

NORMA A. ABDULLA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. NO. 150129. April 06, 2005

Ponente: GARCIA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-150129/>

GARCIA, J.:

Convicted by the Sandiganbayan[1] in its Crim. Case No. 23261 of the crime of illegal use of public funds defined and penalized under Article 220 of the Revised Penal Code, or more commonly known as technical malversation, appellant Norma A. Abdulla is now before this Court on petition for review under Rule 45.

Along with Nenita Aguil and Mahmud Darkis, appellant was charged under an Information which pertinently reads:

That on or about November, 1989 or sometime prior or subsequent thereto, in Jolo, Sulu, Philippines and within the jurisdiction of this Honorable Court, the above-named accused: NORMA A. ABDULLA and NENITA P. AGUIL, both public officers, being then the President and cashier, respectively, of the Sulu State College, and as such by reason of their positions and duties are accountable for public funds under their administration, while in the performance of their functions, conspiring and confederating with MAHMUD I. DARKIS, also a public officer, being then the Administrative Officer V of the said school, did then and there willfully, unlawfully and feloniously, without lawful authority, apply for the payment of wages of casuals, the amount of FORTY THOUSAND PESOS (P40,000.00), Philippine Currency, which amount was appropriated for the payment of the salary differentials of secondary school teachers of the said school, to the damage and prejudice of public service.

CONTRARY TO LAW.

Appellant's co-accused, Nenita Aguil and Mahmud Darkis, were both acquitted. Only appellant was found guilty and sentenced by the Sandiganbayan in its decision[2] dated August 25, 2000 (promulgated on September 27, 2000), as follows:

WHEREFORE, premises considered, accused Mahmud Darkis and Nenita P. Aguil are hereby acquitted of the crime charged. The cash bond posted by each of the said accused for their provisional liberty are hereby ordered returned to each of them subject to the usual auditing and accounting procedures.

Accused Norma Abdulla is hereby convicted of the crime charged and is hereby meted a fine of three thousand pesos, pursuant to the second paragraph of Article 220 of the Revised Penal Code. She is further imposed the penalty of temporary special disqualification for a period of six (6) years. She shall also pay the costs of the suit.

SO ORDERED.

Upon motion for reconsideration, the Sandiganbayan amended appellant's sentence by deleting the temporary special disqualification imposed upon her, thus:

Premises considered, the decision of this Court dated August 25, 2000, is hereby amended to the effect that the penalty of temporary special disqualification for six (6) years is hereby cancelled and set aside. Hence, the last paragraph of said decision shall read as follows:

Accused Abdulla is hereby convicted of the crime charged and is hereby meted a fine of three thousand pesos, pursuant to the second paragraph of Article 220 of the Revised Penal Code. She shall also pay the costs of the suit.

SO ORDERED.[3]

Still dissatisfied, appellant, now before this Court, persistently pleas innocence of the crime charged.

The record shows that the prosecution dispensed with the presentation of testimonial evidence and instead opted to mark in evidence the following exhibits:

EXHIBITS

DESCRIPTION

"A"

Audit Report which is denominated as Memorandum of Commission on Audit, Region IX, Zamboanga City, from the Office of the Special Audit Team, COA, dated May 8, 1992, consisting of nine (9) pages;

"B"

Certified Xerox copy of a letter from the Department of Budget and Management through Secretary Guillermo N. Carague to the President of the Sulu State College dated October 30, 1989;

"C"

Certified copy of the DBM Advice of Allotment for the Year 1989;

"C-1"

The entry appearing in Exhibit "C" which reads: "Purpose - release partial funding for the conversion of 34 Secondary School Teacher positions to Instructor I items; Fund Source - lump-sum appropriation authorized on page 370 of RA 6688 and the current savings under personal services;"

"D"

Manifestation filed by accused Norma Abdulla herself dated November 24, 1997 consisting of two (2) pages appearing on pages 225 to 226 of the record;

"E"

Motion filed by the accused through Atty. Sandra Gopez dated February 9, 1998 found on pages 382-a and 382-b of the records of this case; and

"F"

Prosecution's Opposition to the motion marked as Exhibit "E" dated February 11, 1998, consisting of three (3) pages, appearing in pages 383 to 385 of the record.[4]

Thereafter, the prosecution immediately made its Formal Offer of Evidence, and, with the admission thereof by the court, rested its case.

The defense proceeded to adduce its evidence by presenting four (4) witnesses, namely, accused Mahmud Darkis, who was the Administrative Officer of Sulu State College, Jolo, Sulu; accused Nenita Aguil, the Cashier of the same College; appellant Norma Abdulla herself, who was the College President; and Gerardo Concepcion, Jr., Director IV and Head of the Department of Budget and Management, Regional Office No. 9, Zamboanga City.

The undisputed facts, as found by the Sandiganbayan itself:

The evidence on record xxx show that the request for the conversion of thirty-four (34) secondary school teachers to Instructor I items of the Sulu State College, through its former president, accused Abdulla, was approved by the Department of Budget and Management (DBM); that consequent to the approval of the said request, was the allotment by the DBM of the partial funding for the purpose of paying the salary differentials of the said thirty-four (34) secondary school teachers in the amount of forty thousand pesos (P40,000.00) sourced from the "lump sum appropriation authorized on page 370 of R.A. 6688 [should be page 396 of RA 6688 (General Appropriations Act January 1 - December 31, 1989)] and the current savings under personal services of said school (Exhibits `B,' `C' and `C-1;' Exhibit `18,' pp. 32-35; tsn, hearing of September 22, 1998, pp. 6 to 25 and 26); that out of the thirty-four (34) secondary school teachers, only the six (6) teachers were entitled and paid salary differentials amounting to P8,370.00, as the twenty-eight (28) teachers, who were occupying Teacher III positions, were no longer entitled to salary differentials as they were already receiving the same salary rate as Instructor I (Exhibit `A,' p. 4, par. 1; Exhibits `1' to `6,' inclusive; Exhibit `14-A;' tsn, hearing of September 22, 1998, pp. 6 to 8; tsn, hearing of September 23, 1998, pp. 10-11); and that the amount of P31,516.16, taken from the remaining balance of the P40,000.00 allotment, was used to pay the terminal leave benefits of the six (6) casuals (Exhibits `D' and `E;' Exhibits `7' to `12,' inclusive; tsn, hearing of September 22, 1998, pp. 13 and 34; tsn, hearing of September 23, 1998, p. 13).

Accused Abdulla was able to sufficiently justify the payment of the salary differentials of only six (6), out of the thirty-four (34) teachers, when she testified that out of the thirty-four (34) teachers, twenty-eight (28) were already holding the position of Secondary School Teacher III receiving the salary of Instructor I; and that the remaining six (6) were still holding Secondary Teacher II positions and therefore receiving a salary lower than that of Instructor I so they were paid salary differentials (tsn, hearing of September 23, 1998, pp. 8, 10 and 11). In fact, the notarized audit investigation report (Exhibit `A,' p. 4, 1st par.) and the Joint Resolution of the Office of the Ombudsman, Mindanao (Exhibit `14-a'), also point that said act of the accused is justified.

In this recourse, appellant questions the judgment of conviction rendered against her, claiming that the Sandiganbayan erred:

"I

XXX ON A QUESTION OF LAW IN INVOKING THE PRESUMPTION OF UNLAWFUL INTENT DESPITE EVIDENCE TO THE CONTRARY.

II

XXX ON A QUESTION OF LAW IN HOLDING THAT THE PROSECUTION WAS ABLE TO PROVE THAT PETITIONER COMMITTED TECHNICAL MALVERSATION UNDER ARTICLE 220 OF THE REVISED PENAL CODE".

The Court grants the appeal.

So precious to her is the constitutional right of presumption of innocence unless proven otherwise that appellant came all the way to this Court despite the fact that the sentence imposed upon her by the Sandiganbayan was

merely a fine of three thousand pesos, with no imprisonment at all. And recognizing the primacy of the right, this Court, where doubt exists, has invariably resolved it in favor of an accused.

In a judgment of acquittal in favor of two (2) accused charged of murder in *People vs. Abujan*,^[5] the Court wrote:

We are enraged by the shocking death suffered by the victim and we commiserate with her family. But with seeds of doubt planted in our minds by unexplained circumstances in this case, we are unable to accept the lower court's conclusion to convict appellants. We cannot in conscience accept the prosecution's evidence here as sufficient proof required to convict appellants of murder. Hence, here we must reckon with a dictum of the law, in *dubilis reus est absolendus*. All doubts must be resolved in favor of the accused. Nowhere is this rule more compelling than in a case involving the death penalty for a truly humanitarian Court would rather set ten guilty men free than send one innocent man to the death row. Perforce, we must declare both appellants not guilty and set them free.

Similarly, the Court had to acquit an accused charged of rape in *People vs. De Jesus*^[6] on ground of reasonable doubt, to wit:

With seeds of doubt planted in our minds by the conduct of proceedings on record, we are unable to accept the lower court's conclusion to convict appellant. His conviction is founded on the sole testimony of Agnes, but though a credible witness despite her mental retardation, she showed unnecessary dependence on her mother when identifying the father of her child. Maternal coaching taints her testimony. That her mother had to be ordered by the judge to go outside the courtroom impresses us as significant. We are unable to accept as sufficient the quantum of proof required to convict appellant of rape based on the alleged victim's sole testimony. Hence, here we must fall back on a truism of the law, in *dubilis reus est absolendus*. All doubts must be resolved in favor of the accused.

WHEREFORE, the assailed decision dated May 26, 2000, of the Regional Trial Court of Camiling, Tarlac, Branch 68, is REVERSED and SET ASIDE. Appellant RUBEN LUMIBAO is ACQUITTED of the charge of rape on reasonable doubt.

The Court's faithful adherence to the constitutional directive imposes upon it the imperative of closely scrutinizing the prosecution's evidence to assure itself that no innocent person is condemned and that conviction flows only from a moral certainty that guilt has been established by proof beyond reasonable doubt. In the words of *People vs. Pascua*^[7]:

Our findings in the case at bar should not create the mistaken impression that the testimonies of the prosecution witnesses should always be looked at with askance. What we are driving at is that every accused is presumed innocent at the onset of an indictment. But, it has often happened that at the commencement of a trial, people's minds, sometimes judges too, would have already passed sentence against the accused. An allegation, or even any testimony, that an act was done should never be hastily accepted as proof that it was really done. Proof must be closely examined under the lens of a judicial microscope and only proof beyond reasonable doubt must be allowed to convict. Here, that quantum of proof has not been satisfied.

We shall now assay appellant's guilt or innocence in the light of the foregoing crucibles.

In her first assigned error, appellant contends that the prosecution failed to adduce evidence to prove criminal intent on her part. When she raised this issue in her Motion for Reconsideration before the Sandiganbayan, that court, invoking Section 5 (b), Rule 131 of the Rules of Court, ruled in a Resolution^[8] promulgated on September 17, 2001, as follows:

Anent the allegation of the movant/accused that good faith is a valid defense in a prosecution for malversation as it would negate criminal intent on the part of the accused which the prosecution failed to prove, attention is invited to pertinent law and rulings of the Supreme Court on the matter.

Sec. 5(b) of the Rule 131, Rules of Court, provides, 'That an unlawful act was done with an unlawful intent.' Hence, *dolo* may be inferred from the unlawful act. In several cases (*Tria*, 17 Phil. 303; *Ballesteros*, 25 Phil. 634; *Sia Tioan*, 54 Phil. 52; *Cueto*, 38 Phil. 935; *Cubelo*, 106 Phil. 496), the Supreme Court ruled that 'When it has been proven that the appellants committed the unlawful acts alleged, it is properly presumed that they were committed with full knowledge and with criminal intent, 'and it is incumbent upon them to rebut such presumption.' Further, the same court also ruled that when the law plainly forbids an act to be done, and it is done by a person, the law implies the guilty intent, although the offender was honestly mistaken as to the meaning of the law which he had violated (*State vs. McBrayer*, 98 NIC 619; *Sing Cong Bieng and Co Kong*, 30 Phil. 577, 580; *Hermenigildo Bautista*, CA 40 O.G. 5[th] Supp. 139). If the act is criminal, then criminal intent is presumed (*Francisco y Martin*, CA 53 O.G. 1450).

In the case at bar, inasmuch as the prosecution had proved that a criminal act was committed by the accused under Article 220 of the Revised Penal Code, criminal intent was presumed. The accused did not present any evidence to prove that no such criminal intent was present when she committed the unlawful act of technical malversation. Hence, the presumption that the unlawful act of the accused was done with criminal intent had been satisfactorily proven by the prosecution (Sec. 5[b], Rule 131).

The Court must have to part ways with the Sandiganbayan in its reliance on Section 5 (b) of Rule 131 as basis for its imputation of criminal intent upon appellant.

For sure, the procedural rule relied upon does not apply at all to this case. Indeed, clear it is from its very language that the disputable presumption of the existence of unlawful or criminal intent presupposes the commission of an unlawful act. Thus, intent to kill is presumed when the victim dies because the act of killing clearly constitutes an unlawful act. In *People vs. Gemoya*,^[9] the Court held:

The intent to kill is likewise presumed from the fact of death, unless the accused proves by convincing evidence that any of the justifying circumstances in Article 11 or any of the exempting circumstances in Article 12, both of the Revised Penal Code, is present.

In fact, in a Resolution penned by Justice Romeo Callejo, Sr. in *People vs. Delim*, ^[10] the Court en banc categorically stated:

If the victim dies because of a deliberate act of the malefactor, intent to kill is conclusively presumed. (Emphasis supplied).

Similarly, intent to gain or *animus lucrandi* is presumed when one is found in possession of stolen goods precisely because the taking of another's property is an unlawful act. So it is that in *People vs. Reyes*,^[11] the Court held:

Accused-appellant's contention that the *animus lucrandi* was not sufficiently established by the prosecution is devoid of merit. *Animus lucrandi* or intent to gain is an internal act which can be established through the overt acts of the offender. Although proof of motive for the crime is essential when the evidence of the robbery is circumstantial, intent to gain or *animus lucrandi* may be presumed from the furtive taking of useful property pertaining to another, unless special circumstances reveal a different intent on the part of the perpetrator. The intent to gain may be presumed from the proven unlawful taking. In the case at bar, the act of taking the victim's wristwatch by one of the accused Cergontes while accused-appellant Reyes poked a knife behind him sufficiently gave rise to the presumption.

The presumption of criminal intent will not, however, automatically apply to all charges of technical malversation because disbursement of public funds for public use is per se not an unlawful act. Here, appellant cannot be said to have committed an unlawful act when she paid the obligation of the Sulu State College to its employees in the form of terminal leave benefits such employees were entitled to under existing civil service laws. Thus, in a similar case,^[12] the Court reversed a conviction for technical malversation of one who paid out the wages of

laborers:

There is no dispute that the money was spent for a public purpose - payment of the wages of laborers working on various projects in the municipality. It is pertinent to note the high priority which laborers' wages enjoy as claims against the employers' funds and resources.

In the absence of any presumption of unlawful intent, the burden of proving by competent evidence that appellant's act of paying the terminal leave benefits of employees of the Sulu State College was done with criminal intent rests upon the prosecution.

The Court notes the odd procedure which the prosecution took in discharging its undertaking to prove the guilt of appellant beyond reasonable doubt. As it is, the prosecution did not present any single witness at all, not even for the purpose of identifying and proving the authenticity of the documentary evidence on which it rested its case. The prosecution definitely failed to prove unlawful intent on the part of appellant.

Settled is the rule that conviction should rest on the strength of evidence of the prosecution and not on the weakness of the defense. The weakness of the defense does not relieve it of this responsibility. And when the prosecution fails to discharge its burden of establishing the guilt of an accused, an accused need not even offer evidence in his behalf. A judgment of conviction must rest on nothing less than moral certainty. It is thus required that every circumstance favoring his innocence must be duly taken into account. The proof against him must survive the test of reason and the strongest suspicion must not be permitted to sway judgment. There must be moral certainty in an unprejudiced mind that it was accused-appellant who committed the crime. Absent this required quantum of evidence would mean exoneration for accused-appellant.[13]

The Sandiganbayan's improper reliance on Sec. 5(b) of Rule 131 does not save the day for the prosecution's deficiency in proving the existence of criminal intent nor could it ever tilt the scale from the constitutional presumption of innocence to that of guilt. In the absence of criminal intent, this Court has no basis to affirm appellant's conviction.

x x x. This calls to mind the oft-repeated maxim 'Actus non facit reum, nisi mens sit rea,' which expounds a basic principle in criminal law that a crime is not committed if the mind of the person performing the act complained of be innocent. Thus, to constitute a crime, the act must, except in certain crimes made such by statute, be accompanied by a criminal intent. It is true that a presumption of criminal intent may arise from proof of the commission of a criminal act; and the general rule is that if it is proved that the accused committed the criminal act charged, it will be presumed that the act was done with criminal intention and that it is for the accused to rebut this presumption. But it must be borne in mind that the act from which such presumption springs must be a criminal act. In the case at bar, the act is not criminal. Neither can it be categorized as *malum prohibitum*, the mere commission of which makes the doer criminally liable even if he acted without evil intent.[14]

The second assigned error refers to the failure of the prosecution to prove the existence of all the essential elements of the crime of technical malversation defined in Article 220 of the Revised Penal Code, which are:

- "1. That the offender is a public officer;
- "2. That there is public fund or property under his administration;
- "3. That such public fund or property has been appropriated by law or ordinance;
- "4. That he applies the same to a public use other than that for which such fund or property has been appropriated by law or ordinance." [15]

Appellant contends that the prosecution was unable to prove the second and third elements of the crime charged.

[16] She argued that the public funds in question, having been established to form part of savings, had therefore ceased to be appropriated by law or ordinance for any specific purpose.

The Court finds merit in appellant's submission.

As found by the Sandiganbayan no less, the amount of forty thousand pesos (P40,000.00) originally intended to cover the salary differentials of thirty four (34) secondary school teachers whose employment status were converted to Instructor I, were sourced from the "lump sum appropriation" authorized on page 370 (should be page 396) of R.A. 6688 and the current savings under personal services of said school.[17]

The pertinent portions of RA 6688 are reproduced hereunder:

"K.2 Sulu State College

For general administration, administration of personnel benefits, salary standardization, higher education and secondary education services, including locally-funded project as indicated hereunder.....P 17,994,000

New Appropriations, by Function/Project

Current Operating
Expenditures

Personal
Services

Maintenance
and Other
Operating
Expenses

Capital Outlays

Total

A. Functions

1. General Administration
and Support Service

P1,605,000

P 1,196,000

P

P2,801,000

2. Administration of
Personnel Benefits

608,000

608,000

3. Salary Standardization

57,000

57,000

4. Higher Education Services

1,967,000

577,000

2,544,000

5. Secondary Education
Services

2,636,000

736,000

3,372,000

Total, Functions

6,873,000

2,509,000

9,382,000

B. Locally-Funded Project

1.

Acquisition and Improvements
of Lands, Construction,
Rehabilitation or Renovation
of Buildings and Structures,
and Acquisition of Equipment

8,612,000

8,612,000

Total New Appropriations,
Sulu State College

P6,873,000

P 2,509,000

P8,612,000

P17,994,000

xxx xxx xxx

New Appropriations, by Object of Expenditures
(In Thousand Pesos)

A. Functions/Locally-Funded Project

Current Operating Expenditures

Personal Services

Total Salaries of Permanent Personnel

4,148

Total Salaries and Wages of Contractual and Emergency Personnel

146

Total Salaries and Wages

4,294

Other Compensation

Honoraria and Commutable Allowances

185

Cost of Living Allowances

1,292

Employees Compensation Insurance Premiums

44

Pag-I.B.I.G. Contributions

35

Medicare Premiums

18

Merit Increases

20

Salary Standardization

37

Bonuses and Incentives

511

Others

437

Total Other Compensation

2,579

O1 Total Personal Services

6,873

The Court notes that there is no particular appropriation for salary differentials of secondary school teachers of the Sulu State College in RA 6688. The third element of the crime of technical malversation which requires that the public fund used should have been appropriated by law, is therefore absent. The authorization given by the Department of Budget and Management for the use of the forty thousand pesos (P40,000.00) allotment for payment of salary differentials of 34 secondary school teachers is not an ordinance or law contemplated in Article 220 of the Revised Penal Code.

The Court has unequivocally ruled in *Parungao vs. Sandiganbayan*[18] that in the absence of a law or ordinance appropriating the public fund allegedly technically malversed (in that case, the absence of any law or ordinance appropriating the CRBI fund for the concreting of Barangay Jalung Road), the use thereof for another public purpose (there, for the payment of wages of laborers working on projects other than the Barangay Jalung Road) will not make the accused guilty of violation of Article 220 of the Revised Penal Code.

Appellant herein, who used the remainder of the forty thousand pesos (P40,000.00) released by the DBM for salary differentials, for the payment of the terminal leave benefits of other school teachers of the Sulu State College, cannot be held guilty of technical malversation in the absence, as here, of any provision in RA 6688 specifically appropriating said amount for payment of salary differentials only. In fine, the third and fourth elements of the crime defined in Article 220 of the Revised Penal Code are lacking in this case. Acquittal is thus in order.

WHEREFORE, the petition is hereby GRANTED. Accordingly, the appealed decision and resolution of the Sandiganbayan in Criminal Case No. 23261 are REVERSED and SET ASIDE and appellant ACQUITTED of the crime charged against her. The cash bond posted by appellant for her provisional liberty, if any, is ordered returned to her subject to the usual auditing and accounting procedures.

SO ORDERED.

Panganiban, Sandoval-Gutierrez, Corona, and Carpio Morales, JJ., concur.

- [1] Fifth Division, Ma. Cristina Cortez-Estrada (ponente), Minita V. Chico-Nazario (now a member of this Court), and Anacleto D. Badoy, Jr., JJ.
- [2] Rollo, pp. 24-42
- [3] Resolution, p. 5, Rollo, p. 48.
- [4] Decision, pp. 3-4; Rollo, pp. 26-27.
- [5] G.R. No. 140870, February 11, 2004.
- [6] G.R. No. 144080-81, January 26, 2004
- [7] G.R. No. 82303, December 21, 1989.
- [8] Rollo, pp. 44-48
- [9] G.R. No. 132633, October 4, 2000.
- [10] G.R. No. 142773, January 28, 2003
- [11] G.R. No. 135682, March 26, 2003
- [12] Parungao vs. Sandiganbayan, G.R. No. 96025, May 15, 1991.
- [13] People vs. Ortillas, G.R. No. 137666, May 20, 2004.
- [14] Manzanaris vs. People, G.R. No. L-64750, January 30, 1984.
- [15] L.B. Reyes, The Revised Penal Code, Book II, 12th ed.
- [16] See Petition, p. 12. This should have been third and fourth instead of second and third.
- [17] See Decision, p. 14, Rollo, p. 37.
- [18] See note 12, Supra.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.