

**NATHANIEL S. MANIPON, JR., PETITIONER, VS. SANDIGANBAYAN,
SECOND DIVISION COMPOSED OF HON. BERNARDO P. FERNANDEZ
AS ACTING PRESIDING JUSTICE AND HON. BUENAVENTURA J.
GUERRERO AN...**

G.R. No. 58889. July 31, 1986

Ponente: FERNAN, J.

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FERNAN, J.:

This is a case of direct bribery penalized under Article 210 of the Revised Penal Code.

In its decision dated September 30, 1981, the Sandiganbayan found accused Nathaniel S. Manipon, Jr., 31, guilty of direct bribery, sentenced him to four months and twenty days of *arresto mayor* with temporary special disqualification for eight years and one day and a fine of P2,000.00 with subsidiary imprisonment in case of insolvency and to pay the costs.

Manipon came to this Court on petition for review on certiorari seeking the reversal of the judgment of conviction. The Court dismissed the petition, "the question raised being factual and for lack of merit".[1] However, upon motion for reconsideration, the Court reconsidered its resolution and gave due course to the petition.[2]

The facts of this case are as follows:

Nathaniel S. Manipon Jr., a deputy sheriff of the Court of First Instance of Baguio City and Benguet, Branch IV, was assigned to enforce an order of the Minister of Labor dated October 31, 1979 directing the Sheriff of Baguio City or his deputy to execute the decision of the labor arbiter in NLRC Case No. RB-1-C-1428-79 entitled "Longog Tabek, et al vs. Harry Dominguez et al" and to make a return within thirty [30] days from said date.[3] The labor arbiter's decision ordered Harry Dominguez, a building contractor and the then municipal mayor of Tadian, to pay Longog Tabek and the other judgment creditors the amount of P2,720.00 with interest, as the balance of their work contract.[4]

Pursuant to that assignment, Manipon on November 9, 1979 sent a notice to the Commercial Bank and Trust branch [Comtrust] in Baguio City garnishing the bank accounts of Dominguez.[5] The bank agreed to hold the accounts. For one reason or another, Manipon did not inform the labor arbiter of the garnishment nor did he exert efforts to immediately satisfy the judgment under execution.

On November 12, 1979, Dominguez sought Manipon's help in the withdrawal of the garnished account. Manipon told Dominguez that the money could not be withdrawn.

However, on December 27, 1979 when the two met again at the Office of the National Intelligence and Security Authority [NISA] in Baguio City, Manipon told Dominguez that he "can remedy the withdrawal so they will have something for the New Year".[6] Dominguez interpreted this to mean that Manipon would withdraw the

garnished amount for a consideration. Dominguez agreed and they arranged to meet at the bank later in the afternoon. After Manipon left, Dominguez confided the offer to NISA Sub-Station Commander Luisito Sanchez. They then hatched up a plan to entrap Manipon by paying him with marked money the next day. Col. Sanchez and a Col. Aguana were able to put up P700.00 in fifty-peso bills which were then authenticated, xeroxed and dusted with flourescent powder.[7]

Thus, at about 4:00 o'clock in the afternoon of December 28, 1979, Dominguez went to Comtrust as planned. Manipon showed up with two companions, named Deputy Sheriff Crisanto Flora and Baltazar Pacis. Manipon delivered his letter to the bank lifting the garnishment.[8] Then Dominguez prepared a withdrawal slip for P2,500.00.[9] As soon as Dominguez received the money from the teller, he took out P300.00 therefrom, added it to the P700.00 in marked bills and handed the total amount of P1,000.00 to Manipon. Then they all left the bank. Dominguez walked over to his car and drove off. Manipon and his two companions walked down Session Road. Moments later, PC and NISA operatives accosted them, seized the P1,000.00 from the left breast pocket of Manipon and thereafter brought them to Camp Dangwa for questioning. Manipon was subjected to an ultraviolet light test and found positive for flourescent powder. However, after executing a certification relative to the money recovered, he refused to give any statement.[10] He filed his sheriff's return unsatisfied on February 20, 1980 or after 114 days.[11]

Originally, Manipon was charged with vio-lation of Presidential Decree No. 46 for having demanded and received P1,000.00 from Dominguez, a private individual, for a favor extended by him to the latter, i.e., by not enforcing the garnishment order issued to Comtrust which was his official duty. However, in an amended information dated February 16, 1981, the charge was changed to direct bribery under the Revised Penal Code.[12]

Manipon was released on bail. When arraigned, he pleaded not guilty.[13]

In his brief, Manipon contends that the Sandiganbayan erred in convicting him of direct bribery, in not giving credence to the defense theory that there was novation of the money judgment and in admitting illegally-obtained evidence.

The crime of direct bribery as defined in Article 210 of the Revised Penal Code consists of the following elements: [1] that the accused is a public officer; [2] that he received directly or through another some gift or present, offer or promise; [3] that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his official duty to do, and [4] that the crime or act relates to the exercise of his functions as a public officer.[14] The promise of a public officer to perform an act or to refrain from doing it may be express or implied.[15]

It is not disputed that at the time of the commission of the crime Manipon was the deputy sheriff of the Court of First Instance of Benguet and Baguio assigned to implement the execution order issued in NLRC Case No. RB-1-C-1428-79. It is also not disputed that Manipon garnished the bank accounts of Dominguez at Comtrust and that he lifted the same on December 28, 1979 after which he received P1,000.00 from Dominguez.

It is the theory of the defense that the P1,000.00 Manipon collected from Dominguez on December 28, 1979 was not a bribe but a payment in partial satisfaction of the judgment under execution to which the judgment creditors headed by Longog Tabek had agreed.

Manipon narrates that during his meeting with Dominguez at the NISA office on December 27, 1979, Dominguez requested Manipon to convey to the creditors that he was only willing to pay for the time being a partial amount of P1,000.00, the balance of P1,720.00 to be paid after the New Year.[16] So he visited Longog Tabek who was the "lead man". Tabek, an illiterate, consented to the lesser amount because he needed money badly.[17] His

arrangements with Tabek and Dominguez were all verbal. At that time he found no reason to have some written memorandum for his own protection.

At Comtrust after Dominguez had given him the P1,000.00 Manipon made a move to hand him a temporary receipt but Dominguez brushed it aside and said he was in a hurry.[18]

Manipon maintains that Dominguez had framed him up because of a grudge. He said that in 1978 he and Flora had levied execution against several vehicles owned by Dominguez, an act which the latter had openly resented.[19]

The defense theory is so incredible that it leaves no doubt whatsoever in the Court's mind that Manipon is guilty of the crime charged.

It is very strange indeed that for such an important agreement that would modify a final judgment, no one took the bother of putting it down on paper. Of course Manipon would have us believe that there was no need for it because he trusted Dominguez and Tabek. And yet did he not also claim that Dominguez had framed him up because of a grudge? And if there was really an agreement to alter the judgment, why did he not inform the labor arbiter about it considering that it was the labor arbiter who had issued the order of execution? Manipon could not give satisfactory explanations because there was no such agreement in the first place.

The temporary receipt[20] adduced by Manipon, as correctly pointed out by the Solicitor General, is a last-minute fabrication to provide proof of the alleged agreement for the partial payment of the judgment debt. Contrary to Manipon's claim, it is hard to believe that Dominguez was not interested in getting said temporary receipt because precisely that was the proof he needed to show that he had partially complied with his legal obligation.

The testimonies of Crisanto Flora and Longog Tabek are of no help either to the defense. Flora is Manipon's co-sheriff and is therefore biased. On the other hand, Tabek, on several occasions on the witness stand answered with obvious hesitation, betraying himself to be a rehearsed witness. While he claimed that he was the supposed headman of the other creditors, he could not present any authority that would allow him to speak for them, let alone agree to receive a lesser amount in their behalf. He even admitted that he did not know their names.[21]

Indeed, Manipon's behavior at the very outset, had been marked with irregularities. As early as November 9, 1979, he had already garnished the bank accounts of Dominguez at Comtrust, but he did not notify the labor arbiter so that the corresponding order for the payment by the bank of the garnished amount could be made and the sum withdrawn immediately to satisfy the judgment under execution. His lame excuse was that he was very busy in the sheriff's office, attending to voluminous exhibits and court proceedings. That was also the same excuse he gave for not informing the labor arbiter of the novation. In fact he candidly admitted that he never communicated with the NLRC concerning the garnishment. He returned the writ unsatisfied only on February 20, 1980 although by its express terms, it was returnable within thirty days from October 29, 1979.[22] Clearly, Manipon had planned to get Dominguez to acquiesce to a consideration for lifting the garnishment order.

Manipon was also asked about the affidavit he executed during the preliminary investigation.[23] That affidavit contained two annexes but the temporary receipt which he allegedly prepared on December 28, 1979 was not included. He said he misplaced it in his office and found it only several weeks after he had made the affidavit.[24] This leads us to strongly suspect there was actually no temporary receipt at all at the time of payment on December 28 and that it was concocted by the defense as a last-ditch effort to make the authorities believe that what had transpired was not a payoff but a legitimate partial satisfaction of a judgment debt.

In the final analysis, it all boils down to credibility. In this regard, the prosecution witnesses have acquitted themselves well. The Sandiganbayan did not err in giving weight and credence to their version instead of

Manipon's. Indeed, Manipon's guilt for the crime of direct bribery has been proved beyond reasonable doubt.

Dwelling on one last point, Manipon has pointed out that the P1,000.00 was illegally seized because there was no valid search warrant and therefore inadmissible.

The argument is untenable. The rule that searches and seizures must be supported by a valid warrant is not an absolute rule. There are at least three exceptions to the rule recognized in this jurisdiction. These are: 1] search incidental to an arrest, 2] search of a moving vehicle, and 3] seizure of evidence in plain view.[25]

In the case at bar, the records show that at about 2:00 p.m. on December 28, 1979, NISA Sub-Station Commander Colonel Luisito Sanchez held a final briefing among his men and some operatives from the Benguet Philippine Constabulary concerning the planned entrapment. He had earlier received word from Dominguez that the lifting of the garnishment would be effected that afternoon and he informed them that Manipon was asking money from Dominguez.[26] As Colonel Sanchez earlier testified, part of the money to be withdrawn after lifting the garnishment was to be given to the accused[27] for agreeing to lift the order of garnishment. After the briefing which lasted from ten to fifteen minutes, they all headed for the Comtrust bank.

NISA Agent Caesar Murla stationed himself near the door of the bank so that he could observe what transpired inside the bank.[28] He testified that he saw Dominguez give the marked money to Manipon which the latter accepted and counted. Upon seeing Manipon take the money from Dominguez, Agent Murla gave a signal to some of the agents positioned nearby by placing his right hand on his head to indicate that the money had changed hands. Immediately thereafter, Dominguez left the bank. Manipon placed the money in his left breast pocket and followed suit. As Manipon walked past Murla on his way out, the latter gave another signal by putting his hand on his left breast to indicate that Manipon had placed the money in his left breast pocket.[29]

Upon noticing the second signal, the NISA agents and the PC operatives approached Manipon and his two companions. After identifying themselves as peace officers, they retrieved the P1,000.00 from Manipon. Through it all, Manipon remained amazingly silent and voiced no protest.[30]

The search and seizure of the P1,000.00 from Manipon would therefore fall within the first exception. The search was made as an incident to a lawful arrest, in accordance with our pronouncement in *Moreno v. Ago Chi*, 12 Phil. 439, reiterated in *Alvero v. Dizon*, 76 Phil. 637, to wit:

"An officer making an arrest may take from the person arrested any money or property found upon his person which was used in the commission of the crime or was the fruit of the crime or which might furnish the prisoner with the means of committing violence or escaping, or which may be used in evidence in the trial of the case."

The evident purpose of this exception is both to protect the arresting officer against physical harm from the person being arrested who might be armed with a concealed weapon and also to prevent the person arrested from destroying evidence within his reach.[31]

Since the other issues raised by Manipon are factual, they need not be discussed here.

WHEREFORE, in view of the foregoing, the instant petition is denied for lack of merit, with costs against petitioner-accused Nathaniel Manipon, Jr. The decision of the Sandiganbayan dated September 30, 1981 is affirmed.

SO ORDERED.

Teehankee, C.J., Feria, Yap, Narvasa, Melencio-Herrera, Alampay, Gutierrez, Jr., Cruz, and Paras, JJ., concur.

[1] p. 163, Rollo.

[2] p. 195, Rollo.

[3] Exhibits A, B and C.

[4] Exhibit A.

[5] Exhibit D.

[6] tsn, p. 72, July 14, 1981.

[7] tsn, pp. 76-77, July 14, 1981; Exhs. J and I.

[8] Exhibit F-1.

[9] Exhibit N.

[10] Exhibit G.

[11] Exhibit 11.

[12] p. 29, Records.

[13] pp. 41, 45-46, Records.

[14] Maniego vs. People, 88 Phil. 494.

[15] US vs. Richards, 6 Phil. 545.

[16] tsn, pp. 8-9, August 12, 1981.

[17] tsn, pp. 8, 22, July 29, 1981.

[18] tsn, pp. 35-36, August 12, 1981.

[19] tsn, pp. 47-48, August 12, 1981.

[20] Exhibit 9.

[21] tsn, p. 20, July 29, 1981.

[22] tsn, 51-52, 82, August 12, 1981.

[23] Exhibit O.

[24] tsn, p. 76, August 12, 1981.

[25] Section 12, Rule 126, Rules of Court; Alvero v. Dizon, 76 Phil. 637; Papa v. Mago, L-27360, February 28, 1968, 22 SCRA 857; Harris v. United States, 390 U.S. 234.

[26] tsn, p. 7, July 14, 1981.

[27] tsn, p. 28, July 13, 1981.

[28] tsn, p. 38, July 13, 1981.

[29] tsn, pp. 12-15, 28, July 14, 1981.

[30] tsn, pp. 15, 31-32, July 14, 1981.

[31] Bernas, Constitutional Rights and Duties, Vol. I, 1974 Edition, p. 100.

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