

**RAFAEL T. FLORES, HERMINIO C. ELIZON, ARNULFO S. SOLORIA,
PETITIONERS, VS. HON. LYDIA QUERUBIN LAYOSA, IN HER
CAPACITY AS JUDGE OF RTC, QUEZON CITY, BRANCH 217, BENIGNO
S. MONTE...**

G.R. No. 154714. August 12, 2004

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TINGA, J.:

Before the Court is a Petition for Review on Certiorari assailing the Decision[1] dated May 2, 2002 and the Resolution dated August 15, 2002 of the Sandiganbayan in SCA No. 009.[2]

On December 16, 1991, respondent Benigno Montera (Montera) of the Enforcement, Investigation and Prosecution Department of the National Food Authority (NFA) filed an affidavit-complaint with the Office of the Ombudsman, charging Judy Carol L. Dansal and Ronaldo Vallada, together with petitioners Rafael T. Flores, Herminio C. Elizon and Arnulfo S. Soloria, with Estafa through Falsification of Public Document.

After conducting a preliminary investigation, the Office of the Ombudsman filed an Information charging petitioners with the offense of Estafa through Falsification of Public Documents with the Regional Trial Court of Quezon City (RTC). The case was docketed as Criminal Case No. Q-96-66607 and raffled to Branch 217 of the RTC.

The Information reads:

The undersigned accuses JUDY CAROL L. DANSAL, Department Manager, RAFAEL T. FLORES, Asst. Department Manager, HERMINIO C. ELIZON, Division Chief III, ARNULFO S. SOLORIA, Security Officer, RONALDO VALLADA, Security Guard, all from the National Food Authority Central Office, Quezon City, of the Crime of Estafa thru Falsification of Public Document as defined and penalized under Article 315 in relation to Article 171 of the Revised Penal Code committed as follows:

That sometime in or about July 1991 in Quezon City, Philippines and within the jurisdiction of this Honorable Court, the above-named accused taking advantage of their respective official positions, conspiring, confederating and helping one another, did then and there willfully, unlawfully, and feloniously falsify the Daily Time Record of the said accused Ronaldo Vallada for the month of July 1991, by making entries therein to make it appear that Vallada reported for work as Security Guard at the National Food Authority, when in truth and in fact said accused very well knew that Vallada never reported for work for the month of July 1991 and with the use of said falsified Daily Time Record, accused were able to collect the corresponding salary of Vallada amounting to Two Thousand Two Hundred Forty-Four Pesos and Four Centavos (P2,244.04) which the accused willfully, unlawfully and feloniously appropriated and converted to their own use and benefit, to the damage and prejudice of NFA in said sum.

CONTRARY TO LAW.[3]

Subsequently, the prosecutors filed a motion to suspend the accused pendente lite.[4] Petitioners opposed the motion. On January 17, 2001, the RTC issued an Order suspending petitioners pendente lite for a period of ninety

(90)-days. The trial court held that Republic Act No. 3019 (R.A. No. 3019), otherwise known as the “Anti-Graft and Corrupt Practices Act,” mandates that a public official charged under a valid information for an offense under said Act or under Title 7, Book II of the Revised Penal Code or any offense involving fraud upon government or public funds or property shall be suspended from office while the criminal prosecution against him is pending in court.

Petitioners filed a Motion for Reconsideration of the January 17, 2001 Order but the same was denied by the RTC in another Order dated June 8, 2001.

Petitioners thereafter filed a Petition for Certiorari with the Sandiganbayan, alleging that the RTC erred in ordering their suspension pendente lite even though the crime charged in the Information is within the ambit of Section 13 of R.A. No. 3019.

On May 2, 2002, the Sandiganbayan promulgated its Decision dismissing the petition for lack of merit. It affirmed the trial court’s suspension pendente lite of the accused because the offense for which they are charged is included in the offenses referred to in Section 13, R.A. No. 3019. It further stated that the Information is valid because it sufficiently informs the accused that they are being charged for estafa through falsification of public document even though the word “fraud” or “deceit” is not used therein.[5]

Petitioners moved to reconsider the aforementioned decision but their motion was denied by the Sandiganbayan in a Resolution dated August 15, 2002.

Hence, the instant petition.

Petitioners contend that the Sandiganbayan erred in affirming their suspension pendente lite by the RTC since the offense for which they are charged does not fall under Section 13, R.A. No. 3019, and in ruling that the trial court’s order of suspension is valid although it was issued upon motion of a person who had no right to intervene in the criminal case.[6]

While petitioners concede that the Information sufficiently alleges the elements of the offense of falsification of public document, they assert that it does not contain an averment of fraud or deceit on their part. Hence, they claim that the Information does not charge them with estafa but only falsification of public document. Accordingly, they claim that their suspension from office during the pendency of Criminal Case No. Q-96-66607 is not warranted under Section 13, R.A. No. 3019.[7]

Petitioners further contend that the Sandiganbayan disregarded settled doctrines in criminal procedure[8] when it affirmed the RTC’s order suspending them pendente lite even though the motion for their suspension was filed not by the prosecutor but by the private complainant Montera.[9]

In their Comment, the People of the Philippines, through the Office of the Special Prosecutor, argue that the Information sufficiently alleges the elements of estafa through falsification of public document under Article 318 in relation to Article 171 of the Revised Penal Code.[10] According to the People, this complex crime is an “offense involving fraud upon government or public funds or property” under Section 13, R.A. 3019. Thus, the suspension pendente lite of petitioners is justified under the aforementioned provision.[11]

The People also point out that the other ground raised by petitioners in support of their position that the RTC’s order of suspension is invalid, i.e., that the order was issued upon motion of the private complainant, not the prosecutor was raised by them before the Sandiganbayan and cannot therefore be pleaded for the first time before this Court. In any case, the People explained that the filing by Montera of the first and second motions for petitioners’ suspension pendente lite was with the conformity of the public prosecutor.[12]

In reply, petitioners assert that the Information states that they are being charged with estafa under paragraph 1(b) of Article 315, not Article 318, of the Revised Penal Code. Hence, they maintain that the Information is invalid because it does not sufficiently allege the elements of estafa under paragraph 1(b), Article 315.[13]

The issues presented by the petitioner are (i) whether the offense charged in the information falls within the coverage of Section 13 of R.A. No. 3019, and (ii) whether the motion for suspension filed by the counsel for the government agency concerned in this case, with the conformity of the public prosecutor, sufficed to enable the lower court to issue the suspension order pursuant to Section 13 of R.A. No. 3019.

There is no merit in the petition.

Section 13 of R.A. No. 3019 provides:

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

It is settled that once a court determines that the information charging a public officer with an offense under R.A. No. 3019 or Title 7, Book II of the Revised Penal Code,[14] or any other offense involving fraud upon government or public funds or property is valid, it is bound to issue an order of preventive suspension of the accused public officer as a matter of course.[15]

The order of suspension *pendente lite*, while mandatory in nature, is by no means automatic or self-operative. Before such suspension is imposed, a determination as to the validity of the information must first be made in a pre-suspension hearing. There is no hard and fast rule as to the conduct of such hearing, as the Court has previously explained in several cases:

...No specific rules need be laid down for such pre-suspension hearing. Suffice it to state that the accused should be given a fair and adequate opportunity to challenge the validity of the criminal proceedings against him, e.g., that he has not been afforded the right of due preliminary investigation; that the acts for which he stands charged do not constitute a violation of the provisions of Republic Act 3019 or the bribery provisions of the Revised Penal Code which would warrant his mandatory suspension from office under Section 13 of the Act; or he may present a motion to quash the information on any of the grounds provided for in Rule 117 of the Rules of Court...

...

Likewise, he is accorded the right to challenge the propriety of his prosecution on the ground that the acts for which he is charged do not constitute a violation of Rep. Act 3019, or of the provisions on bribery of the Revised Penal Code, and the right to present a motion to quash the information on any other grounds provided in Rule 117 of the Rules of court.

However, a challenge to the validity of the criminal proceedings on the ground that the acts for which the accused is charged do not constitute a violation of the provisions of Rep. Act 3019, or of the provisions on bribery of the Revised Penal Code, should be treated only in the same manner as a challenge to the criminal proceeding by way of a motion to quash on the ground provided in Paragraph (a), Section 2 of Rule 117 of the Rules of Court, i.e., that the facts charged do not constitute an offense. In other words, a resolution of the challenge to the validity of the criminal proceeding, on such ground, should be limited to an inquiry whether

the facts alleged in the information, if hypothetically admitted, constitute the elements of an offense punishable under Rep. Act 3019 or the provisions on bribery of the Revised Penal Code (Emphasis supplied).[16]

It therefore suffices that the accused is afforded the opportunity of challenging the validity or regularity of the proceedings against him and that the information charging the accused of any of the offenses mentioned under Section 13, R.A. No. 3019 is found to be valid before the court suspends the accused *pendente lite*.

In the present case, the record shows that petitioners were given the chance to dispute the validity of the Information against them and the January 17, 2001 Order suspending them for ninety (90)-days while their case is pending when they opposed Montera's motion for their suspension.

More importantly, both the RTC and the Sandiganbayan found that the Information alleges the elements of the complex crime of estafa through falsification of public document and that the offense falls within the ambit of Section 13, R.A. No. 3019, thereby making their suspension *pendente lite* mandatory.

Parenthetically, it would seem that the averments in the Information allege the complex crime of estafa under paragraph 2(a),[17] Article 315, through falsification of public document. Under paragraph 2(a), the elements of estafa are as follows: (1) the accused uses a fictitious name, or falsely pretends to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or employs other similar deceits; (2) such false pretense, fraudulent act or fraudulent means must be made or executed prior to or simultaneously with the commission of the fraud; (c) the offended party must have relied on the false pretense, fraudulent act or fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means; and (d) as a result thereof, the offended party suffered damage.[18]

The Information against petitioners alleges that petitioners took advantage of their respective official positions and, conspiring with one another, falsified the daily time record (DTR) of accused Ronaldo Vallada for July 1991 to make it appear that he reported for work during that month when, in truth, he did not, and used the falsified DTR to collect Vallada's salary in the amount of P2,244.04 for July 1991, and thereafter appropriated and converted the said amount to the damage and prejudice of the National Food Authority (NFA). Petitioners' acts of falsifying Vallada's DTR prior to the collection of his salary for July 1991 from the NFA, using the same DTR to collect Vallada's salary, causing the NFA to release Vallada's salary on the basis of the falsified DTR and to suffer losses of P2,244.04 satisfy the elements of estafa under paragraph 2(a), Article 315.

Still, any error in the Information, with regard to the specification of the particular mode of estafa, allegedly committed by petitioners will not result in its invalidation because the allegations therein sufficiently inform petitioners that they are being charged with estafa through falsification of public document.

The Revised Rules of Criminal Procedure provides that an information shall be deemed sufficient if it states, among others, the designation of the offense given by the statute and the acts of omissions complained of as constituting the offense.[19] However, the Court has clarified in several cases that the designation of the offense, by making reference to the section or subsection of the statute punishing, it is not controlling; what actually determines the nature and character of the crime charged are the facts alleged in the information.[20] The Court's ruling in *U.S. v. Lim San*[21] is instructive:

...Notwithstanding the apparent contradiction between caption and body, we believe that we ought to say and hold that the characterization of the crime by the fiscal in the caption of the information is immaterial and purposeless, and that the facts stated in the body of the pleading must determine the crime of which the defendant stands charged and for which he must be tried. The establishment of this doctrine is permitted by the Code of Criminal Procedure, and is thoroughly in accord with common sense and with the requirements of plain justice....

From a legal point of view, and in a very real sense, it is of no concern to the accused what is the technical name of the crime of which he stands charged. It in no way aids him in a defense on the merits. Whatever its purpose may be, its result is to enable the accused to vex the court and embarrass the administration of justice by setting up the technical defense that the crime set forth in the body of the information and proved in the trial is not the crime characterized by the fiscal in the caption of the information. That to which his attention should be directed, and in which he, above all things else, should be most interested, are the facts alleged. The real question is not did he commit a crime given in the law some technical and specific name, but did he perform the acts alleged in the body of the information in the manner therein set forth. If he did, it is of no consequence to him, either as a matter of procedure or of substantive right, how the law denominates the crime which those acts constitute. The designation of the crime by name in the caption of the information from the facts alleged in the body of that pleading is a conclusion of law made by the fiscal. In the designation of the crime the accused never has a real interest until the trial has ended. For his full and complete defense he need not know the name of the crime at all. It is of no consequence whatever for the protection of his substantial rights. The real and important question to him is, "Did you perform the acts alleged in the manner alleged?" not, "Did you commit a crime named murder?" If he performed the acts alleged, in the manner, stated, the law determines what the name of the crime is and fixes the penalty therefore. It is the province of the court alone to say what the crime is or what it is named....[22]

Thus, notwithstanding the discrepancy between the mode of commission of the estafa as alleged in the Information (which states that petitioners committed estafa under Article 315), or as claimed by the People in their Comment (that petitioners committed estafa under Article 318) and the absence of the words "fraud" or "deceit" in the Information, the Court agrees with the Sandiganbayan and the RTC that the factual allegations therein sufficiently inform petitioners of the acts constituting their purported offense and satisfactorily allege the elements of estafa in general committed through the offense of falsification of public document.[23] As the Sandiganbayan correctly held:

Every element of which the offense is composed must be alleged in the complaint or information by making reference to the definition and the essentials of the specific crimes. This is so in order to fully apprise the accused of the charge against him and for him to suitably prepare his defense since he is presumed to have no independent knowledge of the facts that constitute the offense. It is not necessary, however, that the imputations be in the language of the statute. What is important is that the crime is described in intelligible and reasonable certainty.

Moreover, reasonable certainty in the statement of the crime suffices. All that is required is that the charge be set forth with such particularity as will reasonably indicate the exact offense of which the accused is alleged to have committed and will enable him to intelligently prepare his defense, and if found guilty, to plead her conviction in a subsequent prosecution for the same offense [Balitaan v. CFI of Batangas, 115 SCRA 729].

In other words, if the offense is stated in such a way that a person of ordinary intelligence may immediately know what is meant, and the court can decide the matter according to law, the inevitable conclusion is that the information is valid. It is not necessary to follow the language of the statute in the information. The information will be sufficient if it describes the crime defined by law.

In the case at bar, although the word "deceit" or "fraud" was not specifically alleged in the information, nonetheless, the same alleges the manner by which deceit or fraud was committed; that it was committed by falsifying the daily time record of accused Vallada; and that it was committed by using said falsified daily time record to collect the corresponding salary of Vallada to the damage and prejudice of the National Food Authority. To our mind these allegations are sufficient to maintain the validity of the information. The language is clear and explicit, and is equivalent to an allegation that the crime was committed with fraud or deceit. Thus, the inescapable conclusion is that the information is valid inasmuch as it sufficiently alleges the manner by which the deceit or fraud was committed. Verily the purpose of the law, that is, to apprise the accused of the nature of the

charge against them, is reasonably complied with.

Furthermore, the fraudulent intent of the accused can be gleaned from their act of using the falsified document to draw the salary of the accused Vallada. The accused would not have made use of the falsified document except and unless to defraud the government.

It must be noted that the crime for which the accused are charged is the complex crime of estafa through falsification of public document wherein the falsification of the public document is a necessary means to commit the estafa. In this type of crime, the offense of falsification is considered already consummated even before the falsified document is used to defraud another. The damage to another is not caused by the falsification of the document but by the use of the falsified document. Veritably, the information sufficiently alleges the crime charged. And inasmuch as the offense imputed falls within the ambit of Section 13 of R.A. No. 3019, as amended, suspension pendente lite of the accused should accordingly follow (Emphasis supplied).[24]

It bears stressing that the words “fraud” or “deceit” need not be used in an information for the allegations therein to sufficiently allege the offense of estafa. It is enough that acts constituting abuse of confidence or deceit, which are indispensable to estafa, are averred in the information in such a manner that would sufficiently apprise an accused that he is being charged with that offense. Whether the act involved constitutes “abuse of confidence” or “deceit” within the technical meaning of the terms as used in Article 315, it is inescapable that it falls within the common and generic signification[25] of “fraud” as used in Section 13 of R.A. No. 3019.

In any case, the information in question not only alleges the elements of estafa through falsification of public document with sufficiency, it also clearly states that petitioners are charged with having committed fraudulent acts involving government funds. Thus, whether on the face of the Information, the offense charged is estafa under paragraph 1(b),[26] or paragraph 2(a)[27] of Article 315, or under Article 318,[28] through falsification of public document, or even only falsification of public document, is of no consequence. For the purpose of resolving the propriety of petitioners’ suspension pendente lite, it is sufficient that the Information unequivocally recites that the offense charged involves fraud upon government or public funds or property.

Evidently erroneous is petitioners’ contention that the offense of falsification of public document alone, which according to them is what is charged in the Information, would not warrant their suspension pendente lite. The Information alleges that petitioners falsified Vallada’s DTR by making entries therein to make it appear that he reported for work at the NFA in July 1991 when, in truth and in fact, he did not. What was purportedly falsified is a DTR which the government agency, concerned here, as in other government agencies, had to use in determining the salary to be paid to the accused Ronaldo Vallada as its employee for the period covered thereby, as well as his earned leave credits.[29] The falsification of one’s DTR to cover up his absences or tardiness automatically results in financial losses to the government because it enables the employee concerned to be paid salary and to earn leave credits for services which were never rendered. Undeniably, the falsification of a DTR constitutes or foists a fraud involving government funds.

Now, the issue of whether the motion to suspend petitioners filed by Atty. Montera may validly trigger the assailed suspension order.

As the offense for which petitioners are charged clearly falls under Section 13, R.A. No. 3019, it follows that their suspension pendente lite is mandatory pursuant to the said law and pertinent jurisprudence. The trial court is left with no alternative but to order the suspension of the accused public official pendente lite upon being convinced that the information charges the accused with acts of fraud involving government funds. Its duty to order the suspension of the accused pendente lite is mandatory in character[30] and must be issued by the court regardless of whether the prosecution files a motion for the preventive suspension of the petitioners, or if the motion is filed

by the counsel of the government agency concerned, with or without the conformity of the public prosecutor. In fact, Section 13, R.A. 3019, as worded, allows the court to issue such suspension order *motu proprio*.

The Court in *Bolastig v. Sandiganbayan*[31] emphasized the mandatory nature of the preventive suspension required under Section 13 of R.A. No. 3019 in this wise:

[S]ection 13 of Republic Act No. 3019 makes it mandatory for the Sandiganbayan to suspend any public officer against whom a valid information charging violation of that law, Book II, Title 7 of the Revised Penal Code, or any offense involving fraud upon government or public funds or property is filed. The Court trying a case has neither discretion nor duty to determine whether or not a preventive suspension is required to prevent the accused from using his office to intimidate witnesses or frustrate his prosecution or continue committing malfeasance in office. The presumption is that unless the accused is suspended he may frustrate his prosecution or commit further acts of malfeasance or do both, in the same way that upon a finding that there is probable cause to believe that a crime has been committed and that the accused is probably guilty thereof, the law requires the judge to issue a warrant for the arrest of the accused. The law does not require the court to determine whether the accused is likely to escape or evade the jurisdiction of the court.[32]

Again, in *Socrates v. Sandiganbayan*,[33] the Court reiterated the doctrine that the preventive suspension under Section 13, R.A. No. 3019 is compulsory, thus:

...[I]t is evident that upon a proper determination of the validity of the information, it becomes mandatory for the court to immediately issue the suspension order. The rule on the matter is specific and categorical. It leaves no room for interpretation. It is not within the court's discretion to hold in abeyance the suspension of the accused officer on the pretext that the order denying the motion to quash is pending review before the appellate courts....

Once the information is found to be sufficient in form and substance, then the court must issue the order of suspension as a matter of course. There are no ifs and buts about it. This is because a preventive suspension is not a penalty. It is not imposed as a result of judicial proceedings. In fact, if acquitted, the official concerned shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension... . Taking into consideration the public policy involved in preventively suspending a public officer charged under a valid information, the protection of public interest will definitely have to prevail over the private interest of the accused.[34]

The obligatoriness of the task of the trial court and the inevitability of the suspension from office of the accused pending termination of the case under Section 13 of the Anti-Graft Law effectively settle the second issue and cogently eviscerate petitioners' negative position on the question.

WHEREFORE, the petition is DENIED for lack of merit. Costs against petitioners.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Penned by Justice Godofredo L. Legaspi and concurred in by Justices Edilberto G. Sandoval and Raoul V. Victorino.

[2] Rafael T. Flores, et al. v. Hon. Lydia Q. Layosa, in her capacity as the Presiding Judge of the Regional Trial Court of Quezon City, Branch 217, et al.

[3] Rollo, p. 19.

[4] This motion which was filed on July 25, 2000 was the second motion to suspend *pendente lite* filed by the prosecution. Prior thereto, petitioners filed a Motion to Quash the information on the ground that the delay in the termination of their preliminary investigation was violative of their rights to due process of law and to a speedy disposition of the case against them, but the same was denied by the Sandiganbayan. Petitioners thereafter filed a Petition for Certiorari with this Court but said petition was dismissed for lack of merit (see *Dansal v. Fernandez, Sr.*, G.R. No. 126814, March 2, 2000, 327 SCRA 145). The prosecution filed a motion to suspend the accused pending litigation but the motion was opposed by the accused who manifested before the RTC that they would be filing a motion for reconsideration of this Court's Decision in G.R. No. 126814. After their motion for reconsideration was denied by this Court, the prosecution filed the second motion to suspend accused *pendente lite* on July 25, 2000 (Petition, Id. at 14-15).

[5] Id. at 38-41.

[6] Id. at 17.

[7] Petition, id. at 20-26, Reply, id. at 112-122.

[8] Petitioners cited the cases of *Caes v. Intermediate Appellate Court*, G.R. Nos. 74989-90, November 6, 1989, 179 SCRA 54; *People v. Beriales*, G.R. No. L-39662, April 7, 1976, 70 SCRA 361; *Gorospe and Gorospe v. Gatmaitan*, 98 Phil. 600 [1956]; and *Tan v. Gallardo*, G.R. Nos. L-41213-14, October 5, 1976, 73 SCRA 306.

[9] Petition, id. at 28- 29, Reply, id. at 119-122.

[10] Rollo, p. 74.

[11] Id. at 74-79.

[12] Id. at 79-80.

[13] Reply, id. at 112-118.

[14] Title 7, Book II of the Revised Penal Code refers to crimes committed by public officers, including bribery, frauds against the public treasury and similar offenses and malversation.

[15] *Santiago v. Sandiganbayan*, G.R. No. 128055, April 18, 2001, 356 SCRA 636; *Segovia v. Sandiganbayan*, G.R. No. 124067, March 27, 1998, 288 SCRA 328; *Bayot v. Sandiganbayan*, G.R. Nos. L-61776 to 61861, March 23, 1984, 128 SCRA 383.

[16] *Santiago v. Sandiganbayan*, *supra* note 15, citing *Luciano v. Mariano*, G.R. No. L-32950, July 30, 1971, 40 SCRA 187; *People v. Albano*, G.R. Nos. L-45376-77, July 26, 1988, 163 SCRA 511.

[17] Estafa under paragraph 2(a), Article 315 is committed with deceit, i.e., by means of false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud; specifically, by using fictitious name, or falsely pretending to possess power, influence, qualifications, property, credit, agency, business or imaginary transactions, or by means of other similar deceits.

[18] See Reyes, Luis B., *Revised Penal Code Annotated*, Book Two (1998 Ed.), p. 763.

[19] Section 6, Rule 110, Revised Rules of Criminal Procedure.

[20] *Naya v. Abing*, G.R. No. 146770, February 27, 2003; *People v. Tan*, G.R. Nos. 116200-02, June 21, 2001, 359 SCRA 283; *People v. Banihit*, G.R. No. 132045, August 25, 2000, 339 SCRA 86; *People v. Diaz*, G.R. No. 130210, December 8, 1999, 320 SCRA 168; *People v. Juachon*, G.R. No. 111630, December 6, 1999, 319 SCRA 761; *People v. Salazar*, G.R. No. 99355, August 11, 1997, 277 SCRA 67; *People v. Sandoval*, G.R. Nos.

95353-54, March 7, 1996, 254 SCRA 436; *People v. Escosio*, G.R. No. 101742, March 25, 1993, 220 SCRA 475; *U.S. v. Lim San*, 17 Phil. 273 (1910).

[21] *Supra*, note 20.

[22] *Supra* note 20 at 278-279.

[23] The elements of estafa in general are: (a) the accused defrauded another by abuse of confidence, or by means of deceit; and (b) the offended party or a third party suffered damage or prejudice capable of pecuniary estimation. (*Santos v. Sandiganbayan*, G.R. Nos. 71523-25, 72420-22, 72384-86, 72387-39, December 8, 2000, 347 SCRA 386, citing *People v. Reyes*, G.R. Nos. 104739-44, 282 SCRA 105 (1997)). The elements of falsification of public document, on the other hand, are as follows: (a) the offender is a public officer, employee or notary public; (b) he takes advantage of his official position; (c) he falsifies a document by committing any of the acts mentioned in Article 171 of the Revised Penal Code (i.e., [1] Counterfeiting or imitating any handwriting, signature or rubric; [2] Causing it to appear that persons have participated in an act or proceeding when they did not in fact so participate; [3] Attributing to persons who have participated in an act or proceeding statements other than those in fact made by them; [4] Making untruthful statements in a narration of facts; [5] Altering true dates; [6] Making any alteration or intercalation in a genuine document which changes its meaning; [7] Issuing in authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or [8] Intercalating any instrument or note relative to the issuance thereof in a protocol, registry or official book).

[24] *Sandiganbayan Decision*, Rollo, pp. 40-41.

[25] “Fraud” is defined as an instance or an act of trickery or deceit especially when involving misrepresentation (*Webster’s Third New International Dictionary of the English Language*, 1993 Ed., p. 904). It is also defined as “An intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by concealment of that which should have been disclosed, which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Anything calculated to deceive, whether by a single act or combination, or by suppression of truth, or suggestion of what is false, whether it be by direct falsehood or innuendo, by speech or silent, word of mouth or look or gesture. . . A generic term, embracing all multifarious means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth, and includes all surprise, trick, dissembling, and any unfair way by which another is cheated. . . ‘Bad faith’ and ‘fraud’ are synonymous, and also synonyms of dishonesty, infidelity, faithlessness, perfidy, unfairness, etc.” (*Black’s Law Dictionary*, 1990 Ed. p. 660, citations omitted).

[26] Article 315.

1. With unfaithfulness or abuse of confidence, namely:

. . .

(b) by misappropriating or converting, to the prejudice of another, money, goods or any other personal property received by the offender in trust, or on commission, or for administration, or under any other obligation involving the duty to make delivery of, or to return the same, even though such obligation be totally or partially guaranteed by a bond; or by denying having received such money, goods, or other property;

[27] *Supra*, note 17.

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

[29] See Civil Service Commission (CSC) Memorandum Circular No. 41-98 (1998) which states, among others, that 24 days of actual service entitles a government employee to one day vacation leave and one day sick leave; and CSC Memorandum Circular No. 04-91 (1991) on habitual or frequent absenteeism and tardiness which penalizes the act of covering up for one's absences or tardiness by falsifying one's DTR.

[30] *Santiago v. Sandiganbayan*, supra, note 15, *Socrates v. Sandiganbayan*, G.R. Nos. 116259-60, 118896-97, February 20, 1996, 253 SCRA 773; *Bolastig v. Sandiganbayan*, G.R. No.110503, August 4, 1994, 235 SCRA 103.

[31] G.R. No. 110503, August 4, 1994, 235 SCRA 103.

[32] *Id.* at 108.

[33] G.R. Nos. 116259-60, 118896-97, February 20, 1996, 253 SCRA 773.

[34] *Id.* at 796-797.

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