

ATTY. ALFONSO A. OSIAS, PETITIONER, VS. THE HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.*G.R. Nos. L-46148-49. April 10, 1996*

Ponente: HERMOSISIMA, JR., J.

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Petitioner Alfonso A. Osias was originally charged[1] in the Municipal Court[2] of Limay, Bataan, with three (3) Violations[3] of Section 3(b) of Republic Act 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. After preliminary investigation, the cases were remanded to the Court of First Instance of Bataan and the corresponding Informations[4] were filed on June 11, 1973. The three (3) cases were transferred to the Circuit Criminal Court[5] on August 17, 1973 in accordance with law.

Petitioner, upon arraignment, pleaded not guilty to all the charges. In view of the failure of the prosecution to present offended party Lucio Cortez, Criminal Case CCC-V-824 was dismissed for failure to prosecute.

We quote the informations in the two remaining cases:

Criminal Case No. CCC-V-823

"That on or about the month of December, 1979, in the Municipality of Limay, Province of Bataan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who was then a public officer, he being the chief of the Legal Services Staff of the Bureau of Plant Industry, did then and there willfully, unlawfully and feloniously request or demand and receive from PEDRO AGAS the sum of THREE THOUSAND (P3,000.00) PESOS, in cash as share, percentage or benefit for himself in the proceeds from said Pedro Agas claim for retirement gratuity and workmen compensation under Com. Act No. 186, as amended, and Rep. Act No. 3428, as amended, with the Government Service Insurance System and Workmen's Compensation Commission which granted said claims and paid by the Government with the help of the said accused who had to intervene therein under the law in his official capacity as such public officer, to the damage and prejudice of said Pedro Agas.

CONTRARY TO LAW."

Criminal Case No. CCC-V-825

"That on or about the month of September, 1970, in the Municipality of Limay, Province of Bataan, and within the jurisdiction of this Honorable Court, the above-named accused who was then a public officer, he being the chief of the Legal Services Staff of the Bureau of Plant Industry, did then and there willfully, unlawfully and feloniously request or demand and receive from PEDRO AGAS the sum of THREE THOUSAND (P3,000.00) PESOS, in cash as share, percentage or benefit for himself in the proceeds from said Pedro Agas' claim for medical expenses under Rep. Act No. 3428, as amended, with the Workmen's Compensation Commission which granted said claim and paid by the Government with the help of the said accused who had to intervene therein under the law in his official capacity as such public officer to the damage and prejudice of said offended party, Pedro Agas.

CONTRARY TO LAW."

Joint trial of these two cases was commenced on October 3, 1973, the same day petitioner was arraigned.

Let us unfurl the basic facts:

Petitioner was employed by the Bureau of Plant Industry (hereafter, BPI) in 1952. He rose from the ranks and was promoted to the position of Chief of the Legal Services Staff. In 1968, another employee of the BPI by the name of Pedro Agas had developed an acute heart problem. Agas was a plant propagator at the BPI's Lamao Experiment Station in Limay, Bataan. On account of his debilitating coronary illness, Agas applied for terminal leave and disability retirement effective immediately after June 20, 1969. The claim for disability benefits was considered meritorious by the BPI Evaluation Committee which thus recommended payment thereof with the manifestation that "the Bureau does not intend to controvert the said claim for disability compensation." [6] However, passing upon the claim of Agas for reimbursement of medical expenses, the same committee recommended that "claims for medical expenses, if any, incurred by the claimant should be the subject of a formal hearing to ascertain the legality and reasonableness of such medical expenses." [7] The Evaluation Committee Report was signed by all but one of the five committee members. Petitioner signed the said report as the Vice-Chairman of the Evaluation Committee.

The records show that Agas was paid P6,000.00 as compensation for disability under the Workmen's Compensation Act on October 30, 1969. [8] The corresponding treasury warrant [9] for the same amount was issued on the same date. The said warrant was received by one Alfonso Agas on October 31, 1969 at 5:30 p.m. [10]

It is also borne out by the records that Agas was paid P5,945.53 as retirement gratuity on November 26, 1969. [11] Likewise, the corresponding treasury warrant [12] for the same amount was issued on the same date. While the Warrant Register showed that the said warrant was received by a person with the surname of Lago on December 13, 1969, [13] on record there is another document dated December 4, 1969 acknowledging receipt of the same treasury warrant; this receipt was signed by Pedro Agas who was personally certified and guaranteed by one Encarnacion Gadia, Assistant Chief of the Records Section of the BPI. [14]

The claim of Agas for reimbursement of medical expenses was adjudicated upon by the Department of Labor. [15] In an Order [16] dated June 18, 1970, Agas was awarded P6,800.00 as reimbursement of medical expenses incurred for the treatment of his illness. The pertinent portion of that Order reads:

"x x x Claimant spent the sum of P6,855 pesos x x x

Considering however that claimant (sic) disability was declared permanent and total in the letter of computation of this Office dated October 9, 1969 and that in the order issued by this office assigning the case to the undersigned for hearing and adjudication it was so stated that claimant's right to reimbursement of medical expenses should not go beyond October 9, 1969, when his disability was pronounced permanent and total, the expenses x x x represented by the receipt dated March 9, 1970 x x x and the other receipt dated March 3, 1970 x x x cannot therefore be allowed. In short claimant is entitled to reimbursement in the amount of x x x P6,800.000 pesos, respondent having presented no evidence disputing the same x x x." [17]

There is no document on record that definitively establishes the fact that said medical expenses had been reimbursed or that Agas had actually received payment thereof. Agas, however, executed an Affidavit, dated January 26, 1973, wherein he alleged that he received said reimbursement in September, 1970. [18] Furthermore, a prosecution witness, Freddie Jolindo who was then the Chief of the Budget and Fiscal Division of the BPI, testified that said reimbursement for the medical expenses of Agas was indeed paid because he was the one who

signed for the treasury warrant in the accounting log book and the one who tendered the treasury warrant to Isidra Agas, wife of Pedro Agas.[19] Jolindo had his accounting ledger at the time of his direct examination[20] Representing himself in the trial court, petitioner, for his part, desisted from cross-examining Jolindo.[21]

On the other hand, there was no testimony on the part of Agas pertaining to his receipt of such reimbursement for medical expenses. While he positively alleged receipt thereof in his aforementioned Affidavit, he was not at all in any way queried as to the circumstances surrounding both his receipt of said reimbursement and petitioner's alleged demand for and receipt of, a percentage of that amount. Significantly, the private prosecutor inquired only as regards his receipt of his disability compensation and retirement gratuity. We have gone over the transcript of stenographic notes of the direct and cross-examination of Pedro Agas held on November 26, 1973, all fifty (50) pages of his testimony, and there is absolutely no mention at all of anything regarding the reimbursement of medical expenses which is the subject of the Information in Criminal Case No. CCC-V-825.

Further complicating matters regarding reimbursement of medical expenses of complainant Agas is the fact that on record is a Department of Labor Order, dated April 2, 1974.[22] which, while issued pursuant to the same Section 13 of the Workmen's Compensation Act, awarded Agas only the amount of P1,673.00 as reimbursement of medical expenses. The Solicitor General, instead of questioning its authenticity, rationalized in his Comment that the said order referred to a claim for reimbursement of medical expenses filed subsequent to the issuance by the Labor Department of its letter-award dated October 9, 1969.[23] It appears to be the submission of the Solicitor General that there were two reimbursements awarded: one for P6,800.00 under the Order dated June 18, 1970 and another for P1,673.60 under the Order dated April 2, 1974. We have examined both orders, however, and we find that both have been issued on the strength of the same letter award of October 9, 1969, pursuant to the same Section 13 of the Workmen's Compensation Act, and in the same case of complainant Agas denominated as W.C. Case No. RO4-114331.

We note that, in contrast to his oral testimony, Pedro Agas, in his aforesaid Affidavit, executed in January, 1973, manifested that petitioner had been offering help for a fee, to BPI employees like him who had contracted occupational illnesses and are retireable, in order for them to expeditiously receive their retirement benefits; that petitioner had prepared the papers for his retirement claims and made him sign them so that petitioner could process them; that petitioner received P3,000.00 on two occasions, i.e., in December, 1969 when Agas received his retirement gratuity in the amount of P5,945.53 and his disability compensation in the amount of P6,000.00 and in September, 1970 when Agas received his reimbursement for medical expenses in the amount of P6,800.00.

Agas confirmed his allegations only as to his receipt in 1970 of his disability compensation of P6,000.00 and in 1969 of his retirement gratuity of P5,945.53,[24] and he maintained such stance during cross-examination.[25]

After the joint trial, petitioner was found guilty beyond reasonable doubt of two counts of Violation of Section 3(b) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The trial court imposed upon petitioner the penalty of One (1) Year imprisonment in each case, with perpetual disqualification from public office, to pay complainant Pedro Agas the sum of P3,000.00 in each of the two cases, and to pay the costs, but without subsidiary imprisonment in case of insolvency.[26]

Petitioner appealed[27] in the due time the decision of the trial court to the Court of Appeals before whom he raised the following assignment of errors:[28]

1. The trial court erred in declaring the accused-appellant guilty beyond reasonable doubt in the absence of sufficient proof of the essential elements of the crime charged and for not considering the evidence of the defense and other exculpatory facts and circumstances in his favor.

2. The trial court erred in not properly arraigning the accused-appellant, and in not allowing two days for defense counsel to prepare for trial and in denying preliminary investigation to said accused-appellant, which constitute serious irregularities that rendered the proceedings null and void.
3. The trial court erred in holding that the payment and receipt of the checks for the retirement gratuity and reimbursement of medical expenses which were the sources of cash money allegedly given to the accused-appellant were proven by the prosecution.
4. The trial court erred in holding that it is the official duty of accused-appellant to controvert claims under the Workmen's Compensation Act, as amended, against the Bureau of Plant Industry, but did not perform such alleged duty and when the claims were paid he demanded P3,000.00 as payment for services in preparing the papers of the claims of complainants.
5. The trial court erred in pronouncing accused-appellant guilty in one single judgment for two distinct offenses charged in two separate informations and in convicting said accused-appellant on mere conjectures, suspicion and presumptions.
6. The trial court erred in holding that the dismissal of accused-appellant from the services under Letter of Instruction No. 14-A and Presidential Decree No. 6 for administrative charges wherein he was exonerated, which dismissal is on appeal with Malacañang, and other cases not proven, could be considered as evidence of similar acts to prove the acts charged in the instant cases.
7. The trial court erred in not holding that the delay in the enforcement of a claim is an implied admission of lack of merit and that delay in the commencement of a criminal prosecution creates suspicion upon the sincerity, honesty or truthfulness or the motive of the complaining witness.
8. The trial court erred in holding that the complainant was more credible than the accused-appellant and that the sole and uncorroborated testimony of complainant is direct, positive and straightforward and is sufficient basis for convicting accused-appellant.

The Court of Appeals[29] rendered judgment affirming in toto the decision of the trial court.

In a decision penned by Justice Relova, the appellate court disposed of the third, fourth, sixth and eighth assigned errors by applying the well-entrenched rule that the findings of the lower court with respect to the credibility of witnesses will generally not be disturbed on appeal because the lower court is deemed to have been in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behavior and manner in testifying during the trial; it did not find any ground to consider the case as falling under any of the exceptions to this rule.

As to the second assigned error, the appellate court found that while it is true that defendant after arraignment is entitled to at least two (2) days to prepare for trial, the said right may be waived either expressly or impliedly, and petitioner did so because there was no objection on record from the defense when the trial court, after arraignment, proceeded to hear the testimonies of the prosecution witnesses present at that time and re-scheduled the cases for hearing in view of the absence of the other prosecution witnesses.[30]

In response to the fifth assigned error, the appellate court pointed out that the judgment referred to by petitioner as "one single judgment for two distinct offenses" is actually a decision with two separate findings of guilt in each of the two separate informations filed against petitioner, the nature of which decision is a natural and logical consequence of holding a joint trial.

The appellate court disposed of the seventh assigned error by incorporating the finding of the trial court that complainant Pedro Agas is old, hardly literate and faintly able to be assertive and active as to proffer a serious charge against a member of the Bar, hence, the delay in his filing of the cases against petitioner. Such delay,

therefore, cannot be made a basis of the conclusion that the offense was not in fact committed although delay in filing a complaint with the authorities generally affects the credibility of the complaining witness.

It is unfortunate, though, that the appellate court was not able to thoroughly refute the first assigned error and deemed it sufficient enough to simply quote the testimony of complainant Pedro Agas to prove that the elements of the crime have been proven beyond reasonable doubt. Understandably, thus, while we first resolved to deny[31] the herein petition for review on certiorari of the decision of the Court of Appeals, we reconsidered and set aside such denial and later resolved to give the petition due course on the ground that "appellant-movant has raised certain material points surrounding the alleged commission of the offense, which, if shown to be correct upon the review of the case, may cause or justify reversal or modification of the judgment of conviction." [32]

Petitioner, in Criminal Case CCC-V-823, was convicted of violating Republic Act No. 3019 for having requested and received P3,000.00 from Pedro Agas in exchange for petitioner's services in facilitating the application for and release of, the retirement gratuity and disability compensation of Agas. Petitioner was also convicted of another count of the same violation in Criminal Case CCC-V-825 this time for having requested and received P3,000.00 from Agas in exchange for petitioner's assistance in the processing of petitioner's reimbursement of medical expenses.

The Court of Appeals affirmed the twin conviction; hence this petition. After a thorough, careful and deliberate study of the records, we do not find petitioner criminally liable in Criminal Case CCC-V-825 for utter lack of evidence while we affirm his conviction in Criminal Case CCC-V-823 where the finding of his guilt was indeed substantiated by evidence beyond reasonable doubt.

There is no sufficient evidence on record that proves that the crime charged in the Information in Criminal Case CCC-V-825 has been committed

Nowhere in the testimony of complainant Pedro Agas was it established that he was approached by petitioner to demand payment for allegedly having helped Agas receive his reimbursement of medical expenses. There was testimony as regards petitioner asking for his percentage of the disability compensation in the amount of P6,000.00 and retirement gratuity in the amount of P5,945.53 received by Agas, but there was none whatsoever as regards the reimbursement of medical expenses. To illustrate this point, pertinent portions of the direct examination of Agas are reproduced below:

"ATTY. PANTALEON:

Q:

Did any lawyer help you to pursue your claim for retirement benefits?

ATTY. OSIAS:

The question is leading.

COURT:

Witness may answer.

WITNESS:

A:

Yes, sir.

Q:

Who is that lawyer who helped you?

A:

Atty. Osias, sir.

Q:

Do you know his full name?

A:

Yes, sir.

Q:

What?

A:

Atty. Alfonso Osias, sir.

Q:

Will you look around and find out if Atty. Alfonso Osias who helped you is inside the Courtroom and if so, will you please point to him?

A:

Yes, sir.

COURT:

Make it of record that the witness stood up and looking around.

ATTY. PANTALEON:

May we make it of record also that the witness is looking towards the direction where Atty. Osias is first seated.

COURT:

Please do not make side comments, Counsel. Let your client make the identification without being guided.

WITNESS:

This one, sir. (Witness pointing to a person)

COURT:

Make it of record that the witness stood up, tried to look around the Courtroom until he focused his sight immediately near the witness stand where he pointed to somebody who answered by the name of.

ATTY. OSIAS:

Atty. Alfonso Osias.

ATTY. PANTALEON:

Q:

Did you receive any gratuity, any retirement benefit or gratuity, with the help of Atty. Alfonso Osias?

A:

Yes, sir.

Q:

After you received that gratuity for your retirement, did you see again Atty. Osias?

A:

Yes, sir.

Q:

Where did you see him?

A:

In Lamao, sir.

Q:

Whereat in Lamao?

A:

He went to our house, sir.

Q:

Why did he go to your house after you received your gratuity pay?

A:

He demanded for the payment of his services in connection with my retirement papers, sir

Q:

Did you give him the amount of money he demanded from you?

A:

Yes, sir, I gave.

Q:

How much?

A:

P3,000.00, sir.

COURT:

Q:

How much did you receive as your retirement benefit?

A:

P6,000.00, sir.

ATTY. PANTALEON:

Q:

You said that you became sick in 1968. When did you receive your retirement benefits?

A:

In 1969, sir.

Q:

Aside from your retirement benefits, did you receive compensation or amount of money from the government in connection with your sickness?

A:

Yes, sir.

Q:

For what?

A:

Workmen's Compensation, sir.

Q:

When did you receive this Workmen's Compensation?

A:

In 1970, sir.

Q:

How much did you receive as Workmen's Compensation in the year 1970?

A:

P6,000.00, sir.

Q:

After you received this Workmen's Compensation in the sum of P6,000.00, did the accused see you again or rather, did you again see Atty. Alfonso Osias?

A:

Yes, sir.

Q:

Where?

A:

He went to our house, sir.

Q:

Where is your house?

A:

In Lamao, sir.

Q:

Why did he go to your house after you received your Workmen's Compensation in the amount of P6,000.00?

A:

He was demanding for the payment of his services with regards to the preparation of my papers.

Q:

Why, who helped you in your workmen's compensation case?

A:

Atty. Osias, sir.

Q:

The same Atty. Osias whom you pointed to the Court a while ago?

A:

Yes, sir.

Q:

When he went to your house in Lamao and asked again for compensation of the services, did you give any amount of money?

ATTY. OSIAS:

Leading, we object.

COURT:

May answer.

WITNESS:

A:

Yes, sir. I gave him money.

Q:

How much?

A:

P3,000.00, sir.

xxx xxx xxx

ATTY. PANTALEON:

Q:

When you received your retirement gratuity in 1969, and Atty. Osias demanded from you and you gave him P3,000.00, was there any person present when you gave him the amount of P3,000.00?

A:

Yes, sir, there was.

Q:

Who?

A:

My wife, sir.

xxx

Q:

In 1970, when you said you gave him, meaning Atty. Alfonso Osias, another sum of P3,000.00 when you received your Workman's Compensation, who was present if any?

A:

My wife was present, sir.

Q:

Who counted the money in the sum of P3,000.00 delivered to Any. Alfonso Osias in 1970?

A:

My wife also counted the money, sir.

ATTY. PANTALEON:

That will be all, your Honor."^[33]

Neither was there any mention of the reimbursement of medical expenses during the cross-examination of complainant Agas. The pertinent portions of his testimony under cross-examination are also reproduced below.

"ATTY. OSIAS:

Q:

Mr. Agas, you stated you saw Atty. Osias again when you received your retirement gratuity?

COURT:

After.

ATTY. OSIAS:

Q:

x x x after you received your retirement gratuity, is that correct?

A:

Yes, sir.

xxx

Q:

What month, if you can remember and year?

A:

In 1969, sir.

Q:

What did he tell you when he came to you?

A:

None, Sir.

Q:

And because Atty. Osias said nothing, what did you do?

A:

I just gave him the money that he needed, sir.

xxx

ATTY. OSIAS:

Q:

When did you first come to know Atty. Osias anyway, Mr. Agas?

A:

In 1968, sir.

Q:

In what place did you come to know him?

A:

In Lamao Experiment Station, sir.

Q:

Was that also the date you claimed he offered to help you in the preparation of your application for compensation and retirement?

A:

Yes, sir.

Q:

How much did you receive for your retirement?

A:

P6,000.00.

Q:

What about the compensation, how much did you receive?

A:

P6,000.00 also, sir.

Q:

So all in all, you received a total of P 12,000.00?

A:

Yes, sir.

xxx

ATTY. OSIAS:

xxx

Q:

Mr. Agas, you said you received your Workmen's Compensation claim in 1970 in the amount of P6,000.00, during the direct examination, is that correct?

A:

Yes, sir.

Q:

What date or what month did you receive this compensation?

ATTY. PANTALEON:

Objection, it has already been answered.

COURT:

If he can remember, may answer.

WITNESS:

A:

I could no longer remember the date when I received my compensation, sir.

ATTY. OSIAS:

Q:

What about the month, can you remember?

A:

No, sir.

Q:

When did you see Atty. Osias after you received your workmen's compensation pay?

A:

When I received my compensation claim in 1970, sir." [34]

Under the Information in Criminal Case No. CCC-V-825, petitioner is charged with the violation of Section 3(b) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Law, which enumerates the corrupt practices of any public officer which are declared unlawful. Among such corrupt practices is

"Sec. 3(b). Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law."

The elements of the offense are (1) that the offense was committed by a public officer; (2) that such public officer requested and/or received a gift, present, etc.; (3) that the gift, present, etc. was for the benefit of said public officer; (4) that said public officer requested and/or received the gift, present, etc. in connection with a contract or transaction with the government; and (5) that said officer has the right to intervene in such contract or transaction in his/her official capacity under the law. [35]

We agree with the trial court that the first and fifth elements of the offense exist in this case. However, there was no proof proffered during the joint trial that established the second, third and fourth elements aforecited. Complainant Agas did not testify that petitioner offered to expedite the processing of his reimbursement of medical expenses. Although Agas confirmed on both direct and cross-examination that petitioner went to his house in Lamao, Bataan in September, 1970, Agas testified that on that occasion, he paid petitioner P3,000.00 for his help with respect to his disability compensation, not the reimbursement of medical expenses. Thus, the only proof there is of petitioner's culpability under the Information in Criminal Case CCC-V-825 is the Affidavit of Pedro Agas which he executed in 1973. Allegations in an affidavit not testified upon in the trial, however, are mere hearsay evidence and have no substantial evidential value. [36] No probative value being attributable to the said Affidavit and complainant Agas not having positively testified on the matter of petitioner's having requested and received a percentage of his medical reimbursement, it was not correct for the trial court to assume that the elements of the offense under the Information in Criminal Case CCC-V-825 have been proven by implication just because the elements of the same offense under the other Information in Criminal Case CCC-V-823 were categorically testified to and established by Agas during his direct and cross-examination in the course of the joint trial. No less than evidence beyond a reasonable doubt is required to prove the concurrence of the elements of a violation of Section 3(b) of Republic Act No. 3019 under the Information in Criminal Case CCC-V-825, which quantum of evidence, we definitively find, the prosecution failed to establish in this case.

Evidence beyond a reasonable doubt was proffered before the trial court to prove the concurrence of all the elements of the offense charged in Criminal Case No. CCC-V-823.

Indeed, we find that there was no sufficient and valid evidence to justify the conviction of petitioner in CCC-V-825, complainant Pedro Agas not having given any testimony establishing petitioner's culpability for allegedly processing the medical reimbursement of Agas for a fee. The lack of testimony of Agas in that respect, however, does not in any way render invalid, incredible, or false, what testimony Agas did give regarding petitioner's alleged assistance in processing the retirement gratuity and disability compensation of Agas for a fee. After all, Agas did not pretend or assert that the medical reimbursement and the disability compensation are one and the same. He just did not give any statement with respect to any circumstances concerning the medical

reimbursement. And as regards his testimony on the circumstances involving petitioner's requesting and receiving P3,000.00 in exchange for his assistance in processing his retirement gratuity and disability compensation, complainant Agas was consistent, direct and simple in his assertions. While Agas has testified that he received the said benefits but certain documents on record show that the same were received by persons other than himself, the inconsistency or contradiction as to that portion of his testimony is only more apparent than real, since Agas himself testified in court that his wife did receive for him some of said benefits.

Thus, we affirm the holding of the appellate court that the findings of the trial court as to the credibility of the witnesses "will not be disturbed for the latter is in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behavior and manner of testifying during the trial." [37]

At the very outset, the trial court appreciated the case as one the resolution of which hinged primarily on the matter of credibility. Said the trial court:

"The resolution of this case hinges primarily on the matter of credibility.

The defense interposed by herein accused is that of denial and that the complaints against him were the workings of Director Carandang. In other words, he would like the Court to believe that Pedro Agas was only the tool to provide the medium by which Director Carandang can harass and embarrass him (accused).

While there may have been a bitter rift, as accused puts it, between him and Director Carandang, a matter which the Court believes not relevant in this case, we are not ready to lend credence to the assertion that the imputations levelled against the accused are not true. Complainant Agas, who at the time he testified was a very sick man, although still in possession of his faculties, was direct, positive and straightforward in telling the Court that Atty. Osias offered to help him in both his retirement and compensation claims and that after the same were approved and the checks were issued out, the accused went to their house at Lamao, Limay, Bataan, demanded and was given P6,000.00. He went there two times and given (sic) P3,000.00 on each occasion. We see no valid reasons not to believe the testimony of Agas on these points. We cannot even surmise why Agas should testify the way he did if he was not telling the truth. x x x

Hard to believe, likewise, is the intimation of accused that these cases were filed by herein complainant upon the proddings of Director Carandang. Pedro Agas, who may be in the twilight of his life due to his illness, could not have been a willing tool of Carandang or anybody for that matter to destroy herein accused. What benefits could he receive by so doing? He has already retired from the service, received what is due him and very sick at that. Carandang could not therefore promise anything such as to agree in the plot to falsely charge Osias. But even granting that Agas was acting under the advice of anybody, even Carandang for that matter, would such matter relieve accused of liability if in fact he perpetrated the acts complained of? We cannot agree, because as we have already stated, we believe the testimony of Pedro Agas.

As between complainant Agas and herein accused Osias, we find the former more credible. Osias in the witness stand was very evasive and has shown his lack of candor, sincerity and truthfulness. x x x" [38]

Long settled in criminal jurisprudence is the rule that when the issue is one of credibility of witnesses, appellate courts will generally not disturb the findings of the trial court, considering that the latter is in a better position to decide the question, having heard the witnesses themselves and observed their deportment and manner of testifying during the trial, unless it has plainly overlooked certain facts of the case [39] or it failed to weigh accurately all of the material facts and circumstances presented to it for consideration. [40]

The trial court, in finding that petitioner did request and did receive P3,000.00 as payment for his services in helping complainant Agas apply for and receive his retirement gratuity and disability compensation, in the processing of which petitioner, as member of the Evaluation Committee that passes upon the validity of such claims, had the right to intervene under the law, correctly appreciated the documentary and testimonial evidence

proffered before it. Thus, we do not see any reason for the application of the exception to the just cited rule.

It is finally argued that the rule of *falsus in uno, falsus in omnibus*, should be applied in this case in view of the conviction of petitioner in Criminal Case CCC-V-825 in spite of the lack of evidence justifying such conviction. Complainant Agas, petitioner insists, gave testimony that is fraught with patent inconsistencies and perjured statements which led the trial court to wrongly convict him in Criminal Case CCC-V-825.

We do not agree. Contradiction presupposes the existence of positive testimony on a particular matter and the subsequent issuance of statements contrary to the former. In this case, however, complainant Agas did not at all say anything respecting the matter of medical reimbursement. The records bear out that all he testified on was the matter of his claim for retirement gratuity and disability compensation and petitioner's demand for and receipt of a percentage thereof. And as regards the testimony of Agas respecting his retirement gratuity and disability compensation, Agas was credible, unperturbed, consistent and curt in his assertions. Besides "

"it is perfectly within the discretion of the trial court to accept portions of the testimony of a witness as it may deem credible and reject those which it believes to be false. The maxim *falsus in uno, falsus in omnibus* is not a positive rule of law and is in fact rarely applied in modern jurisprudence (*People v. Pacis*, 130 SCRA 540 [1984]; *People v. Surban*, 123 SCRA 218 [1983]). Before this maxim can be applied, the witness must be shown to have willfully falsified the truth on one or more material points. Even then, where he is found to have done so, this does not make his entire testimony totally incredible. The court may still admit and credit those portions worthy of belief depending upon the corroborative evidence and the probabilities and improbabilities of the case (*People v. Molina*, 213 SCRA 52 [1992]; *People v. Arbolante*, 203 SCRA 85 [1991]; *People v. Osias*, 199 SCRA 574 [1991])."[41]

From the foregoing, we therefore find that on the basis of the testimonial and documentary evidence presented during the joint trial, the guilt of petitioner in Criminal Case CCC-V-823 has been established beyond reasonable doubt.

WHEREFORE, petitioner ALFONSO A. OSIAS is hereby ACQUITTED of the offense charged under the Information in Criminal Case No. CCC-V-825. The conviction of petitioner ALFONSO A. OSIAS in Criminal Case No. CCC-V-823 is AFFIRMED.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, and Panganiban JJ., concur.

Torres, Jr., J., took no part.

[1] Complaint dated February 8, 1973; Original Records, p. 1.

[2] Presided by Judge Joel C. Joco.

[3] Criminal Cases Nos. 1259, 1260 and 1261.

[4] Docketed as CCC-V-823, CCC-V-824 and CCC-V-825.

[5] Presided by Judge Constante A. Ancheta.

[6] Evaluation Committee Report dated August 7, 1969, p. 4; Original Records, p. 42.

[7] Ibid.

[8] Duplicate of Voucher for P6,000.00 as payment of compensation for disability under the Workmen's

Compensation Act, as amended, per award dated October 9, 1969 in W.C. Case No. R04-114331, Exh. W-1 for the Prosecution.

[9] Duplicate of Treasury Warrant No. B-02-603-656 as payment of compensation for disability under the Workmen's Compensation Act, as amended, per award dated October 9, 1969, in W.C. Case No. R04-114331, Exh. W for the Prosecution.

[10] Xerox copy of Warrant Register, Exh. W-2 for the Prosecution.

[11] Duplicate of Voucher for P5,945.53 as payment of retirement gratuity, Exh. X-1 for the Prosecution.

[12] Duplicate of Treasury Warrant No. B-02-503-759 as payment of retirement gratuity No. 19567, Exh. X for the Prosecution.

[13] Xerox Copy of Warrant Register, Exh. X-2 for the Prosecution.

[14] Xerox Copy of BPI Form No. 1 dated December 4, 1969, Exh. R; Original Records, p. 5.

[15] Regional Office 4.

[16] In RO4-WC Case No. 114331, penned by Acting Referee Eduardo Isip, Original Records, pp. 27-28.

[17] Order, *supra*, p. 28.

[18] Affidavit dated January 26, 1973; Original Records, p. 2.

[19] TSN, dated October 3, 1973, pp. 87-88.

[20] *Ibid.*, p. 84.

[21] *Ibid.*, p. 91.

[22] Issued by Ernesto Cruz, Chief Referee and Chief of Section, Workmen's Compensation Section, Regional Office No. 4, Department of Labor; Rollo, pp. 133-134.

[23] Comment dated September 5, 1977, p. 3; Rollo, p. 190.

[24] TSN, dated November 26, 1973, pp. 14-19.

[25] *Ibid.*, pp. 46-49.

[26] Dispositive portion of the Decision of the Circuit Criminal Court, p. 19; Original Records, p. 152.

[27] Appeal docketed as CA-G.R. Nos. 17072-CR and 17073-CR.

[28] Decision of the Court of Appeals, pp. 7-9; Rollo, pp. 65-67.

[29] Former Seventh Division members of which were Associate Justices Lorenzo Relova, Ramon Gaviola, Jr. and Mariano Serrano.

[30] Order of the Circuit Criminal Court dictated in open court by Judge Constante Ancheta; Original Records, p. 47.

[31] Resolution of the Supreme Court dated September 14, 1977; Rollo, p. 198.

[32] En Banc Resolution of the Supreme Court dated January 24, 1980; Rollo, p. 345.

[33] TSN, dated November 26, 1973, pp. 12-18, 19-21; Original TSN, pp. 111-117, 118-120.

[34] TSN, *supra*, pp. 37-39, 48-49, 55-57; Original TSN, pp. 136-138, 147-148, 154-156.

[35] *Mejia v. Pamaran*, 160 SCRA 457, 474-475.

[36] *People v. Santos*, 139 SCRA 583, 586; *People v. Lavarias*, 23 SCRA 1301, 1306-1307; *People v. Carlos*, 47 Phil. 626, 631.

[37] Decision of the Court of Appeals in CA-G.R. Nos. 17072-73-CR, p. 18; Rollo, pp. 143-146.

[38] Decision of the Circuit Criminal Court in CCC-V-823 & 825, pp. 10-13, Rollo, pp. 143-146.

[39] *People v. Pascual*, 208 SCRA 393; *People v. Florida*, 214 SCRA 227; *People v. Matrimonio*, 215 SCRA 613; *People v. Albarico*, G.R. Nos. 108596-97, November 17, 1994.

[40] *Republic v. Court of Appeals*, 204 SCRA 160.

[41] *Lagunsad v. Court of Appeals*, 229 SCRA 596, 599; *People v. Panganiban*, 241 SCRA 91,99.

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