Republic of the Philippines
COURT OF TAX APPEALS
Quezon City

SECOND DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

MYRNA M. GARCIA and CUSTODIO MENDOZA VESTIDAS, JR.
Accused.

CTA Crim. Case No. 0-285
For: Violation of Sec. 3602 in relation to Sections 2503 and 2530 paragraphs f, i, and 1, (3), (4) and (5) of the Tariff and Customs Code of the Philippines, as amended.

Members:

CASTAÑEDA, JR., *Chairperson*
CASANOVA, *and*
MINDARO-GRULLA, *JJ.*

Promulgated:
MAR 26 2013
8:45 a.m.

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RESOLUTION

This resolves accused Myrna M. Garcia and Custodio Mendoza Vestidas, Jr.'s Demurrer to Evidence[1] filed on January 31, 2013, with plaintiff's Comment/Opposition (to the Demurrer to Evidence) filed on February 11, 2013.

Both accused are charged before this Court with a violation of Section 3602 in relation to Sections 2503 and 2530 paragraphs f, i, and 1, (3), (4) and (5) of the Tariff and Customs Code of the Philippines (TCCP), as amended, under Information which reads as follows:

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[1]Docket, pp. 472-488.

> "That on or about November 5, 2011, or prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Myrna M. Garcia and Custodio Mendoza Vestidas, Jr., as owner/proprietress and broker of Plinth Enterprise respectively, conspiring and confederating with each other, with intent to defraud the government, did then and there willfully, unlawfully, and fraudulently import into the Port of Manila, 858 cartons of 17,160 pieces of Anti-Virus Software Kaspersky Internet Security Premium 2012, subject to customs duties by misdeclaration under Import Entry No. C-181011 and Bill of Lading No. PFCMAN1715, filed with the Bureau of Customs (BOC), covering One Forty Footer (1x40) container van shipment bearing no. KKFU7195638 which was falsely declared to contain 40 pallets/1,690 cartons of CD kit cleaner and plastic CD case, said imported items having customs duties amounting to Three Million Three Hundred Forty One Thousand Two Hundred Forty Five Pesos (Php 3,341,245) of which only the amount of One Hundred Thousand Three Hundred Sixty Two Pesos (Php100,362) was paid, in violation of the above-captioned law and to the prejudice and damage to the Government in the amount of Three Million Two Hundred Forty Thousand Eight Hundred Eighty Three Pesos (Php 3,240,883).
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> **CONTRARY TO LAW."**

Records show that in the hearing[2] held on August 1, 2012, accused Myrna M. Garcia and Custodio Mendoza Vestidas, Jr., separately pleaded "Not Guilty" to the aforementioned charge. Thereafter, a Preliminary Conference[3] was held on September 5, 2012 followed by a Pre-Trial[4] held on September 13, 2012. In the Pre-Trial Order dated September 13, 2012, both the prosecution and defense agreed to adopt the joint stipulations of facts and issues entered in the course of the preliminary conference, to wit:

> "Thus, both prosecution and defense had admitted as follows:

[2]Minutes of the Hearing dated August 1, 2012, Id, p. 170.
[3]Minutes of Preliminary Conference, Id, pp. 184-190.
[4]Minutes of the Hearing dated September 13, 2012, Id, p. 191.

1. That this Court has jurisdiction over the person of the accused Myrna M. Garcia and Custodio Mendoza Vestidas, Jr.;

2. That both accused Myrna M. Garcia and Custodio Mendoza Vestida, Jr. are the same persons charged in the information;

3. That Mr. Custodio Mendoza Vestidas, Jr. is a licensed customs broker;

4. That as a licensed broker, Mr. Vestidas, Jr. is duty bound under the Code of Ethics for Customs Brokers (enacted 2005) and responsible in ensuring that goods are properly declared in order to protect the interest of the Government.

As to the factual issues, those to be resolved are:

1. Whether or not accused Mr. Custodio Mendoza Vestidas, Jr. is a licensed Customs Broker of Plinth Marketing;

2. Whether or not accused Myrna M. Garcia and Mr. Custodio Mendoza Vestidas, Jr. has their respective CCN, a digital signature and password;

3. Whether or not accused- Myrna M. Garcia and Mr. Custodio Mendoza Vestidas, Jr. have direct and/or indirect participation in the preparation of documents which was the basis of the filing of the case against them.

As to the legal issue to be resolved, it is whether or not both accused are liable for the offense charged in the information."[5]

THE EVIDENCE PRESENTED BY THE PROSECUTION

The prosecution presented the following witnesses:

[5] Id, p. 193.

1. RHODERICK L. YUCHONGCO[6]

DIRECT EXAMINATION:

Based on Judicial Affidavit of Rhoderick L. Yuchongco, he is presently designated as X-ray Inspector in concurrent capacity as alternate Document Verifier at Manila International Container Port (MICP).[7] Pursuant to Alert Order No. A/OC/20111116-101 dated 16 November 2011, he was assigned as one of the Officer-on-case that was directed by Commissioner Rozzano Rufino B. Biazon and Atty. Ma. Lourdes V. Mangaoang, CEO VI, Head, X-ray Inspection Project, to witness the conduct of 100% examination by the assigned examiner of Container Van No. KKFU 7195638, consigned to Plinth Enterprises, and owned by accused Myrna M. Garcia.[8] Upon receipt of the said Alert Order, he proceeded to the warehouse 2 at the MICP to witness the 100% physical examination.[9] There, he witnessed Jose Saromo, Customs Examiner of Section 12, Formal Entry Division (FED), examine the contents of Container Van No. KKFU 7195638. Accordingly, the contents of the shipment were the following: 1) 264 cartons @ 5,280 pieces of Antivirus Software 1 user (KASPERSKY Internet Security Premium 2012); and, 2) 594 cartons @ 11,880 pieces of Antivirus Software 3 user (KASPERSKY Internet Security Premium 2012).[10] He attested that photographs were taken on the actual contents of the container and an inventory report was taken by the Customs Examiner Jose Saromo.[11] After witnessing the same, he executed a Memorandum on November 17, 2011 and reported therein what he witnessed and recommended the issuance of a Warrant of Seizure and Detention (WSD) against the entire shipment by reason of misdeclaration since the same was declared by accused as 1,690 cartons CD Kit Cleaner and Plastic CD Case.[12]

He claimed that even before the said examination, they already had a suspicion that there were undeclared

[6] Minutes of the Hearing dated October 10, 2012, Id, p. 256.
[7] Answer to Question No. 3, Id, p. 213.
[8] Answers to Question Nos. 7 and 9, Id, p. 214.
[9] Answer to Question No. 16, Id, p. 216.
[10] Answer to Question No. 17, Id.
[11] Answers to Question Nos. 19 and 22, Id, p. 217.
[12] Answer to Question No. 23, Id, pp. 217-218.

items in the subject container because the contents thereof as stated in the documents submitted by the representative of Plinth Enterprises to the XIP, did not match with the THSCAN Container Inspection System Image of Container Van No. KKFU 7195638,[13] the x-ray image print-out of the said container van after it was x-ray scanned.[14]

He knew that Plinth Enterprises was the consignee of Container Van No. KKFU 7195638 since Plinth Enterprises was indicated as consignee in the following documents: Import Entry and Internal Revenue Declaration (Import Entry) No. C-181011, Bill of Lading No. PFCFMAN1715 and, Invoice No. 309213.[15] In the same vein, he knew that it was Custodio Mendoza Vestidas, Jr., the custom broker, who processed the import entry of the instant shipment since his name was indicated in the Import Entry No. C-181011. [16]

After the issuance of the WSD, he executed a Complaint Affidavit against the two accused and when a Counter- Affidavit was filed, he submitted a Reply-Affidavit before the Department of Justice.[17]

CROSS EXAMINATION

Witness testified that he witnessed the 100% examination of the container van. He counted the contents of the container and identified it with the Examiner.[18] According to him, it was the Customs Examiner who made the inventory. Apart from being a witness, he also took pictures of the contents of the container.[19] He admitted that he was not the person who x-rayed the container van.[20]

He asserted that accused Custodio Mendoza Vestidas, Jr.'s representative, Mr. Marvin Delos Santos, was present during the examination.[21] But, when he was asked if accused Myrna M. Garcia was likewise represented, he

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[13] Answer to Question No. 26, Id, p. 218.
[14] Taken from the Answer to Question No. 37, Id, p. 220.
[15] Answer to Question No. 32, Id, p. 219.
[16] Answers to Question Nos. 34 and 35, Id, p. 220.
[17] Answers to Question Nos. 46 and 54, Id, pp. 223 and 225.
[18] TSN, October 10, 2012, p. 43.
[19] TSN, October 10, 2012, p. 44.
[20] TSN, October 10, 2012, p. 45.
[21] TSN, October 10, 2012, pp. 45 and 46.

answered in the negative and added that "I assumed they'd been presented by...*(interrupted)"* .[22]

RE-DIRECT EXAMINATION

He testified that accused Custodio Mendoza Vestidas, Jr.'s broker was present during the examination.[23] He enumerated the documentary requirements such as Entry, gate pass, B/L, Packing List, Invoice, and certificates required for the said items, before a particular container could be x-rayed or scanned in their facility.[24] He claimed that the foregoing documents were complete when the container was x-rayed.[25] He explained that the role of the broker is to compile the documents, sign the entries for the truthfulness of the documents that they have submitted, and file the same with the Bureau of Customs.[26] He added that the Importer hires the Broker and that the consignee cannot process the documents on its own since they need to go to the broker to release the container.[27]

RE-CROSS EXAMINATION

When he was asked about the whereabouts of the Packing List, he admitted that he could not find the same during the examination.[28] He likewise admitted he merely assumed that all the documents (Entry, B/L, and gate pass) came from Plinth.[29]

2. NOMIE V. GONZALES[30]

DIRECT EXAMINATION

Based on the Judicial Affidavit of Nomie V. Gonzales, she is presently assigned as Chief of the Systems Management Division (SMD), MISTG, BOC, Bureau of Customs, Manila. Her duties and responsibilities generally consist, among others, of the implementation of all operational automated systems in all BOC ports and its

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[22] TSN, October 10, 2012, p.46.
[23] TSN, October 10, 2012, p.58.
[24] TSN, October 10, 2012, p. 59.
[25] TSN, October 10, 2012, p. 60.
[26] TSN, October 10, 2012, p. 62.
[27] TSN, October 10, 2012, p. 63.
[28] TSN, October 10, 2012, p. 69.
[29] TSN, October 10, 2012, p. 73.
[30] Minutes of the Hearing dated October 24, 2012, Id, p. 287.

sub-ports. She stated that she executed an Affidavit as requested by the Run After the Smugglers (RATS) Group of the BOC to explain the process of electronic filing under Electronic to Mobile (E2M) Customs Systems of the BOC and for the purpose of proving that importer Garcia and broker Vestidas have in fact processed and declared with the Bureau of Customs using their unique password, specific data pertaining to the subject shipment.[31]

She attested that on November 10, 2011, the BOC E2M System accepted the lodgment of an Import Entry together with the electronic bill of lading coming from importer Myrna M. Garcia, the owner-proprietor of Plinth Enterprises through her customs broker Custodio Mendoza Vestidas, Jr., for the shipment covered by Import Entry No. C-181011. The electronic data supplied by the said importer and the broker in the form of Single Administrative Document (SAD) as well as the Bill of Lading are currently stored in the BOC database and are now used, accessed and utilized by authorized BOC personnel in the processing of the importation as well as for purpose of proving that the importer and broker have in fact processed and declared with the Bureau of Customs using their unique password, specific data pertaining to the shipment.[32]

She explained that under the E2M System, the pre-requisite of entry declaration submission are the stakeholder's profile registration and accreditation, bank account of importer, arrival schedule setup, manifest/bill of lading, submission and acquisition of licenses/clearance/permits. According to her, the filing of electronic entry to the E2M will not be allowed if the importer has no registered Tax Identification Number (TIN), Customs Client Number (CCN) and Bank Reference Number (BRN), as well as TIN and CCN of licensed broker at the BOC CPRS. She said that other electronic information required that should matched up with the entry declaration are the following: Bill of Lading Number, Manifest Number, type of package, actual quantity of cargo, actual gross weight and container number (if containerized). Any discrepancy on the required information will cause the rejection of the filing of electronic entry. She also testified

[31] Answers to Question Nos. 3, 5 and 7, Docket, pp. 269-270.
[32] Answer to Question No. 10, Id, pp. 270-271.

that accused Garcia and Vestidas have a profile registration.[33]

CROSS EXAMINATION

She agreed with the accused's counsel that it was the Broker who processed the documents.[34] When she was asked as to why she mentioned accused Garcia in this case, she answered, "Based on the document, sir."[35] She admitted that she did not see any representative of Plinth or accused Garcia.[36] She likewise did not see who processed the document since "it is in the other department, the Assessment Division."[37] Moreover, she admitted that she was not present in the processing of papers since the processing thereof is on the electronic side.[38] She also acknowledged that she merely printed the documents and has no participation in the preparation of Manifest Waybill and Import Entry No. 1C18101.[39]

RE-DIRECT EXAMINATION

She testified that she did not personally see who lodged this E2M SAD documents since she was on the computer center. She explained that the importer or broker can encode at home, office or anywhere that has internet using his/her access and password. She further explained that the information together with other documents such as Bill of Lading, Manifest number, total package, total quantity and gross weight will be checked by the computer. She said that information when lodge to the system, will be successfully accepted if all matches the information versus the information with the system.[40]

RE-CROSS EXAMINATION

Here, the counsel for the accused stressed that she mentioned in the re-direct examination two things, the Attorney in Fact of the Importer and representative of the

[33] Answers to Question Nos. 15 and 17, Id, pp. 272-273.
[34] TSN, October 24, 2012, pp. 25-26.
[35] TSN, October 24, 2012, p. 27.
[36] TSN, October 24, 2012, pp. 27-28.
[37] TSN, October 24, 2012, pp. 28-29.
[38] TSN, October 24, 2012, pp. 29-30.
[39] TSN, October 24, 2012, pp. 30-31.
[40] TSN, October 24, 2012, pp. 34-35.

Importer. She explained that the representative of the Importer is the Broker itself. The Counsel again asked if she mentioned the Attorney in Fact and the Broker. In answer to it, she replied, "Actually, it is this, maybe I made some...*(interrupted)"*. She added that she mentioned the Attorney In Fact on the ground that their form which is a notarized document has the following wordings: Consignee/Importer/Broker/Attorney-In-Fact. She admitted that the processing of the documents is done by another person and not by the Importer. [41]

3. Jose A. Saromo[42]

DIRECT EXAMINATION:

Based on his Judicial Affidavit, he holds the position of Customs Operations Officer III at the Bureau of Customs and presently assigned as a Customs Examiner of Section 12, Formal Entry Division (FED), Manila International Container Port (MICP). His general duties consist, among others, the physical examination of goods/commodities inside container vans, assigned to him. He said that he is familiar with the instant case since he conducted on November 17, 2011, the 100% physical examination of Container No. KKFU7195638, owned by Plinth Enterprises.[43] He found out that there was a misdeclaration or that the shipment was not properly declared since the same was declared by accused as CD Kit Cleaner and Plastic CD Case whereas the real contents were: 1) 264 cartons @ 5,280 pieces of Antivirus Software 1 user (KASPERSKY Internet Security Premium 2012); and 2) 594 cartons @ 11,880 pieces of Antivirus Software 3 user (KASPERSKY Internet Security Premium 2012). After the physical examination, he wrote his findings in an Inventory Report.[44]

CROSS-EXAMINATION

He testified that he does not have any knowledge or participation in Import Entry and Internal Declaration

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[41] TSN, October 24, 2012, pp. 37-38.
[42] Minutes of the Hearing dated November 12, 2012, Docket, p. 309.
[43] Docket, p. 292, Answer to Question Nos. 2, 3, 6 and 8, Judicial Affidavit of Jose A. Saromo, Docket, p. 292.
[44] Ibid, pp. 293-295, Answer to Question No. 18, Ibid, pp. 294-295.

Number C-1810011 and that his participation was that he examined one out of the two container vans. He stated that he examined it in the presence of the broker, the representative of the broker, and x-ray personnel but he cannot recall if there was a representative from the consignee. He agreed with the accused's counsel that in his report, there was no name from the plaintiff consignee.

When he examined the container van, he testified that he did not place any markings thereon. He did not examine it one by one nor bring out the contents of the container van. He admitted that he did not see any packing list in the container van.[45]

RE-DIRECT EXAMINATION

He testified that it is not always required that the importer be present in every physical examination. The importer can be represented by the broker or by the broker's representative.[46]

RE-CROSS EXAMINATION

He testified that he does not know if the broker represents the consignee in the instant case.[47]

4. Rolando B. Ibarra.[48]

DIRECT EXAMINATION

He testified that he is presently employed as Customs Operation Officer V assigned at MICP, Manila International Container Port Section 7 Formal Entry Division.[49] He testified that he made a computation on a piece of paper regarding the contents of the container of the accused, bearing the heading "Consignee Plinth Enterprises" with Entry No. C181011.[50]

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[45] TSN, November 12, 2012, pp. 9-11.
[46] TSN, November 12, 2012, pp. 13-14.
[47] TSN, November 12, 2012, pp. 14-15.
[48] Minutes of the Hearing dated November 21, 2012, Docket, p. 313.
[49] TSN, November 21, 2012, p. 9.
[50] TSN, November 21, 2012, p. 14.

CROSS EXAMINATION

He testified that he based his computation on the value set forth at their VCD files, Value Classification Division and that said VCD files was only provided to him by another person.[51]

Subsequently, the prosecution filed its Formal Offer of Evidence[52] on December 10, 2012 which was admitted by this Court in a Resolution[53] dated January 8, 2013.

On January 15, 2013, accused filed an Omnibus Motion to File Demurrer to Evidence with Leave of Court to Cancel Hearing Scheduled on January 21, 2013[54] which was granted by this Court in the January 21, 2013 hearing.[55] Thereafter, both accused filed their Demurrer to Evidence on January 31, 2013. A Comment/Opposition (to the Demurrer to Evidence) was filed by the plaintiff on February 11, 2013.

Hence, this Resolution.

In their Demurrer to Evidence, accused Myrna M. Garcia and Custodio Mendoza Vestidas, Jr., contend that the prosecution failed to prove their guilt beyond reasonable doubt for the following reasons:

1. The pieces of documentary evidence submitted by the prosecution are inadmissible in evidence;

2. The object evidence consisting of the alleged misdeclared goods were not presented as evidence; and

3. None of the witnesses for the prosecution made a positive identification of the two accused as the ones responsible for the misdeclaration of goods.

The afore-cited issues will be discussed in *seriatim.*

Anent the first ground, accused Myrna M. Garcia and Custodio Mendoza Vestidas, Jr., argue that although the official documents produced by the prosecution witnesses, who are public officers, are

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[51] TSN, November 21, 2012, pp. 16-17.
[52] Docket, pp. 316-340.
[53] Ibid, pp. 460-461.
[54] Id, pp. 464-467.
[55] Minutes of the Hearing dated January 21, 2013, Id, p. 469.

certified true copies, there is nothing in the records to show that they were issued by the officers having legal custody of the original records and, the manner of presenting the questioned public documents is fatally flawed following Section 24 of the Rules on Evidence.

Prosecution, on the other hand, posits that the accused reliance in Section 24 is misplaced; the evidence presented by the prosecution is in accordance with the Best Evidence Rule (Rule 130); that the prosecution had already proven the authenticity of the pieces of evidence it had presented thru the testimonies of its witnesses following Section 5 of Rule 130; and, Section 7 of Rule 130 also bear relevance to this case.

After analyzing all the evidence on record, both testimonial and documentary, the Court found out that the prosecution failed to establish the guilt of both accused Myrna M. Garcia and Custodio Mendoza Vestidas, Jr., beyond reasonable doubt.

For one, this Court found out that no proof whatsoever was presented by the prosecution showing that the certified true copies of the public documents offered in evidence against both accused were in fact issued by the legal custodians. To mention a few, certified true copy of Import Entry No. C-181011, certified true copy of Bill of Lading No. PFCFMAN1715 and, certified true copy of Invoice No. 309213.

Under the Revised Rules of Court, when the original of a document is a public record, it should not generally be removed from the office or place in which it is kept (Sec. 26, Rule 132). Thus, its contents may be proven using secondary evidence (Section 7, Rule 130) and, such evidence may pertain to the certified true copy of the original document issued by the public officer in custody of the public records, *viz:*

> "Sec. 7.*Evidence admissible when original document is a public record.* — When the original of document is in the custody of public officer or is recorded in a public office, its contents may be proved by a **certified copy issued by the public officer in custody thereof.** (2a)" (Emphasis supplied)

The need to comply with the afore-cited rule is demonstrated in the case of *Republic of the Philippines vs. El Gobierno de las Islas Filipinas (G.R. No. 142284, June 8, 2005)*, where the Supreme Court held:

> "Significantly, only a certain Geodetic Engineer certified that the copy of the decision attached to the petition was a true copy of the same. It was not established that the Geodetic Engineer is the public officer who is in custody thereof. Section 7, Rule 130, Revised Rules on Evidence provides:
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> SEC. 7. *Evidence admissible when original document is a public record.* – When the original of a document is in the custody of a public officer or is recorded in a public office, its contents may be proved by certified copy issued by the public officer in custody thereof. (2a)
>
> Thus, **in the absence of proof that the Geodetic Engineer is a public officer in custody thereof, such piece of evidence has no probative value**." (Emphasis supplied)

Similarly, in the case of *SAAD Agro-Industries, Inc., vs. Republic of the Philippines (G.R. No. 152570, September 27, 2006)*, the High Tribunal again stressed the need to present a certified true copy issued by the public officer in custody thereof in order to prove its content, to wit:

> "Evidence, indeed, is admissible when the original of a document is in the custody of a public officer or is recorded in a public office. **However, to prove its contents, there is a need to present a certified copy issued by the public officer in custody thereof. In addition, while the L.C. Map may be considered a public document and *prima facie* evidence of the facts stated therein, the map, to be admissible for any purpose, must be evidenced by an official publication thereof or by a copy attested by the officer having legal custody of the record.**
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> **The rules of admissibility must be applied uniformly. The same rule holds true when the Government is one of the parties. The Government, when it comes to court to litigate with one of its citizens, must submit to the rules of procedure and its**

> **rights and privileges at every stage of the proceedings are substantially in every respect the same as those of its citizens;** it cannot have a superior advantage. This is so because when a sovereignty submits itself to the jurisdiction of the court and participates therein, its claims and rights are justiciable by every other principle and rule applicable to the claims and rights of the private parties under similar circumstances. Failure to abide by the rules on admissibility renders the L.C. Map submitted by respondent inadmissible as proof to show that the subject lot is part of the forest reserve." (Emphasis supplied)

The doctrine enunciated in the aforementioned *SAAD Agro-Industries, Inc. vs. Republic of the Philippines*[56] case was again reiterated in the case of *Republic of the Philippines vs. Development Resources Corporation.*[57]

Applying the foregoing jurisprudence in the instant case, this Court notes that no proof whatsoever was presented by the prosecution showing that the certified true copies of the public documents offered in evidence against the accused were in fact issued by the legal custodians contemplated in the rules.

In the same vein, the prosecution, in offering certified true copies of the private documents such as the Manifest Waybill,[58] Import Entry No. C-181011[59], Bill of Lading No. PFCFMAN1715[60], and Invoice No. 309213[61], must comply with the provision of Section 27 of Rule 132[62] for them to be admissible, considering that the said documents were submitted and filed with the Bureau of Customs making it, therefore, a part of public records. Unfortunately, records show that no evidence was similarly presented by the prosecution showing that certified true copies of those documents were issued by the legal custodians thereof. Consequently, this Court cannot give probative value to the said certified true copies of public documents.

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[56] G.R. No. 152570, September 27, 2006.
[57] G.R. No. 180218. December 18, 2009.
[58] Exhibit "E".
[59] Exhibits "G"-"G-1".
[60] Exhibit "H".
[61] Exhibit "I".
[62] *Section 27. Public record of a private document.—*
An authorized public record of a private document may be proved by the original record, or by a copy thereof, attested by the legal custodian of the record, with an appropriate certificate that such officer has the custody.

We will now proceed to the accused's contention that the electronic evidence presented by the prosecution must be authenticated as provided under the Electronic Commerce Act (E-Commerce Act) and its Implementing Rules and Regulation (IRR).

Such contention of the accused has no legal basis. The Supreme Court in the case of *Rustan Ang y Pascua vs. the Honorable Court of Appeals and Irish Sagud,*[63] categorically held that "the rule on electronic evidence does not apply to criminal cases", such as in the present case. In fact, A.M. No. 01-7-01-SC (Implementing Rules and Regulation of E-Commerce Law[64]) explicitly provides that it applies only to civil actions, quasi-judicial proceedings, and administrative proceedings.[65]

Secondly, the alleged misdeclared goods were not presented in Court for identification by any of the prosecution witnesses. The presence of photographs identified by the prosecution witness turned out to be a certified true copy of the original which cannot be relied upon by the Court. The pictures only showed some big boxes with labels but the contents of the boxes which are in issue were not shown in the pictures and also not even a sample was presented for the enlightenment of the Court.

And lastly, the prosecution admitted in their COMMENT/OPPOSITION (TO THE DEMURRER TO EVIDENCE) that none of their witnesses ever positively identified both accused in open court. In criminal cases, failure of the prosecution witness to positively identify the accused in court is fatal to the prosecution's cause.

WHEREFORE, the Court finds that it is very apparent that the evidence on record are insufficient to establish the guilt of both the accused namely Myrna M. Garcia and Custodio Mendoza Vestidas, Jr., beyond reasonable doubt and therefore hereby **DISMISSED** the instant case.

SO ORDERED.

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[63]G.R. No. 182835, April 20, 2010.
[64]Republic Act No. 8792.
[65]A.M. No. 01-7-01-SC, Rule 1, Section 2.

Juanito C. Castañeda, Jr.
JUANITO C. CASTAÑEDA, JR.
Associate Justice

CAESAR A. CASANOVA
Associate Justice

Cielito N. Mindaro-Grulla
CIELITO N. MINDARO GRULLA
Associate Justice