

LTC. ROBERTO K. GUILLERGAN (RET.), PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 185493. February 02, 2011

Ponente: ABAD, J.

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ABAD, J.:

This case is about the conviction of an accused for an offense other than that charged in the Information based on a claim that the essential elements of the offense of which he was convicted are also elements of the offense charged in the Information.

The Facts and the Case

On June 20, 1995 the Office of the Ombudsman indicted petitioner Roberto K. Guillergan (Guillergan) for estafa through falsification of public documents before the Sandiganbayan in Criminal Case 22904.[1]

The evidence shows that sometime in 1987, petitioner Guillergan, a Lieutenant Colonel in the Armed Forces of the Philippines (AFP), directed Master Sergeant Edna Seclon (Seclon), Chief Clerk of the Comptroller's Office, to cause the preparation of the payrolls of their civilian intelligence agents (CIAs) with supporting time record and book. The agents' names were copied and, based on their appointment papers, certified as correct by Guillergan and then approved by Brigadier General Domingo T. Rio (Rio).[2]

Each time the processing unit returned the payrolls for lack of signatures of the payees, Guillergan would direct Technical Sergeant Nemesio H. Butcon (Butcon), the Budget and Fiscal Non-Commissioned Officer, to affix his initial on the "Remarks/Sig" column of the payrolls to complete the requirements and facilitate the processing of the time record, book, and payrolls.[3]

Also on Guillergan's instruction, the CIAs' payrolls in Region 6 for 1987, totaling P732,000.00, were covered by cash advances payable to Captain Roland V. Maclang, Jr. (Maclang, Jr.), which advances were issued upon his request as disbursing officer for that purpose. When ready, Guillergan received the corresponding cash or checks then turned them over to Rio.[4]

At the end of 1987, Rio further received P787,000.00 in "administrative funds" to be paid out to contractors for repairs in the men's barracks, the firing range, the guesthouse and others. But Rio requested that this "administrative funds" be re-aligned to "intelligence funds" in order to facilitate clearing.[5]

On April 14, 1989 the AFP Anti-Graft Board filed a complaint[6] against Rio, Butcon, Maclang, Jr., Seclon, and Guillergan for violating Articles of War 94 in relation to Article 217 of the Revised Penal Code (RPC).

After preliminary investigation, the Office of the Ombudsman-Visayas issued a resolution[7] dated May 24, 1991, recommending the dismissal of the case for lack of merit. On April 21, 1992, however, the ombudsman investigator issued a memorandum, recommending the filing of charges of illegal use of public funds against Rio and the exoneration of the other respondents. In a memorandum[8] dated February 11, 1993, the review panel in

the Office of the Special Prosecutor affirmed the recommendation.

On June 20, 1995, however, the Office of the Special Prosecutor recommended the filing of charges against all the accused before the Sandiganbayan. Consequently, an Information was filed against them for estafa under Article 315, par. 2(a),^[9] in relation to Article 171^[10] of the RPC.

While the case was pending, Rio died, prompting the Sandiganbayan to dismiss the case against him.^[11]

On January 20, 2006, the parties submitted a stipulation of facts with motion for judgment^[12] based on such stipulations. On June 30, 2008, the Sandiganbayan Second Division rendered judgment,^[13] finding Guillergan guilty of falsification penalized under Article 172^[14] of the RPC and sentenced him to suffer the penalty of imprisonment for 2 years and 4 months as minimum to 4 years, 9 months and 10 days as maximum. The court acquitted the other accused on the ground of lack of proof of their guilt beyond reasonable doubt.

The Issues Presented

The issues presented in this case are:

1. Whether or not the Sandiganbayan can convict Guillergan of violation of Article 172 of the RPC under an Information that charged him with estafa in relation to Article 171 of the code; and
2. Whether or not petitioner is guilty beyond reasonable doubt of the crime of falsification of public documents.

The Court's Rulings

The Information alleged that Guillergan committed falsification by making it appear in several public documents that P1,519,000.00 in AFP funds intended for the CIAs' payroll were paid for that purpose when in truth these were just given to Rio, resulting in damage and prejudice to the government. Although the charge was estafa in relation to Article 171 of the RPC, the facts alleged in the information sufficiently made out a case for violation of Article 172 of which Guillergan was convicted. What is important is that the Information described the latter offense intelligibly and with reasonable certainty, enabling Guillergan to understand the charge against him and suitably prepare his defense.^[15]

What is punished in falsification of a public document is the violation of the public faith and the destruction of the truth as solemnly proclaimed in it.^[16] Generally, the elements of Article 171 are: 1) the offender is a public officer, employee, or notary public; 2) he takes advantage of his official position; and 3) that he falsifies a document by committing any of the ways it is done.^[17]

On the other hand, the elements of falsification of documents under paragraph 1, Article 172 are: 1) the offender is a private individual or a public officer or employee who did not take advantage of his official position; 2) the offender committed any of the acts of falsification enumerated in Article 171; ^[18] and 3) the falsification was committed in a public or official or commercial document.^[19] All of the foregoing elements of Article 172 are present in this case.

First. Guillergan was a public officer when he committed the offense charged. He was the comptroller to the PC/INP Command in Region 6. While the Information said that he took advantage of his position in committing the crime, the Sandiganbayan found that his work as comptroller did not include the preparation of the appointments and payrolls of CIAs. Nor did he have official custody of the pertinent documents.^[20] His official function was limited to keeping the records of the resources that the command received from Camp Crame.^[21] Still, he took the liberty of intervening in the preparation of the time record, book, and payrolls in question.

Second. The Information alleged that Guillergan committed the offense charged by "causing it to appear that

persons participated in an act or a proceeding when they did not in fact so participate." [22] In *People v. Yanson-Dumancas*, [23] the Court held that a person may induce another to commit a crime in two ways: 1) by giving a price or offering a reward or promise; and 2) by using words of command. In this case, the Sandiganbayan found that Guillergan ordered Butcon to sign the "receive" portion of the payrolls as payee to make it appear that persons whose names appeared on the same had signed the document when they in fact did not. [24]

Third. There is no dispute that the falsification was committed on the time record, book, and payrolls which were public documents.

What is more, given that some of the essential elements of Article 171 constitute the lesser offense of falsification of public documents under Article 172, then the allegations in the Information were sufficient to hold Guillergan liable under Article 172.

As a rule, the Court regards as conclusive on it the factual findings of the Sandiganbayan unless these fall under certain established exceptions. [25] Since none of those exceptions can be identified in this case, the Court must accord respect and weight to the Sandiganbayan's findings. It had the better opportunity to examine and evaluate the evidence presented before it. [26] As aptly pointed out by the Sandiganbayan, to wit:

There are tell-tale signs that the agents listed on the payrolls did not receive their salaries. First, x x x Guillergan declared that he personally turned over the entire amount of [P1,519,000.00] to Gen. Rio. Second, Butcon's narration that he was instructed by Guillergan, to [affix his] initial at the receive portion of the payrolls. Lastly, according to the records of the case, the office of Guillergan had no business in processing the payroll of these personnel. x x x

Additionally, the appointment papers from which these payrolls were based do not reveal any information about the acceptance of the appointments by the agents. In a letter dated April 14, 1989 of the Anti-Graft Board of the Armed forces of the Philippines x x x [to Ombudsman Vasquez], it was stated that the appointment papers of the agents "must" be accompanied by the acceptance of the agents. These papers "should ordinarily" be attached to the payrolls for proper clearing purposes. Since there were no acceptance papers presented, it only suggests that the lists on the payrolls are names of ghost agents. Even more, the board made a comment that x x x Guillergan denies knowledge of the persons appointed even if he certified to the correctness of the payrolls.

The only conclusion x x x is the deliberate falsification of the payrolls; causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate. [27]

The Court finds no error in the decision of the Sandiganbayan that found Guillergan guilty beyond reasonable doubt of Falsification of Public Documents under Article 172 of the RPC.

WHEREFORE, the Court DENIES the petition and AFFIRMS the Sandiganbayan's decision dated June 30, 2008 and Resolution dated January 7, 2004 which found petitioner Roberto K. Guillergan guilty of violation of Article 172 of the Revised Penal Code in Criminal Case 22904.

SO ORDERED.

Carpio, (Chairperson), Nachura, Leonardo-De Castro, [*] and Mendoza, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Diosdado M. Peralta, per raffle dated January 31, 2011.

[1] Rollo, pp. 33-36.

[2] Affidavit of Edna Seclon, id. at 175.

[3] Affidavit of Nemesio H. Butcon, id. at 176.

[4] Id. at 75.

[5] Id. at 150.

[6] Id. at 71-73.

[7] Id. at 158-162.

[8] Id. at 150-153.

[9] Art. 315. Swindling (estafa). -- Any person who shall defraud another by any of the means mentioned hereinbelow shall be punished by:

x x x x

2. By means of any of the following false pretenses or fraudulent acts executed prior to or simultaneously with the commission of the fraud:

(a) 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.

[10] Art. 171. Falsification by public officer, employee or notary or ecclesiastic minister. -- The penalty of prision mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in any 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 an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a 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.

The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

[11] Records, Volume 2, p. 768.

[12] Rollo, pp. 52-70.

[13] Id. at 37-51.

[14] Art. 172. Falsification by private individual and use of falsified documents. -- The penalty of prison correccional in its medium and maximum periods and a fine of not more than P5,000 pesos shall be imposed upon:

1. Any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document; and
2. Any person who, to the damage of a third party, or with the intent to cause such damage, shall in any private document commit any of the acts of falsification enumerated in the next preceding article.

Any person who shall knowingly introduce in evidence in any judicial proceeding or to the damage of another or who, with the intent to cause such damage, shall use any of the false documents embraced in the next preceding article, or in any of the foregoing subdivisions of this article, shall be punished by the penalty next lower in degree.

[15] Flores v. Layosa, 479 Phil. 1020, 1035 (2004).

[16] Lastrilla v. Granda, G.R. No. 160257, January 31, 2006, 481 SCRA 324, 345, citing Lumancas v. Intas, 400 Phil. 785, 798 (2000), further citing People v. Po Giok To, 96 Phil. 913, 918 (1955).

[17] Regidor, Jr. v. People, G.R. Nos. 166086-92, February 13, 2009, 579 SCRA 244, 263.

[18] Supra note 10.

[19] Daan v. Sandiganbayan, G.R. Nos. 163972-77, March 28, 2008, 550 SCRA 233, 247, citing Reyes, Luis B., The Revised Penal Code (1981); see also Adaza v. Sandiganbayan, 502 Phil. 702 (2005).

[20] Rollo, p. 72.

[21] Affidavit of Guillergan, id. at 174.

[22] Revised Penal Code, Book Two, Title Four, Art. 171, par. 2.

[23] People v. Yanson-Dumancas, 378 Phil. 341, 359 (1999).

[24] Bernardino v. People, G.R. Nos. 170453 and 170518, October 30, 2006, 506 SCRA 237, 247-248.

[25] The exceptions are: 1) the conclusion is a finding grounded entirely on speculation, surmise and conjecture; 2) the inference made is manifestly an error or founded on a mistake; 3) there is grave abuse of discretion; 4) the judgment is based on misapprehension of facts; 5) the findings of fact are premised on a want of evidence and are contradicted by evidence on record; and 6) said findings of fact are conclusions without citation of specific evidence on which they are based. (Cadio-Palacios v. People, G.R. No. 168544, March 31, 2009, 582 SCRA 713, 724-725.)

[26] Regidor, Jr. v. People, supra note 17, at 269, citing Pactolin v. Sandiganbayan (Fourth Division), G.R. No. 161455, May 20, 2008, 554 SCRA 136, 145-146.

[27] Rollo, pp. 47-48.

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