

JUDGE PROCESO SIDRO, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND SANDIGANBAYAN, 5TH DIVISION, RESPONDENTS.

G.R. No. 149685. April 28, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

This is a petition for review on certiorari under Rule 45 of the Rules of Court of the Decision[1] of the Sandiganbayan in Criminal Case No. 17567 entitled People vs. Judge Proceso Sidro convicting the accused therein of violating Section 3(e) of Republic Act No. 3019,[2] as amended.

The Indictment

Petitioner Judge Proceso Sidro was charged in the Sandiganbayan with violation of Section 3(e) of Rep. Act No. 3019, as amended. The accusatory portion of the Information reads:

That on or about the 4th day of June 1990, and for some time subsequent thereto, in the Municipality of Mondragon, Province of Northern Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Presiding Judge of the 5th Municipal Circuit Trial Court of Mondragon, Northern Samar, while in the performance of his official functions and committing the offense in relation to his office, did then and there willfully, unlawfully, criminally and through evident bad faith cause undue injury to one ROQUE VICARIO, FE CARDENAS and AGUSTIN CARDENAS in the following manner: accused, after having received the amount of ONE THOUSAND PESOS (P1,000.00), Philippine Currency, from Fe Cardenas and Agustin Cardenas as the cash bond for the liberty of Roque Vicario in Criminal Case No. 5671, failed to deposit the same with the Clerk of Court and retained possession of it even after the aforesaid criminal case was provisionally dismissed on September 14, 1990, and thereafter, unjustifiably refused to return it to Roque Vicario or Fe Cardenas or Agustin Cardenas, thus causing pecuniary damage and prejudice to the latter who were deprived of the ownership and use of their money in the aforestated sum.

CONTRARY TO LAW.[3]

The petitioner was duly arraigned, assisted by counsel, and entered a plea of not guilty.[4]

The Evidence of the Prosecution

Roque Vicario, a driver employed in the Integrated Provincial Health Office in Mondragon, Northern Samar, was charged with resisting arrest as defined in Article 151 of the Revised Penal Code. The Information was filed in the sala of the petitioner, the Municipal Circuit Trial Court of Mondragon-San Roque, Northern Samar, and was docketed as Criminal Case No. 5671. The petitioner issued a warrant for the arrest of Vicario with a bail of P20,000.00 for his provisional liberty.[5] However, the petitioner reduced the amount to P10,000.00.[6]

On June 4, 1990, Vicario was arrested while on his way to the Municipal Treasurer's office on the basis of the warrant issued by the petitioner. Vicario asked a tricycle driver to deliver a note to his friend, Fe

Cardenas-Castillo. The driver agreed and delivered the note to Castillo.[7] In the said note, Vicario asked Castillo to borrow P1,000.00 from his officemate, Baby Alamil, for his bail bond.[8] Castillo was able to borrow only P500.00 from Alamil, and brought the money to Vicario in the municipal jail.[9] Vicario instructed Castillo to deliver the money to Luz, an employee of the Municipal Trial Court (MTC). Castillo did as she was told. However, Luz gave the money to Mila Mendez, another employee of the MTC.[10]

At around 3:00 p.m., Mila accompanied Castillo to the petitioner's residence near the municipal building where Mila gave the money to the petitioner.[11] Upon the petitioner's instructions, Castillo signed a bail bond, where the cash bail was fixed at P1,000.00. The petitioner told her that the amount was short by P500.00; hence, Vicario could not be released from jail. Castillo promised to deliver the balance of P500.00.

In the meantime, Vicario remained in jail. He managed to produce P500.00 and asked his close friend Agustin Cardenas, Fe Castillo's father, and a store owner, to deliver the amount to the petitioner so as to complete his cash bond of P1,000.00.[12]

On June 5, 1990, Cardenas and his daughter, Fe Castillo, arrived at the MTC to see the petitioner, but the latter was not in court. Cardenas informed Mila Mendez that he wanted to talk to the petitioner, and Mendez accompanied him to the petitioner's residence. When apprised that Cardenas already had P500.00 to complete Vicario's P1,000.00 cash bond, the petitioner ordered him to give him the P500.00.[13] Cardenas reminded the petitioner that the money should be remitted to the municipal treasurer, and the latter replied, "It can be paid with me. Anyway, when the case is dismissed, it will be easy for you to get the money." [14] Cardenas politely requested the petitioner to issue a receipt for the amount of P1,000.00, including the P500.00 given by Castillo to the petitioner the day before. The petitioner obliged and prepared, in his own handwriting, a signed receipt in the presence of Mendez, who affixed her signature thereon as a witness.[15] The Receipt reads:

June 4/90

Provisional Receipt

Received the amount of One Thousand Pesos from Agustin Cardenas
For Roque Vicario in Crim. Case No. 5671
For deposit with the treasurer's office.

(Sgd.) Proceso C. Sidro

Witness:

Mila C. Mendez[16]

The petitioner explained to Cardenas and Castillo that he dated the receipt June 4, 1990 because it was on that day that Castillo had given him the first P500.00. However, the petitioner required Vicario to sign a bail bond with Castillo as the surety therein.[17]

At 2:30 p.m. that day, the petitioner proceeded to the municipal jail and ordered the jail warden to release the petitioner. The warden complied with the petitioner's verbal order and released Vicario from detention. Vicario signed the bail bond and subscribed and swore to the truth thereof before the petitioner. The release of Vicario from jail on orders of the petitioner was placed in the police blotter.[18]

Meanwhile, Cardenas gave the receipt signed by the petitioner to Vicario. The petitioner did not deposit the P1,000.00 cash bond with the Office of the Municipal Treasurer of Mondragon, nor with the nearest internal revenue collector or provincial treasurer.

On September 14, 1990, the petitioner issued an Order dismissing Criminal Case No. 5671, provisionally, on motion of the public prosecutor.[19]

Vicario wanted to withdraw his P1,000.00 cash bond. He inquired from the Office of the Municipal Treasurer whether the amount had been deposited by the petitioner, and was told that there was no such deposit.[20]

During the first week of October 1990, Vicario, Agustin and Castillo went to the house of the petitioner to get back the P1,000.00 cash bond, earlier remitted to the petitioner in two installments on June 4 and 5, 1990. However, the petitioner told Vicario, “Roque, you wait until November when I get my bonus because I will be able to pay you then. I was able to use your money.”[21] Vicario agreed to return in November. But when Vicario and Agustin saw the petitioner anew on November 30, 1990, the petitioner got peeved and told Vicario, “Roque, what do you really want? Do you want your case to be revived against you?” Vicario pleaded to the petitioner not to revive the case against him.[22] The petitioner told Vicario to file a motion with the court for the refund of his P1,000.00.

Vicario decided to charge the petitioner for violation of the Anti-Graft Law with the Office of the Ombudsman (Visayas). Vicario then executed his Affidavit-Complaint against the petitioner on December 11, 1990. [23] He also filed a copy of his Affidavit-Complaint with the Supreme Court, which was docketed as Administrative Matter No. MTJ-91-508.

The Evidence of the Petitioner

The petitioner had been the presiding judge of the Municipal Circuit Trial Court of Mondragon-San Roque, Northern Samar, since October 10, 1984.[24] The MCTC was located in a private house rented by the government, about 50 meters away from the municipal building. In the past, cash bonds deposited in the Office of the Municipal Treasurer were withdrawn without the corresponding order from the court. Since then, Joel Escareal, the Municipal Treasurer of Mondragon, Northern Samar, refused to accept cash bond deposits for the accused in the MCTC of San Roque- Mondragon.[25] The petitioner was aware of this policy.[26] Some accused resorted to depositing their cash bonds in the Office of the Municipal Treasurer of San Roque.

Roque Vicario was charged in the Municipal Court of San Roque, Mondragon, with violation of Article 151 of the Revised Penal Code, docketed as Criminal Case No. 5671. The petitioner issued a warrant for Vicario’s arrest and fixed bail in the amount of P20,000.00 for the latter’s provisional liberty. The petitioner later reduced the amount to P10,000.00.[27] Vicario was arrested on June 4, 1990.

In the afternoon of the same day, Cardenas and his daughter, Fe Castillo, arrived in the petitioner’s office to deposit the cash bail of Vicario. Luz Malabago helped them prepare the bail bond to be signed by Vicario with his picture pasted on the dorsal portion thereof. The amount of P500.00 as cash bond was handwritten on the spaces provided therefor. Castillo affixed her signature on the bond as surety. However, the petitioner agreed to reduce the bail for the provisional liberty of Vicario from P10,000.00 to P1,000.00. Castillo gave the P1,000.00 to the petitioner[28] who ordered Court Stenographer Remedios Bantilo to deposit the amount in the Office of the Municipal Treasurer of Mondragon. By then, it was already 4:30 p.m. Although she already knew that the Municipal Treasurer’s Office would not accept the cash bond, Bantilo still proceeded to the said office only to be told by Municipal Treasurer Joel Escareal that he would not accept the deposit.[29] Bantilo returned to the court and returned the amount to the petitioner.[30] She informed the petitioner that the Office of the Municipal Treasurer of Mondragon had refused to accept the P1,000.00. The petitioner signed a handwritten receipt for the amount of P1,000.00 returned by Bantilo “for deposit with the treasurer’s office.”[31] The petitioner then issued an order for Vicario’s release from the municipal jail. The order was served on the jail warden through the court

personnel. The jail warden released Vicario at 2:20 p.m.[32]

Sometime in July or August, Municipal Treasurer Escareal died.[33] On September 14, 1990, the petitioner issued an Order provisionally dismissing Criminal Case No. 5671.[34]

One afternoon in the second week of October 1990, Cardenas and his daughter, Fe Castillo arrived in the office of the petitioner asking for the return of Vicario's P1,000 cash bond. The petitioner suggested that Castillo file a motion for the withdrawal of the said amount. However, no such motion was filed. On October 30, 1990, the petitioner issued an Order directing the return of the P1,000.00 to Castillo, care of Vicario, upon proper motion to withdraw and the execution of a receipt thereof.[35] Although Vicario received a copy of the said order, he did not file any motion. The petitioner turned over, on the said date, the P1,000.00 to Clerk of Court Pompeyo Jimena. The petitioner also instructed Jimena to deposit the amount in the Office of the Municipal Treasurer of Mondragon as soon as a new municipal treasurer was appointed.[36] In the meantime, Jimena kept the money.

On January 18, 1991, the petitioner issued an Order directing the Clerk of Court to deposit the P1,000.00 with the municipal treasurer pending the filing of a motion for the withdrawal of the amount. However, the petitioner took the original of the order and failed to return the same.[37]

In the meantime, a new municipal treasurer of Mondragon was appointed. On February 4, 1991, Jimena deposited the P1,000.00 with the Municipal Treasurer's Office of Mondragon which accepted the said deposit and issued Official Receipt No. 0800898 dated February 4, 1991.[38]

Unknown to the petitioner, Vicario had executed an Affidavit-Complaint against him on December 11, 1990 for violation of Rep. Act No. 3019, as amended, and filed the same with the Office of the Ombudsman (Visayas), docketed as OMC-2-90-2871. Vicario also filed his Affidavit-Complaint in the Supreme Court. The petitioner learned about the said charges on February 21, 1991. On July 30, 1991, Graft Investigation Officer II Avito P. Cahig issued a Resolution recommending the dismissal of Vicario's complaint.[39] The Supreme Court, on October 15, 1991, likewise, dismissed the complaint of Vicario.[40] However, upon review by Special Prosecution Officer III Teresita V. Diaz-Baldos, the Ombudsman rejected the initial recommendation and approved the filing of the Information against the petitioner.

After trial, the Sandiganbayan rendered judgment convicting the petitioner of the crime charged. The decretal portion of the decision reads:

WHEREFORE, PREMISES CONSIDERED, the Court finds the accused, JUDGE PROCESO SIDRO Y CESISTA, "GUILTY" beyond reasonable doubt of the crime of Violation of Section 3(e) of R.A. 3019, as amended and is hereby sentenced to suffer the penalty of SIX (6) years and ONE (1) month, as minimum, to SEVEN (7) years, as maximum, and also perpetual disqualification from public office.

He is further ordered to pay private complainants the amount of P1,000.00, and to pay the costs of suit.

The Clerk of Court is hereby directed to furnish the Office of the Court Administrator, Supreme Court of the Philippines, Manila, a copy of this decision.[41]

The petitioner seeks the reversal of the decision of the Sandiganbayan, contending as follows:

The 5th Division of the Honorable Sandiganbayan erred in finding that the petitioner committed evident bad faith in accepting the money posted as cash bond in favor of Roque Vicario in Criminal Case No. 5671; in failing to deposit the said amount with the Clerk of Court, and; in retaining possession of the money even after the provisional dismissal of Criminal Case No. 5671 on September 14, 1990;

2. The 5th Division of the Honorable Sandiganbayan erred in finding that the petitioner had caused undue

injury to Roque Vicario, and Fe and Agustin Cardenas for the latter were deprived of the use and possession of the One Thousand Pesos (P1,000.00) deposited as cash bond for the temporary liberty of Vicario after the case against said Vicario was dismissed, for said petitioner continued to hold the money illegally.[42]

Considering that the assigned errors are interrelated, the Court shall delve into and resolve the same simultaneously.

The petitioner asserts that he was not proscribed by law or by the Rules of Court from receiving the cash bail and directing the court stenographic reporter to deposit the same in the Office of the Municipal Treasurer of Mondragon, for and in behalf of Vicario who was in jail. He contends that he is not even proscribed from receiving Vicario's cash bail because Rule 114, Section 14 of the Rules of Court is merely directory and not mandatory. When the municipal treasurer refused to accept the cash bond, he decided to accept it so that Vicario would be released from jail.

The petitioner, likewise, asserts that he cannot be faulted for exercising his broad judicial power in Rule 133, Section 5 of the Rules of Court. He acted in good faith when he accepted the P1,000 cash bail, as he even issued a receipt for the amount. There was no way he could have misappropriated the amount because though he kept the money from June 5, 1990 to October 30, 1990, he remitted the amount to the Clerk of Court for deposit with the Municipal Treasurer's Office. The petitioner asserts that he had not known of the Municipal Treasurer's policy of rejecting deposits of cash bonds from those charged in the Municipal Trial Court. Furthermore, he cannot be faulted for keeping the money even after the provisional dismissal of the case on September 14, 1990 because (a) Vicario did not file a motion for the withdrawal of the P1,000.00, even though there was no official receipt from the municipal treasurer for the said amount; and, (b) it would have been inappropriate or imprudent for him to have released the amount to Vicario without any order from the court considering that he, the petitioner, had issued a receipt for the amount.

The petitioner argues that he should be acquitted because the prosecution failed to prove that he acted with evident bad faith in his official actuations with reference to the cash bond of Vicario.

The petition is unmeritorious.

The Sandiganbayan convicted the petitioner on the basis of its findings and disquisitions, viz:

Our disquisition on the determination of the guilt or innocence of the accused will focus on the third and fourth elements.

To begin with, what are the issues which confront Us?

Did the respondent act with evident bad faith in:

- accepting the money posted as cash bond by Fe Cardenas and Agustin Cardenas in favor of Roque Vicario in Criminal Case No. 5671,
- failing to deposit the said amount with the Clerk of Court, and
- retaining possession of the money even after the provisional dismissal of Criminal Case No. 5671 on September 14, 1990?

In addition, did private complainant suffer undue injury due to the actuations of the respondent?

"Bad faith imports a dishonest purpose or some moral obliquity and conscious doing of wrong – it partakes of the nature of fraud, a breach of a known duty through some motive of interest or ill will."

"... It must be reiterated that bad faith should be established by clear and convincing evidence ... the settled

rule is that the law always presumes good faith such that any person who seeks to be awarded damages due to acts of another has the burden of proving that the latter acted in bad faith or with ill motive...”

From the evidence presented, this Court is convinced that the respondent acted in evident bad faith.

For one, it is not among the functions of a Presiding Judge to accept cash bonds from the accused or his representative. Section 11, Rule 114 of the Revised Rules of Criminal Procedure is clear on the matter:

“Deposit of cash as bail. – The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue, or provincial, city or municipal treasurer the amount of bail fixed by the court or recommended by the fiscal who investigated or filed the case, and upon submission of a proper certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 hereof, the accused shall be discharged from custody. Money thus deposited shall be considered as bail and applied to the payment of any fine and costs and the excess, if any, shall be returned to the accused or to whoever made the deposit.” (Underlining supplied)

Ironically, it was defense witness, Remedios Bantilo, the Court Stenographer, who admitted that the accused already knew that the Municipal Treasurer of Mondragon would refuse the deposit of the cash bond from their office. Why did the accused accept the money posted by Cardenas as cash bond for the release of Vicario? Unless, he had some other motive for accepting the same. Surmise? Further evidence will hold Us out.

Bantilo continued by saying that the reason why the accused asked her to make the alleged deposit of the cash bond with the Municipal Treasurer of Mondragon was to show to the bondsman, Fe Cardenas, that he (accused) was directing her (Bantilo) to deposit the money. Accused already knew of the futility of going through the process of depositing the money with the Treasurer of Mondragon. Isn't this a conscious doing of wrong by the respondent manifesting a “. . . state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purpose...?”

So, accused accepted the money and issued a temporary receipt to Cardenas for the same (Exhibit “D”). What did he do with the money next? Prudence dictates that, a Presiding Judge, who is expected to be circumspect in his actions, will give the money to the Clerk of Court for the latter to deposit the same with the Municipal Treasurer. But he did otherwise. Instead, according to the Clerk of Court Jimena, accused kept the money in his possession from June 1990 to October 1990 and even told him (Jimena) to wait for the incoming Municipal Treasurer to assume office before depositing the money with the Municipal Treasurer of Mondragon, the former Treasurer having passed away already. In obedience to the order of his superior, Jimena waited until January 18, 1991 when the accused issued an order to deposit the money with the Municipal Treasurer.

As we can see then, the money remained with the accused for more or less seven (7) months. It was not until February 4, 1991 when the cash bond was finally deposited with the Municipal Treasurer of Mondragon in the name of bondsman, Fe Cardenas (Exhibit “6”). How can accused be said to have acted in good faith when, as a judge, he should know that the rule (Section 11, Rule 114, Revised Rules on Criminal Procedure) is explicit on who should have custody of the money posted as cash bond? We see it no other way than the accused acted in bad faith in the premises.

The record is replete with instances where the accused “manipulated” the records of Criminal Case No. 5671 to suit his needs. Accused, according to Clerk of Court Jimena “borrowed” from the records the original copy of the Order of January 18, 1991 directing the deposit of the cash bond with the Municipal Treasurer's office and never returned the same. Why and what for are not for Us to unnecessarily delve into – what is of concern to Us is that a Judge compromised the integrity of the records he is supposed to preserve inviolate at all times. Not only that, from his own testimony, it appears that there were discrepancies in the bail bond of Vicario in Criminal Case No. 5671 such as the real amounts of the original bond and the final bond charged against him (Vicario).

Accused acknowledged that although the case against Vicario was dismissed on September 14, 1990, he did not as yet order the release of the cash bond posted because the dismissal was provisional in nature. If that be so, why then did he order the release of the cash bond on October 30, 1990 (Exhibit “4”) when the dismissal of Vicario’s case was not yet final? This was the question posed to the accused by the Court to which no satisfactory answer was given by him to convince Us that his actuation was done in good faith....[43]

We agree with the foregoing findings.

Section 3(e) of Rep. Act No. 3019 under which the petitioner is charged states, thus:

SEC. 3. Corrupt Practices of Public Officers.— In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

...

e. Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

To warrant the conviction of the accused, the prosecution is burdened to prove the following essential elements of the crime:

The elements of the offense defined in this provision are that: (1) The accused is a public officer discharging administrative, judicial or official functions; (2) he must have acted with manifest partiality, evident bad faith, or inexcusable negligence; and (3) his action has caused any undue injury to any party, including the Government, or has given any party any unwarranted benefit, advantage or preference in the discharge of his functions.[44]

In *Marcelo vs. Sandigabayan*,[45] the Court defined evident bad faith, viz:

Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud. (*Spiegel v. Beacon Participations*, 8 NE 2nd Series, 895, 1007). It contemplates a state of mind affirmatively operating with furtive design or some motive of self-interest or ill will for ulterior purposes. (*Air France v. Carrascoso*, 18 SCRA 155, 166-167). Evident bad faith connotes a manifest deliberate intent on the part of the accused to do wrong or cause damage.[46]

In this case, the petitioner was the presiding judge of the MCTC of San Roque-Mondragon, Northern Samar and acted in that capacity when he received the P1,000.00 from Castillo and Cardenas. The petitioner acted with evident bad faith from the time he received Vicario’s P1,000.00 cash bail on June 4 and June 5, 1990, and refused to have the amount deposited either with the nearest collector of internal revenue, the municipal treasurer of Mondragon, or provincial treasurer of Northern Samar as provided for in Section 11, Rule 114 of the Rules of Court. Even after the provisional dismissal of Criminal Case No. 5671 on September 14, 1990, the petitioner refused to return the amount despite the demands of Vicario, Castillo and Cardenas that the money be returned. Vicario suffered undue injury when the petitioner retained the P1,000.00 for his personal use.

Section 11, Rule 114 of the Rules of Court provides:

SEC. 11. Deposit of cash as bail.— The accused or any person acting in his behalf may deposit in cash with the nearest collector of internal revenue, or provincial, city or municipal treasurer the amount of bail fixed by the court or recommended by the fiscal who investigated or filed the case, and upon submission of a proper

certificate of deposit and of a written undertaking showing compliance with the requirements of Section 2 hereof, the accused shall be discharged from custody. Money thus deposited shall be considered as bail and applied to the payment of any fine and costs and the excess, if any, shall be returned to the accused or to whoever made the deposit.

It is evident that the petitioner is not one of those authorized to receive cash bail from the accused; nor is he authorized to keep the money in his office.[47] It bears stressing that the cash bail shall be applied to the payment of any fine and cost and the excess, if any, shall be returned to the accused or to whoever made the deposit.[48] The bail is to ensure the appearance of the accused when required by the court or by the rules, and for the failure to appear before the court without any justification therefor, his bail may be forfeited in favor of the government. Unless the bail is deposited with the municipal treasurer or internal revenue collector as required by the Rules, the government may not be able to collect the fine or costs from the accused or have the bond confiscated in its favor.

The petitioner received P500.00 from Castillo on June 4, 1990, which was part of Vicario's cash bail. The petitioner did not issue any official receipt for the amount, as well as for the P500.00 he received on June 5, 1990 from Castillo and Cardenas, and even kept the money. The petitioner did not even bother to have the transaction placed in the records of Criminal Case No. 5671. Pursuant to the Rules, the petitioner should have instructed Castillo to deposit the cash bail, either in the office of the nearest revenue collector, or in the office of the municipal treasurer of Mondragon. Even if he acquiesced to the plea of Castillo and Cardenas for him to receive the P1,000.00, it was incumbent upon the petitioner to have turned over the money to the clerk of court. The petitioner should then have directed the clerk of court to issue an official receipt for the amount, and to immediately deposit the same with the nearest revenue collector or municipal treasurer. The proper procedure in the handling of cash submitted or given to the municipal court as bail bond is for the court to formally direct the clerk of court to officially receive the cash and to immediately deposit it with the municipal treasurer's office. The transaction must not only be properly receipted for but must also appear in the records of the case.[49]

It may be true that the petitioner signed a receipt for the P1,000.00. However, he did so in his personal capacity, as he failed to indicate therein that he was signing the receipt in his capacity as the presiding judge of the MCTC. He even failed to have the receipt or a copy thereof attached to the records to show that Vicario had posted bail.

We do not believe the petitioner's contention that, on June 5, 1990, he requested Bantilo to deposit the amount with the office of the municipal treasurer but that the latter rejected the deposit. In the first place, contrary to the petitioner's claim, he already knew that the municipal treasurer of Mondragon had previously rejected deposits of cash bail of accused in the municipal trial court. This was the testimony of stenographic reporter Remedios Bantilo, a witness for the petitioner no less, in answer to the clarificatory questions of the Presiding Justice of the Sandiganbayan, to wit:

PJ GARCHITORENA

Q

Did you not tell the judge that it will be useless for you to go to the treasurer of Mondragon carrying money because the treasurer will refuse it?

WITNESS

A

Yes, sir.

Q

Did you tell that to the judge?

A

Yes, sir.

Q

What did the judge say?

A

When I said (sic) that to Judge Sidro, Fe Cardenas just handed the money to Judge Sidro and asked for a receipt.

Q

Either you are confused or you are deliberately twisting. You already said that, many times in the past, the municipal treasurer of Mondragon would refuse to accept cash bond?

A

Yes, sir.

Q

So Judge Sidro even before this occasion already knew that the municipal treasurer of Mondragon would refuse to accept cash deposit for bail?

A

Yes, sir.

Q

So Judge Sidro, even before this occasion, already knew that the municipal treasurer of Mondragon would refuse to accept that cash bail?

A

Yes, sir.[50]

It is inconceivable that the petitioner would still order Bantilo on June 5, 1990 to deposit the money in the office of the municipal treasurer when he knew all along that the deposit would be rejected.

Even assuming that the petitioner was not aware before June 5, 1990, that the municipal treasurer would refuse to accept cash bail and still sent Bantilo to deposit the amount in the office of the municipal treasurer, the petitioner should have turned over the amount to the clerk of court the next day, and ordered the latter to deposit the amount to the nearest internal revenue collector as provided for in Rule 114, Section 11 of the Rules of Court. The petitioner failed to do so.

After the petitioner dismissed the case provisionally on September 14, 1990, he was obliged to return the P1,000.00 to Vicario, Cardenas or Castillo. After all, the proceedings before the municipal trial court had already been terminated when the petitioner's order provisionally dismissing Criminal Case No. 5671 became final. However, the petitioner failed to return the amount when Castillo and Vicario asked him during the first week of October 1990 to return the same. It turned out that the petitioner used the money and did not have P1,000.00 when Vicario and Cardenas arrived in his office to claim it. As testified to by Vicario, the petitioner asked to be given

until November 1990 within which to repay the amount.

PROS. CAOILI:

Q

When was that when you went to the Judge together with Agustin Cardenas and Fe Cardenas?

A

About October of 1990, sir.

Q

Do you know the specific date?

A

I cannot tell, sir.

PJ GARCHITORENA

Q

First week, second week, last week?

A

First week, Your Honor.

PROS CAOILI

Q

Were you able to meet the Judge when you went there?

A

Yes, sir.

Q

What transpired when you met him?

A

He said, "Roque, you wait until November when I get my bonus because I will be able to pay you then. I was able to use your money."

Q

What did you do when he told you that?

A

I went home, sir.

PJ GARCHITORENA

Q

In other words, you agreed that you will just wait until November?

A

Yes, Your Honor.[51]

Vicario was rebuffed anew by the petitioner when he returned to the latter's office with Castillo and Cardenas and asked for the return of the P1,000.00. Petitioner again failed to return the amount despite his promise. He even threatened to have the case against Vicario revived. Vicario, thus, decided to complain against the petitioner in the Office of the Ombudsman and the Supreme Court.

PROS. CAOILI:

Q

When did you return again to the Judge regarding your cash bond?

A

Last week of November, sir.

Q

Who were your companions when you went back to the Judge?

A

Agustin Cardenas, sir.

Q

Anybody else?

A

And also Fe Cardenas, the daughter of Agustin Cardenas, sir.

Q

Were you able to meet with the Judge?

A

Yes, sir.

Q

What transpired when you met him?

A

I told him, "Judge, I came back because of your promise about my (sic) cash bond."

Q

What did the judge tell you, if any?

A

He told me, "Roque, what do you really want? Do you want your case to be revived against you?"

Q

What did you answer the Judge?

A

I told him, “No, Judge. Don’t do that.” (Huwang (sic) naman, Judge).

Q

What happened next, after that?

A

So I went to see a lawyer and I asked the lawyer to prepare an affidavit and a letter addressed to the Ombudsman and to the Supreme Court, sir.[52]

Vicario’s testimony, thus, belies the petitioner’s defense that he refused to return the amount to Vicario because the dismissal of the case on September 14, 1990 was merely provisional, and because neither Vicario nor Castillo filed a motion for the withdrawal of the amount as mandated by the petitioner in his Order of October 30, 1990. Vicario and Castillo could not file any motion for the withdrawal of the cash bail, as there was no official receipt for the amount issued by the municipal treasurer or internal revenue collector.

We agree with the findings and disquisitions of the Sandiganbayan, viz:

Accused argued that Vicario could have had his money if he only filed the proper motion to withdraw the said cash bond. Precisely, Vicario could not file the said motion because there is no official receipt to show that the said money had been deposited with the government through the Municipal Treasurer. As a judge, the accused should know that the procedure in the release of a cash bond is the filing of a proper motion together with the attachment of the official receipt showing the deposit of the money with either an internal revenue collector or the municipal/provincial treasurer. No official receipt was given to Vicario because the accused circumvent the rules to suit his personal needs, holding on to the money instead of immediately depositing it with the government through the Municipal Treasurer.

Along this line, We note the anomalous order issued by the accused on January 18, 1991. The successful release of the cash bond is predicated on the filing of a motion with the attachment of the official receipt. The prior deposit of the cash bond with the Municipal Treasurer is the initial step undertaken prior to the eventual filing of a motion for its withdrawal upon acquittal or dismissal of the case. A perusal of the said order would either show that the accused is ignorant of the procedure or “misleading” the complainant in his attempt to cover-up his wrongdoing.[53]

Also, Vicario cannot be faulted for not filing a motion for the withdrawal of the P1,000.00 because he had earlier learned from the municipal treasurer’s office that the petitioner had not deposited the said amount. Furthermore, the petitioner himself had promised Vicario that he would refund the amount in November 1990. There was, thus, no sense for Vicario to file such motion to withdraw the cash bail. We agree with the following comment of the respondents:

To the point of being repetitious, Vicario and his bondsman could not possibly file the motion to withdraw the cash bond because the said bond was not deposited with the Municipal Treasurer. Thus, there was no official receipt from the Municipal Treasurer which Vicario and his bondsman could attach to his motion and show to the court that the cash bond was indeed deposited with the former. No official receipt can also be found in the expediente. As earlier stated, the cash bond was deposited with petitioner for which he merely issued a receipt. Surely, the receipt issued by petitioner is not the receipt contemplated by law which evidences deposit of the cash bond.

Moreover, if petitioner truly believes that there was no need for the receipt from the Municipal Treasurer

because Vicario's bondsman was in possession of a receipt which he (petitioner) had issued acknowledging receipt of the cash bond, then it follows that filing of the motion to withdraw the cash bond is also a futile exercise since all that petitioner has to do was to release the P1,000.00 to the bondsman.[54]

When he testified, the petitioner denied having met Vicario after June 5, 1990:

Q

How about Roque Vicario, before June 4, 1990, did you ever see him prior to that date?

A

I saw him several times before June 4.

Q

Under what circumstances?

A

Because of some cases filed against him.

Q

After June 4, 1990, did you have occasion to see him again?

A

I never saw him.

Q

The last time you saw Roque Vicario was on June 4, 1990 and you never saw him again until here in Court?

A

Yes, sir.[55]

By his testimony, the petitioner sought to impugn Vicario's account that during the first week of October 1990 and November 1990, he, along with Cardenas and Castillo, demanded the return of the P1,000.00 cash bond. However, when he testified during the reopening of the case the petitioner declared that Vicario was insistent on the return of the P1,000.00 after the provisional dismissal of Criminal Case No. 5671:

JUSTICE ESTRADA:

Q

Mr. Witness, whenever you dismiss a case, according to you, in your Order of dismissal, usually you do not include the Order to return the Cash Bond to the accused or to the bondsman. But in case there is an oral motion from the accused on the same date of dismissal, do you not include that in your Order of Dismissal the return of the cash bond to the accused or bondsman?

A

No, of course, the cases are different from each other so I have to look into the case and the circumstance around it particularly whether I should -- because, you know in our place, in some minor cases, we do not order the accused to file his bond. So, not all cases have to be treated in like manner. That means that in this particular case, the accused filed his bond through somebody else. He was not the actual person who filed the cash bond and I actually receipted that. I remember that it was a certain Augusto (sic) Cardenas who filed his

bond and the accused, after the dismissal of the case, was insistent that his cash bond should be given to him personally and I had some doubts whether he was the owner of that. (Underscoring supplied)[56]

Moreover, in his petition at bar, the petitioner admitted that Vicario and Castillo saw and talked to him in October 1990:

With due respect, from the evidence presented, they (sic) is no showing whatsoever that the petitioner had ever attempted to preclude Vicario and his bondsman from their enjoyment of the cash bond. It may be recalled that on September 14, 1990, the case against Vicario for which the cash bond was posted was dismissed without prejudice. On the following month, October, 1990, Vicario and his bondsman went to see the petitioner and manifested their intention to withdraw the cash bond. While Vicario and his bondsman claimed that the petitioner allegedly requested that he would just pay the amount when he will get his bonus in November, 1990, the same is nothing but a self-serving statement, without any supporting evidence whatsoever. On the other hand, at the time Vicario and his bondman went to the petitioner in October, 1990, they had already the right to withdraw the cash bond, without any condition, and they could absolutely do it at their instance. Yet, they did not do anything. ...[57]

The averments of the petitioner in his petition and his testimony on May 2, 2001, thus, frontally belie his testimony before the Sandiganbayan, that he never saw and talked with Vicario after June 4, 1990.

Also incredible is the testimony of the petitioner and Clerk of Court Pompeyo Jimena that the petitioner turned over the P1,000.00 to the latter on October 30, 1990, and that the petitioner ordered Jimena to deposit the amount as soon as a new municipal treasurer was appointed. The petitioner failed to adduce in evidence any official receipt signed by Jimena acknowledging that he received the said amount from the petitioner on the said date, or on any date for that matter, and showing that the matter was placed in the records of Criminal Case No. 5671. Neither did the petitioner adduce in evidence any order he issued on the said date directing Jimena to deposit the amount with the municipal treasurer's office.

Jimena's testimony that the petitioner issued an order on January 18, 1991, directing him to deposit the amount with the municipal treasurer pending Vicario or Castillo's motion for the withdrawal of the amount is doubtful. The alleged order adduced in evidence by the petitioner in the Sandiganbayan is merely a xerox copy, which was not even certified by Jimena. Inexplicably, the latter testified that the petitioner took the original of the order and never returned the same to Jimena:

ATTY. POTOT

Q

And you said that up to the present accused Roque Vicario nor his counsel never filed a motion for the withdrawal or in compliance with this order. What did you do with the money?

A

I waited for the order of the court because according to Judge Sidro, once the court received the compliance, I should give the money back to Mr. Vicario.

Q

Was there an order of the court to deposit the money?

A

Yes, sir.

Q

When was that?

A

January 18, 1991.

ATTY. POTOT

Q

I am showing to you a xerox copy of an order dated January 18, 1991, will you please examine this and explain to us what relation has this order to that you said a while ago?

WITNESS

A

This is the order issued by Judge Sidro ordering me to deposit the amount of P1,000 but the original of this order was borrowed by the Judge himself. He told me he will borrow the original copy.

PJ GARCHITORENA

Q

You are saying that the original of that order does not exist in the records?

A

Does not exist in the record.

Q

Do you allow people to get pages from the records?

A

Well, he is my superior, and he told me he will be using that.[58]

...

PJ GARCHITORENA

Alright, you were clerk of court since 1982. From that time up to the present you do not know that one way of preserving the records is to number them?

WITNESS

A

No, sir.

Q

What you are telling us is that there was an order in the records, you cut up the records, get the order and sewed the records back again?

A

In our place, Your Honor, we do not sew the records. We use the fastener. It is only in the RTC that I

experienced that the records are being sewn.

Q

In this particular instance, Judge Sidro extracted the order, fastened it back and returned it to you?

A

I was the one who detached the order from the records, Your Honor.

JUSTICE DE LEON

Q

When Judge Sidro asked to be allowed to borrow the original of that order, that order dated January 18, 1991, did you see to it that there was a copy of that order left with the “expediente”?

A

That was the last order, the original.

Q

The only copy left?

A

Yes, sir.

Q

When did he return the original?

A

To date, he did not return the original because according to him, he will use it.

Q

The “expediente” of that case which is before you does not contain the original copy?

A

This is the xerox copy.[59]

The petitioner never explained why he took the original copy of the order and why he never returned the same, so as to be made part of the records of Criminal Case No. 5671.

We also agree with the Sandiganbayan that the prosecution proved beyond reasonable cavil that Vicario suffered undue injury because of the petitioner’s refusal to return the P1,000.00.

Undue injury refers to injury that is “more than necessary, not proper, or an illegal wrong or damage done to another, either in his person, rights, reputation or property.”

The testimonies of Roque Vicario and Fe and Agustin Cardenas are clear that they were deprived of the possession and use of the One Thousand Pesos (P1,000.00), the money deposited as cash bond for the temporary liberty of Vicario, due to the doing of the accused. From the time the case against Vicario was dismissed, the latter and his bondsmen were entitled to the release and enjoyment of the money deposited as cash bond. Section 22, Rule 114, Revised Rules of Court is clear that:

“x x x

The bail bond shall be deemed automatically cancelled upon acquittal of the accused or dismissal of the case or execution of the final judgment of conviction.”

x x x

By holding on to the money illegally, the accused precluded the enjoyment of the said amount by the concerned persons. The belated action by the accused in ordering the deposit of the amount with the Municipal Treasurer on January 18, 1991, more than four (4) months from the time the case against Vicario was dismissed on September 14, 1990, is of no moment since it is a fact that actual injury had already been suffered by Vicario and his bondsmen.[60]

IN LIGHT OF ALL THE FOREGOING, the petition is DENIED due course and is DISMISSED. The Decision of the Sandiganbayan is AFFIRMED. Let a copy of this Decision be furnished to the Court Administrator so that the appropriate administrative charges may be filed against the petitioner. Costs against the petitioner.

SO ORDERED.

Puno, J., (Chairman), Quisumbing, Austria-Martinez, and Tinga, JJ., concur.

[1] Penned by Associate Justice Minita V. Chico-Nazario (Chairman) with Associate Justices Anacleto D. Badoy, Jr. and Ma. Cristina Cortez-Estrada concurring.

[2] Also known as the Anti-Graft and Corrupt Practices Act.

[3] Records, p. 1.

[4] Id. at 92.

[5] Exhibit “E.”

[6] Ibid.

[7] TSN, 27 October 1992, p. 27.

[8] Ibid.

[9] TSN, 28 October 1992, p. 22.

[10] Id. at 27.

[11] Id. at 23.

[12] TSN, 27 October 1992, p. 25.

[13] TSN, 28 October 1992, p. 7.

[14] Id. at 8.

[15] Id.

[16] Exhibit “D.”

[17] Exhibit “3.”

[18] Exhibit “C.”

[19] Exhibit “2.”

[20] TSN, 27 October 1992, pp. 22-24.

[21] Id. at 10.

[22] Id. at 11.

[23] Exhibit “A.”

[24] TSN, 14 December 1992, p. 51.

[25] Id. at 7.

[26] Id. at 19-20.

[27] Exhibit “E.”

[28] TSN, 14 December 1992, pp. 52-54.

[29] Id. at 7-8.

[30] Id. at 8.

[31] Exhibit “D.”

[32] Exhibit “C.”

[33] TSN, 14 December 1992, p. 34.

[34] Exhibit “2-Re-opening.”

[35] Exhibit “4.”

[36] TSN, 14 December 1992, p. 38.

[37] Exhibit “5.”

[38] Exhibit “6.”

[39] Exhibit “10.”

[40] Exhibit “9.”

[41] Rollo, p. 50.

[42] Rollo, p. 8.

[43] Rollo, pp. 39-43.

[44] Ponce De Leon vs. Sandiganbayan, 186 SCRA 745 (1990).

[45] 185 SCRA 346 (1990).

[46] Id. at 349.

[47] Naui vs. Mauricio, A.M. No. MTJ-01-1368, October 23, 2003; Aguilar vs. Fernandez, 356 SCRA 162 (2001).

[48] Section 11, Rule 114 of the Rules of Court.

[49] Id. at 49.

[50] TSN, 14 December 1992, p. 20.

[51] TSN, 27 October 1992, pp. 10-11.

[52] Id. at 11.

[53] Records, p. 369.

[54] Id. at 424.

[55] TSN, 14 December 1990, p. 80.

[56] TSN, 2 May 2001, pp. 28-29.

[57] Rollo, pp. 14-15; underlining supplied.

[58] TSN, 14 December 1992, pp. 34-35.

[59] Id. at 36.

[60] Records, p. 368.

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