

**JOSE C. BAGASAO, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.***G.R. Nos. 53813-53818. October 28, 1987*

Ponente: SARMIENTO, J.

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SARMIENTO, J.:

This is an appeal from the Decision of the Sandiganbayan[1] in six criminal cases thereof, Nos. 195, 196, 197, 198, 199, and 200, finding the petitioner guilty of six counts of estafa through falsification of public and commercial documents, and sentencing him to suffer six separate jail terms ranging from six years of prison correccional to ten years, eight months, and one day of prison mayor. In the companion cases hereof, *Castillo v. Sandiganbayan*, G.R. Nos. 52352, 52353, 52354, 52355, 52356, and 52357[2], we upheld the respondent Sandiganbayan. We see no reason why we should hold otherwise with respect to this petition. Accordingly, we likewise dismiss the same.

We adopt, by reference, the findings of fact in our earlier Decision:

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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, counter-signed 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 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.[3]

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Subsequently, it was made to appear that the region (VII) embarked on certain public works projects, as we found in Castillo, supra, through the issuance of the various papers above-mentioned, thereby enabling the petitioner, among others, to secure the release of money to fund the said projects. The respondent Sandiganbayan found that the aforesaid papers had been falsified to facilitate the release of funds, albeit the supplies allegedly requisitioned under them were short-delivered, or not delivered at all.

With respect to the petitioner, acting Regional Director of the Seventh Regional Highways Office, the respondent Court found him guilty of conspiring in the falsification of eight sets of various documents, to wit: (1) Letters of Advice of Allotments (LAAs); (2) Sub-Advices of Cash Disbursement Ceilings (SACDs); (3) General Vouchers (GVs); (4) Requests for Obligation of Allotment (ROAs); (5) Abstracts of Sealed Quotations; (6) Purchase Orders (POs); (7) Delivery Receipts; and (8) Reports of Inspection,[4] either by signing, or otherwise approving, the same. Specifically, the respondent Court held:

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Next in point of inquiry is the determination of the respective liability of the accused, if any.

To be sure, since the issuance of the fake LAAs (Exhibits T-2 to T-7) is candidly owned by accused Mangubat, it goes without saying that he must necessarily be criminally answerable for the established falsification thereof.

The same goes for accused Bagasao who is likewise a signatory thereto and who also approved all the falsified RSEs in his capacity as Acting Regional Director. No consideration can be accorded to accused Bagasao's insistent claim that his signatures on said LAAs are not only ministerial but also dispensable. At least, he does not deny that he is as Acting Regional Director, called upon to countersign said LAAs (Exhibit 3-A-Bagasao). Nor is it of any moment that, in an interpretative indorsement of January 15, 1979, the then Minister Baltazar Aquino, Ministry of Public Highways, opined that that countersigning requirement is not only a matter of purely ministerial duty but also to confirm and authenticate the genuineness of the signatures of other officials signatory to the LAA (Exhibit 4-Bagasao). For, that may be tenable only in default of any showing that accused Bagasao was privy to the charged falsification. In the cases at bar, however, there is evidence from no less accused Mangubat himself that accused Bagasao consulted with him relative to the funding of the fake LAAs. And, accused Mangubat informed him of the mechanics of funding adopted by him therefor. So much so that accused Bagasao knew that there were actually no existing funds for said LAAs but that they were merely intended to be funded from expected savings from equipment rentals hoped to be derived at the end of the fiscal year. In that posture, accused Bagasao was aware of the illegality of the arrangement because he cannot feign ignorance of the law on the matter. Nor can he justifiably claim unawareness of any defect in the RSEs approved by him. For, he could not have missed noting that the Programs of Work in support thereof are dated later, than said RSEs, and that both said Programs of Work and RSEs were split in violation of applicable regulations. Hence, it is clear that accused Bagasao was a knowing participant in the perpetration of the falsifications of said fake LAAs and RSEs.[5]

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The petitioner now alleges that in so holding, the respondent Sandiganbayan erred:

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(A) When it failed to make an interpretation or conclusion to the effect that the act of petitioner in affixing his signature on the questioned Letters of Advice of Allotment (LAAs) (Exhs. "T-3" and "T-6") and the Requisition for Supplies and Equipment was purely an administrative and ministerial duty and that the Presumption of regularity of official acts should have been construed in his favor.

(B) When it found that conspiracy was attendant although no conclusive evidence was adduced to prove the same, hence, there was a misappreciation of the concept of conspiracy.

(C) When it found that the guilt of the petitioner was proven beyond reasonable doubt whereas there was a wrong characterization of the offense charged, hence, it was clear that the essential elements of the crime of estafa through falsification of public and commercial documents had never been established the prosecution.

(D) Presidential Decree 1606 creating the Sandiganbayan is an ex-post facto law, hence, the Sandiganbayan has no jurisdiction to try and decide the instant cases.[6]

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The petitioner claims, first and foremost, that his signature on documents pertaining to public works projects is a matter of ministerial duty, once he is satisfied that the issuance thereof has been approved by the Finance Officer (Angelina Escaño in this case), or in her absence, the Chief Accountant (Rolando Mangubat). With respect to the LAAs in question, he avers that his signature thereon was not in fact indispensable, the absence of which will not invalidate the paper. He insists that the same were on their face, in order, and that was all that was allegedly necessary to justify their confirmation by him. He cites, in support of his claims, a First Indorsement issued by then Minister of Public Highways Baltazar Aquino:

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xxx the countersignature of the Regional Director is required on these Letters of Advice of Allotment, not only as a matter of purely administrative ministerial duty but as to confirm and authenticate the genuineness of the signatures of the aforementioned officials.[7]

It was not his duty, he adds, to verify the correctness of such documents, and that as a matter of legal obligation, "he place(s) considerable, if not total, trust and confidence in subordinate officials of the region,"[8] upon whom that duty allegedly devolves.[9]

Significantly, the petitioner does not deny the falsity of the aforementioned documents that facilitated the unauthorized release of funds to finance the projects in question. There is indeed ample evidence that the same, especially the LAAs, were not entered in the logbook of the regional office, an important safeguard against fraud, following their issuance.

The preparation of such papers requires furthermore the intervention of the Finance Officer, Angelina Escaño in this case, yet, there is no showing that the documents in question passed the hands of Escaño, and neither is there any showing that Escaño was unavailable at that time. In fact, Escaño was by-passed in all such transactions.

Apart from that, it is quite evident from the records that these documents had indeed been falsified. The Solicitor General states and to which we agree:

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x x x Other factors indicative of the falsity of the LAAs according to witness Quejada are as follows:

- a) The regular LAA's are usually numbered in sequence and there is a certain series. Whereas, the doubtful LAA's are not numbered in sequence.
- b) All the regular LAA's are dated. The doubtful LAA's are not dated.
- c) The regular LAA has always a reference number from the sub-allotment advice. Whereas, the doubtful LAA does not have any reference number.
- d) The regular LAA's do not bear the obligation number to be used by the district. The doubtful LAA bears the obligation number to be used by the district.
- e) The certification as to availability of funds in the middle portion for the regular LAA's are (sic) signed by the chief accountant and most of these for 1978 were signed for Rolando Mangubat by Delia Preagido. Whereas, the doubtful LAA's are all signed by Rolando Mangubat.
- f) For the regular LAA's, the transmittal is signed by Angelina Escaño and some are countersigned by Jose C. Bagasao, with the exception of two. But for the transmittal of the doubtful LAA's, all are signed by Rolando Mangubat and counter-signed by Jose C. Bagasao.
- g) Almost all the regular LAA's have centavos. The doubtful LAA's are mostly rounded figures.[10]

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We cannot accept the petitioner's pleadings of good faith under these circumstances. As then acting Regional Director, the highest official of the Ministry of Public Highways in the entire Region VII, the petitioner occupied a very responsible position. As such, his was an indispensable role in the discharge of the functions of the then Ministry of Public Works regional office. And as such, he was necessarily privy to the office's businesses -- and to any anomalies therein. But what impresses us is the fact that, as found by the respondent Sandiganbayan:

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x x x [T]here is evidence from no less than accused Mangubat himself that accused Bagasao consulted with him relative to the funding of the fake LAAs. And, accused Mangubat informed him of the mechanics of funding adopted by him therefor. So much so that accused Bagasao knew that there were actually no existing funds for said LAAs but that they were merely intended to be funded from expected savings from equipment rentals hoped to be derived at the end of the fiscal year. In that posture, accused Bagasao was aware of the illegality of the arrangement because he cannot feign ignorance of the law on the matter. Nor can he justifiably claim unawareness of any defect in the RSEs approved by him. For, he could not have missed noting that the Programs of Work in support thereof are dated later than said RSEs, and that both said Programs of Work and RSEs were split in violation of applicable regulations. Hence, it is clear that accused Bagasao was a knowing participant in the perpetration of the falsifications of said fake LAAs and RSEs.[11]

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As we said in Castillo, supra, save for certain exceptions, the findings of fact of the Sandiganbayan are binding on us.[12] Not one exception has been shown here to our satisfaction.

The subsequent inquiry is whether or not conspiracy has been duly proved. Conspiracy, as a rule, is a question involving appreciation of facts, an undertaking that is generally, the realm of the trial court.[13] But nonetheless, we find adequate evidence to support the Sandiganbayan's holding that conspiracy indeed existed. We quote:

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Easily, under all the circumstances obtaining in these cases, the existence of a conspiracy among and between the accused referred to is as clear as day. Of course, it is true that there may not be any direct showing of any linkage between the accused in the Regional Office and those in the District Office. But, this is only more apparent than real. Such a contention overlooks the very essence of conspiracy in that it exists where the acts committed by the accused, taken collectively, results from concerted and associated action, although if each circumstance is considered separately, it might not show confederation, but, where linked together, the circumstances that in themselves are inconclusive, may, when taken as a whole, show that apparently isolated act spring from a common object and have in view the promotion of a common purpose (1 Wharton's Criminal Evidence, pp. 284-288). x x x[14]

But nevertheless, the petitioner argues that he had not been shown to have in fact misappropriated the proceeds subject matter of the crime charged.

The essence of estafa (through falsification) eludes the petitioner.

It is the gravamen of this offense that the accused employ deceit resulting to damage.[15] In the case at bar, there is not one iota of doubt that the written orders for the delivery of anapog had been in fact simulated -- giving rise to deceit -- because no materials were actually supplied or if there were, they were short-delivered. As a result, the government suffered losses -- and hence, damage. The appealed Decision thus states:

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This ushers the Court to the determination of the extent of the damage caused to the Government. On this score, the evidence bears looking into 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 Sarmiento 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 meter. On this 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 [16]

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The petitioner's involvement -- pursuant to a conspiracy -- in such acts of deceit that brought about loss to the government amounts to estafa, accomplished through falsification.

All told, we are convinced that the prosecution has successfully established beyond reasonable doubt the crimes charged.

The challenge presented by the petitioner against the constitutionality of Presidential Decree No. 1606, creating the Sandiganbayan, is nothing novel. That the Decree is not unconstitutional is an issue that has been laid to rest as early as *Nuñez v. Sandiganbayan*.^[17] It is a ruling that we had occasion to reiterate in two recent decisions, *Gabison v. Sandiganbayan*,^[18] and *Mangubat v. Sandiganbayan*.^[19]

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

IT IS SO ORDERED.

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

[1] Rollo, 81-179; Fernandez, J.; Pamaran, P.J. and Escareal, J., Concurring.

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

[3] *Supra*, 8-11.

[4] Rollo, 21.

[5] *Id.*, 160-161.

[6] Id., 23-24.

[7] Id., 40.

[8] Id., 42.

[9] Id., 42-43.

[10] Id., 222-224.

[11] Id., 161.

[12] Castillo v. Sandiganbayan, supra, at 41; see also Cesar v. Sandiganbayan, Nos. L-54719-50, January 17, 1985, 134 SCRA 105 (1985).

[13] Supra.

[14] Rollo, id., 169-170.

[15] Tuzon v. Cruz, No. L-27410, August 28, 1975, 66 SCRA 235, 239 (1975).

[16] Rollo, id., 158-159.

[17] Nos. L-50581-50617, January 30, 1982, 111 SCRA 433 (1982).

[18] G.R. Nos. 53001-56, June 18, 1987.

[19] Nos. L-52872-52997, January 30, 1987, 147 SCRA 478 (1987).

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