

**\*\*Title:\*\***

Duero vs. People of the Philippines - Malversation of Public Funds

**\*\*Facts:\*\***

1. **\*\*Commission on Audit (COA) Examination Order:\*\*** On March 9, 1981, the COA Regional Director for Region XI ordered an examination of the cash and accounts of the Municipal Treasurer of Tandag, Surigao del Sur.
2. **\*\*Audit Execution:\*\*** On March 16, 1981, Special Audit Team No. 1 began auditing Gabriel L. Duero, the Municipal Treasurer, for the period from June 3, 1980, to March 16, 1981. The team audited his cash and accounts initially on-site, then continued the work in Davao City, returning intermittently.
3. **\*\*Initial Overages and Verification:\*\*** The audit initially revealed an overage of P1,648.02. However, further examination discovered unrecorded infrastructure funds from the Ministry of Public Works and Highways (MPH) and interest from a time deposit with the Philippine National Bank (PNB).
4. **\*\*Amendment of Findings:\*\*** By May 4, 1981, the audit team identified these discrepancies leading to an initial demand for Duero to produce P339,375.34, later revised to P70,993.33 after several verifications and corrections.
5. **\*\*Final Findings:\*\*** By May 26, 1981, the audit concluded Duero's accountability at P63,993.33 after ruling out P7,000 received by the Provincial Treasurer.
6. **\*\*Criminal Information Filed:\*\*** On November 18, 1986, Duero was charged with Malversation of Public Funds by the Tanodbayan Special Prosecutor in the Sandiganbayan.
7. **\*\*Plea and Defense:\*\*** Arraigned on June 17, 1988, Duero pleaded not guilty, claiming the unrecorded funds were used for employee cash advances, evidenced mostly by demand letters.
8. **\*\*Trial and Evidences:\*\*** Witnesses, including Duero, presented evidence of the "vale" system for cash advances. The Sandiganbayan found insufficient concrete evidence (e.g., vale slips) of these advances.
9. **\*\*Sandiganbayan Conviction (June 6, 2003):\*\*** Duero was convicted, sentenced to an indeterminate penalty and fined P46,602.54, with special perpetual disqualification from public office.
10. **\*\*Motion for Reconsideration:\*\*** Duero's motion was denied by the Sandiganbayan (February 17, 2004), which considered an additional mitigating circumstance of voluntary surrender.
11. **\*\*Appeal to Supreme Court:\*\*** Duero sought relief from the Supreme Court, alleging errors in audit regularity, demand receipt, due process denial, and insufficiency in proving

guilt.

**\*\*Issues:\*\***

1. Whether the audit conducted was regular, complete, and accurate, establishing the basis for the presumption of malversation.
2. Whether actual receipt of demand by Duero was established competently.
3. Whether Duero's constitutional right to due process was violated by not allowing a re-examination and re-audit.
4. Whether the totality of evidence suffices to establish Duero's guilt beyond reasonable doubt.

**\*\*Court's Decision:\*\***

1. **\*\*Audit Regularity:\*\*** The Court upheld the Sandiganbayan's finding of a thorough audit despite initial discrepancies caused by Duero's own misleading entries. The errors in the audit were corrected and adequately explained, maintaining audit credibility.
2. **\*\*Receipt of Demand:\*\*** The Court found competent evidence supporting Duero's receipt of demand notices from the audit team, fulfilling the statutory requirements.
3. **\*\*Due Process Violation:\*\*** The Court rejected the claim of due process violation. It determined that Duero had ample opportunity for defense, including re-investigation initiated by his own motion.
4. **\*\*Sufficiency of Evidence:\*\*** The Court found that evidence, including the lack of contradictory documentation (vale slips), supported the conviction. Duero's explanations were not substantiated adequately to negate his responsibility for the shortage.

The Supreme Court affirmed the Sandiganbayan's conviction and penalties imposed, including the indeterminate sentence, fine, and perpetual disqualification from holding public office.

**\*\*Doctrine:\*\***

1. **\*\*Prima Facie Evidence of Misappropriation:\*\*** Failure to have funds forthcoming upon demand by an authorized officer is prima facie evidence of malversation under Article 217 of the Revised Penal Code.
2. **\*\*Non-Meritorious Defense:\*\*** Use of public funds for unauthorized activities (e.g., cash advances under the "vale" system) does not excuse or negate liability for malversation.

**\*\*Class Notes:\*\***

- **\*\*Elements of Malversation (Art. 217, RPC):\*\***

1. Public officer
  2. Custody/control of public funds/property
  3. Misappropriated funds/property
  4. Prima facie misappropriation upon failure to have funds available when demanded.
- **Key Statutory Provision:** Revised Penal Code, Article 217.

**Historical Background:**

The case reflects the rigorous audit standards and anti-corruption measures implemented by the COA and judicial authorities in the Philippines during the 1980s. The decision underscores the role of audits in maintaining governmental financial integrity and highlights legal principles pivotal in prosecuting malversation cases amidst ongoing reforms in public accountability and anti-corruption laws.