TOLENTINO MENDOZA AND SALOME MADAMBA, PETITIONERS, VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, RESPONDENTS.

G.R. NO. 146234. June 29, 2005

Ponente: CARPIO, J.

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CARPIO, J.:

This is a petition for review[1] to annul the Decision[2] dated 11 December 2000 of the Sandiganbayan in Criminal Case No. 16756. The Sandiganbayan found petitioner Tolentino Mendoza ("Mendoza") and Salome Madamba ("Madamba") guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019 ("RA 3019") and sentenced them to suffer imprisonment for eight years. The Sandiganbayan also perpetually disqualified Mendoza and Madamba from holding public office and ordered them to solidarily pay the Philippine government P295,597.79, with legal interest from 4 April 1989.

The Antecedent Facts

National Treasurer Rosalina S. Cajucom filed a complaint, docketed as OMB-0-89-01454, before the Ombudsman charging Mendoza, Madamba, and Marcelina Agustin ("Agustin") with Technical Malversation and violation of RA 3019. The Ombudsman found probable cause for violation of Section 3(e) of RA 3019. Hence, in a Resolution[3] dated 5 February 1990, the Ombudsman ordered the filing of an Information in the Sandiganbayan against Mendoza, Madamba, Agustin, Jose Cruz ("Cruz"), Anita Lising ("Lising"), and Horacio Alvarez ("Alvarez").

The Information, dated 25 April 1991, alleged:

> That on or about the period comprised from 07 February 1989 to 17 February 1989 and/or for sometime thereafter, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, accused TOLENTINO MENDOZA, JOSE CRUZ and ANITA LISING, all public officers, being then the National Cashier, COA Vault Auditor and Cashier IV, respectively, all of the Bureau of Treasury, Palacio del Gobernador, Intramuros, Manila, taking advantage of their public positions and while in the performance of their official duties as such, conspiring, confederating and conniving with co-accused private persons SALOME MADAMBA, MARCELINA AGUSTIN and HORACIO ALVAREZ, General Manager, Executive Care Services, Inc.; Bureau of Treasury Canteen Proprietor; and Proprietor, Triple Crown Services, Inc., respectively, did then and there willfully, unlawfully and criminally cause undue injury to the government by fraudulently causing the encashment of four (4) commercial checks at the Cash Division, Bureau of Treasury, Manila, to wit:
>
> RCBC Check No. 031840 dated 07 February 1989 issued by accused Horacio Alvarez in favor of Executive Care Services with accused Salome Madamba as General Manager in the amount of P150,000.00, Philippine Currency.
>
> RCBC Check No. 031845 dated 09 February 1989 issued by Horacio Alvarez in favor of Executive Ca[r]e Services with Salome Madamba as General Manager in the amount of P140,000.00, Philippine Currency.

> PNB Check Nos. A280215 and A280216 both dated 17 February 1989 issued by accused Salome Madamba in favor of Triple Crown Services, Inc. owned and operated by accused Horacio Alvarez in the amount of P75,000.00 each, Philippine Currency.
>
> accused Tolentino Mendoza, knowing fully well that he had no authority, deliberately affixed his initials on the checks to insure smooth encashments of the same by his subordinate co-accused Anita Lising who paid the amounts corresponding thereto, and accused Jose Cruz, having the duty to determine [the] legality of encashment at post- audit, willfully, unlawfully affixed his initials thereon to insure non-discovery of the fraud after encashment, without obtaining the signature of the Asst. National Treasurer, Milagros Baltazar, without which, no commercial check could be encashed by the Cash Division, Bureau of Treasury, in willful violation of the requirements for encashment of commercial checks imposed by the Bureau of Treasury, which fraudulent acts committed by accused public officers, gave unwarranted advantage and benefits to their co-accused private persons thru manifest partiality and evident bad faith as the aforesaid checks were dishonored by the drawee banks for lack of sufficient funds, to the damage and prejudice of the government in the total amount of P440,000.00, Philippine Currency.[4] (Emphasis in the original)

The Sandiganbayan issued warrants of arrest against Mendoza, Madamba, Cruz, Lising, Agustin, and Alvarez. All of them, except Cruz who has remained at large, surrendered before the Sandiganbayan and posted bail.

Mendoza, Agustin, and Lising filed separate motions for reinvestigation, which the Sandiganbayan denied. However, the Sandiganbayan granted Alvarez's motion for reinvestigation, and, after reinvestigation, dropped his name from the Information.

Mendoza, Madamba, Agustin, and Lising entered pleas of "Not Guilty" during their arraignment on 13 September 1991.

Mendoza and Lising filed separate motions to quash the Information. The Sandiganbayan denied their motions in the Resolution of 4 February 1992.

Trial commenced and the case was submitted for decision on 28 August 1999. The Sandiganbayan established the following facts:

> In February 1989, accused Tolentino Mendoza was the National Cashier and Anita Lising was a paying teller occupying the position of Cashier IV at the Bureau of Treasury in Manila. Accused Jose Cruz, who has remained at large, was the COA Vault Auditor assigned at the said Bureau. Accused Salome Madamba was the General Manager of the Executive Care Services, Inc., a private corporation rendering janitorial services to the Bureau of Treasury; while accused Marcelina Agustin was a canteen operator at the same bureau.
>
> On February 7, 1989, Horacio Alvarez of Triple Crown Services, Inc., a company engaged in the same business of providing janitorial services, issued in favor of Executive Care Services RCBC Check No. [031840] (Exhibit D) in the amount of P150,000.00. On the same date, Madamba and Agustin signed at the dorsal portion of said check as indorsers, Agustin being the last indorser. Madamba and Agustin brought the check to the office of Mendoza and after obtaining Mendoza's approval, Agustin presented the check to the paying teller, Anita Lising, for encashment. Lising paid the amount of P150,000.00 to Agustin who received it. The following day, the check went through the usual clearing procedure and was returned unpaid on February 9, 1989 for the reason that it was drawn against insufficient funds. Upon Mendoza's instructions, the Clearing Officer of the National Treasury, Maria Lourdes Remo, redeposited the check on February 10, 1989 but it was again returned unpaid on February 13, 1989, this time for the reason "Account Closed."
>
> Meanwhile, on February 9, 1989, Horacio Alvarez of Triple Crown Services again issued another check, RCBC Check No. [031845] (Exhibit E) for P140,000.00 payable to Executive Care Services. Like the first check, it was signed at the dorsal portion by Madamba and Agustin, the latter being the last indorser, approved for encashment by Mendoza, paid by Lising on the same date and dishonored on February 13, 1989 for being

drawn against insufficient funds, redeposited on February 16, 1989, and again dishonored on February 17, 1989 for the reason, “Account Closed.”

On February 17, 1989, Executive Care Services issued a check for P150,000.00 in favor of Triple Crown Services. Madamba instructed her Liaison Officer at the treasury, Raulito Sanchez, to deliver the check to Triple Crown Services in partial payment of the emergency loan extended by Triple Crown Services to Executive Care Services. When Agustin saw the check, she asked that it be given to her because she needed money very badly as her nephew was getting married. After clearing the matter with Madamba, Sanchez gave the check to Agustin who indorsed it, obtained Mendoza’s approval for its encashment, presented it for payment to Lising, and received the amount of P150,000.00. Later that morning, Mendoza borrowed this encashed check from Lising but afterwards never returned it. (The check has been missing since then. For easy reference, it will henceforth be called the “missing check”).

It should be noted that the missing check for P150,000.00 is different from Exhibit D which is also a check for P150,000.00.

“AJ DEL ROSARIO TO WITNESS:

Q[:] The one that was cashed?

A[:] That was already encashed, Your Honor.

Q[:] That check is different from the check, marked Exhibit D?

A[:] Yes, Your Honor.”

(Tsn, p. 14, October 28, 1996.)

The missing check was issued on February 17, 1989 by the Executive Care Services, payable to Triple Crown Services. On the other hand, the check marked Exhibit D is dated February 7, 1989 and was issued by the Triple Crown Services, payable to Executive Care Services. Both Exhibit D and the missing check were endorsed and encashed by Agustin. Their total amount (P300,000.00) when added to the P140,000.00 covered by Exhibit E, sums up to P440,000.00, which is the total amount paid out by the National Treasury.

On the same day, after the missing check had been encashed, the Vault Auditor, Jose Cruz, told Sanchez to replace it with two checks of P75,000.00 each, because the amount was too big. After a series of phone calls to Madamba, and on Madamba’s instructions, Sanchez went to the accounting office of the Executive Care Services, in Ermita, Manila, got two company checks, filled them up and waited for Madamba at their office to sign them. Madamba, however, failed to return to their office, and getting frantic due to the closing of the bank, he again called Madamba on the telephone. Madamba told him to sign the checks. As instructed, Sanchez signed the checks with Madamba’s name and delivered the checks to Cruz. At the close of banking hours that afternoon, Cruz handed to Lising the two checks, PNB Checks Nos. A280215 and A280216 (Exhibits B and C) each in the amount of P75,000.00, to replace the missing check for P150,000.00 that Lising had paid in the morning. These two checks were initialed by Cruz and Mendoza, without the endorsement of Agustin. When Lising confronted them about this, Cruz and Mendoza assured her that they will take care of obtaining Agustin’s indorsement the next day. When these two PNB checks were presented for payment the following day, the drawee bank (PNB) returned both of them unpaid for the reason that they were drawn against insufficient funds. They were also presented for payment the second time, but were again dishonored for the same reason. Not one of the checks (Exhibits B, C, D and E) passed through the Assistant National Treasurer, Milagros Baltazar, for approval prior to their encashment, as required in a Memorandum dated May 27, 1998, issued by the Assistant National Treasurer, specifically addressed to Mendoza as National Cashier, and noted by the Treasurer of the Philippines, Rosalina J. Cajucom.

The clearing Officer, Maria Lourdes Remo then prepared the debit memoranda (Exhibits J, K and L) addressed

> to Lising, the paying teller, but Mendoza did not sign any of them. Consequently, the debit memos were never served on Lising. Formal demands (Exhibits F, G and H) for the restitution of the amounts covered by the dishonored checks not later than April 14, 1989 were duly made on accused Mendoza who, through counsel, admitted receipt thereof.
>
> A regular audit of the cash accountabilities of accused Mendoza as National Cashier was conducted in July 1989. The auditors submitted an audit report (Exhibit 3-Lising), disallowing the amount of P440,000.00, representing the total value of the four dishonored checks, noted the partial payments made thereon in the amounts of P87,239.36 covered by O.R. No. 7952856L and P57,162.85 under O.R. No. 7953560L, leaving an unpaid balance of P295,597.[79]. The auditors also recommended the recovery of the balance through criminal or civil actions, if so warranted.
>
> An administrative investigation was also conducted by the Legal Department of the Treasury in connection with the encashment of the four checks involved in this case. This resulted in the dismissal of accused Mendoza from his position as National Cashier for dishonesty (Exhibit I).[5]

The Ruling of the Sandiganbayan

The Sandiganbayan found that all elements of Section 3(e) of RA 3019 were present. Mendoza and Lising were both public officers. Madamba and Agustin, although private persons, were charged with conspiring with Mendoza and Lising. The checks subject of the present case bore the signatures, initials, or stamp of all the accused. The checks were also encashed even if they were drawn against insufficient funds. Moreover, Mendoza facilitated the encashment of the checks without the approval of the Assistant National Treasurer, violating the Bureau of Treasury's Standard Operating Procedure 3200. The government suffered the loss of P440,000, of which P144,402.21 was reimbursed, leaving an outstanding balance of P295,597.79. In convicting Mendoza and Madamba, the Sandiganbayan found that both engaged in the fraudulent scheme to withdraw government funds through the encashment of the worthless commercial checks in question with the Bureau of Treasury. Madamba was able to encash her checks at the Bureau of Treasury because of Mendoza's indispensable aid.

However, the Sandiganbayan acquitted Agustin and Lising. The Sandiganbayan found that Agustin did not know that the checks had no funds. Agustin was merely financially interested in the proceeds of the checks. Lising, on the other hand, would not have encashed the checks had Mendoza not reassured her.

The Sandiganbayan ruled thus:

> WHEREFORE, judgement is hereby rendered finding accused TOLENTINO MENDOZA and SALOME MADAMBA GUILTY beyond reasonable doubt of [v]iolation of Section 3, paragraph (e), of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and hereby sentences each of them to suffer the penalty of imprisonment for a period of EIGHT YEARS; to suffer perpetual disqualification from public office; to pay jointly and severally, the government of the Republic of the Philippines the amount of P295,597.79, representing the unpaid balance of the total amount of the dishonored checks, with legal interest thereon from April 4, 1989, the last date for payment stated in the letters of demand, and to pay the costs.
>
> For insufficiency of evidence and on grounds of reasonable doubt, accused ANITA LISING and MARCELINA AGUSTIN are found NOT GUILTY of the offense charged and are hereby ACQUITTED.
>
> The cash bond posted by accused Lising and Agustin are hereby cancelled and ordered to be returned to them subject to accounting and auditing rules and procedures.
>
> SO ORDERED.[6]

Mendoza timely filed this petition for review on 25 January 2001. On the other hand, Madamba filed her petition

with the Court only on 15 March 2001. In a Resolution[7] dated 4 April 2001, the Court denied Madamba's petition for having been filed late and for failure to state the material dates. The Resolution became final on 19 July 2001 and a partial entry of judgment was made against Madamba.

The Issue

Mendoza states that the principal issue for resolution is "whether the evidence on record is sufficient to sustain a finding of guilt beyond reasonable doubt."[8]

The Ruling of the Court

The petition has no merit.

The present case is a petition for review under Section 1[9], Rule 45 of the 1997 Rules of Civil Procedure where only questions of law may be raised. A question of law exists —

> [w]hen the doubt or controversy concerns the correct application of law or jurisprudence to a certain set of facts; or when the issue does not call for an examination of the probative value of the evidence presented, the truth or falsehood of facts being admitted. A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.[10]

As exceptions to this rule, the Court may pass upon questions of fact in a petition for review when, among others: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the findings of fact are premised on the absence of evidence; and (6) the findings of fact are contradicted by evidence on record.[11]

In the present case, Mendoza is asking the Court to reexamine the evidence presented before, and passed upon, by the Sandiganbayan. However, Mendoza failed to show that the present case falls within any of the above exceptions. Thus, the petition must fail.

We reiterate that this Court's jurisdiction over the Sandiganbayan's decisions or final orders is limited only to questions of law. It is not this Court's function to review again the evidence already considered in the proceedings below. The policy of this Court is to sustain the factual findings of the Sandiganbayan since as a trial court it is in a better position to assess the evidence before it.

WHEREFORE, we DENY the petition for lack of merit.

SO ORDERED.
Davide, Jr., C.J., (Chairman), Quisumbing, Ynares-Santiago, and Azcuna, JJ., concur.

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[1] Under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Cipriano A. Del Rosario, with Associate Justices Teresita Leonardo-De Castro and Ricardo M. Ilarde, concurring.

[3] Penned by Graft Investigation Officer II Jose F. Sano (Records, pp. 5-24).

[4] Records, pp. 2-3.

[5] Rollo, pp. 78-81.

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[6] Rollo, p. 94.

[7] Rollo, pp. 180-181.

[8] Rollo, p. 23.

[9] This provision states: “Filing of petition with Supreme Court. — A party desiring to appeal by certiorari from a judgment or final order or resolution of the Court of Appeals, the Sandiganbayan, the Regional Trial Court or other courts whenever authorized by law, may file with the Supreme Court a verified petition for review on certiorari. The petition shall raise only questions of law which must be distinctly set forth.”

[10] Republic v. Sandiganbayan, 425 Phil. 752 (2002).

[11] Bugayong v. People, G.R No. 95624, 15 October 1992 (Unrep.); Palma Gil v. People, G.R No. 73642, 1 September 1989, 177 SCRA 229.

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