ELVIRA AGULLO, PETITIONER, VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 132926. July 20, 2001

Ponente: BUENA, J.

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BUENA, J.:

Charged with, tried and convicted in Criminal Case No. 13579 for malversation of public funds, herein petitioner Elvira Agullo, erstwhile Disbursing Officer of the then Ministry of Public Works and Highways (MPWH), Regional Office No. VIII, Candahug, Palo, Leyte, now comes before the High Court to assail the Decision[1] of the Sandiganbayan promulgated on 16 March 1992, and its Resolution dated 11 March 1998, denying petitioner's motion for reconsideration[2] but reducing the penalty imposed on petitioner as follows:

> "WHEREFORE, the Court finds the accused Elvira S. Agullo guilty beyond reasonable doubt of the crime of Malversation of Public Funds, defined and penalized under Article 217, paragraph 4 of the Revised Penal Code. [There being neither mitigating nor aggravating circumstances, no evidence having been adduced respecting partial or full restitution of the amount malversed,] Considering the absence of any aggravating circumstances and her full restitution by salary deduction, the accused Elvira S. Agullo should be, as she is, hereby sentenced to the indeterminate penalty of, from TEN (10) YEARS and ONE (1) DAY of PRISION MAYOR, as MINIMUM; to [EIGHTEEN (18) YEARS, EIGHT (8) MONTHS AND ONE (1) DAY OF RECLUSION TEMPORAL] SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY of RECLUSION TEMPORAL, AS MAXIMUM, with the accessory penalties of the law; to pay a fine in the sum of P26,404.26 without subsidiary imprisonment in case of insolvency; to suffer the penalty of Perpetual Special Disqualification and to pay the costs." (Emphasis ours)

In an information[3] dated 30 September 1988, herein petitioner was charged with the crime of malversation of public funds, committed as follows:

> "That on or about the period October 22, 1985 to July 14, 1986, inclusive or within said dates in the Municipality of Palo, Province of Leyte, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, being then the disbursing officer of then Ministry of Public Works and Highways, Regional Office No. VIII, Candahug, Palo, Leyte, charged with the official custody of public funds thus paid, collected and received by her in her official capacity, and by reason of which duties she is accountable thereof, taking advantage of her official position, did then and there wilfully, unlawfully and feloniously take, convert and misappropriate for her own personal use and benefit the public funds she had in her possession in the amount of Twenty Six Thousand Four Hundred Four Pesos and 26/100 (P26,404.26), belonging to the government of the Republic of the Philippines, to the damage and prejudice of the latter in the aforestated amount.
>
> "Contrary to law."

Upon arraignment, herein petitioner Agullo, assisted by counsel de officio Antonio Manzano, pleaded not guilty[4] to the charge, after which the Sandiganbayan conducted a pre-trial on 11 February 1990 and issued the following Pre-Trial Order:[5]

> "When this case was called for pre-trial, the accused personally and through her counsel Atty. Antonio Manzano of the CLAO readily entered into stipulations insofar as her official position in government as well as the fact of audit of her accounts are concerned, including therewith the admission that, in all respects the Cash Production Notice and the Examination of her Cash and Accounts which the government marked as Exhibit `A' was faithful reproduction of the original, and insofar as the contents thereof are concerned, are correct. The accused likewise admitted that she had received a letter of demand, said letter dated July 14, 1986 marked as exhibit `B'. With this the accused stated that her defense was premised on her having suffered a stroke on October 22, 1985 as a result of which the amount subject of the shortage found in her audit had been lost.
>
> "The accused also indicated that not only had she immediately replied to the letter by various communications by her or in her behalf protesting the witholding of various amounts due her by way of salaries on the premise that the loss of the amount subject matter of the Information was not chargeable to her as a personal liability. The accused has likewise informed the Court that prior to the incident on October 22, 1985, she had been audited on May 27, 1985 and, after the incident, on December 23, 1985 although she concedes she was also audited on July 14, 1986.
>
> "Considering that all the documents necessary for the defense of the accused are still to be organized, Atty. Manzano is given ten (10) days from today within which to prepare a proposal for stipulations of facts and, if that is not possible, at least a complete outline of his case together with the marking of the documents he wishes to present which the prosecution might not admit as to the substance thereof though the genuineness of the documents presented might be conceded.
>
> "With the above, the prosecution may now rest its case and the presentation of the evidence for the defense may take place on April 5 and 6, and May 17 and 18, 1990, at 8:00 o' clock in the morning and 2:00 o' clock in the afternoon.
>
> "The setting for tomorrow is cancelled.
>
> "SO ORDERED." (Emphasis ours)

As borne by the records, the charge of malversation against petitioner germinated from an audit conducted on 14 July 1986 by Ignacio Gerez, Auditing Examiner III, as a result of which a P26,404.26 cash shortage was discovered on petitioner's accountability. On the same date, Gerez informed petitioner of said finding of cash shortage and required the latter, through a letter of demand,[6] to "produce immediately the missing funds." Further, petitioner was required to submit within 72 hours from receipt a written explanation of the cash shortage.

In a letter[7] dated 25 August 1986, addressed to the Resident Auditor of the MPWH, petitioner complied with the directive by explaining that the cash shortage was, in effect, due to a "fortuitous event" where the amount could have been stolen/taken by somebody on the day she suffered a stroke on 22 October 1985, near the corner of Juan Luna Street and Imelda Avenue, Tacloban City.

In the course of the pre-trial, petitioner Agullo conceded the fact of audit and admitted[8] the findings in the Report of Cash Examination and the facts set forth in the Letter of Demand. In effect, she admitted the fact of shortage in the amount stated in the Information. Notwithstanding, petitioner Agullo, at all stages of the criminal indictment, persistently professed her innocence of the charge and categorically denied having malversed or converted the public funds in question for her own personal use or benefit.[9]

With petitioner's admission of the fact of cash shortage, the prosecution then rested its case.[10] For its part, the defense, in its bid to overturn the presumption of malversation and shatter the prima facie evidence of conversion, offered the testimony of the following witnesses: petitioner Elvira Agullo; Rene Briones Austero, Cashier III of the Department of Public Works and Highways (DPWH), Region VIII; and Engracia Camposano-Camaoy, Barangay Captain of Hinabuyan, Dagame, Leyte.

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During trial, the defense offered to present the testimony of witness Austero for the purpose of proving that an amount equal to P26,722.05[11] was withheld from the salary and other compensation of petitioner Agullo. Further, the defense offered the testimony of witness Barangay Captain Camaoy for the purpose of establishing that "the accused suffered a heart attack (stroke) on October 22, 1985; that on June 30, 1986, the accused informed her that the accused lost the money for which she (was being) subjected to criminal prosecution x x x; and that between October 22, 1985 and June 30, 1986, there had been no demand upon the accused to produce the money for which she was declared short."[12]

Additionally, the defense presented the following documentary evidence,[13] all of which were admitted by the Sandiganbayan:

> "Exhibit `1' - Letter dated 25 August 1986 by accused to the Resident Auditor MPWH, Regional Office No. 8, Candahug, Palo, Leyte;
>
> "Exhibit `2' - Letter dated 22 August 1987 by accused to Engr. Alfredo P. Torres, Regional Director;
>
> "Exhibit `3'- Medical Certificate dated 05 August 1986, issued by Dr. Juan T. Abando, M.D., St. Paul's Hospital, Tacloban City;
>
> "Exhibit `3-A' - Verified Medical Certificate dated 19 January 1986, issued by Dr. Juan Abando, notarized on page 02;
>
> "Exhibit `4'- Letter dated 26 December 1986 by accused to the Regional Director;
>
> "Exhibit `5' - Letter dated 19 February 1987 to the Regional Director by Atty. Eric T. De Veyra;
>
> "Exhibit `6' - Letter dated 15 April 1987 by accused to the Regional Director;
>
> "Exhibit `7' - Letter dated 01 September 1987 of Director Alfredo Torres of DPWH to the Regional Director COA;
>
> "Exhibit `8' - Letter of Accused dated 26 November 1987;
>
> "Exhibit `9' - Affidavit of accused Elvira Agullo;
>
> "Exhibit `10'- Affidavit of witness Engracia Camaoy;
>
> "Exhibit `11' - Letter-Request dated 04 May 1988 of accused to the Regional Director;
>
> "Exhibit `12' - Certification by Mauricio Pacatang;
>
> "Exhibit `13' - Protest of accused against the appointment of Sylvia de la Rosa;
>
> "Exhibit `14'- Letter dated 25 February 1987 to the Manager, Employees Compensation Department, GSIS, Metro Manila;
>
> "Exhibit `15' - Initial Approval of the Employees Compensation Department, GSIS;
>
> "Exhibit `16' - Hospitalization Claim for payment of accused;
>
> "Exhibit `17' - Report of Injury signed and approved by Pablo P. Burgos, Regional Engineering Coordinator and Head of Office;
>
> "Exhibit `18' - Certification issued by PNB Tacloban, thru its Asst. Manager B.L. Telmo;
>
> "Exhibit `19' - Memorandum to accused dated 02 April 1984;
>
> "Exhibit `20' - Memorandum dated 05 May 1990."

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At the witness stand, petitioner Agullo unrelentingly maintained her innocence and vehemently denied the accusation against her. Thus, according to petitioner, in the morning of 21 October 1985, she reported for work and prepared an inventory of her cash accountability[14] as Disbursing Officer[15] of the MPWH Regional Office, Candahug, Palo, Leyte. On the same day, petitioner received around thirteen (13) checks in the form of cash advances in her name totaling P26,076.87,[16] which amount represented salaries of MPWH officials and employees.

Around 1:30 PM, petitioner, together with Benjamin Veridiano, driver of MPWH Finance and Management Division, proceeded to the Philippine National Bank (PNB) Tacloban City Branch, on board the MPWH official vehicle, to encash the aforesaid checks. Upon encashment of the checks, petitioner then put the money inside a PNB envelope which she further placed in her bag. From the PNB, petitioner--who boarded the official vehicle driven by Veridiano for the purpose of proceeding further to the MPWH Regional Office--felt dizziness, chest pain and nausea. As a result of her condition, petitioner Agullo requested driver Veridiano to drop her off at petitioner's residence located at 109 Juan Luna Street--about half a kilometer away from the PNB.[17]

In the morning of the following day, 22 October 1985, petitioner - upon realizing that it was then the third-week payday of the month, and burdened with the thought that she failed to give the salary of the permanent employees - strove to report for work despite her weak physical condition. Petitioner Agullo testified that she left her residence alone and brought with her the bag containing the money which she encashed the previous day from the PNB.[18]

Upon leaving the house with the money inside her bag, she walked the stretch of Juan Luna Street and was able to reach almost the corner of Juan Luna and Imelda Avenue[19] a distance of around 50 meters away from her residence[20] when she was stricken with deep chest pain[21] and experienced dizziness; her vision blurred and "the right part of (her) body (became) heavy" to the point that she "could not move anymore." At this point, she collapsed and lost consciousness.[22]

In the afternoon of the same day, she found herself in a hospital bed of St. Paul's Hospital located about a block away from petitioner's residence. Upon inquiry, she was informed that a certain Metro Tacloban Aide by the name of Teresa Lorenzo came to her rescue when she fainted, assisted in rushing her to the hospital, and informed her family about Agullo's dire condition and the unfortunate event that befell her.[23] Petitioner was confined in St. Paul's Hospital for over a week - from 22 October 1985 to 01 November 1985[24] - under the care of her attending physician, Dr. Juan Abando, who issued the corresponding Medical Certificate pregnant with the following findings:

> "X X X Hypertension complicated with Cerebro Vascular Accident (CVA), Rt. Hemiparesis and Urinary Infection.
>
> "Condition started apparently 20 hrs. before admission as moderate headache and dizziness, associated with blurring of vision and nausea. Fifteen hrs. prior to admission, she felt weakness of her right half of her body and slurring of speech. Had history of high blood pressure taken last April 1985. B/P= 190/120. On admission B/P= was 230/120; PR= 83/min.; RR= 20/min.
>
> "Pertinent findings: conscious, coherent, slurred speech, rt. Hemiplegia.
>
> "Diagnosis: = Malignant hypertension.
> = CVA with Right Hemiplegia.
> = Urinary Tract Infection."

As to petitioner's medical history and physical condition after her stroke, the Sandiganbayan, in its decision, observed from the records:

> "X X X In the past, the accused had likewise suffered a stroke and had undergone medical treatment. A medical certificate, marked as Exhibits "3" and "3-A", attest(s) to the fact that she had a history of high blood pressure and had been undergoing treatment for the said malady. Since her sudden breakdown on October 22, 1985, the right part of her body became paralyzed and her speech has been impaired. She was advised by her doctor to undergo physical therapy and to take medicine regularly. She was advised not to report for work during such time that she was under recuperation. Only on February 2, 1986 did she start to report for work, although at irregular intervals, until the date of the audit, July 14, 1986."

Striking down the defense as "incredible and without basis," the Sandiganbayan rendered its assailed decision, convicting petitioner Agullo of the crime of malversation of public funds, ratiocinating principally that "no evidence has been presented linking the loss of the government funds with the alleged sudden heart attack of the accused (herein petitioner)."

We do not agree.

By and large, the pieces of evidence presented against petitioner in this case do not fulfill the test of moral certainty and may not be deemed sufficient to support a conviction.[25] Records reveal that evidence for the prosecution consisted solely of the Report of Cash Examination,[26] dated 14 July 1986, which was presented by the prosecution to prove the cash shortage in the amount of P26,404.26, on petitioner Agullo's accountability as Disbursing Officer of the then MPWH. Likewise, the prosecution presented the Letter of Demand[27] dated 14 July 1986 signed by Auditing Examiner III Ignacio Gerez.

Aside from the aforementioned documents, the prosecution opted not to present a single witness to buttress its bid for conviction and relied merely on the prima facie evidence of conversion or presumption of malversation under Article 217, paragraph (4) of the Revised Penal Code, to wit:

> "ART. 217. Malversation of public funds or property--Presumption of malversation--
>
> X X X "The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses."

Stated otherwise, the evidence for the prosecution, upon which the Sandiganbayan riveted its judgment of conviction, was limited to documents to wit, the Report of Cash Examination and Letter of Demand. As could be readily gleaned from the assailed decision, the verdict adjudging herein petitioner guilty of the crime of malversation was anchored solely on the presumption provided under Article 217, paragraph 4 of the Revised Penal Code, which prima facie evidence, in turn, was rooted loosely on the documentary evidence presented by the prosecution, to wit; the Report of Cash Examination and Letter of Demand--pieces of evidence which the defense concededly admitted, but which, to our mind, do not suffice to convict the petitioner beyond reasonable doubt of the crime charged.

Thus, in a string of categorical pronouncements, this Court has consistently and emphatically ruled that the presumption of conversion incarnated in Article 217, paragraph (4) of the Revised Penal Code is -- by its very nature -- rebuttable. To put it differently, the presumption under the law is not conclusive but disputable by satisfactory evidence to the effect that the accused did not utilize the public funds or property for his personal use, gain or benefit.

Accordingly, if the accused is able to present adequate evidence that can nullify any likelihood that he had put the funds or property to personal use, then that presumption would be at an end and the prima facie case is effectively negated. This Court has repeatedly said that when the absence of funds is not due to the personal use thereof by the accused, the presumption is completely destroyed; in fact, the presumption is never deemed to have existed at

all.[28]

Applying the foregoing principle, the prosecution in the instant case upon whose burden, as in Diaz vs. Sandiganbayan,[29] was laden the task of establishing by proof beyond reasonable doubt that petitioner had committed the offense charged, mainly relied on the statutory presumption aforesaid and failed to present any substantial piece of evidence to indicate that petitioner had used the funds for personal gain.

Worth noting is that the Sandiganbayan, in its impugned decision, admitted that "conversion or the placing of malversed government funds to personal uses has, indeed, not been proven in the case at bar.[30]" Perhaps realizing such gaping hole, the Sandiganbayan nonetheless leaped into the conclusion, albeit erroneous, that herein petitioner was just the same guilty of malversation invoking the prima facie evidence stated in Article 217, paragraph (4) of the Revised Penal Code.

On this score, the rule of general application is that the factual findings of the Sandiganbayan are conclusive on this court. However, such rule admits of settled exceptions, among others: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; and (5) the findings of fact of the Sandiganbayan are premised on a want of evidence and are contradicted by evidence on record.[31]

On this matter, the Sandiganbayan's conclusion that "there is no evidence to show that the accused was then carrying the sum of P26,404.26 in her person when she allegedly collapsed at Juan Luna Street, Tacloban City," is to say the least, without factual basis and not duly supported by evidence. On the stark contrary, the records are extant, as petitioner Agullo, in fact, testified on the witness stand that she had the money with her when she suffered a stroke and collapsed on the streets of Tacloban City on 22 October 1985. Records likewise reveal that the amount of P327.39, which is the difference between P26,404.26[32]and P26,076.87,[33]represents the salary of Mr. Alcober, Jr., Administrative Officer of the DPWH in Candahug, who made a telephone call to petitioner for the latter to bring the sum of P327.39, together with the payroll.

In the case before us, the Sandiganbayan undoubtedly disregarded or overlooked certain evidence of substance which, to a large extent, bear considerable weight in the adjudication of petitioner's guilt or the affirmation of her constitutional right to be presumed innocent until proven otherwise.

Upon thorough scrutiny of the evidence adduced by both prosecution and defense, we hold that petitioner Agullo has satisfactorily overcome and rebutted by competent proof, the prima facie evidence of conversion so as to exonerate her from the charge of malversation. To this end, petitioner presented evidence that satisfactorily prove that not a single centavo of the missing funds was used for her own personal benefit or gain.

True enough, the evidence adduced by the defense reveals sufficient circumstances to establish the strongest degree of probability that the public funds subject of the criminal indictment for malversation was lost during that fateful day of 22 October 1985, where petitioner Agullo suffered a stroke on the streets of Tacloban City as she was then on her way to the MPWH Regional Office.

In fact, the records though insensate, clearly reveal that the prosecution admitted that petitioner suffered a stroke on the streets of Tacloban on 22 October 1985. As to the prosecution's allegation that no evidence exists regarding loss of the public funds, this postulation is belied by the records as petitioner herself testified on the stand that she had the money subject of inquiry when she collapsed and lost consciousness as a result of the stroke.

To us, this circumstance - coupled with the other peculiarities attendant in the instant case and further considering the palpable failure of the prosecution to adduce other evidence to clearly establish conversion - "suffice to make the mind uneasy as to Agullo's guilt, notwithstanding the prima facie evidence established by law against herein

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petitioner, which by no means dispenses with the need of proving guilt beyond reasonable doubt."[34] After all, mere absence of funds is not sufficient proof of conversion. Neither is the mere failure of the accused to turn over the funds at any given time sufficient to make even a prima facie case. Conversion must be affirmatively proved, either by direct evidence or by the production of facts from which conversion necessarily follows.[35]

Truly, these serve as strong considerations that seriously impair the basis upon which is founded the legal presumption of personal misappropriation of money or property of accountable officers who fail to have forthcoming, such money or property when so demanded by a duly authorized official.[36] Verily, a finding of prima facie evidence of accountability does not shatter the presumptive innocence the accused enjoys because, before prima facie evidence arises, "certain facts [have still to be] proved"; the trial court cannot depend alone on such an evidence, because precisely, it is merely prima facie. It must still satisfy that the accused is guilty--beyond reasonable doubt--of the offense charged. Neither can it rely on the weak defense the latter may adduce.[37]

Notably, the Sandiganbayan, in convicting petitioner, obviously relied more on the flaws and deficiencies in the evidence presented by the defense, not on the strength and merit of the prosecution's evidence.[38] This course of action is impermissible for the evidence of the prosecution clearly cannot sustain a conviction "in an unprejudiced mind."[39]

All told, this Court, through the scholarly ponencia of Mr. Justice Isagani Cruz in People vs. De Guzman,[40] inked in vivid prose the premium accorded to the right of an accused to be presumed innocent until the contrary is proved, to wit:

> "The constitutional presumption of innocence is not an empty platitude meant only to embellish the Bill of Rights. Its purpose is to balance the scales in what would otherwise be an uneven contest between the lone individual pitted against the People of the Philippines and all the resources at their command. Its inexorable mandate is that, for all the authority and influence of the prosecution, the accused must be acquitted and set free if his guilt cannot be proved beyond the whisper of doubt."

Hence, in light of the satisfactory explanation proffered by the defense and in view of the impotency of the prosecution's evidence, petitioner's constitutional right to be presumed innocent necessarily thrives. Corollarily, the prima facie evidence of conversion in the instant case, withers, so to speak, like a petrified twig wilted in the scorching heat of the noonday sun.

WHEREFORE, premises considered, the instant petition is granted. ACCORDINGLY, the decision of respondent Sandiganbayan dated 16 March 1992 and its Resolution dated 18 March 1998, are hereby REVERSED and SET ASIDE. Petitioner Elvira Agullo is hereby ACQUITTED on grounds of reasonable doubt.

MOREOVER, the DPWH is hereby directed to refund petitioner the sum of Three Hundred Seventeen Pesos and Seventy Nine Centavos (P317.79) representing the amount overdeducted from petitioner's salary, cost of living allowance and other emoluments.

SO ORDERED.

Bellosillo (Chairman), Mendoza, and De Leon, JJ., concur.
Quisumbing, J., on official business.

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[1] Decision of Sandiganbayan, 1[st] Division, promulgated on 16 March 1992; Rollo, pp. 39-56.

[2] Motion for Reconsideration dated 27 March 1992; Rollo, pp. 57-63.

[3] Records, pp. 1-2.

[4] Certificate of Arraignment dated 03 August 1989; Records p. 19.

[5] Records, pp. 36-37.

[6] Exhibit "B".

[7] Exhibit "1".

[8] Rollo, p. 73; Rollo, p. 75.

[9] Ibid, p. 76.

[10] Ibid, p. 85.

[11] Ibid, p. 93; Exhibit "12", Certification dated 09 May 1988 issued by Mauricio Pacatang.

[12] Decision, pp.5-6; Rollo, pp. 43-44.

[13] Rollo, pp. 41-43.

[14] Rollo, p. 109.

[15] At the time of trial, petitioner Agullo was employed as Clerk III at the Department of Public Works and Highways; TSN, 06 April 1990, p. 5; Rollo, p. 107.

[16] Exhibit 18, Certification dated 18 August 1986 signed by Philippine National Bank Tacloban City Branch Assistant Manager B.L. Telmo.

[17] Rollo, p. 113.

[18] TSN, 06 April 1990, p. 11; Rollo. P. 114.

[19] Around six (6) meters from the corner of Juan Luna Street and Imelda Avenue; TSN, 06 April 1990, p. 11; Rollo, p. 114.

[20] Ibid.

[21] A: "X X X Masakit na masakit", the chest pain, very "mabigat dito" (witness pointing to her chest) X X X"; TSN 06 April 1990, p. 10; Rollo, p. 113.

[22] Rollo, p. 114.

[23] TSN, 06 April 1990, p. 12; Rollo, p. 115.

[24] Exhibit `3'.

[25] Alvarez vs. Sandiganbayan, 201 SCRA 557 [1991].

[26] Exhibit "A."

[27] Exhibit "B."

[28] Diaz vs. Sandiganbayan, 302 SCRA 118 [1999] citing U.S. vs. Catolico, 18 Phil. 504, U.S. vs. Elvina, 24 Phil 230, Quizo vs. Sandiganbayan, 149 SCRA 108 [1987], Mahinay vs. Sandiganbayan, 173 SCRA 237 [1989].

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[29] 302 SCRA 118 [1999].

[30] Rollo, p. 54.

[31] Diaz vs. Sandiganbayan, 302 SCRA 118 [1999]; Bugayong vs. People, 202 SCRA 762 [1991] citing Cesar vs. Sandiganbayan, 134 SCRA 105 [1985].

[32] The amount of cash shortage alleged in the Information.

[33] Amount encashed at the Philippine National Bank.

[34] Gali vs. Court of Appeals, 98 SCRA 268 [1980].

[35] U.S. vs. Catolico, 18 Phil. 504 [1911] cited in Bugayong vs. People, 202 SCRA 762 [1991].

[36] Gali vs. Court of Appeals, 98 SCRA 268 [1980].

[37] Babida vs. People, 178 SCRA 204 [1989] citing People vs. Mingoa, 92 SCRA 856 [1953].

[38] Bugayong vs. People, 202 SCRA 762 [1991].

[39] Section 2, Rule 133, Rules of Court provides, "Proof beyond reasonable doubt. - In a criminal case, the accused is entitled to an acquittal, unless his guilt is shown beyond reasonable doubt. Proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind."

[40] 194 SCRA 601, 606 [1991].

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