"The solemnization of a marriage without prior license is a clear violation of the law and would lead or could be used, at least, for the perpetration of fraud against innocent and unwary parties, which was one of the evils that the law sought to prevent by making a prior license a prerequisite for a valid marriage. The protection of marriage as a sacred institution requires not not the defense of a true and genuine union but the exposure of an invalid one as well."[95]

WHEREFORE, ther petition is **GRANTED**. The Decision dated August 6, 2012 and the Resolution dated November 26, 2012 of the Court of Appeals in CA-G.R. CV No. 92989 are hereby **REVERSED** and **SET ASIDE.** The Complaint filed in Civil Case No. 69611 is **DISMISSED**.

SO ORDERED.

Velasco, Jr. (Chairperson), Peralta, Perez, and *Jardeleza, JJ.,* concur.

SECOND DIVISION

[G.R. No. 204873. July 27, 2016]

ESTHER PASCUAL, *petitioner, vs.* **PEOPLE OF THE PHILIPPINES,** *respondent.*

SYLLABUS

1. CRIMINAL LAW; REVISED PENAL CODE; ESTAFA; ELEMENTS, ESTABLISHED; CASE AT BAR.— The State was able to satisfactorily establish the elements of estafa, to wit: "(1) that the accused defrauded another by abuse of

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[95] *Republic of the Philippines v. Dayot, supra* note 80, at 574.

confidence or by means of deceit, and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person." Here, Pascual defrauded Tiongco by pretending that she had "connections" or "contacts" within the BIR to whom she could allegedly directly pay the capital gains tax at a reduced amount and also with whose help and assistance the transfer certificate of title to the property purchased could be expedited. In fact, in their first meeting, Pascual impressed upon Tiongco that she is a person of some power and influence because she was an employee of the Las Piñas City Assessor's Office and thus had "connections" or "contacts" within the BIR and the City Registry of Deeds.

2. ID.; ID.; FALSIFICATION OF PUBLIC DOCUMENT; ELEMENTS.— [T]he State was also able to establish the following elements of the crime of Falsification of Public Document: "(1) that the offender is a public officer, employee, or notary public; (2) that he takes advantage of his official position; (3) that he falsifies a document by causing it to appear that persons have participated in any act or proceeding; (4) [and] that such person or persons did not in fact so participate in the proceeding."

3. ID.; ID.; ESTAFA THROUGH FALSIFICATION OF PUBLIC DOCUMENT; BEING A COMPLEX CRIME, THE PENALTY FOR THE MORE SERIOUS CRIME SHALL BE IMPOSED IN ITS MAXIMUM PERIOD.— The crime committed was estafa through falsification of public document. Being a complex crime, the penalty for the more serious crime shall be imposed in its maximum period. Falsification under Article 171 of the RPC has a corresponding penalty of *prision mayor* and a fine not to exceed ₱5,000.00. On the other hand, "[t]the amount of damages is the basis of the penalty for estafa." Specifically, Article 315 of the RPC provides the penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of fraud is over [₱12,000.00] but does not exceed [₱22,000.00]; and if [the amount defrauded exceeds ₱22,000.00], the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional [₱10,000.00], but the total penalty which may be imposed shall not exceed twenty years x x x [and] shall be termed *prision mayor* or *reclusion temporal*, as the case may be. In this case, the amount defrauded was ₱130,000.00.

As such, the prescribed penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period shall be imposed in its maximum period which has a range of six (6) years, eight (8) months and twenty one (21) days to eight (8) years, adding one (1) year for each additional ₱10,000.00. Thus, the maximum term of the imposable penalty is from sixteen (16) years, eight (8) months and twenty one (21) days to eighteen (18) years of *reclusion temporal*. Thus, as compared to the crime of falsification under Article 171 which carries a penalty of *prision mayor*, the offense of estafa is the more serious crime. Applying the Indeterminate Sentence Law, the penalty next lower in degree to that prescribed for the crime of estafa is *prision correccional* in its minimum and medium periods which ranges from six (6) months and one (1) day to four (4) years and two (2) months. In fine, the proper indeterminate penalty to be imposed should be four (4) years and two (2) months of *prision correccional*, as minimum to eighteen (18) years of *reclusion temporal*, as maximum.

APPEARANCES OF COUNSEL

Public Attorney's Office for petitioner.
Office of the Solicitor General for respondent.

D E C I S I O N

DEL CASTILLO, *J.*:

This Petition for Review on *Certiorari* under Rule 45 of the Rules of Court seeks to reverse and set aside the April 13, 2012 Decision[1] and the October 18, 2012 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CR No. 32138, which affirmed the July 25, 2008 Decision[3] of the Regional Trial Court (RTC)

[1] CA *rollo,* pp. 107-115; penned by Associate Justice Stephen C. Cruz and concurred in by Associate Justices Vicente S.E. Veloso and Myra V. Garcia-Fernandez.

[2] *Id*. at 145-146.

[3] Records, pp. 822-828; penned by Presiding Judge Lorna Navarro-Domingo.

of Las Piñas City, Branch 201, in Criminal Case No. 04-1039, finding petitioner Esther Pascual (Pascual) guilty beyond reasonable doubt of the complex crime of Estafa through Falsification of Public Document.

Proceedings before the Regional Trial Court

Pascual and Remegio Montero (Montero) were indicted for the crime of Estafa through Falsification of Public Document for colluding and making it appear that they had facilitated the payment of the capital gains tax of private complainant Ernesto Y. Wee to the Bureau of Internal Revenue (BIR) when, in truth and in fact, they converted and misappropriated the money for their own personal benefit. The charge against these two stemmed from the following Information filed by the Office of the Ombudsman:

> That on or about June 26, 2003 in Las Piñas City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused ESTHER PASCUAL a low ranking public officer, being an employee of the City Assessor's Office, Las Piñas City, while in the performance of her official function, committing the offense in relation to her office, and taking advantage of her official position, conspiring and confederating with one REMEGIO MONTERO, a private citizen and helping each other, did then and there willfully, unlawfully and feloniously defraud one ERNESTO Y. WEE thru LEONOR A. TIONGCO in the following manner, to wit: the said accused received from said ERNESTO Y. WEE thru LEONOR A. TIONGCO the amount of ₱130,000.00 for the purpose of paying the Capital Gains Tax on a real estate property which complainant bought in Las Piñas City, with the Bureau of Internal Revenue (BIR), forge and falsify or cause to be forged and falsified BIR Official Receipt No. 2145148, in the amount of ₱102,810.00 as payment of Capital Gains Tax of said ERNESTO Y. WEE by making it appear that they paid said amount of ₱102,810.00 with the BIR, when in truth and in fact, accused fully well knew that there was no payment made with the BIR and did then and there willfully, unlawfully and criminally take, convert and misappropriate for their own personal use and benefit the aforesaid amount of ₱130,000.00, Philippine Currency, to the damage and prejudice of said ERNESTO Y. WEE in the aforesaid sum.

CONTRARY TO LAW.[4]

Montero was arraigned on April 11, 2005, but was later acquitted of the crime charged for insufficiency of evidence in a Decision rendered on March 31, 2008. On the other hand, Pascual was arraigned on January 10, 2007; she entered a negative plea to the crime charged.

During the trial, the State presented the following witnesses: private complainant Ernesto Y. Wee (Wee), Leonor A. Tiongco (Tiongco), Wee's secretary, and Ma. Nimfa Peñalosa De Villa (De Villa), the Assistant Revenue District Officer of the BIR at Las Piñas City. Their collective testimonies tended to establish these facts:

Sometime in 2003, Wee and his wife Susana Wee purchased a real property in Las Piñas City. Since Wee was based in Bacolod City, he directed his secretary, Tiongco, to go to Manila to process the transfer of title to the said property and to pay the capital gains tax thereon. On June 27, 2003, Tiongco informed Wee that she had paid the capital gains tax through Pascual, an employee at the City Assessor's Office of Las Piñas City, who was referred to her by Montero, a part-time businessman from Bacolod City and an acquaintance of Wee.

According to Tiongco, Montero told her to prepare ₱130,000.00 as payment for the capital gains tax. Thereafter, she met Pascual and Montero at SM Megamall, along EDSA. Pascual personally offered to facilitate the payment through her alleged "connections" or "contacts" at the BIR office. Tiongco asked if she could meet Pascual's "connection" or "contact" at the BIR, but Pascual replied in the negative. Upon Pascual's and Montero's insistence, Tiongco issued a check for the said amount, in Montero's name, and Montero encashed the check at the Robinson's Savings Bank, Ortigas Branch. Montero then gave the money back to Tiongco for "safekeeping." After this, Tiongco, Pascual, and Montero went to the BIR office located inside the Metropolis Mall in Las Piñas City. When

[4] *Id*. at 1.

they got there, Pascual then asked for the money so she could "facilitate payment of the taxes." At first, Tiongco was apprehensive about giving the money to Pascual, so she asked Pascual if she could meet the person, *i.e.*, Pascual's alleged "contact" or "connection" inside the BIR office. But Pascual replied that "the person would not face me at the time," and added that she was just accommodating her (Tiongco), and that if Tiongco wanted to pay less tax, then she had better trust her and just give her the money. Because Pascual was insisting on getting possession of the money, saying that she even had to go on leave from work for two days just to accommodate her (Tiongco); and because Montero also told her (Tiongco) that she (Tiongco) might as well make use of the opportunity to conclude the business for that day since that was her purpose in being there after all, Tiongco gave the ₱130,000.00 to Pascual and made her sign a voucher dated June 26, 2003.

Pascual and a lady companion then went inside the BIR office with the money, and after some time Pascual came out with a photocopy of BIR Receipt No. 2145148. Pascual told Tiongco that the original of this BIR receipt was left inside her "contact" at the BIR. Pascual then hastened to assure Tiongco that the certificate of title to Wees' property would be issued in three months' time. But the three months came and went, and despite repeated demands, Pascual still did not deliver on her promise. Worse, the Wee spouses discovered that the photocopy of BIR Receipt No. 2145148 was fake.

The other State witness, Las Piñas City Assistant Revenue District Officer De Villa, testified that her office did not have BIR Receipt No. 2145148 in its possession, nor did her office ever issue one such receipt to Pascual. She affirmed that the photocopy of the receipt in question is in fact a fake BIR receipt.

Pascual waived her right to present countervailing evidence in her defense.

Ruling of the Regional Trial Court

On July 25, 2008, the RTC of Las Piñas City, Branch 201, rendered judgment finding Pascual guilty beyond reasonable

doubt of the crime of Estafa through Falsification of Public Document. The dispositive part of the RTC's Decision reads:

> WHEREFORE, premises considered, the Court hereby finds the accused Esther Pascual GUILTY beyond reasonable [doubt] of the complex crime of Estafa [through] Falsification of a Public Document and pursuant to the provisions of Article 315 and Article 171 of the Revised Penal Code, she is sentenced to suffer the penalty of Prision Mayor. Applying the Indeterminate Sentence Law, the accused is sentenced to a prison term of Three (3) years of Prision [C]orrec[c]ional to Eight (8) years of Prision Mayor and a fine of ₱5,000.00.
>
> By way of civil liability, the accused is ordered to pay the offended party the sum of ₱130,000.00 representing the sum given by private complainant duly received by the accused and the sum of ₱20,000.00 as attorney's fees.
>
> SO ORDERED.[5]

Pascual filed a Motion for Reconsideration but same was denied by the RTC; hence Pascual elevated her case to the CA.

Ruling of the Court of Appeals

Before the CA, Pascual argued that she was convicted of an offense that was different from that alleged in the Information; that although she was accused of Estafa through Falsification of Public Document, she was however convicted by the RTC under Article 171 (Falsification by public officer, employee, or ecclesiastical minister) in relation to Article 315 (Estafa) of the Revised Penal Code (RPC). Pascual insisted that no evidence had been adduced tending to prove that she falsified BIR Receipt No. 2155148.

But her arguments failed to impress the CA, which after review of the appealed case, disposed as follows:

> WHEREFORE, premises considered, the instant appeal is hereby DISMISSED for lack of merit. Accordingly, the assailed Decision of the Regional Trial Court (RTC), Branch 201, Las Piñas City

[5] *Id*. at 827-828.

convicting the accused of the complex crime of *estafa* through Falsification of Public Document is AFFIRMED.

SO ORDERED.[6]

In reaching the foregoing conclusion, the CA ruled that Estafa through Falsification of Public Document is not a singular offense but a complex crime where two different offenses are tried as one because one offense was committed as a necessary means to commit the other, or because a single act constitutes two or more grave or less grave felonies.

The CA rejected Pascual's contention that the State failed to prove that she falsified the BIR receipt in question. On the contrary, the CA found that the State was able to satisfactorily establish clear and convincing evidence that Pascual was responsible for falsifying such receipt.

Hence, this Petition.

Issues

Pascual raises the following issues in this Petition:

I.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE JUDGMENT OF CONVICTION BY GIVING FULL WEIGHT AND CREDENCE TO THE PROSECUTION'S VERSION.

II.

WHETHER THE HONORABLE COURT OF APPEALS ERRED IN AFFIRMING THE DECISION OF THE REGIONAL TRIAL COURT DESPITE THE FACT THAT THE EVIDENCE ON RECORD FAILED TO SUPPORT A CONVICTION.[7]

Pascual now argues that the CA erred in upholding the judgment of the RTC and in giving full weight and credence to the State's account of the indictment against her.

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[6] CA *rollo,* pp. 114-115.

[7] *Rollo*, p. 16.

Anent the alleged estafa, Pascual contends that she did not in any way beguile or mislead Tiongco into believing that she was connected with the BIR, as indeed the only representation she allegedly made was that she knew someone inside that office.

As to the alleged falsification, Pascual contends that she did not take advantage of her official position at the BIR at all because it was not her duty to make or prepare the BIR receipt in question.

Our Ruling

We deny the Petition. Both the RTC and the CA correctly found Pascual guilty beyond reasonable doubt of the crime of Estafa through Falsification of Public Document.

The State was able to satisfactorily establish the elements of estafa, to wit: "(1) that the accused defrauded another by abuse of confidence or by means of deceit, and (2) that damage or prejudice capable of pecuniary estimation is caused to the offended party or third person."[8] Here, Pascual defrauded Tiongco by pretending that she had "connections" or "contacts" within the BIR to whom she could allegedly directly pay the capital gains tax at a reduced amount and also with whose help and assistance the transfer certificate of title to the property purchased could be expedited. In fact, in their first meeting, Pascual impressed upon Tiongco that she is a person of some power and influence because she was an employee of the Las Piñas City Assessor's Office and thus had "connections" or "contacts" within the BIR and the City Registry of Deeds.

Moreover, the State was also able to establish the following elements of the crime of Falsification of Public Document: "(1) that the offender is a public officer, employee, or notary public; (2) that he takes advantage of his official position; (3) that he falsifies a document by causing it to appear that persons have participated in any act or proceeding; (4) [and] that such person or persons did not in fact so participate in the proceeding."[9]

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[8] *People v. Remullo,* 432 Phil. 643, 655 (2002).

[9] *Goma v. Court of Appeals*, 596 Phil. 1, 10 (2009).

We adopt the following findings of facts of the CA as these findings are borne out by the records:

It was established that the accused won over Tiongco by appearing to have expertly facilitated transfers of title in the past while accelerating the payment of taxes along the way. To this end, she assured Tiongco that she knew people from the BIR to whom they could directly pay the capital gains tax for less. When Tiongco appeared apprehensive, she would sound urgent (she was allegedly absent from work for two days to accommodate Tiongco) and, at one point, incensed (she told Tiongco that she was wasting her time for not having the cash). To allay Tiongco's fears, the accused consistently appeared resolute in her purpose especially when it was time for her to pay the capital gains tax. In this instance, she 'transacted' inside the BIR in plain view of Tiongco and thereafter presented her with a photocopy of the BIR receipt that later turned out to be forged.

The deceit by which the charade was accomplished is unmistakable. Deceit as used in this instance is defined as any act or devise intended to deceive; a specie of concealment or distortion of the truth for the purpose of misleading. Concomitantly, for it to prosper, the following elements must concur: (a) that an accused defrauded another by abuse of confidence, or by means of deceit; and (b) that damage and prejudice capable of pecuniary estimation is caused the offended party or third person.

In the present instance, the accused made certain that Tiongco would fall prey to her artifice by presenting herself as someone with extensive connections in the BIR and the Registry of Deeds being herself an employee of the Assessor's Office whose function is the appraisal and assessment of real properties essentially for taxation purposes. She did not relent until Tiongco prepared the amount of ₱130,000.00 supposedly necessary for the payment of taxes. The accused guaranteed that the money will go as intended because she has done it many times before and her transactions turned out well. This, of course, was pure farce because the title of the property was not transferred to the private respondent's spouse as intended, while the capital gains tax remained unpaid. More importantly, it was discovered later that the BIR receipt furnished by the accused was a falsified document per testimony of the assistant district revenue officer of BIR-Las Piñas. This constitutes as the other half of the offense.

Falsification of public document carries with it the following elements: (a) That the offender is a public officer, employee, or notary public; (b) That he takes advantage of his official position; and (c) That he falsifies a document by causing it to appear that persons have participated in any act or proceeding.

Naturally, the accused attempted to deny having forged or falsified the BIR receipt, alleging that there was no direct evidence presented that would link her to the charge of falsification.

Indeed, there was no one from the prosecution that witnessed the accused in the act of falsifying or forging the BIR receipt. However, while direct evidence is scarce, the circumstances surrounding the events that led to her indictment speak of no one but the accused as the perpetrator of the offense. For instance, she did not contradict Tiongco's testimony that after she received the money intended for the payment of the capital gains tax, she and her lady companion went inside the BIR office supposedly to pay the capital gains tax. Neither did she deny Tiongco's testimony that she later came out of the BIR office with the forged BIR receipt which she furnished to Tiognco. Quite revealingly, the accused also remained mum about the testimony of the assistant revenue district officer, Ma. Nimfa Peñalosa De Villa, who disclosed that the document under discussion was unauthentic because it did not come from the BIR.

Clear as they are, the circumstances mentioned earlier are indubitable manifestations that the person responsible for the falsity is the accused herself given that she was the one who supposedly made the transaction inside the BIR, and that she had it in her possession before she passed it off as an official transaction receipt from the BIR. Conviction is not always arrived at by relying on direct evidence alone. Sometimes, the testimonies of witnesses, when credible and trustworthy, are sufficient to bring out a conviction and must be given full faith and credence when no reason to falsely testify is shown.

In the case at bench, Tiongco's testimony is neither erratic nor marred by inconsistency, glaring or otherwise. She was straightforward and narrated the events without missing the focal points. Her testimony, along with that of the assistant revenue district officer, is more than sufficient to espouse the conclusion that the accused personally forged the receipt and deceived Tiongco therewith.[10]

We now turn to the proper imposable penalty.

[10] *Rollo*, pp. 30-32.

The crime committed was estafa through falsification of public document. Being a complex crime, the penalty for the more serious crime shall be imposed in its maximum period. Falsification under Article 171 of the RPC has a corresponding penalty of *prision mayor* and a fine not to exceed ₱5,000.00. On the other hand, "[t]the amount of damages is the basis of the penalty for estafa."[11] Specifically, Article 315 of the RPC provides the penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period, if the amount of fraud is over [₱12,000.00] but does not exceed [₱22,000.00]; and if [the amount defrauded exceeds ₱22,000.00], the penalty provided in this paragraph shall be imposed in its maximum period, adding one year for each additional [₱10,000.00], but the total penalty which may be imposed shall not exceed twenty years x x x [and] shall be termed *prision mayor* or *reclusion temporal*, as the case may be.

In this case, the amount defrauded was ₱130,000.00. As such, the prescribed penalty of *prision correccional* in its maximum period to *prision mayor* in its minimum period shall be imposed in its maximum period which has a range of six (6) years, eight (8) months and twenty one (21) days to eight (8) years, adding one (1) year for each additional ₱10,000.00. Thus, the maximum term of the imposable penalty is from sixteen (16) years, eight (8) months and twenty one (21) days to eighteen (18) years of *reclusion temporal*. Thus, as compared to the crime of falsification under Article 171 which carries a penalty of *prision mayor*, the offense of estafa is the more serious crime.

Applying the Indeterminate Sentence Law, the penalty next lower in degree to that prescribed for the crime of estafa is *prision correccional* in its minimum and medium periods which ranges from six (6) months and one (1) day to four (4) years and two (2) months.

In fine, the proper indeterminate penalty to be imposed should be four (4) years and two (2) months of *prision correccional*, as minimum to eighteen (18) years of *reclusion temporal*, as maximum.

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[11] *Obando v. People*, 638 Phil. 296, 315 (2010).

WHEREFORE, this Petition is **DENIED**. The Decision of the Court of Appeals dated April 13, 2012 in CA-G.R. CR No. 32138, is **AFFIRMED, subject to the MODIFICATION** that petitioner Esther Pascual is sentenced to suffer the indeterminate penalty of four (4) years and two (2) months of *prision correccional*, as minimum, to eighteen (18) years of *reclusion temporal*, as maximum. All damages awarded shall earn interest at the rate of 6% *per annum,* reckoned from finality of this Decision until fully paid.

SO ORDERED.

Carpio (*Chairperson*), *Brion, Mendoza,* and *Leonen, JJ.,* concur.

SECOND DIVISION

[G.R. No. 204899. July 27, 2016]

HEIRS OF BABAI GUIAMBANGAN, namely, KALIPA B. GUIAMBANGAN, SAYA GUIAMBANGAN DARUS, NENENG P. GUIAMBANGAN, AND EDGAR P. GUIAMBANGAN,[1] *petitioners, vs.* **MUNICIPALITY OF KALAMANSIG, SULTAN KUDARAT, represented by its MAYOR ROLANDO P. GARCIA, MEMBERS of its SANGGUNIANG BAYAN, and its MUNICIPAL TREASURER,**[2] *respondents*.

SYLLABUS

1. REMEDIAL LAW; SPECIAL CIVIL ACTIONS; *CERTIORARI;* FAILURE TO IMPLEAD THE TRIAL COURT AS REQUIRED BY SECTION 5, RULE 65 OF THE 1997 RULES IS NOT FATAL TO THE CASE.— The CA dismissed petitioners' *Certiorari* Petition on three grounds: first,

[1] See *rollo*, pp. 13, 89, 506.

[2] *Id*. at 14.