

RENATO A. VALDEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, AND THE SANDIGANBAYAN (THIRD DIVISION), RESPONDENTS.

G.R. Nos. 75896-99. May 05, 1989

Ponente: CORTES, J.

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CORTES, J.:

In this petition for review, petitioner vigorously argues for his acquittal and prays for the reversal of the Sandiganbayan's judgment in Crim. Case Nos. 6681-6684, which found him guilty beyond reasonable doubt of the crime of estafa through falsification of public documents.*

The dispositive portion of the assailed decision reads:

* * *

In Criminal Cases Nos. 6681, 6682, 6683 and 6684, We find and declare Genaro T. Basilio, Pio B. Ulat, Renato M. Valdez, Agustin V. Talino and Alejandro C. Macadangdang, GUILTY beyond reasonable doubt, as principals for four separate crimes of Estafa Through Falsification of Public Documents. Because neither aggravating nor extenuating circumstances have been alleged or proved, but applying Article 48 of the Revised Penal Code as well as the Indeterminate Sentence Law, each one of the above named accused is sentenced to suffer in each of the four cases, an indeterminate penalty ranging from Four (4) Years, Two (2) Months and One (1) Day of prision correccional as minimum, to Ten (10) Years and One (1) Day of prision mayor as maximum; pay a fine of P5,000.00; solidarily indemnify the Republic of the Philippines the sum of P7,600.00, P4,723.00, P7,500.00 and P6,700.00 - in Criminal Cases Nos. 6681, 6682, 6683 and 6684, respectively; pay the costs in each case.

The evidence reveals that other officials and employees of the postal region may have been involved in the swindle. For this reason, the Tanodbayan is directed to investigate the case further particularly the participation of the disbursing officer, to whom the proceeds were delivered by Ulat.

SO ORDERED.

[Decision, pp. 45-46; Rollo, pp. 51-52; Underscoring supplied.]

Petitioner moved for reconsideration of the adverse judgment, but the Sandiganbayan, in a resolution promulgated on July 16, 1986 denied his motion and those filed by the other accused. Hence, the instant petition.

In support of his case, petitioner attributes the following errors to the Sandiganbayan:

1. THE SANDIGANBAYAN ERRED IN HOLDING THAT PETITIONER-ACCUSED RENATO A. VALDEZ IS GUILTY OF FALSIFICATION BECAUSE OF HIS REPORTS, EXHIBITS D-9, E-7, F-7 AND G-9 SUPPORTING VOUCHERS D, E, F AND G WHEN HE CERTIFIED THAT UPON INSPECTION OF THE VEHICLES THE ARTICLES CONFORMED AS TO QUALITY, QUANTITY AND PRICE.
2. THE SANDIGANBAYAN LIKewise ERRED IN FAULTING THE PETITIONER-ACCUSED FOR LIMITING HIS AUDIT TO STARTING AND/OR RUNNING THE ENGINE OF THE VEHICLES

REPORTEDLY REPAIRED AND OVERHAULED.

3. THE SANDIGANBAYAN ERRED IN HOLDING HIM GUILTY OF CONSPIRACY WITH THE OTHER ACCUSED. [Rollo, pp. 3-4.]

The facts, as they relate to petitioner Renato Valdez, are as follows:

Petitioner, as auditing examiner in the Office of the Provincial Auditor of San Fernando, La Union (TSN, January 14, 1985, p. 7; TSN, July 12, 1983, p. 11; Decision, p. 4), prepared and signed a "Report or Inspection" dated May 23, 1980 (TSN, July 13, 1983, p. 11; Exhibits D-9, D-9-b; Decision, Sandiganbayan, pp. 6, 8). He certified as having been conducted repairs on 4 Bureau of Posts vehicles - Toyota Jeep JA-10, Isuzu Truck JT-155, Ford Fiera FF-45, and Isuzu Truck DF-320 (Exhibit D-9; Decision, Commission on Audit, Adm. Case No. 81-555, p. 1) - without having ascertained both the pre- and post-repair/overhaul condition of either the vehicles or their supposedly defective parts (TSN, January 14, 1985, pp. 8-13). No repairs were actually made on these vehicles (Decision, Sandiganbayan, pp. 11, 30; TSN, October 25, 1983, pp. 21-24).

On the strength of that inspection report, 7 individual vouchers, the first 3 of which were later on cancelled, were drawn and treasury warrants were paid on them (see Exhibits "A," "B," "C," "D," "D-11," "E," "E-9," "F," "F-9," "G," and "G-11"; Decision, Sandiganbayan, pp. 5-9). Ulat, the Motorpool Dispatcher, received those warrants (see Exhibits "H," "H-1," and "H-1-a"; Decision, Sandiganbayan, p. 10). These were turned over to Flora Hufano of the Finance Section to redeem certain cash advances (Decision, Sandiganbayan, p. 21; TSN, August 8, 1984, p. 40). [Solicitor General's Comment, pp. 3-4; Rollo, pp. 91-92.]

In his brief, petitioner reiterated and amplified the assignment of errors in his petition and prayed for his acquittal. The Solicitor General did not file a brief and instead adopted his comment as his brief. The issues having been joined, the Court considered the case submitted for decision.

The issues may be narrowed down to: (1) whether or not petitioner conspired with the other accused; and (2) whether or not he is guilty of the crime charged.

The issues shall be discussed and resolved seriatim.

1. The Sandiganbayan, in holding petitioner criminally liable, said:

* * *

3. The accused Renato M. Valdez' participation in these transactions were his inspections of the vehicles supposedly repaired. His inspection reports (Exhs. D-9, E-7, F-7, and G-9) were submitted as supporting documents to the four vouchers (Exhs. D, E, F and G). In everyone of these reports, he certified that he had inspected, on May 23, 1980, the four vehicles (Toyota Jeep J-10; Mail Truck Isuzu DF-320; Mail Truck FF-45; and Mail Truck Toyota VT-155). He further certified that upon his inspection, the articles delivered conformed to specifications as to quality, quantity and prices.

As adverted to above, the evidence established the fact that no major repairs, such as general overhauling of engine, transmission or brakes or general body repairs, were made on these vehicles. The accused's certifications, therefore, had no basis in fact. They were clear falsifications.

Testifying in his own behalf, Valdez admitted that he hardly knew anything about what he was inspecting. He limited the latter to seeing whether the vehicle's engine was running or not. He merely required the mechanic to start the motors and he saw to it that the papers were complete. He did not require the presentation of the parts that were replaced nor ask to see any new parts introduced.

In the first place, if he had no knowledge about evaluating repairs of motor vehicles, he should have asked the Auditor to replace him with one who knew something about the subject. His duty was to see to it that the

services and materials delivered were of the quantity and quality as described in the RIV. How could he protect the government's interest if he did not know the difference between overhauling an engine and replacing a flat?

* * *

[Decision, pp. 39-40; Rollo, pp. 45-46.]

Article 8 of the Revised Penal Code provides that there is a conspiracy "when two or more persons come to an agreement concerning the commission of a felony and decide to commit it." Well-settled is the rule that when there is a conspiracy, the act of one is considered the act of all the conspirators, and a conspirator may be held liable as a principal even if he did not participate in the actual commission of every act constituting the offense [People v. Paredes, G.R. No. L-19149, August 16, 1968, 24 SCRA 635; People v. Serante, G.R. No. L-46724, July 31, 1987, 152 SCRA 510; Antonio v. Sandiganbayan, G.R. No. 57937, October 21, 1988.] The Court, however, notes that nowhere is it stated in the appealed decision how the Sandiganbayan came to the conclusion that petitioner conspired with the other accused to defraud the government. Apparently, there was no evidence presented to establish petitioner's participation in the conspiracy.

Conspiracy must be shown to exist, by direct or circumstantial evidence, as clearly and convincingly as the commission of the crime itself [People v. Vicente, G.R. No. L-26241, May 21, 1969, 28 SCRA 247; People v. Trinidad, G.R. No. L-38930, June 28, 1988.] In the same vein, so must an accused's alleged participation in the conspiracy be so proved. In the instant case, such participation had not been established.

The Solicitor General's observation on the dearth of evidence to establish that petitioner is a conspirator is apropos:

Petitioner states that he is not a co-conspirator.

Carefully assessing the evidence, we are not prepared to disagree. For while there is ample proof establishing a conspiracy among Ulat, Macadangdang, Basilio, and Talino, there is dearth of evidence pointing to petitioner's part in that conspiracy. And even if his negligent acts jive (sic) with those men's fraudulent design, such acts do not necessarily manifest concurrence of purpose.

It is to be noted that while the aforementioned four are all postal officials working closely together, petitioner is not. Closeness of personal association can be easily discerned from the former but not from the latter.

Too, the purpose of the felonious scheme - to cover certain cash advances - is office-related. Four officemates, familiar with their office's procedures, each played a role in achieving that purpose. This is concert of design undisguised.

On the other hand, petitioner, in not having exerted such effort as is required of his office to ascertain the necessity and propriety of the repairs in question, unwittingly paved the way towards the success of that criminal design. His fault then lies in the positively inexcusable laxity he had exhibited in the performance of his official duties. One cannot therefore be blamed if petitioner's actuations were to be treated as a detail of the unscrupulous scheme of Ulat's group.

But this will not justify an a priori conclusion that petitioner's negligent acts indicate participation in a common agreement between Ulat and the rest. As mentioned earlier, there is scant proof of conspiracy vis-a-vis petitioner as against the clear and convincing evidence of the closeness of personal association between and among the latter. [Comment, pp. 5-6; Rollo, pp. 93-94.]

It cannot be denied that petitioner had been remiss in his duties as auditing examiner, as in fact he had been suspended by the Commission on Audit after having been found guilty of neglect of duty and violation of auditing rules and regulations in Adm. Case No. 81-555 [Annex "C", Petition; Rollo, pp. 65-69], but certainly, the

concurrence of his negligence with the defalcation perpetrated by his co-accused does not suffice to make him a conspirator.

2. In view of the failure of the prosecution to establish that petitioner had conspired with his co-accused, he cannot be convicted as principal, together with his co-accused, for the crime of estafa through falsification of public document.

WHEREFORE, in view of the foregoing, the petition is GRANTED. The decision of the Sandiganbayan in Crim. Case Nos. 6681-6684 is MODIFIED in that petitioner Renato A. Valdez is ACQUITTED in the four (4) cases for estafa through falsification of public documents.

SO ORDERED.

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

Grino-Aquino, J., joins J. Sarmiento in his dissenting opinion.

* In Crim. Case Nos. 6678-6680 for "Attempted Estafa Through Falsification of Public Documents," which were tried and decided jointly with Crim. Case Nos. 6681-84, the accused (petitioner, Basilio and Ulat) were acquitted.

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