner's other irregular loans from RBSM. The

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<sup>42</sup> *Go v. Bangko Sentral ng Pilipinas*, 619 Phil. 306, 317 (2009).

<sup>43</sup> *Id.* at 317.

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prosecution witnesses testified that the whole process – from the loan application, the purported approval thereof, the release, up to the use of the proceeds – were made to happen through the direct instructions of petitioner.

Contrary to what petitioner attempts to impress to this Court, the General Examination Report was not the only evidence presented by the prosecution to prove his hand in the indirect loan under Malang's name. There was no error on the part of the prosecution in finding it relevant to prove petitioner's previous irregular loans to establish his interest or motive in obtaining the subject indirect loan, *i.e.*, to apply the same to said previous loans, among others. Indeed, as found by the courts *a quo*, the prosecution's evidence was sufficient, not only to prove that petitioner orchestrated the whole process to obtain the subject loan, but also to prove that the proceeds thereof were used to pay off his previous irregular loans. Principio testified:

Q: Now, you pointed to a hand-written notation appearing at the dorsal portion of Exh. HH which dorsal portion was marked Exh. HH-1-a and the written notation which are O.R. No. 187038 and another O.R. is 187039, what are these ORs all about?

(Witness examining)

A: These [receipts] were issued by the Rural Bank of San Miguel, Plaridel Branch, sir.

Q: Why did the Rural Bank of San Miguel, Plaridel Branch issued said O.R.[s]?

A: **[They are] for the receipt of the check[s] in the name of Teresa Villacorta and Norma Rayo, sir. [These] checks [were] applied to the loan[s] of Norma Rayo, Hilario Soriano and other names, sir.**

Q: Now, let's go to the two checks, one by one, to which loan was the check marked as Exh. HH in the amount of ₱2,365,000.00 applied to?

(Witness examining)

A: **The check No. 00992 in the amount of ₱12,409,791.99 was applied to the loan of Norma Rayo and Hilario Soriano, sir.**

Q: How about the check marked Exh. HH?

A: **It was applied to the loan of Hilario P. Soriano, E. Perdigonez, C. de Guzman, and R. Carlos and M.V. Tecson, sir.**<sup>44</sup>  
(Emphasis supplied)

Neither was the non-presentation of Rayo as a witness fatal to the prosecution's case. The testimonies of the prosecution witnesses which were corroborative of each other in all the relevant and material points, coupled with the documentary evidence on record, established in detail, not only

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<sup>44</sup> TSN, Redirect Examination of Principio, Transcript of Stenographic Notes, April 28, 2005, pp. 9-10.

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petitioner's connection with Rayo, as well as Villacorta, but also the scheme perpetrated by petitioner to obtain the fictitious loan under Malang's name.

That the proceeds of the subject loan did not go "straight to his coffers," as petitioner points out, is of no moment. The established fact remains that petitioner obtained the subject indirect loan and used the proceeds thereof to pay his other obligations, among others. To this Court's mind, it would be absurd for a high-ranking bank officer to orchestrate the processing and acquisition of a fictitious loan and to deposit the proceeds thereof straight to his personal bank account only to leave paper trails and put himself at the risk of easy apprehension. Precisely, petitioner resorted to a circuitous scheme to perpetrate his plan.

As held by this Court in the related case of *Soriano v. People*,<sup>45</sup> the prohibition under the DOSRI law is broad enough to cover various modes of borrowing, viz.:

It covers loans by a bank director or officer (like herein petitioner) which are made either: (1) directly, (2) *indirectly*, (3) for himself, (4) or as the representative or agent of others. It applies even if the director or officer is a mere guarantor, indorser or surety for *someone else's* loan or is in any manner an obligor for money borrowed from the bank or loaned by it. The covered transactions are prohibited unless the *approval, reportorial* and *ceiling* requirements under Section 83 are complied with. The prohibition is intended to protect the public, especially the depositors, from the overborrowing of bank funds by bank officers, directors, stockholders and related interests, as such overborrowing may lead to bank failures. It has been said that "banking institutions are not created for the benefit of the directors [or officers]. While directors have great powers as directors, they have no special privileges as individuals. They cannot use the assets of the bank for their own benefit except as permitted by law. Stringent restrictions are placed about them so that when acting both for the bank and for one of themselves at the same time, they must keep within certain prescribed lines regarded by the legislature as essential to safety in the banking business.

" A *direct* borrowing is obviously one that is made in the name of the DOSRI himself or where the DOSRI is a named party, while an *indirect* borrowing includes one that is made by a third party, but the DOSRI has a stake in the transaction. The latter type – indirect borrowing – applies here. x x x (Citations omitted)

Considering all the foregoing established circumstances, we find that the courts *a quo* correctly ruled that the prosecution evidence proved beyond reasonable doubt that petitioner, as president of RBSM, indirectly borrowed or secured a loan with RBSM without the written consent and approval of the majority of the board of directors, which consent and approval petitioner deliberately failed to obtain, by using the name of one depositor Malang, the latter having no knowledge of said loan, and thereafter converted the same to his own personal use and benefit.

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<sup>45</sup> 625 Phil. 33, 53-54 (2010).

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*Estafa through Falsification of  
Commercial Documents*

The elements of falsification of documents under paragraph 1, Article 172 of the Revised Penal Code (RPC) are: (1) that the offender is a private individual or a public officer or employee who did not take advantage of his official position; (2) that he committed any of the acts of falsification enumerated in Article 171 of the RPC;<sup>46</sup> and (3) that the falsification was committed in a public, official or commercial document.<sup>47</sup>

All these elements were likewise established in this case beyond reasonable doubt.

*First*, petitioner is a private individual.

*Second*, petitioner committed one of the acts of falsification under Article 171 of the RPC, *i.e.*, he caused it to appear that Malang applied for the subject loan when he, in fact, did not do so. Records show that petitioner was able to convince Malang to sign the loan application, promissory note, and disclosure statement in blank, and together with his now deceased co-accused Ilagan, processed and approved the loan even if the same was retracted and discontinued by Malang, not to mention that the documents and requirements therefor were incomplete. Checks were later on issued and the proceeds thereof withdrawn under Malang's name, again without the latter's knowledge. Petitioner also made it appear, as can be gleaned from the Letter dated September 15, 1997 addressed to the BSP signed by petitioner, that the purported loan application of Malang was approved by RBSM board of directors and secured by real estate properties. Records, however, show that there was no such approval from the board nor was there any collateral for the subject loan.

*Third*, the falsification was committed in bank loan application, promissory note, checks and disclosure statement, among others, which are

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<sup>46</sup> ART. 171. Falsification by public officer, employee; or notary or ecclesiastical minister. – The penalty of *prision mayor* and a fine not to exceed ₱5,000 pesos 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 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. (Emphasis supplied)

<sup>47</sup> *Tanenggee v. People*, 712 Phil. 310, 332-333 (2013).

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commercial documents. Commercial documents are, in general, documents or instruments which are "used by merchants or businessmen to promote or facilitate trade or credit transactions" such as the above-said documents and instruments.<sup>48</sup>

This committed falsification was also established to have been a necessary means to commit estafa.

In *Tanenggee*<sup>49</sup> the Court explained that:

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. 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 the damage 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.

Estafa is generally committed when (a) the accused defrauded another by abuse of confidence, or by means of deceit, and (b) the offended party or a third party suffered damage or prejudice capable of pecuniary estimation." "[D]eceit is the false representation of a matter of fact, whether by words or conduct, by false or misleading allegations, or by concealment of that which should have been disclosed which deceives or is intended to deceive another so that he shall act upon it to his legal injury." (Citations omitted)

As in this case, the crime of falsification was already consummated, and the falsified documents were, thereafter, used to defraud the bank to release money purportedly to Malang.

Records show that the elements of estafa obtain in this case. Petitioner falsely represented that Malang pursued the loan application and promissory note that were signed in blank through petitioner's prodding; and orchestrating the whole process until he, with his now deceased co-accused Ilagan, succeeded in withdrawing the proceeds thereof from RBSM, coursing them through MRBTI and Land Bank, and thereafter applying the same to his previous irregular loans also with RBSM. Clearly, petitioner employed deceit to acquire money, on another person's account, and use the same for his personal use and benefit, which resulted to the damage and prejudice of the RBSM in the amount of ₱14,775,000.00.

Again, petitioner could not have acquired the said amount to pay off his previous loans without the act of falsification. The falsification was,

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<sup>48</sup> Id. at 333.

<sup>49</sup> Id. at 334-335, citing the case of *Domingo v. People*, 618 Phil. 499 (2009).

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therefore, a necessary means to commit estafa, and falsification was already consummated even before the falsified documents were used to defraud the bank.<sup>50</sup>

Thus, the complex crime of estafa through falsification of documents is committed when the offender commits on a public, official or commercial document any of the acts of falsification enumerated in Article 171 as a necessary means to commit estafa.<sup>51</sup>

The fact that the loan application was actually signed by Malang, not by petitioner, could not belie his direct hand in perpetrating the crime. To reiterate, it was established that the loan application was signed by Malang in blank and processed through petitioner's instructions, to make it appear that Malang purportedly participated in applying for the subject loan, despite the fact that the purported loan application was withdrawn by Malang. It was likewise established that it was petitioner's scheme that made the issuance of the check in the name of Malang, and thereafter, the checks in the names of Rayo and Villacorta, possible. Hence, as correctly found by the RTC and the CA, one of the acts of falsification under Article 171 of the RPC, particularly paragraph 2 thereof – causing it to appear that a person has participated in any act when he did not in fact participate – is present in this case.

Also, while it may be true that petitioner, as RBSM president, was not engaged in frontline services for him to be able to actually process loan applications, his direct participation in the "circuitous scheme" which perpetrated the falsification and deception cannot be denied as borne by the records. Again, the prosecution's evidence established beyond reasonable doubt that said nefarious scheme was devised by petitioner and was successfully executed through his direct instructions to the working participants.

In fine, as correctly synthesized by the appellate court:

There is overwhelming evidence to establish the fact that upon the instructions of [petitioner] Soriano, a fictitious loan in the amount of ₱15,000,000.00 was made to appear to have been granted by RBSM and released to Malang, and later on, the money was misappropriated by [petitioner] Soriano. From the extant evidence, it is indubitable that this intricate process was orchestrated by [petitioner] Soriano, with the help of accused Ilagan, to the detriment of Malang and RBSM. Earlier on, [petitioner] Soriano was able to convince Malang to sign the loan application, promissory note, and disclosure statement in blank and, together with accused Ilagan, processed and approved the loan, even though the same was retracted and discontinued by Malang, not to mention that the documents were incomplete, and the loan was not approved by the Board of Directors nor was it secured by any collateral. It was also established that it was [petitioner] Soriano who instructed

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<sup>50</sup> Id. at 335.

<sup>51</sup> Id.

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Santillana to accept the RBSM manager's check in the amount of ₱14,775,000.00, and to issue in its stead thirty (30) manager's checks that were negotiated with Land Bank-Gapan Branch to secure the two (2) checks under the names of Rayo and Villacorta, for whatever purpose [petitioner] Soriano wanted to achieve.<sup>52</sup>

### *Imposable Penalty*

For the violation of the DOSRI law, Section 83 of R.A. No. 337, as amended provides for the penalty of imprisonment of not less than one year nor more than 10 years and a fine of not less than ₱1,000.00 nor more than ₱10,000.00. Hence the imposed penalty of 10 years of imprisonment and a fine of ₱10,000.00 is well within the range of the prescribed penalty.

For the crime of estafa through falsification of commercial documents, being a complex crime, the penalty for the more serious crime, which is estafa in this case, shall be imposed in its maximum period. The CA correctly modified the penalty imposed by the RTC pursuant to the amendments under R.A. No. 10951,<sup>53</sup> the same being applicable retroactively as held in the recent case of *Hernan v. Sandiganbayan*.<sup>54</sup> Thus, under Section 85 of R.A. No. 10951, the penalty for estafa is *prision correccional* in its maximum period to *prision mayor* in its minimum period if the amount of the fraud is over ₱2,400,000.00 but does not exceed ₱4,400,000.00. If the amount of the fraud exceeds the latter sum, the penalty shall be imposed in its maximum period, adding one year for each additional ₱2,000,000.00 but the total penalty shall not exceed 20 years. In such cases, and also for purposes of the imposition of accessory penalties, the impossible penalty shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

Applying the Indeterminate Sentence Law and considering that the amount involved herein is ₱14,775,000.00, the minimum term of the impossible penalty should be within the range of the penalty next lower to that prescribed by law for the offense, *i.e.*, *prision correccional* in its minimum and medium periods applied in its maximum period, which is 2 years, 11 months, and 11 days to 4 years and 2 months. The CA, thus, correctly imposed the penalty of 4 years and 2 months of *prision correccional* as minimum.

On the other hand, the maximum term of the impossible penalty shall be taken from the maximum of the prescribed penalty<sup>55</sup> or 6 years, 8 months,

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<sup>52</sup> *Rollc*, pp. 47-48.

<sup>53</sup> AN ACT ADJUSTING THE AMOUNT OR THE VALUE OF PROPERTY AND DAMAGE ON WHICH A PENALTY IS BASED AND THE FINES IMPOSED UNDER THE REVISED PENAL CODE, AMENDING FOR THE PURPOSE ACT NO. 3815, OTHERWISE KNOWN AS "THE REVISED PENAL CODE" as AMENDED. Approved August 29, 2017.

<sup>54</sup> G.R. No. 217874, December 5, 2017.

<sup>55</sup> THE REVISED PENAL CODE, Article 48; "The falsification, which is the means used to commit the crime of malversation, is in the nature of a generic aggravating circumstance that effectively directs the imposition of the prescribed penalty in its maximum period"; *People v. Valdez*, G.R. Nos. 216007-09, 774 Phil. 723, 743 (2015).


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and 21 days to 8 years, adding one year to the floor or the ceiling of the prescribed penalty at the discretion of the court,<sup>56</sup> for each additional ₱2,000,000.00 from the threshold amount of ₱4,400,000.00. Thus, as ₱14,775,000.00 exceeded ₱4,400,000.00 by ₱10,375,000.00, the difference shall be divided by ₱2,000,000.00 to bring us to the number of years to be added as incremental penalty, *i.e.*, 5.1875. Prevailing jurisprudence dictates that any fraction of a year shall be discarded, hence, we only add 5 years either to the floor of the prescribed penalty or 6 years, 8 months, and 21 days or to the ceiling, which is 8 years. Thus, again, the CA correctly imposed the penalty of 13 years of *reclusion temporal* as maximum.

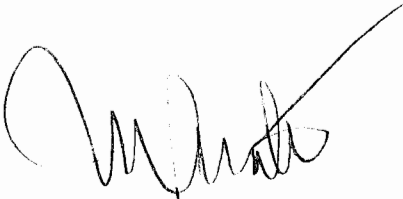
We, however, find it proper to modify the 12% interest imposed by the CA on the civil indemnity pursuant to recent jurisprudence<sup>57</sup> and BSP Circular No. 799. Thus, the interest rate of 6% per annum shall be imposed on the amount of ₱14,775,000.00 from the date of the finality of this Decision until full payment.

**WHEREFORE**, premises considered, the petition is **DENIED**. Accordingly, the Decision dated February 28, 2018 of the Court of Appeals is hereby **AFFIRMED with MODIFICATION** only as to the interest imposed. Accordingly, an interest of 6% per annum shall be **IMPOSED** on the amount of Fourteen Million Seven Hundred Seventy-Five Thousand (₱14,775,000.00) Pesos from the date of the finality of this Decision until full payment.

**SO ORDERED.**

  
**JOSE C. REYES, JR.**  
*Associate Justice*

**WE CONCUR:**

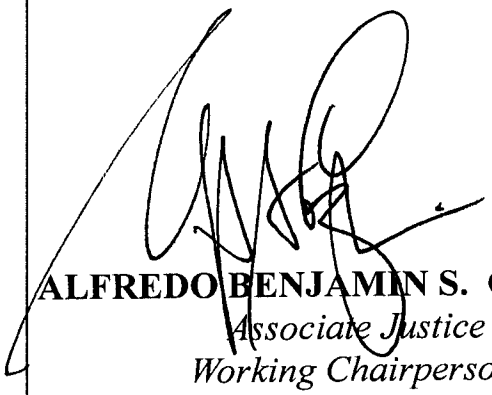
  
**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*

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<sup>56</sup> *People v. Ocdan*, 665 Phil. 268, 294 (2011).

<sup>57</sup> *Desmoparan v. People*, G.R. No. 233598, March 27, 2019.





**ALFREDO BENJAMIN S. CAGUIOA**  
*Associate Justice*  
*Working Chairperson*

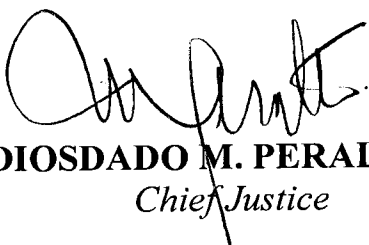


**AMY C. LAZARO-JAVIER**  
*Associate Justice*

**(On Official Leave)**  
**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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