

PEDRO BACASNOT Y CALIAO, PETITIONER, VS. THE HON. SANDIGANBAYAN & THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 60884. November 05, 1987

Ponente: PARAS, J.

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PARAS, J.:

This petition for certiorari assails the Decision dated June 7, 1982, of respondent Sandiganbayan finding accused-petitioner Pedro Bacasnot y Caliao, guilty beyond reasonable doubt of the crime of Malversation of Public Funds/Property. The dispositive portion of the assailed decision reads:

"WHEREFORE, judgment is hereby rendered finding accused Pedro Bacasnot y Caliao GUILTY beyond reasonable doubt as principal of the crime of Malversation of Public Funds, as defined and penalized under Article 217, Paragraph 4, of the Revised Penal Code, and there being no modi-fying circumstance on record, hereby sentences him to suffer the indeterminate penalty of TWELVE (12) YEARS AND ONE (1) DAY as minimum, to EIGHTEEN (18) YEARS, EIGHT (8) MONTHS and ONE (1) DAY as maximum, both of reclusion temporal, to suffer perpetual special disqualification, to pay a fine of P3,900,961.39, to indemnify the National Food Authority in the same amount of P3,900,961.39 malversed by him and to pay the costs of this action." (Rollo, p. 111)

Petitioner was the Operation Officer and the Grains Stock Control Officer of the National Food Authority (NFA, for short) at Malaybalay, Bukidnon from May, 1975 until his suspension in October, 1980. As such he was issued Special Orders Nos. 19-B and 38 (Exhs. A-3 and A-4) autho-rizing him to assist in the procurement operations in Bukid-non. He was an accountable officer and he was required to post a bond. (Exhs. A-5 and A-6)

Petitioner's area of responsibility covered the entire province of Bukidnon. He was responsible for numerous warehouses where thousands or millions of kilos of corn grains, palay, rice and corn grit were stored.

On or about November 21, 1979, a team of auditors from the Commission on Audit (COA) assigned at the NFA head office examined the stocks and empty sacks accountabilities of petitioner. He was found to have incurred shortages in his accountabilities, not only for stocks of corn grains, rice and palay, but also for empty sacks. Initial examination (Exh. M) revealed that he had incurred shortages as follows:

Variety

Quantity

Replacement Cost

Amount

Corn grains

1,399,966.05

P2.86

P4,003,902.90

Palay

20,702.90

1.80

38,507.39

Rice

8,210.00

3.83

29,805.60

Corn grits

1,800.16

2.73

4,914.44

Empty Sacks

361,020.72

Total Shortages... P4,438,151.05

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Petitioner was informed of such shortages in a letter/formal demand (Exh. N) dated August 26, 1980. He replied thereto on September 12, 1980 (Exh. O) and on September 18, 1980 (Exh. 5) claiming that the shortages were due to (a) poor storage facilities; (b) bumper harvests in 1978 which led to the utilization of additional temporary warehouses; (c) vulnerability of the stocks to the natural elements; and (d) uncontrolled infestation.

Thereafter and following well-established guidelines, the COA made the corresponding studies and after reevaluation/recomputation of tolerable allowance due to insect infestation using "uncontrollable formulation" the Auditor-in-Charge, NGA, reduced petitioner's shortages on stocks from P4,438,151.72 to P3,539,940.67, excluding petitioner's shortage on empty sacks valued at P361,020.72, thereby pegging his total shortages at P3,900,961.39, broken down as follows:

Stock

Net Kilos

Reduced by

Tolerable Allowance

Replacement Costs

Amount

Corn grains

P1,451,688.79

P1,214,766.95

P2.86

P3,474,233.48

Palay

31,758.15

18,528.15

1.86

34,462.36

Rice

8,209.05

7,664.15

27,820.97

Corn grits

1,800.16

1,254.16

3,423.86

Total Money Value of Stocks . . P3,539,940.67

Add: Sacks of various types and capacities. 361,020.72

TOTAL SHORTAGE P3,900,961.39

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Exhs. T to T-20

Petitioner was thus prosecuted for malversation of public funds/property before respondent Sandiganbayan, which as earlier stated, found him guilty thereof.

In assailing his conviction petitioner raises the following issues:

1. Whether or not the evidence submitted by the prosecution has satisfactorily established that the shortage was due to misappropriation or embezzlement or conversion of the accused as alleged in the information for his

own benefit or use, and

2. Whether or not the guilt of the accused was proven beyond reasonable doubt.

Article 217 of the Revised Penal Code provides that it shall be prima facie evidence for malversation when a public officer fails to have duly forthcoming any public funds or property for which he is chargeable on demand by any duly authorized officer. That presumption of guilt is founded on human experience and is valid. (Albores vs. Court of Appeals, 132 SCRA 604)

"In malversation, all that is necessary to prove is that the defendant received in his possession public funds, that he could not account for them and did not have them in his possession and that he could not give a reasonable excuse for the disappearance of the same. 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 shortage in his accounts which he has not been able to explain satisfactorily." (De Guzman vs. People 119 SCRA, 337)

In the case at bar, petitioner admits there was a shortage. But he claims that the same was mainly due to infestation by weevils and rodents, usual shrinkage, spillage and poor conditions of the various warehouses where the stocks were piled. The evidence on record however shows that to verify the alleged infestation, the NFA management directed a study of tolerable allowance for uncontrolled infestation. The result of the study still left petitioner with an accountability of P3,539,940.67 plus an additional accountability for empty sacks valued at P361,020.72. Therefore, even on the assumption that the warehouses under his control and supervision were inadequate for storage, or were exposed to the elements, or the stocks were subject to uncontrolled infestation, at the very least, the petitioner should not have incurred such an extraordinary shortage of empty sacks, since such materials cannot be totally eaten up by insects, and even if damaged by the elements, parts thereof would still exist or be salvageable. For such quantity of empty sacks to be totally in-existent, the answer would be they were either stolen or misappropriated. It simply boggles the mind to accept the proposition advanced by the petitioner that stocks of corn grains, palay and rice totalling 1,428,879.86 kilos and P361,020.72 worth of empty sacks would disappear without human intervention, gross inexcusable negligence or willful misappropriation. Even granting that the stocks and empty sacks under the custody and responsibility of petitioner were exposed to the elements, or stored in inadequate warehousing facilities or subjected to uncontrollable infestation such quantities of accountable properties affected thereby would, at the very least, leave some remnants in their storage places.

Citing the case of Albores vs. Court of Appeals (132 SCRA 604) wherein it was held that "even granting that the shortage is too great to be attributable to shrinkage, that consideration is neither sufficient to convict." Petitioner now claims that like Albores (who was found short of 4,658 cavans and 38 kilos of corn valued at P75,-656.94), he is also entitled to acquittal on reasonable doubt.

The aforesaid case of Albores is not applicable in the case at bar. In the said case, the Court found that:

"The accused was the one who requested that his accountability be liquidated because he wanted to transfer to another office. Mr. Arsenio Guer-ra, then the RCA Agency Manager and his immediate supervisor, testified that there was no report of any anomaly having been committed by the accused. The accused himself voluntarily submitted the records with which the auditors established the shortage. When informed of the shortage by the auditors, the accused consulted the Branch Manager, Vicente Caballero, the Chief of the Agency Manager, who informed him that he was found short because he was not given any shrinkage allowance. This conduct of the accused we find consistent with good faith." (p. 610, supra)

Petitioner in the case at bar cannot be said to have acted in good faith. On the contrary, he has not contradicted or rebutted the evidence of the prosecution showing numerous irregularities in his records, operations and

transactions as Grains Stock Control Officer of Bukidnon.

Notable among such irregularities found by the audit team are the following: (1) duplicate copies of warehouse stock receipts (WSR) were cancelled to make it appear that the stocks covered were not received by him; (2) WSRs were not reflected in his accountabilities in the stock report; (3) duplicate copies of WSRs were altered to increase their moisture contents; (4) 1,443 bags of palay categorized as damaged stocks were rebagged and intentionally mixed with soil, sand and gravel and other foreign matters (Exh. "M-1"); (5) poor warehouse keeping and negligence, compounded by non-performance by the classifier of his assigned tasks; (6) excessive losses due to abnormal drying operations; (7) rampant alterations in warehouse documentation on empty sacks transactions; and (8) non-issuance of official receipts for sales of stocks. (Exhs. "M", "M-1" to "M-2")

These documents submitted as evidence were received from petitioner himself (Exh. "D"). What is apparent in these altered and cancelled documents is a scheme to conceal irregularities and justify losses incurred. Not only that, actual stock inventory revealed some bags of palay to have been rebagged and filled with gravel, sand and foreign matters, an obnoxious attempt to cover-up losses by showing that appellant had 1,443 bags purportedly filled with palay.

If there had been no timely audit and inventory, petitioner could have gone scot-free in his attempt to cover-up his losses. Under the circumstances, his contention that he has led a non-luxurious life and is not wealthy is an obvious non-sequitur.

WHEREFORE, this Petition is hereby DISMISSED, and the assailed decision is hereby AFFIRMED.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.
Feliciano, J., on leave.

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