

JOSE R. VELOSO, PETITIONER, VS. SANDIGANBAYAN (SECOND DIVISION) AND THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.

G.R. Nos. 89043-65. July 16, 1990

Ponente: CORTES, J.

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CORTES, J.:

This is a petition to review the decision of the Second Division of the Sandiganbayan in Crim. Cases Nos. 2073-2095 and 3323-3345 insofar as it finds petitioner Jose R. Veloso guilty as co-principal in the complex crimes of Estafa thru Falsification of Public Documents, as defined and penalized under Articles 318[1] and 171, paragraph 4,[2] in relation to Article 48,[3] of the Revised Penal Code.

The nature of the cases filed before the Sandiganbayan was as follows.

For defrauding the Government in the amount of Nine Hundred Eighty-Two Thousand Two Hundred Seven Pesos and Sixty Centavos (P982,207.60) through the illegal and unauthorized issuance of fake Letters of Advice of Allotments and Cash Disbursement Ceilings and the tampering and falsifications of General Vouchers and supporting documents, the following officials and employees of the Ministry of Public Highways Central Office, Regional Office No. VII and the Siquijor Highway Engineering District, together with contractors Clodualdo Gomilla, Juliana de los Angeles and Manuel Mascardo, were charged with forty-six (46) counts of Estafa thru Falsification of Public Documents:

(1) Rolando Mangubat, Angelina Escano, Chief Regional Accountant and Regional Finance Officer, respectively, of the 7th Highway Regional Office in Cebu City; Wilfredo Monte, Zosimo S. Dinsay, Cresencia L. Tan, Isaac T. Mananquil, Trinidad T. Manlolooyo, Aurelio M. de la Pena, Eugenio S. Machan, Ediltrudes Kilat, Jose R. Veloso, Regino Jumawan, Arsenio Pakilit, Juan Sumagang, Francisco Ganhinhin and Urbano Arcamo, the Civil Engineer, Senior Civil Engineer, Accountant I, Highway District Engineer II, Assistant Highway District Engineer, Administrative Officer, Property Custodian, Auditing Aide, Auditor, Auditing Examiner, Senior Civil Engineer, Crewman and Auditing Aide, respectively, of the Siquijor Highway Engineering District (SHED), in Crim. Cases Nos. 2073-2095, and

(2) Manuel de Veyra, Regional Director, Basilisa Galwan, Budget Officer, Matilde Jabalde, Supervising Accounting Clerk, Josefina Luna, Accountant II, Jose Sayson, Budget Examiner, of the Department of Public Works and Highways, Region VII, Cebu City; Leonila del Rosario, Chief, Finance and Management Service, Engracia Escobar, Chief Accountant, Abelardo Cardona, Asst. Chief Accountant and Leonardo Tordecilla, Supervising Accountant, of the Department of Public Works and Highways, Central Office, Manila, in Crim. Cases Nos. 3323-3345 [Decision, pp. 7-8; Rollo, pp. 37-38.]

Petitioner, together with accused Mangubat, Mananquil, Monte, Machan, Tan, Ganhinhin, Manlolooyo, de la Pena, Dinsay, Kilat, Jumawan, Pakilit, Arcamo, Sumagang and Gomilla, were found guilty as co-principals and sentenced in each of twenty-three (23) cases (Crim. Cases Nos. 2073--2095) to suffer imprisonment of from four (4) years, two (2) months and one (1) day of prision correccional, as minimum, to ten (10) years of prision mayor,

as maximum, to pay a fine of One Thousand Five Hundred Pesos (P1,500.00) in each case and to indemnify the government in amounts varying from case to case.

Those found guilty filed separate motions for reconsideration but these were denied by the Sandiganbayan. Thus, this petition by Jose R. Veloso.

Petitioner does not dispute the finding that there were anomalies in the Siquijor Highway Engineering District (SHED). Neither does he dispute the existence of a conspiracy between the suppliers and certain government officials and employees. What he vehemently denies is the Sandiganbayan's finding that he was a conspirator.

Thus, for purposes of this petition we will no longer inquire into whether or not the offenses charged were in fact committed, but shall limit ourselves to the issue of whether or not petitioner's participation in the criminal conspiracy has been established beyond reasonable doubt.

The Sandiganbayan found that petitioner's liability, as District Auditor, emanated from his irregular and improper processing, pre-audit and approval of all the general vouchers and checks in question, based on irregular or fake supporting papers. The graft court found that he also signed and passed in audit the vouchers and checks knowing that these were illegally funded and improperly charged to "Fund 81-400" (the prior year's obligations), and engaged in "splitting," so that he would be the one to pass the vouchers in audit when such should have been forwarded to the Commission on Audit (COA) Regional Auditor for action or review. [Decision, p. 83; Rollo, p. 113.]

The Sandiganbayan described the details of the "splitting" resorted to as follows:

Fifthly, based on the foregoing, the Court finds that the accused district officials resorted to "splitting" of RSEs, POs (Purchase Orders) and GVs in order to avoid review or approval by higher authorities. Under COA Circular No. 76-41, dated July 30, 1976, in relation to COA Circular No. 16-16A, dated February 10, 1976, of which the Court takes judicial notice, it is provided that "Resident Auditors of bureaus, offices and agencies of the National Government in Metropolitan Manila, as well as other Auditors for District/City Highway, Public Works/School, State Colleges and Universities, Military Areas and Zones outside Metropolitan Manila, are authorized to countersign checks and warrants in amounts not exceeding P50,000.00 in each case" (Underlining supplied). Consequently, all GVs in amounts exceeding P50,000.00 must have to be processed, pre-audited and approved by the Regional Auditor of the COA, instead of SHED resident auditor Jose Veloso, one of the accused herein.

Thus, in the very wording of COA Circular No. 76-41, "to avoid action, review or approval by higher authorities", the district officials herein resorted to the splitting of the RSEs, POs, and the GVs involved in the fake LAA dated October 6, 1977 in the amount of P200,000.00. Said LAA evolved into three (3) separate transactions involving the amounts of P48,480.00, P48,480.00 and P48,189.60 as evidenced by three GVs, dated December 21, December 21 and December 23, 1977, respectively. Otherwise, if such transactions were to be reviewed and pre-audited by the Regional (COA) Auditor, who might be averse to joining the conspiracy, then the GVs and supporting papers may be found to be the result of (1) inexistent programs of work, (2) illegal funding, (3) irregular or non-existent bidding, (4) fictitious deliveries and inspection, and other anomalies. Consequently, the Court considers such "splitting" as an integral and/or essential element or link in the conspiracy to defraud the Government inasmuch as such practices was (sic) consciously and deliberately resorted to in order to hide the massive and stupefying misappropriations being undertaken by the accused herein. [Decision, pp. 75-76; Rollo, pp. 105-106; underscoring in the original.]

But petitioner vigorously argues his innocence, alleging his non-participation in the conspiracy and his good faith in attaching his signature to the documents involved. He contends that it has not been shown that he falsified any of the documents which the Sandiganbayan found to be falsifications.

Thus, while he admits that he signed the general vouchers, he claims that his act of doing so was merely ministerial considering that all the supporting papers and documents were submitted and attached to the vouchers. He continues that he could not question the veracity of the prepared Letters of Advice of Allotments (LAA) and Sub-Advices of Cash Disbursement Ceiling (SACDC) since these documents, with the program of work accompanying them and other inspection reports, gave him the go-signal to pass them in audit.

Thus, he claims that the vouchers would have been cleared even without his signature as they were supported by the required documents and certifications.

This argument cannot be given much weight. It has already been rejected by the Sandiganbayan in this wise:

* * *

None of the accused regional and district officials can claim good faith or reliance on the regularity of the documents processed and signed by them or on the presumption that their subordinates and/or superiors have acted regularly, since by the very nature of their duties, they should have known or realized by mere scrutiny of the documents or by the exercise of ordinary diligence that there were irregularities or anomalies reflected on their very faces. This is exemplified by several circumstances patent on said documents, to wit, the irregular funding of the LAAs; the improper charging to prior year's obligations; the unauthorized and/or improper action by officials on the supporting documents; the lack or incompleteness of supporting documents, and the splitting of payments. Neither can the accused-contractors claim good faith likewise and reliance on the actuations of their co-accused public officials since they knew fully well that their participation in the transactions under question were only make-believe or a farce, and that their names, business standing and signatures were only utilized, with their whole-hearted cooperation, in seeking the consummation of their plans to defraud the government.

* * *

[Decision, pp. 85-86; Rollo, pp. 115-116; underlining ours.]

Clearly, given his acts and omissions in auditing the documents, which related not only to one but to several transactions, petitioner's participation in the conspiracy to defraud the Government has been established beyond reasonable doubt. It is well-settled that there need not be direct evidence of the existence and details of the conspiracy [People v. Romuladez, 57 Phil. 148 (1932); People v. Cadag, G.R. No. L-13830, May 31, 1961, 2 SCRA 388.] Like the guilt of the individual offender, the existence of a conspiracy and a conspirator's participation may be established through circumstantial evidence [Ibid.]

Petitioner, as resident auditor of the SHED was tasked with ensuring the regularity of all transactions that are subject to his review. In these cases, he had before him, for his signature, vouchers that were patently irregular, supported by similarly irregularly issued documents, which he should not have passed in audit. Instead of refusing to affix his signature and reporting the irregularities to his superiors, as he was duty bound to do, he turned a blind eye and signed the documents, completing the process that led to the consummation of the crime.

He can not rely on the excuse that his subordinates have already initialed the documents for his signature because his function, as their superior, is to check on their work and to ensure that they do it correctly. Otherwise, if his signature was a superfluity, petitioner would be serving no useful purpose in occupying his position of resident auditor.

The number of transactions in which petitioner is involved and the magnitude of the amount involved also prevent a reasonable mind from accepting the proposition that petitioner was merely careless or negligent in the performance of his functions. He passed in audit twenty-four (24) general vouchers which resulted in the issuance of twenty-three (23) checks amounting to Nine Hundred Eighty-Two Thousand Two Hundred Seven Pesos and

Sixty Centavos (P982,207.60). Moreover, the irregularities were not of the kind that could have gone unnoticed by the trained eyes of an auditor.

Finally, it may be that petitioner has already been administratively penalized for his malfeasance, as in fact he was suspended for one (1) year without pay [Annex "A" of the Reply; Rollo, pp. 189-200], but such will not bar his conviction under the general penal laws. Administrative liability is separate and distinct from penal liability.

In sum, no reversible error was committed by the Sandiganbayan in adjudging petitioner guilty beyond reasonable doubt of the crime charged.

WHEREFORE, the petition is hereby DENIED, and the decision of the Sandiganbayan, insofar as it relates to petitioner, is AFFIRMED.

SO ORDERED.

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

[1] Other deceptions.

[2] Falsification by public officer, employee or notary or ecclesiastic minister.

[3] Penalty for complex crimes.

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