

VALENTINO G. CASTILLO, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 52352-57. June 30, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

The petitioner, City Engineer of Tagbilaran City, appeals from the joint Decision[1] of the respondent Sandiganbayan in six (6) criminal cases thereof, Nos. 195, 196, 197, 198, 199, and 200 (G.R. Nos. 52352-57) all prosecutions for estafa through falsification of public and commercial documents[2] (six counts), entitled "People of the Philippines, Plaintiff, versus Valentino G. Cas-tillo, Jose Bagasao, Rolando Mangubat, Delia Preagido, Jose Sayson, Ulrico Bolotaolo, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, James Tiu alias Jimmy Tiu and Engracio Quiroz alias Dodong, Accused";[3] "People of the Philippines, Plaintiff, versus Valentino G. Castillo, Jose Bagasao, Rolando Mangubat, Delia Preagido, Jose Sayson, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, Nino Pilayre, James Tiu alias Jimmy Tiu and Engracio Quiroz alias Dodong, Accused";[4] and "People of the Philippines, Plaintiff, versus Valentino G. Castillo, Jose Bagasao, Rolando Mangubat, Delia Preagido Jose Sayson, Ulrico Bolotaolo, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, Charita de Villa, Eliseo Cornell, James Tiu alias Jimmy Tiu and Engracio Quiroz alias Dodong, Accused,"[5] respectively. The dispositive portion of the Decision reads as follows:

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WHEREFORE, judgment is hereby rendered as follows -

A) In Criminal Case No. 195 - finding accused Valentino G. Castillo, Jose Bagasao, Rolando Mangubat, Delia Preagido, Ulrico Bolotaolo, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena and James Tiu alias Jimmy Tiu guilty beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents, as defined and penalized in Articles 318 and 171, in relation to Article 48, all of the Revised Penal Code; and, in default of any modifying circumstance in attendance, sentencing each of them to an indeterminate penalty ranging from Six (6) Years of prision correccional, as minimum, to Ten (10) Years, Eight (8) Months and One (1) Day of prision mayor, as maximum, with the accessories provided by law; to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indem-nify, jointly and severally, the Republic of the Philippines in the amount of Thirty Eight Thousand Five Hundred Eighty -One and 75/100 Pesos (P38,581.75); and, to pay their proportionate share of the costs.

B) In Criminal Case No. 196 - finding accused Valentino G. Castillo, Jose Bagasao; Rolando Mangubat, Delia Preagido, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, Nino Pilayre and James Tiu alias Jimmy Tiu guilty beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents, as defined and penalized in Articles 318 and 171, in relation to Article 48, all of the Revised Penal Code; and, in default of any modifying circumstance in attendance, sentencing each of them to an indeterminate penalty ranging from Six (6) Years of prision correccional; as minimum, to Ten (10) Years,

Eight (8) Months and One (1) Day of prision mayor, as maximum, with the accessories provided by law; to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indemnify, jointly and severally, the Republic of the Philippines in the amount of Forty Seven Thousand Four Hundred Forty Four and 25/100 Pesos (P47,444.25); and, to pay their proportionate share of the costs.

C) In Criminal Case No. 197 - finding accused Valentino G. Castillo, Jose Bagasao, Rolando Mangubat, Delia Preagido, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, Niño Pilayre and James Tiu alias Jimmy Tiu guilty beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents, as defined and penalized in Articles 318 and 171, in relation to Article 48, all of the Revised Penal Code; and, in default of any modifying circumstance in attendance, sentencing each of them to an indeterminate penalty ranging from Six (6) Years of prision correccional, as minimum, to Ten (10) Years, Eight (8) Months and One (1) Day of prision mayor, as maximum, with the accessories provided by law; to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indemnify, jointly and severally, the Republic of the Philippines in the amount of Thirty Seven Thousand Six Hundred Fifty-Two and 25/100 Pesos (P37,652.25); and, to pay their proportionate share of the costs.

D) In Criminal Case No. 198 - finding accused Valentino G. Castillo, Jose Bagasao, Rolando Mangubat, Delia Preagido, Ulrico Bolotaolo, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, Charita de Villa, Eliseo Cornell and James Tiu alias Jimmy Tiu guilty beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents, as defined and penalized under Articles 318 and 171, in relation to Article 48, all of the Revised Penal Code; and, in default of any modifying circumstance in attendance, sentencing each of them to an indeterminate penalty ranging from Six (6) Years of prision correccional, as minimum, to Ten (10) Years, Eight (8) Months and One (1) Day of prision mayor, as maximum, with the accessories provided by law; to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indemnify, jointly and severally, the Republic of the Philippines in the amount of Forty Seven Thousand Six Hundred Thirty Seven and 75/100 Pesos (P47,637.75); and, to pay their proportionate share of the costs.

E) In Criminal Case No. 199 - finding accused Valentino G. Castillo, Jose Bagasao, Rolando Mangubat, Delia Preagido, Ulrico Bolotaolo, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, Charita de Villa, Eliseo Cornell and James Tiu alias Jimmy Tiu guilty beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents, as defined and penalized in Articles 318 and 171, in relation to Article 48, all of the Revised Penal Code; and, in default of any modifying circumstance in attendance, sentencing each of them to an indeterminate penalty ranging from Six (6) Years of prision correccional, as minimum, to Ten (10) Years, Eight (8) Months and One (1) Day of prision mayor, as maximum, with the accessories provided by law; to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indemnify, jointly and severally, the Republic of the Philippines in the amount of Twenty Three Thousand Seven Hundred One and 75/100 Pesos (P23,701.75); and, to pay their proportionate share of the costs.

F) In Criminal Case No. 200 - finding accused Valentino C. Castillo, Jose Bagasao, Rolando Mangubat, Delia Preagido, Luis Rasonabe, Isidoro Recamadas, Filipinas Evardo, Praxedes Lopena, Niño Pilayre, and James Tiu alias Jimmy Tiu guilty beyond reasonable doubt as co-principals in the crime of Estafa thru Falsification of Public Documents, as defined and penalized in Articles 318 and 171, in relation to Article 48, all of the Revised Penal Code; and, in default of any modifying circumstance in attendance, sentencing each of them to an indeterminate penalty ranging from Six (6) Years of prision correccional, as minimum, to Ten (1) Years, Eight (8) Months and One (10) Day, of prision mayor, as maximum, with the accessories provided by law; to pay a fine of Three Thousand Five Hundred Pesos (P3,500.00); to indemnify, jointly and severally, the Republic of the Philippines in the amount of Forty Five Thousand Nine Hundred Forty and 25/100 Pesos (P45,940.25); and, to pay their proportionate share of the costs.

For insufficiency of evidence, accused Jose Sayson and Engracio Quiroz alias Dodong are hereby acquitted of

the crimes charged in Criminal Cases Nos. 195, 196, 197, 198, 199 and 200, with their proportionate share of the the costs de officio. The bailbonds heretofore posted for their provisional liberty are hereby cancelled and their sureties are henceforth relieved from any further responsibility thereunder.

The Tanodbayan is hereby directed to conduct the appropriate inquiry into the possible complicity of Arsenio Sarigumba, Allan Apalisok and Miguel V. Bulac and to take such action in the premises as his findings may warrant.

SO ORDERED.[6]

Except for James Tiu, a private contractor, and Engracio Quiroz, his employee, the accused in all six (6) criminal Cases are public officers. They are:

Position

Office

1) Valentino Castillo

City Engineer

Tagbilaran City Engineer's Office (CEO)

2) Jose Bagasao

Assistant Regional Director

Seventh Regional Highways Office

3) Rolando Mangubat

Chief Accountant I

Seventh Regional High-ways Office

4) Delia Preagido

Accountant III

Seventh Regional High-ways Office

5) Jose Sayson

Budget Examiner II

Seventh Regional Highways Office

6) Luis Rasonabe

Civil Engineer

Tagbilaran City Engi-neer's Office (CEO)

7) Isidoro Recamadas

Clerk II (Property Custodian)

Tagbilaran City Engineer's Office (CEO)

8) Filipinas Evardo

Bookkeeper I

Tagbilaran City Engineer's Office (CEO)

9) Praxedes Lopena

Auditor II

Commission on Audit

10) Ulrico Bolotaolo

Senior Civil Engineer

Tagbilaran City Engineer's Office (CEO)

11) Niño Pilayre

Checker

Tagbilaran City Engineer's Office (CEO)

12) Charita de Villa

Auditing Examiner III

Commission on Audit (Tagbilaran CEO)

13) Eliseo Cornell

Auditing Examiner II

Commission on Audit (Tagbilaran CEO)[7]

The six (6) criminal charges are summarized in the petition itself. We quote:

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That in or about and during the period from April to June, 1978, the accused public officials in their official capacity and in connection with the functions of their office, and conspiring and conniving among themselves, as well as with their private-party co-accused, allegedly falsified or caused to be falsified Letters of Advice of Allotment, both dated April 24, 1978, and sub-Advices of Cash Disbursement Ceiling both dated April 28, 1978 and May 2, 1978, which are all public documents, thereby making it appear that an amount of P300,000.00 had been lawfully allocated for Tagbilaran City from the 7th Regional Highway Office and made available for the maintenance of existing and unabandoned roads and bridges; and, specified General Vouchers in the total amount of P299,880.00 for the payment of specified quantities of anapog binder allegedly requisitioned, purchased and delivered, as well as the corresponding Program of Work/Budget Cost for Roads and Bridges, Request for Obligation of Allotment, Abstracts of Sealed Quotations Purchase Orders, Records, Records of Inspection and other papers in support thereof, also all public documents, thereby making it appear that the afore-said documents were regularly prepared and approved, that the bidding was properly conducted, that the purchase orders were prepared in favor of the lowest bidder, and that the materials purchased were fully delivered in accordance with specifications and duly inspected, when, in truth and in fact, the aforesaid documents were falsified and the acts and transactions referred to were false and simulated, inasmuch as only small quantities of the materials were actually delivered; and by means of falsifications as abovesaid, the accused were able to demand, collect and receive from the Government, thru the Tagbilaran City Engineering Office the face value of the vouchers in question, although the amount due should have been only the value of

the actual quantities delivered, and that, after said accused had collected and received the amounts aforesaid, they unlawfully misapplied, misappropriated and converted the same to their own personal use and benefit and/or consented or permitted other persons to misapply, misappropriate or convert the same to their own personal use and benefit, to the damage and prejudice of the Government in the amount of P242,964.32, representing the value of the short-delivered materials.[8]

The accused all pleaded "not guilty" to these charges.[9]

I.

In the regional level, the requisition of funds for public works purposes, especially in the matter of road and bridge repairs, involves a graduated series of steps. As found by the respondent Sandiganbayan, it begins with the Sub-Allotment Advices (SAAs), as well as the Advices of Cash Disbursement Ceilings (ACDCs), issued by the Ministry of Public Highways in favor of its Highways Regional Offices. These serve as the Regional Offices' authority to obligate and disburse funds. In turn, these become the sources of funds of the various Engineering Districts apportioned throughout each region.[10]

The Engineering District then requests for the release of these funds from the Regional Director through a Program of Work. The Regional Finance Officer issues a Letter of Advice of Allotment (LAA), certified as to availability of funds by the Regional Accountant, countersigned by the Regional Director, and addressed to the District (or City, as the case may be) Engineer. At the same time, he (the Regional Finance Officer) prepares a Sub-Advice of Cash Disbursement Ceiling (SACDC) for the Regional Director.

The LAA and SACDC are subsequently entered in a logbook. The funds requested are then released.[11]

On the strength of such LAA and SACDC, the District then prepares a Requisition for Supplies or Equipment (RSE) as well as a Request for Obligation of Allotment (ROA), pursuant to the Program of Work. Both are likewise certified as to availability of funds by the Regional Accountant and approved by the Regional Director.[12]

Thereafter, the Property Custodian or the Purchasing Officer, as the case may be, addresses Requests for Sealed Quotations to various suppliers, usually through newspaper advertisements or notices posted in conspicuous places in the District concerned. After ten days, the Sealed Quotations are submitted to the Price Verification Committee which determines the lowest bid in the presence of representatives of the District Engineer and the Auditor. An Abstract of Sealed Quotations is then signed by the members of the Committee as well as the said local representatives. Thereafter, and subject to the approval of the District Engineer, the proper award is made in favor of the lowest bidder. On the basis thereof, the Property Custodian issues a Purchase Order (PO) in favor of the winning bidder, again subject to the approval of the District Engineer and certified as to availability of funds by the Regional Accountant.[13]

The supplies thus to be delivered are thereafter inspected (through Request for Inspection) by the Property Custodian. The deliveries themselves are recorded in a Tally Sheet after which a Record of Inspection, certified by the Property Custodian,[14] is prepared by the representative of the Auditor and the Property Custodian.

Payment to the supplier is evidenced by a General Voucher (GV). Among others, the GV contains five parts: (1) a certification of receipt of supplies to be accomplished by the Property Custodian; (2) a certification of correctness, that is, that the expenses are necessary and lawful, and that the prices are not in excess of the current rates in the locality, to be accomplished by the Project Engineer; (3) approval by the District Engineer; (4) a certification, to be accomplished by the Auditor, that the GV has been properly approved, its account codes proper, and that it is supported by the proper documents; and (5) a certification that the GV has undergone

pre-audit, to be accomplished by the Auditor.[15]

The GV itself must carry with it the following: the RSE, ROA, Program of Work, Detailed Estimates, Request for Sealed Quotations, Abstract of Sealed Quotations, PO, Delivery Receipts, Request for Inspection, Record of Inspection, Test Reports, and Tax Clearance of the supplier.[16]

The process winds up with the issuance of the check by the Cashier in the name of the supplier. Like the GV, the check is pre-audited and then released.[17]

The District Accountant thereafter prepares a Report of Obligation Incurred (ROI) and a Report of Checks Issued (RCI) to be submitted to the Regional Office and entered in the journals and the General Ledger thereof. On the basis thereof, the Regional Accountant prepares a trial balance to be recommended by the Finance Officer and approved by the Regional Director. The same is then submitted to the Ministry of Public highways.[18]

With this prologue, we come to the six (6) appeals at bar.

II.

It appears that from May through June, 1978, the Tagbilaran City Engineering Office (CEO) embarked on certain projects involving the restoration of various roads and bridges in Tagbilaran City.[19] Pursuant to five LAAs addressed to the Ministry of Public Highways purportedly issued by the Seventh Regional Highways Office on behalf of the Tagbilaran CEO, more specifically described as follows:

LAA No.

Date

Amount

107-780-05-78

April 29, 1978

P150,000.00

107-0780-07-78

No date

26,000.00

107-780-012-78

April 24, 1978

48,100.00

107-780-014-78

April 24, 1978

150,000.00

107-780-011-78

No date

100,000.00

TOTAL

P474,100.00[20]

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as well as six SACDCs, as follows:

SACDC No.

Amount

022-78

P 26,000.00

167-78

100,000.00

180-78

48,100.00

193-78

150,000.00

222-78

150,000.00

086-78

225,830.00

TOTAL -----

P699,930.00[21]

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the Tagbilaran CEO prepared RSEs and ROAs for the procurement of materials and supplies, specifically, anapog binder, for the projects aforementioned. All five LAAs were certi-fied as to availability of funds by Rolando Mangubat, allegedly on behalf of Angelina Escaño, Finance Officer of the Seventh Regional Highways Office (Mangubat signed, over her typewritten name)[22], and countersigned by Jose Bagasao. The six SACDCs were likewise signed by Mangubat for the Regional Director.[23] The materials requisitioned were supplied by JV Sand & Gravel & Construction Supply, a private contractorship owned by James Tiu. Six GVs were prepared therefor, as follows:

GV No.

Program of Work

Amount

01-780601

Restoration of Shoulders, Tagbilaran North

P49,980.00

Road (TNR), Junction TNR-Airport Road,

Junction TNR-Wharf Road (TCSR)

01-780606

Restoration of Shoulders, Tagbilaran

49,980.00

North Road

(TNR), Junction TNR-Wharf Road

01-780641

Restoration of Shoulders,

49,980.00

Tagbilaran-Corella-

Sikatuna Road

01-780682

Restoration, Totulan-Ubos-Dauis

49,980.00

Bridge

Approaches

01-780684

Restoration, Totulan,

49,980.00

Ubos-Dauis Bridge

Approaches

01-780694

Restoration, Junction Tagbilaran

49,980.00

East Road-

Dauis Panlao Central

Road Shoul-ders

and Bridge Approaches

TOTAL

P299,880.00[24]

representing partial payments in favor of JV Sand & Gravel & Construction Supply, which has been named as a creditor therein.[25] The GVs themselves were accompanied by various supporting papers, among them, the RSEs and ROAs earlier referred to.

All these documents, as we noted, are the subject of the prosecutions before the respondent Sandiganbayan. For purposes of these appeals, the particeps criminis involved are as follows:

1) G.R. No. 52352/Crim. Case No. 195 (GV No. 01-780641)[26]

This GV called for the payment of 3,123 cubic meters of anapog binder in the sum of P49,980.00. It was certified by Ulrico Bolotaolo, the herein petitioner, Filipinas Evardo (for District Accountant Caridad Ausa), and Praxedes Lopena. The Program of Work supporting it called for the use of 3,125 cubic meters of selected borrow costing P50,000.00. It was submitted by Rasonabe, recommended by Bolotaolo, and approved by the petitioner. The Detailed Estimates therefor, likewise calling for 3,125 cubic meters of selected borrow with an estimated cost of P50,000.00, were prepared by Rasonabe, checked by Bolotaolo, and approved by the petitioner. RSE No. 30, attached thereto, specified 3,123 cubic meters of anapog binder in the amount of P49,980.00. It was certified as to availability of funds by Ausa, recommended for approval by Bolotaolo, and approved by the petitioner and Bagasao. The ROA therefor (under Obligation No. T-401-101-5-59-78), in the sum of P49,980.00, was requested by Tagbilaran Senior Civil Engineer Miguel Bulac on behalf of Bolotaolo and certified as to availability of funds by Ausa. The PO likewise affixed to this GV called for 9,369 cubic meters of anapog in the sum of P149,940.00 addressed to Tiu's company, JV Sand & Gravel & Construction Supply. It was signed by Recamadas as Purchasing Officer, certified as to availability of funds by Evardo (for Ausa), and approved by the herein petitioner.

The GV in question was likewise accompanied by three Delivery Receipts showing supposed deliveries of 1,040 cubic meters of anapog, all signed by Rasonabe. Two other sets thereof showed further deliveries of anapog.

The Request for Inspection was signed by Recamadas, while the Record of Inspection was certified correct by Allan Apalisok of the Audit Commission, and Recamadas.

Check No. SN-4-4788136 in the amount of P47,637.75 was issued in payment of the GV in favor of JV Sand & Gravel & Construction. It was signed by the petitioner and countersigned by Lopena. The balance of P2,342.25 was paid for mining fees.[27]

2) G.R. No. 52353/Crim. Case No. 196 (GV No. 01-780684)[28]

GV No. 01-780684, in the amount of P49,980.00 as second partial payment for 3,125 cubic meters of anapog binder, was certified by Recamadas, Bulac, the petitioner, Evardo (for Ausa), and Lopena. The Program of Work, providing for 3,125 cubic meters of selected borrow, was recommended by Bulac, submitted by Rasonabe, and approved by the petitioner. The Detailed Estimates, providing for 3,125 cubic meters of selected borrow costing P50,000.00, were prepared by Rasonabe, checked by Bulac, and approved by the petitioner. The supporting RSE, No. 44, providing for 3,125 cubic meters of anapog binder costing P50,000.00, was certified as to availability of funds by Evardo (for Ausa), recommended for approval by Bulac, and approved by the petitioner and Bagasao. Three Delivery Receipts, all unsigned, showed certain deliveries of anapog. Two batches more, signed by Rasonabe, likewise disclosed certain deliveries of anapog.

The Record of Inspection covered unspecified amounts of materials under RSE No. 54 and was certified correct by Pilayre and Bulac.

Payment for the alleged deliveries was effected through Check No. SN- 4-4788138 in the sum of P47,636.25 payable to JV Sand & Gravel & Construction Supply. The petitioner signed it while Lopena countersigned it. The balance, in the amount of P2,343.75, was paid as and for mining fees.[29]

3) G.R. No. 52354/Crim. Case No. 197 (GV No. 01-780682)[30]

The GV covered herein, No. 01-780682, called for the release of P49,980.00 by way of partial payment for 3,125 cubic meters of anapog. It was certified by Recamadas, Bulac, the petitioner, Evardo (for Ausa), and Lopena. The Program of Work supporting the same, calling for the use of 3,125 cubic meters of selected borrow estimated at P50,000.00 was in turn submitted by Rasonabe, recommended by Bulac, and approved by the petitioner. The Detailed Estimates likewise called for the use of 3,125 cubic meters of selected borrow estimated at P50,000.00. They were prepared by Rasonabe, checked by Bulac, and approved by the petitioner. The covering RSE, No. 43, specified 3,125 cubic meters of anapog binder worth P50,000.00, was certified as to funds availability by Evardo (for Ausa), recommended for approval by the petitioner and Bagasao.

The Requests for Sealed Quotations were addressed to, among others, JV Sand & Gravel Construction Supply. Under the Abstract of Sealed Quotations, the contract was awarded to JV Sand & Gravel & Construction Supply to supply 9,375 cubic meters of anapog binder. It was certified correct by Pineda, representing the Tagbilaran CEO, by Recamadas, as Purchasing Agent, and by Cornell, on behalf of the Commission on Audit. Bulac, Administrative Officer Jorge Visarra, and Assistant City Engineer Ponciano Mercado, members all of the Price Verification Committee, likewise affixed their signatures thereto. The petitioner approved it. The PO, addressed to the alleged lowest bidder, JV Sand & Gravel & Construction Supply, mentioned 9,375 cubic meters of anapog binder priced at P150,000.00. Recamadas, as Purchasing Officer, signed it; Ausa certified it as to availability of funds; and the petitioner approved it. The Request for Inspection was signed by Bulac.

The three Delivery Receipts appended to this GV were unsigned. Two more clusters of Delivery Receipts accompanying it were, however, signed by Rasonabe. A Record of Inspection, covering the delivery of an unspecified amount of materials was certified correct by Niño Pilayre and Bulac.

The GV was paid through Check No. SN-4-4788140 in the sum of P47,636.25 in favor of JV Sand & Gravel & Construction Supply. The same was signed by the petitioner and countersigned by Lopena. The balance of P2,343.75 was again paid for mining fees.[31]

4) G.R. No. 52355/Crim. Case No. 198 (GV No. 01-780606)[32]

GV No. 01-780606, in the sum of P49,980.00 as and for partial payment for the delivery of 3,123 cubic meters, was likewise certified by Recamadas, Bolotaolo, the petitioner, Evardo (for Ausa), and by Charita de Villa. The supporting Program of Work specified the use of 3,125 cubic meters of selected borrow worth P50,000.00. It was submitted by Rasonabe, recommended by Bolotaolo, and approved by Castillo. The Detailed Estimates, calling for 3,125 cubic meters of selected borrow estimated at P50,000.00 were prepared by Rasonabe, checked by Bolotaolo, and approved by the herein petitioner. The supporting RSE, No. 29, was certified as to funds availability by Ausa, recommended for approval by Bolotaolo, and approved by the petitioner and Bagasao, called for 3,123 cubic meters of anapog binder estimated at P49,980.00. The corresponding ROA therefor (under Obligation No. T-401-101-5-58-78), in the sum of P49,980.00, was requested by Bulac for Bolotaolo and certified as to availability of funds by Ausa. The PO therefor in the total amount of P149,940.09 in payment for 9,369 cubic meters of anapog binder, addressed to JV Sand & Gravel & Construction Supply, was signed by

Recamadas in his capacity as Purchasing Officer, certified as to availability of funds by AUSA, and approved by the petitioner. It also came with two bunches of Delivery Receipts, signed by Rasonabe, showing certain deliveries of anapog binder.

The Record of Inspection covering 6,248 cubic meters of anapog under RSEs Nos. 29 and 30 were certified correct by Cornell and Recamadas. The Taxpayer's Certificate and Clearance were issued in the name of Tiu.

Payment hereof was made through Check No. SN-4-478812 in the sum of P47,637.75 in favor of JV Sand & Gravel & Construction Supply signed by the petitioner and countersigned by Lopena. The balance of P2,342.25 was paid to the City Treasurer as and for mining fees.[33]

5) G.R. No. 52356/Crim. Case No. 199 (GV No. 01-780601)[34]

GV No. 01-780601 called for 3,123 cubic meters of anapog binder in the amount of P49,980.00 by way of partial payment. The certifications contained therein were signed by Recamadas, Bolotaolo, the petitioner, Filipinas Evardo (for AUSA), and de Villa. The Program of Work appended thereto called for 3,125 cubic meters of anapog binder in the sum of P50,000.00. It was submitted by Luis Rasonabe, recommended by Bolotaolo, and approved by the petitioner. The Detailed Estimates specifying 3,125 cubic meters of selected borrow costing P50,000.00 were prepared by Rasonabe, checked by Bolotaolo, and approved by the petitioner. The RSE, No. 28, on the other hand, specified 3,123 cubic meters of anapog binder worth P49,980.00, and was certified as to availability of funds by AUSA, recommended for approval by Bolotaolo, and approved by Castillo and Bagasao. The ROA, in the sum of P49,980.00 (under Obligation No. T-401-101- 5-57-78), was requested by Bulac for Bolotaolo and certified as to availability of funds by AUSA.

The Requests for Sealed Quotations were addressed to, among others, the firm owned by Tiu. The Abstract of Sealed Quotations showed that the contract to supply 9,369 cubic meters of anapog binder was awarded to JV Sand & Gravel & Construction Supply as the lowest bidder, as certified by Dioscoro Pineda on behalf of the Tagbilaran CEO. Recamadas was named therein as the Purchasing Agent and Eliseo Cornell as the representative of the Commission on Audit. It was likewise signed by Bolotaolo, Administrative Officer Jorge Visarra, and Assistant City Engineer Ponciano Mercado in his capacity as member of the Price Verification Committee. The petitioner approved it. The Request for Inspection was signed by Recamadas.

The six Delivery Receipts likewise attached thereto showed deliveries of a total of 1,248 cubic meters of anapog. They were all signed by Rasonabe. Two other sets of Delivery Receipts accompanying the GV in question, likewise signed by Rasonabe, showed further deliveries of anapog binder. It carried another Record of Inspection covering 6,248 cubic meters of anapog binder based on RSEs Nos. 29 and 30, certified correct by Cornell and Recamadas. The Taxpayer's Certificate and Tax Clearance Certificate attached thereto were issued in favor of Tiu.

It likewise appeared that Check No- SN-4-4788125, in the amount of P47,637.75, was issued in favor of JV Sand & Gravel & Construction Corporation in payment of such alleged deliveries. It was signed by the petitioner and countersigned by Praxedes Lopena. The balance of P2,342.25 was supposedly paid to answer for mining fees.[35]

6) G.R. No. 52357/ Crim. Case No. 200 (GV No. 01-780694)[36]

GV No. 01-780694, in the sum of P49,980.00 in final payment for 3,125 cubic meters of anapog binder, contained certifications signed by Recamadas, Bulac, the petitioner, Evardo (for AUSA), and Lopena. The supporting Program of Work called for the use of 3,125 cubic meters of selected borrow worth P50,000.00. It was submitted by Rasonabe, recommended by Bulac for Bolotaolo, and approved by the petitioner. The Detailed Estimates therefor likewise called for 3,125 cubic meters of selected borrow valued likewise at P50,000.00. It was prepared and approved likewise by the trio of Rasonabe, Bulac, and the petitioner. RSE No. 45, providing for 3,125 cubic

meters of anapog binder priced at P50,000.00, was certified as to availability of funds by Evardo (for AUSA), recommended for approval by Bulac, and approved by the petitioner and Bagasao. The Abstract of Sealed Quotations showed that the lowest bidder was JV Sand & Gravel & Construction Supply. It was certified correct by Pineda, as representative of the Tagbilaran CEO, by Recamadas, as Purchasing Agent, and Cornell, as representative of the Commission on Audit. It was likewise signed by Bulac, Visarra, and Mercado as members of the Price Verification Committee. It was approved by the petitioner.

The said GV likewise included three unsigned Delivery Receipts showing alleged deliveries of anapog binder, in addition to two more sets, signed by Rasonabe. The Record of Inspection covered an unspecified amount of materials under RSE No. 55, certified correct by Pilayre and Bulac.

In payment of the GV, Check No. SN-4-4788142 was issued in the sum of P47,636.25, payable to JV Sand & Gravel & Construction, signed by Castillo, and countersigned by Lopena. The balance of P2,343.75 was paid for mining fees.[37]

In due time, however, certain discrepancies were discovered, particularly with respect to the procurement of 9,369 cubic meters of anapog under GVs Nos. 01-78601, 01-78606, and 01-78641. COA Auditor Lopena noted that the invitations to bid were insufficiently publicized; that the Requests for Sealed Quotations were opened before the lapse of ten days after publication; that the prices exceeded the canvass earlier made by the City Treasurer; and that the bidders were not given equal opportunities to take part in the bidding. For these reasons, Lopena suggested a re-bidding. According to the petitioner, however, the Requests for Sealed Quotations themselves were posted in conspicuous places and that the question had supposedly become academic, the contracts having been awarded and the Purchase Orders issued. Apparently satisfied, Lopena passed the three GVs on pre-audit.[38]

A similar question arose with respect to the requisition of 9,375 cubic meters of anapog binder covered by GVs Nos. 01-780682, 01-780684, and 01-780694. Lopena noted that the same did not carry the proper ROAs; that the requisitions had been split into three RSEs (Nos. 53, 54, and 55); that the amount of funding putatively made available for the first partial payment thereof had not been properly specified therein; that the said GVs were issued to answer for partial payments when they were supported by one Inspection Report only and were presented for pre-audit on the same date. Assistant City Engineer Ponciano Mercado, in a first indorsement issued on behalf of the petitioner, was supposed to have dismissed the noted errors as mere clerical errors, and that the single Inspection Report was a consolidation of the various deliveries made on different dates.[39] Lopena, in any event, passed the GVs on pre-audit.

Eventually, the matter reached the Commission on Audit which constituted two teams to mount an inquiry.[40]

The investigation disclosed that the above-mentioned LAAs as well as SACDCs were spurious documents, and that the six GVs were in fact based on only two LAAs, Nos. 107-780-05-78 and 107-780-014-78. It was further established that the total sum requested under the said LAAs - P474,100.00 - supposedly to cover the Tagbilaran CEO's unliquidated obligations were not in fact supported by its statement of accounts, under which its total obligations totalled but P160,639.55. Moreover, the payee, JV Sand & Gravel & Construction Supply, was not listed in the City's books as a creditor, for which it could have been entitled to the sums released.

The Audit Commission likewise observed certain discrepancies in the GVs in question, notably, that the Programs of Work had been "split"; that they were dated after the dates of the RSEs; that while the POs called for 9,369 to 9,375 cubic meters of anapog binder, the GVs specified but 3,123 to 3,125 cubic meters thereof apiece; that the Delivery Receipts had been issued "in lump quantities,"[41] did not bear acknowledgment signatures or were not initialled by the auditor or dated after the dates of the pre-audit that the biddings were irregular;[42] and that anapog had been short-delivered.[43]

The Commission on Audit moreover found that the Highways Regional Office, as of this period, had in fact released "doubtful"[44] allotments to ten districts, the Tagbilaran CEO among them, in the total sum of P24,052,750.00 supposedly to cover unliquidated obligations, although the statements of account thereof showed a total of only P2,735,181.98 as and for unliquidated obligations.

The very books of the Regional Office appeared further-more to have been doctored. For while the total unliquidated obligations totalled only P2,586,306.78, the entry in the Regional Office's general ledger was P35,509,002.99. And in payment of such doubtful obligations, the checks issued exceeded the cash disbursement ceiling by P6,837,971.35.[45] Apparently, it was Rolando Mangubat who recorded these entries by way of seven Journal Vouchers (JVs).[46]

It likewise turned out that James Tiu subsequently opened certain savings accounts at the Allied Bank in favor of Niño Pilayre, Praxedes Lopena, and Miguel Bulac, although Lopena insists that as far as she was concerned, she knew nothing about it.[47]

Amid this background, the respondent Sandiganbayan rendered the challenged verdict. Except for the accused Jose Sayson and Engracio Quiroz, whom it acquitted, the- Sandiganbayan passed sentence against the petitioner, as well as his thirteen other co-accused, on the basis of conspiracy.

In these six (6) appeals, the petitioner submits that: (1) The various LAAs were genuine, or that he approved the same in good faith;[48] (2) The six Programs of Work supporting the requests for funds were regular;[49] (3) The prosecution failed to prove damage or prejudice within the meaning of Article 315 of the Revised Penal Code;[50] and (4) Conspiracy was not established.[51]

We affirm the Decision appealed from.

That LAAs Nos. 107-780-05-78, 107-0780-07-78, 107-780-012-78, 107-780-014-78, and 107-780-011-78 found by the respondent Sandiganbayan to have been falsified were indeed, spurious documents, is a finding of fact by the respondent, Sandiganbayan by which we are bound as a general rule.[52] While "this Court has been most consistent in carefully examining all petitions seeking the review of the special court's decisions to ascertain that the fundamental right to be presumed innocent is not disregarded,"[53] we are, in these cases, satisfied with the correctness of the following holding of the Sandiganbayan:

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Starting off with the LAAs (Exhibits T-3 to T-7), it is at once noted that, as convincingly demonstrated by Auditor Quejada, they are honeycombed with glaring discrepancies which set them apart from others that were regularly issued. To begin with, cursory scanning of the unquestionably regular LAAs issued to the Tagbilaran CEO from January 31 to September 6, 1978 (Exhibits UU, UU-1 to UU-28) reveals that they are all sequentially numbered from No. 107-80-001-78 to No. 107--80-029-78. However, the LAAs here in question, which appear to have been issued within that span of time, bear numbers which are not only different in composition but also which do not fit into the sequential pattern of the regular LAAs. Thus, the second part of the number in the regular LAAs is invariably "80"; whereas, in the questioned LAAs, the number used is either "780" or "0780". And, if the third part of the number is considered, it appears that there are already regular LAAs which bear the same or substantially the same numbers as those appearing on the questioned LAAs, thereby exposing the latter as mere duplications of the former. In the same manner, the regular LAAs all bear dates which chronologically follow the numerical order of the numbers carried by them; whereas, some of those here questioned are not even dated at all (Exhibits T-4 and T-7), while the rest are dated April 24, 1978. Again, the regular LAAs invariably make reference to the SAA from which they are taken; whereas, those here in question uniformly carry no such reference. It is true that cases there are when an LAA may not have emanated from an SAA. But, in such instances, the source is nevertheless indicated. Thus, in one case, the

source is stated as: "Taken from equipment rental savings ending March 31, 1978" (Exhibit UU-18). And, although no reference to the mother SAA appears in another (Exhibit UU-6), a check of the Log-book for LAAs (Exhibit KKK) reveals that the same was taken from "SAA 107-08 dtd 2-16-78" (p. 375). Furthermore, the regular LAAs are uniformly signed by Finance Officer Angelina L. Escano as transmitting officer; whereas, the challenged LAAs are signed by accused Mangubat, both as Chief Accountant and as transmitting officer, and counter-signed by accused Bagasao. Of course, it is conceded that accused Mangubat is authorized to sign for Finance Officer Escano in the absence of the latter. But, in the cases at bar, there is absolutely no showing that Finance Officer Escano was either absent or otherwise not available on the dates the questioned LAAs were issued. In fact, at least on April 24, 1978 when three of the LAAs in question were supposedly issued, Finance Officer Escano was on duty from 8:00 o'clock, a.m. to 5:00 o'clock, p.m. (Exhibit MMM). Also revelatory is the fact that, in the regular LAAs, the Obligation Number against which the disbursement is to be charged is never stated because it is the District Accountant who is supposed to determine that upon receipt of the LAA; whereas, in the questioned LAAs, that Obligation Number is already predetermined by accused Mangubat. To make matters even worse, the Account Number stated is 81-400, which refers to prior year's un-liquidated obligations, while it is indubitable that the expenditures to be made therefrom are actually for current obligations. Besides, in the regular LAAs, a breakdown of the specific purposes for which the amount allotted is to be spent is invariably made, whereas, the questioned LAAs do not carry such breakdown. Furthermore, while the amounts in the regular LAAs are not rounded, those in the questioned ones are always in round numbers. Finally, there is the equally patent fact that, while the regular LAAs are recorded in the Logbook for LAAs (Exhibit KKK), besides bearing the "Released" stamp of the Regional Accounting Division or the "Received" stamp of the Tagbilaran CEO, none of the questioned LAAs appear in said Log-book or carry the "Released" or "Received" stamp aforesaid. Instead, the questioned LAAs are listed in a Subsidiary Ledger (Exhibit 7-Mangubat) privately maintained by accused Mangubat for his own purposes, as if to accentuate his claim that the issuance of said LAAs is his private preserve. All these led the auditors to conclude that the questioned LAAs here involved are fake - a conclusion which We share.

Indeed, the falsity of the LAAs aforesaid (Exhibits T-3 to T-7) is confirmed no less than by accused Mangubat himself. From his own lips came the affirmation that said LAAs are not in fact supported by existing budgetary funding. He conceded that he issued them exclusively on the basis of his projections of expected savings from equipment rentals. In amplification, he sought to impress upon the Court that the Regional Office is entitled to a 49% retention out of funds allotted to it by the Ministry, 42% of which is supposed to be for equipment rentals; and, that, since a sizable portion of this retained amount allegedly becomes savings at the end of the fiscal year, he claims he is authorized to disburse the expected savings by means of LAAs under Account 81-400 and, thereafter, make adjustments as soon as the expected savings will be realized. All these are not only puerile but also serve to clinch even more the illegality of the procedures resorted to. To begin with, if any retention is allowed to be made at all by the Regional Office, that fact is specifically stated in the corresponding SAA. Here, no showing had been made that any of the SAAs received by the Regional Office from the Ministry of Public Highways provided for such retention. Hence, there could be no retention to derive savings from to speak of in the first place. Then, as aforesaid, Account 81-400 refers to prior year's unliquidated obligations. However, the entire Region VII had only P2,735,181.98 in unliquidated obligations as of December 31, 1977, and yet, as of June 30, 1978, the total amount of allotments covered by LAAs under Account 81-400 released to the districts already totalled P24,052,750.00. Respecting Tagbilaran CEO in particular, the total amount of LAAs released for prior year's obligations totalled P474,100.00, whereas, the amount for such item as of December 31, 1977 stood at only P160,639.55 (Exhibits BBB and BBB-1). In this posture, it is evident that the release made pursuant to the questioned LAAs under Account 81-400 are outright falsities. Verily, there is no way by which accused Mangubat could be justified in claiming that there are saving (sic) expected to be realized out of equipment rental appropriations at the end of the fiscal year. For, the record shows that, as of the end of 1977, there were actually unpaid equipment rental bills amounting to P11,836,038.61 (Exhibits HHH and HHH-1); and, as of the end of 1978, that total even increased to P13,496,827.46 (Exhibits III and III-1). Accused Mangubat's claimed projections of expected savings are thus

just figments of his imagination.[54]

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Notwithstanding this finding, the petitioner insists that the five LAAs were genuine documents. He maintains that "as City Engineer of Tagbilaran City /he/ received the LAA's from the MPH, Region No. VII." [55] "He has nothing to do," he continues, "with the procurement of the LAAs from the Regional Office (MPH) which were prepared thereat." [56] "No evidence direct or circumstantial has been established by the prosecution that herein petitioner made representations with the Regional Office (MPH) for the release of the LAA's to Tagbilaran City MPH." [57]

The point escapes the petitioner.

The five LAAs in question were in the nature of simulated documents, as evidenced by certain tell-tale indications. We recapitulate: (1) They do not observe a sequential pattern; [58] (2) They are not consecutively dated; [59] (3) They do not refer to the proper SAAs where they were supposed to have been taken; (4) They were not signed by the proper authority, in this case, Finance Officer Angelina Escaño, but by the accused Chief Accountant, Rolando Mangubat, albeit there is no showing that at the time they were issued, Escaño was unavailable; [60] (5) They contain pre-determined obligation numbers, which refer to prior years at that, although they were supposed to have been expenditures for current years, [61] and (6) They were entered only in Mangubat's subsidiary ledger rather than the logbook for regular LAAs. [62] They could not have therefore emanated from the Regional Office of the Ministry of Public Highways for the plain reason that the Ministry never issued them.

It is no defense that the said LAAs carried the genuine signatures of the Chief Accountant, Rolando Mangubat. The petitioner is here charged with falsification (to facilitate estafa) under Article 171, paragraph 2, of the Revised Penal Code, that is, by:

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2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate; [63]

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As early as *U.S. v. Corral*, [64] we have held that in this kind of falsification, the document need not be an authentic official paper. Its simulation is the essence of the falsification. The signature appearing thereon need not have been forged. [65]

In this case, Mangubat affixed his signature upon the five LAAs notwithstanding the fact that the same were not supported by existing budgetary funding. [66] As stated earlier, the Ministry of Public Highways could not have authorized the release of money absent such available funds. By signing such LAAs, however, it was made to appear that the request for funds had that authorization. This is falsification under the aforequoted Revised Penal Code provision.

Besides, if the transactions were truly licit, Mangubat could have easily secured Finance Officer Angelina Escaño's concurrence. But as the records will disclose, Escaño knew nothing thereof. In point of fact, Escaño was by-passed in all these proceedings. This alone makes these transactions suspicious.

The petitioner cannot plead good faith in approving the five counterfeit LAAs. While his signature, and nothing more, is not enough to establish his guilt, yet, there is sufficient evidence on record to justify the respondent court's holding. We quote:

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It is puerile for the accused to contend that they acted in good faith in the regular performance of their duties. For, they were not only fully aware that the transactions they either supposedly participated in or certified to have taken place were in fact simulated or irregular but also that the documents they signed bear unmistakable hallmarks exposing the untruthful statements of the facts narrated therein. Thus, accused Castillo knew that everything was a mere, put-up job. It was he who personally ordered the preparation of Programs of Work which were deliberately split to such an extent that separate programs had even to be prepared for each of the two approaches of a single bridge a discrepancy which, when called to his attention on cross-examination, he nonchalantly dismissed as a mere "slip of the typewriter" (Tr., 11/12/79, p. 68); it was he who approved both the Programs of Work and the corresponding RSEs even if said programs were actually prepared later than said RSEs; it was he who approved Abstracts of Sealed Quotations and the POs, even if the biddings conducted were defective and his attention thereto was repeatedly called by accused Lopena; it was he who ordered accused Rasonabe to belatedly prepare and sign the several bunches of delivery receipts in blank while he, like Nero who fiddled while Rome burned, played on the piano and asked Engineer Bulac to sing with him in order to provide, as it were, musical background for accused Rasonabe; it was he who approved the GVs even as he knew all along that accused Tiu was not entitled to the full amounts covered thereby; and, it was also he who finally signed the checks by which said undue payments were made possible.[67]

Indeed, as City Engineer, the petitioner has been obliged, as follows:

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(a) He shall have charge of all the surveying and engineering work of the city; and shall perform such service in connection with public improvements or any work entered upon or projected by the city on any department thereof, as may require the skill and experience of a civil engineer.[68]

It is a grant of vast supervisory powers that is furthermore implicit from Presidential Decree No. 549, placing the City Public Works Supervisor under his jurisdiction.

As such chief of his office, he cannot profess ignorance of these illicit goings-on by invoking "good faith." It is a lame excuse and certainly unacceptable.

As furthermore found by the respondent court, the petitioner had resorted to the "splitting" of programs of work, specifically with respect to Totulan-Ubos-Dauis bridge restoration project, in which the petitioner prepared two Programs of Work for each of the two approaches of the bridge in the sum not exceeding P50,000.00 apiece.[69] According to the trial court, "these manipulations were resorted to because of an intent to circumvent control measures promulgated by the Government,"[70] that is, to avoid approval from the regional office.[71]

We agree.

Under Commission on Audit Circular No. 76-41, the splitting of requisitions, purchase orders, and similar requests for funding or supplies for one particular work is prohibited. In this case, it appears that the petitioner submitted two programs of work for the Totulan-Ubos--Dauis bridge project when he could have prepared a single Program of work. This constitutes "splitting" under the Circular.

It is of no moment that the project in question was located in two separate sites, as the petitioner claims. The essence of splitting, as the term is defined in the aforementioned Circular, lies in dividing a requisition order for a singular undertaking whether or not such project will entail work in various locations. It is not required, in fact, that the division be accomplished with malice or deliberate intent. The same is not a penal measure under the Revised Penal Code where criminal intent is of the essence. In fact, it does not even require proof of loss to the

government.[72] It is sufficient that there has been a violation.

In any case, whether or not the petitioner was in good or bad faith in approving the split programs of work addresses a question of credibility. As a general rule, the determination of credible testimony is the domain of the trial court, not the Supreme Court.[73]

The fact should be underscored that the criminal cases under review are not prosecutions for violation of the Commission on Audit Circular abovesaid. The Circular, we reiterate, is not a criminal enactment. Its violation opens passages for administrative action, or, as provided in the Circular, authorizes the Commission to "disallow in audit all disbursements or payments covering the transactions." [74] But it is material in determining the character of the petitioner's participation in the conspiracy found by the respondent court.

And it is only one of several acts attributed to the petitioner in this case. In addition, he was found to have: (1) approved the Programs of Work later than the issuance of the RSEs; [75] (2) approved Abstracts of Sealed Quotations and Purchase Orders supported by defective biddings; [76] (3) ordered Civil Engineer Luis Rasonabe to pre-prepare Delivery Receipts in blank; [77] (4) approved the six General Vouchers covering full payment to the contractor, the accused James Tiu, "knowing that the accused Tiu was not entitled to the full amounts"; [78] and (5) signed the checks in payment of such amounts. [79]

That the petitioner did approve the six Programs of Work without the proper supporting papers is clear enough from the evidence on record. As summarized by the Solicitor General:

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xxx Witness Yolanda Requirme, Supervising Civil Engineer I at the Bohol First Engineering District, Region VII, testified that in the preparation of program of work for the construction, restoration, reha-bilitation and/or improvement of national and barangay roads, the step is to fill up various format called KAMPSAX BERGER format, which consist of individual project programs like the Work Program Schedule, the Work Item Requirement Schedule, Budget Cost, Project Equipment Summary, Project Material Summary, Project Labor Summary and Cash Flow. When shown Exhibit C-9 which was the program of work (PW) attached to Voucher No. 780641 involved in Criminal Case No. 195, she stated that it lacked the follow-ing requirements:

1. Work Program Schedule.
2. Work Item Requirements Schedule.
3. Project Equipment Summary.
4. Project Labor Summary.
5. Project Material Summary.
6. Cash Flow.

(tsn., October 16, 1979, p. 116).

Exhibit E-4 (PW) attached to Voucher No. 01-7806-82 involved in Criminal Case No. 197 lacked the following:

1. Work Program Schedule.
2. Work Item Requirements Schedule.
3. Budget Cost.
4. Project Labor Summary.

5. Project Material Summary.
6. Project Equipment Summary.
7. Cash Flow.

(ibid, p. 117).

Exhibit D-9 (PW) attached to Voucher No. 01-7806-82 involved in Criminal Case No. 197 lacked the following:

1. Work Program Schedule.
2. Work Item Requirements Schedule.
3. Budget Cost.
4. Project Equipment Summary.
5. Project Labor Summary.
6. Project Material Summary.
7. Cash Flow.

(ibid, p. 118).

Exhibit F-3 (PW) attached to Voucher No. 01-7806-06 involved in Criminal Case No. 198 lacked the following:

1. Work program schedule.
2. Work Item requirement schedule.
3. Budget cost.
4. Project material summary.
5. Project labor summary.
6. Project equipment summary.
7. Cash flow.

(ibid, p. 119).

Exhibit G-7 (PW) attached to Voucher No. 01-7806-01 involved in Criminal Case No. 199 lacked the following:

1. Work program schedule.
2. Work Item requirement schedule.
3. Budget Cost.
4. Project labor summary.
5. Project material summary.
6. Project equipment summary.

7. Cash flow.

(ibid, p. 120).

Exhibit H-4 (PW) attached to Voucher No. 01-7806-94 involved in Criminal Case No. 200 lacked the following:

1. Work Program Schedule.
2. Work Item Requirement Schedule.
3. Budget Cost.
4. Project Equipment Summary
5. Project Labor Summary.
6. Project Material Summary.
7. Cash Flow.

(ibid, p. 121).

Witness further testified that the foregoing exhibits (Exhibits C-9 - H-4) could not be prepared ahead of the other forms which were lacking, clearly indicating that said programs of work lacked the appearance of regularity, contrary to petitioner's claim.[80]

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The petitioner has not rebutted all these to our satisfaction.

He insists, however, that he "did not have a hand in the preparation of the questioned programs of work as the same were prepared by Engineer Rasonabe upon recommendation of Engineers Bulac and Bolotaolo." [81]

The argument does not impress us.

The preparation of plans and other programs relative to public works constructions in the city of Tagbilaran, as we observed, rests chiefly with the City Engineer.[82] We cannot, as a consequence, accept the posture, that the petitioner City Engineer had no part in the preparation of the Programs of Work in question, especially considering the substantial amount of funding involved therefor (P474,-100.00).

The petitioner next claims that he had nothing to do with the issuance of the falsified Abstracts of Sealed Quotations, POs, Delivery Receipts, GVs, and checks. We have rejected his claims of good faith in connection with the spurious LAAs, so also do we reject his same pretensions with respect to these additional documents.

We reiterate that the petitioner, by virtue of his position, ought to have known the unusual movements of his subordinates, in this case, his engineers, whom the Sandiganbayan found to have, aptly enough, engineered the whole operation. It is indeed unthinkable that such irregularities would have passed by him unnoticed when he is in fact called upon to guard against such anomalies pursuant to his broad supervisory duties. In turn, his engineers could not have so easily, and with such daring, consummated such transactions alone - as the petitioner would have us believe - without his willing cooperation.

With respect to the invitations to bid found irregular by the Sandiganbayan, the petitioner alleges: "[I]t is therefore incorrect to state that the only proper way of conducting the dissemination of bidding is thru publication, for certainly under certain circumstances posting of notices would also be proper to adopt." [83]

The petitioner does not address the fundamental question. He was not charged, to begin with, with improper bidding alone. In Praxedes Lopena's letter dated May 29, 1978,[84] it was noted, in addition, that: (1) The Requests for Sealed Quotations were opened before the lapse of the days after publication,[85] and that (2) the quoted prices exceeded the quotations based on a canvass earlier conducted by the City Treasury.[86] Confronted with such a letter, the petitioner was supposed to have casually brushed aside Lopena's suggestions ("that any protest is already academic because an award had since been made and the corresponding purchase order had been issued").[87] Appar-ently to us, there was a mad rush to award the works, and as it turned out, in favor of James Tiu.

It is contended that the damage resulting from the conversion has not been established, arising from the failure of the government to issue a statement attesting to any loss as a result of the misappropriations.

There is no merit in this contention.

As held by the respondent Sandiganbayan, and as the evidence discloses, the government suffered short deliveries of anapog following the misappropriations in question, and this is more than sufficient evidence to prove loss. We turn to the Decision under appeal:

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Restituto Castro, testifying for the People, detailed the volume of deliveries made to various sections of the roads and bridge approaches covered by the projects here involved based on his counting of truckloads of anapog extracted from the Belderol Co and Picmao quarries and brought to the restoration sites. On the other hand, Assistant Provincial Engineer Sarmiento also made documented estimates of the volume of anapog delivered and, significantly enough, even after reckoning with pertinent factors bearing on the matter - including the time lapse between the date of spreading and the date of inspection, the effect of erosion, and a shrinkage factor of 20% and 30% as the case may be - came up with figures higher than those arrived at by Castro. So much so that, giving the defense the benefit of the doubt, the Court elects to go by the figures furnished by Engineer Sar-miento as bases for reckoning the damage caused. For this purpose, the amount to be considered as starting point should be the face value of the respective checks actually paid to accused Tiu, that is to say, deducting the amount paid to the City Treasurer for Mining Fees. And, the value of the anapog delivered should be taken at the price it was supposed to have been sold to the Government, that is, P16.00 per cubic meters. On this (sic) bases, the damage may be computed as follows –

Case No.

Amount Paid

Delivery Volume

Value of Delivery

DAMAGE

195

-

P47,637.75

-

566

-

P9,056.00

-

P38,581.75

196

-

47,636.25

-

12

-

192.00

-

47,444.25

197

-

47,636.25

-

624

-

9,984.00

-

37,652.25

198

-

47,637.75

-

none

-

none

-

47,637.75

199

-

47,637.75

-

1,496

-

23,936.00

-

23,701.75

200

-

47,636.25

-

106

-

1,696.00

-

45,940.25

P240,958.00[88]

xxx xxx xxx

As we noted, such factual findings are controlling on this court. While this is a rule that is subject to exceptions,[89] the petitioner has not shown why the exceptions apply.

The respondent Sandiganbayan did not err in holding that the illegal transactions in question were accomplished through a conspiracy. Conspiracy, by its very nature as a clandestine arrangement, need not, be shown by direct proof, but may be demonstrated by circumstantial evidence manifesting a joint effort on the part of the accused to achieve a common criminal end.[90] In the case at bar, there is ample proof that the petitioner was a co-conspirator in the scheme to defraud the government. As earlier noted, the petitioner, as City Engineer, is charged with the preparation of all engineering works pertaining to the city. And as found furthermore by the Sandiganbayan, "it was he who personally ordered the preparation of Programs of Work,"[91] notwithstanding his excuse that "he did not have a hand"[92] in them. It was he who approved the RSEs prior to the submission of the Programs of Work, contrary to normal procedure. It was he who approved the Abstracts of Sealed Quotations notwithstanding the questions raised relative thereto. It was he, finally, who signed the blank Delivery Receipts, approved the GVs, and signed the antedated checks in favor of James Tiu although the latter was not entitled thereto. These are clear badges of conspiracy.

The long and the short of it is that the petitioner played a major part in the illicit operations, a part that significantly complemented his co-accused's acts. For this, he is liable as a co-conspirator.

The petitioner does not deny the acts now ascribed to him. To be sure, he pleads good faith, but this is a defense we reject under the circumstances.

While the proceeds appropriated are comparatively minimal by present standards (P240,958.00) that is not quite the point. The plunder of public funds (intended, especially in this case, for a depressed region) has become symptomatic of the cancer of graft and corruption, particularly in the sphere of public works, that has gnawed at the very vitals of the nation and has again and again threatened to devour the republic completely. It is a national malady that, needless to state, must be seriously addressed. This Court can do no less.

WHEREFORE, the decision appealed from is AFFIRMED. The petition is DISMISSED with costs against the petitioner.

SO ORDERED.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, and Cortes, JJ., concur.

[1] Rollo, 24-122; Fernandez, J.; Pamaran, P.J. and Escareal, J., Concurring.

[2] REV. PEN. CODE, art. 315 (1) (b) in rel. to art. 171 (2).

[3] Crim. Case No. 195.

[4] Crim. Cases Nos. 196, 197, and 200.

[5] Crim. Cases Nos. 198 and 199.

[6] Rollo, id., 117-122.

[7] Id., 25-26.

[8] Id., 6.

- [9] Id., 29.
- [10] Id., 29-30.
- [11] Id., 30.
- [12] Id., 31.
- [13] Id., 32.
- [14] Id., 33.
- [15] Id., 34.
- [16] Id.
- [17] Id., 34-35.
- [18] Id.
- [19] Id., 37.
- [20] Id., 36.
- [21] Id., 37.
- [22] Id., 36.
- [23] Id., 37.
- [24] Id., 38-52.
- [25] Id., 38.
- [26] Id., 27.
- [27] Id., 43-45.
- [28] Id., 127.
- [29] Id., 48-50.
- [30] Id., 27.
- [31] Id., 45-48.
- [32] Id., 27.
- [33] Id., 49-50.
- [34] Id., 27.
- [35] Id., 38-40.
- [36] Id., 127.
- [37] Id., 50-53.
- [38] Id., 52-53.
- [39] Id., 53-54.

[40] *Id.*, 54.

[41] *Id.*, 59.

[42] *Id.*

[43] *Id.*, 60.

[44] *Id.*, 55.

[45] *Id.*, 56.

[46] *Id.*

[47] *Id.*, 58.

[48] *Id.*, 12-13.

[49] *Id.*, 13-15.

[50] *Id.*, 8-11.

[51] *Id.*, 21-22.

[52] *Cesar v. Sandiganbayan*, Nos. L-54719-50, January 17, 1985, 134 SCRA 105 (1985); Pres. Decree No. 1606, sec. 7.

[53] *Supra*, at 121.

[54] *Id.*, 78-83.

[55] *Id.*, 12.

[56] *Id.*

[57] *Id.*

[58] *Id.*, 79.

[59] *Id.*

[60] *Id.*, 80.

[61] *Id.*, 80-81.

[62] *Id.*, 81.

[63] REV. PEN. CODE, art. 171(2).

[64] 15 Phil. 383 (1910).

[65] See II R. AQUINO, THE REVISED PENAL CODE 998 (1976).

[66] *Rollo*, *id.*, 82.

[67] *Id.*, 107-109.

[68] Rep. Act No. 4660, art. VIII, sec. 39(a) (1966).

[69] *Rollo*, *id.*, 89.

[70] *Id.*, 90.

[71] See COA Circ. No. 76-41 (1976).

[72] *Id.*

[73] *People v. Patog*, No. L-69620, September 24, 1986, 144 SCRA 429 (1986); *People v. Anuncio*, Nos. L-66917-18, September 24, 1986, 144 SCRA 384 (1986); *People v. Patola*, No. L-41265, February 27, 1986, 141 SCRA 401 (1986); *People v. Soterol*, No. L-53498, 140 SCRA 400 (1985); *Guita v. Court of Appeals*, No. L-60409, November 11, 1985, 139 SCRA 576 (1985); *People v. Cabanit*, Nos. L-62030-31, October 24, 1985, 139 SCRA 94 (1985); *People v. Canamo*, No. L-62043, August 13, 1985, 138 SCRA 141 (1985); *People v. Tuscano*, Nos. L-66570-71, June 24, 1985, 137 SCRA 203 (1985); *People v. Egas*, No. L-65676, June 24, 1985, 137 SCRA 188 (1985); *People v. Pelias Jones*, No. L-61165, June 24, 1985, 137 SCRA 166 (1985); *Chase v. Buencamino, Sr.*, No. L-20395, May 13, 1985, 136 SCRA 365 (1985); *People v. Millarpe*, No. L-69281, February 25, 1985, 134 SCRA 555 (1985).

[74] COA Circ. No. 76-41 (1976), *id.*

[75] *Rollo*, *id.*, 108.

[76] *Id.*

[77] *Id.*

[78] *Id.*

[79] *Id.*, 108-109.

[80] *Id.*, 158-160.

[81] *Id.*, 192.

[82] Rep. Act No. 4660, *id.*, art. VIII, sec. 39 (c).

[83] *Rollo*, *id.*, 197.

[84] *Id.*, 52.

[85] *Id.*

[86] *Id.*

[87] *Id.*, 53.

[88] *Id.*, 101-102.

[89] See *Cesar v. Sandiganbayan*, *supra*.

[90] *People v. Astor*, G.R. Nos. 71765-66, April 29, 1987; *People v. Petil*, G.R. No. 70223, March 31, 1987; *People v. Veloso*, G.R. Nos. 38551-53, February 27, 1987; *People v. Abueg*, No. L-54901, November 24, 1986, 145 SCRA 622 (1986); *People v. Petenia*, No. L-51256, August 12, 1986, 143 SCRA 361 (1986); *People v. Nabaluna*, No. L-60087, July 7, 1986, 142 SCRA 446 (1986); *People v. Ebor*, No. L-31013, February 10, 1986, 141 SCRA 282 (1986); *People v. Tala*, Nos. L-69153-54; January 30, 1986, 141 SCRA 240 (1986).

[91] *Rollo*, *id.*, 108.

[92] *Id.*, see note 81.

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