

ANUNCIO C. BUSTILLO, PETITIONER, VS. SANDIGANBAYAN, PEOPLE OF THE PHILIPPINES, ALFREDO S. LIM AS SECRETARY OF THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (DILG), AND JEAN MA...

G.R. NO. 146217. April 07, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a petition for certiorari^[1] of the Resolutions^[2] dated 28 August 2000 and 4 December 2000 of the Sandiganbayan. The 28 August 2000 Resolution ordered the suspension from office for 90 days of petitioner Anuncio C. Bustillo ("petitioner")^[3] pending the proceedings in Criminal Case No. 23076 for falsification of official documents. The 4 December 2000 Resolution denied petitioner's motion for reconsideration.

The Facts

In 1995, the Office of the Special Prosecutor ("OSP") charged petitioner, then incumbent mayor of Bunawan, Agusan del Sur, and his daughter Rowena Bustillo (collectively referred to as "accused"), in the Sandiganbayan with Falsification of Official Documents under Article 171 of the Revised Penal Code ("RPC") in Criminal Case No. 23076. The Information alleged:

The undersigned Special Prosecution Officer I, Office of the Special Prosecutor, hereby accuses ANUNCIO C. BUSTILLO and ROWENA G. BUSTILLO of the crime of Falsification of Official Documents, defined and penalized under Article 171 of the Revised Penal Code, committed as follows:

That on or about September 6, 1991, in Bunawan, Agusan del Sur, Philippines, and within the jurisdiction of this Honorable Court, accused ANUNCIO C. BUSTILLO, a public officer, being then the Municipal Mayor of Bunawan, Agusan del Sur, committing the crime herein charged in relation to, while in the performance and taking advantage of his official functions, and conspiring and confederating with accused ROWENA G. BUSTILLO, his daughter, did then and there wilfully, unlawfully and feloniously make it appear in official documents that municipal funds totalling THIRTY THOUSAND PESOS (P30,000.00) were expended for the purchase of lumber from Estigoy Lumber when, in truth and in fact, as both accused well knew, said lumber were actually purchased from Rowena Woodcraft, a single proprietorship owned by accused Rowena G. Bustillo.^[4]

The accused were charged of falsifying three vouchers^[5] in which the name of the original payee was erased and replaced with "Estigoy Lumber." Rowena Bustillo received the payments covered by the vouchers.

The accused sought to quash the Information on the ground that the Sandiganbayan lacked jurisdiction over petitioner and that, at any rate, the Information did not charge an offense. The Sandiganbayan denied the motion.^[6] The accused apparently did not appeal this ruling.

In May 1998, the Sandiganbayan arraigned the accused who entered "not guilty" pleas. Trial ensued. After the prosecution rested its case, it moved for petitioner's suspension from office pendente lite under Section 13 of Republic Act No. 3019 ("RA 3019") or the Anti-Graft and Corrupt Practices Act, as amended by Batas Pambansa Blg. 195. Petitioner sought an extension of time to Comment on the motion. The Sandiganbayan granted the extension. However, despite the extension, petitioner still failed to file his Comment.

The Ruling of the Sandiganbayan

In its Resolution of 28 August 2000, the Sandiganbayan granted the prosecution's motion and suspended petitioner from office for 90 days. The Sandiganbayan held:

While the Information charges Falsification of Official Document[s,] it was clear from the wordings of the same, that the accused is being charged or indicted for a fraud involving public or government funds. Thus it says:

"x x x willfully, unlawfully and feloniously make it appear in official documents that municipal funds total[ing] P30,000.00 were expended for the purchase[] of lumber from Estigoy Lumber, when in truth and in fact, x x x said lumber were actually purchased from Rowena Woodcraft, a single proprietorship owned by accused Rowena G. Bustil[]o x x x"

At the risk of being tautological, the Court once again states what has been repeatedly held by the Supreme Court in many cases that upon determination of the validity of the information, it becomes mandatory for the court to issue the suspension order. In the case at bench, there is no dispute as to the validity of the information accused having to respond to the Motion for Suspension Pen[den]te Lite, it behooves upon this Court to issue immediately the suspension order in consonance with the imperious mandate of the law.[7]

Petitioner sought reconsideration but the Sandiganbayan denied his motion in the Resolution of 4 December 2000.

Hence, petitioner filed this petition for certiorari alleging that:

- [THE] SANDIGANBAYAN ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN FINDING THAT THE INFORMATION AGAINST PETITIONER IS VALID.

- [THE] SANDIGANBAYAN ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT ORDERED THE SUSPENSION OF PETITIONER BECAUSE SECTION 13 OF R.A. 3019 MANDATES THE SUSPENSION OF AN ACCUSED PENDENTE LITE CHARGED WITH OFFENSES DEFINED AND PENALIZED UNDER TITLE 7, BOOK II OF THE REVISED PENAL CODE YET THE CHARGE OF "FALSIFICATION OF OFFICIAL DOCUMENTS" FALLS UNDER TITLE 4, BOOK II OF THE SAME CODE, HENCE, EXCLUDED AS BASIS OF SUSPENSION FROM OFFICE.

- [THE] SANDIGANBAYAN ERRED AND LIKewise COMMITTED GRAVE ABUSE OF DISCRETION IN ORDERING THE 90-DAY SUSPENSION OF [PETITIONER FROM OFFICE].[8]

The Issues

The petition raises the following issues:

- Whether the Information filed against the accused is valid; and
- Whether petitioner's suspension from office pendente lite finds basis in Section 13 of RA 3019.

The Ruling of the Court

The petition has no merit.

On the Validity of the Information in Criminal Case No. 23076

Petitioner contends that the Information filed against him and his co-accused is invalid because it failed to allege the element of gain, the party benefited or prejudiced by the falsification, or that the "integrity of the [falsified] document was tarnished." Petitioner also invokes the findings of Special Prosecutor II Francis Ilustre, Jr. ("Ilustre") of the OSP who recommended the dismissal of the complaint against the accused.[9]

Petitioner's contentions are futile.

The Sandiganbayan already settled the question of the Information's validity when it denied the motion of the accused to quash the same. That ruling had long become final. Thus, petitioner can no longer resurrect this issue.

At any rate, the allegation of intent to gain, the party benefited or prejudiced by the falsification, or tarnishing of a document's integrity, is not essential to maintain a charge for falsification of official documents. Such charge stands if the facts alleged in the Information fall under any of the modes of committing falsification under Article 171[10] of the RPC. Here, the Information alleges that petitioner, a public officer, conspiring with a private individual (Rowena Bustillo), "feloniously ma[d]e it appear in official documents that municipal funds totalling [thirty thousand pesos] (P30,000.00) were expended for the purchase of lumber from Estigoy Lumber when, in truth and in fact, as both accused well knew, said lumber were actually purchased from Rowena Woodcraft, a single proprietorship owned by accused Rowena G. Bustillo." This falls under paragraph 2 of Article 171 which makes it punishable for anyone to "[cause] it to appear that persons have participated in any act or proceeding when they did not in fact so participate," as the accused allegedly made it appear that Estigoy Lumber delivered the pieces of lumber to the municipality of Bunawan when it did not.

Nor can petitioner rely on Ilustre's recommendation to dismiss the complaint against the accused. Then Ombudsman Aniano Desierto disapproved Ilustre's recommendation, paving the way for the filing of Criminal Case No. 23076.

Petitioner's Suspension Finds Basis in Section 13 of RA 3019

Petitioner next contends that he was illegally suspended from office because the offense of falsification of official documents is found in Title 4, Book II and not in Title 7, Book II of the RPC. Petitioner further asserts that this offense does not involve "fraud or property." Thus, petitioner concludes that his suspension finds no basis in Section 13 of RA 3019.[11]

The contention is similarly without merit.

Section 13 provides:

Suspension and loss of benefits. - Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title 7, Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as a complex offense and in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

In the event that such convicted officer, who may have already been separated from the service, has already received such benefits he shall be liable to restitute the same to the Government. (Emphasis supplied)

Suspension from office is mandatory[12] whenever a valid Information charges an incumbent public officer with (1) violation of RA 3019; (2) violation of Title 7, Book II of the RPC; (3) any offense involving fraud upon government; or (4) any offense involving fraud upon public funds or property. While petitioner correctly contends that the charge filed against him and his co-accused does not fall under Title 7, Book II but under Title 4, Book II

of the RPC, it nevertheless involves "fraud upon government or public funds or property." [13]

As used in Section 13, the term "fraud" is understood in its generic sense, [14] that is, referring to "an instance or an act of trickery or deceit especially when involving misrepresentation." [15] The Information alleges that petitioner and his co-accused "feloniously ma[d]e it appear in official documents that municipal funds totalling [thirty thousand pesos] (P30,000.00) were expended for the purchase of lumber from Estigoy Lumber when, in truth and in fact, as both accused well knew, said lumber were actually purchased from Rowena Woodcraft, a single proprietorship owned by accused Rowena G. Bustillo." This suffices to classify the charge as "involving fraud upon government" as contemplated in Section 13.

Petitioner does not dispute that the official documents he and his co-accused are charged of falsifying are vouchers. As used in government, vouchers, like daily time records, [16] are official documents signifying a cash outflow from government coffers, especially if, as here, receipt of payment is acknowledged. Thus, falsifying these official documents invariably involves "fraud upon x x x public funds x x x."

On Petitioner's Claim on the Merits of Criminal Case No. 23076

Petitioner includes in this petition a claim that based on the evidence presented during the trial, he and his co-accused did not commit falsification because it was Estigoy Lumber that delivered the lumber to the municipality of Bunawan. Petitioner asserts that Rowena Bustillo merely received payments as representative of Estigoy Lumber. Thus, the alterations in the vouchers were meant to reflect the truth. [17]

Petitioner raises this contention in the wrong proceeding. The only relevant inquiry in this appeal is whether petitioner was charged under a valid Information for any of the offenses covered in Section 13 of RA 3019. The Court cannot expand the scope of this review and pass upon the merits of the government's case against petitioner. That would not only be procedurally improper but also preemptive of whatever judgment the Sandiganbayan will render in Criminal Case No. 23076.

WHEREFORE, we DISMISS the petition. We AFFIRM the Resolutions dated 28 August 2000 and 4 December 2000 of the Sandiganbayan.

SO ORDERED.

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

[1] Under Rule 65 of the 1997 Rules of Civil Procedure.

[2] Penned by Associate Justice Edilberto G. Sandoval with Associate Justices Godofredo L. Legaspi and Raoul V. Victorino, concurring.

[3] Petitioner is also referred to as "Anuncio P. Bustillo" in other parts of the rollo.

[4] Rollo, p. 23.

[5] Nos. 103-9109227, 103-9109228, and 103-9109229.

[6] It cannot be determined from the rollo when the Sandiganbayan rendered its ruling denying the motion to quash.

[7] Rollo, pp. 27-28.

[8] Id. at 8.

[9] Id. at 9-10, 13-16.

[10] "Falsification by public officer, employee or notary or ecclesiastic minister. - The penalty of prisión 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:

- Counterfeiting or imitating any handwriting, signature or rubric;
- Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
- Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
- Making untruthful statements in a narration of facts;
- Altering true dates;
- Making any alteration or intercalation in a genuine document which changes its meaning;
- Issuing in authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
- Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons." (Emphasis supplied)

[11] Rollo, pp. 10-13.

[12] Beroña v. Sandiganbayan, G.R. No. 142456, 27 July 2004, 435 SCRA 303; Bolastig v. Sandiganbayan, G.R. No. 110503, 4 August 1994, 235 SCRA 103.

[13] See Pimentel v. Garchitorena, G.R. Nos. 98340-42, 10 April 1992, 208 SCRA 122.

[14] Flores v. Layosa, G.R. No. 154714, 12 August 2004, 436 SCRA 337.

[15] Webster's Third New International Dictionary of the English Language 904 (1993 Ed.) cited in Flores v. Layosa, supra at 351.

[16] Flores v. Layosa, supra.

[17] Rollo, pp. 9-10, 12-13.

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