

ISIDORO RECAMADAS, PETITIONER, VS. THE HONORABLE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 53694-99. November 05, 1987

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

We are confronted with yet another appeal from the Decision of the Sandiganbayan[1] in six criminal cases thereof, Nos 195, 196, 197, 198, 199, and 200, involving misappropriations of public funds devoted for certain public works projects in Tagbilaran City over two months in 1978. The cases involved, in addition to two private individuals, thirteen public officials appointed in varying capacities to the Tagbilaran City Engineer's Office, the Commission on Audit thereof, or the Seventh Regional Highways Office of the defunct Ministry of Public Highways, ranging from the checker to the City Engineer and the (acting) Regional Director. The City Engineer himself had earlier come to us[2] and so has the (acting) Regional Director.[3] We rejected both their appeals.

The respondent Sandiganbayan sentenced all thirteen accused to suffer six separate terms of six years of prison correccional to ten years, eight months, and one day of prison mayor, for the crime of estafa through falsification of public documents.[4]

We incorporate as an integral part hereof our factual findings in the Castillo and Bagasao decisions:

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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.

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.

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.

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.

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, 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.

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.

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.

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 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.[5]

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It appears that between May and June, 1978, the Tagbilaran City Engineering Office embarked on certain projects involving the restoration of various roads and bridges in Tagbilaran City. As we found in both Castillo and Bagasao, *supra*, the aforesaid projects turned out to be "ghost" projects since they did not carry the imprimatur of the then Public Highways Ministry, the various requisition papers having been falsified to enable the accused to acquire the necessary funding. Furthermore, the supplies ordered were either short-delivered or not delivered at all. As a result, the government suffered losses in the total sum of P240,958.00.[6]

The Tanodbayan seasonably brought six (6) suits for estafa complexed with falsification of public and commercial documents against all thirteen public officials and two private individuals on the basis of conspiracy. The Sandiganbayan, after due trial, rendered judgment acquitting but two, Jose Sayson, Budget Examiner II of the Seventh Regional Highways Office, and Engracio Quiroz, an employee of James Tiu, a private contractor, and convicting the rest, including the petitioner.

The Sandiganbayan found, specifically, the petitioner guilty of conspiring to falsify certain documents, as follows: (1) Letters of Advice of Allotment (LAAs); (2) Sub-Advice of Cash Disbursement Ceiling (SACDCs); (3)

Programs of Work (PWs); (4) General Vouchers (GVs); (5) Requests for Obligation of Allotment (ROAs); (6) Abstracts of Sealed Quotations; (7) Purchase Orders (POs); and (8) Records of Inspection (ROIs), as a consequence of which the accused acquired the financing to fund the aforementioned projects pursuant to the procedure above-quoted.

As we earlier stated, we upheld the Sandiganbayan in two earlier cases involving the same transactions. We likewise sustain the respondent court with respect to this particular appeal.

The petitioner, in the main, assails the Sandiganbayan's Decision on the ground that conspiracy has not been shown with respect to him, and that while he admits having signed the various documents, in particular the POs, RSEs, and GVs in question, he did so out of reliance on the approval thereof by his superiors. He admits not having taken stock of the (short) deliveries, as his office called upon him to do, but claims having left the matter to "the project [or] the district engineers, who are more competent and qualified to ascertain full and complete delivery of the materials specified in the purchase order, as that belongs to the category of their jobs." [7] In this regard, the respondent Sandiganbayan specifically found that the petitioner "knew that the materials were not completely delivered." [8]

We cannot accept the petitioner's posturings of good faith in this case. It is to be noted that as Property Custodian, he discharges a very sensitive function in the work of the Ministry of Public Highways, even in such areas that may be said to be routine. It is no defense therefore to say that since there were engineers to inspect and supervise the projects as well as the materials requisitioned therefor, he need not have intervened therein. Otherwise, he would have allowed unbridled fraud in the office itself, an eventuality against which he, as Property Custodian, had been precisely designated to install safeguards.

As such Property Custodian, the petitioner is the first person to determine whether or not supplies (not only for specific programs but for perfunctory projects as well) are properly delivered based on the specifications. The fact that the orders therefor had previously passed through the higher-ups and had merited their sanction does not deprive him of the right, nay his bounden duty, to ascertain the correctness of such orders, that is to say, whether or not they conform to the said specifications. Indeed, had he performed this duty he would have discovered the anomaly then going on -- and prevented it -- had he so desired.

Nevertheless, we are not prepared to accept the petitioner's claims that at most, he was negligent in the performance of his duties, and that he was animated by no criminal purpose. As the Solicitor General avers, he was the "vital link" [9] to it all, otherwise the offense would not have been consummated. For if he were truly guilty, at most, of negligence, he should not have concurred in the various papers he admits having signed, and which, as he claims, did not after all require his signature. [10] This Court finds that such a concurrence was an attempt to legitimize the entire transactions and hence, to cover up such illegalities.

Accordingly, the petitioner could not have been unaware of the irregularities that for two months had preoccupied the Region VII personnel of the Public Highways Ministry. His efforts alone to pass the buck, so to speak, to his co-accused (a tendency, incidentally, that holds true as far as his co-accused are concerned) is proof that he was a part of the plot to defraud the government.

Moreover, it is no excuse that he had no option but to obey his superiors. Compliance with a superior order is justifiable only where the order was "lawful" [11] and that the accused acted without criminal intent. [12] In this case, the alleged order was not within legal bounds, but at the same time, the petitioner, in complying therewith, had indeed criminal designs. His unusual indifference with respect to the delivery of anapog, the materials requisitioned, a matter he left to the engineers when it was his obligation to inspect that delivery, is a clear indication that he knew that some irregularity was taking shape and taking place. We entertain no reasonable

doubt that he is guilty as charged.

WHEREFORE, the Decision appealed from is hereby AFFIRMED and the Petition is DISMISSED. Costs against the petitioner.

IT IS SO ORDERED.

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

[1] Fernandez, Bernardo, J.; Pamaran, Manuel, P.J., and Escareal, Romeo, J., Concurring.

[2] Castillo v. Sandiganbayan, G.R. Nos. 52352-57, June 30, 1987.

[3] Bagasao v. Sandiganbayan, G.R. Nos. 53813-18, 1987.

[4] Castillo, supra; Bagasao, supra; Rollo, 122-127.

[5] Castillo, supra, at 8-11; Bagasao, supra, at 2-4.

[6] Rollo, 106-107.

[7] Id., 24

[8] Id., 114.

[9] Id., 163.

[10] Id., 21.

[11] Revised Penal Code, Art. II, par. 6; People v. Barroga, 54 Phil. 277 (1930).

[12] People v. Beronilla, 96 Phil. 566 (1955).

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