

GENEROSO P. CORPUZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

G.R. No. 74259. February 14, 1991

Ponente: CRUZ, J.

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CRUZ, J.:

The petitioner seeks reversal of the decision of the respondent court dated February 27, 1986, the dispositive portion of which reads as follows:

WHEREFORE, the Court finds the accused Generoso Corpuz y Padre, guilty beyond reasonable doubt as principal of the crime of Malversation of Public Funds, and there being no modifying circumstances in attendance, and applying the Indeterminate Sentence Law, hereby sentences him to suffer imprisonment ranging from Twelve (12) Years and One (1) Day of reclusion temporal, as minimum, to Twenty (20) Years of reclusion temporal, as maximum; to restitute to the provincial government of Nueva Vizcaya the sum of P50,596.07 which is the amount misappropriated, and to pay the costs of this, suit. Further, the accused is ordered to suffer the penalty of perpetual special disqualification, and to pay a fine equal to the amount embezzled.

SO ORDERED.

As Supervising Accounting Clerk in the Office of the Provincial Treasurer of Nueva Vizcaya, the petitioner was designated Acting Supervising Cashier in the said Office. In this capacity, he received collections, disbursed funds and made bank deposits and withdrawals pertaining to government accounts.

On April 13, 1981, his designation as Acting Supervising Cashier was terminated, and on April 22, 1981, a Transfer of Accountabilities was effected between the petitioner and his successor. The Certificate of Turnover revealed a shortage in the amount of P72,823.08.[1]

A letter of demand dated April 22, 1981, required the petitioner to produce the missing amount but he was able to pay only P10,159.50. The balance was demanded in another letter dated October 12, 1981. This was subsequently reduced by P12,067.51 through the payment to the petitioner of temporarily disallowed cash items and deductions from his salary before his dismissal from the service.[2]

On September 27, 1982, a final letter of demand for the total deficiency of P50,596.07 was sent to the petitioner. The demand not having been met, an information for malversation of the said amount was filed against him with the respondent court on October 11, 1983.

The above facts are not denied by the petitioner.[3] He insists, however, that he is not guilty of the charge because the shortage imputed to him was malversed by other persons.

His claim is that the P50,000.00 constituting the bulk of the shortage represented the unliquidated withdrawal made by Paymaster Diosdado Pineda through one of four separate checks issued and encashed while the petitioner was on official leave of absence. He avers he was later made to post the amount in his cash book by Acting

Deputy Provincial Treasurer Bernardo C. Aluning and he had no choice but to comply although he had not actually received the said amount.

The four checks drawn from the Philippine National Bank and the corresponding vouchers are described as follows:

- Provincial Voucher dated December 22, 1980 from the General Fund in the amount of P50,000.00 and paid by PNB Check No. 956637 dated December 22, 1980.
- Provincial Voucher dated December 23, 1980 from the Infrastructure Fund in the amount of P50,000.00 and paid by PNB Check No. SN958525 dated December 23, 1980.
- Provincial Voucher dated December 23, 1980 from the General Fund in the amount of P50,000.00 and paid by PNB Check No. 956639J dated December 22, 1980.
- Provincial Voucher dated December 29, 1980 from the Infrastructure Fund in the amount of P50,000.00 and paid by PNB Check No. 958226 dated December 29, 1980.

Testifying for the prosecution, Pineda insisted he had liquidated all four checks after the amounts thereof were disbursed, turning over to the petitioner the corresponding withdrawal vouchers, paid vouchers, and payrolls, (which were all submitted as exhibits).[4] He added that the petitioner was not really absent on the dates in question as alleged but was in fact the one who prepared the said checks in the morning before attending to his sick wife in the hospital, returning to the office in the afternoon. He said that the payroll payments made on December 22, 23 and 29, 1980, were liquidated on December 29, 1980, after the petitioner came back from the hospital.[5]

Acting Provincial Treasurer Perfecto Martinez corroborated Pineda's testimony that the petitioner was not on official leave on the dates in question. He said that although Check No. 958525 had already been encashed on December 23, 1980, the encashment was not immediately recorded in the petitioner's cashbook, "which (was) one way of temporarily hiding the early detection of a shortage." It was only in March 1981 that the shortage was discovered and, when confronted with it, the petitioner had no explanation to offer.[6]

Aluning denied he had exerted pressure on the petitioner to post the shortage in the petitioner's cash book. He explained that after receiving the bank statement from the PNB for December 1980, he discovered that although the amount of P50,000.00 appeared to have been already encashed, the encashment was not reflected in the petitioner's cash book. As his superior, he required the petitioner to make the proper entry in the cash book because the amount withdrawn was already part of the latter's accountability.[7]

After considering the evidence of the parties, the Sandiganbayan, through Justice Amante Q. Alconcel, made the following findings:

The evidence on record is devoid of any explanation from the defense as to the amount of P595.87. Hence, the accused must be held answerable for the misappropriation of the said amount.

As to the amount of P50,000.00. We are not disposed to give credence to his claim that same has not been liquidated by the paymaster, for the following reasons:

First, Check No. 958525 is only one of four (4) checks issued and encashed for the same purpose, and that is, to pay salary differentials as well as salaries and wages of provincial officials and employees of the province of Nueva Vizcaya covering the period, January to December, 1980. Issuance and encashment occurred on December 23, 1980, and in fact, another check (No. 956639) was also issued and encashed on the same day. The two (2) other checks (Nos. 956637 and 950526) were issued and encashed on December 22 and 29, 1980, respectively. Except for Check No. 958525, which was only entered in accused's Cash Book on March 31,

1981, or three (3) months after its issuance and encashment, all the other three (3) were duly entered. Then Check No. 956639 which, as pointed out above, was issued and encashed on the same day as Check No. 958525, was duly entered in his Cash Book. Non-entry of the latter check on time was a subtle way of camouflaging the embezzlement of its money equivalent.

Secondly, there seems to be no logical reason why Checks, Nos. 956639 and 958526, could not have been liquidated together by Diosdado Pineda who used the proceeds to pay salary differentials of government officials and employees of the province of Nueva Vizcaya, since these have been issued and encashed on the same day.

Thirdly, Diosdado Pineda, who was presented as a prosecution witness, swore that he duly liquidated the proceeds of the four (4) checks as follows:

ATTY. DEL ROSARIO ON DIRECT EXAMINATION:

Q.

If the payroll is already accomplished, where do you give the payroll?

A.

I give it back to the cashier with the corresponding voucher to support the vouchers paid by me or disbursed by me.

AJ ESCAREAL:

Q.

So that your cash advances will be liquidated?

A.

Yes, Your Honor.

x x x

Q.

In the absence of the cashier, to whom do you give these documents?

A.

I give them to the cashier only, no other person.

ATTY. DEL ROSARIO

q.

In his absence, do you keep these documents?

a.

Yes, Your Honor.

q.

For payrolls that you paid for December 22, 23 and 29, when did you give these payrolls to the cashier?

a.

On December 29, sir.

AJ ESCAREAL:

q.

Duly accomplished?

a.

Duly accomplished, Your Honor.

x x x

AJ ALCONCEL:

q.

Where did you see your cashier on the 29th?

a.

At the office, Your Honor.

ATTY. DEL ROSARIO:

q.

At what time?

a.

In the afternoon, sir.

AJ ALCONCEL:

q.

Are you not aware that your cashier was absent on that date?

a.

He was present on that day, sir. He would go out because the wife was supposedly having a check-up but in the afternoon, he would return. (t.s.n., March 29, 1985, pp. 16-18)

The cashier referred to by the witness is the accused, Generoso P. Corpuz.

And fourthly, We are not impressed by: accused's claim that he was absent on December 22, 23 and 29, 1980. His witness, Diosdado Pineda, declared otherwise. His Employee's Leave Card (Exhibit J), wherein his earned leaves are indicated, shows that during the month of December, 1980, he earned 1.25 days vacation leave and 1.25 days sick leave, which is the same number of days vacation and sick leaves that he earned monthly from July 7, 1976 to October 1981. Moreover, even if it were true that he was absent on December 23, 1980, the day when Check No. 958525 was issued and encashed, yet, the other check which was issued and encashed on the same day was duly liquidated.

The above findings are mainly factual and are based on substantial evidence. There is no reason to disturb them, absent any of the exceptional circumstances that will justify their review and reversal. On the contrary, the Court is convinced that the facts as established point unmistakably to the petitioner's guilt of the offense charged.

This conclusion is bolstered by the Solicitor General's observation that:

Moreover, petitioner's denial of responsibility for the missing P50,000.00 is negated by the following factors:

First. When he entered the said amount in his cash book in March, 1981, he did not make any notation that said amount, though entered, was not actually received.

Second. At the time he signed the certificate of turn-over (Exhibit C), he did not make any certification that the

amount of P50,000.00 should not be charged against him.

Third. Despite his insistence that Pineda and Martinez misappropriated the money, he did not file any case, whether civil, criminal or otherwise, against either or both.

The absence of a post-audit is not, as the petitioner contends, a fatal omission. That is not a preliminary requirement to the filing of an information for malversation as long as the prima facie guilt of the suspect has already been established. The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer, shall be prima facie evidence that he has put such missing funds or property to personal use.[8] And what determines whether the crime of malversation has been committed is the presence of the following requirements under Article 217 of the Revised Penal Code:

(a)

That the offender be a public officer.

(b)

That he had the custody or control of funds or property by reason of the duties of his office.

(c)

That those funds or property were public funds or property for which he was accountable.

(d)

That he appropriated, took, misappropriated or consented or, through abandonment or negligence, permitted another person to take them.

The petitioner's claim that he is the victim of a "sinister design" to hold him responsible for a crime he has not committed is less than convincing. His attempt to throw the blame on others for his failure to account for the missing money only shows it is he who is looking for a scapegoat. The plaintive protest that he is "a small fry" victimized by the "untouchables" during the Marcos regime is a mere emotional appeal that does not impress at all. The suggestion that the supposed injustice on the petitioner would be abetted by this Court unless his conviction is reversed must be rejected as an arrant presumptuousness.

The equipoise rule invoked by the petitioner is applicable only where the evidence of the parties is evenly balanced, in which case the constitutional presumption of innocence should tilt the scales in favor of the accused. There is no such equipoise here. The evidence of the prosecution is overwhelming and has not been overcome by the petitioner with his nebulous claims of persecution and conspiracy. The presumed innocence of the accused must yield to the positive finding that he malversed the sum of P50,310.87 to the prejudice of the public whose confidence he has breached. His conviction must be affirmed.

WHEREFORE, the petition is DENIED, with costs against the petitioner. It is so ordered.

Fernan, C.J., Narvasa, Melencio-Herrera, Gutierrez, Jr., Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

[1] Rollo, p. 41.

[2] As ordered by the Minister of Finance in Administrative Case No. 0001424.

[3] Except as to the total shortage, which was reduced to P50,310.00.

[4] Exhibits 2, 3, 4 and 5.

[5] Rollo, pp. 47-48; 52-54; 99-103.

[6] Ibid., pp. 48-49.

[7] Id., pp. 49-50; 106-107.

[8] Article 217, Revised Penal Code.

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