

AUREA R. MONTEVERDE, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 139610. August 12, 2002

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Time and time again, this Court has emphasized the need to stamp out graft and corruption in the government. Indeed, the tentacles of greed must be cut and the offenders punished. However, this objective can be accomplished only if the evidence presented by the prosecution passes the test of moral certainty. Where doubt lingers, as in this case, the Court is mandated to uphold the presumption of innocence guaranteed by our Constitution to the accused.

The Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the April 29, 1999 Decision[1] and February 3, 2000 Resolution[2] of the Sandiganbayan (Second Division) in Criminal Case No. 18768. The dispositive portion of the assailed Decision reads as follows:

“WHEREFORE, premises considered, judgment is hereby rendered finding accused AUREA MONTEVERDE y RASUELO guilty beyond reasonable doubt of the crime of Falsification of Commercial Document under Article 172 of the Revised Penal Code, and in default of any mitigating or aggravating circumstances and applying the Indeterminate Sentence Law, she is hereby sentenced to suffer a prison term of SIX (6) MONTHS of Arresto Mayor as minimum, to SIX (6) YEARS of Prision Correccional as maximum, to pay a fine of Five Thousand (P5,000.00) pesos with subsidiary imprisonment in case of insolvency, with all the accessory penalties of the law, and to pay the cost.

“She shall be credited with the full period of any preventive imprisonment suffered, pursuant to and as mandated by Batas Pambansa Blg. 85.

“The facts from which the civil liability may arise not being indubitable, there is no pronouncement as to the same.

“The bailbond of herein accused is hereby ordered cancelled.”[3]

The assailed resolution denied petitioner’s Motion for Reconsideration.

This case originated from the Information dated February 4, 1993, signed by Special Prosecution Officer Gualberto J. dela Llana with the approval of then Ombudsman Conrado M. Vasquez. Charging petitioner with estafa through falsification of commercial documents, the accusatory portion reads thus:

“That on or about January 17, 1991, or sometime prior or subsequent thereto, in Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being the Chairman of Barangay 124 of Zone 10, District 1, Malaya, Balut, Tondo, Manila with intent to defraud, and by taking advantage of [her] official position and to liquidate the funds donated/granted by the Philippine Games and

Amusement Corporation submitted Sales Invoice No. 21568 dated January 17, 1991 in the amount of P13,565.00 allegedly issued by Sanford Hardware when in truth and in fact said sales invoice is falsified and later did then and there, willfully, unlawfully and feloniously misappropriate, misapply and convert the same to her personal use and benefit, to the damage of the Government and which crime was committed in relation to her office.”[4]

During her arraignment on April 5, 1993, petitioner, assisted by her counsel de parte,[5] pleaded not guilty.[6] After trial on the merits, the Sandiganbayan acquitted petitioner of the crime of estafa, but convicted her of falsification of a commercial document under Article 172 of the Revised Penal Code.

The Facts

Version of the Prosecution

The prosecution’s version of the facts is curtly summarized by the Office of the Special Prosecutor (OSP) as follows:

“Petitioner Aurea A. Monteverde was from 1991 to 1993 the Barangay Chairman of Barangay 124 of Zone 10, District 1, Malaya, Balut, Tondo, Manila. In that capacity, she received the amount of P44,800.00 from the Philippine Amusement and Gaming Corporation (PAGCOR). The amount was spent for lighting, cleanliness and beautification programs of the Barangay. To liquidate the amount, she submitted a financial statement (Exhibits ‘1 to 1-A-3’) with copies of sales invoices/receipts to PAGCOR.

“Sometime in August 1991, Antonio R. Araza, Jose Salvatierra, Santos L. Lopez, and Narciso Cruz, residents of Brgy. 124, charged Petitioner and Bella Evangelista, then Barangay Treasurer, with Malversation of the following funds: 1.) P82,500.00 from [the] Barangay General Fund; 2.) P44,800.00 from the PAGCOR; and 3.) P600.00 allowance of Kagawad Lito Galinda for the period July 16, to December 1990. The complaints were docketed as OMB-0-91-12694 and OMB-0-92-0643 (Exhs. A, B and C).”[7]

Version of the Defense

The foregoing account is reiterated by the Office of the Solicitor General (OSG) in its Memorandum.[8] The petitioner did not submit her own Memorandum, but merely adopted the position of the OSG which recommended her acquittal.

Version of the Sandiganbayan

The foregoing narration does not adequately explain the evidence. In fairness to the Sandiganbayan (“SBN” hereafter) which is being faulted with reversible errors by petitioner and the OSG, we deem it prudent to quote the facts and the evidence it relied upon in its assailed Decision, as follows:

“EVIDENCE FOR THE PROSECUTION

In its bid to establish the guilt of the accused beyond reasonable doubt, the People presented the following documentary evidence:

- Exhibit A which is a letter complaint addressed to the Ombudsman dated September 2, 1991 signed by Santos Lopez, Narciso Cruz, Antonio Araza and Jose Salvatierra;
- Exhibit B which is a Joint-Affidavit of the said four (4) complainants subscribed and sworn to before a Notary Public on September 8, 1991;
- Exhibit C which is a letter dated June 13, 1991 signed by complainants Jose Salvatierra and Antonio Araza addressed to Mr. Manuel de la Fuente of the Chief Barangay Bureau, City of Manila;

- Exhibit D which is the cover of the Booklet of Sales invoice[s]/Receipts of Sanford Hardware.
- Exhibit D-1 which is the duplicate original copy of Sales Invoice No. 21568 dated July 20, 1981 listing only three (3) items;
- Exhibit D-1-A which is a genuine machine copy of Exhibit D-1;
- Exhibit E which is a machine copy of an official receipt with Aurea Monteverde appearing as buyer and listing eleven items as articles purchased;
- Exhibit E-1 which is a certification of Luz Co, Manager of Sanford Hardware stating that Exhibit E is not a genuine reproduction of the duplicate original;
- Exhibit F (offered lately) is a xerox copy of Invoice No. 21568 dated January 17, 1991;
- Exhibit G is a machine copy of an undated letter signed by Bella Evangelista authorizing Antonio Araza to verify the authenticity of Invoice No. 21568 dated January 17, 1991 in the sum of P13,565.00 as well as witnesses Luz Co y Tan and Antonio Araza y Reposo.

“LUZ CO y TAN declared that she is the manager of Sanford Hardware since 1976, that Exhibit D-1 which is [a] duplicate copy of Invoice No. 21568 dated July 2, 1981 where the amount of purchase is only P157.00 is the invoice used by her firm in the conduct of its business; that Exhibit E was not her receipt and that she executed a certification to that effect (Exhibit E-1) when required by a male person; that she does not know the entries appearing in Exhibit E but the entries in Exhibit D-1 are of her business; that Sanford Hardware is owned by [her] sister-in-law Delia Co; that there are three copies of the sales invoice her business is issuing, and the third copy or last copy is the one left in the store, and that the one who approached her and asked about Exhibit E is one Narciso Cruz and when she answered that she did not issue Exhibit E she was requested to execute an affidavit; that she does not know accused Aurea Monteverde and that she had no delivery of hardware materials to the Barangay on January 17, 1991 (TSN May 14, 1993).

“It was the testimony of ANTONIO ARAZA that he is a resident of 2256 Malaya St., Balut, Tondo, Manila and that he secured a copy of Exhibits E and F from the Barangay Treasurer; that he brought the same to the owner of the Sanford Hardware for verification; that Luz Co to whom he talked x x x in said store manifested that said Exhibits E and F are not issued by the firm; and for which he requested Luz Co to issue a certification (Exhibit E-1); that after realizing that the receipts used by the accused are falsified receipts, he signed letter complaints and [a] Joint-Affidavit together with Santos Lopez, Narciso Cruz and Jose Salvatierra, and charged the accused before the Ombudsman; that the money involved in this case are barangay funds because it was donated by the PAGCOR to the Barangay and he was able to secure a copy from the PAGCOR evidencing that it was donated to the Barangay but the copy was submitted to the Ombudsman; that the Barangay Treasurer lent to him the receipts with the advice to verify it from the proprietor of [the] Hardware and she even gave a letter of authorization to him (Exhibit G); that the P13,565.00 appearing in Exhibits E and F was not used to buy electrical materials or lightings, and the bulbs in the Meralco post were donated by Councilor Rene Jose (TSN March 18, 1994).

“EVIDENCE FOR THE ACCUSED

“The defense presented eighty-one (81) Exhibits with Exhibits 35 to 80 dealing with certificates of commendation in favor of the accused during her stint as Barangay Chairman from 1991 to 1993 and even prior to her being a Barangay Chairman. Exhibits 1 with its submarkings (Exhibits 1-A to Exhibits 1-A-3) is a letter of the accused addressed to Alice LI Reyes of the PAGCOR with attachment she captioned Financial Statement; Exhibits 2 to 15 are Sales Invoices/Receipts from different hardware stores and individuals while Exhibits 16 and 17 are pictures depicting a basketball court portion thereof being sub-marked, and Exhibits 18 to 32 are fifteen (15) pictures depicting different alleys at Barangay 124. Exhibit 33 is a turn-over

certificate/record of the Barangay properties signed by the incoming Barangay Chairman with the third page submarked as Exhibits 33-A to 33-b-2; and Exhibit 34 is the counter-affidavit of the accused sworn to before a Notary Public on September 5, 1991. Exhibit 81 is a Joint-Affidavit of Alfonso Cua Jr. and Joel Magbanua.

“Aside from her, the accused presented ALFONSO CUA, JR. whose testimony is as follows: that he knows the accused to be the Chairman of Barangay 124 from 1991 up to 1992 while he was a Barangay Tanod in the said Barangay; that one project of the accused was the installation of lights or lighting the streets and playgrounds in the Barangay; that in January 1991 materials were delivered to the house of the Barangay Chairman (accused) and around three (3) days thereafter, he helped in the installation of the electrical materials consisting of electrical wirings, electrical tapes, bulbs, lamps and lamp covers, and it took them (he and the husband of the accused) about three Sundays in doing so; that he executed a Joint-Affidavit together with one Joel Magbanua in connection with the incident (Exhibit 81) (TSN April 2, 1997).

“Testifying in her behalf accused took the witness stand and declared:

‘That she was the Barangay Chairman in Brgy. 124 since 1989 to 1994; that in January 1991 she received donation or cash money in the amount of P44,800.00 from PAGCOR which she used in Barangay projects like lighting, and cleanliness and beautification; that she reported the matter to PAGCOR and submitted [a] financial statement (Exhibits 1 to 1-A, 1-A-1); that when she purchased electrical and hardware items from Sanford Hardware she was issued a receipt (Exhibit 9) and considering Exhibit D-1 and D-1-A, it would appear that Sanford Hardware issued two (2) receipts; she denied the charge of Estafa thru Falsification of Commercial Documents, and claimed that with the meager amount involved, she is not going to sacrifice her good name and reputation; she then identified x x x several awards she received (Exhibits 35 to 79); that she was the one who personally purchased the items in Exhibit F, and she actually paid the same in cash for which she was issued Exhibit 9 (Exhibit F and 9 contain the same items); that the receipt was issued in her name and the money was in her possession that was why it was she and not the Barangay Treasurer who personally made the purchase; that the PAGCOR check was issued in her name and was directly given to her and so she was the one who encashed the check accompanied by one of the councilors but she did not turn over the cash to the treasurer; that even after she came to know of the existence of Exhibit E, she did not go to Sanford Hardware to inquire about the said document; that the original of the said exhibit was given to her but she submitted it to PAGCOR. (TSN September 3, November 5, 1996 and April 1, 1997).’ “[9]

Ruling of the Sandiganbayan

The assailed Decision noted that petitioner was supposed to have been charged with the complex crime of estafa through falsification of a commercial document. However, there was no clear allegation in the Information that the falsification was a necessary means to commit the estafa.[10] Nevertheless, going along “with the supposition” that a complex crime had been charged, the SBN held:

“Despite the ambiguity and disquietude, however, the court is constrained to go with the supposition that what has been charged is that of a complex crime, otherwise the logical consequence is that the accused has been indicted with two crimes - that of Estafa and that of Falsification of Commercial Document which is not beneficial to her.”[11]

The anti-graft court acquitted petitioner of estafa, because there was no evidence that funds had been misappropriated or converted.[12] Neither was there proof that petitioner had been required to account for the money received.[13] Without these proofs, no conviction for estafa was possible.[14]

However, the court quo convicted her for allegedly falsifying the document she had submitted to show that the P13,565 donated by PAGCOR was used and spent for lighting materials for her barangay. According to the SBN, the falsification became very clear when the document was compared with another one purporting to be a

duplicate original presented by the prosecution.[15] While the prosecution did not present any proof evidencing that it was petitioner who had caused the falsification, the SBN relied on the presumption that in the absence of a satisfactory explanation, a person who is found in possession of a forged document, and who uses it, is the forger.[16]

Nevertheless, petitioner was not convicted of falsification as defined by Article 171 of the Revised Penal Code, because there was no proof that she had taken advantage of her position in committing the crime.[17] Instead, she was convicted of falsification under Article 172.[18]

Hence, this Petition.[19]

Issues

The OSG's Memorandum which recommended acquittal, and which petitioner adopted, raised the following issues:

“Whether the Sandiganbayan erred in:

[1.] finding petitioner guilty of falsification despite its finding that no estafa was committed[;]

[2.] holding that Exhibit 9, a sales invoice, was a commercial/public document[; and]

[3.] applying the presumption that petitioner was the author of falsification in the absence of any proof that she benefited from it.”[20]

This Court's Ruling

The Petition is meritorious.

First Issue:

Nature of Complex Crimes

Appellant was purportedly charged with the complex crime of estafa through falsification of a commercial document. However, even if the SBN itself doubted whether the Information had properly charged a complex crime, it was, as quoted earlier, “constrained to go along with the supposition that what has been charged is that of a complex crime, otherwise the logical consequence is that the accused has been indicted with two crimes -- that of Estafa and that of Falsification of Commercial Document which is not beneficial to her.”[21]

We clarify. Under Article 48 of the Revised Penal Code,[22] a complex crime refers to (1) the commission of at least two grave or less grave felonies that must both (or all) be the result of a single act, or (2) one offense must be a necessary means for committing the other (or others).[23] Negatively put, there is no complex crime when (1) two or more crimes are committed, but not by a single act; or (2) committing one crime is not a necessary means for committing the other (or others) .[24]

Using the above guidelines, the acts attributed to petitioner in the present case cannot constitute a complex crime. Specifically, her alleged actions showing falsification of a public and/or a commercial document were not necessary to commit estafa. Neither were the two crimes the result of a single act. The OSG correctly observed:

“x x x. The alleged falsification happened after the money was spent and to explain how it was expended. Thus there is no complex crime since the falsification is not a necessary means for committing the estafa (as charged) or malversation (as suggested by Sandiganbayan in its Order dated February 1, 2000). If at all, it was intended to conceal the estafa or malversation.”[25]

Well-known is the principle that an information “must charge only one offense, except when the law prescribes a

single punishment for various offenses.”[26] When more than one offense is charged, the accused may move to quash the information.[27]

In the present case, the accused should have objected to the Information on the ground that more than one offense was charged therein. For her failure to move to quash the indictments, she is deemed to have waived her right to be tried for only one crime.[28] Furthermore, she did not object to the submission of evidence that tended to prove the offenses charged in the Information -- estafa and falsification. Verily, when two or more offenses are charged in a single complaint or information, but the accused fail to object to the defect before trial, the trial court may convict them of as many offenses as are charged and proven, and impose on them the penalty for each offense, setting out separately the findings of fact and law in each.[29]

On the basis of the foregoing, we reject the argument of petitioner that since she was acquitted of estafa, she could no longer be convicted of falsification of a commercial document. Having, in effect, been charged with two distinct crimes, acquittal in one will not necessarily lead to acquittal in the other. Each crime will be evaluated based on its own merits, and conviction will depend on the proof of the elements of each particular offense.

Let us assume that petitioner has correctly been charged with a complex crime, as the SBN supposed. Still, acquittal from a component offense will not necessarily lead to an acquittal from the other (or others).

When a complex crime under Article 48 of the Revised Penal Code is charged, it is axiomatic that the prosecution must allege in the information and prove during the trial all the elements of all the offenses constituting the complex crime.

We stress that the failure of the prosecution to prove one of the component crimes and the acquittal arising therefrom will not necessarily lead to a declaration of innocence for the other crimes. Settled is the rule that when a complex crime is charged and the evidence fails to establish one of the component offenses, the defendant can be convicted of the others, so long as they are proved.[30]

Second Issue:

Nature of Sales Invoice

The OSG agrees that the subject Sales Invoice is a public and/or a commercial document within the meaning of “falsification” as defined under the Revised Penal Code.

Both the OSG and the OSP agree that a private document acquires the character of a public document when it becomes part of an official record and is certified by a public officer duly authorized by law.[31] The OSP aptly explained this point as follows:

“x x x, [I]f the document is intended by law to be part of the public or official record, the preparation of which being in accordance with the rules and regulations issued by the government, the falsification of that document, although it was a private document at the time of its falsification, is regarded as falsification of public or official document.

“Prosecution witness Luz Co testified that the duplicate original of Sales Invoice No. 21568 was submitted to the Bureau of Internal Revenue (BIR). Thus this Sales Invoice is intended to be part of the public records and the preparation thereof is required by BIR rules and regulations. Moreover, Sales Invoice No. 21568 formed part of the official records of PAGCOR when it was submitted by petitioner as one of the supporting papers for the liquidation of her accountability to PAGCOR.”[32]

Neither can it be denied that the Sales Invoice is also a commercial document. Commercial documents or papers are those used by merchants or businessmen to promote or facilitate trade or credit transactions.[33] This Court has previously characterized such documents in this wise:

“x x x. In most cases, these commercial forms [receipts, order slips and invoices] are not always fully accomplished to contain all the necessary information describing the whole business transaction. The sales clerks merely indicate a description and the price of each item sold without bothering to fill up all the available spaces in the particular receipt or invoice, and without proper regard for any legal repercussion for such neglect. Certainly, it would not hurt if businessmen and traders would strive to make the receipts and invoices they issue complete, as far as practicable, in material particulars. These documents are not mere scraps of paper bereft of probative value but vital pieces of evidence of commercial transactions. They are written memorials of the details of the consummation of contracts.”[34] (*Italics supplied*)

Third Issue:

Proof of Guilt

The gut issue in this case is whether the prosecution was able to prove beyond reasonable doubt the guilt of petitioner with regard to the crime of falsification. A determination of this question will necessarily require an examination of the facts as presented before the Sandiganbayan.

As a rule, an appeal by certiorari under Rule 45 of the Rules of Court raises only questions of law.[35] However, this Court, in exceptional cases, has taken cognizance of questions of fact in order to resolve legal issues. This is especially true in cases in which a palpable error or a grave misapprehension of facts was committed by the lower court.[36] Criminal cases elevated by public officials from the SBN deserve the same thorough treatment by this Court as criminal cases brought up by ordinary citizens, simply because the constitutional presumption of innocence must be overcome by proof beyond reasonable doubt in both instances. Indeed, in a criminal case, a person's life or liberty is at stake.[37]

Petitioner asserts that the SBN erroneously applied the presumption that the possessor of a forged or falsified document who uses it is the author of the forgery or falsification. The OSG concurs with her on this point. That is why it recommended that she be acquitted.

We agree. To our mind, the prosecution's evidence is not sufficient to convict. As correctly observed by the OSG, the Decision of the SBN is based on the assumption that there was only one set of sales invoices issued by Sanford Hardware. On such a premise, petitioner's Exhibit 9 thus becomes obviously falsified when compared with respondent's Exhibit D-1. But on the premise that the two Exhibits are two different Sales Invoices, falsification becomes doubtful. The OSG is correct in observing as follows:

“x x x. For petitioner or anybody acting on her behalf to falsify the customer's copy of Sales Invoice No. 21568, she/he would have to erase or cover with correction fluid the spaces pertaining to the name of the customer, date, quantity, unit, description of articles, unit price and amount, before the insertions could be written. Neither the appealed decision nor the transcript of stenographic notes (TSN) point out various tell-tale signs of falsification despite opportunity of the prosecution to see the original of Exh. 9. The only observation the respondent Court mentioned was with respect to the date: ‘[t]he superimposition of January 17, 1991 is too apparent to be disregarded, and the alteration of the date has affected both the veracity and the effects of the said document.’ But the changing of the date was the easiest to accomplish. The more cumbersome, as they affect wider space, would [have been] the name of the customer and the purchases. The total absence of any hint or sign of alteration on these areas is revealing.”[38]

The only logical explanation for the existence of both Exhibits 9 and D- 1 is that there are two extant documents. Whether one is the original and the other is falsified depends on the proof. This the prosecution had to prove, but unfortunately failed to. In all criminal prosecutions, without regard to the nature of the defense which the accused may raise, the burden of proof establishing the guilt of the accused beyond reasonable doubt remains with the prosecution.[39] Further, it is the duty of the prosecution to prove each and every element of the crime charged in

the information.[40] We repeat that, in this case, it failed to discharge this duty. We quote with approval the OSG's disquisition on these two documents as follows:

"A comparison between Exh. D-1 and Exh. 9 shows that there are two (2) sets of Sales Invoice No. 21568. While the form is identical in most respects, there are three (3) telling differences: (1) the type set of the sales invoice numbers are different, (2) the bottom left of Exh. D-1 indicates the name of the printing press while no such information is indicated anywhere in Exh. 9, and (3) the bottom right of Exh. D-1 states the BIR permit which does not appear in Exh. 9. Who could have printed Exh. 9 is anybody's guess. It is possible that petitioner or any person acting on her behalf had a printing company copy this particular Sanford Hardware invoice so she could use it to liquidate the PAGCOR funds she received. However, it is equally possible that Sanford Hardware had printed two (2) sets of the same receipts, one to reflect the real business transaction, the other one - a sanitized version - for the consumption of the BIR people. Not one of these possibilities has been actually proven, but neither was their improbability established." [41] (Italics supplied)

Indeed, the OSG points out that there are material differences between Exhibits 9 and D-1. These include: 1) the discrepancy in the "type set" or fonts used for the sales invoice numbers in the two Sales Invoices; 2) the presence of the name of the printing press at the bottom left corner of Exhibit D-1 and its absence in Exhibit 9; and 3) the presence of the BIR permit in Exhibit D-1 and its absence in Exhibit 9. It is possible that Exhibit 9 was printed by petitioner or anyone acting on her behalf to facilitate the liquidation of funds. But it is equally possible, as the OSG points out, that Sanford Hardware caused the printing of two sets of receipts to serve its own purposes. However, none of these possibilities was either actually proven or definitely ruled out by the prosecution. At bottom, there is no clear and convincing evidence to prove that Exhibit 9 was falsified.

The SBN relied on the settled rule that in the absence of a satisfactory explanation, one found in possession of -- and who used, took advantage of or profited from -- a forged or falsified document is the author of the falsification and is therefore guilty of falsification.

To convict petitioner of falsification would mean that the prosecution was able to establish that Exhibit 9 was a falsified copy of an original document. But the rule itself shows that it cannot be applied to the present case, because Exhibit 9 (Sales Invoice No 21568) was not established beyond reasonable doubt to have been forged or falsified. At the very least, it may be a second document that may or may not have been printed by petitioner herself.

Respondent claims that the original document is Exhibit D-1 but, as adverted to earlier, Exhibit 9 was not satisfactorily demonstrated to be a copy thereof. In other words, Exhibit 9 being different from Exhibit D-1, the prosecution cannot be deemed to have presented an original document, of which Exhibit 9 is a falsified copy.

The question is: who made this second document marked Exhibit 9? Petitioner consistently maintains that Exhibit 9 was issued to her by Sanford Hardware when she purchased the items mentioned therein. On the other hand, the manager of Sanford Hardware denies having issued such document. Indeed, it is a time-honored principle[42] that greater probative value is accorded to a positive than to a negative testimony. Furthermore, as correctly pointed out by the OSG:

"x x x [Petitioner] denied the accusation and insisted that she would not sacrifice her name and reputation for the meager amount involved. She submitted photographs that the lighting of alleys in Barangay 124 was completed. There was positive testimony by Alfonso Cua, one of the persons who installed the articles listed in Sales Invoice No. 21568. The prosecution failed to rebut these." [43] (Citations omitted)

One final point. The SBN held that the "accused refused to present the original of Exhibit 9," and that it would have been so "easy x x x to ask for a subpoena to direct x x x the PAGCOR to produce the original copy, and yet the accused satisfied herself in presenting Exhibit 9 -- a mere xerox copy of the supposed document." But, as

pointed out by the OSG in its Memorandum,[44] the original of Exhibit 9 was presented in court during the November 5, 1996 hearing after a subpoena duces tecum had been issued to PAGCOR, and Prosecutor Pimentel “confirmed that the x x x xerox copies are faithful reproductions of the original.”[45]

In all criminal cases, mere speculations cannot substitute for proof in establishing the guilt of the accused.[46] Indeed, suspicion no matter how strong must never sway judgment. Where there is reasonable doubt, the accused must be acquitted even though their innocence may not have been established. The Constitution presumes a person innocent until proven guilty by proof beyond reasonable doubt. When guilt is not proven with moral certainty, it has been our policy of long standing that the presumption of innocence must be favored, and exoneration granted as a matter of right.[47]

Although the evidence for the defense may be frail, criminal conviction must come, not from its weakness, but from the strength of that for the prosecution.[48]

WHEREFORE, the Petition is GRANTED and the assailed Decision and Resolution SET ASIDE. Petitioner is ACQUITTED on reasonable doubt. No pronouncement as to costs.

SO ORDERED.

Puno, (Chairman), and Carpio, JJ., concur.

Sandoval-Gutierrez, J., on leave.

[1] Annex “A” of the Petition; rollo, pp. 20-37. Penned by Justice Edilberto G. Sandoval (Division chairman) with the concurrence of Justices Godofredo L. Legaspi and Alfredo J. Gustilo (members).

[2] Rollo, pp. 46-49; Justice Gregory S. Ong replaced Justice Gustilo.

[3] Sandiganbayan Decision, pp. 16-17; rollo, pp. 35-36.

[4] Records, p. 1.

[5] Atty. Eduard C. Castañeda.

[6] Sandiganbayan Order dated April 5, 1993; records, p. 29.

[7] OSP’s Memorandum, pp. 1-2; rollo, pp. 143-144.

[8] OSG’s Memorandum, pp. 1-2; rollo, pp. 121-122.

[9] Sandiganbayan Decision, pp. 3-7; rollo, pp. 22-26.

[10] Ibid., pp. 8 & 27.

[11] Id., pp. 9 & 28.

[12] Id., pp. 11 & 30.

[13] Ibid.

[14] Ibid.

[15] Id., pp. 12 & 31.

[16] Id., pp. 15 & 34.

[17] Id., pp. 16&35.

[18] Ibid.

[19] The case was deemed submitted for resolution on September 17, 2001, upon this Court’s receipt of petitioner’s Manifestation signed by Atty. Vicente C. Angeles, adopting as her own the Memorandum filed by the OSG which in turn had been signed by Assistant Solicitor General Carlos N. Ortega and Solicitor Maria Belen P. Montes-Nera and received by this Court on August 15, 2001. The Memorandum of the Office of the Special Prosecutor (OSP), signed by Atty. Rodrigo V. Coquia, was received on September 14, 2001.

[20] OSG’s Memorandum, p. 6; rollo, p. 126.

- [21] Sandiganbayan Decision, p. 9; rollo, p. 28.
- [22] Art. 48. Penalty for complex crimes. - When a single act constitutes two or more grave or less grave felonies, or when an offense is a necessary means for committing the other, the penalty for the most serious crime shall be imposed, the same to be applied in its maximum period.
- [23] Cf. Reyes, *The Revised Penal Code*, Book I, 1998 ed., p. 645.
- [24] *People v. Honra*, 341 SCRA 110, September 26, 2000.
- [25] OSG's Memorandum, p. 8; rollo, p. 128.
- [26] Section 13, Rule 110, 2000 Rules of Criminal Procedure.
- [27] Section 3 (f), Rule 117, 2000 Rules of Criminal Procedure. v [28] Section 9, Rule 117, 2000 Rules of Criminal Procedure.
- [29] Section 3, Rule 120, 2000 Rules of Criminal Procedure.
- [30] *People v. Taboga*, GR Nos. 144086-87, February 6, 2002; *People v. Nanas*, GR No. 137299, August 21, 2001; *People v. Calabroso*, 340 SCRA 332, September 14, 2000; *People v. Gallarde*, February 17, 2000; *People v. Maribung*, 149 SCRA 292, April 29, 1987; *US v. Lahoylahoy and Madanlog*, 38 Phil 330, July 15, 1918.
- [31] Reyes, *The Revised Penal Code*, Book II, 1998 ed., p. 244.
- [32] OSP's Memorandum, pp. 6-7; rollo, pp. 148-149.
- [33] Reyes, *The Revised Penal Code*, Book II, *supra*, p. 235.
- [34] *Lagon v. Hooven Comalco Industries, Inc.*, 349 SCRA 363, 379, January 17, 2001, per Bellosillo, J.
- [35] Section 1, Rule 45, 1997 Rules of Court.
- [36] *Filoteo v. Sandiganbayan*, 263 SCRA 222, October 16, 1996.
- [37] *Ibid.*
- [38] OSG's Memorandum, p. 13; rollo, p. 133.
- [39] *People v. Caiñgat*, GR No. 137963, February 6, 2002.
- [40] *Ibid.*; *Timbol v. CA*, GR No. 136487, December 14, 2001; *People v. Benoza*, GR No. 139470, November 29, 2001.
- [41] OSG's Memorandum, pp. 14-15; rollo, pp. 134-135.
- [42] *People v. Parcia*, GR No. 141136, January 28, 2002; *People v. Gonzales Jr.*, GR Nos. 143143-44, January 15, 2002; *People v. Dela Torre*, GR No. 98431, January 15, 2002; *People v. Reynes*, GR No. 134607, December 12, 2001; *Batiquin v. CA*, 258 SCRA 334, July 5, 1996.
- [43] OSG's Memorandum, p. 15; rollo, p. 135.
- [44] Page 14; rollo, p. 134.
- [45] TSN, November 5, 1996, p. 3.
- [46] *Fernandez v. People*, 341 SCRA 277, September 28, 2000.
- [47] *Id.*, p. 299.
- [48] *Layug v. Sandiganbayan*, 338 SCRA 156, August 16, 2000.

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