

DR. DANTE G. BUGAYONG, PETITIONER, VS. PEOPLE OF THE PHILIPPINES AND THE HON. SANDIGANBAYAN, (FIRST DIVISION), RESPONDENTS.

G.R. No. 95624. October 15, 1991

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-95624/>

GUTIERREZ, JR., J.:

The petitioner, Dr. Dante G. Bugayong who was appointed Chief of Hospital of Panopdopan Emergency Hospital in Panopdopan, Lamut, Ifugao in January, 1977 seeks a review of the decision of the Sandiganbayan dated September 21, 1989 convicting him of the crime of malversation of public funds (under Article 217 of the Revised Penal Code) and sentencing him to suffer the indeterminate penalty of six (6) years, six (6) months and twenty one (21) days of prision mayor maximum with perpetual special disqualification and a fine equivalent to the sum for which he is charged.

The original information filed on December 4, 1986 charged the petitioner with allegedly malversing the sum of P27,417.35. After reinvestigation, an amended information was filed on June 26, 1987 which saw the amount reduced to P15,026.70 per order of the Tanodbayan dated May 28, 1987.

Arraignment was held on August 24, 1987 after eight (8) postponements due to the following grounds: (a) pendency of the reinvestigation; and (b) accused had no counsel.

Later, during the pre-trial proceedings on October 5, 1987, the amended information was corrected such that the amount in question (P15,026.70) was further reduced to P12,380.65. Thus, the amended information, as corrected reads as follows:

"That on or about July 16, 1979, and or sometime prior thereto, in the Municipality of Lamut, Province of Ifugao, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, Dante G. Bugayong, a public officer he being then the Chief of the Panopdopan Emergency Hospital, Lamut, Ifugao, and at the same time the collecting, disbursing and property officer thereof, and as such accountable for public funds collected and received by him by reason of his duties in the said office, did then and there wilfully, unlawfully and feloniously, with grave abuse of confidence, misappropriate, misapply, embezzle and convert to his own use and benefit the amount of Twelve Thousand Three Hundred Eighty Pesos and Sixty Five Centavos (P12,380.65), Philippine Currency, from the said public fund, to the damage and prejudice of the government in the aforesaid amount." (Rollo, pp. 62-63)

Both the prosecution and the defense entered into a stipulation on some facts, duly supported by documentary exhibits, to wit:

(a)

Accused was the Chief of Hospital of Panopdopan Emergency Hospital at Panopdopan, Ifugao, during the time relevant to this case (Exhibit "A", Appointment Paper);

(b)

Accused admits the existence and due execution of the Report of Examination of his cash and accounts (Exhibit "B");

(c)

On July 18, 1979, accused paid the sum of P4,000.00 to the PNB as evidenced by a Remittance Advice (Exhibit "E") and PNB Official Receipt (Exhibit "E-1");

(d)

On August 15, 1979, accused also paid the sum of P2,500.00 to the PNB as evidenced likewise by a Remittance Advice (Exhibit "G") and a PNB Official Receipt (Exhibit "G-1");

(e)

On August 24, 1979, accused again paid the sum of P2,000.00 to the PNB as shown by a Remittance Advice (Exhibit "H") and PNB Official Receipt (Exhibit "H-1");

(f)

On August 28, 1979, accused further paid the sum of P4,000.00 to the PNB as shown too by a Remittance Advice (Exhibit "I") and PNB Official Receipt (Exhibit "I-1");

(g)

On February 10, 1981, accused made a final payment in the amount of P12,380.65 as evidenced by a Remittance Advice (Exhibit "J") and PNB Official Receipt (Exhibit "J-1");

(h)

Accused had paid in full the amount of P27,407.36 allegedly malversed by him as embodied in the original Information hereon (Exhibits "E" to "J");

(i)

The amount in question as appearing in the Amended Information refers to the P12,380.65 paid by accused on February 10, 1981. (pp. 2-11, tsn, dated October 5, 1987)" (Rollo, pp. 63-64)

Both sides presented one witness each. The auditor, Moises Dulnuan testified for the prosecution while the petitioner testified for the defense.

Moises Dulnuan, the Auditing Examiner of the Commission on Audit assigned at Lagawe, Ifugao testified that on July 16, 1979, he examined the cash and accounts of Dr. Dante Bugayong, Chief of Hospital, Panopdopan

Emergency Hospital in Lamut, Ifugao. He found the accused to have incurred a shortage in his accountabilities in the amount of P27,417.35. After preparing the report, duly signed by the accused, he sent a letter dated August 7, 1979 demanding from the accused the production of the missing funds of P27,417.35 and to submit a written explanation as to how the shortage occurred.

On September 25, 1979, Dulnuan again sent a letter to the accused demanding payment of P12,398.20, the balance still due from him after deducting the amount of P15,019.15 remitted by him.

The amount of P12,380.00 was remitted by the accused only on February 10, 1981. The accused explained to him that there was a delay in the remittance because the medicines purchased for the Panopdopan Emergency Hospital were reimbursed by the patients on installment basis and that the people of Ifugao thought that the medicines of the hospital were being given for free. Thus, when Dulnuan heard the explanation of the accused, he did not anymore bother to require the accused to produce proof that it was indeed used to buy medicines since the same was allowed anyway. (Rollo, p. 67)

Apparently, the Tanodbayan did not accept such an explanation. In its Order dated May 8, 1987, the Tanodbayan rationalized that such remittance on February 10, 1981 was long after the demand letters of August 7, 1979 and September 25, 1979. Thus, the petitioner was charged with allegedly having malversed the sum of P12,380.65 despite its undisputed remittance to the National Treasury.

On the basis of the above Order and Article 217 of the Revised Penal Code which provides that "the failure of a public officer to have duly forthcoming any 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 uses", the Sandiganbayan convicted the accused on the ground that the findings of the Auditor constitute a statement of a cash shortage and not an inventory shortage.

The lengthy assignments of errors raised and the arguments adduced in the petition devolved upon us to give it due course. After a careful review of the records of the case, we find the petition impressed with merit.

The general rule is that the factual findings of the Sandiganbayan are conclusive on this Court. However, this rule is subject to established exceptions, among them: (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts, and the findings of fact of the Sandiganbayan are premised on the absence of evidence and are contradicted by evidence on record. (Cesar v. Sandiganbayan, 134 SCRA 105; 121-122 [1985]).

In the case at bar, the Sandiganbayan has certainly overlooked matters of substance in the evaluation of evidence which engender reasonable doubt as to the guilt of the petitioner.

There is no question that the whole amount of P27,417.35 was fully remitted to the National Treasury.

The real issue in this case is only with regard to the P12,380.00 which was allegedly remitted only on February 10, 1981 or seventeen (17) months after the last demand letter dated September 15, 1979.

The prosecution was of the theory that this was a restitution and not remittance. The long delay in the remittance gives rise to the presumption of the conversion, (Office of the Court Administrator v. Soriano, 136 SCRA 461 [1985]) which is the reason why the petitioner was indicted.

True, the law creates a presumption that the mere failure of an accountable officer to produce public funds which have come into his hand on demand by an officer duly authorized to examine his accounts is prima facie evidence of conversion. However, the presumption is only prima facie; hence, rebuttable (Ang v. Sandiganbayan, G.R. No.

91886, May 20, 1991). 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 even if there is no direct evidence of misappropriation and the only evidence is that there is a shortage in his account which he has not been able to explain satisfactorily. (*Palma Gil v. People*, 177 SCRA 229 [1989])

When the petitioner was audited by Moises Dulnuan on July 16, 1979, the latter demanded from the accused to produce all his cash and cash items for which he is accountable as Collecting and Disbursing Officer. It was the auditor who came across the total of the hospital cash collections of around P32,000.00 and a deposit of P5,000.00 where the difference of about P27,000.00 showed up. This supposed shortage appearing in the auditor's report dated July 16, 1979 and reflected in the same auditor's demand letter of August 7, 1979 came about only because the expenditures of that amount for medical items were disallowed by the auditor. There were proofs of purchases of emergency medicines presented to him i.e., sales invoice, Requisition and Issue Vouchers (RIVs), checks payable to the drugstore etc. These were proofs of purchases made prior to the audit but the auditor disallowed them reasoning that their collecting officers had no authority to use them. Given the explanation that then Minister Gatmaitan gave verbal instructions for them to use any income derived by the hospital in buying emergency medicines, the auditor unfortunately did not believe the petitioner and excluded said amount. Thereafter, he was asked to remit the amount of P27,000.00.

The shortage and delayed remittance could be explained as it was satisfactorily explained by the petitioner. We quote the pertinent portions in the decision of the Sandiganbayan:

"Panopdopan Emergency Hospital is situated in a mountainous area in Panopdopan, Ifugao about 12 kms. from Lamut through narrow gravel and sand road. From Lamut to Solano (Nueva Vizcaya) was another 12 kms. more or less. x x x There were even times when the road from the National Highway going to the barrio of Panopdopan, Lamut, Ifugao was not passable especially during rainy and typhoon seasons thereby making it quite difficult for them to leave the hospital. (Id., p. 20)

"Their hospital receives from the government P25,000.00 as their regular monthly allocation for maintenance and operation, which already includes medicines and food supplies. The procedure, however, is that this monthly allocation is being released to them quarterly. Thus, per quarter, they receive P75,000.00 which is being deposited with the Philippine National Bank (PNB) at Lagawe as Maintenance Fund of the Hospital to be used for gasoline, food supplies, etc., but not in buying medicines. (Id., p. 19)

"They had to purchase emergency medicines because the government did not regularly provide them with the needed supplies. (Id., p. 18)

"x x x in one of the conventions of the Philippine Hospital Association (PHA) in November 1978, then Minister Azurin (or Minister Gatmaitan) gave a go-signal for hospitals to use their income from any source to purchase emergency medicines, especially those hospitals in remote areas where they could not avail of the necessary medicines when the need arises. And with this verbal they buy emergency medicines using their collections which came from their sales of medicines, as well as from patients in the form of donations. This verbal order or instruction was after a year circularized by the Office of the Budget and the COA. (Id., pp. 12-13. The circulars were identified by Auditor Moises Dulnuan as National Budget Circular No. 321 and COA Circular No. 80-128. (See Id., p. 8 See also TSN October 6, 1987, p. 12, and TSN May 3, 1988, p. 8)

"Since there were no drugstores within the vicinity of the hospital and they were merely being visited by representatives of drug companies, the actual canvass of medicines had to be made by the property officer or storekeeper in the nearby towns, e.g., Poblacion in Lamut, Bagabag and Solano, where the drugstores are nearest to the hospital. (Id., p. 14)

"The distance of their hospital from the nearest drugstores is a factor which made them consider the purchases of aforesaid medicines as 'emergency'. (Id., p. 20)

"In buying medicines, what they did was to forward their orders to the drugstores so that the drugstores can prepare the medicines listed in the orders when they pick them up." (Id., p. 18)

"The hospital had also been dispensing some medicines for free. However, they had impressed upon the people there that their medicines were not for free but were to be paid for by them at cost, i.e., purchase price of the hospital." (Id., p. 15)

"x x x The people of Ifugao were of the impression that their medicines were being given for free. And even if the hospital would ask these people to pay this much, they could only afford to give one-tenth (1/10) of the price thereof. And yet he (petitioner) could not do anything about it because most of their patients were the poor people of the mountains of Ifugao. (Id., p. 9)"

"When they give medicines to patients who really cannot afford to pay, they do not make them sign a receipt therefor nor do they require them to give any amount. x x x (Id., p. 21)

"The audit examination conducted on July 16, 1979 was the first and only one ever conducted on his account since his appointment as chief in January 1977 although regular rounds were made by the auditors previous to it. (Id., p. 14)

"Even after the audit, the hospital had continued its activity of purchasing whatever emergency medicines they had already administered to patients to complete the 'line-up' (referring to supplies). (Id., p. 15)

"When he (petitioner) received a final demand from the auditor for him to make good his account, he was forced to borrow money from his sister in the amount of P11,000.00 and supplemented it with the little cash in his possession. Hence, he was able to remit the questioned amount of P12,380.65 on February 10, 1981. After his remittance, the suspension on the payment of his salary was lifted and he was able to receive his three months salary. x x x He borrowed money from his sister because after the audit his salary was suspended for three months and he was receiving nothing from his office. Further, the collections from the sales of medicines were coming very slow. (Id., p. 12) (Underlining ours, Rollo, pp. 15-17)

There being a satisfactory explanation of the shortage, the presumption of guilt disappears.

In *U.S. v. Catolico*, 18 Phil. 504 [1911], the Court ruled:

"Mere absence of the funds is not sufficient proof of conversion. Neither is the mere failure of the accused to turn over the funds at any given time sufficient to make even a *prima facie* case. Conversion must be affirmatively proved, either by direct evidence or by the production of facts from which conversion necessarily follows."

There was a shortage in the cash account upon audit examination and difficulty in remitting the entire amount only because the collections of the hospital were used as the hospital's revolving fund for pertinent expenditures.

The petitioner is assigned to a small hospital in a remote mountain area of Ifugao. As Chief of Hospital, the petitioner's first and foremost duty was to extend medical help to the people of Ifugao. Understandably, the meager allowance the hospital was receiving from the government was not enough to sustain its viability. It was necessary for the hospital to use its collections to purchase the medicines. Otherwise, the existence of the hospital would be inutile and medical services to the tribal people a farce if there were no medicines to dispense. This is compounded by the fact that most of the patients are poor people who can hardly pay for the medicines. The hospital either gave out the medicines for free or allowed the patients to pay on installment basis. At times, collections were slow in coming justifying, therefore, the delayed remittance. There is absolutely no proof that the

missing funds were put to personal uses. Neither did Dr. Bugayong feloniously permit anybody else to convert any funds to personal use. Everything the petitioner did was done in good faith under the belief that he was acting correctly for the good of the people and the hospital, as well.

At the very least, the petitioner can only be faulted for his lack of administrative skill in collecting debts from recalcitrant patients and lax supervision over his subordinates. The petitioner passed the medical board examinations in 1970. In 1976 he was appointed Chief of Hospital, a new position insofar as Panopdopan Emergency Hospital was concerned. The hospital collecting officer was Luz Fontanilla, a pharmacist who had actual custody and/or possession of the funds and collection of payments for medicines by patients as well as records of collection and disbursements. In 1979, the hospital had no property custodian and it was only in 1980 or 1981 that a certain Mr. Dominador Lunag assumed the office as supply officer. But it was still the petitioner who had to prepare and approve the RIVs for the purchase of medicines for the hospital. Quite evident from the records is the unbusinesslike administration of the hospital and a rather inefficient keeping of records. We are satisfied from the records of the case that the petitioner in all that he did was acting in good faith and that the shortage, if any, was due to his youth and inexperience and lack of hard-headness or unconcern in the handling of the business of his office and not to the embezzlement of the funds of his office. (U.S. v. Pascual, 26 Phil. 234, [1913]) Kindness and compassion to the extent of giving away medicines or not collecting debts on time or even lack of care may, however, be ground for administrative action but it does not give rise to criminal culpability absent more evidence against the respondent or accused. (See *Macadangdang v. Sandiganbayan*, 170 SCRA 308 [1989]).

In convicting the accused, the Sandiganbayan relied more on the flaws and deficiencies in the evidence presented by the defense, not on the strength of the prosecution.

Well-settled is the rule that the prosecution must not rely on the vulnerability of the defense evidence but on the strength of its own proofs. (*People v. Flores*, 186 SCRA 303 [1990]) Following this principle, the lone testimony of the prosecution witness does not even meet the quantum of proof required in criminal cases. In the case of *Babida v. People*, 178 SCRA 204 [1989], we held that:

"In the case of *People v. Mingoa* (92 Phil. 856 [1953]), it was held that a finding of prima facie evidence of accountability does not shatter the presumptive innocence the accused enjoys because before prima facie evidence arises, certain facts [have still to be] proved. (supra, 859)

"Yet, and as we indicated, the trial court can not depend alone on such an evidence, because, precisely, it is merely prima facie. It must still satisfy itself that the accused is guilty — beyond reasonable doubt — of the offense charged. Neither can it rely on the weak defense the latter may adduce." (pp. 207-208)

WHEREFORE, the petition is GRANTED. The decision of the Sandiganbayan promulgated on November 13, 1989 is hereby REVERSED and SET ASIDE. The petitioner is ACQUITTED.

SO ORDERED.

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

Melencio-Herrera, J., on leaves

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.