

DAVID P. LLORENTE, PETITIONER, VS. THE SANDIGANBAYAN (THIRD DIVISION), AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 85464. October 03, 1991

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The petitioner questions the Decision of the Sandiganbayan[*] holding him civilly liable in spite of an acquittal. The facts are not disputed:

Atty. Llorente was employed in the PCA, a public corporation (Sec. 1, PD 1468) from 1975 to August 31, 1986, when he resigned. He occupied the positions of Assistant Corporate Secretary for a year, then Corporate Legal Counsel until November 2, 1981, and, finally, Deputy Administrator for Administrative Services, Finance Services, and Legal Affairs Departments. x x x.

As a result of a massive reorganization in 1981, hundreds of PCA employees resigned effective October 31, 1981. Among them were Mr. Curi, Mrs. Perez, Mr. Azucena, and Mrs. Javier (TSN, Oct. 22/87, p. 2; Exhs. M-2, N-1, and O-1). They were all required to apply for PCA clearances in support of their gratuity benefits (Exhs. C, M-2, N-1, and O-1). Condition (a) of the clearance provided:

“The clearance shall be signed by the PCA officers concerned only when there is no item appearing under “PENDING ACCOUNTABILITY” or after every item previously entered thereunder is fully settled. Settlement thereof shall be written in RED ink.” (Exhs. D or D-1 and 1-B)

After the clearance was signed by the PCA officers concerned, it was to be approved, first, by Atty. Llorente, in the case of a rank-and-file employee, or by Col. Dueñas, the acting administrator, in the case of an officer, and then by Atty. Rodriguez, the corporate auditor x x x.

Notwithstanding Condition (a) just quoted, the clearances of Mrs. Perez and Mr. Azucena both dated October 30, 1981, were favorably acted upon by the PCA officers concerned, including Mrs. Sotto, acting for the accounting division, even if the clearances showed they had pending accountabilities to the GSIS and the UCPB, and subsequently approved by Attys. Llorente and Rodriguez (Exhs. M and N). Thereafter, the vouchers for their gratuity benefits also indicating their outstanding obligations were approved, among others, by Atty. Llorente, and their gratuity benefits released to them after deducting those accountabilities. x x x.

The clearance of Mrs. Javier of the same date of October 30, 1981, was also signed by all PCA officers concerned, including Mrs. Sotto even though the former had unsettled obligations noted thereon, viz: GSIS loan — P5,387.00 and UCPB car loan P19,705.00, or a total of P25,092.00, and later on approved by Col. Dueñas, Mrs. Javier being an officer, and Atty. Rodriguez (Exh. O). Similarly, the voucher of Mrs. Javier for her gratuity benefits likewise recited her accountabilities of P25,092.00 plus P92,000.00, which was hand-written. Both amounts were deducted from her gratuity benefits, and the balance released to her on November 16, 1981. The voucher passed post-audit by Atty. Rodriguez on December 1, 1981 (Exhs. L, L-1, L-2, and L-3).

The said P92,000.00 was the disallowed portion of the cash advances received by Mr. Curio in connection with

his duties as “super cargo” in the distribution of seed nuts throughout the country. He received them through and in the name of Mrs. Javier from the UCPB. When the amount was disallowed, the UCPB withheld from the PCA certain receivables; the later, in turn, deducted the same amount from the gratuity benefits of Mrs. Javier, she being primarily liable therefor (Exhs. L, L-1, L-2, and L-3). At the time of the deduction, the additional liquidation papers had already been submitted and were in process. Just in case she would not be successful in having the entire amount wiped out, she requested Mr. Curio, who admittedly received it, to execute, as he did, an affidavit dated November 26, 1981, in which he assumed whatever portion thereof might not be allowed x x x.

The clearance of Mr. Curio dated November 4, 1981, (Exh. D or D-1) likewise favorably passed all officers concerned, including Mrs. Sotto, the latter signing despite the notation handwritten on December 8, 1981, that Mr. Curio had pending accountabilities, namely: GSIS loan — P2,193.74, 201 accounts receivable — P3,897.75, and UCPB loan — P3,623.49, or a total of P10,714.78. However, when the clearance was submitted to Atty. Llorente for approval, he refused to approve it. For this reason, the clearance was held up in his office and did not reach Atty. Rodriguez. x x x.

The reason given by Atty. Llorente was that when the clearance was presented to him on December 8, 1981, he was already aware of the affidavit dated November 26, 1981, in which Mr. Curio assumed to pay any residual liability for the disallowed cash advances, which at the time, December 8, 1981, stood at P92,000.00 (Exhs. 2 and 2-A). Moreover, Mr. Curio had other pending obligations noted on his clearance totalling P10,714.98 (Exh. 1-a). To justify his stand, Atty. Llorente invoked Condition (a) of the clearance (Exhs. D and I-B), which, he said, was “very stringent” and could not be interpreted in any other way x x x.

On December 1, 1982, Mr. Curio brought the matter of his unapproved clearance to Col. Dueñas (Exh. G), who referred it to the Legal Department, which was under Atty. Llorente as Deputy Administrator for legal affairs. After follow-up in that department, Mr. Curio received the answer of Col. Dueñas dated February 11, 1983, saying that the clearance was being withheld until the former settled his alleged accountability for P92,000.00 reduced already to P55,000.00 (Exh. I). Mr. Curio elevated the matter to the Chairman of the PCA Board, who indorsed it to Col. Dueñas, who, in turn, sent it to the Legal Department. This time the latter, through its Manager, Manuel F. Pastor, Jr., first cousin of Atty. Llorente, submitted a formal report under date of August 14, 1986, to the PCA Chairman, justifying the action taken by Atty. Llorente and Col. Dueñas (Exh. 12). The PCA Chairman did not respond in writing, but advised Mr. Curio to wait for the resolution of the Tanodbayan with which he (Mr. Curio) had filed this case initially against Atty. Llorente and, later on, against Col. Dueñas also. On August 31, 1986, Atty. Llorente resigned from the PCA; the clearance, however, could not be issued because, according to the PCA Corporate Legal Counsel, Arthur J. Lique, the PCA did not want to preempt the Tanodbayan. On November 12, 1986, the latter decided to institute this case in court x x x.

Nine days thereafter, or on November 21, 1986, Mr. Curio accomplished another clearance, which no longer imposed Condition (a) of his earlier clearance (Exh. E). The new clearance was approved, even if he still had pending accountabilities totalling P10,714.78 that had remained unsettled since December 1981. His voucher was also approved, and his gratuity benefits paid to him in the middle of December 1986, after deducting those obligations (Exh. F). Nothing was mentioned anymore about the disallowed cash advances of P92,000.00, which had been reduced to P55,000.00 x x x.

Between December 1981 and December 1986, Mr. Curio failed to get gainful employment; as a result, his family literally went hungry. In 1981, he applied for work with the Philippine Cotton Authority, but was refused, because he could not present his PCA clearance. The same thing happened when he sought employment with the Philippine Fish Marketing Administration in January 1982. In both prospective employers, the item applied for was P2,500.00 a month. At that time, he was only about 45 years old and still competitive in the job market. But

in 1986, being already past 50 years, he could no longer be hired permanently, there being a regulation to that effect. His present employment with the Philippine Ports Authority, which started on March 16, 1987, was casual for that reason. Had his gratuity benefits been paid in 1981, he would have received a bigger amount, considering that since then interest had accrued and the foreign exchange rate of the peso to the dollar had gone up x x x.[1]

On December 10, 1986, an Information for violation of Section 3(c) of the Anti-Graft and Corrupt Practices Act was filed against the petitioner:

That on or about December 8, 1981 and/or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused David Pastor Llorente, Deputy Administrator for the Philippine Coconut Authority (PCA), and as such was empowered among others to approve clearances of employees thereat, taking advantage of his position, through evident bad faith, did then and there, wilfully and unlawfully refuse to issue a certificate of clearance to Herminigildo M. Curio, an employee thereat, who was forced to resign as a result of the abolition of his item pursuant to the 1981 reorganization of the PCA, resulting in his deprivation to receive his gratuity benefits amounting to P29,854.90, and to secure employment with other offices to his damage and prejudice, and that of the public service.

CONTRARY TO LAW.

Manila, Philippines, December 10, 1986.[2]

As indicated at the outset, the Sandiganbayan acquitted the petitioner in the absence of any evidence that he acted in bad faith.[3] The Sandiganbayan cited three considerations that precluded bad faith:

First, when Atty. Llorente withheld favorable action on the clearance on and after December 8, 1981, there was still the possibility, remote though it was when viewed after the fact, that the accountability, which Mrs. Javier was primarily liable therefor and which was fully settled by deduction from her gratuity benefits on November 16, 1981 (Exhs. L, L-1, L-2, and L-3), would be reinstated and charged directly to Mr. Curio, for the latter executed on November 26, 1981, an affidavit assuming responsibility for the obligation to the extent of the amount finally disallowed, and the affidavit was on December 8, 1981, already pending consideration by the PCA management (Exhs. 2 and 2-A).

Second, Atty. Llorente was appointed Deputy Administrator for administrative services, finance services, and legal affairs departments only on November 2, 1981 (TSN, March 9/87, p. 3). Being new in his job, it was but natural that he was zealous in the performance of his functions — in fact, overzealous in the protection of the PCA interests, even if that protection was not necessary, as the P92,000.00 accountability had already been paid (See Exh. 12, 4[th] paragraph).

Finally, Atty. Llorente was officiously, though incidentally, taking care also of the interest of Mrs. Javier who, justice and equity demanded, should not be made to shoulder the P92,000.00 unliquidated cash advances, for the reason that it was Mr. Curio who admittedly spent them or who, at the very least, should be able to get reimbursement of what she paid, totally or partially, from his gratuity benefits (See Exh. 5, pp. 2-3).[4]

The Sandiganbayan, as we also indicated earlier, took the petitioner to task civilly, and ordered him to pay “compensatory damages” in the sum of P90,000.00. According to the Sandiganbayan, the petitioner was guilty nonetheless of abuse of right (under Article 19 of the Civil Code) and as a public officer, he was liable for damages suffered by the aggrieved party (under Article 27).

The petitioner claims that the Sandiganbayan’s Decision is erroneous even if the Sandiganbayan acquitted him therein, because he was never in bad faith as indeed found by the Sandiganbayan.

Under the 1985 Rules of Criminal Procedure, amending Rules 110 through 127 of the Rules of Court, the judgment of the court shall include, in case of acquittal, and unless there is a clear showing that the act from

which the civil liability might arise did not exist, “a finding on the civil liability of the accused in favor of the offended party.”[5] The rule is based on the provisions of substantive law,[6] that if acquittal proceeds from reasonable doubt, a civil action lies nonetheless.

The challenged judgment found that the petitioner, in refusing to issue a certificate of clearance in favor of the private offended party, Hermenigildo Curio, did not act with “evident bad faith”, one of the elements of Section 3(e) of Republic Act No. 3819.[7] We agree with the judgment, insofar as it found lack of evident bad faith by the petitioner, for the reasons cited therein, basically, because the petitioner was acting within the bounds of law in refusing to clear Curio although “[t]he practice was that the clearance was nevertheless approved, and then the amount of the unsettled obligation was deducted from the gratuity benefits of the employee.”[8]

We also agree with the Sandiganbayan (although the Sandiganbayan did not say it) that although the petitioner did not act with evident bad faith, he acted with bad faith nevertheless, for which he should respond for damages.

The records show that the office practice indeed in the Philippine Coconut Authority was to clear the employee (retiree) and deduct his accountabilities from his gratuity benefits. There seems to be no debate about the existence of this practice (the petitioner admitted it later on) and in fact, he cleared three employees on the condition that their obligations should be deducted from their benefits.[9] We quote:

Confronted with these evidence [sic], Atty. Llorente conceded, albeit grudgingly, the existence of the practice by the accounting division of not complying with Condition (a). He, however, claimed that he learned of the practice only during the trial of this case and that he must have inadvertently approved the clearances of Mrs. Perez. Mr. Azucena, and, possibly others who were similarly situated (TSN, March 9/88, pp.4-5). This the evidence belies. First, he himself testified that when the clearance of Mr. Curio was presented to him in December 1981, it already bore the signature of Mrs. Sotto of the accounting division and the notation set opposite her name about the outstanding accountabilities of Mr. Curio; but he (Atty. Llorente) significantly did not ask her why she signed the clearance (TSN, Nov. 24/87, pp. 24-25). Second, in that month, Atty. Llorente approved Mrs. Perez’s and Mr. Azucena’s vouchers showing that they had pending obligations to the GSIS and the UCPB, which were being deducted from their gratuity benefits. Attached to those vouchers were the clearances as supporting documents (Exhs. M-2 and N-1; TSN, Dec. 7/87, pp. 13, 23). And third, in that same month, Atty. Llorente was already aware of the case of Mrs. Javier whose clearance and voucher were, according to him, precisely withheld because of her unsettled accountability for the cash advances of P92,000.00, but were later on given due course; and her gratuity benefits released on November 16, 1981, minus that amount (TSN, Nov. 24/87, pp. 31-32; Exhs. L, L-1, L-2, and L-3).

The cash advances of P92,000.00 were the primary obligation of Mrs. Javier, since they were secured through her and in her name from the UCPB. That was why they were charged to, and deducted from, her gratuity benefits. Consequently, as early as that date and in so far as the PCA and the UCPB were concerned, the accountability was already fully paid. The assumption of residual liability by Mr. Curio for the cash advances on November 26, 1981, was a matter between him and Mrs. Javier (Exhs. 2 and 2-A).[10]

The general rule is that this Court is bound by the findings of fact of the Sandiganbayan.[11]

As we said, the acts of the petitioner were legal (that is, pursuant to procedures), as he insists in this petition, yet it does not follow, as we said, that his acts were done in good faith. For emphasis, he had no valid reason to “go legal” all of a sudden with respect to Mr. Curio, since he had cleared three employees who, as the Sandiganbayan found, “were all similarly circumstanced in that they all had pending obligations when, their clearances were filed for consideration, warranting similar official action.”[12]

The Court is convinced that the petitioner had unjustly discriminated against Mr. Curio.

It is no defense that the petitioner was motivated by no ill-will (a grudge, according to the Sandiganbayan), since

the facts speak for themselves. It is no defense either that he was, after all, complying merely with legal procedures since, as we indicated, he was not as strict with respect to the three retiring other employees. There can be no other logical conclusion that he was acting unfairly, no more, no less, to Mr. Curio.

It is the essence of Article 19 of the Civil Code, under which the petitioner was made to pay damages, together with Article 27, that the performance of duty be done with justice and good faith. In the case of *Velayo v. Shell Co. of the Philippines*,^[13] we held the defendant liable under Article 19 for disposing of its property — a perfectly legal act — in order to escape the reach of a creditor. In two fairly more recent cases, *Sevilla v. Court of Appeals*^[14] and *Valenzuela v. Court of Appeals*^[15], we held that a principal is liable under Article 19 in terminating the agency — again, a legal act — when terminating the agency would deprive the agent of his legitimate business.

We believe that the petitioner is liable under Article 19.

The Court finds the award of P90,000.00 to be justified by Article 2202 of the Civil Code, which holds the defendant liable for all “natural and probable” damages. Hermenegildo Curio presented evidence that as a consequence of the petitioner’s refusal to clear him, he failed to land a job at the Philippine Cotton Authority and Philippine First Marketing Authority. He also testified that a job in either office would have earned him a salary of P2,500.00 a month, or P150,000.00 in five years. Deducting his probable expenses of reasonably about P1,000.00 a month, or P60,000.00 in five years, the petitioner owes him a total of actual damages of P90,000.00.

WHEREFORE, premises considered, the Petition is DENIED. No pronouncement as to costs.

IT IS SO ORDERED.

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

[*] Balajadia, Jose, J.; Molina, Conrado and Del Rosario, Cipriano, JJ., Concurring.

[1] Rollo, 62-66.

[2] Id., 49-50.

[3] In the case of *Mejorada v. Sandiganbayan*, Nos. 57065-72, June 30, 1987, 151 SCRA 399, the Court cited three elements making up violations of Section 3(e) of the Anti-Graft Law: “First, that the accused must be a public officer charged with the duty of granting licenses or permits or other concessions. Petitioner contends that inasmuch as he is not charged with the duty of granting licenses, permits or other concessions, then he is not the officer contemplated by Section 3(e).

Section 3 cited above enumerates in eleven subsections the corrupt practices of any public officers declared unlawful. Its reference to “any public officer” is without distinction or qualification and it specifies the acts declared unlawful. We agree with the view adopted by the Solicitor General that the last sentence of paragraph (e) is intended to make clear the inclusion of officers and employees of offices or government corporations which, under the ordinary concept of “public officers” may not come within the term. It is a strained construction of the provision to read it as applying exclusively to public officers charged with the duty of granting licenses or permits or other concessions.

The first element, therefore, of Section 3(e) is that the accused must be a public officer. This, the informations did not fail to allege.

Second, that such public officer caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions.

Petitioner denies that there was injury or damage caused the Government because the payments were allegedly made on the basis of a document solely made by the Highway District Engineer to which petitioner had no hand in preparing. The fact, however, is that the government suffered undue injury as a result of the petitioner's having inflated the true claims of complainants which became the basis of the report submitted by the Highway District Engineer to the Regional Director of the Department of Highways and which eventually became the basis of payment. His contention that he had no participation is belied by the fact that as a right-of-way-agent, his duty was precisely to negotiate with property owners who are affected by highway constructions for the purpose of compensating them.

On the part of the complainants, the injury caused to them consists in their being divested of a large proportion of their claims and receiving payment in an amount even lower than the actual damage they incurred. They were deprived of the just compensation to which they are entitled.

Third, the injury to any party, or giving any private party any unwarranted benefits, advantage or preference was done through manifest partiality, evident bad faith or gross inexcusable negligence.” (Supra, 405-406.)

[4] Rollo, id., 72.

[5] RULES OF COURT, Rule 120, sec. 2.

[6] CIVIL CODE, art. 29.

[7] See *Mejorada v. Sandiganbayan*, supra.

[8] Rollo, id., 53.

[9] Id., 70, 71, 75.

[10] Id., 70-71.

[11] *Castillo v. Sandiganbayan*, Nos. 52352-57, June 20, 1987, 151 SCRA 425.

[12] Rollo, id., 71.

[13] 120 Phil. 187 (1956).

[14] Nos. L-41182-83, April 15, 1988, 160 SCRA 171.

[15] G.R. No. 83122, October 19, 1990, 190 SCRA 1.

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