SIMON FERNAN, JR. AND EXPEDITO TORREVILAS, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 145927. August 24, 2007

Ponente: VELASCO, JR., J.

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VELASCO, JR., J.:

The instant petition under Rule 45 originated from 119 criminal cases[2] filed with the Sandiganbayan (SB) involving no less than 36 former officials and employees of the then Ministry of Public Highways (MPH) and several suppliers of construction materials for defalcation of public funds arising from numerous transactions in the Cebu First Highway Engineering District in 1977. Because of the sheer magnitude of the illegal transactions, the number of people involved, and the ingenious scheme employed in defrauding the government, this infamous 86 million highway scam has few parallels in the annals of crime in the country.

The Case

Petitioners Simon Fernan, Jr. and Expedito Torrevillas seek the reversal of the December 4, 1997 Decision[3] of the SB in the consolidated Criminal Case Nos. 1640, 1641, 1642, 1643, 1818, 1819, 1820, 1821, 1822, 1823, 1879, 1880, 1881, 1882, 1883, 1884, 1885, 1886, 1887, 1888, 1889, 2839, 2840, 2841, 2842, 2843, 2844, 2845, 2846, 2847, 2848, 2849, 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857, 2858, 2859, 2860, 2861, 2862, 2863, 2864, 2865, 2866, 2867, 2868, 2869, 2870, 2871, 2872, 2873, 2874, 2875, 2876, 2877, 2878, 2879, 2880, 2881, 2882, 2883, 2884, 2885, 2886, 2887, 2888, 2889, 2890, 2891, 2892, 2893, 2894, 2895, 2896, 2897, 2898, 2899, 2900, 2901, 2902, 2903, 2904, 2905, 2906, 2907, 2908, 2909, 2910, 2911, 2912, 2913, 2915, 2917, 2918, 2919, 2920, 2921, 2922, 2923, 2924, 2925, 2926, 2927, 2928, 2929, 2930, 2931, 2932, 2936, 2937, 2938, and 2939,[4] all entitled People of the Philippines v. Rocilo Neis, et al., finding them guilty of multiple instances of estafa through falsification of public documents;[5] and the subsequent August 29, 2000 SB Resolution which denied their separate pleas for reconsideration.

Petitioner Fernan, Jr. disputes the adverse judgment in only six (6) cases, namely: 2879, 2880, 2881, 2885, 2914, and 2918; while petitioner Torrevillas seeks exoneration in nine (9) cases, namely: 2855, 2856, 2858, 2859, 2909, 2910, 2914, 2919, and 2932.

Both petitioners assert their strong belief that their guilt has not been established beyond reasonable doubt and, hence, exculpation is in order.

The Facts

The SB culled the facts[6] this way:

> On June 21, 1978, COA Regional Director Sofronio Flores Jr. of COA Regional Office No. 7, directed auditors Victoria C. Quejada and Ruth I. Paredes to verify and submit a report on sub-allotment advises issued to various highway engineering districts in Cebu, particularly, the Cebu City, Cebu 1st, Cebu 2nd and the Mandaue City Highway Engineering Districts. Complying with the directive, they conducted an investigation

and in due course submitted their findings. Their report (Exhibit C) confirmed the issuance of fake Letters of Advice of Allotments (LAAs) in the districts mentioned. They discovered that two sets of LAAs were received by the districts. One set consists of regular LAAs which clearly indicated the covering sub-allotment advices and were duly signed by Mrs. Angelina Escaño, Finance Officer of the MPH Regional Office. The LAAs were numbered in proper sequence and duly recorded in the logbook of the Accounting, Budget and Finance Division. The other set consists of fake LAAs which do not indicate the covering sub-allotment advice and were signed by Chief Accountant Rolando Mangubat and Engr. Jose Bagasao, instead of the Finance Officer. These fake LAAs were not numbered in proper sequence; they were mostly undated and were sometimes duplicated. They could not be traced to the files and records of the Accounting, Budget and Finance Division. The accounting entry for the disbursements made on the fake LAAs was debited to the Accounts-Payable Unliquidated Obligations (8-81-400) and credited to the Checking Account with the Bureau of Treasury (8-70-790). Nevertheless, the expenditures were taken from obligations of the current year (1978) because all the supporting papers of the payment vouchers were dated in that year. The entries in the journal vouchers filed with the MPH Regional Office were adjusted every month to 8-81-400 (unliquidated or prior years obligation), 8-83-000 (liquidated or current year obligations) and 8-70-700 (Treasury/Agency Account). All of these were approved for the Finance Officer by Chief Accountant Rolando Mangubat. Mangubat, however, had no authority to approve them because since October 1977, he had already been detailed to the MPH Central Office. There were indications that the practice had been going on for years.

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Due to these serious irregularities, then President Marcos created a Special Cabinet Committee on MPH Region VII "Ghost Projects Anomalies" which in turn organized a Special Task Force composed of representatives from the Finance Ministry Intelligence Bureau (FMIB), National Bureau of Investigation (NBI), the Bureau of Treasury and the Commission on Audit. The mission of the task force was to conduct a wider and more extended investigation in all the fifteen (15) highway engineering districts of MPH Region VII, including the Cebu First Highway Engineering District, the 1977 questionable disbursements of which are the subject matter of these cases.

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For a better understanding of these highways cases, the flow in the release of funds to the various agencies of the government and the control devices set up for disbursement and accounting of public funds should first be explained. A chart (Exhibit B) graphically shows the flow of allotments from the Ministry down to the district level.

On the basis of appropriation laws and upon request made by heads of agencies, the then Ministry of Budget released funds to the various agencies of the government by means of an Advice of Allotment (AA) and a Cash Disbursement Ceiling (CDC). The Advice of Allotment is an authority for the agency to incur obligations within a specified amount in accordance with approved programs and projects. The Cash Disbursement Ceiling is an authority to pay. Upon receipt of the AA and CDC from the Budget, the Central Office of the agency prepares the Sub-Advice of Allotment (SAA) and the Advice of Cash Disbursement Ceiling (ACDC) for each region, in accordance with the disbursement allotment. These are sent to the Regional Office. Upon receipt, the Budget Officer of the region prepares the corresponding Letters of Advice of Allotment (LAA) which are forwarded to the various districts of the region (The amount that goes to each district is already indicated in the Advice of Allotment). Only upon receipt of the LAA is the district office authorized to incur obligations.

Now, how are funds released by the Regional Office to the different districts and ultimately paid out to contractors, the District Engineer submits to the Regional Director a request for allotment in accordance with the program of work prepared by the former. This procedure starts with the preparation of a Requisition for Supplies and Equipment (RSE) in the District Office by the Senior Civil Engineer, approved by the District Engineer, and signed by the Chief Accountant of the Highway Engineering District, who certifies as to the

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availability of funds. The RSE is then submitted to the Regional Director for approval. Once it is approved, a Request for Obligation of Allotment (ROA) is prepared by the Chief Accountant of the district Senior Civil Engineer. The ROA signifies that a certain amount of district funds has been set aside or earmarked for the particular expenditures stated in the RSE. On the basis of the ROA, the District Office puts up advertisements, [conducts] biddings, makes awards and prepares purchase orders which are served on the winning bidder. The District Office also prepares a summary of deliveries with the corresponding delivery receipts and tally sheets, conducts inspection and prepares the General Voucher for the payment of deliveries. Once the General Voucher (GV) has been prepared, the corresponding check in the form of a Treasury Check Account for Agency (TCAA) is drawn by the Disbursing Officer and finally released to the contractor.

At the end of every month, the Report of Checks Issued by Deputized Disbursing Officer (RCIDD) is prepared, listing all the checks issued during that period. The RCIDDO is submitted to the accounting division of the region. Upon receipt of the RCIDDO, the Regional Office draws a journal voucher, debiting the account obligation (liquidated or unliquidated obligation, whichever is applicable), and crediting the account Treasury Check Account for Agency (TCAA). The RCIDDO is recorded in the Journal of Checks Issued by Deputized Disbursing Officers (JCIDDO) and posted in the general ledger at the end of each month.

Simultaneous with the flow of the RCIDDO, the ROAs are summarized in the Reports of Obligations Incurred (ROI) in the District Office, once or twice a month, depending upon the volume of transactions. The ROI is then submitted to the Regional Office. Upon receipt of the ROI, the accountant of the Regional Office draws a journal voucher taking up the following entry: debiting the appropriation allotted (0-90-000) and crediting the obligation incurred (0-82-000). This is recorded in the general voucher and posted to the general ledger at the end of each month. The journal voucher is prepared, closing the account 8-70-709 to 8-71-100-199 at the end of each month. It is also recorded and posted to the general ledger. At the end of the month, the balances of each account shown in the general ledger are summarized in a statement called the trial balance. The trial balance is submitted to the MPH Central Office in Manila where it is consolidated with other trial balances submitted by other regional offices.

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The elaborate accounting procedure described above with its system of controls was set up obviously to make sure that government funds are properly released, disbursed and accounted for. In the hands of untrustworthy guardians of the public purse, however, it proved to be inadequate. There were loopholes which an unscrupulous person adroit in government accounting could take advantage of to surreptitiously draw enormous sums of money from the government.

Sometime in February, 1977, accused Rolando Mangubat (Chief Accountant), Delia Preagido (Accountant III), Jose Sayson (Budget Examiner), and Edgardo Cruz (Clerk II), all of MPH Region VII, met at the Town and Country Restaurant in Cebu City and hatched an ingenious plan to siphon off large sums of money from government coffers. Mangubat had found a way to withdraw government money through the use of fake LAAs, vouchers and other documents and to conceal traces thereof with the connivance of other government officials and employees. In fine, the fraudulent scheme involved the splitting of LAAs and RSEs so that the amount covered by each general voucher is less than P50,000.00 to do away with the approval of the Regional Auditor; the charging of disbursements to unliquidated obligations due the previous year to provide the supposed source of funds; and the manipulation of the books of account by negation or adjustment, i.e., the cancellation of checks through journal vouchers to conceal disbursements in excess of the cash disbursement ceiling (CDC), so as not to reflect such disbursements in the trial balances submitted to the Regional Office.

Mangubat enticed Preagido, Cruz and Sayson to join him. All three agreed to help him carry out his plan. They typed the fake LAAs during Saturdays. Cruz and Sayson also took charge of negotiating or selling the fake LAAs to contractors at 26% of the gross amount. Preagido on her part manipulated the General Ledger, Journal Vouchers and General Journal thru negative entries to conceal the illegal disbursements. Thus, in the

> initial report of the auditors (Exhibit D), it was discovered that the doubtful allotments and other anomalies escaped notice due to the following manipulations:
> "The letter-advices covering such allotments (LAA) were generally not signed by the Finance Officer nor recorded in the books of accounts. Disbursements made on the basis of these fake LAAs were charged to the unliquidated Obligations (Account 8-81-400), although the obligations being paid were not among those certified to the unliquidated obligations (Account 8-81-400) at the end of the preceding year. To conceal the overcharges to authorized allotments, account 8-81-400 and the excess of checks issued over authorized cash disbursements ceiling, adjustments were prepared monthly through journal vouchers to take up the negative debit to Account 8-81-400 and a negative credit to the Treasury Checking Account for Agencies Account 8-70-790. These journal vouchers in effect cancelled the previous entry to record the disbursements made on the basis of the fake LAAs. Thus, the affected accounts (Accounts 8-81-400 and 8-70-790), as appearing in the trial balance would not show the irregularity. The checks, however, were actually issued."

The four formed the nucleus of the nefarious conspiracy. Other government employees, tempted by the prospect of earning big money, allowed their names to be used and signed spurious documents.

Although the anomalies had been going on for sometime (February 1977 to June 1978), the PNB and Bureau of Treasury had no inkling about it until the NBI busted the illegal operations. (Some of the recipients of the stolen funds spent lavishly and bought two cars at a time). The reason for this is that, at that time, the PNB and Bureau of Treasury were not furnished copy of the mother CDC and the local branch of the PNB did not receive independent advice from the PNB head office in Manila. There were no deposits of money made with the PNB from which withdrawals could be charged. Only CDCs were presented to it, and not knowing that some of the CDCs were fake, the PNB branch paid out the checks drawn against them. The bank had also no way of knowing what amount was appropriated for the district; consequently, it did not know if the limit had already been exceeded. Only an insider steep in government accounting, auditing and banking procedures, particularly their flaws and loopholes, could have pulled off such an ingenious and audacious plan.

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Focusing our attention now on the anomalies committed in the Cebu First District Engineering District, hereinafter referred to as the Cebu First HED for brevity, the Court finds that the same pattern of fraud employed in the other highway engineering districts in MPH Region VII was followed. The Cebu First HED received from Region VII thirty-four Letters of Advice of Allotment (LAAs) in the total sum of P4,734,336.50 and twenty-nine (29) corresponding Sub-Advices of Cash Disbursement Ceiling (SACDCs), amounting to P5,160,677.04 for the period January 1, 1977 to December 31, 1977. But apart from this, the Cebu First HED appears to have also received for the same period another set of eighty-four (84) LAAs amounting to P4,680,694.76 which however, could not be traced to any Sub-Advice of Allotment (SAA) or matched to the Advices of Cash Disbursement Ceiling (ACDCs) received from the MPH and Regional Office. This is highly irregular and not in consonance with accounting procedures.

It was also made to appear that the payments were made for alleged prior year's obligations and chargeable to Account 8-81-400, obviously because, they were not properly funded. Furthermore, the list of projects in Region VII for 1977 showed that Cebu First HED completed rehabilitation and/or improvement of roads and bridges in its districts from February to May 1977, with expenditures amounting to P613,812.00. On the other hand, the expenditures for barangay roads in the same district in 1977 amounted to P140,692.00, and these were all completed within the period from November to December, 1977. These completed projects were properly funded by legitimate LAAs and CDCs in the total amount of only P754,504.00. However, an additional amount of P3,839,810.74 was spent by the Cebu First HED for maintenance of roads and bridges for the same year (1977) but the same could not be traced to any authoritative document coming from the MPH.

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A total of 132 General Vouchers, emanating from fake LAAs and ACDCs, were traced back to Rolando Mangubat, Regional Accountant of Region VII and Adventor Fernandez, Regional Highway Engineer, also of Region VII. Those LAAs and ACDCs became the vehicles in the disbursement of funds amounting to P3,839,810.74, through the vouchers purportedly issued for the purchase and delivery of the aforementioned materials allegedly used for the maintenance and repair of the national highways within the Cebu First HED. Despite the enormous additional expenditure of P3,839,810.74, the roads and bridges in the district, as found out by the NBI, did not show any improvement. As testified to by several barangay captains, the road maintenance consisted merely of spreading anapog or limestone on potholes of the national highway.

Obviously, the vouchers for payments of alleged maintenance of roads and bridges in the additional amount of P3,839,810.74 were prepared for no other purpose than to siphon the said amount from the government coffer into the pockets of some officials and employees of Region VII and the Cebu First HED, as well as the suppliers and contractors who conspired and confederated with them.

The nuclei of this massive conspiracy, namely: Rolando Mangubat, Jose Sayson, and Edgardo Cruz, all of MPH Region VII, were found guilty in all 119 counts and were accordingly sentenced by the SB. The other conniver, Delia Preagido, after being found guilty in some of the cases, became a state witness in the remainder. On the basis of her testimony and pertinent documents, Informations were filed, convictions were obtained, and criminal penalties were imposed on the rest of the accused.

On the other hand, petitioners were both Civil Engineers of the MPH assigned to the Cebu First Highway Engineering District. Petitioner Fernan, Jr. was included among the accused in Criminal Case Nos. 2879, 2880, 2881, 2885, 2914, and 2918 allegedly for having signed six (6) tally sheets or statements of deliveries of materials, used as bases for the preparation of the corresponding number of general vouchers. Fund releases were made to the suppliers, contractors, and payees based on these general vouchers.

The Information against Fernan, Jr. in SB Criminal Case No. 2879 reads as follows:

> The undersigned accuses Rocilo Neis, Rolando Mangubat, Adventor Fernandez, Angelina Escaño, Delia Preagido, Camilo de Letran, Manuel de Veyra, Heracleo Faelnar, Basilisa Galvan, Matilde Jabalde, Josefina Luna, Jose Sayson, Edgardo Cruz, Leonila del Rosario, Engracia Escobar, Abelardo Cardona, Leonardo Tordecilla, Agripino Pagdanganan, Ramon Quirante, Mariano Montera, Mariano Jarina, Leo Villagonzalo, Asterio Buqueron, Zosimo Mendez, Simon Fernan, Jr. and Juliana de los Angeles for estafa thru falsification of public and commercial documents, committed as follows:
> That on, about and during the period from December 1, 1976 up to January 31, 1977, both dates inclusive, in the City of Cebu and in Cebu Province, and within the jurisdiction of this Honorable Court, the accused Rocilo Neis, Assistant District Engineer of Cebu HED I; Rolando Mangubat, the Chief Accountant of Region VII of the Ministry of Public Highways and Adventor Fernandez, Regional Highway Engineer of same Regional Office, conniving with each other to defraud the Philippine Government with the indispensable cooperation and assistance of Angelina Escaño, Finance Officer of Region VII of the Ministry of Public Highways; Delia Preagido, Assistant Chief Accountant of same Regional Office; Camilo de Letran, Chief Accountant of Cebu I HED; Manuel de Veyra, Regional Director, MPH, Region VII; Heracleo Faelnar, then Assistant Director MPH Region VII; Basilisa Galvan, Budget Officer, MPH, Region VII; Matilde Jabalde, Supervising Accounting Clerk, MPH, Region VII; Josefina Luna, Accountant II, MPH, Region VII; Jose Sayson, Budget Examiner, MPH, Region VII, Edgardo Cruz, Accountant I, MPH, Region VII; Leonila del Rosario, Chief Finance and Management Service, MPH, Central Office; Engracia Escobar, Chief Accountant, MPH, Central Office; Abelardo Cardona, Assistant Chief Accountant, MPH, Central Office; Leonardo Tordecilla, Supervising Accountant, MPH, Central Office; Agripino Pagdanganan, Budget Officer III, MPH, Central Office; Ramon

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Quirante, Property Custodian of Cebu I HED; Mariano Montera, Senior Civil Engineer Engineer of Cebu I HED; Mariano Jarina, Clerk in the Property Division of Cebu I HED; Leo Villagonzalo, Auditor's Aide of Cebu I HED; Zosimo Mendez, Auditor of Cebu I HED; Asterio Buqueron, Administrative Officer of Cebu I HED; Simon Fernan, Jr., Civil Engineer of Cebu I HED and Juliana de los Angeles, an alleged supplier, all of whom took advantage of their official positions, with the exception of Juliana de los Angeles, mutually helping each other did then and there willfully, unlawfully and feloniously falsify and/or cause the falsification of the following documents, to wit:

- Request for Allocation of Allotment

- Letter of Advice of Allotment

- Advice of Cash Disbursement Ceiling

- General Voucher No. B-15

- Check No. 9933064

- Abstract of Bids

- Purchase Order

- Statement of Delivery

- Report of Inspection

- Requisition for Supplies or Equipment

- Trial Balance

by making it appear that Regional Office No. VII of the Ministry of Public Highways regularly issued an advice of cash disbursement ceiling (ACDC) and the corresponding letter of advice of allotment (LAA) to cover the purchase of 1,400 cu. m. of item 108[7] for use in the repair of the Cebu Hagnaya Wharf road from Km. 50.30 to Km. 60.00, when in truth and in fact, as all the accused knew, the same were not true and correct; by making it appear in the voucher that funds were available and that there were appropriate requests for allotments (ROA) to pay the aforesaid purchase; that a requisition for said item was made and approved; that a regular bidding was held; that a corresponding purchase order was issued in favor of the winning bidder; that the road construction materials were delivered, inspected and used in the supposed project and that the alleged supplier was entitled to payment when in truth and in fact, as all the accused know, all of the foregoing were false and incorrect and because of the foregoing falsifications, the above-named accused were able to collect from the Cebu I HED the total amount of TWENTY EIGHT THOUSAND PESOS (P28,000.00), Philippine Currency, in payment of the non-existing deliveries; that the said amount of P28,000.00 was not reflected in the monthly trial balance submitted to the Central Office by Region VII showing its financial condition as the same was negated thru the journal voucher, as a designed means to cover-up the fraud; and the accused, once in possession of the said amount, misappropriated, converted and misapplied the same for their personal needs, to the damage and prejudice of the Philippine Government in the total amount of TWENTY EIGHT THOUSAND PESOS (P28,000.00), Philippine Currency.

CONTRARY TO LAW.

The Informations in the six (6) cases involving Fernan, Jr. were essentially identical save for the details as highlighted in boldface above. For ease of reference, Fernan, Jr.'s criminal cases are detailed below:

Criminal Case No. Dates of Commission Main Documents Falsified Items Allegedly Purchased Amount of Fraud

2879 December 1, 1976 up to January 31, 1977

1. General Voucher No. B-15;2. Check No. 9933064;

1,400 cu. m. of item 108 for use in the repair of the Cebu Hagnaya Wharf road from Km. 50.30 to Km. 60.00

PhP 28,000.00

2880 December 1, 1976 up to January 31, 1977

1. Request for Allocation of Allotment 101-12-105-76;
2. General Voucher No. B-55;
3. Check No. 9933104;

1,400 cu. m. of item 108 for use in the repair of the Bogo-Curva-Medellon road from Km. 110.00 to Km. 119.00

PhP 28,000.00

2881 January 2, 1977 up to February 28, 1977

1. Request for Allocation of Allotment 101-2-56-77;
2. General Voucher No. B-245;
3. Check No. 9933294;

Approximately 1,500 cu. m. of item 108 for use in the repair and rehabilitation of damaged roads and bridges by Typhoon Aring at the Tabogon-Bogo provincial road from Km. 92 to Km. 98

PhP 31,000.00

2885 January 2, 1977 up to January 31, 1977

1. Request for Allocation of Allotment 101-12-112-76;
2. General Voucher No. B-76;
3. Check No. 9933125;

materials for use in the repair and rehabilitation of the Daan-Bantayan road from Km. 127.00 to Km. 136

PhP 30,000.00

2914 October 1, 1977 up to November 30, 1977

1. General Voucher No. B-927;
2. Check No. 9403425;

1,200 cu. m. of item 108 for use in the rehabilitation of the Cajel-Lugo, Barbon barangay road

PhP 27,000.00

2918 January 2, 1977 up to February 28, 1977

1. General Voucher No. B-107;
2. Check No. 9933157;

1,500 cu. m. of item 108 for the rehabilitation of the Cebu North Hagnaya Wharf road from Km. 71 to Km. 76

PhP 30,000.00

On the other hand, petitioner Torrevillas was one of the accused in Criminal Case Nos. 2855, 2856, 2858, 2859,

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2909, 2910, 2914, 2919, and 2932.

The Information against Torrevillas in SB Criminal Case No. 2855 reads as follows:

> The undersigned accuses Rocilo Neis, Rolando Mangubat, Adventor Fernandez, Angelina Escaño, Delia Preagido, Camilo de Letran, Manuel de Veyra, Heracleo Faelnar, Basilisa Galvan, Matilde Jabalde, Josefina Luna, Jose Sayson, Edgardo Cruz, Leonila del Rosario, Engracia Escobar, Abelardo Cardona, Leonardo Tordecilla, Agripino Pagdanganan, Ramon Quirante, Jorge de la Peña, Leo Villagonzalo, Asterio Buqueron, Expedito Torrevillas, Mariano Montera and Rufino V. Nuñez for estafa thru falsification of public and commercial documents, committed as follows:
> That on, about and during the period from June 1, 1977 up to June 30, 1977, both dates inclusive, in the City of Cebu and in Cebu Province, and within the jurisdiction of this Honorable Court, the accused Rocilo Neis, Assistant District Engineer of Cebu HED I; Rolando Mangubat, the Chief Accountant of Region VII of the Ministry of Public Highways and Adventor Fernandez, Regional Highway Engineer of same Regional Office, conniving with each other to defraud the Philippine Government with the indispensable cooperation and assistance of Angelina Escaño, Finance Officer of Region VII of the Ministry of Public Highways; Delia Preagido, Assistant Chief Accountant of same Regional Office; Camilo de Letran, Chief Accountant of Cebu I HED; Manuel de Veyra, Regional Director, MPH, Region VII; Heracleo Faelnar, then Assistant Director MPH Region VII; Basilisa Galvan, Budget Officer, MPH, Region VII; Matilde Jabalde, Supervising Accounting Clerk, MPH, Region VII; Josefina Luna, Accountant II, MPH, Region VII; Jose Sayson, Budget Examiner, MPH, Region VII, Edgardo Cruz, Accountant I, MPH, Region VII; Leonila del Rosario, Chief Finance and Management Service, MPH, Central Office; Engracia Escobar, Chief Accountant, MPH, Central Office; Abelardo Cardona, Assistant Chief Accountant, MPH, Central Office; Leonardo Tordecilla, Supervising Accountant, MPH, Central Office; Agripino Pagdanganan, Budget Officer III, MPH, Central Office; Ramon Quirante, Property Custodian of Cebu I HED; Jorge de la Peña, Auditor of Cebu I HED; Leo Villagonzalo, Auditor's Aide of Cebu I HED; Asterio Buqueron, Administrative Officer of Cebu I HED; Expedito Torrevillas, representative of the Engineer's Office, Cebu I HED; Mariano Montera, Senior Civil Engineer Engineer of Cebu I HED; and Rufino V. Nuñez, an alleged supplier, all of whom took advantage of their official positions, with the exception of Rufino V. Nuñez, mutually helping each other did then and there willfully, unlawfully and feloniously falsify and/or cause the falsification of the following documents, to wit:
>
> - Request for Allocation of Allotment - 101-10-186-76; 10-190-76; 10-192-76; 10-188-76; 10-180-76
>
> - Letter of Advice of Allotment
>
> - Advice of Cash Disbursement Ceiling
>
> - General Voucher No. B-613
>
> - Check No. 9403099
>
> - Abstract of Bids
>
> - Purchase Order
>
> - Statement of Delivery
>
> - Report of Inspection
>
> - Requisition for Supplies or Equipment
>
> - Trial Balance
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> by making it appear that Regional Office No. VII of the Ministry of Public Highways regularly issued an advice of cash disbursement ceiling (ACDC) and the corresponding letter of advice of allotment (LAA) to

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cover the purchase of 153.63 m. t. of item 310[8] for use in asphalting of the Toledo-Tabuelan road at Km. 108.34 to Km. 109.52, when in truth and in fact, as all the accused knew, the same were not true and correct; by making it appear in the voucher that funds were available and that there were appropriate requests for allotments (ROA) to pay the aforesaid purchase; that a requisition for said item was made and approved; that a regular bidding was held; that a corresponding purchase order was issued in favor of the winning bidder; that the road construction materials were delivered, inspected and used in the supposed project and that the alleged supplier was entitled to payment when in truth and in fact, as all the accused know, all of the foregoing were false and incorrect and because of the foregoing falsifications, the above-named accused were able to collect from the Cebu I HED the total amount of FORTY EIGHT THOUSAND FOUR HUNDRED THIRTY ONE PESOS & 85/100 (P48,431.85), Philippine Currency, in payment of the non-existing deliveries; that the said amount of P48,431.85 was not reflected in the monthly trial balance submitted to the Central Office by Region VII showing its financial condition as the same was negated thru the journal voucher, as a designed means to cover-up the fraud; and the accused, once in possession of the said amount, misappropriated, converted and misapplied the same for their personal needs, to the damage and prejudice of the Philippine Government in the total amount of FORTY EIGHT THOUSAND FOUR HUNDRED THIRTY ONE PESOS & 85/100 (P48,431.85), Philippine Currency.

CONTRARY TO LAW.

The Torrevillas cases were substantially the same save for the details highlighted in the aforequoted typical accusatory pleading. For ease of reference, Torrevillas' criminal cases are particularized as follows:

Criminal Case No. Dates of Commission Main Documents Falsified Items Allegedly Purchased Amount of Fraud

2855 June 1, 1977 up to June 30, 1977

1. Request for Allocation of Allotment 101-10-186-76; 10-190-76; 10-192-76; 10-188-76; 10-180-76;
2. General Voucher No. B-613;
3. Check No. 9403099;

153.63 m. t. of item 310 for use in asphalting of the Toledo-Tabuelan road from Km. 108.34 to Km. 109.52

PhP 48,431.85

2856 June 1, 1977 up to June 30, 1977

1. Request for Allocation of Allotment 101-10-15-76; 9-201-76; 8-152-76; 8-153-76;9-181-76; 9-184-76
2. General Voucher No. B-619;
3. Check No. 9403105;

153.76 m. t. of item 310 for use in the asphalting of the Toledo-Tabuelan road from Km 108.34 to Km. 109.52

PhP 48,472.84

2858 June 1, 1977 up to July 31, 1977

1. Request for Allocation Allotment 101-6-234-76; 6-237-76; 6-239-76; 6-241-76; 6-240-76
2. General Voucher No. B-629;
3. Check No. 9403115;

151.35 m. t. of item 310 for use in the asphalting of the Toledo-Tabuelan road from Km. 108.34 to Km. 109.52

PhP 47,713.09

2859 June 1, 1977 up to June 31, 1977

1. Request for Allocation of Allotment 101-7-63-76; 8-102-76; 8-121-76
2. General Voucher No. B-631;
3. Check No. 9403117;

110.01 m. t. of item 310 for use in asphalting of the Toledo-Tabuelan road from Km. 108.34 to Km.109.52

PhP 34,680.65

2909 September 1, 1977 up to November 30, 1977

1. General Voucher No. B-928;
2. Check No. 9403426;

1,200 cu.m. of item 108 for use in the rehabilitation of the Buanoy-Cantibas, Balaban barangay road

PhP 27,900.00

2910 September 1, 1977 up to November 30, 1977

1. General Voucher No. B-929;
2. Check No. 9403427;

1,200 cu. m. of item 108 for use in the rehabilitation of the Magay-Canamukan, Compostela barangay road

PhP 27,900.00

2914 October 1, 1977 up to November 30, 1977

1. General Voucher No. B-927;
2. Check No. 9403425;

1,200 cu. m. of item 108 for use in the rehabilitation of the Cajel-Lugo, Barbon barangay road

PhP 27,000.00

2919 January 2, 1977 up to February 28, 1977

1. General Voucher No. B-244;
2. Check No. 9933293;

1,550 cu. m. of item 108 for use in the repair and rehabilitation of damaged roads and bridges at the Toledo-Tabuelan national road from Km. 71 to Km. 83

PhP 31,000.00

2932 June 1, 1977 up to July 31, 1977

1. Request for Allocation of Allotment 101-7-83-76; 7-84-76; 7-124-76; 8-153-76; 8-170-76;
2. General Voucher B-643;
3. Check No. 9403130;

250 gals of aluminum paint 324 gals of red lead paint for use in the maintenance of national roads and bridges

PhP 44,762.58

The Sandiganbayan's Ruling

The anti-graft court was fully convinced of the guilt of petitioner Fernan, Jr.; and in its December 4, 1997

Decision, it found him criminally liable in the six (6) cases against him, thus:

> In Criminal Case No. 2879, the Court finds accused JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA, ZOSIMO MENDEZ, MARIANO JARINA and SIMON FERNAN, Jr., GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Twenty Eight Thousand Pesos (P 28,000.00); and, to pay their proportionate share of the costs.[9] (Emphasis supplied.)
>
> In Criminal Case No. 2880, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA, ZOSIMO MENDEZ, and SIMON FERNAN, Jr., GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Twenty Eight Thousand Pesos (P 28,000.00); and, to pay their proportionate share of the costs.[10] (Emphasis supplied.)
>
> In Criminal Case No. 2881, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, ZOSIMO MENDEZ and SIMON FERNAN, Jr., GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Thirty One Thousand Pesos (P 31,000.00); and, to pay their proportionate share of the costs.[11] (Emphasis supplied.)
>
> In Criminal Case No. 2885, the Court finds accused CAMILO DE LETRAN JOSE SAYSON, RAMON QUIRANTE, ZOSIMO MENDEZ and SIMON FERNAN, Jr., GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Thirty Thousand Pesos (P 30,000.00); and, to pay their proportionate share of the costs.[12] (Emphasis supplied.)
>
> In Criminal Case No. 2914, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, EXPEDITO TORREVILLAS and SIMON FERNAN, Jr., GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Twenty Seven

Thousand Pesos (P 27,000.00); and, to pay their proportionate share of the costs.[13] (Emphasis supplied.)

In Criminal Case No. 2918, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, ZOSIMO MENDEZ, SIMON FERNAN, Jr. and ISMAEL SABIO, Jr. GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Thirty Thousand Pesos (P 30,000.00); and, to pay their proportionate share of the costs.[14] (Emphasis supplied.)

Petitioner Torrevillas suffered the same fate and was convicted in the nine (9) criminal cases, to wit:

In Criminal Case No. 2855, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA, and EXPEDITO TORREVILLAS GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Forty Eight Thousand Four Hundred Thirty One Pesos and 85/100 (P 48,431.85); and, to pay their proportionate share of the costs.[15] (Emphasis supplied.)

In Criminal Case No. 2856, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA and EXPEDITO TORREVILLAS GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Forty Eight Thousand Four Hundred Seventy Two Pesos and 84/100 (P 48,472.84); and, to pay their proportionate share of the costs.[16] (Emphasis supplied.)

In Criminal Case No. 2858, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA and EXPEDITO TOREVILLAS, GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Forty Seven Thousand Seven Hundred Thirteen Pesos and 9/100 (P47,713.09); and, to pay their proportionate share of the costs.

In Criminal Case No. 2859, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA and EXPEDITO TOREVILLAS, GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances

in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Thirty Four Thousand Six Hundred Eighty pesos and 65/100 (P34,680.65); and , to pay their proportionate share of the costs.[17]

In Criminal Case No. 2909, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, FLORO JAYME and EXPEDITO TORREVILLAS GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Twenty Seven Thousand Nine Hundred Pesos (P 27,900.00); and, to pay their proportionate share of the costs.[18] (Emphasis supplied.)

In Criminal Case No. 2910, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, FLORO JAYME and EXPEDITO TORREVILLAS GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Twenty Seven Thousand Nine Hundred Pesos (P 27,900.00); and, to pay their proportionate share of the costs.[19] (Emphasis supplied.)

In Criminal Case No. 2914, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, EXPEDITO TORREVILLAS and SIMON FERNAN, Jr., GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Twenty Seven Thousand Pesos (P 27,000.00); and, to pay their proportionate share of the costs. (Emphasis supplied.)

In Criminal Case No. 2919, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA, ZOSIMO MENDEZ, EXPEDITO TORREVILLAS and ISMAEL SABIO, Jr. GUILTY beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Thirty One Thousand Pesos (P 31,000.00); and, to pay their proportionate share of the costs.[20] (Emphasis supplied.)

In Criminal Case No. 2932, the Court finds accused CAMILO DE LETRAN, JOSE SAYSON, RAMON QUIRANTE, MARIANO MONTERA, PEDRITO SEVILLE and EXPEDITO TORREVILLAS GUILTY

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> beyond reasonable doubt as co-principals in the crime of Estafa thru falsification of Public Documents as defined and penalized in Articles 318 and 171, in relation to Article 48 of the Revised Penal Code, and there being no modifying circumstances in attendance, hereby sentences each of them to an indeterminate penalty ranging from six (6) years of prision correccional, as minimum, to ten (10) years, eight (8) months and one (1) day of prision mayor, as maximum, with the accessory penalties provided by law, to pay a fine of Three Thousand Five Hundred Pesos (P 3,500.00); to indemnify, jointly and severally the Republic of the Philippines in the amount of Forty Four Thousand Seven Hundred Sixty Two Pesos and 58/100 (P 44,762.58); and, to pay their proportionate share of the costs.[21] (Emphasis supplied.)

Petitioners made the supplication before the court a quo to recall the adverse judgments against them which was declined by the August 29, 2000 SB Resolution.

Firm in their belief that they were innocent of any wrongdoing, they now interpose the instant petition to clear their names.

The Issues

Petitioners put forward two (2) issues, viz:

> I
>
> THE HONORABLE SANDIGANBAYAN TOTALLY IGNORED PETITIONERS CONSTITUTIONAL RIGHT TO BE PRESUMED INNOCENT WHEN IT RULED THAT THE BURDEN OF CONVINCING THE HON. COURT THAT THE DELIVERIES OF THE ROAD MATERIALS ATTESTED TO HAVE BEEN RECEIVED BY THEM WERE NOT GHOST DELIVERIES RESTS WITH THE ACCUSED AND NOT WITH THE PROSECUTION.
>
> II
>
> THE HONORABLE SANDIGANBAYAN ERRED IN CONVICTING PETITIONERS AS CO-CONSPIRATORS DESPITE THE PROSECUTION'S FAILURE TO SPECIFICALLY PROVE BEYOND REASONABLE DOUBT THE FACTS AND CIRCUMSTANCES THAT WOULD IMPLICATE THEM AS CO-CONSPIRATORS AND JUSTIFY THEIR CONVICTION.

The Court's Ruling

We are not persuaded to nullify the verdict.

Petitioners' guilt was established beyond reasonable doubt

Petitioners mainly asseverate that their guilt was not shown beyond a peradventure of doubt and the State was unable to show that government funds were illegally released based on alleged ghost deliveries in conjunction with false or fake tally sheets and other documents which they admittedly signed.

We are not convinced.

Our Constitution unequivocally guarantees that in all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved.[22]This sacred task unqualifiedly means proving the guilt of the accused beyond a reasonable doubt. Definitely, "reasonable doubt" is not mere guesswork whether or not the accused is guilty, but such uncertainty that "a reasonable man may entertain after a fair review and consideration of the evidence." Reasonable doubt is present when

> after the entire comparison and consideration of all the evidences, leaves the minds of the [judges] in that condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge; a certainty that convinces and directs the understanding, and satisfies the reason and judgment of those who are

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bound to act conscientiously upon it.[23]

A thorough scrutiny of the records is imperative to determine whether or not reasonable doubt exists as to the guilt of accused Fernan, Jr. and Torrevillas.

Petitioners were charged with the complex crime of estafa through falsification of public documents as defined and penalized under Articles 318 and 171 in relation to Article 48 of the Revised Penal Code, thus:

ART. 318. Other deceits. - The penalty of arresto mayor and a fine of not less than the amount of the damage caused and not more than twice such amount shall be imposed upon any person who shall defraud or damage another by any deceit not mentioned in the preceding articles of this chapter.

ART. 171. Falsification by public officer, employee; or notary or ecclesiastical minister. - The penalty of prision mayor and a fine not to exceed 5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

x x x x

- Making untruthful statements in a narration of facts;

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.

The complex crime is pruned into the following essential elements:

For estafa

- Deceit: Deceit is a specie of fraud. It is actual fraud, and consists in any false representation or contrivance whereby one person overreaches and misleads another, to his hurt. There is deceit when one is misled, either by guile or trickery or by other means, to believe to be true what is really false.[24]

- Damage: Damage may consist in the offended party being deprived of his money or property as a result of the defraudation, disturbance in property right, or temporary prejudice.[25]

For falsification

- That the offender is a public officer, employee, or notary public;

- That he takes advantage of his official position;

- That he falsifies a document by committing any of the acts defined under Article 171 of the Revised Penal Code.[26]

Before the SB, a Memorandum of Agreement (MOA) dated September 1, 1988 was entered into between the State and the accused with the following stipulations and admissions:

(1) To expedite the early termination of the instant cases and abbreviate the testimony of Mrs. Delia Preagido, the prosecution and the accused have agreed to reproduce and adopt as the testimony of Preagido in the instant cases, her previous testimonies in Criminal Cases Nos. 889, etc. (Mandaue City HED '78 cases), on May 18 and 19, 1982 and in Criminal Cases Nos. 1446-1789, etc. (Danao City HED '77 cases) on November 10, 1987 and March 14, 1988, both on direct and cross examination x x x without prejudice to whatever direct and/or cross examination question, that may be propounded by the Prosecution and the accused on said State witness, which questions will only be limited to the fake or irregular LAA's and SACDC's issued to Cebu I HED in 1977, the sale of such fake or irregular LAA's and SACDC's issued to Cebu I HED in 1977, the sale of such

> fake or irregular LAA's and SACDC's in said engineering district in the said year and the participation of the accused thereon;
>
> (2) That in the event Mrs. Delia Preagido is presented to testify as a State witness in the instant cases without reproducing and adopting her previous testimonies in the Mandaue City HED '78 and the Danao City HED '77 cases, she will identify documents and exhibits which have been previously marked and identified by other prosecution witness x x x.
>
> (3) That in the previous testimonies of Mrs. Delia Preagido in the Mandaue City HED '78 and the Danao City HED '77 cases, she identified twenty-six separate lists containing names of officials and employees of MPH, Regional Office No. VII, of the various Highways Engineering Districts in MPH, Region VII, and the MPH Central Office who have allegedly received money or various sums from 1977 to 1978 out of the proceeds or sales of fake LAA's in 1977 and 1978 and, therefore, to obviate Mrs. Preagido's previous testimony of these lists, the Prosecution hereby reproduces and adopts specifically such testimony and the markings of the lists, i.e., Exhibits "KKK", "KKK-1" to "KKK-25" in the Mandaue City HED '78 cases and Exhibits "0000", "0000-1" to "0000-25" in the Danao City HED '77 cases, substituted or re-marked accordingly as "Exhibits "LL", "LL-1" to "LL-25" in the instant cases.[27]

As a result of this MOA, the testimony of state witness Preagido on the modus operandi of the conspirators, or the unique and distinct method of procedure by which the malversation of public funds in Region VII of the MPH was perpetrated and accomplished, dealt a major blow to the defenses raised by petitioners. Preagido's vital testimony, wherein she identified the methods, documents, exhibits, and other pertinent papers that led to the crafting of fake Letters of Advice of Allotment (LAAs),[28] general vouchers, disbursement of funds for non-existent projects, general vouchers, and other documents, was not even successfully refuted or overturned by petitioners.

Preagido confirmed and admitted under oath that the illegal disbursement of public funds pertained to non-existent projects and was supported by fake LAAs, fake general vouchers, and other pertinent papers that were also falsified. The fake LAAs and general vouchers were, in turn, supported by signed tally sheets that pertained to alleged ghost deliveries of road construction materials for non-existent or illegal projects.

The fake tally sheets, delivery receipts, reports of inspection, requests for supplies and materials, and other related documents signed on separate occasions by petitioners, which were attached as supporting documents to corresponding general vouchers; the alleged amounts and quantities of road construction materials delivered; and the specific fake general vouchers, checks, and other pertinent documents issued which led to the illegal disbursement of funds are summarized as follows:

Petitioner Fernan, Jr.

Criminal Case No. Specific Exhibits Main Documents Falsified Items Allegedly Purchased FAKE LAAs that authorized purchase Amount of Fraud

2879 T-86-f-1, etc.
(Tally Sheets)

1. General Voucher No. B-15;
2. Check No. 9933064;

1,400 cu. m. of item 108 for use in the repair of the Cebu Hagnaya Wharf road from Km. 50.30 to Km. 60.00

Not numbered contrary to official
procedure

PhP 28,000.00

2880 T-87-f-1, etc.
(Tally Sheets)

1. Request for Allocation of Allotment 101-12-105-76;
2. General Voucher No. B-55;
3. Check No. 9933104;

1,400 cu. m. of item 108 for use in the repair of the Bogo-Curva-Medellon road from Km. 110.00 to Km. 119.00

Not numbered contrary to official
procedure

PhP 28,000.00

2881 T-104-g-1, etc.
(Tally Sheets)

1. Request for Allocation of Allotment 101-2-56-77;
2. General Voucher No. B-245;
3. Check No. 9933294;

Approximately 1,500 cu. m. of item 108 for use in the repair and rehabilitation of damaged roads and bridges by Typhoon Aring at the Tabogon-Bogo provincial road from Km. 92 to Km. 98

Not numbered contrary to official
procedure

PhP 31,000.00

2885 T-89-f-1, etc.
(Tally Sheets)

1. Request for Allocation of Allotment 101-12-112-76;
2. General Voucher No. B-76;
3. Check No. 9933125;

Materials for use in the repair and rehabilitation of the Daan-Bantayan road from Km. 127.00 to Km. 136

Not numbered contrary to official
procedure

PhP 30,000.00

2914 T-115-g-1, etc.
(Tally Sheets)

1. General Voucher No. B-927;
2. Check No. 9403425;

1,200 cu. m. of item 108 for use in the rehabilitation of the Cajel-Lugo, Barbon barangay road

PhP 27,000.00

2918 T-116-f-1, etc.

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(Tally Sheets)

1. General Voucher No. B-107;
2. Check No. 9933157;

1,500 cu. m. of item 108 for the rehabilitation of the Cebu North Hagnaya Wharf road from Km. 71 to Km. 76

Not numbered contrary to official
procedure

PhP 30,000.00

Petitioner Torrevillas

Criminal Case No. Specific Exhibits Main Documents Falsified Items Allegedly Purchased FAKE LAAs that authorized purchase Amount of Fraud

2855 T-33-f (Delivery Receipt); T-33-f-1 (Daily Tally Sheet);

1. Request for Allocation of Allotment 101-10-186-76; 10-190-76; 10-192-76; 10-188-76; 10-180-76;
2. General Voucher No. B-613;
3. Check No. 9403099;

153.63 m. t. of item 310 for use in asphalting of the Toledo-Tabuelan road from Km. 108.34 to Km. 109.52

Not numbered contrary to official
procedure PhP 48,431.85

2856 T-34-f (Delivery Receipt); T-34-f-1 (Daily Tally Sheet);

1. Request for Allocation of Allotment 101-10-15-76; 9-201-76; 8-152-76; 8-153-76;9-181-76; 9-184-76
2. General Voucher No. B-619;
3. Check No. 9403105;

153.76 m. t. of item 310 for use in the asphalting of the Toledo-Tabuelan road from Km 108.34 to Km. 109.52

Not numbered contrary to official
procedure PhP 48,472.84

2858 T-35-f (Delivery Receipt); T-35-f-1 (Daily Tally Sheet);

1. Request for Allocation Allotment 101-6-234-76; 6-237-76; 6-239-76; 6-241-76; 6-240-76
2. General Voucher No. B-629;
3. Check No. 9403115;

151.35 m. t. of item 310 for use in the asphalting of the Toledo-Tabuelan road from Km. 108.34 to Km. 109.52

Not numbered contrary to official
procedure PhP 47,713.09

2859 T-36-f (Delivery Receipt); T-36-f-1 (Daily Tally Sheet);

1. Request for Allocation of Allotment 101-7-63-76; 8-102-76; 8-121-76
2. General Voucher No. B-631;
3. Check No. 9403117;

110.01 m. t. of item 310 for use in asphalting of the Toledo-Tabuelan road from Km. 108.34 to Km.109.52

Not numbered contrary to official
procedure PhP 34,680.65

2909 T-113-b (Request for Supplies and Equipment); T-113-d (Report of Inspection); T-113-c (Abstract of Sealed Quotation)

1. General Voucher No. B-928;
2. Check No. 9403426;

1,200 cu.m. of item 108 for use in the rehabilitation of the Buanoy-Cantibas, Balaban barangay road

Not numbered contrary to official
procedure PhP 27,900.00

2910 T-114-c (Request for Supplies and Equipment); T-114-e (Report of Inspection); T-114-f (Abstract of Sealed Quotation)

1. General Voucher No. B-929;
2. Check No. 9403427;

1,200 cu. m. of item 108 for use in the rehabilitation of the Magay-Canamukan, Compostela barangay road

Not numbered contrary to official
procedure PhP 27,900.00

2914 T-115-c (Request for Supplies and Equipment); T-115-e (Report of Inspection); T-115-f (Abstract of Sealed Quotation)

1. General Voucher No. B-927;
2. Check No. 9403425;

1,200 cu. m. of item 108 for use in the rehabilitation of the Cajel-Lugo, Barbon barangay road

Not numbered contrary to official
procedure PhP 27,000.00

2919 T-117-g (Delivery Receipt); T-117-g-1, etc. (Daily Tally Sheets)

1. General Voucher No. B-244;
2. Check No. 9933293;

1,550 cu. m. of item 108 for use in the repair and rehabilitation of damaged roads and bridges at the Toledo-Tabuelan national road from Km. 71 to Km. 83

Not numbered contrary to official
procedure PhP 31,000.00

2932

1. Request for Allocation of Allotment 101-7-83-76; 7-84-76; 7-124-76; 8-153-76; 8-170-76;
2. General Voucher B-643;
3. Check No. 9403130;

250 gals of aluminum paint 324 gals of red lead paint for use in the maintenance of national roads and bridges

Not numbered contrary to official
procedure PhP 44,762.58

On the part of petitioners, they readily admitted that they either signed the tally sheets and/or delivery receipts, reports of inspection, requests for supplies and materials, and other related documents which became part of the supporting documents that led to the issuance of general vouchers and eventually the disbursement of public funds.[29] The tally sheets are statements of delivery that purportedly indicated the specified quantities of materials for the construction and maintenance of roads that have been delivered on supposed project sites on given dates at specific places.

As a result of petitioners' signatures in the tally sheets and/or delivery receipts, reports of inspection, requests for supplies and materials, and other supporting documents--which became the basis for payment to suppliers--public funds were released via general vouchers and checks to the said suppliers despite the fact that the latter did not make any deliveries in accordance with projects allegedly funded by mostly fake LAAs.

The accusation that there were no actual deliveries of road construction and maintenance materials in support of projects or otherwise funded by LAAs was proven true by the testimonies of the various barangay captains and residents of the barangay who were supposed to be benefited by the construction and repair activities of the Cebu First Highway Engineering District. The testimonies of these barangay captains and residents are summarized as follows:[30]

> - MACARIO LIMALIMA, Barangay Captain of Barangay Antipolo, Medellin, Cebu, testified that his barangay is traversed by the national highway stretching to a distance of 2 kilometers and 750 meters (Km. 122; Km. 123 to 125). He described the road as full of potholes. Except for filling up these potholes with "anapog" or crushed limestone, no major repairs were undertaken on the said road in 1978 or in previous years. (TSN., pp. 6-14, June 5, 1986).[31]
>
> - FELOMINO ORBISO, Barangay Captain of Cawit, Medellin, Cebu, from 1972 to 1981, testified that his barangay is traversed by the national highway, stretching from Km. 125 to Km. 127.9. He described the road as a rough or dirt road. No improvement was ever made on this road whether during the year when he gave his statement to the NBI (1978) or in previous years. The road remained in bad shape, with numerous potholes which the camineros merely filled up with limestone. (TSN., pp.14-19, June 5, 1986).[32]
>
> - TIMOTEO ANCAJAS, Barangay Captain of Paypay, Daan Bantayan, Cebu, from 1972 to 1982, testified that his barangay is traversed by the national highway, stretching from Km. 132 to Km. 134 ½, or a distance of 2 ½ kilometers. He described the portion of the highway as a rough road with potholes. He stated that the only improvement done on this road was the filling up of the potholes with "anapog" or crushed limestone and this was done only once in 1977. It even took the camineros three months from the time the limestones were delivered to start working on the road. (TSN., pp. 20-26, June 5, 1986).[33]
>
> - LUCIA PEÑAFLOR, Barangay Captain of Don Pedro, Bogo, Cebu, from 1966 to 1982, testified that her barangay is traversed by the national highway, stretching from Km. 103 to Km. 105 ½, up to the boundary of San Remigio, and from the boundary to Daan Bantayan, a distance of more than 3 kilometers. It was only in 1984 or 1985 when this portion of the national highway was asphalted. Prior to that, the road was maintained by filling up the potholes with crushed limestone or "anapog." These potholes started to appear between January and June of 1977. However, as alleged by her in her affidavit (Exh. II-1-d), these potholes were filled up only from January to June, 1978. (TSN., pp. 28-46, June 5, 1986).[34]
>
> - MARCELO CONEJOS, Barangay Captain of Tapilon, Daan Bantayan, from 1972 to 1982, testified that his barangay is traversed by the national highway, stretching from Km. 130 to Km. 134, or a distance of 4 kilometers. In 1977, said portion of the national highway was in bad condition and that nothing was done to improve it until 1982, except for the time when the potholes were filled up with crushed limestones. (TSN., pp.

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48-56, June 5, 1986).[35]

- REMEDIOS FELICANO, Barangay Captain of Looc, San Remigio, Cebu from 1977 to 1982, testified that her barangay is traversed by the national highway, stretching form Km. 109 to Km. 110. She described said portion of the national highway as "stoney." The only maintenance work undertaken to improve the road was the filling up of potholes with crushed limestone which camineros gathered from the roadside. (TSN., pp.57-67, June 5, 1986).[36]

- ALBERTO BRANSUELA, a resident of Barangay San Jose, Catmon, Cebu, from 1974 to 1978, testified that barangay San Jose is traversed by the national highway (Km. 58), covering a distance of ½ kilometer more or less. He stated that while this portion of the national highway was already asphalted as of 1977, there were potholes which the camineros filled up with anapog taken from the roadside. (TSN., pp. 69-80), June 5, 1986).[37]

- CARIDAD PUNLA, Acting Barangay Captain of Barangay Corazon, Catmon, Cebu, from 1977 to 1982, testified that the Poblacion of Catmon is traversed by the national highway, stretching from Km. 57 to Km. 58. In 1977, only more than ½ of this portion of the national highway was cemented while the remaining portion was asphalted. While said portion of the national highway already had cracks and potholes as of 1977, the real problem was the uneven elevation of the surface of the shoulder of the road. No general repair was undertaken by the authorities to correct the uneven elevation, except for the work done by the camineros who covered up the potholes. (TSN., pp. 81-89, June 5, 1986).[38]

- FELIPE MOLIT, Barangay Captain of Bao, Sugud, Cebu, from 1975 to 1982, testified that barangay Bao was traversed by the national highway, stretching from Km. 59 to Km. 60 1/2. He described said portion of the national highway as a gravel road surfaced with anapog. In 1977, the said road already had potholes which maintenance men filled up with anapog beginning in March, 1977. The anapog was hauled in from Km. 64, the usual excavation place of anapog. It took only 3 truckloads of anapog to cover the entire length of the 1 ½ kilometers traversing their barangay. (TSN., pp. 90-99, June 5, 1986).[39]

- LEONARDO PINOTE, Barangay Captain of Barangay Argawanon, San Remigio, Cebu, from 1972 to 1980, testified that his barangay is traversed by the national highway covering a distance of ½ kilometers more or less. In 1977, this portion of the national highway was a rough road with potholes. In the same year, camineros worked on the road, using wheelbarrows, shovels and rakes, pitching up the potholes with anapog. (TSN., pp. 29-35, June 6, 1986).[40]

- PEDRO ORSAL, Barangay Captain of Poblacion, San Remigio, Cebu, from January 1972 to 1980, testified that his barangay is traversed by the national highway, from Km. 107 to Km. 110, or a distance of three kilometers more or less. In 1977, the road from Km. 107 to Km. 108 was a gravel road. It was properly maintained by the highways people, and every time potholes appeared on the road, they would be filled-up with anapog. This material was dumped along the road by trucks of the Bureau of Public Highways. On the other hand, the road leading to the heart of the poblacion was asphalted, but with potholes. In 1977, the potholes were filled up by camineros with gravel delivered by dump trucks of the Bureau of Public Highways. It was only in 1978 when the road was re-asphalted and extended from the junction of the poblacion to the adjacent barrio of Looc. x x x (TSN., pp.36-45, June 6, 1986).[41]

The inescapable conclusion from the aforementioned testimonies of the barangay captains and residents of Cebu whose respective barangay are traversed by the national highway is that there were no actual major repair works undertaken on the national highway except the filling of potholes by crushed limestone (anapog). Clearly, there were no deliveries of supplies and materials for asphalting and repair of roads described in the tally sheets and other supporting documents signed by petitioners.

While petitioner Torrevillas presented Vice-Mayor Emigdio Tudlasan of Tabuclan, Cebu, who testified that he

saw the asphalting of the Tabuclan Road from kilometers 18 to 19, said testimony is not conclusive on the actual delivery of the supplies indicated in the tally sheets, as Tudlasan was not present at the time of alleged delivery. Moreover, his testimony runs counter to the testimonies of Barangay Captain Remedios Feliciano of Looc, San Remigio, Cebu and Barangay Captain Pedro Orsal of Poblacion, San Remigio, Cebu. Feliciano testified that she was Barangay Captain of Looc, San Remigio, Cebu from 1977 to 1982; that her barangay is traversed by the national highway, stretching from km. 109 to km. 110; and that the only work undertaken to improve the road was the filling up of potholes with crushed limestone which camineros gathered from the roadside. On the other hand, Orsal testified that he was Barangay Captain of Poblacion, San Remigio, Cebu, from January 1972 to 1980; that his barangay is traversed by the national highway, from km. 107 to km. 110; that in 1977, the road from km. 107 to km. 108 was a gravel road maintained by the highways people, and every time potholes appeared on the road, they would be filled-up with anapog, which was dumped along the road by the Bureau of Public Highways; and that it was only in 1978 when the road was re-asphalted and extended from the junction of the poblacion to the adjacent barrio of Looc.

Compared to the testimony of Vice-Mayor Tudlasan, the testimonies of Barangay Captains Feliciano and Orsal are entitled to more weight and credit, and are more credible considering the fact that they are residents of the area where the road supposedly to be repaired is located plus the fact that they saw only limestone, not asphalt, that was used in the repair of the road in 1977. The testimonies of Feliciano and Orsal are further buttressed by the findings and statements of government witnesses, namely--Ruth Inting Paredes, Supervising Commission on Audit (COA) Auditor assigned to Region VII; Felicitas Cruz Ona, Supervising COA Auditor assigned to the main COA office; Federico A. Malvar, Senior National Bureau of Investigation (NBI) Agent of the Anti-Graft Section and member of the COA NBI team assigned to investigate the anomalies; Rogelio C. Mamaril, Supervising NBI Agent of the Anti-Fraud and Action Section; and Delia Comahig Preagido, Accountant III, MPH, Region VII--to the effect that the general vouchers and LAAs that corresponded to the aforementioned tally sheets signed by petitioner Torrevillas were fake or falsified. Undeniably, the government witnesses have no motive to testify falsely against petitioner Torrevillas and, hence, credible. We conclude that there were no actual deliveries of supplies for asphalting of road and repair on kilometers 108 and 109, which were the subjects of Criminal Case Nos. 2855, 2856, 2858, and 2859.

Glaring is the finding of the SB that the Cebu First Highway Engineering District, to which petitioners were assigned, had fake LAAs totaling to PhP 4,924,366.50, while the fake Cash Disbursement Ceilings issued amounted to PhP 6,271,150.[42] The Cebu First Highway Engineering District had also issued checks per unrecorded reports in the total sum of PhP 1,135,176.82.[43] Therefore, the total illegal disbursements in the Cebu First Highway Engineering District alone were a staggering PhP 12,330,693.32 circa 1977.

Of this total, petitioner Fernan, Jr. freely admitted signing tally sheets which pertained to non-existent deliveries of road construction supplies and materials totaling PhP 146,000,[44] including PhP 27,000 in Criminal Case No. 2914 where petitioner Torrevillas was among the co-accused.[45] These tally sheets were attached as the supporting papers to fake general vouchers which facilitated the release of check payments to suppliers.

These checks were allegedly paid to suppliers Juliana de los Angeles (Criminal Case Nos. 2879, 2880, 2881, 2885, and 2914) and Ismael Sabio, Jr. (Criminal Case No. 2918).[46]

On his part, petitioner Torrevillas voluntarily admitted to signing tally sheets, reports of inspection, requisitions of supplies and equipment, and other pertinent documents totaling an even greater amount of PhP 337,861.01,[47] including PhP 27,000 in Criminal Case No. 2914 where petitioner Fernan, Jr. was among the co-accused.[48] These documents signed by petitioner Torrevillas were likewise attached as supporting papers to fake general vouchers which facilitated the release of check payments to suppliers.

These checks were allegedly paid to suppliers Rufino V. Nuñez (Criminal Case Nos. 2855, 2856, 2858, and 2859), Juliana de los Angeles (Criminal Case Nos. 2909, 2910, and 2914), Ismael Sabio, Jr. (Criminal Case No. 2919), and Manuel Mascardo (Criminal Case No. 2932).[49]

These general vouchers and checks could not be traced to genuine LAAs. Ergo, there were no actual deliveries of supplies and materials for the road repair and rehabilitation in Region VII, which were the subjects of the criminal cases where petitioners were charged.

We find no reason to disturb the findings of the court a quo that all the essential elements of the crime of estafa through falsification of public documents were present. There is no question that petitioners, at the time of the commission of the crime, were public officers"civil engineers"assigned to the MPH. Their signing of tally sheets and related documents pertaining to the alleged deliveries of supplies for road repair and construction constitutes intervention and/or taking advantage of their official positions, especially considering that they had the duty to inspect the purported deliveries and ascertain the veracity of the documents and the statements contained in them.

The tally sheets bearing their signatures contained false recitals of material facts which the petitioners had the duty to verify and confirm. These tally sheets were attached as supporting documents to fake LAAs and subsequently became the bases for the disbursement of public funds to the damage and prejudice of the government. Indubitably, there exists not even an iota of doubt as to petitioners' guilt.

The essential elements of estafa through falsification of public documents are present in the cases against petitioners, as follows:

- Deceit: Petitioners Fernan, Jr. and Torrevillas made it appear that supplies for road construction and maintenance were delivered by suppliers allegedly in furtherance of alleged lawful projects when in fact said supplies were not delivered and no actual asphalting or repair of road was implemented. In doing so, petitioners:

1.1. Were public officers or employees at the time of the commission of the offenses;

1.2. Took advantage of their official position as highway engineers; and

1.3. Made untruthful statements in several narrations of fact.

- Damage: The government disbursed PhP 146,000 in the case of Fernan, Jr. and PhP 337,861.01 in the case of Torrevillas, as payments to various suppliers for the delivery of non-existent supplies.

By way of defense, petitioners posit that the tally sheets and other documents could in fact be traced to genuine LAAs that were in the custody of the NBI. Unfortunately, these genuine LAAs were not introduced in evidence. It is an age-old axiom that s/he who alleges something must prove it. Petitioners' assertion that the documents they signed were all genuine and duly covered by genuine LAAs was substantiated only by their own self-serving and uncorroborated testimonies. We hesitate to give much weight and credit to their bare testimonies in the face of clear, convincing, overwhelming, and hard evidence adduced by the State.

If the genuine LAAs were vital to their defense, and they firmly believed that the documents were indeed in the custody of the NBI, then petitioners could have easily procured the compulsory process to compel the production of said documents. However, petitioners miserably failed to avail of subpoena duces tecum which the court a quo could have readily granted. The inability to produce such important and exculpatory pieces of evidence proved disastrous to petitioners' cause. Their conviction was indeed supported by proof beyond reasonable doubt which was not overturned by defense evidence.

Petitioners acted in conspiracy with one another

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Petitioners vigorously claim error on the part of the lower court when it made the finding that they were co-conspirators with the other parties accused despite the dearth of evidence to amply demonstrate complicity.

We are not convinced by petitioners' postulation.

Indeed, the burden of proving the allegation of conspiracy falls to the shoulders of the prosecution. Considering, however, the difficulty in establishing the existence of conspiracy, settled jurisprudence finds no need to prove it by direct evidence. In People v. Pagalasan, the Court explicated why direct proof of prior agreement is not necessary:

> After all, secrecy and concealment are essential features of a successful conspiracy. Conspiracies are clandestine in nature. It may be inferred from the conduct of the accused before, during and after the commission of the crime, showing that they had acted with a common purpose and design. Conspiracy may be implied if it is proved that two or more persons aimed their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent of each other, were in fact, connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment. To hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity. There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose.[50]

In Estrada v. Sandiganbayan, we categorized two (2) structures of multiple conspiracies, namely: (1) the so-called "wheel" or "circle" conspiracy, in which there is a single person or group (the "hub") dealing individually with two or more other persons or groups (the "spokes"); and (2) the "chain" conspiracy, usually involving the distribution of narcotics or other contraband, in which there is successive communication and cooperation in much the same way as with legitimate business operations between manufacturer and wholesaler, then wholesaler and retailer, and then retailer and consumer.[51]

We find that the conspiracy in the instant cases resembles the "wheel" conspiracy. The 36 disparate persons who constituted the massive conspiracy to defraud the government were controlled by a single hub, namely: Rolando Mangubat (Chief Accountant), Delia Preagido (Accountant III), Jose Sayson (Budget Examiner), and Edgardo Cruz (Clerk II), who controlled the separate "spokes" of the conspiracy. Petitioners were among the many spokes of the wheel.

We recall the painstaking efforts of the SB through Associate Justice Cipriano A. Del Rosario, Chairperson of the Third Division, in elaborating the intricate web of conspiracy among the accused, thus:

> Mangubat enticed Preagido, Cruz and Sayson to join him. All three agreed to help him carry out his plan. They typed fake LAAs during Saturdays. Cruz and Sayson also took charge of negotiating or selling fake LAAs to contractors at 26% of the gross amount. Preagido manipulated the general ledger, journal vouchers and general journal through negative entries to conceal the illegal disbursements. In the initial report of COA auditors Victoria C. Quejada and Ruth I. Paredes it was discovered that the doubtful allotments and other anomalies escaped notice due to the following manipulations:
> "The letter-advices covering such allotments (LAA) were not signed by the Finance Officer nor (sic) recorded in the books of accounts. Disbursements made on the basis of these fake LAAs were charged to the unliquidated obligations (Account 8-81-400), although the obligations being paid were not among those certified to the unliquidated obligations (Account 8-81-400) at the end of the preceding year. To conceal the overcharges to authorized allotments, account 8-81-400 (sic) and the excess of checks issued over authorized cash disbursements ceiling, adjustments were prepared monthly through journal vouchers to take up the negative debit to Account 8-81-400 and a negative credit to the Treasury Checking Account for Agencies Account 8-70-790. These journal vouchers in effect cancelled the previous entry to record the disbursements made on the basis of fake LAAs. Thus the affected accounts (Accounts 8-81-400 and 8-70-790), as appearing

in the trial balance, would not show the irregularity. The checks, however, were actually issued."[52]

The four formed the nucleus of the nefarious conspiracy. Other government employees, tempted by the prospect of earning big money, allowed their names to be used and signed spurious documents.

x x x x

- Cebu First Highway Engineering District Anomalies

Focusing our attention now on the anomalies committed in the Cebu First District Engineering District, hereinafter referred to as the Cebu First HED for brevity, the Court finds that the same pattern of fraud employed in the other highway engineering districts in MPH Region VII was followed. The Cebu First HED received from Region VII thirty-four Letters of Advice of Allotment (LAAs) in the total sum of P4,734,336.50 and twenty-nine (29) corresponding Sub-Advices of Cash Disbursement Ceiling (SACDCs), amounting to P5,160,677.04 for the period January 1, 1977 to December 31, 1977. But apart from this, the Cebu First HED appears to have also received for the same period another set of eighty-four (84) LAAs amounting to P4,680,694.76 which however, could not be traced to any Sub-Advice of Allotment (SAA) OR MATCHED TO THE Advices of Cash Disbursement Ceiling (ACDCs) received from the MPH and Regional Office. This is highly irregular and not in consonance with accounting procedures.

It was also made to appear that the payments were made for alleged prior year's obligations and chargeable to Account 81-400, obviously because, they were not properly funded. Furthermore, the list of projects in Region VII for 1977 showed that Cebu first HED completed rehabilitation and/or improvement of roads and bridges in its districts from February to May, 1977, with expenditures amounting to P613,812.00. On the other hand, the expenditures for barangay roads in the same district in 1977 amounted to P140,692.00, and these were all completed within the period from November to December, 1977. These completed projects were properly funded by legitimate LAAs and CDCs in the total amount of only P754,504.00. However, an additional amount of P3,839,810.74, was spent by the Cebu First HED for maintenance of roads and bridges for the same year (1977) but the same could not be traced to any authoritative document coming from the MPH.

The following payments for materials purchased for the year 1977 were made to appear as payment for prior year's obligation and were paid out of fake LAAs:

Supplier No. of Vouchers Kind of Materials Measurement Amount

Rufino Nuñez

29

Item 310

4,640,275 mt

P1,374,135.00

J. delos Angeles

21

Item 108

22,290 cu.m.

433,300.00

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Iluminada Vega

11

Item 108

8,325 cu.m.

191,500.00

Florencio Gacayan

10

Item 108

7,800 cu.m.

156,000.00

Ismael Sabio, Jr.

6

Item 108

6,198 cu.m.

123,960.00

FBS Marketing

3

Lumber

70,610.00

Cebu Hollow Blocks

2

Hollow Blocks

19,880.00

Bienvenido Presillas

4

Equip. Rental

29,580.00

T.R. Eustaquio Ent.

1

Office Supplies

7,461.90

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Santrade Mktg.

1

Johnson Products

8,392.90

Pelagia Gomez

1

Item 108

2,000 cu.m.

40,000.00

M & M Ent.

1

Paints

49,736.20

Freent Ind.

1

Office Supplies

590.20

Total...

P2,505,147.00

The NBI also discovered that there were purchases of materials in 1977 that were charged to current obligations but paid out of spurious LAAs, to wit:

Supplier No. of Vouchers Kind of Materials Measurement Amount

Rufino Nuñez

11 Item 310 Item 108

162,549 m.t.
5,000 cu.m.

P529,475.00

Juliana delos Angeles

16 Item 108
Item 111
Item 200

13,280 cu.m.

1,00 cu.m.
307 cu.m.

P276,400.00
24,000.00
7,982.00

Iluminada Vega

3 Item 108

3,600 cu.m.

72,090.00

Florencio Gacayan

2 Item 108

2,400.00 cu.m.

48,000.00

Vicon Ent.

1 Steel Frame
19,042.74

Ismael Sabio, Jr.

5 Item 108

6,950 cu.m.

139,000.00

Jabcyl Mktg.

3 Bridge Materials
128,764.80

Total...

P1,339,663.74

Grand Total P3,839,810.74

> A total of 132 General Vouchers, emanating from fake LAAs and ACDCs, were traced back to Rolando Mangubat, Regional Accountant of Region VII and Adventor Fernandez, Regional Highway Engineer, also of Region VII. Those LAAs and ACDCs became the vehicles in the disbursement of funds amounting to P3,839,810.74, through the vouchers purportedly issued for the purchase and delivery of the aforementioned materials allegedly used for the maintenance and repair of the national highways within the Cebu First HED. Despite the enormous additional expenditure of P3,839,810.74, the roads and bridges in the district, as found out by the NBI, did not show any improvement (Exhibit II). As testified to by several barangay captains, the road maintenance consisted merely of spreading anapog or limestone on potholes of the national Highway.
>
> Obviously, the vouchers for payments of alleged maintenance of roads and bridges in the additional amount of

> P3,839,810.74 were prepared for no other purpose than to siphon off the said amount from the government coffer into the pockets of some officials and employees of Region VII and the Cebu First HED, as well as the suppliers and contractors who conspired and confederated with them.[53]

After a close re-examination of the records, the Court finds no reason to disturb the finding of the anti-graft court that petitioners are co-conspirators of the other accused, headed by Chief Accountant Rolando Mangubat, who were similarly convicted in practically all the 119 counts of estafa. Undisturbed is the rule that this Court is not a trier of facts and in the absence of strong and compelling reasons or justifications, it will accord finality to the findings of facts of the SB. The feeble defense of petitioners that they were not aware of the ingenuous plan of the group of accused Mangubat and the indispensable acts to defraud the government does not merit any consideration. The State is not tasked to adduce direct proof of the agreement by petitioners with the other accused, for such requirement, in many cases, would border on near impossibility. The State needs to adduce proof only when the accused committed acts that constitute a vital connection to the chain of conspiracy or in furtherance of the objective of the conspiracy. In the case at bench, the signing of the fake tally sheets and/or delivery receipts, reports of inspection, and requests for supplies and materials by petitioners on separate occasions is vital to the success of the Mangubat Group in siphoning off government funds. Without such fabricated documents, the general vouchers covering the supply of materials cannot be properly accomplished and submitted to the disbursing officer for the preparation of checks.

State witness Ruth Paredes, Supervising COA Auditor, elaborated on the procedure regarding the award of the contract more specifically to the payment of the contractor or supplier. Once the Request for Supplies and Equipment is approved by the Regional Office, the Request for Obligation of Allotment (ROA) or the request for funds is signed by the District Engineer pursuant to the approved plans and budget and signed by the district accountant as to availability of funds.

The district office will advertise the invitation to bid and award the contract to the lowest bidder. The Purchase Order (PO) is prepared and addressed to the winning bidder. Upon delivery of the supplies and materials, the supplier bills the district office for payment. Consequently, the requisitioning officer will prepare the general voucher which must be accompanied by the following documents:

- The ROA;
- The PO;
- The abstract of Bid together with the Bid quotations;
- The delivery receipts together with the tally sheets; and
- The tax clearance and tax certificate of the supplier.

After the preparation and submission of the general voucher and the supporting documents, the disbursing officer shall prepare and draw a check based on said voucher. The check is countersigned by an officer of the district office and/or the COA Regional Director based on the amount of the check.

Thus, it is clear that without the tally sheets and delivery receipts, the general voucher cannot be prepared and completed. Without the general voucher, the check for the payment of the supply cannot be made and issued to the supplier. Without the check payment, the defraudation cannot be committed and successfully consummated. Thus, petitioners' acts in signing the false tally sheets and/or delivery receipts are indispensable to the consummation of the crime of estafa thru falsification of public documents. Surely, there were ghost or false deliveries of supplies and materials as convincingly shown by the testimonies of the barangay captains, officials, and residents of the areas where the materials were allegedly used. More importantly, if there were actual

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deliveries of materials made, then there would be no need to fake the LAAs because the suppliers will have to be paid the cost of said materials plus a reasonable profit. As a result, there is nothing or not much to share with the more than 30 or so co-conspirators, for the suppliers would not be too dim-witted to part with even their cost in buying the materials they allegedly supplied. Moreover, the fake delivery receipts and tally sheets signed by petitioners were linked to the general vouchers upon which check payments were made to the suppliers who were found guilty of participating in the fraud. With respect to petitioner Fernan, Jr., he signed tally sheets on the ghost deliveries of Juliana de los Angeles and Ismael Sabio, Jr. On the part of petitioner Torrevillas, he signed false tally sheets and delivery receipts on supplies allegedly delivered by Rufino V. Nuñez, Juliana de los Angeles, Ismael Sabio, Jr., and Manuel Mascardo. Lastly, the checks issued to these suppliers based on general vouchers supported by the false tally sheets and general vouchers signed by petitioners cannot be traced to any genuine LAAs, resulting in the inescapable conclusion that these LAAs were unauthorized; hence, fake or fabricated. These are undisputed tell-tale signs of the complicity by petitioners with the Mangubat syndicate.

In People v. Mangubat, the court a quo elucidated the conspiracy in the Cebu highway scam in a trenchant manner:

> Where the acts of each of the accused constitute an essential link in a chain and the desistance of even one of them would prevent the chain from being completed, then no conspiracy could result as its consummation would then be impossible or aborted. But when each and everyone of the accused in the instant cases performed their assigned tasks and roles with martinet-like precision and accuracy, by individually performing essential overt acts, so much so that the common objective is attained, which is to secure the illegal release of public funds under the guise of fake or simulated public documents, then each and everyone of said accused are equally liable as co-principals under the well-established and universally-accepted principle that, once a conspiracy is directly or impliedly proven, the act of one is the act of all and such liability exists notwithstanding no-participation in every detail in the execution of the offense.[54]

In sum, the required quantum of proof has been adduced by the State on the conspiracy among the accused including petitioners. The conviction of petitioners must perforce be sustained.

WHEREFORE, we DENY the petition and AFFIRM the December 4, 1997 Decision of the SB in the consolidated criminal cases subject of this petition.

No costs.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Tinga, JJ., concur.

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[1] In the SB criminal cases, petitioner is named Expedito Torrevillas; nevertheless, only one person is referred to despite the variance in spelling.

[2] The entire case record consists of three (3) separate volumes.

[3] Rollo, pp. 28-192. The Decision was penned by Associate Justice Cipriano A. Del Rosario (Chairperson) and concurred in by Associate Justices Leonardo I. Cruz and German G. Lee, Jr.

[4] The other criminal cases, namely: Criminal Case Nos. 889, etc., and 2070, etc., have been dismissed for various reasons; see id. at 147. Petitioners Fernan, Jr. and Torrevillas were not impleaded as accused in said cases.

[5] The accused in the aforementioned cases did not have custody or control of public funds; hence, the crime charged was estafa instead of malversation under Art. 217 of the Revised Penal Code.

[6] Supra note 3, at 102-109.

[7] Rollo, p. 18; limestone, or sand and gravel--the latter being of higher quality.

[8] Id. at 23; bituminous asphalt.

[9] Id. at 170.

[10] Id.

[11] Id. at 171.

[12] Id. at 172.

[13] Id. at 182.

[14] Id. at 183-184.

[15] Id. at 161.

[16] Id.

[17] Id. at 162-163.

[18] Id. at 180.

[19] Id. at 180-181.

[20] Id. at 184.

[21] Id. at 188-189.

[22] Art. III, Sec. 14 (2).

[23] People v. Balacano, G.R. No. 127156, July 31, 2000, 336 SCRA 615, 621. .[24] People v. Hernando, G.R. No. 125214, October 28, 1999, 317 SCRA 617, 627.

[25] L.B. Reyes, THE REVISED PENAL CODE BOOK TWO 712-713 (13th ed., 1993).

[26] Id. at 191-192.

[27] Rollo, pp. 66-67.

[28] Id. at 69-72. On the basis of appropriations laws and upon request made by heads of agencies, the Ministry of Budget releases funds to the various government agencies (in this case the MPH) via an Advice of Allotment (AA) and a Cash Disbursement Ceiling (CDC). The AA is written authority for the MPH to incur obligations within a specified amount in accordance with approved programs and projects. The CDC is written authority to pay. Upon receipt of the AA and CDC from the Ministry of Budget, the Central Office of the MPH prepares the Sub-Advice of Allotment (SAA) and the Advice of Cash Disbursement Ceiling (ACDC) for each region, in accordance with the disbursement allotment. These are sent to the Regional Office (in this case Region VII). Upon receipt, the region's Budget Officer prepares the corresponding Letters of Advice of Allotment (LAAs) which are forwarded to the various districts of the region (in this case, the First Highway Engineering District; incidentally, the amount that goes to each district is already indicated in the AA). Only upon receipt of the LAA is the district office authorized to incur obligations, that is, spend public funds. (Emphasis supplied.)

[29] Id. at 15, 17, 94-96, 131, 134 & 206-207.

[30] Id. at 84-86 & 88.

[31] Id. at 84.

[32] Id.

[33] Id.

[34] Id. at 84-85.

[35] Id. at 85.

[36] Id.

[37] Id.

[38] Id. at 85-86.

[39] Id. at 86.

[40] Id. at 88.

[41] Id.

[42] Id. at 78.

[43] Id. at 79.

[44] Id. at 170-172 & 182-183.

[45] Id. at 182.

[46] Records, Informations Envelope Vol. 1 (of 6 volumes).

[47] Rollo, pp. 161-162, 180, 182, 184 & 188.

[48] Id. at 182.

[49] Id.

[50] G.R. Nos. 131926 & 138991, June 18, 2003, 404 SCRA 275, 291.

[51] G.R. No. 148965, February 26, 2002, 377 SCRA 538, 556-557.

[52] Rollo, p. 106.

[53] Id. at 107-109.

[54] SB Criminal Case Nos. 2073-95 & 3323-45, promulgated on May 30, 1989.

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