

ILUMINADO ILUMIN Y CARBONELL, PETITIONER, VS. SANDIGANBAYAN (THIRD DIVISION), AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. No. 85667. February 23, 1995

Ponente: ROMERO, J.

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ROMERO, J.:

This is a petition for review on certiorari seeking the reversal of respondent Sandiganbayan's decision dated November 4, 1988 in Criminal Case No. 9042 entitled "People of the Philippines v. Iluminado Ilumin," finding petitioner Ilumin guilty beyond reasonable doubt of the complex crime of estafa through falsification of public document.

The case stems from the following facts:

Petitioner, Iluminado Ilumin, a special disbursing officer/liaison officer of the Metropolitan Waterworks and Sewerage System (MWSS), was tasked with the duty of collecting from the senior disbursing officer the salaries of employees of the Engineering Department for distribution in accordance with the payroll register of said department.

Ms. Claudia Caridad, an auditor of the MWSS, had reported that the payroll of register for the period of February 8-15, 1984 [1] for the salaries of the employees in the Planning and Design Division, Engineering Department, was post-audited and allowed only in the amount of P9,557.00. One of her auditing examiners noted that there was a disallowance of P1,000.00 since what appeared to have been paid by the disbursing officer for said payroll was P10,557.00. The disallowed amount of P1,000.00 corresponded to the total increase in the net pay of Arceo Castillo and Iluminado Ilumin. [2] Upon verification, Mr. Bienvenido Delis of the accounting department stated that the alteration in the payroll in the net pay of the two aforementioned employees was unauthorized.

Thereafter, the petitioner was charged before the Sandiganbayan with the crime of Estafa through Falsification of Public Document under the following information:

"That on or about or during the period from February 1, to 15, 1984, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, accused Iluminado Ilumin, a Special Disbursing Officer/Liaison Officer of the Metropolitan Water Works and Sewerage System (MWSS), hence a public officer having been duly appointed and qualified as such, with the duty of collecting the salaries of specified (MWSS) employees in a division, from the MWSS Senior Disbursing Officer, based on the payroll register, and thereafter distributing the same to the aforesaid MWSS employees, taking advantage of his official and public position, by abuse of confidence and/or by means of deceit and committing the offense in relation to his office, did then and there wilfully, unlawfully and feloniously prepare, falsify the public document/payroll register with No. 2110 of the Planning and Design Division of the MWSS for the period covering February 1 to 15, 1984 by crossing the total amount of MWSS employees Arceo Castillo of P201.00 and placing the amount of P721.00 and his own salary of P147.00 to P627.00 and thereafter crossing the amount of P9,557.00 and placing the amount of P10,557.00 or an over difference of P1,000.00, in the payroll

register aforesaid, alleging the same as refunds from salary loans, when in truth and in fact as the accused well knew, the said refunds were not true; thereafter collecting and actually receive the total amount of P10,557.00 from Reginaldo P. Nicolas, Senior Disbursing Officer and subsequently, once in custody of the said amount of P10,557.00 embezzle and appropriate to his own personal use and benefits the aforesaid over difference of P1,000.00, to the damage and prejudice of the Government, particularly the Metropolitan Waterworks and Sewerage System, in the said amounts of P1,000.00." [3]

Public respondent Sandiganbayan's Third Division, in a decision dated November 3, 1988, convicted the petitioner, disposing as follows:

"WHEREFORE, the Court finds the accused Iluminado Ilumin y Carbonnel, guilty beyond reasonable doubt as principal of the complex crime of estafa through falsification of public document defined and penalized under Articles 171, No. 6, 214 and 318, in relation to Article 48, of the Revised Penal Code. Absent any modifying circumstances, and applying the Indeterminate Sentence Law, he is hereby sentenced to an indeterminate penalty ranging from TWO (2) YEARS, FOUR (4) MONTHS and ONE (1) DAY of prision correccional, as minimum, to TEN (10) YEARS and one (1) DAY of prision mayor, as maximum, to suffer temporary special disqualification in its maximum period to perpetual special disqualification, to pay a fine of P4,000.00 without subsidiary imprisonment in case of insolvency, to indemnify the Metropolitan Waterworks and Sewerage System (MWSS) in the sum of P1,000.00, and to pay the costs." [4]

Hence, this petition which seeks the review of respondent Sandiganbayan's decision in aforesaid case.

Petitioner contends that his acquittal and the reversal of the questioned decision are in order primarily because the prosecution failed to prove his guilt beyond reasonable doubt. He argues that no direct proof was adduced to prove that it was he who altered the payroll and that he benefited from such act. [5] The prosecution likewise allegedly failed to present a handwriting expert to establish that petitioner is the author of the falsification. [6]

He also claims that the respondent Sandiganbayan's declaration of his guilt is based only on presumption, conjecture, surmise and speculation. He cites the following paragraph in the Decision as an example of baseless presumption used by respondent court:

"In fine, it was the accused who uttered the falsified payroll by presenting it to the cashier for payment. He profited from the falsified payroll to the tune of at least P500.00 by which the amount lawfully due him as salary was increased. It has been held that the possessor and user of a forged document is presumed to be the forger, especially when he derived benefits thereunder. (II Reyes, The Revised Penal Code, 1981 ed., pp. 232-233, citing *People vs. Manansala*, 105 Phil. 1253 and *People vs. Domingo*, 49 Phil. 28, II Aquino, The Revised Penal Code, 1987 ed., pp. 272-273, citing *United States vs. Castillo*, 6 Phil. 453 and *People vs. Domingo supra*).

From this confluence of circumstances, The Court is ineluctably led to the conclusion that it was the accused Iluminado Ilumin who made these unauthorized alterations on the payroll. The falsified payroll was encashed by him for the amount of P10,557.00, as shown in the Record of Disbursement (Exh. D-1). In distributing the salaries of the payees listed in the payroll, he acknowledged that he used the duplicate copy of the payroll (Exh. 1) as his guide. (TSN, Oct. 27, 1987, p. 12) The total amount of the payee's salaries appearing in the duplicate copy of the payroll was only P9,557.00. It is thus safe to conclude that the difference of P1,000.00 between the total amount of P10,557.00 he obtained from the cashier and the P9,557.00 he paid out to the employees was appropriated by him for his personal use." [7]

In addition, he advances certain theories which he claims destroy the finding of guilt against him. Firstly, that it was impossible to have accomplished the alteration without being detected by the cashier and bookkeeper who were responsible for reconciling the payroll register. Secondly, a former bookkeeper of the MWSS implicated in

the payroll padding anomaly absconded and no longer reported for duty in February 1984. Petitioner claims that this bookkeeper could have been responsible for the altered payroll and that petitioner is only an "innocent scapegoat." Thirdly, the cashier, Mr. Reginaldo P. Nicolas, who testified against petitioner was himself implicated in the payroll anomaly. [8]

The Solicitor General, respondent's counsel, traverse petitioner's arguments by pointing out that as petitioner elevated the case on petition for review on certiorari under Rule 45 of the Rules of Court, where only questions of law may be raised, petitioner's assignment of errors must necessarily fall for being merely factual in character.

After a careful study of the arguments of both parties, we rule that the instant petition should be dismissed for lack of merit.

In response to the Solicitor General's contention, it is sufficient to cite the Court's reasoning in *Nuñez v. Sandiganbayan*: [9]

"x x x Petitioner makes much, perhaps excessively so as is the wont of advocates, of the fact that there is no review of the facts. What cannot be too sufficiently stressed is that this Court in determining whether or not to give due course to the petition for review must be convinced that the constitutional presumption of innocence x x x has been overcome. In that sense, it cannot be said that on the appellate level there is no way of scrutinizing whether the quantum of evidence required for a finding of guilt has been satisfied. x x x"

Petitioner was convicted of the complex crime of estafa with falsification of public document wherein the falsification of the public document is a necessary means to commit estafa. But the crime of falsification is considered already consummated even before the falsified document is used to defraud another. The utilization of the falsified public document to defraud another is what constitutes estafa. The damage to another is not caused by the falsification of the document but by the commission of estafa. [10]

If petitioner, being a public officer, embezzled public funds for which he is accountable, his crime would be malversation through falsification. But since he misappropriated public funds for which he is not accountable, his crime is estafa through falsification. [11]

Petitioner Ilumin was charged with and found guilty of falsifying the payroll for February 8-15, 1984 and collecting and misappropriating the unauthorized sum of P1,000.00. Altering two entries in the payroll, he made it appear that one Arceo Castillo and himself were each to receive five hundred pesos more than their net pay. The amount he received from the cashier to be distributed to the employees of the Planning and Design Division of MWSS's Engineering Department was one thousand pesos more than what was authorized.

Public respondent Sandiganbayan found adequate proof to show that petitioner was the only person who could have accomplished the crime.

We now quote from the Sandiganbayan's decision, the flow of the payroll in order to facilitate understanding of how the crime could be committed.

"In order to pinpoint the particular stage of the processing of the payroll when these unauthorized alterations occurred, a careful study of the flow of the payroll was made. The evidence on record shows that the processing of computerized payroll as in the instant case starts at the accounting section by accumulating data for payroll master file and updating the monthly data for the payroll. Thereafter, these data are sent to the Computer Service Center to generate payroll records. From the computer center, it goes to the accounting department for checking and distribution to the offices concerned. The liaison officer prepares the Summary Time Report (STR) and forwards it for approval to the personnel department so that the corresponding adjustment for the leave of employees such as sick leave, leave without pay, etc. will be reflected thereon. The original copy of the STR is submitted to the accounting department. The bookkeeper-in-charge checks the STR

and he reflects the changes on the payroll. In case of any changes, another bookkeeper after indexing will affix his initial while the one in charge of processing will classify the same and put the final amount to be paid on the payroll with his initial. After making all the adjustments on the payroll, the chief of section signs the payroll and gives it to the liaison officer. A copy of the payroll is retained by the bookkeeper for office file. The liaison officer brings the original payroll to the payees named therein for their signatures to signify his authority to receive from the cashier the amounts corresponding to their salaries. The payroll bearing the signatures of all the payees is submitted to the cashier/disbursing officer, Reginaldo P. Nicolas, who pays the payroll. The original copy of the payroll and the STR are retained in the treasury department for recording in the cashbook and thereafter, they are forwarded to the accounting department for recording, journalization, posting to general ledger and reconciliation purposes. Finally, from the accounting department they are forwarded to the office of the auditor (COA) for post-audit." [12]

The Sandiganbayan placed great reliance on the testimony of the former Acting Chief of the Claims and Payroll Accounting Section, Lourdes Maganis, when she testified that at the time she signed the payroll and gave it to petitioner Ilumin, the alterations in question were not yet existing. [13] It reasoned in this manner:

"This assertion of witness Lourdes Maganis is worthy of credit. Aside from her means and opportunity of knowing the facts to which she was testifying, the substance of her testimony on this particular point is reasonable and probable. The procedures regarding the processing of payroll required that any authorized change or adjustment which warranted alteration of entries on the payroll had to be done by the authorized officer in the accounting section. Inasmuch as Ms. Lourdes Maganis, the chief of section, was the one who would designate the authorized official to make the alteration, she was in the best position to know when she affixed her signature on the payroll if there was already any alteration in the payroll and whether the same was authorized or not." [14]

Another witness, bookkeeper Bienvenido Delis, corroborated Maganis' declaration by stating that at the time he processed the subject payroll and submitted it to the section chief, Ms. Maganis, the unauthorized alterations were not yet existing. [15]

Public respondent likewise used petitioner's own testimony in proving that when the payroll was handed to him by Ms. Maganis there were no alterations. [16] It also concluded that anyone with the intention of making an unauthorized alteration on the payroll would not do it at such an early stage since the same could be easily detected by the accounting personnel. [17]

It is evident that, from the Chief of the Accounting Section, the payroll went to petitioner accused Ilumin whose duty was to bring the payroll to his division/department for signatures of the payees named therein before presenting it to the cashier for payment.

The Sandiganbayan also chose to give credence to the cashier Reginaldo Nicolas who testified that he paid accused Ilumin the amount of P10,557.00 when the latter presented the payroll. Accused Ilumin claims he only received P9,497.00. Mr. Reginaldo Nicolas testified that the authorized alteration opposite Rosario Lerma's name (for P60.00) and the unauthorized alteration opposite the names of Arceo Castillo and Iluminado Ilumin were already reflected on the payroll which accused Ilumin presented to him for payment.

"Q -

When the payroll was presented to you by the accused, will you please tell this Honorable Court if the signatures of the payees were already there?

A -

Yes, sir.

Q -

Now, how about the alteration appearing opposite the name Rosario Lerma, was it there already?

A -

It was already there, sir.

Q -

How about the alteration appearing opposite the name Castillo Arcilla marked in evidence as Exhibit A-3, was it already there?

A -

It was already there, sir.

COURT

Q -

Did you, notice those alterations appearing there before you paid the amounts therein indicated?

A -

Yes, Your Honor.

Q -

And did you not ask Mr. Ilumin who presented to you this payroll why there were alterations?

A -

I did Your Honor.

Q -

And what did he say?

A -

He said that he was assigned as a special disbursing officer, that he is responsible for any problem that may arise.

AJ MOLINA

Alright, continue.

FISCAL

Q -

The alteration appearing beside the name Iluminado Ilumin, was it already there the one marked as Exhibit A-4, was it already there when presented?

A -

Yes, sir." [18]

It also reasoned out:

"Between the two contradictory claims of accused Iluminado Ilumin, the liaison officer and prosecution witness cashier, Reginaldo Nicolas, the latter's assertion that the alterations marked as Exhibits A-3 and A-4 were already on the payroll when it was presented to him for payment is much more plausible. The signature of the accused as payee consisted in an unbroken line (in black ink) written opposite the alteration marked as Exhibit A-4 and over the explanatory note reading: 'Ref. Sal. L. 2/84/480-(illegible initial) 2/14.' Clearly, this signature was affixed directly over the explanatory note indicating that the accused signed the payroll as payee with the explanatory note and the alteration marked as Exhibit A-4 already in place.

On the other hand, there was also an explanatory note written opposite the unauthorized alteration marked in evidence as Exhibit A-3 apparently to serve as reference or basis for the alteration. This explanatory note was written on the same space for the signature of the payee and above the partially erased signature of payee Arceo Castillo (TSN, October 27, 1987, p. 22) which indicates that the unauthorized alteration and the corresponding explanatory note were made after the said payee had signed the payroll. Obviously, it would be illogical for the culprit, unless he or she was in cahoots with the payee, to make the unauthorized alteration increasing the net pay of a particular employee who would still sign the payroll before it is presented to the cashier for payment. If such were to be made, the unauthorized alteration could be easily discovered at the time of the distribution of the amount of salary to the employees/payees considering that the payees knew the expected salary they would receive on signing the payroll.

It should by now be evident from the above discussion that the unauthorized alteration, Exhibit A-3, was made after payee Arceo Castillo had signed the payroll, while the unauthorized alteration, Exhibit A-4, was done before the accused signed the payroll as payee. Furthermore, the handwriting style of the altered figures '721' and '627', the manner the payroll was altered (crossed out), the justification for the alterations, and the common purpose behind these unauthorized alterations, Exhibits A-3 and A-4, were made by one and the same person who altered the net pay of accused Iluminado Ilumin before the latter signed the payroll in his capacity as payee. In other words, both alterations were made before the payroll was presented for encashment in order that the increased total amount of P10,556.00, as altered, would be as it was actually obtained from the cashier.

Worth noting is the fact that the subject payroll (Exh. A) was never reported lost or misplaced even for a short period during the time that it was supposed to be in the possession of the accused. This situation precludes the finger of suspicion for authorship of the alterations from pointing to somebody other than the accused." [19]

It concluded that:

"In fine, it was the accused who uttered the falsified payroll by presenting it to the cashier for payment. He profited from the falsified payroll to the tune of at least P500.00 by which the amount lawfully due him as salary was increased. It has been held that the possessor and user of a forged document is presumed to be the forger, especially when he derived benefits thereunder.

From this confluence of circumstances, the Court is ineluctably led to the conclusion that it was the accused Iluminado Ilumin who made these unauthorized alterations on the payroll. The falsified payroll was encashed by him for the amount of P10,557.00, as shown in the Record of Disbursement. (Exh. D-1.) In distributing the salaries of the payees listed in the payroll, he acknowledged that he used the duplicate copy of the payroll (Exh. 1) as his guide. (TSN, October 27, 1987, p. 12.) The total amount of the payees' salaries appearing in the duplicate copy of the payroll was only P9,557.00. It is thus safe to conclude that the difference of P1,000.00 between the total amount of P10,557.00 he obtained from the cashier and the P9,557.00 he paid out to the employees was appropriated by him for his personal use." [20]

Petitioner's contention that the Sandiganbayan's conclusion is based only on speculation and conjecture, therefore, lacks merit. From the record, it may be gleaned that the public respondent carefully and logically discussed the evidence presented in relation to the accusations levelled against Ilumin.

Besides, settled is the rule that findings of fact of the Sandiganbayan in cases before this Court are binding and

conclusive in the absence of a showing that they come under the established exceptions. [21] Being a trial court, the Sandiganbayan was in a good position to observe the demeanor of the witnesses. [22]

The evidence for the prosecution constitutes convincing proof of petitioner Iumin's guilt. Hence, it was not improper for public respondent to hold that:

"The act of the accused in altering the true amounts of the net pays appearing on the payroll opposite his name and that of payee Arceo Castillo constitutes falsification (Article 171, par. 6, Revised Penal Code.) The falsification and the resulting misrepresentation in the falsified payroll was the means by which he obtained from the MWSS the amount of P1,000.00 over and above the amount lawfully due the employees listed in the payroll, to the damage and prejudice of MWSS. The acts committed by the accused thus constituted the complex crime of estafa through falsification of public document defined under Article 171, No. 6 and Article 318, in relation to Article 48, of the Revised Penal Code." [23]

Petitioner's insistence that a handwriting expert must be presented to establish that he is the author of the falsification is misplaced for it is not necessary to do so when his authorship can be proved by other means. In this case, there is sufficient evidence indicating that the falsification was indeed made by the accused.

Accused's claim of being merely an innocent scapegoat has not been substantiated. Moreover, if, as accused contends, the former bookkeeper whom he claims to be the person responsible for the altered payroll no longer reported for work in February 1984, then this bookkeeper would be in no position and would have no authority to cause the alteration in question.

The only modification we see fit to make is in the penalty imposed. Under the Indeterminate Sentence Law, the maximum term of the sentence shall be that which, in view of the attending circumstances, could be properly imposed under the Revised Penal Code which is Prison Mayor in its medium period (8 years and 1 day to 10 years), there being no modifying circumstances. [24] The maximum term of the penalty imposed in the assailed decision is 10 years and 1 day which is already Prison Mayor in its maximum period. Hence the maximum term of the imposable penalty should be only 10 years.

WHEREFORE, the decision of the Sandiganbayan under review is hereby **AFFIRMED**, subject to the above modification.

SO ORDERED.

Feliciano, (Chairman), Melo, Vitug, and Francisco, JJ., concur.

[1] Payroll Register No. 2110.

[2] The net pay of Arceo Castillo was changed from P201.00 to P721.00 while that of Iuminado Iumin was changed from P147.00 to P627.00.

[3] Rollo, pp. 63-64.

[4] Penned by Justice Conrado M. Molina, with Justices Jose S. Balajadia and Cipriano A. Del Rosario, concurring; Rollo, pp. 60-61.

[5] Petition, p. 7, Rollo, p. 12.

[6] Petition, p. 20, Rollo, p. 26.

[7] From Decision, pp. 26-27; Petition, p. 7; Rollo, p. 12.

[8] Petition, pp. 7-23; Rollo, p. 12-28.

[9] G.R. No. L-50581-50617, January 30, 1982, 111 SCRA 433; cited in *Cesar v. Sandiganbayan*, G.R. No. L-54719-50, January 17, 1985, 134 SCRA 105.

[10] L. REYES, *THE REVISED PENAL CODE* 235 (Book Two, 1981).

[11] R. AQUINO, *THE REVISED PENAL CODE* 256 (Volume II, 1987).

[12] Rollo, pp. 49-51.

[13] Rollo, pp. 51-52; TSN, December 16, 1986.

[14] Rollo, p. 52.

[15] Rollo, p. 53.

[16] "Q - According to you, in your direct testimony, after you had required the employees of the planning and design department to affix their signatures in the original payroll which is marked in evidence as Exhibit A, you brought it to the cashier, is that correct?

A - Yes, sir.

Q - And how much was the total amount you received from the cashier in connection with this Exhibit A?

A - The one reflected there which has no erasure (witness referring to Exhibit A). The total amount indicated in the payroll which has no erasure." (TSN, October 27, 1987, p. 20; Rollo, p. 53.).

[17] Rollo, p. 54.

[18] Rollo, pp. 55-56.

[19] Rollo, pp. 57-59.

[20] Rollo, pp. 59-60.

[21] *Barretto v. Sandiganbayan*, G.R. No. L-57333-37, September 16, 1986, 144 SCRA 176; *Peñaverde v. Sandiganbayan*, G.R. Nos. L-63271-74, L-63833-36, August 30, 1983, 124 SCRA 345; *Cesar v. Sandiganbayan*, *supra*.

[22] *Villa v. Sandiganbayan*, G.R. Nos. 87186; 87281; 87466; 87524, April 24, 1992, 208 SCRA 283, 298.

[23] Rollo, p. 60.

[24] Art. 64, number 1, Revised Penal Code.

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