

REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

SPECIAL THIRD DIVISION

**PEOPLE
OF
THE
PHILIPPINES,**

**OF
THE**
Plaintiff,

**Criminal Case No. SB-11-
CRM-0115**

*For: Falsification of Public
Document*

-versus -

Present:

ERIC N. ENTIENZA,

Accused.

CABOTAJE-TANG, P.J.,
Chairperson
QUIROZ, J.
CRUZ,¹ J.
MIRANDA,² J. and
FERNANDEZ,³ B., J.

Promulgated:

MARCH 29, 2017



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R E S O L U T I O N

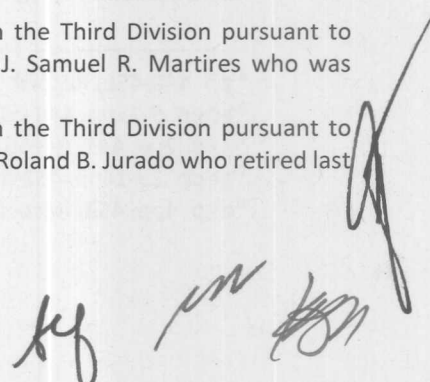
CABOTAJE-TANG, P.J.:

This resolves accused Eric N. Entienza's *Motion for Reconsideration* dated September 20, 2016 which seeks to reconsider the Court's Decision promulgated on September 7,

¹ Designated as Special Member of a Special Division of Five Justices in the Third Division pursuant to Administrative Order No. 8-C-2016 dated May 23, 2016

² Designated as Special Member of a Special Division of Five Justices in the Third Division pursuant to Administrative Order No. 097-2017 dated March 20, 2017 in lieu of J. Samuel R. Martires who was promoted to the Supreme Court

³ Designated as Special Member of a Special Division of Five Justices in the Third Division pursuant to Administrative Order No. 041-2017 dated February 20, 2017 in lieu of J. Roland B. Jurado who retired last February 1, 2017



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2016 convicting him of falsification of public document under paragraph 4, Article 171 of the Revised Penal Code.⁴

In his motion for reconsideration, the accused raises the following issues:

1. There was no proof that he authored, executed or issued the certificate of employment because no witness testified that he authored, executed and/or issued the same. Also, the video cassette tape cannot be considered proof of his alleged execution of the said certificate of employment because the declarant was not presented in Court;⁵

2. Absent proof that he issued the said certificate of employment, the Court erred in zeroing in on his failure to substantiate his defense of forgery because of the principle that the prosecution must rely on the strength of its own evidence and not on the weakness of the defense;⁶

3. His testimony that he did not issue the said certificate of employment was unrebutted; he presented the affidavits executed by the supposed beneficiary of the said certificate of employment where she stated that the accused did not issue the same; the prosecution did not present expert witness to disprove his claim that his signature on the certificate of employment was forged;⁷

4. The Court cannot compare his signature on the certificate of employment with his signature found on the documents which were not offered as evidence. At any rate, he maintains that his signatures found in the said documents contain dissimilarities;⁸

5. The said certificate of employment cannot be considered a public document absent evidence that he issued or executed the same. Since the said certificate is not a public document, he concludes that the jurisprudence that he who

⁴ pp. 440-456, Record

⁵ at pp. 5-7; pp. 444-446, Record

⁶ at p. 2; p. 441, Record

⁷ at pp. 13-14; p. 452-453, Record

⁸ at p. 4; p. 453, Record

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disavows the authenticity of his signature on a public document bears the responsibility of presenting evidence to that effect does not apply to his case;⁹

6. The filing of subject case was politically motivated.¹⁰ He points to the testimonies of prosecution witnesses Generosa Alpuerto who admitted taking the video of Annalisa de Torres Prudente and circulated the said video in 2010 and 2013, and Adriano Marana whose testimony is suspect because the accused terminated the services of Marana's daughter and that Marana is a supporter of his rival's political party;¹¹ and

7. There was no evidence that he was motivated by a wrongful intent of injuring a third person in issuing the said certificate of employment.¹²

The prosecution opposes the subject motion claiming that it was able to prove the elements of falsification of public document as discussed in the assailed Decision. It claims that the assailed "Decision's discussion for treating the Certificate of Employment (Exhibit A) as a public document was quite clear and supported by law and evidence presented." The prosecution argues that there is nothing in the rules which precludes the Court from examining documents that form part of the records of the case in its disposition of the case; that since a witness was able to identify the signature of the accused, there is no need for the testimony of an expert witness; and that the burden lies on the accused to prove that his signature was forged.¹³

This Court finds the motion for reconsideration devoid of merit.

An examination of the motion for reconsideration shows that accused did not raise any new argument that would warrant a reversal of this Court's Decision promulgated on

⁹ at pp. 12-13; pp.451-452, Record

¹⁰ at pp. 1-2; pp. 440-441, Record

¹¹ at pp. 15-16; pp. 454-455, Record

¹² at p. 15; p. 454, Record

¹³ at pp. 2-4; pp. 463-465, Record

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September 7, 2016. To be sure, the Court has squarely passed upon the arguments which the accused raises:¹⁴

The accused is charged with violation of paragraph 4, Article 171 of the RPC which provides:

Article 171. Falsification by public officer, employee or notary or ecclesiastic 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:

... ..

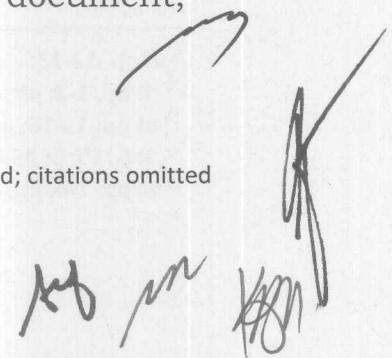
4. Making untruthful statements in a narration of facts;

The elements of falsification in the above provision are as follows:

- (1) The offender makes in a public document untruthful statements in a narration of facts;
- (2) He has a legal obligation to disclose the truth of the facts narrated by him; and
- (3) The facts narrated by him are absolutely false.

Moreover, the prosecution must prove that the public officer or employee had taken advantage of his official position in making the falsification. The offender is considered to have taken advantage of his official position when (1) he has the duty to make or prepare or otherwise to intervene in the preparation of a document;

¹⁴ at pp. 14-20, Decision promulgated on September 7, 2016; pp. 416-419, Record; citations omitted



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or (2) he has the official custody of the document which he falsifies.

Furthermore, in falsification of public or official documents, it is not necessary that there be present the idea of gain or the intent to injure a third person because in the falsification of a public document, what is punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed.

The Court finds that all the above elements are present in this case.

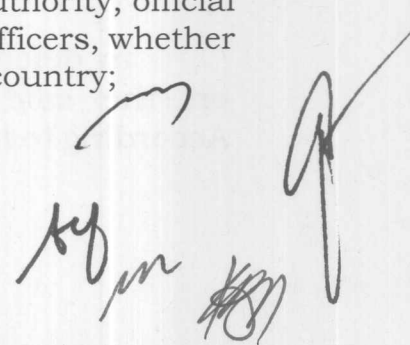
To begin with, it was stipulated during the pre-trial that at the time material to the present case, the accused was the incumbent mayor of the municipality of Calauag, Quezon. Prosecution witness Alpuerto, who worked at the accused's office from 2004 to 2008, or during the accused's term as mayor, declared that it was the accused himself who signed certificates of employment. On the other hand, another prosecution witness Intoy, the HRMO, declared that his office issues certificates of employment. However, Bida, the accused's witness, testified that the office of the mayor prepares the certificates of employment. Notably, there was no testimony that only the HRMO can issue a certificate of employment and not the chief executive of the local government unit like the accused. Clearly, the accused was a public officer who took advantage of his position when he issued the false certificate of employment.

A public document is defined in Section 19, Rule 132 of the Rules of Court as follows:

SEC. 19. Classes of Documents. — For the purpose of their presentation [in] evidence, documents are either public or private.

Public documents are:

(a) The written official acts, or records of the official acts of the sovereign authority, official bodies and tribunals, and public officers, whether of the Philippines, or of a foreign country;



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(b) Documents acknowledged before a notary public except last wills and testaments; and

(c) Public records, kept in the Philippines, or private documents required by law to be entered therein.

All other writings are private.

Black defines a public document as "a document of public interest issued or published by a political body or otherwise connected with public business." The term is also described as a document in the execution of which a person in authority or notary public takes part.

In this case, the Certification dated February 11, 2009 was issued by the accused in his capacity as the mayor of Calauag, Quezon; hence, it is a public document.

The HRMO testified that based on their records, Prudente was not an employee of the municipality of Calauag, Quezon. Thus, the accused made untruthful statements which are absolutely false when he certified that Prudente "is employed in the Local Government of Calauag, Province of Quezon as Property Custodian with the salary of Php5,063.00/m. from August 28, 2008 to present."

To certify is to authenticate or verify in writing; to attest as being true or as meeting certain criteria. In this case, the accused issued the certificate of employment in favor of Prudente "for whatever legal purpose it may serve her."

Accordingly, the accused's legal obligation to disclose the truth in the said certificate issued in his official capacity is inherent in the very nature and purpose of a certification.

In defense, the accused claims that his signature on the said certificate of employment was forged. According to him, the certificates of employment originate

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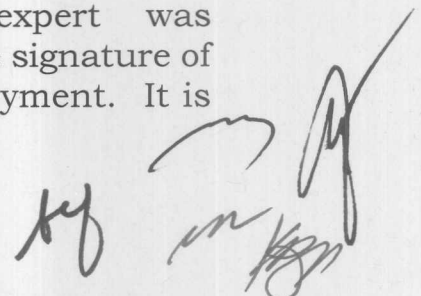
from the Human Resource Office. It is signed by the HRMO. His participation is only to note or attest to the said certification. He also presented a copy of the affidavit executed by Prudente allegedly retracting her previous statement that the accused issued a certificate of employment in her favor.

The rule is that he who disavows the authenticity of his signature on a public document bears the responsibility of presenting evidence to that effect. Mere disclaimer is not sufficient. Under Section 22, Rule 132 of the Rules of Court, the genuineness of a handwriting may be proved in the following manner: [1] by any witness who believes it to be the handwriting of such person because he has seen the person write; or he has seen writing purporting to be his upon which the witness has acted on or been charged; [2] by a comparison, made by a witness or the court, with writings admitted or treated as genuine by the party against whom the evidence is offered, or proved to be genuine to the satisfaction of the judge. At the very least, he should present corroborating witnesses to prove his assertion. At best, he should present an expert witness. As a rule, forgery cannot be presumed and must be proved by clear, positive and convincing evidence and the burden of proof lies on the party alleging forgery.

In this case, the accused presented Bida who merely testified that the said certificate of employment was not issued by the office of the accused because it does not bear her initials. She did not testify that the signature above the name of the accused was not his.

Furthermore, forgery is a serious matter and in this case even caused the accused to lose the election. Yet, the accused admitted that he did not take any step to find out who forged his signature. He merely instructed his municipal administrator to “dig deeper to come up with the truth.” The accused did not testify on the result of the supposed investigation conducted by his municipal administrator, if any.

Parenthetically, no handwriting expert was presented to establish the authenticity of the signature of the accused on the said certificate of employment. It is

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important to note that the authenticity of a signature though often the subject of proffered expert testimony, is a matter that is not so highly technical as to preclude a judge from examining the signature himself and ruling upon the question of whether the signature on a document is forged or not. It is not as highly technical as questions pertaining to quantum physics, topology or molecular biology.

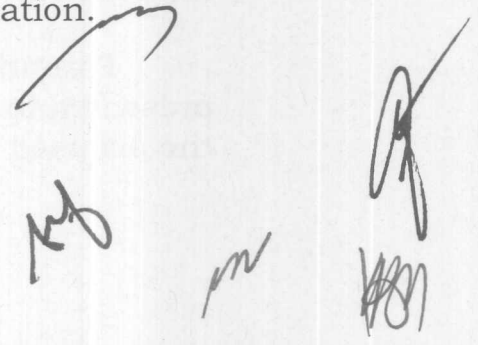
An examination and comparison of the accused's signature on the said certificate of employment with his signatures on the documents in the record in this case, *i.e.*, counter-affidavit submitted to the Office of the Ombudsman, 1st Indorsement dated July 29, 2011 issued by the Security and Sheriff Services of this Court, photocopy of PHILHEALTH card, waiver of appearance, certificate of arraignment and photocopy of the passport, shows that the signatures are very similar and appear to have been written by one and the same person.

Moreover, prosecution witness Alpuerto identified the accused's signature on the said certification because she worked in the office of the accused from 2004 to 2006 when he was the mayor.

At any rate, since the said certification is a public document, it is admissible in evidence even without further proof of its due execution and genuineness.

Anent Prudente's affidavit retracting her earlier statement that the accused issued a certificate of employment in her favor (*Exhibit 1*), the same is hearsay as Prudente was not presented in Court to testify and identify her affidavit. Jurisprudence dictates that an affidavit is merely hearsay evidence where its affiant/maker did not take the witness stand.

In all, the accused's evidence which consists simply of a barefaced claim of forgery of his signature on the certificate of employment is insufficient to overthrow the positive and credible evidence of the prosecution that he indeed issued the subject false certification.

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Indeed, the Court examined and compared the accused's signature on the said certificate of employment with his signatures found on the following documents which were not part of the formal offer of evidence: counter-affidavit executed by the accused which was submitted to the Office of the Ombudsman, 1st Indorsement dated July 29, 2011 issued by the Security and Sheriff Services of this Court regarding the surrender of the accused, photocopy of his PHILHEALTH Card, waiver of appearance, certificate of arraignment and photocopy of the accused's passport.

As the prosecution correctly argues, there is nothing in the Rules that preclude the Court from examining documents that form part of the records of the case in its disposition of the case. Moreover, the said documents are either documents actually provided by the accused himself (counter-affidavit and identification cards) or documents from the Court itself (waiver of appearance, certificate of arraignment and Court's Sheriff's report on the surrender of the accused) which form part of the records of this case. Thus, the accused cannot claim that he was deprived of the opportunity to object to the presentation of an evidence which may not be admissible for the purpose it is being offered.

Further, it must be stressed that the video cassette and the affidavits presented by the accused were not considered in determining the accused's guilt for falsification of public document.

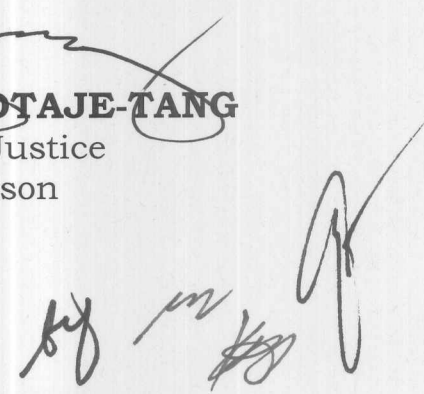
WHEREFORE, the Court DENIES accused Eric N. Entienza's Motion for Reconsideration of the Decision of the Court promulgated on September 7, 2016 for being *pro forma* and/or for lack of merit.

SO ORDERED.

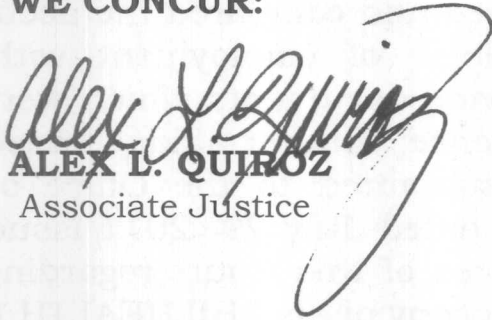
Quezon City, Metro Manila

AMPARO M. CABOTAJE-TANG

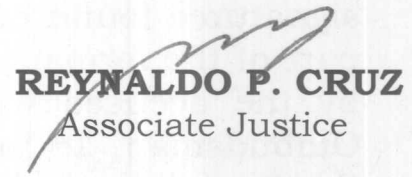
Presiding Justice
Chairperson




WE CONCUR:



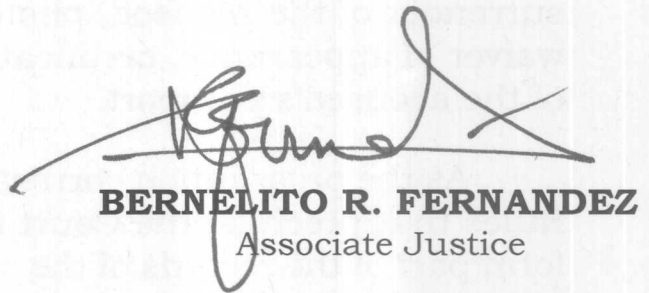
ALEX L. QUIROZ
Associate Justice



REYNALDO P. CRUZ
Associate Justice



KARL B. MIRANDA
Associate Justice



BERNELITO R. FERNANDEZ
Associate Justice

