

JESUS O. TYPOCO, JR., PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 221857. August 16, 2017

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court are consolidated petitions for review on certiorari under Rule 45 of the Rules of Court assailing the Decision[1] dated October 15, 2015, and Resolution[2] dated December 8, 2015 of the Sandiganbayan (SB) in SB-11-CRM-0159 finding petitioners Jesus O. Typoco, Jr. (Typoco) and Noel D. Reyes (Reyes) guilty beyond reasonable doubt of the offense of Falsification of Public Document defined and penalized under Article 171, paragraphs (5) and (6) of the Revised Penal Code.

The factual antecedents are as follows:

Petitioners and their co-accused Aida B. Pandeagua (Pandeagua) and Angelina H. Cabrera (Cabrera) were charged with Falsification of Public Documents defined and penalized under Article 171 of the Revised Penal Code. Petitioners were found guilty as charged, but their co-accused Pandeagua and Cabrera were acquitted for insufficiency of evidence. Also, the petitioners and the aforementioned accused, together with Arnulfo G. Salagoste (Salagoste), were charged with Violation of Section 3(e) of Republic Act (R.A.) 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, but all the accused were acquitted of the charge.[3]

The instant petitions review the conviction of the petitioners of the crime of falsification, hence, the discussion will merely focus on the charge of falsification. The accusatory portion of the Amended Information for falsification states:

That on or about 21 April 2005, or sometime prior or subsequent thereto, in Camarines Norte, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, Jesus O. Typoco, Jr., Salary Grade 30; Noel D. Reyes, Salary Grade 22; and Aida B. Pandeagua, Salary Grade 9, holding the position of Governor, OIC-General Service Office, and Buyer II, respectively, all public officers, taking advantage of their public positions, acting together, conspiring and confederating with one another and with one Angelina H. Cabrera, owner of Cabrera's Drugstore and Medical Supply, did then and there falsify Purchase Order No. 0628 involving the purchase of various medicine by the Provincial Government by changing its original date from April 21, 2005 to May 20, 2005 in order to conceal that an order has been (sic) made with Cabrera's Drugstore and Medical Supply prior to the bidding conducted on May 18, 2005 to the damage and prejudice of the Provincial Government.

CONTRARY TO LAW.[4]

When arraigned for the charge of falsification, petitioners and their co-accused Pandeagua and Cabrera pleaded not guilty to the offense charged. At the pre-trial conference of the two cases which were consolidated, petitioners and their co-accused admitted their respective official capacities as public officers at the time of the commission of the offense as contained in the Pre-Trial Order:

I. STATEMENT OF ADMITTED FACTS:

"The accused individually admitted their respective official capacities as public officers at the time of the alleged commission of the offenses charged as follows:

- Jesus O. Typo co, Jr. - Governor;
- Noel D. Reyes - Officer-in-Charge, General Services Office;
- Aida B. Pandeagua - Buyer II, General Services Office; and
- Arnulfo G. Salagoste - Provincial Health Officer

all of the Provincial Government of Camarines Norte, while accused Angelina H. Cabrera was a private individual during that same period of time.

x x x[5]

Thereafter, joint trial on the merits ensued. To prove its case, the prosecution presented the testimony of Nemia Y. Noora (Noora), State Auditor III of the Commission on Audit (COA), assigned in Daet, Camarines Norte. She testified on the results of the post-audit conducted by their office relative to the transactions of the provincial government of Camarines Norte which included the purchase of medicines from Cabrera Drugstore and Medical Supplies (CDMS).[6] The testimony of Provincial Accountant Myrna de Velez Sendon was dispensed with in view of the stipulations between the parties as to the authenticity of some documents and as to the lack of personal knowledge of witness on the execution of the documents.[7] On the other hand, the defense presented the respective judicial affidavits of petitioners and their co-accused.[8]

The evidence disclosed the following facts:[9]

In 2005, the Office of the Provincial Governor of Camarines Norte adopted a "Medical Indigency Program" with a project cost of P4,500,000.00. The program was aimed to provide the indigent families of the two hundred eighty-two (282) barangays of the province with medicines and hospitalization services, particularly those beyond the poverty line. The program was based on a Project Design[10] prepared by the accused Salagoste and approved by petitioner Typoco.

In the implementation of the aforesaid program, accused Salagoste procured from CDMS various medicines and medical supplies in the total amount of P1,649,735 for the use of the Camarines Norte Provincial Hospital (CNPH) under Purchase Request (PR) No. 0628[11] and Purchase Order (PO) No. 0628,[12] both dated April 21, 2005. PR No. 0628 was prepared by accused Pandeagua and approved by petitioner Typoco. The subject PO No. 0628 was also prepared by accused Pandeagua, issued by petitioner Reyes and approved by petitioner Typoco.

The said procurement was supported by Disbursement Voucher (DV) No. 101-05-04-2398[13] dated April 26, 2005, with CDMS as claimant, for the payment of the various medicines to be utilized by CNPH patients in the amount of One Million Six Hundred Forty-Nine Thousand Seven Hundred Thirty-Five Pesos (P1,649,735.00). In the said DV, accused Salagoste certified that the expenses were necessarily lawful and incurred under his supervision, while petitioner Typoco approved the payment.

On April 28, 2005, CDMS delivered the procured medicines under the subject PO No. 0628 as evidenced by Sales Invoice No. 4325.[14] The medicines were inspected on the same day by Property Inspector Raymund L. Quinones as revealed in the Inspection and Acceptance Report (IAR)[15] thereby consummating the subject procurement of medicines covered by the subject PO.[16]

On May 18, 2005, a public bidding for the procurement of the same medicines covered by PO No. 0628 was

conducted by the Bids and Committee (BAC) of the Province of Camarines Norte. The bid of CDMS in the amount of P1,645,140.00 was declared as the Lowest Calculated and Responsive Bid pursuant to BAC Resolution No. 2005-05[17] dated May 18, 2005.[18]

On May 19, 2005, petitioner Typoco issued the corresponding Notice of Award (Exhibit "L") to accused Cabrera, owner of CDMS.[19]

On May 20, 2005, a Contract[20] was executed by and between the Province of Camarines Norte and CDMS whereby the latter as supplier shall provide the former the various medicines covered by PR No. 0628 for and in consideration of the amount of P1,645,140.00. On the same day, the supplier issued Sales Invoice No. 4325 (Exhibit "M") as proof of the delivery of the procured medicines in the total amount of P1,649,735.00.[21]

On May 24, 2005, the Provincial Government of Camarines Norte issued Check No. 0144730[22] to CDMS covering the amount of P1,420,802.72 as payment for the procured medicines. The check, signed by petitioner Typoco and Provincial Treasurer Lorna Coreses, was received by CDMS as evidenced by Official Receipt No. 1528[23] dated May 25, 2005.[24]

In October 2005, the foregoing disbursement for the payment of medicines was the subject of a post-audit that was conducted by a team of COA Auditors with State Auditor III Noora as team leader. In the Audit Observation Memorandum (AOM) No. 2006-005[25] dated April 18, 2006 addressed to petitioner Typoco the following audit observations were made:

"x x x on the disbursement for payment of medicines for Medical Indigency Program amounting to P1,649,735.00 showed that:

- There are alterations in the Purchase Order and Purchase Request
- The dates of Delivery Receipt and Acceptance in the Sales Invoice were tampered vis-a vis in the Inspection and Acceptance Report of the agency.
- List of individual recipients of the drugs and medicines are not submitted to us.[26]

An annual financial audit on the Provincial Government of Camarines Norte was conducted by the COA. The results of the audit were embodied in its Annual Audit Report[27] which revealed that: "(1) there was no attached list of individual recipients to the voucher, (2) the date of inspection was changed, and (3) Sales Invoice No. 4325 and PO were undated/apparently changed."[28]

Moreover, in the testimony of Noora, she cited the following deficiencies that the audit team found in the procurement of medicines, to wit:

1. the respective dates of the Purchase Order, the Inspection and Acceptance Report, and the Sales Invoice were tampered/alterd as there were erasures therein;
2. the list of the individual recipients of the drugs and medicines were not submitted and unnumbered;
3. the Request and Issue Slip (RIS) that was requested by Dr. Arnulfo Salagoste and approved by former Governor Jesus O. Typoco, Jr. was undated and unnumbered;
4. the Report Utilization[29] that was certified by accused Dr. Arnulfo Salagoste and Engr. Noel O. Reyes and approved by accused Governor Jesus O. Typoco, Jr. as to its accuracy and correctness was undated so that the audit team had no way to determine when the delivered medicines were actually disposed; and
5. there was no request/invitation from the BAC for the COA to attend the bidding.[30]

Petitioner Typoco did not submit any reply/comment to the audit report despite his request for an extension of one (1) month.

All the documentary exhibits formally offered by the prosecution consisting of Exhibits "A," "H," "J" to "K," "M" to "P," "X" to "AA," and "CC" to "FF"[31] were admitted by the Sandiganbayan.

During the trial of the case, petitioner Typoco, denied any irregularity in the transaction. He insisted that the real date of the subject PO No. 0628 is "05/20/05" and that a competitive public bidding was conducted prior to the award of the contract. His chronology of events highlighted the dates (as altered) of the preparation and accomplishment of the various documents.

On the part of petitioner Reyes, he admitted having noticed the alteration of the date in PO No. 0628, but insisted that the alteration was an honest mistake on the part of co-accused Pandeagua who was also the one who encoded the wrong entries in the PO. Thus, the alleged alteration was supposedly a correction intended to reflect the true date of the preparation/accomplishment of the documents. Petitioner Reyes utilized the timeline indicated in the altered dates to explain the circumstances surrounding the transaction.

Accused Pandeagua admitted having prepared PO No. 0628. She likewise admitted having changed the date appearing therein from April 21, 2005 to 20 May 2005 upon the instructions of petitioner Reyes.[32]

All the documentary exhibits formally offered by the defense consisting of Exhibits "3" to "18"[33] were admitted by the Sandiganbayan.

On October 15, 2015, the Sandiganbayan rendered a Decision, the dispositive portion of which states:

WHEREFORE, judgment is hereby rendered as follows:

- In SB-U-CRM-0159 - finding the accused JESUS O. TYPOCO, JR. and NOEL D. REYES GUILTY beyond reasonable doubt of the offense of falsification of public document defined and penalized under paragraphs (5) and (6) of Article 171 of the Revised Penal Code as charged in the Information and, with the application of the Indeterminate Sentence Law and without any mitigating or aggravating circumstance, hereby sentencing each of them to suffer the indeterminate penalty of TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional, as minimum, to EIGHT (8) YEARS and ONE (1) DAY of prision mayor, as maximum, with accessories thereof and to pay a fine of TWO HUNDRED THOUSAND PESOS (P200,000.00) with costs against the accused, and ACQUITTING accused AIDA B. PANDEAGUA and ANGELINA H. CABRERA for insufficiency of evidence with cost de oficio.

- In SB-11-CRM-0160 - ACQUITTING the accused JESUS O. TYPOCO, JR., ARNULFO G. SALAGOSTE, NOEL D. REYES, AIDA B. PANDEAGUA and ANGELINA H. CABRERA with cost de oficio.

SO ORDERED.[34]

The Sandiganbayan found no civil liability against the accused, considering that the procured medicines were delivered by CDMS as evidenced by Sales Invoice No. 0628 dated April 28, 2005; the medicines were inspected by the Property Inspector as per Inspection and Acceptance Report; and there being no evidence of under delivery or overpricing or damage. Nonetheless, considering that the list of intended recipients were not submitted, the Sandiganbayan Decision was without prejudice to whatever liability that may arise for failure to deliver the subject medicines to their intended recipients.

Subsequently, Petitioner Reyes filed a petition for review on certiorari[35] before this Court docketed as G.R. No. 222020. Petitioner Typoco followed suit and its petition[36] was docketed as G.R. No. 221857. In this Court's Resolution[37] dated February 10, 2016, We ordered the consolidation considering that both cases involve similar

parties and assail the same Decision and Resolution of the Sandiganbayan.

In G.R. No. 222020, petitioner Reyes anchored his petition on the following assigned errors:

THE HONORABLE SANDIGANBAYAN, FIRST DIVISION, GRAVELY ERRED IN FINDING THE PETITIONER GUILTY OF THE CRIME OF FALSIFICATION OF PUBLIC DOCUMENTS AS IT IS NOT IN ACCORD WITH LAW AND PERTINENT JURISPRUDENCE.

THE HONORABLE SANDIGANBAYAN, FIRST DIVISION, GRAVELY ERRED IN NOT CONSIDERING "TO THE DAMAGE AND PREJUDICE OF THE PROVINCIAL GOVERNMENT" AS ALLEGED IN THE INFORMATION UNDER SB-11-CRM-0519, NEGATING AN ESSENTIAL ELEMENT OF CRIMINAL INTENT TO FALSIFICATION OF PUBLIC DOCUMENT TO WHICH PETITIONER WAS FOUND GUILTY AS IT IS NOT IN ACCORD WITH LAW AND PERTINENT JURISPRUDENCE.

THE HONORABLE SANDIGANBAYAN, FIRST DIVISION, ERRED IN FINDING THAT PETITIONER CONSPIRED WITH HIS CO-ACCUSED TYPOCO, JR. THERE BEING NO CRIME COMMITTED TO CONSPIRE INTO WHICH IS NOT IN ACCORD WITH LAW AND PERTINENT JURISPRUDENCE.[38]

In G.R. No. 221857, petitioner Typoco anchored his petition on the following assigned errors:

THE HONORABLE SANDIGANBAYAN, FIRST DIVISION, GRAVELY ERRED IN FINDING THE PETITIONER GUILTY OF THE CRIME OF FALSIFICATION OF PUBLIC DOCUMENTS BEYOND REASONABLE DOUBT WHICH IS NOT IN ACCORD WITH LAW AND/OR WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT.

THE HONORABLE SANDIGANBAYAN, FIRST DIVISION, GRAVELY ERRED IN FINDING THAT THE PETITIONER CONSPIRED WITH HIS CO-ACCUSED BEYOND REASONABLE DOUBT WHICH IS NOT IN ACCORD WITH LAW AND/OR WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT.

THE HONORABLE SANDIGANBAYAN, FIRST DIVISION, GRAVELY ERRED IN THE NON-APPLICATION OF THE DOCTRINE LAID DOWN IN ARIAS AND MAGSUCI CASE WHICH IS NOT IN ACCORD WITH THE APPLICABLE DECISIONS OF THE SUPREME COURT.

THE HONORABLE SANDIGANBAYAN, FIRST DIVISION, GRAVELY ERRED IN NOT CONSIDERING "TO THE DAMAGE AND PREJUDICE OF THE PROVINCIAL GOVERNMENT" AS ALLEGED IN THE INFORMATION UNDER SB-11-CRM-0519, IN THE APPRECIATION OF THE CASE WHICH IS NOT IN ACCORD WITH THE LAW AND APPLICABLE PERTINENT DECISIONS OF THE SUPREME COURT.[39]

Petitioner Reyes asserted in his petition that the correction was made on the subject PO without criminal intent. And that, in as much as the information for the crime of falsification of public document which includes damage and prejudice to the Provincial Government bolsters lack of intent to falsify, the absence of the same should have resulted to the acquittal of the petitioner on reasonable doubt. Petitioner Reyes averred that the acquittal of accused Pandeagua who was the one who actually made the act of alteration negates the finding that he was a co-conspirator and broke the alleged chain of conspiracy. He further claimed that the only purpose of the alleged alteration on the date appearing on the PO is no other than to reflect the truth. The error happened because the PO was merely copied from the PR and through the "copy and paste" command from the computer, all the encoded entries in the PR were transferred to the PO.

Petitioner Typoco stated in his petition that the circumstances and the evidence presented by the prosecution failed to prove his guilt in the commission of the crime of falsification. He may have acted negligently when he affixed his signature on the subject PO which document was forwarded to him with all the necessary signatures of

his subordinates, but no criminal intent, much more conspiracy, on his part, can be attributed to him when he signed the same. He stressed that he relied in good faith on his subordinates and provincial officers. According to petitioner Typoco, the only purpose of the alleged alteration on the date appearing on the PO is no other than to reflect the truth. And that, in as much as the information for the crime of falsification of public document includes damage and prejudice to the Provincial Government which bolsters lack of intent to falsify, absence of the same should have resulted to his acquittal.

In the Consolidated Comment[40] on the petition, the Office of the Ombudsman countered that both petitions raise questions of fact which are simply outside the ambit of a Rule 45 petition. It argued that damage and prejudice are not elements of the crime of falsification under Article 171. Although alleged in the Information, lack of proof thereof is not essential to constitute the crime. The chronological timeline of the preparation, approval and issuance of the procurement documents simply point to a concurrence of sentiments and a perfect blending of conspiratorial acts to achieve a common purpose.

In the separate Reply of petitioners Typoco[41] and Reyes,[42] they reiterate that there was no falsification to speak of since the alteration appearing in the subject PO was made in order to reflect the truth as discussed in their respective petitions.

We deny both petitions.

It is settled that the appellate jurisdiction of the Court over decisions and final orders of the Sandiganbayan is limited only to questions of laws; as its factual findings, as a rule, are conclusive upon the Court.[43]

A question of fact exists when the doubt or difference arises as to the truth or falsehood of facts or when the query invites calibration of the whole evidence considering mainly the credibility of witnesses, the existence and relevancy of specific surrounding circumstances as well as their relation to each other and to the whole, and the probability of the situation.[44]

Issues raised before the Court on whether the prosecution's evidence proved the guilt of the accused beyond reasonable doubt, whether the presumption of innocence was properly accorded the accused, whether there was sufficient evidence to support a charge of conspiracy, or whether the defense of good faith was correctly appreciated, are all, in varying degrees, questions of fact. As a rule, the factual findings of the Sandiganbayan are conclusive on this Court, subject to limited exceptions.[45] We find none of these exceptions in the present case.[46]

Petitioners were charged[47] with the crime of falsification of public documents under Article 171 of the Revised Penal Code. The elements of falsification by a public officer or employee or notary public as defined in Article 171 of the Revised Penal Code are that: (1) the offender is a public officer or employee or notary public; (2) the offender takes advantage of his official position; and (3) he or she falsifies a document by committing any of the acts mentioned in Article 171 of the Revised Penal Code.[48]

The first element is indisputably present in this case. Petitioners were public officers being the Governor and Officer-in-Charge of the General Services Office of the Province of Camarines Norte at the time of the commission of the offense.

As to the second element, the offender takes advantage of his official position in falsifying a document when (1) he has the duty to make or to prepare, or otherwise to intervene, in the preparation of the document; or (2) he has the official custody of the document which he falsifies.[49] In the case at bar, petitioners took advantage of their respective official positions because they had the duty to make or prepare or otherwise intervene, in the preparation of the subject PO. Accused Pandeagua prepared the subject PO and petitioner Reyes was the one who

issued the same. Upon order of petitioner Reyes, the date in the subject PO was changed by accused Pandeagua, and petitioner Typoco approved the subject PO.

As to the third element, the Sandiganbayan found petitioners guilty of the offense of falsification of public document defined and penalized under paragraphs (5) and (6), Article 171 of the Revised Penal Code, which pertinently state:

Article 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:

x x x x

5. Altering true dates;

6. Making any alteration or intercalation in a genuine document which changes its meaning;

x x x

The act of "altering true dates" requires that: (a) the date mentioned in the document is essential; and (b) the alteration of the date in a document must affect either the veracity of the document or the effects thereof.[50]

On the other hand, "making alteration or intercalation in a genuine document" requires a showing that: (a) there be an alteration (change) or intercalation (insertion) on a document; (b) it was made on a genuine document; (c) the alteration or intercalation has changed the meaning of the document; and (d) the change made the document speak something false.[51]

In the case at bar, the original date of the PO is essential because it affects not only the veracity or effect thereof but also determinative of the time when it was prepared and approved so that the change or alteration made the document speak something false. We quote herein the ratiocination of the Sandiganbayan:

In this regard, the Court takes note that accused Aida Pandeagua admitted that she was the public officer who prepared Purchase Request (PR) No. 0628 and PO No. 0628 on April 21, 2005, and Disbursement Voucher (DV) No. 101-04-04-2398 on April 26, 2005; that at the time she prepared said documents, she did not find anything irregular or mistake in the respective dates that she had typewritten therein until her superior in the GSO, accused Noel Reyes, instructed her to change the original date of the subject PO from "4/21/05" to "5/20/05" when it was returned to their office on May 23, 2005; and that at the time she prepared the subject PO on April 21, 2005, there was yet no bidding for the said purchase of medicines.

Undoubtedly, this alteration or change in the original date of the subject PO constitutes falsification of official document because it affected not only its veracity but it also changed the time when it was prepared and approved to make the document speak something false, i.e., that said PO was approved on "5-20-05" by accused Jesus O. Typoco, Jr. in favor of Cabrera Drugstore and Medical Supplies and after a public bidding was conducted on May 18, 2005, when in truth and fact the PO in question was already approved on April 21, 2005 without any public bidding. Hence, the crime of falsification of document by a public official under paragraphs 5 and 6 of Article 171 of the Revised Penal Code has been sufficiently established to sustain a verdict of conviction.[52]

It was sufficiently shown from the evidence adduced that PO No. 0628 was actually prepared on April 21, 2005 prior to the conduct of public bidding, and that petitioner Reyes gave the directive to change the original date in the subject PO only on May 23, 2005, after the conduct of public bidding. Hence, the changing of the date in the subject PO from April 21, 2005[53] to May 20, 2005[54] was not a mere correction but an act of falsification to make it appear that a bidding was conducted prior to ordering the medicines from CDMS.

Moreover, conspiracy among the petitioners exists despite the acquittal of accused Pandeagua and Cabrera. A conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. To determine conspiracy, there must be a common design to commit a felony. A conspiracy is in its nature a joint offense. The crime depends upon the joint act or intent of two or more persons. Yet, it does not follow that one person cannot be convicted of conspiracy. As long as the acquittal or death of a co-conspirator does not remove the basis of a charge of conspiracy, one defendant may be found guilty of the offense.[55]

The Sandiganbayan correctly found that there was conspiracy between petitioners as shown in their respective participations in the alteration of the date on the PO in question. It found that it was petitioner Reyes who instructed accused Pandeagua to alter or change the date "4/20/05" in the PO with "5/20/05" to make it appear that it was on May 20, 2005 that the procurement covered by the PO was approved by petitioner Typoco after the conduct of a public bidding on May 18, 2005. After the bidding, petitioner Typoco immediately issued the Notice of Award to CDMS, then a Contract for the procurement of medicines was executed by and between the Province of Camarines Norte and CDMS. The Sandiganbayan opined that the respective acts of petitioners - Reyes directing the alteration of the date on the PO to make it appear that the PO was approved after the bidding was conducted on May 18, 2005, and Typoco in entering into a contract with CDMS knowing fully well that the procurement of medicines had already been done before the bidding - are indicative of a joint purpose, concerted action and concurrence of sentiments.

The Sandiganbayan, however, acquitted accused Pandeagua and Cabrera. It held that accused Pandeagua considering that she made the alteration in obedience to the instruction of her superior (petitioner Reyes), had nothing to do with the procurement in question except in the preparation of the procurement documents, her duties and responsibilities being clerical in nature. In the judicial affidavit of accused Pandeagua, she stated - "I merely prepared or typed the said documents according to the specific instructions of my superiors." [56]

Likewise, accused Cabrera, the owner of CDMS, was acquitted upon the testimony of accused Pandeagua that when she made the alteration on May 23, 2005, accused Cabrera had already signed the unaltered PO on April 21, 2005. Accused Cabrera had no knowledge or concurred in the act of alteration there being no showing that she had access to or custody of the procurement documents.

Conspiracy need not be shown by direct proof of an agreement of the parties to commit the crime, as it can be inferred from the acts of the accused which clearly manifest a concurrence of wills, a common intent or design to commit a crime.[57] An accepted badge of conspiracy is when the accused by their acts aimed at the same object, one performing one part of and another performing another so as to complete it with a view to the attainment of the same object, and their acts although apparently independent were, in fact, concerted and cooperative, indicating closeness of personal association, concerted action and concurrence of sentiments.[58]

As correctly argued by the Office of the Ombudsman through the Office of the Special Prosecutor, the chronological timeline of the preparation, approval and issuance of the procurement documents simply point to a concurrence of sentiments and a perfect blending of conspiratorial act to achieve a common purpose. Hence, the unity of criminal design and execution was very patent.

In addition, petitioners argue that damage to the government should have been proven considering that this was alleged in the Information. We do not agree. In falsification of public or official documents, it is not necessary that there be present the idea of gain or the intent to injure a third person because in the falsification of a public document, what is punished is the violation of the public faith and the destruction of the truth as therein solemnly proclaimed.[59]

The law is clear that wrongful intent on the part of the accused to injure a third person is not an essential element

of the crime of falsification of public document. It is jurisprudentially settled that in the falsification of public or official documents, whether by public officers or private persons, it is not necessary that there be present the idea of gain or the intent to injure a third person for the reason that, in contradistinction to private documents, the principal thing punished is the violation of the public faith and the destruction of truth as therein solemnly proclaimed. In falsification of public documents, therefore, the controlling consideration is the public character of a document; and the existence of any prejudice caused to third persons or, at least, the intent to cause such damage becomes immaterial.[60]

Furthermore, both petitioners claim that the alteration was made only to reflect the truth. Obviously, such is not the case as revealed by the other documents/exhibits of the prosecution. The subject PO was not the only one falsified; the Acceptance and Inspection Report and Sales Invoice were likewise tampered:

- The date of inspection as stated in the Inspection and Acceptance Report was changed from "4-28-05" to "5-23-05". In the same document, the date of acceptance was also tampered and changed from "5-20-05" to "5-23-05". As in fact, there appears a note on the face of the disbursement voucher which reads: "Note: Supporting paper #15 inspection report inspected 5/20/05".

- The date of the Sales Invoice was changed from "4-28-05" to "5-23-05". The original date is the same as the original date of inspection. The new date appearing on the document is now "5-28-2005" which also means that the supplies were delivered on "5-28-2005". This alteration makes the new inspection date "5-23-05" questionable as it would be impossible to inspect the medicines on "5-23-05" if the delivery had been made on "5-28-2005".

This Court's observation was properly discussed by the Office of the Ombudsman in its comment to the petitions, thus:

For his part, petitioner Reyes claims that he ordered the alteration of the date in the purchase order "to reflect the truth." Aside from this bare allegation, however, Reyes has not presented any feasible explanation for all the other alterations and irregularities attending the documents supporting the transaction. For one, he has not explained why the disbursement voucher in the name of Cabrera Drugstores and Medical Supplies was also dated 26 April 2005, when the bidding was allegedly conducted on 18 May 2005. For another, he has not explained why the dates in the inspection and acceptance report and the sales invoice also had to be altered, if the original date indicated in the purchase order was a mistake. On the contrary, the dates in all the documents submitted by the local government of Camarines Norte to the COA clearly show that the order and delivery of machines transpired before the alleged conduct of bidding. It becomes utterly obvious that the alteration made on the purchase order and the other documents was for the sole purpose of making it appear that the order and delivery of medicines were done after the alleged bidding on 18 May 2005. The truth, however, is that an order had been placed as early as 21 April 2005, without the requisite public bidding.[61]

Petitioner Typoco invokes the Arias doctrine which states that "all heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations." [62]

The factual circumstances which led to the Court's ruling in Arias were such that there was nothing else in the documents presented before the head of office therein that would have required the detailed examination of each paper or document, viz.:

We can, in retrospect, argue that Arias should have probed records, inspected documents, received procedures, and questioned persons. It is doubtful if any auditor for a fairly-sized office could personally do all these things in all vouchers presented for his signature. The Court would be asking for the impossible. All heads of offices have to rely to a reasonable extent on their subordinates and on the good faith of those who prepare bids, purchase supplies, or enter into negotiations. If a department secretary entertains important visitors, the auditor

is not ordinarily expected to call the restaurant about the amount of the bill, question each guest whether he was present at the luncheon, inquire whether the correct amount of food was served, and otherwise personally look into the reimbursement voucher's accuracy, propriety, and sufficiency. There has to be some added reason why he should examine each voucher in such detail. Any executive head of even small government agencies or commissions can attest to the volume of papers that must be signed. x x x[63] (Emphasis supplied)

Simply put, when a matter is irregular on the document's face, so much so that a detailed examination becomes warranted, the Arias doctrine is unavailing.[64] Petitioner Typoco, therefore cannot rely on the Arias doctrine because the falsification of the documents in it was not apparent. As discussed above, aside from the alteration in the subject PO, the other documents were also obviously tampered which could have not escaped his attention.

Petitioner Typoco's defense that he relied on his subordinates does not find support in the circumstances surrounding his actions. As Governor and concurrent Chairman of the BAC, he was the approving authority in the transaction with CDMS. As such, he was expected to exercise due diligence in the performance of his duties.

We need to stress that the COA Annual Audit Report on the Province of Camarines Norte for the Year ended December 31, 2005 (Exhibit "C") revealed that: (a) there was no attached list of individual recipients to the voucher; (b) the date of inspection was changed; and (c) Sales Invoice No. 4325 and the subject PO were undated/apparently changed.[65]

Further, in the Audit Observation Memorandum (AOM) No. 2006-005 dated April 18, 2006 addressed to petitioner Typoco, the following audit observations were made: (a) there are alterations in the Purchase Order and Purchase Request; (b) the dates of Delivery Receipt and Acceptance in the Sales Invoice were tampered vis-a-vis in the Inspection and Acceptance Report; and (c) the list of individual recipients of the drugs and medicines were not submitted.[66]

Thus, the irregularities are very apparent on the face of the documents. Had petitioner Typoco exercised the due diligence expected of him, he would have easily noticed the irregularities on the documents. As held in *Cesa v. Office of the Ombudsman*,[67] when there are facts that point to an irregularity and the officer failed to take steps to rectify it, even tolerating it, the Arias doctrine is inapplicable.[68]

To clarify, the Arias doctrine is not an absolute rule. It is not a magic cloak that can be used as a cover by a public officer to conceal himself in the shadows of his subordinates and necessarily escape liability. Thus, this ruling cannot be applied to exculpate petitioner Typoco in view of the peculiar circumstances in this case which should have prompted him, as head of office, to exercise a higher degree of circumspection and, necessarily, go beyond what his subordinates had prepared.[69]

In the case of *LihayLihay v. People*,[70] We ruled that:

In this relation, it must be clarified that the ruling in *Arias v. Sandiganbayan* (Arias) cannot be applied to exculpate petitioners in view of the peculiar circumstances in this case which should have prompted them to exercise a higher degree of circumspection, and consequently, go beyond what their subordinates had prepared. In particular, the tampered dates on some of the RIVs, the incomplete certification by GSC SAO Mateo on the date of receipt of the CCIE items, the missing details on the Reports of Public Property Purchased and the fact that sixteen checks all dated January 15, 1992 were payable to PNP SSS should have aroused a reasonable sense of suspicion or curiosity on their part if only to determine that they were not approving a fraudulent transaction. x x x[71]

As held in the case of *Bacasmás v. Sandiganbayan, et al.*[72] when there are reasons for the heads of offices to further examine the documents in question, they cannot seek refuge by invoking the Arias doctrine:

Petitioners cannot hide behind our declaration in *Arias v. Sandiganbayan* charge just because they did not

personally examine every single detail before they, as the final approving authorities, affixed their signatures to certain documents. The Court explained in that case that conspiracy was not adequately proven, contrary to the case at bar in which petitioners' unity of purpose and unity in the execution of an unlawful objective were sufficiently established. Also, unlike in *Arias*, where there were no reasons for the heads of offices to further examine each voucher in detail, petitioners herein, by virtue of the duty given to them by law as well as by rules and regulations, had the responsibility to examine each voucher to ascertain whether it was proper to sign it in order to approve and disburse the cash advance.

The case of *Cruz v. Sandiganbayan*[73] carved out an exception to the *Arias* doctrine, stating that:

Unlike in *Arias*, however, there exists in the present case an exceptional circumstance which should have prodded petitioner, if he were out to protect the interest of the municipality he swore to serve, to be curious and go beyond what his subordinates prepared or recommended. In fine, the added reason contemplated in *Arias* which would have put petitioner on his guard and examine the check/s and vouchers with some degree of circumspection before signing the same was obtaining in this case.

Lastly, in criminal cases, to justify a conviction, the culpability of the accused must be established by proof beyond reasonable doubt. The burden of proof is on the prosecution, as the accused enjoys a constitutionally enshrined disputable presumption of innocence. The court, in ascertaining the guilt of the accused, must, after having marshalled the facts and circumstances, reach a moral certainty as to the accused's guilt. Moral certainty is that degree of proof which produces conviction in an unprejudiced mind. Otherwise, where there is reasonable doubt, the accused must be acquitted.[74]

In this case, the Court is convinced that the guilt of the petitioners was proven beyond reasonable doubt and that the Sandiganbayan did not err in its findings and conclusion. The totality of the facts and circumstances demonstrates that they committed the crime of falsification by a public officer under Article 171, paragraphs 5 and 6, of the Revised Penal Code. The moral certainty required in criminal cases has been satisfied.

WHEREFORE, the Decision dated October 15, 2015 and Resolution dated December 8, 2015 of the Sandiganbayan in SB-11-CRM-0159 are hereby AFFIRMED.

SO ORDERED.

Perlas-Bernabe, Jardeleza,[**] and Reyes, Jr., JJ., concur.
Caguioa, J., on wellness leave.

[**] Additional Member in lieu of Associate Justice Antonio T. Carpio, per Raffle dated August 16, 2017.

[1] Penned by Associate Justice Rodolfo A. Ponferrada, with Associate Justices Efren N. De la Cruz and Rafael R. Lagos, concurring; rollo (G.R. No. 222020), pp. 26-55.

[2] *Id.* at 63-70.

[3] The Sandiganbayan held that in spite of the evidence showing that there was violation of Section 3(e) of R.A. 3019 because the contract for the purchase of medicines was awarded without public bidding, the accused cannot be convicted of the said offense considering that "the offense charged is the act of falsifying" and "the offense proved is act of awarding the contract" without public bidding, thus the offense proved is not charged in the Information; *id.* at 53.

[4] Rollo (G.R. No. 222020), p. 72. (Emphasis ours)

- [5] Id. at 28.
- [6] Id. at 29.
- [7] Id. at 30.
- [8] Id. at 31-38.
- [9] Id. at 39-42.
- [10] Exhibit "H," id. at 151.
- [11] Exhibit "G," id. at 150.
- [12] Exhibit "CC," id. at 164.
- [13] Exhibit "E," id. at 147.
- [14] Exhibit "M," id. at 156.
- [15] Exhibit "P," id. at 159.
- [16] Rollo (G.R. No. 222020), p. 39.
- [17] Exhibit "7" - Cabrera, id. at 40.
- [18] Id.
- [19] Id.
- [20] Exhibit "K," id. at 154.
- [21] Id. at 40.
- [22] Exhibit "Y," id. at 161.
- [23] Exhibit "X," id. at 160.
- [24] Id. at 40.
- [25] Exhibit "A," id. at 84.
- [26] Rollo (G.R. No. 222020), p. 40.
- [27] Exhibit "C," id. at 88.
- [28] Rollo (G.R. No. 222020), p. 41.
- [29] Exhibit "O," id. at 158.
- [30] Rollo (G.R. No. 222020), p. 41.
- [31] Rollo (G.R. No. 221857), pp. 86-98.
- [32] Rollo (G.R. No. 222020), pp. 252-253.
- [33] Rollo (G.R. No. 221857), pp. 186-192.
- [34] Id. at 54.
- [35] Rollo (G.R. No. 222020), pp. 3-25.

[36] Rollo (G.R. No. 221857), pp. 3-26.

[37] Id. at 313-314.

[38] Rollo (G.R. No. 222020), p. 7.

[39] Rollo (G.R. No. 221857), pp. 7-8.

[40] Rollo (G.R. No. 222020), pp. 245-266.

[41] Rollo (G.R. No. 221857), pp. 353-363.

[42] Rollo (G.R. No. 222020), pp. 268-277.

[43] *Rivera v. People*, 749 Phil. 124, 141 (2014).

[44] Id.

[45] The factual findings of the Sandiganbayan are conclusive upon this Court, except under any of the following circumstances:

(1) The conclusion is a finding grounded entirely on speculation, surmise and conjectures;

(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; and

(5) The findings of fact are premised on want of evidence and are contradicted by evidence on record. [*Sanchez v. People*, 716 Phil. 397, 403 (2013)].

[46] *Jaca v. People*, 702 Phil. 210, 238 (2013); *SPO1 LihayLihay v. People*, 715 Phil. 722, 728 (2013).

[47] Amended Information, rollo (G.R. No. 222020), pp. 71-73.

[48] *Garong v. People*, G.R. No. 172539, November 16, 2016.

[49] Id., citing *People v. Santiago Uy*, 53 O.G. 7236 and *U.S. v. Inosanto*, 20 Phil. 376 (1911).

[50] Reyes, *The Revised Penal Code*, Book II, 13th Ed., pp. 202-203.

[51] Rollo (G.R. No. 222020), p. 204.

[52] Rollo (G.R. No. 221857), p. 46.

[53] *Supra* note 12.

[54] Exhibit "DD," rollo (G.R. No. 222020), p. 165.

[55] *Rivera v. People*, *supra* note 43, at 153.

[56] Judicial Affidavit of Pandeagua, p. 3, rollo (G.R. No. 221857), p. 282.

[57] *Galeos v. People*, 657 Phil. 500, 526 (2011).

[58] *Ambil, Jr. v. Sandiganbayan*, 669 Phil. 32, 57 (2011).

[59] *Galeos v. People*, *supra* note 57, at 521, citing *Regidor, Jr. v. People*, 598 Phil. 714, 732 (2009); *Lastrilla v. Granda*, 516 Phil. 667, 688 (2006); *Lumancas v. Mas*, 400 Phil. 785, 798 (2000), and *People v. Po Giok To*, 96

Phil. 913, 918 (1955).

[60] Fullero v. People, 559 Phil. 524, 542 (2007).

[61] Rollo (G.R No. 222020), p. 258. (Underlining supplied)

[62] Rivera v. People, supra note 43, at 151.

[63] Garcia v. Office of the Ombudsman, 747 Phil. 445, 464 (2014).

[64] Id.

[65] Sandiganbayan Decision, rollo (G.R. No. 222020), p. 41.

[66] Id. at 40.

[67] 576 Phil. 345, 355 (2008).

[68] Ombudsman v. Delos Reyes, Jr., 745 Phil. 366, 384 (2014).

[69] Rivera v. People, supra note 43, at 152.

[70] Supra note 46.

[71] SPO1 LihayLihay v. People, id. at 731. (Underscoring ours).

[72] 713 Phil. 639, 662 (2013).

[73] 504 Phil. 321, 334 (2005).

[74] Rivera v. People, supra note 43, at 153-154.

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