

Republic of the Philippines
MUNICIPAL TRIAL COURT IN CITIES
Third Judicial Region
Olongapo City
BRANCH 2

PEOPLE OF THE PHILIPPINES,
Plaintiff, CRIM. CASE NO. 159-16

-versus-

FOR: Falsification of Public
Document by a Private Individual
under Article 172 of the Revised
Penal Code, as Amended

MURTO NEL,
Accused.

X ----- X

PEOPLE OF THE PHILIPPINES,
Plaintiff, CRIM. CASE NO. 160-16

-versus-

FOR: Use of Falsified Document
under the Last Paragraph of
Article 172 of the Revised Penal
Code, as Amended

MURTO NEL,
Accused.

X ----- X

J U D G M E N T

In the following Informations both dated January 15, 2016, Murto Nel was charged with the crime of Falsification of Public Document by a Private Individual and use of Falsified Document under Article 172 of the Revised Penal Code:

CRIM. CASE NO. 159-16:

“That on or about eleventh (11th) day of February, 2015, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the said accused, a private individual, did then and there willfully, unlawfully and feloniously commit falsification on the Secretary's Certificate, a public document, in the following manner: the accused counterfeited the signature of complainant Jessabel Balutan and affixed the same on the Secretary's Certificate, thereby making it appear thereon that the complainant signed it, when in truth and in fact, accused knew well that she did not sign it, to her damage and prejudice.

CONTRARY TO LAW:”

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CRIM. CASE NO. 160-16:

“That on or about eleventh (11th) day of February, 2015, in the City of Olongapo, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with intent to cause damage to complainant Jessabel Balutan, did then and there willfully, unlawfully and feloniously use a falsified public document entitled Secretary's Certificate dated February 11, 2015 to be able to open a peso/dollar account in Union Bank of the Philippines, SBFZ Branch, Olongapo City, said accused knew well that the said Secretary's Certificate was falsified as it bears the counterfeited signature of the complainant, to her damage and prejudice.

CONTRARY TO LAW:”

Upon arraignment, accused with the assistance of a counsel de parte pleaded Not Guilty to both charges. After the pre-trial was terminated, joint trial in-absentia ensued following the manifestation of the defense counsel that she had not seen the accused since December 2016.

During the presentation of the prosecution evidence, the complaining witness identified the Judicial Affidavit she executed in relation to the instant cases as well as the documents attached thereto copies of which were furnished the defense counsel.

When cross-examined, the complaining witness testified that her service was engaged by Mr. Roy Anderson as corporate secretary of My Cyberstaff. As such corporate secretary she appeared twice in the meeting of the board. She denied that she filed the present case against the accused upon the instigation of Mr. Anderson. She testified that she is no longer the corporate secretary of My Cyberstaff and admitted that she was not prejudiced by the act of the accused at the time the case was filed. She denied having prepared or signed the Secretary's Certificate subject matter of the case.

The second witness for the prosecution was Antonio R. Magbojos, supervising Examiner and Executive Officer of the Questioned Documents Laboratory Division, National Bureau of Investigation. He identified a Judicial Affidavit he executed consisting of 8 pages, the contents and veracity of which he affirmed in its entirety including its attachments. He also testified on seven (7) documents containing

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specimens of the signatures of complainant Jessabel Balutan and individually compared the same signatures with the enlarged photographed forged signature of the complainant contained in the subject Secretary's Certificate.

These cases were deemed submitted for decision based solely on the evidence so far presented by the prosecution in view of the repeated non-appearance of the accused despite due notice. By failing to appear during the trial, and opting not to present any controverting evidence, accused waived his right to come forward with evidence for his defense (*Boneng vs. People*, 304 SCRA 252).

The crime of falsification of public document by a private individual with which the accused stands charged is penalized under paragraph 1, Article 172 of the Revised Penal Code.

In order to prove the crime charged, the prosecution had to show the following elements:

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 Art. 171
3. that the falsification was committed in a public or official or commercial document (The Revised Penal Code by Luis B. Reyes, Book Two, Thirteenth Edition, Revised 1993, page 207)

From the un rebutted testimonies of the two prosecution witnesses, it was clearly established that from July 10, 2014 to December 31, 2014, complainant Jessabel Balutan was the corporate secretary of My Cyberstaff Inc., a corporation engaged in the business of operating call centers headed by the accused as its president. It appears that sometime in October 2015, the complainant received an information from Roy Leonard Anderson, a stockholder of the corporation regarding a Secretary's Certificate dated February 11, 2015 authorizing the herein accused to open a peso dollar account with the Union Bank of the Philippines, SBMA branch, Olongapo City, and purportedly signed and executed by the complainant as corporate secretary. Not having prepared and signed the subject document, complainant asserting that her signature was forged to make it appear that she attended the board meeting and signed the Secretary's Certificate, at the time she was no longer the corporate secretary of My Cyberstaff Inc., filed the instant case with the

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City Prosecutor's Office of Olongapo which found probable cause to indict the accused.

Indeed, there is no doubt that the signature appearing in the questioned Secretary's Certificate is not that of the complainant. This fact as claimed by the complainant is confirmed by the testimony of prosecution witness Antonio Magbojos of the National Bureau of Investigation. While it is true that there is no direct evidence as to who actually forged the signature of the complainant such fact will not exonerate the accused from liability. It is clear that the only person who could have falsified the complainant's signature is the one who will be benefited by the falsification thus made and that he alone could have the motive for making such falsification which in this case is the accused. This finds support in the settled doctrine that when a person has in his possession a falsified document and makes use thereof, the presumption is justified that such person is the forger. Thus, the established circumstances that the accused made use of and benefited from the falsified Secretary's Certificate is a strong evidence that he himself either falsified it or caused the same to be falsified. The fact that the complainant was not prejudiced by the wrongful intent of the accused in forging the signature of the former is of no moment as the principal thing punished under paragraph 1 of Article 172 under which the accused is charged, is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed (*People vs. Sandiganbayan*, GR No. 197953, August 5, 2015).

As to the charge of use of a falsified document which is separate and distinct from the falsification of a public document, the Court is convinced that the accused is likewise guilty as charged. In the case at bar, the record shows that accused used the Secretary's Certificate knowing fully well that the said document was false. The fact that the forged document was presented to the bank to open a peso-dollar account, is certainly considered use of falsified document as contemplated in paragraph 2 Article 172 of the Revised Penal Code. Verily, the accused perpetrated the act for his benefit amounting to a crime.

WHEREFORE, finding the accused Murto Nel Guilty beyond reasonable doubt of the crime of Falsification of Public Document under Article 172 (1) of the Revised Penal Code, as amended and Use of Falsified Document under the last paragraph, Article 172 of the same Code, judgment is hereby rendered as follows:

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1. In Crim. Case No. 159-16 accused is sentenced to suffer imprisonment of two (2) years four (4) months and one (1) day to six (6) years of prision correccional medium and maximum and to pay the fine of Five Thousand (P5,000.00) Pesos. With costs against the accused and subsidiary imprisonment in case of insolvency.
2. In Crim. Case No. 160-16 accused is sentenced to suffer imprisonment of two (2) years four (4) months and one (1) day to six (6) years of prision correccional medium and maximum and to pay the fine of Five Thousand (P5,000.00) Pesos. With costs against the accused and subsidiary imprisonment in case of insolvency.

IT IS SO JUDGED.

Olongapo City, this 1st day of December, 2017.

~~JACINTO C. GONZALES~~
Presiding Judge

PROMULGATED ON: December 20, 2017

Maria Celia A. Flores
MARIA CELIA A. FLORES
Branch Clerk of Court