



Republic of the Philippines  
**Supreme Court**  
Manila

**FIRST DIVISION**

**CHONA JAYME,**  
Petitioner,

**G.R. No. 248827**

**Present:**

- versus -

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

**NOEL JAYME and the PEOPLE OF  
THE PHILIPPINES,**  
Respondents.

**Promulgated:**

**AUG 27 2020**

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**DECISION**

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

This is a Petition for Review on *Certiorari*<sup>1</sup> seeking to reverse and set aside the Resolutions dated March 29, 2017<sup>2</sup> and July 17, 2019<sup>3</sup> of the Court of Appeals – Cebu City (CA-CEBU) in CA-G.R. CR No. 02896.

**The Facts**

Spouses Vicente G. Capero (Vicente) and Elisa G. Capero<sup>4</sup> (Elisa) (spouses Capero) were the registered owners of Lot No. 3457-E-4-C-2, Psd 06-04930 (subject property) in Iloilo City covered by Transfer Certificate of Title No. T-134480.<sup>5</sup> Vicente died on October 4, 2004.

<sup>1</sup> *Rollo*, pp. 26-34.

<sup>2</sup> Penned by Associate Justice Pamela Ann Abella Maxino with Associate Justices Pablito A. Perez and Gabriel T. Robeniol, concurring; *id.* at. 8-12.

<sup>3</sup> *Id.* at 14-20.

<sup>4</sup> “Elisa D. Gubatanga” in some parts of the records.

<sup>5</sup> *Rollo*, p. 80.

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Chona Jayme (petitioner) alleged that her father Xaudaro Jayme (Xaudaro) purchased the subject property from the spouses Capero, with payments coursed through her uncle Noel Jayme (respondent). Petitioner stated that Xaudaro instructed her to obtain a loan from the Rural Bank of Marayo (Negros Occidental), Inc., of which she was an employee. Since the title of the subject property was still in the name of the spouses Capero, petitioner asked Elisa to execute a Special Power of Attorney (SPA) authorizing her to mortgage the subject property as security for the loan. On March 30, 2009, Elisa delivered to petitioner a notarized SPA signed by the spouses Capero. The SPA was notarized by Atty. Wenslow Teodosio and was entered in his notarial register as Doc. No. 345, Page No. 18, Book No. XVIII, Series of 2009.<sup>6</sup> Thus, petitioner was able to obtain a loan with the Rural Bank of Marayo in the amount of ₱100,000.00 using the subject property as collateral.<sup>7</sup>

Respondent, on the other hand, averred that the spouses Capero sold the subject property to him in a Deed of Absolute Sale dated August 17, 2006. The deed was not registered with the Registry of Deeds of Iloilo City. Respondent later discovered that the subject property was mortgaged to the Rural Bank of Marayo in 2009 by petitioner by virtue of an SPA executed in her favor by the spouses Capero. He also learned that Vicente died on October 4, 2004, or more than four years prior to the execution of the SPA. For fear of losing the property, respondent paid the loan on March 13, 2010.<sup>8</sup>

In 2011, respondent filed criminal cases against Elisa and petitioner.

On February 4, 2011, Elisa was charged in an Information<sup>9</sup> for Falsification of Public Document under Article 172, paragraph 1, in relation to Article 171, paragraphs 1 and 2 of the Revised Penal Code (RPC) for causing it to appear that her deceased husband Vicente signed the Deed of Absolute Sale dated August 17, 2006 by counterfeiting or imitating his signature in said document.

Elisa and petitioner were also charged of Falsification of Public Document under Article 172, paragraph 1, in relation to Article 171 paragraphs 1, 2 and 4 of the RPC for making it appear in a notarized SPA dated March 30, 2009 that deceased Vicente signed the document by counterfeiting his signature.<sup>10</sup>

Petitioner was charged of Use of Falsified Public Document under Article 172, last paragraph of the RPC for using the falsified SPA for the purpose of securing a real estate mortgage over the subject property to the damage and prejudice of respondent.<sup>11</sup>

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<sup>6</sup> Id. at 37-38.

<sup>7</sup> Id.

<sup>8</sup> Id.

<sup>9</sup> Id. at 42.

<sup>10</sup> Id. at 57.

<sup>11</sup> Id. at 37.

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Elisa was found not guilty of falsification of the Deed of Absolute Sale.<sup>12</sup> As regards the charge for falsification of the SPA, Elisa and petitioner were acquitted for failure of the prosecution to prove their guilt.<sup>13</sup>

### **The MTCC Ruling**

In its Decision<sup>14</sup> dated January 27, 2015, the Municipal Trial Court in Cities (MTCC), Branch 5, Iloilo City, found petitioner guilty of the crime of Use of Falsified Document under Article 172, last paragraph, RPC, and sentenced her to suffer the penalty of imprisonment of four (4) months and one (1) day, to two (2) years and four (4) months, and to pay a fine of ₱5,000.00. It held that petitioner had the capacity to forge and falsify the SPA and made it appear as true considering the fact that she was the recipient of the proceeds of the loan and also an employee of the mortgagee-bank who compiled the necessary documents to secure the bank's approval. It further stated that petitioner failed to present sufficient evidence to overthrow the presumption that the possessor and user of a falsified document is the author of the falsification. The MTCC noted in its Decision:

Ellen Faith A. Tan, Manager of Rural Bank of Marayo (Negros Occidental), Inc., had testified that she was aware that Elisa Capero signed her signature in the Special Power of Attorney, but could not attest to the signature of Vicente Capero since the document was sent to him, allegedly in Mindanao, for him to affix his signature thereon. She affixed her signature as witness in the said Special Power of Attorney because she was authorized to sign documents of the bank. x x x Mrs. Tan was the one who facilitated the notarization of the Special Power of Attorney before Atty. Wenslow Teodosio together with the deed of Real Estate Mortgage. This statement is supported by the fact that the Special Power of Attorney and the Real Estate Mortgage were both notarized on March 30, 2009. It further appears that both documents were pre-printed forms of the bank where the parties had only to fill-in the required information. It stands to reason that it was accused Chona Jayme who had a hand in the preparation of the Special Power of Attorney and had in fact used the same to facilitate the mortgage.<sup>15</sup>

<sup>12</sup> See Decision dated June 11, 2013 of the Municipal Trial Court in Cities (MTCC), Branch 7, Iloilo City in Criminal Case No. R56-11; id. at 42-56.

<sup>13</sup> Decision dated July 7, 2015 of the MTCC, Branch 9, Iloilo City in Criminal Case No. R-293-11; id. at 57-68.

<sup>14</sup> Id. at 37-41.

<sup>15</sup> Id. at 40.

### The RTC Ruling

On appeal, the Regional Trial Court (RTC), Branch 38, Iloilo City affirmed petitioner's conviction in its Decision<sup>16</sup> dated December 1, 2015. It enunciated that all the essential elements of the crime of use of falsified documents were extant in the case. It declared that petitioner used, took advantage of, and benefitted from the falsified SPA despite knowledge of Vicente's demise long before the execution of the document. The RTC was not convinced that petitioner was not aware of the fact of death for the following reasons: (1) when petitioner went to Elisa and requested for an SPA, she did not meet Vicente who was allegedly in Mindanao; and (2) petitioner did not even verify if Vicente's signature is genuine. The RTC declared that as a bank employee, petitioner should have been prudent in using the SPA.

Petitioner moved for reconsideration but the same was denied in a Resolution<sup>17</sup> dated November 2, 2016.

### The CA Ruling

In a Resolution<sup>18</sup> dated March 29, 2017, the CA dismissed petitioner's appeal for: (1) being filed out of time; (2) failure to comply with the requirements as to the contents of the petition; and (3) failure to pay the docket and other lawful fees.

Petitioner moved for reconsideration but the same was denied in a Resolution<sup>19</sup> dated July 17, 2019.

Hence, this petition with the following assignment of errors:

1. THE HONORABLE COURT OF APPEALS ERRED IN DISMISSING THE PETITION FOR TECHNICALITIES;
2. [THE] LOWER COURT ERRED IN ITS DECISION [IN NOT] FINDING [THE] SIGNATURE APPEARING ON THE DOCUMENT DENOMINATED AS SPECIAL POWER OF ATTORNEY IS (*sic*) GENUINE AS ADMITTED BY THE PRIVATE COMPLAINANT[;]
3. THE LOWER COURT ERRED IN FINDING THAT THE PROSECUTION WAS ABLE TO ESTABLISH THAT ACCUSED BENEFITTED FROM THE PROCEEDS OF THE LOAN[; and]

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<sup>16</sup> Id. at 79-87.

<sup>17</sup> Id. at 93-94.

<sup>18</sup> Id. at 8-12.

<sup>19</sup> Id. at 14-20.

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4. THE LOWER COURT ERRED IN FINDING AND AFFIRMING [THE] MUNICIPAL TRIAL COURT'S (*sic*) DECISION WHEN IN FACT WITNESS ELISA CAPERO ADMITTED THAT THE SPECIAL POWER OF ATTORNEY WAS (*sic*) GIVEN TO THE ACCUSED CHONA JAYME [WAS] ALREADY COMPLETE[.]<sup>20</sup>

### The Court's Ruling

The petition is without merit.

Petitioner maintains that the CA should not have dismissed the case on the basis of pure technicalities so as not to defeat the ends of justice and cause grave injustice to the parties.<sup>21</sup>

Well-entrenched is the rule that the Court may relax the strict application of the rules of procedure in the exercise of its equity jurisdiction if its rigid application will tend to obstruct rather than serve the broader interests of justice.<sup>22</sup> Until then, the procedural rules are accorded utmost respect and due regard as they are designed to facilitate the adjudication of cases to remedy the worsening problem of delay in the resolution of rival claims and in the administration of justice.<sup>23</sup> The relaxation of the strict application of the rules may only be allowed if it would accommodate the greater interest of justice in light of the prevailing circumstances of the case, such as where strong considerations of substantive justice are manifest in the petition.<sup>24</sup>

Petitioner filed her petition for review before the CA beyond the 15 day period to appeal from the RTC's judgment of conviction. She received the RTC's order of denial of the motion for reconsideration of the December 1, 2015 RTC Decision on November 11, 2016. Upon receipt, instead of filing a petition for review before the CA pursuant to Rule 42, Section 1, of the 1997 Rules of Civil Procedure, petitioner challenged her conviction by erroneously filing on November 24, 2016, a notice of appeal before the RTC. The RTC, in its Order dated December 16, 2016, correctly denied the notice of appeal for being an improper remedy.

The CA also pointed out various defects in petitioner's petition for review, to wit: (1) failure to implead the People of the Philippines as respondent; (2) failure to present proof that the Office of the Solicitor General was furnished with a copy of the petition; (3) absence of the province or city of commission of the notary public in the notarial certificate of the verification and certification of non-forum shopping; and (4) failure to attach all pleadings and documents relevant to the petition. The CA likewise noted the deficiency in the docket fees.

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<sup>20</sup> Id. at 30.

<sup>21</sup> Id.

<sup>22</sup> *Curammeng v. People*, 799 Phil. 575, 581 (2016).

<sup>23</sup> *CMTC International Marketing Corp. v. Bhagis International Trading Corp.*, 700 Phil. 575, 581 (2012).

<sup>24</sup> Id. at 19.

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The Court agrees with the CA's stringent application of the procedural rules. Petitioner's failure to perfect an appeal within the prescribed reglementary period is not a mere technicality, but jurisdictional.<sup>25</sup> Her failure to meet the requirements of an appeal deprives the appellate court of jurisdiction to entertain any appeal.<sup>26</sup> Furthermore, factual issues are beyond the scope of a Rule 45 petition as it is not our function to analyze or weigh all over again evidence already considered in the proceedings below.<sup>27</sup> While there are recognized exceptions to this rule, not one is applicable in the instant petition.

The elements of the crime of use of falsified document in any transaction (other than as evidence in a judicial proceeding) are: (1) the offender knew that a document was falsified by another person; (2) the false document is embraced in Article 171 or in any of subdivision Nos. 1 and 2 of Article 172; (3) he used such document (not in judicial proceedings); and (4) the use of the false document caused damage to another or at least it was used with intent to cause such damage.<sup>28</sup> The prosecution must establish with moral certainty the falsity of the document and the defendant's knowledge of its falsity.<sup>29</sup>

It is undisputed that Vicente died on October 4, 2004. Araceli Villavicencio, Registration Officer II of the Local Civil Registrar of Iloilo City, presented before the MTCC the original copy of the Certificate of Death of Vicente Capero on file with the Office of the Local Civil Registrar.<sup>30</sup> However, Vicente appeared to have signed the SPA dated March 30, 2009, granting petitioner the authority to mortgage the subject property. There is thus no doubt that the SPA was spurious.

There is lack of direct evidence in this case that petitioner knew that Vicente was already dead when the SPA was executed and notarized. But the factual backdrop of the case renders it difficult for the Court to see how petitioner could not have learned of Vicente's death. As employee of the mortgagee-bank, petitioner is naturally expected to know the requirements, procedure and processes in obtaining loans, including the consequences of non-compliance. The SPA which petitioner requested from the spouses Capero is an official bank form. Petitioner knew that the SPA must bear his signature as attorney-in-fact including the signatures of Vicente and Elisa as principals. She was aware that she and the spouses Capero should sign the

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<sup>25</sup> *Producers Bank of the Philippines v. Court of Appeals*, 430 Phil. 812, 829 (2002).

<sup>26</sup> *Rodriguez v. Robles*, 622 Phil. 804, 812, 817 (2009).

<sup>27</sup> *Miro v. Vda. de Erederos*, 721 Phil. 772, 785 (2013).

<sup>28</sup> *Bowden v. Bowden*, G.R. No. 228739, July 17, 2019.

<sup>29</sup> *Borlongan, Jr. v. Peña*, 563 Phil. 530, 548 (2007).

<sup>30</sup> *Rollo*, p. 38.

document in the presence of two witnesses. She also understood that as part of the loan approval process, the SPA should be notarized.

Settled is the rule that a notary public must not notarize a document unless the persons who signed it are the very same persons who executed the same, and personally appeared before him to attest to the truth of the contents thereof. This is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free and voluntary act and deed.<sup>31</sup> The manager of the Rural Bank of Marayo admitted that she could not attest as to the authenticity of Vicente's signature because the SPA was only "sent" to Vicente in Mindanao. This notwithstanding, the bank manager still affixed her signature in the SPA as witness and even facilitated the notarization of the document and the mortgage contract. It appears likely, that the presence of the required persons during the notarization were not secured for had the regular procedure been observed, petitioner would readily discover that Vicente could not have signed the SPA because he was already dead. These irregularities should have put petitioner, as employee of the mortgagee-bank and as borrower/beneficiary, on guard and caused her to inquire about Vicente whom she has never met since she requested for the SPA. To the mind of the Court, petitioner knew that Vicente's signature in the SPA was not genuine yet she went on to use it enabling her to mortgage the subject property and receive the proceeds of the loan.

All the elements of the crime of use of falsified document being present in this case, petitioner's conviction is in order.

A note. The Court observes that when the MTCC convicted petitioner for Use of Falsified Document, it stated in the Decision that it was petitioner "who had a hand in the preparation of the Special Power of Attorney and had in fact used the same to facilitate the mortgage."<sup>32</sup> It further held that as employee of the mortgagee-bank, petitioner had the capacity to falsify documents and make them appear as true.<sup>33</sup> In so ruling, the trial court lost sight of the fact that the case before it was only for petitioner's use of falsified SPA which requires that the document was falsified by another person. The charge of falsification of public document was pending in another court at that time. We deem it necessary to clarify that in the crime of use of falsified document, the person who used the forged document is different from the one who falsified it such that "[i]f the one who used the falsified document is the same person who falsified it, the crime is only falsification and the use of the same is not a separate crime." Falsification of a public document and use of false document by the same person who falsified it constitute but a single crime of falsification.<sup>34</sup>

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<sup>31</sup> *Almario v. Llera-Agno*, A.C. No. 10689, January 8, 2018, 823 SCRA 1, 10.

<sup>32</sup> *Rollo*, p. 40.


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

<sup>34</sup> *Supra* note 28.

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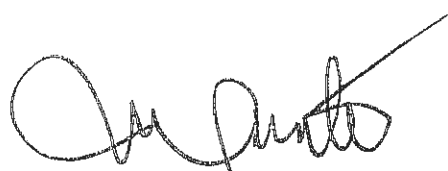
**WHEREFORE**, the petition is **DENIED**. The Resolutions dated March 29, 2017 and July 17, 2019 of the Court of Appeals in CA-G.R. CR No. 02896 are **AFFIRMED**.

**SO ORDERED.**




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


**WE CONCUR:**



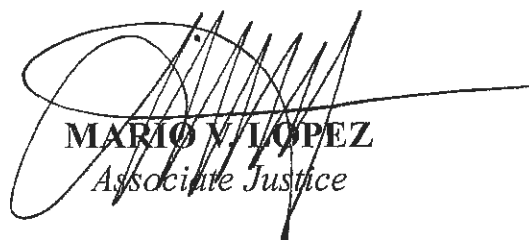
**DIOSDADO M. PERALTA**  
*Chief Justice*  
*Chairperson*



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



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

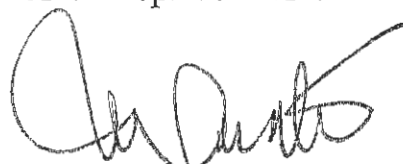


**MARIO V. LOPEZ**  
*Associate Justice*



**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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