



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**RICARDO L. ATIENZA AND
ALFREDO A. CASTRO,**

Petitioners,

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

G.R. No. 188694

Present:

CARPIO, J., Chairperson,
BRION,
DEL CASTILLO,
PEREZ, and
PERLAS-BERNABE, JJ.

Promulgated:

FEB 12 2014

HM Cabalag/Projecto

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DECISION

PERLAS-BERNABE, J.:

Assailed in this petition for review on *certiorari*¹ is the Decision² dated November 28, 2008 of the Court of Appeals (CA) in CA-G.R. CR. No. 30650 which affirmed the Decision³ dated June 8, 2006 of the Regional Trial Court of Manila, Branch 21 (RTC) in Criminal Case Nos. 01-197425 and 01-197426, finding petitioners Ricardo L. Atienza (Atienza) and Alfredo A. Castro (Castro) guilty beyond reasonable doubt of the crimes of Robbery and Falsification of Public Document.

The Facts

Atienza and Castro (petitioners) are employees of the CA, particularly assigned to its Budget Division and holding the positions of Budget Officer I and Utility Worker I,⁴ respectively, at the time material to this case.

¹ *Rollo*, pp. 8-38.

² *Id.* at 42-61. Penned by Associate Justice Isaias Dicdican, with Associate Justices Juan Q. Enriquez, Jr. and Marlene Gonzales-Sison, concurring.

³ *Id.* at 84-97. Penned by Judge Amor A. Reyes.

⁴ See Information in Criminal Case Nos. 01-197425 and 01-197426; records, pp. 3 and 6.

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On March 20, 1995, at about past noon,⁵ Juanito Atibula (Atibula), Records Officer I and Custodian of the CA Original Decisions in the CA Reporter's Division, was invited by Castro to attend Atienza's birthday party somewhere along Bocobo Street, Ermita, Manila. At the party, Atienza introduced Atibula to a certain Dario and asked him to assist the latter in searching for the CA decision⁶ in the case entitled "*Mateo Fernando v. Heirs of D. Tuason, Inc.*"⁷ (*Fernando*), docketed as CA-G.R. No. 36808-R.⁸

Thereafter, Atibula returned to the office – followed a few minutes later by Dario – and searched for the aforementioned decision which was found compiled in Volume 260 of the CA Original Decisions. As Dario was scanning through the said volume, Atibula observed that he was comparing its pages⁹ to the discolored papers he was holding.¹⁰ Dario likewise scanned Volumes 265 and 267,¹¹ and placed check marks on the papers he was holding.¹²

On March 24, 1995, after office hours, Atibula saw Dario outside the CA compound along Maria Orosa Street.¹³ As they walked side by side towards the jeepney stop, Dario requested Atibula to insert a Decision dated September 26, 1968 in one of the volumes of the CA Original Decisions. However, Atibula refused and immediately left.¹⁴

On April 21, 1995, Atienza offered Atibula the amount of ₱50,000.00 in exchange for Volume 260,¹⁵ which the latter turned down. Atienza then ridiculed him saying, "*duwag ka, pera na nga ito ayaw mo pa,*" to which Atibula retorted, "*ikaw ang duwag dahil nagpapakita ka ng kabuktutan.*" Disturbed by the situation, Atibula reported the incident to Atty. Arnel Macapagal¹⁶ (Atty. Macapagal), the Assistant Chief of the CA Reporter's Division, who then instructed him (Atibula) to hide Volumes 260, 265 and 267¹⁷ in a safe place.¹⁸

On May 9, 1995, Atibula discovered that Volume 266¹⁹ covering the period from January 28 to February 12, 1969 was missing²⁰ and, hence,

⁵ Transcript of Stenographic Notes (TSN), December 3, 2002, p. 15.

⁶ TSN, December 2, 2002, pp. 5-7.

⁷ *Rollo*, p. 45.

⁸ Records, p. 669.

⁹ TSN, December 2, 2002, pp. 7-8.

¹⁰ Sinumpaang Salaysay dated August 9, 1995 executed by Juanito Atibula (Atibula's Sinumpaang Salaysay), records, p. 320.

¹¹ TSN, December 3, 2002, p. 18.

¹² Atibula's Sinumpaang Salaysay, records, p. 320.

¹³ TSN, December 3, 2002, pp. 13-14.

¹⁴ *Rollo*, p. 46; see also Atibula's Sinumpaang Salaysay, records, pp. 320-321.

¹⁵ TSN, December 3, 2002, pp. 19-20.

¹⁶ TSN, December 2, 2002, pp. 12-13.

¹⁷ TSN, December 3, 2002, p. 21.

¹⁸ Atibula's Sinumpaang Salaysay, records, p. 321.

¹⁹ *Id.* at 22.

²⁰ Letters dated May 22, 1995 and June 21, 1995 of Atty. Gemma Leticia F. Tablate (Letters dated May 22, 1995 and June 21, 1995), records, pp. 336 and 667.

immediately reported the same to Atty. Macapagal. Two days after the discovery of the loss, Atibula encountered Atienza near the canteen,²¹ shouting “[p]utang ina mo, Juaning, pinahirapan mo kami!”²²

On May 18, 1995, a certain Nelson de Castro, Clerk IV detailed at the CA Reporter’s Division,²³ handed to Atibula a bag containing a gift-wrapped package which turned out to be the missing Volume 266. He claimed that it was Castro who asked him to deliver the said package to Atibula.²⁴

Having been notified of Volume 266’s return, Atty. Macapagal then directed Atibula to ascertain who borrowed the volume. Records, however, disclosed no one.²⁵ Separately, Atibula compared the contents of Volume 266 with the index of the decisions and noticed that there were two new documents inserted therein,²⁶ namely: (a) a Resolution²⁷ dated February 11, 1969 (subject resolution), ostensibly penned by Associate Justice Juan P. Enriquez (Justice Enriquez) and concurred in by Associate Justices Magno S. Gatmaitan and Edilberto Soriano, recalling and setting aside the Entry of Judgment earlier issued in the *Fernando* case; and (b) a Decision²⁸ dated April 16, 1970 (subject decision), also ostensibly penned by Justice Enriquez and concurred in by Associate Justices Jesus Y. Perez and Jose M. Mendoza, amending the original decision dated September 26, 1968 in the aforementioned case. Consequently, Atibula reported his findings to Atty. Macapagal who, in turn, informed Atty. Gemma Leticia F. Tablate (Atty. Tablate), then Chief of the CA Reporter’s Division, of the same. They tried to verify the genuineness, authenticity and existence of the subject resolution and decision, and found that the compilation of the duplicate original decisions/resolutions of Justice Enriquez did not bear the said promulgations. Atty. Tablate reported the incident to then CA Presiding Justice Nathanael P. De Pano, Jr.²⁹ who immediately requested the National Bureau of Investigation (NBI) to conduct an investigation on the matter.³⁰

Laboratory analysis and comparative examination of the subject resolution and decision³¹ as well as of a decision in another case found in pages 906 to 922 of Volume 266 of the CA Original Decisions were conducted by the NBI.³² As a result, it issued its Questioned Documents Report No. 937-1295,³³ finding that: (a) Volume 266 had indeed been

²¹ Atibula’s Sinumpaang Salaysay, id. at 321.

²² TSN, December 2, 2002, p. 14.

²³ Letters dated May 22, 1995 and June 21, 1995, records, pp. 336 and 667.

²⁴ TSN, December 2, 2002, pp. 13-14.

²⁵ Atibula’s Sinumpaang Salaysay, records, p. 321.

²⁶ Letters dated May 22, 1995 and June 21, 1995, id. at 336 and 667.

²⁷ 266 CA Original Decisions 906-907.

²⁸ Id. at 908-915.

²⁹ Letters dated May 22, 1995 and June 21, 1995, records, pp. 336-337 and 667-668.

³⁰ Letter dated June 26, 1995, id. at 669-670.

³¹ Id. at 329.

³² TSN, August 12, 2002, pp. 41-43.

³³ Records, pp. 329-334.

altered;³⁴ and (b) the signatures of the CA Justices in the subject resolution and decision (questioned signatures) and their standard/sample signatures “were not written by one and the same person,”³⁵ leading to the conclusion that the questioned signatures were forgeries.³⁶

Meanwhile, sometime in the second week of July 1995, an inspection of the air-conditioning units at the office of the CA Reporter’s Division was conducted, whereby it was discovered that the improvised angle bar supporting the air conditioning unit at the right most end from the main door was corroded with rust and the portion of the wall holding the same was broken (“*may bak-bak na*”).³⁷ NBI Agents, Atty. Daniel D. Daganzo³⁸ (Atty. Daganzo) and Norman R. Decampong³⁹ then conducted an ocular inspection of the premises, and, in the course thereof, interviewed several personnel of the CA Maintenance Division. Said investigation yielded the following findings: (a) there were no signs of forcible entry;⁴⁰ (b) the perpetrators gained entry to the office of the CA Reporter’s Division “by passing through the hole on the concrete wall after removing the air conditioning unit”⁴¹ located on the right most [sic] end from the main door;⁴² (c) there was conspiracy to commit the crime of Falsification of Public Document between Atienza and Dario in view of their “concerted efforts through previous or simultaneous acts and deeds;”⁴³ and (d) Castro assisted Atienza and Dario “to profit from the effects of the crime by returning safely the missing volume to the [CA Reporter’s Division].”⁴⁴ Consequently, a criminal complaint was filed by the NBI and the Fact-Finding and Intelligence Bureau of the Office of the Ombudsman against Atienza, Castro, and Dario before the Evaluation and Preliminary Investigation Bureau of the OMB, docketed as OMB-0-97-2054,⁴⁵ charging them for the following crimes: (a) Falsification of Public Document; (b) violation of Section 3(a)⁴⁶ of Republic

³⁴ Id. at 329.

³⁵ Id. at 333.

³⁶ TSN, August 12, 2002, pp. 56-61.

³⁷ Sinumpaang Salaysay dated April 29, 1997 executed by Cielito Salud; records, p. 510.

³⁸ TSN, October 15, 2002, p. 1.

³⁹ See Final Report dated May 23, 1997, records, p. 557.

⁴⁰ Id. at 551.

⁴¹ Id. at 554.

⁴² Id. at 551.

⁴³ Id. at 555.

⁴⁴ Id. at 556.

⁴⁵ *Rollo*, p. 65.

⁴⁶ Section 3. *Corrupt practices of public officers.* In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

Act No. (RA) 3019,⁴⁷ as amended; and (c) violation of Section 8⁴⁸ of RA 6713.⁴⁹

After investigation, the charges involving the pertinent provisions of RAs 3019 and 6713 were dismissed for insufficiency of evidence,⁵⁰ but it was contrarily determined that there existed probable cause to charge Atienza, Castro, and Dario⁵¹ for the crimes of Robbery under Article 299(a)(1)⁵² of the Revised Penal Code⁵³ (RPC), as amended, and of Falsification of Public Document under Article 172(1)⁵⁴ in relation to Article 171(6)⁵⁵ of the same code. Thus, the corresponding Informations,⁵⁶ respectively docketed as Criminal Case Nos. 01-197425 and 01-197426, were filed before the RTC. Petitioners posted bail⁵⁷ and, thereafter, pleaded “not guilty”⁵⁸ to the charges during their arraignment, while Dario remained at large.

In his defense, Atienza denied having anything to do with the questioned incidents⁵⁹ as he was not even summoned by the CA Clerk of

⁴⁷ Entitled the “ANTI-GRAFT AND CORRUPT PRACTICES ACT.”

⁴⁸ Relative to petitioners’ failure to file their respective sworn Statement of Assets, Liabilities and Net Worth and Disclosure of Business Interests and Financial Connections covering the years 1989 to 1994, as required under Section 8 of RA 6713; *rollo*, p. 71.

⁴⁹ Entitled “AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES”; otherwise known as the “Code of Conduct and Ethical Standards for Public Officials and Employees.”

⁵⁰ *Rollo*, p. 82.

⁵¹ See Resolution dated August 9, 2001 penned by Graft Investigation Officer I Francisco Alan L. Molina, Id. at 65-83.

⁵² Art. 299. *Robbery in an inhabited house or public building or edifice devoted to worship.* — Any armed person who shall commit robbery in an inhabited house or public building or edifice devoted to religious worship, shall be punished by reclusion temporal, if the value of the property taken shall exceed 250 pesos, and if:

(a) The malefactors shall enter the house or building in which the robbery was committed, by any of the following means:

1. Through an opening not intended for entrance or egress;

x x x x

⁵³ Act No. 3815, as amended, entitled “AN ACT REVISING THE PENAL CODE AND OTHER PENAL LAWS.”

⁵⁴ Art. 172. *Falsification by private individual and use of falsified documents.* — The penalty of *prison correccional* in its medium and maximum periods and a fine of not more than P5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and

x x x x

⁵⁵ Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* — The penalty of *prison mayor* and a fine not to exceed P5,000 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:

x x x x

6. Making any alteration or intercalation in a genuine document which changes its meaning;

x x x x

⁵⁶ Records, pp. 2-4 and 5-7, respectively.

⁵⁷ Id. at 55 and 69.

⁵⁸ See Order dated March 13, 2002, id. at 113.

⁵⁹ TSN, June 1, 2004, p. 14.

Court or the Chief of the Reporter's Division,⁶⁰ and became aware of the incident only when he and Castro were subpoenaed by the NBI Special Investigators.⁶¹ Further, he gave the alibi that he was out of the office 4 days a week during the months of April to June 1995,⁶² reporting only on Fridays,⁶³ since he had to perform his duties as Budget Officer I of the CA Budget Division and Liaison Officer to the Department of Budget and Management, the Committee on Appropriation of the Congress, Committee on Appropriation of the lower house, and the Committee on Finance of the Senate and the GSIS.

On the other hand, Castro did not endeavor to refute the allegations in the Informations filed against him and the other accused.⁶⁴

The RTC Ruling

After trial on the merits, the RTC rendered a Decision⁶⁵ on June 8, 2006, finding petitioners guilty beyond reasonable doubt of the crimes of Robbery under Article 299(a)(1) of the RPC and Falsification of Public Document under Article 172(1) in relation to Article 171(6) of the RPC, and sentenced them to each suffer: (a) the indeterminate penalty of six (6) months and one (1) day, as minimum, to two (2) years and four (4) months of *prision correccional*, as maximum, for the first crime; and (b) the penalty of six (6) months and one (1) day, as minimum, to six (6) years of *prision correccional*, as maximum, and a fine of ₱5,000.00 for the second crime.

In convicting petitioners, the RTC found that "the evidence x x x of the prosecution is replete with situations and/or events to prove [petitioners'] guilt,"⁶⁶ namely: (a) Atienza requested Atibula to take out Volumes 260, 265 and 267 of the CA Original Decisions from the CA Reporter's Division, which the latter rejected despite offer of remuneration; (b) Volume 266 was subsequently discovered to be missing; (c) access to the missing volume appears to have been acquired by entering through an opening in the premises of the CA's Reporter's Division because the air conditioning unit occupying the space thereat was taken out for repair earlier; (d) Castro returned Volume 266 after its loss;⁶⁷ (e) Volume 266 bore badges of tampering evidenced by the "non-continuity of the front and the back cover flaps x x x and the pages of the book/volume differences in the cutting marks on the sides of the volume and the presence of artificial aging on [its] sides";⁶⁸ and (f) two (2) new documents which materially amended the

⁶⁰ Id. at 10 & 15.

⁶¹ Id. at 4.

⁶² Id. at 3-4; *rollo*, p. 48.

⁶³ TSN, June 1, 2004, p. 14

⁶⁴ *Rollo*, p. 58.

⁶⁵ Id. at 84-97.

⁶⁶ Id. at 94.

⁶⁷ Id. at 94-95.

⁶⁸ Id. at 95.

original decision and resolution in the *Fernando* case were inserted in the said volume.⁶⁹ The RTC further added that the manner by which petitioners committed the felonious acts reveals a community of criminal design, and thereby held that conspiracy exists.⁷⁰

Aggrieved, petitioners appealed their conviction to the CA.

The CA Ruling

In a Decision⁷¹ dated November 28, 2008, the CA affirmed the RTC's judgment of conviction *in toto*. It held that while there is no direct evidence showing that the petitioners committed the crimes charged, the testimonies of Atibula and NBI Agent Atty. Daganzo with respect to what had transpired before and after Volume 266 was taken from its shelf, when viewed together with the other circumstances in the case, constitute circumstantial evidence which sufficiently point to the guilt of petitioners.⁷² In addition, it found that Atienza's defenses were self-serving negative evidence which cannot outweigh the circumstantial evidence clearly establishing his participation,⁷³ adding too that while there was no proof of previous agreement between petitioners to unlawfully take Volume 266 out of the office of the CA Reporter's Division and falsify the subject documents, their conspiracy may be inferred from the fact that Castro was in possession of the missing Volume 266 which was eventually discovered to have been falsified.⁷⁴

Undaunted, petitioners filed a motion for reconsideration⁷⁵ which was, however, denied in a Resolution⁷⁶ dated July 7, 2009, hence, the instant petition.

The Issue Before the Court

The essential issue for the Court's resolution is whether or not petitioners' conviction for the crimes of Robbery and Falsification of Public Document should be upheld on account of the circumstantial evidence in this case proving their guilt beyond reasonable doubt.

The Court's Ruling

The petition is meritorious.

⁶⁹ Id. at 94.

⁷⁰ Id. at 96-97.

⁷¹ Id. at 42-61.

⁷² Id. at 57.

⁷³ Id. at 58.

⁷⁴ Id. at 59.

⁷⁵ CA *rollo*, pp. 249-256.

⁷⁶ *Rollo*, pp. 62-63.

Circumstantial evidence consists of proof of collateral facts and circumstances from which the main fact in issue may be inferred based on reason and common experience.⁷⁷ It is sufficient for conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences are derived are proven; and (c) the combination of all the circumstances is such as to produce a conviction beyond reasonable doubt. To uphold a conviction based on circumstantial evidence, it is essential that the circumstantial evidence presented must constitute an unbroken chain which leads one to a fair and reasonable conclusion pointing to the accused, to the exclusion of the others, as the guilty person. Stated differently, the test to determine whether or not the circumstantial evidence on record is sufficient to convict the accused is that the series of circumstances duly proven must be consistent with each other and that each and every circumstance must be consistent with the accused's guilt and inconsistent with his innocence.⁷⁸

Applying these principles to the facts that appear on record, the Court finds that no sufficient circumstantial evidence was presented in this case to establish the elements of Robbery under Article 299(a)(1)⁷⁹ of the RPC and Falsification of Public Documents under Article 172(1) in relation to Article 171(6)⁸⁰ of the same code, or of petitioners' supposed conspiracy therefor. To this end, the Court examines the participation of and evidence against each petitioner and forthwith explains its reasons for reaching the foregoing conclusions.

A. *The Participation of and Evidence Against Castro*

Notwithstanding Castro's failure to refute the charges against him, the Court finds no evidence to link him to the commission of the crimes of

⁷⁷ *People v. Ibañez*, G.R. No. 191752, June 10, 2013, 698 SCRA 161, 176.

⁷⁸ *People v. Lamsen*, G.R. No. 198338, February 20, 2013, 691 SCRA 498, 507.

⁷⁹ To convict the accused for Robbery under Article 299(a)(1) of the RPC, the following elements must be established:

- (a) That the offender entered an inhabited place, *public building*, or edifice devoted to religious worship;
- (b) That the entrance was effected *through an opening not intended for entrance or egress*; and
- (c) That once inside the building, the offender took personal property belonging to another with intent to gain. (See Reyes, Luis B., *The Revised Penal Code Criminal Law*, Book Two, Articles 114-367, 18th Ed., 2012, p. 704.)

⁸⁰ The elements of Falsification of Public Documents by a Private Individual under Article 172(1) in relation to Article 171 of the RPC are:

- (a) That the offender is a private individual or a public officer or employee who did not take advantage of his official position;
- (b) That he committed any of the acts of falsification enumerated in Article 171 of the RPC; and
- (c) That the falsification was committed in a public, official or commercial document. (See *Panuncio v. People*, G.R. No. 165678, July 17, 2009, 593 SCRA 180, 189-190.)

Meanwhile, the elements of Falsification under Article 171(6) of the RPC are as follows:

- (a) That there be an alteration (change) or intercalation (insertion) on a document;
- (b) That it was made on a genuine document;
- (c) That the alteration or intercalation has changed the meaning of the document; and
- (d) That the changes made the document speak something false. (See *Tan, Jr. v. Matsuura*, G.R. Nos. 179003 and 195816, January 9, 2013, 688 SCRA 263, 280-281.)

Robbery and Falsification of Public Document, contrary to the conclusions reached by the RTC and concurred in by the CA. To begin with, it is essential to note that Castro's purported possession and eventual return of Volume 266 was only premised upon the statement of one Nelson de Castro (Nelson), *i.e.*, the Sinumpaang Salaysay⁸¹ dated August 9, 1995, who averred that on May 18, 1995, at around 11:50 in the morning, Castro told him to pass by his office and there handed him a bag which, as it turned out, contained the missing Volume 266, *viz.*:⁸²

Noong Mayo 18, 1995 bandang 11:50 ng tanghali ay tumawag sa telepono si ALFREDO CASTRO, ng Budget Division, at sinabihan ako na dumaan sa kanyang opisina dahil mayroon daw siyang ibibigay para sa opisina namin. Pumunta po naman ako kaagad kay ALFREDO CASTRO sa opisina at iniabot sa akin ang isang bag na malaki kulay parang pink at may laman at sinabihan pa niya ako na buksan ko na lang daw ang bag pagdating sa opisina. Pagdating ko sa opisina ay tinawag ko si Mr. ATIBULA at doon ay binuksan naming dalawa ang bag. Nakita ko sa loob ang isang bagay na nakabalot sa isang gift wrap at ng buksan namin o alisin ang gift wrap ay ang Original Decisions, Volume 266 na nawawala mga ilang linggo na ang nakakaraan.

Nelson was not, however, presented before the RTC during trial, hence, was not subjected to any in-court examination. It is settled that while affidavits may be considered as public documents if they are acknowledged before a notary public (here, a public officer authorized to administer oaths), they are still classified as hearsay evidence unless the affiants themselves are placed on the witness stand to testify thereon and the adverse party is accorded the opportunity to cross-examine them.⁸³ With the prosecution's failure to present Nelson to affirm his statement that Castro caused the return of Volume 266,⁸⁴ the prosecution's evidence on the matter should be treated as hearsay and, thus, inadmissible to establish the truth or falsity of the relevant claims. Consequently, there exists no sufficient circumstantial evidence to prove Castro's guilt.

B. The Participation of and Evidence Against Atienza

In similar regard, the prosecution's evidence on the circumstances in this case do not sufficiently establish Atienza's guilt for the crimes of Robbery and Falsification of Public Document.

While records show that Atienza was positively identified by Atibula as having attempted to bribe him to take out **Volume 260** of the CA Original Decisions from the Reporter's Division,⁸⁵ the fact is that the alleged intercalation actually occurred in a different document, that is **Volume 266**.

⁸¹ Records, pp. 323-324.

⁸² Id. at 324.

⁸³ See *Republic v. Marcos-Manotoc*, G. R. No. 171701, February 8, 2012, 665 SCRA 367, 388.

⁸⁴ Records, p. 324.

⁸⁵ TSN, December 3, 2002, pp. 20-21.

The discrepancy of accounts on the very subject matter of the crimes charged dilutes the strength of the evidence required to produce a conviction. At best, the bribery attempt may be deemed as a demonstration of interest on the part of Atienza over said subject matter and in this regard, constitutes proof of motive. However, it is well-established that mere proof of motive, no matter how strong, is not sufficient to support a conviction, most especially if there is no other reliable evidence from which it may reasonably be deduced that the accused was the malefactor.⁸⁶

In fact, even if Atienza's bribery attempt is taken together with the other circumstance couched as a relevant link by the prosecution in this case – *i.e.*, his averred encounter with Atibula, on May 11, 1995, or two (2) days after the discovery of the loss of Volume 266, wherein the latter uttered "[p]utang ina mo, Juaning, pinahirapan mo kami"⁸⁷ – the Court still finds the evidence to be lacking. This allegation, even if proven as true, does not indicate that Atienza howsoever affirmed the taking or even the falsification of Volume 266. Clearly, the utterance was made by Atibula who did not bother to state Atienza's response thereto or any other subsequent action connected therewith so as to bolster a finding of guilt. Neither can this circumstance be properly linked to the act of Castro inviting Atibula to Atienza's party. It would be a stretch to conclude that this mere invitation, without any other proof of Castro's participation, was instrumental or, at the very least, reasonably connected to Atienza and his own alleged participation in the above-stated crimes.

In this relation, it may not be amiss to debunk the claim that petitioners conspired in this case. While direct proof is not essential to establish conspiracy as it may be inferred from the collective acts of the accused before, during and after the commission of the crime which point to a joint purpose, design, concerted action, and community of interests,⁸⁸ records are, however, bereft of any showing as to how the particular acts of petitioners figured into the common design of taking out the subject volume and inserting the falsified documents therein. Hence, the prosecution's theory of conspiracy does not deserve any merit.

All told, the prosecution has failed to show that the circumstances invoked constitute an unbroken chain of events which lead to a fair and reasonable conclusion that petitioners are, to the exclusion of the others, indeed the culprits. As such, their conviction, tested under the threshold of proof beyond reasonable doubt, was not warranted. To be sure, proof beyond reasonable doubt is the degree of proof that, after investigation of the whole record, produces moral certainty in an unprejudiced mind of the accused's culpability.⁸⁹ Such moral certainty is, however, lacking in this case due to the insufficiency of the circumstantial evidence presented.

⁸⁶ *People v. Comesario*, 366 Phil. 62, 68 (1999).

⁸⁷ TSN, December 2, 2002, p. 14.

⁸⁸ *People v. Lamsen*, supra note 78, at 508.

⁸⁹ *People v. Bacus*, G.R. No. 60388, November 21, 1991, 204 SCRA 81, 93.

C. Jurisdictional Defect: Falsification Case

Also, it bears mentioning that the RTC did not have jurisdiction to take cognizance of Criminal Case No. 01-197426 (*i.e.*, the falsification case) since Falsification of Public Document under Article 172(1)⁹⁰ of the RPC, which is punishable by *prision correccional* in its medium and maximum periods (or imprisonment for 2 years, 4 months and 1 day to 6 years⁹¹) and a fine of not more than ₱5,000.00, falls within the exclusive jurisdiction of the Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts pursuant to Section 32(2)⁹² of Batas Pambansa Bilang 129,⁹³ otherwise known as the “Judiciary Reorganization Act of 1980,” as amended by RA 7691.⁹⁴ While petitioners raised this jurisdictional defect⁹⁵ for the first time in the present petition, they are not precluded from questioning the same. Indeed, jurisdiction over the subject matter is conferred only by the Constitution or the law and cannot be acquired through a waiver or enlarged by the omission of the parties or conferred by the acquiescence of the court. The rule is well-settled that lack of jurisdiction over the subject matter **may be raised at any stage of the proceedings**. Hence, questions of jurisdiction may be cognizable even if raised for the first time on appeal.⁹⁶

D. A Final Word

The Constitution mandates that an accused shall be presumed innocent until the contrary is proven beyond reasonable doubt. The burden lies on the prosecution to overcome such presumption of innocence, failing which, the presumption of innocence prevails and the accused should be acquitted.⁹⁷ This, despite the fact that his innocence may be doubted, for a criminal conviction rests on the strength of the evidence of the prosecution

⁹⁰ *Rollo*, p. 36-37.

⁹¹ See Reyes, Luis B., *The Revised Penal Code Criminal Law*, Book Two, Articles 114-367, 18th Ed., 2012, p. 1081.

⁹² SEC. 32. *Jurisdiction of Metropolitan Trial Courts, Municipal Trial Courts and Municipal Circuit Trial Courts in Criminal Cases.* - Except in cases falling within the exclusive original jurisdiction of Regional Trial Court and of the Sandiganbayan, the Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts shall exercise:

x x x x

(2) Exclusive original jurisdiction over all offenses punishable with imprisonment not exceeding six (6) years irrespective of the amount of fine, and regardless of other imposable accessory or other penalties, including the civil liability arising from such offenses or predicated thereon, irrespective of kind, nature, value or amount thereof: Provided, however, That in offenses involving damage to property through criminal negligence, they shall have exclusive original jurisdiction thereof.

⁹³ Entitled “AN ACT REORGANIZING THE JUDICIARY, APPROPRIATING FUND THEREFOR, AND FOR OTHER PURPOSES.”

⁹⁴ Entitled “AN ACT EXPANDING THE JURISDICTION OF THE METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS, AND MUNICIPAL CIRCUIT TRIAL COURTS, AMENDING FOR THE PURPOSE BATAS PAMBANSA BLG. 129, OTHERWISE KNOWN AS THE ‘JUDICIARY REORGANIZATION ACT OF 1980.’”

⁹⁵ *Rollo*, p. 36.

⁹⁶ See *Republic v. Bantigue Point Development Corporation*, G. R. No. 162322, March 14, 2012, 668 SCRA 158, 163-164.

⁹⁷ *People v. Alejandro*, G.R. No. 176350, August 10, 2011, 655 SCRA 279, 287.

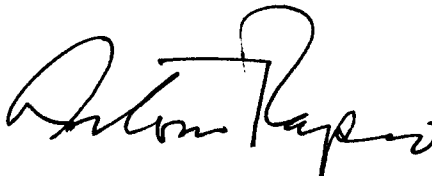
and not on the weakness or even absence of defense. If the inculpatory facts and circumstances are capable of two or more explanations, one of which is consistent with the innocence of the accused and the other consistent with his guilt, then the evidence does not fulfill the test of moral certainty and is not sufficient to support a conviction, as in this case. Courts should be guided by the principle that it would be better to set free ten men who might be probably guilty of the crime charged than to convict one innocent man for a crime he did not commit.⁹⁸ Accordingly, there being no circumstantial evidence sufficient to support a conviction, the Court hereby acquits petitioners, without prejudice, however, to any subsequent finding on their administrative liability in connection with the incidents in this case.


WHEREFORE, the petition is **GRANTED**. The Decision dated November 28, 2008 of the Court of Appeals in CA-G.R. CR. No. 30650 is **REVERSED** and **SET ASIDE**. Petitioners Ricardo L. Atienza and Alfredo A. Castro are hereby **ACQUITTED** of the crimes of Robbery and Falsification of Public Document on the ground of reasonable doubt, without prejudice to any subsequent finding on their administrative liability in connection with the incidents in this case. The bail bonds posted for their provisional liberty are consequently cancelled and released.

SO ORDERED.


ESTELA M. PERLAS-BERNABE
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice

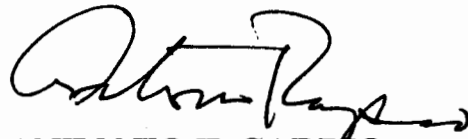

MARIANO C. DEL CASTILLO
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice

⁹⁸ *People v. Angus, Jr.*, G.R. No. 178778, August 3, 2010, 626 SCRA 503, 517-518.

ATTESTATION

I attest 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.

**ANTONIO T. CARPIO**

Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, and the Division Chairperson's Attestation, 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.

**MARIA LOURDES P. A. SERENO**

Chief Justice