DEMETRIO R. TECSON, PETITIONER, VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 123045. November 16, 1999

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This petition for review on certiorari, under Rule 45 of the Rules of Court, seeks to nullify the Decision dated June 30, 1995 and the Resolution dated December 20, 1995 of the Sandiganbayan, First Division, in Criminal Case No. 18273. Petitioner was found guilty of violating Section 3[c] of R.A. No. 3019, in the assailed decision which reads as follows:

> `WHEREFORE, the Court finds Demetrio Tecson y Robles guilty beyond reasonable doubt of the crime defined in Section 3[c] of Republic Act 3019 and charged in the Information. Accordingly, the Court imposes upon him the penalty of imprisonment of SIX (6) YEARS and ONE (1) MONTH, and perpetual disqualification from public office. No civil indemnity is awarded for the reason that Tecson and Mrs. Salvacion D. Luzana entered into a compromise agreement waiving his/her claims against the other.
>
> "So Ordered."[1]

Petitioner was, at the time of the commission of the offense charged in the Information, the Municipal Mayor of Prosperidad, Agusan del Sur.

Private complainant before the Sandiganbayan, Mrs. Salvacion Luzana, is a resident of Poblacion, Prosperidad, Agusan del Sur. She is a neighbor of the petitioner. She claims to be a housewife who occasionally dabbles in farming.[2]

The antecedent facts, which gave rise to the instant case, were synthesized by the Sandiganbayan as follows:

> "In the last week of September 1989, upon the offer of Tecson, he and Mrs. Luzana agreed to engage in an investment business. They would sell tickets at P100.00 each which after 30 days would earn P200.00 or more. She would buy appliances and cosmetics at a discount, with the use of the proceeds of the sales of tickets, and resell them. No other details were disclosed on how the business would operate, and Tecson does not appear to have contributed any monetary consideration to the capital. On September 27, 1989, they began selling tickets.
>
> "Tecson also acted as agent selling tickets. He got on that day early in the morning two booklets of tickets, for which he signed the covers of the booklets to acknowledge receipt. Before noon of the same day he returned after having already sold 40 tickets in the amount of P4,000.00, bringing with him a Mayor's Permit in the name of Mrs. Luzana for their business called `LD Assurance Privileges.' He asked for a cash advance of P4,000.00 which he would use during the fiesta on September 29, 1989, and he would not release the Mayor's Permit unless the cash advance was given him. Mrs. Luzana reluctantly acceded, saying that it was not the due date yet, so he was getting the cash advances on his share. Tecson signed for the cash advance.
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> "On October 3, 1989, Mrs. Luzana secured a Business Permit in accordance with the instructions of Tecson. The permit was in her name but the same was for the operation of `Prosperidad Investment and

> Sub-Dealership,' the new name of the business. In the session of the Sangguniang Bayan of Prosperidad, Agusan del Sur on October 17, 1989 presided over by Tecson, Resolution No. 100 was passed revoking the business permit at the instance of the Provincial Director of the Department of Trade and Industry."[3]

With the revocation of her business permit, private complainant below filed an administrative case against petitioner, for violation of Section 3 [c], R.A. No. 3019 and Section 60 of B.P. Blg. 337 (then Local Government Code) with the Department of Interior and Local Government (DILG). The complaint was docketed as Adm. Case No. SP-90-01 and referred to the Sangguniang Panlalawigan of Agusan del Sur for appropriate action.

Not content with having instituted administrative proceedings, private complainant below also filed a civil case against petitioner for damages with the Regional Trial Court, Branch 6, of Prosperidad, Agusan del Sur. This action was docketed as Civil Case No. 716.

A complaint was likewise filed with the Ombudsman for violation of R.A. No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act." This complaint was docketed as OMB Case No. 3-8-02919. It was subsequently referred to the Sandiganbayan, which took jurisdiction. The Information filed on October 28, 1992 reads:

> "That on or about September 23, 1989, in the Municipality of Prosperidad, Province of Agusan del Sur, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Municipal Mayor of Prosperidad, Agusan del Sur, while in the performance of his administrative and official functions and committing the offense in relation to his office, did then and there willfully, unlawfully, and criminally request and receive for his benefit the amount of P4,000.00, for and in consideration of the issuance of a permit to operate an investment business, in favor of one Salvacion Luzana, a person for whom the accused has in fact received and obtained a mayor's permit or license.
>
> "Contrary to law."[4]

On July 29, 1991, the Sangguniang Panlalawigan of Agusan del Sur dismissed the administrative case.

On October 28, 1991, a compromise agreement was reached between the litigants in Civil Case No. 716. The trial court approved the same on December 6, 1991.

On November 3, 1992, the Sandiganbayan issued an order for petitioner's arrest. He was immediately apprehended, but after posting a property bond on December 2, 1992, was released on provisional liberty.

On February 23, 1993, Tecson was arraigned with the assistance of counsel de parte. He entered a plea of "not guilty." Trial then proceeded on the merits.

On June 30, 1995, the Sandiganbayan, First Division rendered the assailed decision convicting appellant of violating R.A. No. 3019. Petitioner seasonably filed a motion for reconsideration. The respondent court denied the same in its resolution dated December 20, 1995.

Hence, this instant petition. Petitioner contends that:

> "THE RESPONDENT COURT/SANDIGANBAYAN (1st DIVISION) GRAVELY ABUSED ITS DISCRETION, TANTAMOUNT TO LACK OF OR IN EXCESS OF JURISDICTION --
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> A-
>
> IN RULING UNREASONABLY THAT THE GUILT OF THE ACCUSED HAD BEEN PROVEN BEYOND REASONABLE DOUBT DESPITE THE CLEAR AND CONVINCING TESTIMONY OF THE NBI EXPERT SHOWING THAT THE DOCUMENTS PRESENTED BY COMPLAINANTS AND SUBJECTED FOR EXAMINATION BY NBI ARE DIFFERENT FROM THE HANDWRITING OF THE ACCUSED,

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AND THEREFORE FABRICATED.

B-

IN PROCEEDING WITH THE TRIAL AND CONVICTION DESPITE THE EXISTENCE OF JUDGMENT OF ACQUITTAL RENDERED BY THE SANGGUNIANG PANLALAWIGAN EXONERATING THE ACCUSED.

C-

IN IGNORING THE DOCTRINE OF RES JUDICATA AND THE CONSTITUTIONAL PROVISIONS OF DOUBLE JEOPARDY."[5]

Otherwise stated, the issues are:

(1)

Whether or not the decision of the Sangguniang Panlalawigan exonerating the accused serves as a bar by prior judgment to the decision of the Sandiganbayan;

(2)

Whether or not there was a violation of the Constitutional right of the accused against double jeopardy; and

(3)

Whether or not the guilt of the petitioner was proven beyond reasonable doubt.

The issues shall be discussed in seriatim.

Anent the first issue, petitioner contends that the dismissal of the administrative case before the Sangguniang Panlalawigan of Agusan del Sur is conclusive and binding upon the parties. Relying on our ruling in B.F. Goodrich Philippines, Inc. v. Workmen's Compensation Commission,[6] he theorizes that the rule, which prohibits the reopening of matters already determined by competent judicial authority, applies to quasi-judicial bodies or administrative offices. Having been exonerated by the Sangguniang Panlalawigan of Agusan del Sur in the administrative case, he now submits the same is res judicata and thus bars the Sandiganbayan from hearing his case.

Petitioner's theory has no leg to stand on. First, it must be pointed out that res judicata is a doctrine of civil law.[7] It thus has no bearing in the criminal proceedings before the Sandiganbayan. Second, it is a basic principle of the law on public officers that a public official or employee is under a three-fold responsibility for violation of duty or for a wrongful act or omission. This simply means that a public officer may be held civilly, criminally, and administratively liable for a wrongful doing. Thus, if such violation or wrongful act results in damages to an individual, the public officer may be held civilly liable to reimburse the injured party. If the law violated attaches a penal sanction, the erring officer may be punished criminally. Finally, such violation may also lead to suspension, removal from office, or other administrative sanctions. This administrative liability is separate and distinct from the penal and civil liabilities. Thus, the dismissal of an administrative case does not necessarily bar the filing of a criminal prosecution for the same or similar acts, which were the subject of the administrative complaint.[8] We conclude, therefore, that the decision of the Sangguniang Panlalawigan of Agusan del Sur exonerating petitioner in Administrative Case No. SP 90-01 is no bar to the criminal prosecution before the Sandiganbayan.

As to the amicable settlement in Civil Case No. 716 with the Regional Trial Court, Branch 6, of Prosperidad, Agusan del Sur, it is settled that a complaint for misconduct, malfeasance or misfeasance against a public officer

or employee cannot just be withdrawn at any time by the complainant. This is because there is a need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities.[9] The inescapable conclusion, therefore, is that the order of the trial court dismissing Civil Case No. 716 did not bar the proceedings before the Sandiganbayan.

Regarding the second issue, petitioner contends that being tried before the Sandiganbayan violated his constitutional protection against double jeopardy since the Sangguniang Panlalawigan of Agusan del Sur had already cleared him of all charges.

Article III, Section 21 of the Constitution provides:

> "No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act."

Double jeopardy attaches only: (1) upon a valid indictment; (2) before a competent court; (3) after arraignment; (4) when a valid plea has been entered; and (5) when the defendant was acquitted or convicted or the case was dismissed or otherwise terminated without the express consent of the accused.[10] None of the foregoing applies to the hearings conducted by the Sangguniang Panlalawigan of Agusan del Sur in Adm. Case No. SP 90-01. It must be stressed that the said proceedings were not criminal, but administrative in nature. Hence, double jeopardy will not lie.

With respect to the third issue, petitioner argues that the Sandiganbayan erred in merely relying upon the alleged positive testimony of the prosecution witnesses when it rendered the judgment of conviction against him. He theorizes that such testimony failed to prove his guilt beyond reasonable doubt. He further contends that it was error for the respondent court to ignore the findings and conclusions of the NBI handwriting expert, especially as of the nine standard signatures, five were not established to be genuine signatures. He submits that the Sandiganbayan should have applied the rule of falsus in uno, falsus in omnibus in considering the documentary evidence against him.

Section 3 of R.A. No. 3019 states:

> "In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and hereby declared to be unlawful:
>
> x x x
>
> "c. Directly or indirectly requesting or receiving any gift, present, or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any government permit or license in consideration for the help given or to be given, without prejudice to Section thirteen of this Act."

The crime charged has four elements, namely:

(1) The accused is a public officer;

(2) That in any manner or capacity he secured or obtained, or would secure or obtain, for a person any government permit or license;

(3) That he directly or indirectly requested or received from said person any gift, present or other pecuniary or material benefit for himself or for another; and

(4) That he requested or received the gift, present or other pecuniary or material benefit in consideration for the

help given or to be given.

As correctly pointed out by the Sandiganbayan, all of the aforementioned elements concur in the instant case. Its findings on this concurrence are as follows:

> "First, Tecson was in September 1989 a public officer, being then the Municipal Mayor of Prosperidad, Agusan del Sur.
>
> "Second, in his official capacity as Mayor, he signed and issued on September 27, 1989, a Mayor's Permit to and in the name of Mrs. Luzana for their investment business in which he does not appear to have made any contribution to the capital.
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> "Third, before he released the Mayor's Permit to Mrs. Luzana, he requested and received on that same day, September 27, 1989, at about 11:00 a.m., the amount of P4, 000.00 to be used by him in the fiesta to be held on September 29, 1989.
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> "And, fourth, Tecson requested and received the amount of P4, 000.00 as cash advance in consideration of the help he gave—viz, issuance of Mayor's Permit which he would not deliver to Mrs. Luzana unless she acceded to his request. Although Tecson expected to have a share in the profits of the business as partner of Mrs. Luzana, the same was not yet due. In fact, there was as yet no profits to speak of, for they began operating only in the morning of September 27, 1989, the very day the cash advance was requested and received."[11]

The Supreme Court is not a trier of facts[12] and the factual findings of the Sandiganbayan are conclusive upon the Supreme Court. The exceptions are: (1) where the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) where the inference made is manifestly mistaken; (3) where there is grave abuse of discretion; (4) where the judgment is based on misapprehension of facts, and the findings of fact of the Sandiganbayan are premised on the absence of evidence and are contradicted by evidence on record.[13] We have meticulously scrutinized the records of this case and find that petitioner has shown no cause for this Court to apply any of the foregoing exceptions. We find that the evidence on record amply supports the findings and conclusions of the respondent court.

Petitioner's assault on the credibility of the prosecution witnesses is unavailing. It is a time-tested doctrine that the trial court's assessment of the credibility of a witness is entitled to great weight and is even conclusive and binding upon appellate courts.[14] The Supreme Court will not interfere with the trial court's assessment of the credibility of the witnesses, absent any indication or showing that the trial court has overlooked some material facts or has gravely abused its discretion.[15] Absent a showing that the prosecution witnesses were actuated by any improper motive, their testimony is entitled to full faith and credit.[16] Recourse to the records shows that no error of law or abuse of discretion was committed by the respondent court when it gave credence to the positive testimony of the prosecution's witnesses as opposed to petitioner's bare denials. Denial, like alibi, is a weak defense, which becomes even weaker in the face of positive testimony by prosecution witnesses.[17] Denial is a self-serving negative evidence that cannot be given greater weight than the declaration of credible witnesses who testified on affirmative matters.[18] Time-tested is the rule that between the positive assertions of prosecution witnesses and the negative averments of the accused, the former indisputably deserves more credence and is entitled to greater evidentiary weight.[19]

With regards the NBI expert's testimony, the respondent court found that:

> "[T]he function of a handwriting expert witness is `to place before the court data upon which the court can form its own opinion.' `The value of the opinions of experts on handwritings depends largely upon the ground upon which they base their opinions and clearness with which they can demonstrate their correctness.' So that `in order that opinions of experts may have weight, the experts should go into the details of their examinations

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> of the writings which they have compared.'
>
> "In this case Cruz was not asked to testify on the grounds, data or details on which he based his conclusion, except generally that the questioned signatures were written in `a slow drawn manner' while the standard signatures were executed in a `free and continuous manner' and that there is a pen stop in the questioned signatures in the letter `s.' He did not testify on other different characteristics such as pressure of the pen, loops in the strokes, general alignment, structural formation, height of the letters, whether the letters were standing, slanting forward or backward, etc. His testimony is therefore not of much help in determining the genuineness of the questioned signatures."[20]

Given these circumstances, petitioner's reliance on the doctrine of falsus in uno, falsus in omnibus will be unavailing. The maxim is a rule of evidence. In affirming a rebuttable presumption of fact, the trier of facts, must consider all the evidence, other than that found to be false and it is his duty to give effect to so much of it, if any, as found to be true.[21] The rule is merely permissive and not mandatory.[22] It does not relieve the trier of facts from passing on credibility of the whole testimony or evidence presented or excuse him from weighing the whole of the testimony or evidence.[23] In the instant case, the records show that the Sandiganbayan, as the trier of facts, considered the entirety of the evidence against appellant and the latter's conviction was not based solely on the genuineness of the signatures testified to by the NBI expert. The elements of the offense charged having been proven beyond reasonable doubt, petitioner's conviction must therefore stand.

WHEREFORE, the instant petition is DENIED, and the assailed Decision and Resolution of the Sandiganbayan in Criminal Case No. 18273 are AFFIRMED. Costs against petitioner.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

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[1] Records, p. 192.

[2] TSN, February 7, 1994, p. 3.

[3] Rollo, pp. 36-37.

[4] Records, p.1.

[5] Rollo, p. 9.

[6] 159 SCRA 355 (1988).

[7] Epstein v. Soskin, 86 Misc. Rep. 94, 148 N.Y.S. 323, 324.

[8] Paredes, Jr. v. Sandiganbayan, Second Division, 252 SCRA 641, 657 (1996).

[9] Estreller v. Manatad, Jr., 268 SCRA 608, 616 (1997).

[10] People v. Leviste, 255 SCRA 238, 249 (1996); Dela Rosa v. Court of Appeals, 253 SCRA 499, 506 (1996).

[11] Records, pp. 189-190.

[12] Macapagal v. Court of Appeals, et al., G.R. No. 110610, October 8, 1998, p. 8; Silverio v. Court of Appeals, et al., G.R. No. 113851, October 8, 1998, p. 8.

[13] Pareño v. Sandiganbayan, 256 SCRA 242, 265 (1996).

[14] People v. Barredo, G.R. No. 122850, October 7, 1998, p. 11.

[15] People v. Gado, G.R. No. 129556, November 11, 1998, p. 4.

[16] Amper v. Sandiganbayan, 279 SCRA 434, 441 (1997).

[17] People v. Lapay, et al., G.R. No. 123072, October 14, 1998, pp. 20-21.

[18] People v. Carizo, 233 SCRA 687, 701 (1994).

[19] Abadilla v. Tabiliran, Jr., 249 SCRA 447, 464 (1995).

[20] Records, pp. 186-187.

[21] Levine Bros, v. Mantell, 30 W.Va. 156, 111 SE 501; Shecil v. United States, 226 F. 184.

[22] Banker's Health & Life Ins. Co. v. Nichols, 44 Ga. App. 536, 162 SE 161.

[23] State v. Willard, 346 Mo. 773, 142 SW2d 1046, 1047.

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