GUILLERMO E. CUA, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 166847. November 16, 2011

Ponente: MENDOZA, J.

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MENDOZA, J.:

In this petition for review, Guillermo E. Cua (petitioner) questions the June 8, 2004 Decision[1] and January 13, 2005 Resolution[2] of the Court of Appeals (CA) in CA-G.R. CR. No. 24608, which affirmed with modification the September 21, 1999 Decision[3] of the Regional Trial Court, Branch 72, Olongapo City (RTC), in Criminal Case No. 84-96, finding him guilty of the crime of malversation of public funds. The Information indicting the petitioner reads:

> That on or about the 29th day of June, 1994 or on dates prior thereto, in Olongapo City and within the jurisdiction of this Honorable Court, the above-named accused, being then an accountable officer for public funds as Revenue Collection Agent of Bureau of Internal Revenue, Revenue Region No. 4, Olongapo City, and having received tax collections in the total amount of P340,950.37 for the months of January to June 1994, did then and there willfully, unlawfully and feloniously, appropriate, take or misappropriate a portion of said tax collections in the amount of P291,783.00 for his own personal use and benefit and despite demand made on him by the Commission on Audit, Regional Office No. III, San Fernando Pampanga, to pay or return the said amount, the said accused refused and failed and still refuses and fails to pay or return the said amount of P291,793.00, to the damage and prejudice of the government.
>
> CONTRARY TO LAW.[4]

The Facts

On June 29, 1994, a regular audit was conducted on the cash account and accountable forms of petitioner, then a Revenue Collection Agent of the Bureau of Internal Revenue (BIR) in Olongapo City.[5]

Remedios Soto (Soto), resident Auditor of the BIR in San Fernando, Pampanga, assigned two of her staff members, Alfredo Malonzo (Malonzo) and Virginia Santos (Santos),[6] to examine the cash account inventory of accountable forms, cash book and transactions of petitioner from December 2, 1993 to June 29, 1994.[7]

The initial findings of said audit, based on the documents and cash produced by petitioner, revealed no cash shortage on his account. The accountable forms consisting of Revenue Official Receipts and the documentary stamps were complete and intact. Based on petitioner's cash book, all his collections were remitted to the Philippine National Bank (PNB).[8] The total amount of P340,950.37, for which petitioner was accountable,[9] appeared to have been deposited at the PNB, Olongapo City Branch, as evidenced by the deposit slips and official receipts issued by the PNB, which were attached to the record kept by petitioner.[10]

As part of the examination process, however, a confirmation from the government depository bank is required to verify the initial audit.[11] Thus, on July 14, 1994, Soto sent a letter[12] to the depository bank, PNB, requesting confirmation or verification of the authenticity of the official receipts and deposit slips attached to the collection

reports of petitioner.[13]

In a reply dated August 24, 1994, PNB returned the letter-request with a notation that the amounts stated in three of the official receipts did not tally with their records, that the official receipt numbers should be specified to facilitate verification of the other deposit slips, and that petitioner had not made any deposit from June 8 to 27, 1994.[14]

Soto proceeded to the PNB to discuss the matter with Florida Francisco (Francisco), the State Auditor assigned at the Olongapo City Branch, who checked and verified the official receipts and deposit slips presented by petitioner.[15]

In his Letter-reply[16] dated February 17, 1994, addressed to Soto, Felixberto De Guzman (De Guzman), Department Manager of the PNB Olongapo City Branch, detailed the discrepancies in the amounts stated in the actual receipts in the possession of the PNB and the amounts stated in the receipts as reported by petitioner as follows:

> Please take note of the following discrepancies on the amount of the actual receipts and the amount of receipts as reported:
>
> PNB OR NO.
>
> DATE
>
> AMOUNT REPORTED
>
> AMOUNT OF ACTUAL RECEIPT
>
> 977793
>
> 1/13/94
>
> P163,674.87
>
> P12,574.87
>
> 975653
>
> 2/04/94
>
> 31,407.00
>
> 3,183.00
>
> 976408
>
> 3/30/94
>
> 25,120.00
>
> 6,075.00
>
> I further certify the authenticity of deposit slip with deposit number 94-4 dated May 31, 1994 in the amount of P10,929.50. However, the rest of the deposit slips reported were not actually transacted in this office and are considered void, as follows:
>
> DEPOSIT SLIP
>
> AMOUNT

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DATE

Deposit Slip No. 94-5

P25,304.00

6/8/94

Deposit Slip No. 94-6

33,305.00

6/10/94

Deposit Slip No. 94-7

18,282.00

6/16/94

Deposit Slip No. 94-8

13,801.00

6/24/94

Deposit Slip No. 94-9

2,772.00

6/27/94

Soto prepared a letter of demand[17] dated August 23, 1994, which contained a summary of the discrepancies as noted by the PNB, and disclosed that petitioner had incurred a cash shortage amounting to P291,783.00.[18] Soto then requested petitioner to come to her office to personally receive the demand letter.[19]

Petitioner then wrote a reply letter[20] dated August 23, 1994, addressed to the resident auditor, admitting his cash shortage purportedly to get even with the BIR which failed to promote him but promised to pay the amount as soon as possible.[21]

Thereafter, a special arrangement was made between the BIR and petitioner, wherein the BIR would withhold the salary of petitioner and apply the same to the shortage incurred until full payment of the accountability was made.[22]

Notwithstanding, the Information dated March 6, 1996, was filed against petitioner before the RTC. Upon arraignment on August 9, 1996, petitioner pleaded not guilty.

The Ruling of the RTC

During trial, the prosecution presented Soto, Santos, Francisco, and Dolores Robles[23] as its witnesses. Petitioner, on the other hand, did not take the witness stand, and opted instead to submit documentary evidence showing that he had paid for the shortage by means of deductions from his salary in the total amount of P291,783.00.[24]

Giving credence to the evidence of the prosecution, and finding that payment of the amount malversed was not a defense, the RTC convicted petitioner as charged. It did, however, consider restitution of the malversed amount as a mitigating circumstance. The dispositive portion of the RTC Decision dated September 21, 1999, reads:

> WHEREFORE, in view of the foregoing considerations, the Court finds the accused Guillermo Cua guilty beyond reasonable doubt of the crime of Violation of Article 217 of the Revised Penal Code for Malversation of Public Funds and hereby sentences him to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE (1) DAY to TWENTY (20) YEARS of Reclusion Temporal and to suffer perpetual special disqualification to hold public office.
>
> SO ORDERED.[25]

The Ruling of the CA

On appeal to the CA, petitioner argued that the special arrangement with the BIR was synonymous to an absolution of his criminal liability, and the State had, in effect, pardoned him. The CA, however, held that restitution only extinguished petitioner's civil liability but not his criminal liability. It, thus, agreed with the RTC in finding that petitioner's guilt was proven beyond a reasonable doubt. Nonetheless, the CA found that the RTC failed to apply the Indeterminate Sentence Law and to impose the corresponding fine as provided in Article 217 of the Revised Penal Code, and thus, modified the penalty accordingly. The dispositive portion of the assailed CA Decision dated June 8, 2004, is as follows:

> WHEREFORE, premises considered, the instant appeal is DENIED. However, the 21 September 1999 Decision of the Regional Trial Court of Olongapo City, Branch 72 is accordingly MODIFIED in that accused-appellant Guillermo E. Cua is hereby sentenced to suffer an indeterminate sentence of ten (10) years and one (1) day as minimum to seventeen (17) years, four (4) months and one (1) day as maximum and to pay a fine of Two Hundred Ninety One Thousand Seven Hundred Eighty Three Pesos (P291,783.00).
>
> SO ORDERED.[26]

After his motion for reconsideration was denied, petitioner filed this petition for review.

Issue

Petitioner raises the sole issue of:

> WHETHER OR NOT THE PROSECUTION PROVED THE GUILT OF THE ACCUSED BEYOND REASONABLE DOUBT.

Petitioner argued that the CA failed to sift, evaluate, and properly weigh the evidence adduced by the prosecution. Had it done so, he posited that the CA could have established that (a) there is not a single iota of evidence to sustain the charge of malversation of public funds against petitioner; and (b) the prosecution itself, admitted, by its own evidence, that the petitioner remitted to the PNB for deposit the alleged shortage.

Petitioner averred that the prosecution admitted the authenticity of the PNB official receipts, deposit slips, and remittance advices which petitioner submitted for audit, when it offered them in its formal offer of evidence "to prove that petitioner collected the said amounts and deposited the same to the PNB Olongapo Branch." Furthermore, he pointed out that De Guzman contradicted himself when he enumerated the discrepancies because he had actually confirmed the authenticity of the aforementioned PNB documents in his letter-reply to the BIR dated November 17, 1994, which stated that he was "confirming the authenticity" of the said documents.

Petitioner, thus, contended that he did, in fact, deposit the full amount of his accountability. He attributed the discrepancy between the amounts he deposited and the amounts actually received by the PNB to an irregularity within the PNB. He suggested that the bank teller might not have reported to the bank the entire amounts received from him.

Petitioner goes on to highlight that all the deposit slips were stamped “RECEIVED/DEPOSITED CASH DIVISION PNB-OLONGAPO.” He noted that De Guzman, the PNB employee who prepared the PNB letter outlining the discrepancies, was not called to the stand by the prosecution to testify. He argued that Francisco, who noted the said letter, was not competent to testify on it as she was not the one who prepared it.

Petitioner also contended that adding all the amounts in the official receipts and deposit slips, his total accountability is only P332,961.37, and notP340,950.37. Thus, the BIR overcalculated his total accountability by P7,989.00.

Finally, petitioner claimed that the settlement of the shortage was forced upon him by the Commission on Audit (COA), and not a voluntary arrangement. He averred that Soto requested the BIR to withhold his salary and apply the same to the shortage, without his consent.

The Ruling of the Court

The Court finds petitioner’s arguments to be devoid of merit.

At the outset, it should be stressed that in a petition for review under Rule 45 of the Rules of Court, only questions of law may be raised. Thus, questions of fact are not reviewable. It is not the Court’s function to analyze or weigh all over again the evidence already considered in the proceedings below, its jurisdiction being limited to reviewing only errors of law that may have been committed by the lower court. As such, a question of law must not involve an examination of the probative value of the evidence presented by the litigants. The resolution of factual issues is the function of lower courts, whose findings on these matters are accorded respect.[27]

A question of law exists when the doubt centers on what the law is on a certain set of facts. A question of fact exists when the doubt centers on the truth or falsity of the alleged facts. There is a question of law if the issue raised is capable of being resolved without need of reviewing the probative value of the evidence. Thus, the issue to be resolved must be limited to determining what the law is on a certain set of facts. Once the issue invites a review of the evidence, the question posed is one of fact.[28]

Petitioner raises the sole issue that the prosecution failed to establish his guilt beyond reasonable doubt on the ground that the evidence shows that he did not incur a shortage of ?291,783.00. He argues that as an exception to the rule that factual findings and conclusions of the CA are binding on this Court, the CA plainly overlooked certain facts of substance and value which, if considered, would alter the result of the case.

The Court disagrees.

The resolution of the issue raised by petitioner necessarily requires the re-evaluation of the evidence presented by both parties. This is precisely a question of fact proscribed under Rule 45. Petitioner has failed to establish that the present case falls under any of the exceptions[29] to said rule. On the other hand, the factual findings of the RTC were affirmed by the CA, and as such, are final and conclusive and may not be reviewed on appeal. On this ground alone, the petition must be denied.

Nonetheless, even granting that the present case falls under one of the exceptions, the petition should still be denied.

Malversation is defined and penalized under Article 217 of the Revised Penal Code, to wit:

> Art. 217. Malversation of public funds or property. Presumption of malversation. - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the

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misappropriation or malversation of such funds or property, shall suffer:

1. The penalty of prision correccional in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed two hundred pesos.

2. The penalty of prision mayor in its minimum and medium periods, if the amount involved is more than two hundred pesos but does not exceed six thousand pesos.

3. The penalty of prision mayor in its maximum period to reclusion temporal in its minimum period, if the amount involved is more than six thousand pesos but is less than twelve thousand pesos.

4. The penalty of reclusion temporal in its medium and maximum periods, if the amount involved is more than twelve thousand pesos but is less than twenty-two thousand pesos. If the amount exceeds the latter, the penalty shall be reclusion temporal in its maximum period to reclusion perpetua.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public fund or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal uses.

The elements of the crime of malversation of public funds are, thus:

1. that the offender is a public officer;

2. that he had the custody or control of funds or property by reason of the duties of his office;

3. that those funds or property were public funds or property for which he was accountable; and

4. that he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.[30]

In the present case, all the elements are present and have been proven by the prosecution.

With respect to the first three elements, it has been established that petitioner was a revenue collection agent of the BIR.[31] He was a public officer who had custody of public funds for which he was accountable.

Anent the fourth element, such was established when the PNB confirmed that there was a discrepancy in the amounts actually received by the PNB and the amounts stated in the receipts reported by petitioner.

Petitioner, however, disputes this finding.

Firstly, petitioner argues that the prosecution admitted the authenticity of the PNB documents he submitted for audit, when it offered such in its formal offer of evidence “to prove that petitioner collected the said amounts and deposited the same to the PNB Olongapo Branch.”

Petitioner is mistaken.

A cursory reading of the prosecution’s formal offer of evidence[32] reveals that the PNB documents were not offered to prove that petitioner “deposited” the stated amounts, but rather that petitioner “presented”[33] the PNB documents to the COA Auditor to show that he collected and deposited the amounts stated therein.

Secondly, petitioner argues that the PNB, thru De Guzman’s letter dated November 17, 1994, actually confirmed the authenticity of the official receipts, deposit slips and remittance advices which petitioner submitted for audit. To support his claim, petitioner harps on the following statement in the letter: “confirming the authenticity of your

attached certified xerox copies of PNB Official Receipts, deposit slips and remittance invoices found as attachments in the collection reports of Mr. Guillermo E. Cua."[34]

The Court is not persuaded.

A review of the said letter will reveal that the above-quoted statement was taken out of context by petitioner. The phrase relied upon was not a confirmation by the PNB that the submitted documents were authentic, but was a mere reference to the letter of Soto requesting the PNB to confirm the authenticity of said documents. In fact, the letter precisely enumerates discrepancies and inauthentic documents in the papers which were submitted to the PNB for confirmation.

For clarity, this correspondence is reproduced hereunder as follows:

> November 10, 1994
>
> The Manager
> Philippine National Bank
> Olongapo City
>
> Thru: The Branch Auditor
> Commission on Audit
> PNB, Olongapo City
>
> S i r:
>
> We are currently in the process of finalizing our cash examination report on the cash and accounts of Mr. Guillermo E. Cua, Revenue Collection Agent of BIR, Olongapo City.
>
> In consonance with the reporting requirements of the COA Regonal Office III, San Fernando, Pampanga, please confirm the authenticity of the attached certified xerox copies of PNB Official Receipts, deposit slips and remittance advices found as attachments in the collection reports of Mr. Guillermo E. Cua, as follows:
>
> PNB OR No./Deposit Slip
>
> Amount
>
> Date
>
> 977793
>
> P163,674.87
>
> 1/13/94
>
> 975653
>
> 31,407.00
>
> 2/4/94
>
> 976408
>
> 25,120.00
>
> 3/30/94
>
> Deposit Slip No. 94-4

10,929.50

5/31/94

Deposit Slip No. 94-5

25,304.00

6/8/94

Deposit Slip No. 94-6

33,305.00

6/10/94

Deposit Slip No. 94-7

18,282.00

6/16/94

Deposit Slip No. 94-8

13,801.00

6/24/94

Deposit Slip No. 94-9

2,772.00

6/27/94

For this purpose, may we request your good office to issue a certification stating whether or not the above PNB OR Nos./Deposit Slips together with their attachments (i.e. Remittance Advices or Inter-Office Savings Deposit Slip) were issued or stamped "RECEIVED" by any one of your authorized bank personnel.

Your early action hereon is earnestly requested.

Very truly yours,

REMEDIOS P. SOLO
State Auditor IV[35]

November 17, 1994

MS. REMEDIOS P. SOTO
State Auditor IV
Bureau of Internal Revenue
Regional Office No. IV
San Fernando, Pampanga

This is in response to your letter dated November 10, 1994 confirming the authenticity of your attached certified xerox copies of PNB Official Receipts, deposit slips and remittance invoices found as attachments in the collection reports of Mr. Guillermo E. Cua. (Emphasis supplied)

Please take note of the following discrepancies on the amount of the actual receipts and the amount of receipts as reported:

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PNB OR NO.

DATE

AMOUNT REPORTED

AMOUNT OF ACTUAL RECEIPT

977793

1/13/94

P163,674.87

P12,574.87

975653

2/04/94

31,407.00

3,183.00

976408

3/30/94

25,120.00

6,075.00

I further certify the authenticity of deposit slip with deposit number 94-4 dated May 31, 1994 in the amount of ?10,929.50. However, the rest of the deposit slips reported were not actually transacted in this office and are considered void, as follows:

DEPOSIT SLIP

AMOUNT

DATE

Deposit Slip No. 94-5

P25,304.00

6/8/94

Deposit Slip No. 94-6

33,305.00

6/10/94

Deposit Slip No. 94-7

18,282.00

6/16/94

Deposit Slip No. 94-8

13,801.00

6/24/94

Deposit Slip No. 94-9

2,772.00

6/27/94

Attached herewith are the certified xerox copies of PNB Official Receipts, Remittance Advice and Deposit slips actually issued/received by this office.

This certification is being issued for whatever legal purposes it may serve.

Thank you.

Very truly yours,

(sgd)
FELIXBERTO D. DE GUZMAN
Department Manager III

NOTED BY:

(sgd)
FLORIDA F. FRANCISCO
State Auditor III[36]

Petitioner, nevertheless, attempted to attribute the discrepancy to an irregularity internal to the PNB. He, however, failed to prove this allegation. More importantly, he acknowledged the discrepancy in his reply to the demand letter of Soto, where he admitted taking from his daily collections in retaliation for not being promoted, and even promised to pay back the amount taken. Said reply[37] is reproduced hereunder as follows:

August 23, 1994

The Resident Auditor
COA – BIR IV
Revenue Region No. IV
San Fernando, Pampanga

M a d a m:

This is to acknowledge receipt of your demand letter dated August 23, 1994 regarding the examination of my cash and accounts as Revenue Collection Officer of Olongapo City in which the shortage of P294,516.00 was discovered.

I am a very frustrated Collection Officer. Since November 1985 to date, I have not been promoted to a higher position in the Bureau. Prior to the Standardization Law, I was already holding the item of a Revenue Collector II. But instead of being promoted, I received the item of a Revenue Officer I when the Standardization Law was implemented. As Collection Officer of Olongapo City, I practically collected the main bulk of the Revenue collection of the district. I don't know who are to be blamed for the oversight of my efforts. I remained stagnant as Revenue Officer I. What is very disheartening is the fact that my Clerks and other Clerks who handle practically no accountability have been promoted and are now equal to my position receiving the same salary as I do. Perhaps, to get even, I slowly dipped my fingers into my daily collections. I know that this is wrong.

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I have no intention of leaving the country and I promise to pay the amount of P294,516.00 as soon as possible.

Very truly yours,

(sgd)
GUILLERMO E. CUA
(Emphases supplied)

Petitioner did not object to or deny the said letter during trial, and chose to remain silent on the matter.

This Court has held that to justify conviction for malversation of public funds or property, the prosecution has only to prove that the accused received public funds or property and that he could not account for them, or did not have them in his possession and could not give a reasonable excuse for their disappearance. An accountable public officer may be convicted of malversation even if there is no direct evidence of misappropriation, and the only evidence is that there is a shortage in his accounts which he has not been able to satisfactorily explain.[38]

In the present case, considering that the shortage was duly proven by the prosecution, petitioner's retaliation against the BIR for not promoting him clearly does not constitute a satisfactory or reasonable explanation for his failure to account for the missing amount.

Petitioner argues that Francisco, who noted the PNB letter prepared by De Guzman outlining the discrepancies in the documents, was not competent to testify on such, as she was not the one who prepared it.

This argument cannot prosper.

The objection against the admission of any evidence must be made at the proper time, as soon as the grounds therefor become reasonably apparent, and if not so made, it will be understood to have been waived.[39] Furthermore, only matters raised in the initial proceedings may be taken up by a party thereto on appeal.[40] In the present case, petitioner failed to object to the admission of the said letter during trial, and only raised it for the first time on appeal. Even if the said letter was inadmissible, petitioner had already admitted his shortage in his letter[41] dated August 23, 1994, which acknowledged receipt of Soto's demand letter and contained his promise to pay.

Petitioner also contends that the BIR overcalculated his total accountability by P7,989.00, hence, his total accountability is only P332,961.37, and not P340,950.37.

This argument cannot succeed.

This is a question of fact not reviewable by this Court. The factual finding of the RTC of petitioner's total accountability in the amount of P340,950.37 was affirmed by the CA, and is again being raised for the first time on appeal. Furthermore, petitioner has already previously admitted his shortage in the amount of P291,783.00, which he, in fact, acknowledged and paid.

Petitioner avers that Soto requested the BIR to withhold his salary and apply the same to the shortage without his consent.

This argument must again fail.

Firstly, this contention is belied by the BIR letter[42] dated July 9, 1998, addressed to petitioner which was in reply to his letter dated July 3, 1998, requesting the BIR to apply his withheld salaries against his shortage in collection. Hence, such application was not without his consent because petitioner himself requested that his salaries be applied against his shortage. Secondly, petitioner precisely raised the payment of his shortage as a defense in the proceedings before the RTC and the CA. Lastly and most importantly, even granting that such

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payment was indeed involuntary, such would not extinguish his criminal liability.

The Court notes with dismay that petitioner has adopted two conflicting theories in his defense. In fact, all of petitioner's arguments before this Court are being raised for the first time on appeal. Under the proceedings in the RTC and the CA, petitioner admitted having incurred a cash shortage but claimed his criminal liability was extinguished by his payment of the same.[43] Before this Court, however, petitioner argues that he is not criminally liable because the PNB confirmed the authenticity of the pertinent documents, and adds that his payment of the shortage was involuntary and without his consent. Petitioner's reliance on these diametrically opposed defenses renders his present arguments all the more unbelievable and unavailing. This cannot be countenanced, as to do so would make a mockery of established precepts in criminal jurisprudence.[44]

Considering that the factual findings of the RTC, as affirmed by the CA, were supported by the evidence on record, all the elements of the crime of malversation of public funds were thus duly proven beyond reasonable doubt.

WHEREFORE, the petition is DENIED. The June 8, 2004 Decision and January 13, 2005 Resolution of the Court of Appeals in CA-G.R. CR. NO. 24608 are AFFIRMED.

SO ORDERED.

Velasco, Jr., (Chairperson), Peralta, Abad, and Perez,[*] JJ., cocnur.

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[*] Designated as additional member in lieu of Associate Justice Estela M. Perlas-Bernabe, per Special Order No. 1152 dated November 11, 2011.

[1] Rollo, pp. 59-67. Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justice Cancio C. Garcia and Associate Justice Lucas P. Bersamin (now a member of this Court), concurring.

[2] Rollo, p. 68. Penned by Associate Justice Andres B. Reyes, Jr., with Associate Justice Salvador J. Valdez, Jr. and Associate Justice Lucas P. Bersamin (now a member of this Court), concurring.

[3] Records, pp. 253-260.

[4] Id. at 2.

[5] TSN, December 13, 1996, p. 8.

[6] Id.

[7] TSN, March 17, 1997, p. 5; TSN, June 2, 1997, p. 7.

[8] TSN, June 2, 1997, p. 10.

[9] Exhibit "A," records, p. 142.

[10] TSN, December 13, 1996, p. 13.

[11] Id. at 13-14.

[12] Exhibit "G," records, p. 174.

[13] TSN, February 7, 1997, p. 9; TSN, June 2, 1997, p. 11.

[14] Exhibit "C," records, pp. 167-168.

[15] TSN, February 7, 1997, p. 12; TSN, October 13, 1997, p. 6.

[16] Exhibits “F” and “F-1,” records, pp. 172-173.

[17] Exhibits “D” and “D-1,” id. at 169-170.

[18] The amount of ?2,733.00 which was then pending confirmation, was later deducted from the original shortage amount of ?294,516.00.

[19] TSN, February 7, 1997, pp. 15-18.

[20] Exhibit “E,” records, p. 171.

[21] TSN, February 7, 1997, pp. 23-24.

[22] Exhibit “1,” records, p. 209.

[23] Former Accountant of PNB Olongapo City Branch.

[24] Records, p. 260.

[25] Id.

[26] Rollo, pp. 66-67.

[27] Vallacar Transit, Inc. v. Catubig, G.R. No. 175512, May 30, 2011.

[28] Villamar v. People, G.R. No. 178652, December 8, 2010, 637 SCRA 584, 590; citing Pagsibigan v. People, G.R. No. 163868, June 4, 2009, 588 SCRA 249.

[29] Id. at 591; citing Pagsibigan v. People, G.R. No. 163868, June 4, 2009, 588 SCRA 249. – The findings of fact of the Court of Appeals are generally conclusive but may be reviewed when: (1) the factual findings of the Court of Appeals and the trial court are contradictory; (2) the findings are grounded entirely on speculation, surmises or conjectures; (3) the inference made by the Court of Appeals from its findings of fact is manifestly mistaken, absurd or impossible; (4) there is grave abuse of discretion in the appreciation of facts; (5) the appellate court, in making its findings, goes beyond the issues of the case and such findings are contrary to the admissions of both appellant and appellee; (6) the judgment of the Court of Appeals is premised on a misapprehension of facts; (7) the Court of Appeals fails to notice certain relevant facts which, if properly considered, will justify a different conclusion; and (8) the findings of fact of the Court of Appeals are contrary to those of the trial court or are mere conclusions without citation of specific evidence, or where the facts set forth by the petitioner are not disputed by respondent, or where the findings of fact of the Court of Appeals are premised on the absence of evidence but are contradicted by the evidence on record.

[30] Tubola, Jr. v. Sandingabayan, G.R. No. 154042, April 11, 2011.

[31] TSN, December 13, 1996, p. 8.

[32] Records, pp. 137-141.

[33] “To prove that the accused presented this PNB receipt to COA auditor Virginia Santos showing that he collected the amount of PXXX and deposited the same to PNB, Olongapo branch; as part of the testimony of Virginia Santos and Remedios Soto.”

“To prove that accused presented this deposit slip number to COA auditor Vriginia Santos showing he deposited the amount of PXXXwith PNB, Olongapo branch.”

"To prove that accused presented this document to COA auditor Virginia Santos showing that he deposited the amount of PXXX with the PNB, Olongapo branch; as part of the testimony of Virginia Santos and Remedios Soto." (Emphasis supplied)

[34] Exhibit "F," records, pp. 172-173.

[35] Exhibit "G," id. at 174.

[36] Exhibits "F" and "F-1," id. at 172-173.

[37] Exhibit "E," id. at 171.

[38] Alejo v. People, G.R. No. 173360, March 28, 2008, 550 SCRA 326, 342; citing People v. Pepito, 335 Phil. 37, 46 (1997), and Villanueva v. Sandiganbayan, G.R. No. 95627, August 16, 1991, 200 SCRA 722, 734.

[39] Rules of Court, Rule 132, Sec. 36.

[40] Borbon II v. Servicewide Specialists, Inc., 328 Phil. 150, 160 (1996).

[41] Exhibit "E," records, p. 171.

[42] Records, p. 213.

[43] CA rollo, pp. 52-53.

[44] People v. Sinoro, 449 Phil. 370, 387 (2003).

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