

ATTY. SELSO M. MANZANARIS, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND HONORABLE SANDIGANBAYAN, RESPONDENTS.

G.R. No. 64750. January 30, 1984

Ponente: ESCOLIN, J.

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ESCOLIN, J.:

This is a petition for review of the decision of the Sandiganbayan finding petitioner Sello M. Manzanaris guilty of infidelity in the custody of documents under Article 226, paragraph 2 of the Revised Penal Code. The dispositive portion of the decision reads:

"WHEREFORE, the Court finds Sello M. Manzanaris guilty beyond reasonable doubt as principal of Violation of Art. 226, Revised Penal Code (Removal, Concealment or Destruction of Documents), defined and penalized under paragraph 2 thereof, and there being no mitigating nor aggravating circumstances, he is hereby sentenced to an indeterminate penalty of Three (3) Months and Eleven (11) Days of arresto mayor, as minimum, to One (1) Year, Eight (8) Months and Twenty-One (21) Days of prision correccional, as maximum; to pay a fine of Five Hundred (P500.00) Pesos, with sub-sidiary imprisonment in case of insolvency; to suffer the additional penalty of Eleven (11) Years and One (1) Day of temporary special disqualification; and to pay the costs."

The facts upon which the judgment of conviction rests are summarized by the respondent court as follows:

"x x x Accused is the Clerk of Court of the Court of First Instance of Basilan since 1963 up to the present. As such, he is the custodian of all the records of the Court of First Instance of Basilan. Among the cases filed in said court was Criminal Case No. 299, against Geronimo Borja for malversation of public funds. Among the property constituting the property bond filed by said accused was that covered by Certificate of Title No. 877 of the Register of Deeds of Basilan. When accused discovered thru his subordinate that Original Certificate of Title No. 877 was not existing in the Register of Deeds of Basilan, he ordered a subordinate to deliver owner's copy of Certificate of Title No. 877 to Mr. Borja for the purpose of administrative reconstitution thereof.

x x x x x x x x

"Borja was asked to sign a receipt for the title. The contents of the receipt stated 'Received from the Clerk of Court Sello M. Manzanaris OCT No. 877 to be reconstituted in the Register of Deeds x x x. After reconstitution to be returned to the court.'

x x x x x x x x .

"The release and delivery of the owner's certificate of title to Geronimo Borja was done without any written order from the presiding judge of the court. Mrs. Trinidad M. Borja, wife of Geronimo Borja filed a petition with the Office of the Register of Deeds for the administrative reconstitution of Original Certificate of Title No. 877. Although she succeeded in reconstituting the original of said title in November, 1974, Certificate of Title No. 877 was not turned over to the court."

The records further reveal that on June 11, 1975 the building housing the Court of First Instance of Basilan,

including all the records and documents of the court, were burned. Sometime in 1981, one Atty. Filoteo Jo filed a motion with the court to borrow OCT No. 877. This motion was denied on the basis of the certification issued by petitioner that said title was among the documents destroyed during the conflagration of 1975.

Atty. Jo later informed petitioner that Trinidad Borja had obtained possession of the said title and in fact had succeeded in having the same reconstituted. Only then did petitioner remember that he had delivered said title to Geronimo Borja and that the latter had issued a receipt therefor. Since then, petitioner had repeatedly asked Mrs. Trinidad Borja to return the reconstituted title to the court. The latter, however, could not locate the same from the files of her de-ceased mother, the registered owner, who was in custody thereof before her death.

Petitioner admitted having removed OCT No. 877 from the custody of the court and having delivered the same to Geronimo Borja for the latter to cause its administrative reconstitution after he had found out that the original of said title in the Office of the Register of Deeds was missing. He professed, however, that in delivering OCT No. 877 to Borja, he was actuated with a lawful and commendable motive, i.e., to protect the interest of the State, since the unreconstituted certificate of title, given as property bond of the accused Borja, was absolutely inefficacious for such purpose.

The respondent court brushed aside petitioner's defense of good faith, notwithstanding complete lack of evidence to the contrary.

We reverse. To warrant a finding of guilt of the crime of infidelity in the custody of documents, the act of removal, as a mode of committing the offense, should be coupled with criminal intent or illicit purpose. This calls to mind the oft-repeated maxim "*Actus non facit reum, nisi mens sit rea*," which expounds a basic principle in criminal law that a crime is not committed if the mind of the person performing the act complained of be innocent. Thus, to constitute a crime, the act must, except in certain crimes made such by statute, be accompanied by a criminal intent. It is true that a presumption of criminal intent may arise from proof of the commission of a criminal act; and the general rule is that if it is proved that the accused committed the criminal act charged, it will be presumed that the act was done with criminal intention and that it is for the accused to rebut this presumption. But it must be borne in mind that the act from which such presumption springs must be a criminal act.[1] In the case at bar, the act is not criminal. Neither can it be categorized as *malum prohibitum*, the mere commission of which makes the doer criminally liable even if he acted without evil intent.

It is quite clear that in removing the certificate of title in question from the court's files and delivering the same to Borja for the purpose of effecting its administrative reconstitution, petitioner was not prompted by criminal intent or illegal purpose. Rather, he was motivated with a sincere desire to protect the interest of the Government. The prosecution did not even attempt to impute bad faith on the part of petitioner; and there is nothing in the record to insinuate that petitioner had profited from the act complained of.

In *Kataniag vs. People*[2], this Court ruled:

"Whether during or after office hours, if the removal by a public officer of any official document from its usual place of safe-keeping is for an illicit purpose, such as to tamper with or to otherwise profit by it, or to do in connection therewith an act which would constitute a breach of trust in his official care thereof, the crime of infidelity in the custody of public documents is committed. On the other hand, where the act of removal is actuated with lawful or commendable motives, as when the public officer removes the public documents committed to his trust for examination in connection with official duty, or with a view to securing them from imminent danger of loss, there would be no crime committed under the law. This is so, because the act of removal, destruction or concealment of public documents is punished by law only when any of such acts would constitute infidelity in the custody thereof."

Tested by this rule, petitioner cannot be punished criminally.

WHEREFORE, the decision of the Sandiganbayan is hereby set aside and petitioner acquitted of the crime charged. Costs de oficio. SO ORDERED.

Fernando, C.J., Teehankee, Makasiar, Aquino, Concepcion, Jr., Guerrero, Abad Santos, De Castro, Melencio-Herrera, Plana, Relova, and Gutierrez, Jr., JJ., concur.

[1] U.S. vs. Catolico, 18 Phil. 504.

[2] 74 Phil. 45.

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