

JAIME PONCE DE LEON, MERIAM DELOSTRICO, ORLANDO RAMIREZ, REGALADO RENACIA, REYNALDO BABAO, MARY LOU MANANQUIL, SESIPATRO MIER, MONINA POSA-DAS, LILIA RACHO, LEONARDO SALVA, AND ...

G.R. Nos. 89785-98. June 25, 1990

Ponente: GRINO-AQUINO, J.

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GRINO-AQUINO, J.:

These 14 cases involve irregular and fraudulent transactions in the Bais City Highway Engineering District (BCHED), one of the fifteen (15) engineering districts in Central Visayas, or Region VII. Similar cases from the same Region already decided by the Sandiganbayan, are: (1) the Danao City 1978 cases; (2) Tagbilaran City 1978 cases; (3) Lapu-Lapu City 1978 cases; and (4) the Siguijor 1977 cases.

The petitioners are eleven (11) of twenty-eight (28) persons charged before the Sandiganbayan with fourteen (14) counts of violations of Section 3(e) of the Anti-Graft and Corrupt Practices Act (R.A. No. 3019)* committed in connection with some “ghost projects” in the Bais City Highway Engineering District (BCHED) in 1978.

The petitioners, except Jaime Ponce De Leon who is a private contractor, were government employees at the time of the commission of the crime holding positions in the BCHED as follows:

1. Meriam Delostrico - Accountant I;
2. Orlando Ramirez - Senior Civil Engineer;
3. Regalado Renacia - District Engineer;
4. Reynaldo Babao - Maintenance Man;
5. Mary Lou Mananquil - Civil Engineer;
6. Sesipatro Mier - Administrative Officer;
7. Monina Posadas - Senior Civil Engineer;
8. Lilia Racho - Property Custodian;
9. Leonardo Salva - Asst. Highway Engineer;
10. Danilo Altura - Ground Man Gardener.

(pp. 24-25, Rollo.)

The information against them alleged that they conspired and connived with their co-defendants to defraud the Government in amounts totalling P627,239.88, through the falsification of fourteen (14) general vouchers, checks, and other documents -

“x x x making it appear that Regional Office No. VII of the Ministry of Public Highways regularly issued an advice of cash disbursement ceiling (ACDC) and the corresponding letters of Advice of Allotment to cover the purchase of construction materials for use in the improvement and/or repair of roads within the District when in truth and in fact, as all the accused well knew, the same were not true, and correct; by making it appear in the voucher that funds were available and that there were appropriate request[s] for allotments to pay the aforesaid purchase; that a requisition for the said item was made and approved; that a regular bidding was held; that a corresponding purchase order was issued in favor of the winning bidder; that the roads construction materials were delivered, inspected and used in the supposed project and that the alleged supplier was entitled to payment when in truth and in fact, as all the accused know, all the foregoing were false and incorrect and because of the foregoing falsifications, the above-named accused were able to collect from the Bais City Highways Engineering District the total amount of x x x Philippine Currency, in payment of the non-existing deliveries: that the aforesaid amount was not reflected in the monthly trial balance submitted to the Central Office showing its financial condition as the same was negated thru the journal vouchers as a designed means to cover-up the fraud: and then the accused, once in possession of the said amount, [did] misappropriate, convert, and misapply the same to their personal needs, causing injury, damage and prejudice to the Philippine Government in the total amount of x x x Philippine Currency.” (Underscoring supplied; pp. 27-28, Rollo.)

Together with Rolando Mangubat and Benjamin Camarra,* the Regional Accountant and Supervising Civil Engineer, respectively, of the BCHED, the petitioners were convicted of the charges against them and were uniformly sentenced by the Sandiganbayan to suffer in each of the 14 cases an indeterminate penalty of imprisonment ranging from FOUR (4) YEARS and ONE (1) DAY as minimum, to EIGHT (8) YEARS and ONE (1) DAY as maximum; each to suffer perpetual disqualification from public office, to indemnify, jointly and severally, the Government of the Republic of the Philippines in the amount stated in each of the fourteen (14) informations (pp. 88-94, Rollo); and to pay their proportionate share of the costs of the actions.

Of the twenty-eight (28) accused in the 14 cases, 12 were convicted and ten (10) were acquitted*, namely: (1) Manuel de Veyra, Regional Director; (2) Angelina Escano, Finance Officer; (3) Basilisa Galvan, Budget Officer; (4) Matilde Jabalde, Supervising Accounting Clerk; (5) Josefina Luna, Accountant II; (6) Jose Sayson, Budget Examiner, all of the Cebu City Regional Office; (7) Leonila Del Rosario, Chief of Finance and Management Service; (8) Engracia Escobar, Chief Accountant; (9) Abelardo Cardona, Assistant Chief Accountant; and (10) Leonardo Tordecilla, Supervising Accountant.

However, the Sandiganbayan’s 75-page decision dated July 5, 1989 is silent on the guilt or innocence of five (5) defendants, namely: (1) Assistant Regional Director Jose Bagasao; (2) Accountant Edgardo Cruz; (3) Budget Officer II Agripino Pagdanganan; (4) COA Auditor Cesar Pasculado; and (5) Auditing Examiner Tranquilino Sevilla.

The standard procedure for undertaking new highways projects or maintaining and repairing existing ones, was described by Supervising Civil Engineer Benjamin Camarra and District Engineer Regalado Renacia, whose testimonies are summarized in the appealed decision as follows:

“Among the fifteen (15) highway engineering districts which comprised Region VII of the MPH [Ministry of Public Highways (now Department of Public Works and Highways)], is the Bais City Highway Engineering District (BCHED). It is headed by the City Engineer of Bais City with its own auditing staff headed by the City Auditor. Its jurisdiction encompasses the territorial limits of Bais City, including the Bais-Kabangkalan Road and the Dumaguete North Road, for which annual maintenance allotments are issued to it and other districts by the MPH through the Regional Office in the form of Letters of Advice of Allotment (LAAs) which serve as authority for the district office to incur obligations. These LAAs are derived from Sub-Advice of Allotments (SAAs) which

are issued to all regional offices by the MPH based on Advices of Allotment (AAs) issued by it by the Ministry of the Budget after the annual government appropriations act or budget has been approved.

“While AAs, SAAs and LAAs serve as authority to incur obligations by the MPH, its regional offices and the latter’s district offices, the authority to make payments for said obligations incurred is derived from Cash Disbursement Ceilings (CDCs), which are issued by the Ministry of Budget to the MPH together with the AAs. The MPH, in turn, issue Advices of Cash Disbursement Ceilings (ACDC) to its regional office, and the latter then issues the corresponding Sub-Advice of Cash Disbursement Ceilings (SACDCs) to the different engineering districts under it. All releases of funds by the MPH to its regional offices are made at the outset of every quarter, based on the programmed needs of the region’s district offices, and said releases made through LAAs and CDCs to each district are entered in the appropriate logbooks or ledgers of the Regional Office, principally in the Budget and Finance Division thereof.

“In the case of the Bais CHED, disbursement of the quarterly allotments for maintenance or other needs of the districts is effected through the proper written request by the District Engineer for the release of such funds, accompanied by the supporting programs of work, directed to the Regional Director. Upon approval of said request by the latter, an LAA is issued to the District Engineer by the Regional Finance Officer, certified as to the availability of funds by the Regional Accountant, and countersigned by the Regional Director. Correspondingly, the requisite SACDC is prepared by the Regional Finance Officer to be signed by him and the Regional Director, after which they are duly recorded in a logbook. Both the LAA and SACDC are then sent to the district office and are carried and received by duly-authorized representatives.

“Implementation of the district’s programs of work now go into the requisition stage, wherein the proper Requisition for Supplies and Equipment (RSE), needed for the prosecution of its projects and embodied in the approved program of work, is prepared by the requisitioning officer, certified as to the availability of funds by the District Accountant and approved by the District Engineer. The Project Engineer also prepares a Request for Obligation of Allotment (ROA) which the Accountant certifies as to availability of funds. The RSE, together with a copy of the program of work, is then transmitted to the Regional Office for the approval of the Regional Director and thereafter returned to the district concerned for prosecution of the project after compliance with bidding and award procedures.

“Based on the approved RSE, the district’s Property Custodian or Purchasing/Supply Officer, with the approval of the District Engineer, sends out Request for Sealed Quotations to various contractors or suppliers requesting them to submit, on or before a date fixed therein, their quotations for the materials or supplies. Notices thereof are likewise publicized through either newspaper publications or postings in public places. Within the reglementary period, the sealed bid forms are opened by the Committee on Bidding and Award in the presence of representatives of the District Engineer and the District/City Auditor. The lowest price quotation or bid is determined and the corresponding Abstract of Bids is prepared and signed by the members of the committee, as well as the auditor’s and district engineer’s representatives, after which the corresponding award is made to the said lowest bidder, duly approved by the District Engineer. A Purchase Order (PO) is thereafter prepared by the Property Custodian, addressed to the winning bidder, certified as to availability of funds by the Accountant and approved by the District Engineer.

“Delivery is then effected by the winning bidder, in accordance with the terms and conditions of the PO, which may include the time required to start and terminate said deliveries and the places of delivery. Inspection of deliveries are made at the delivery or project sites by a representative of the Auditor’s office upon receipt of a verbal or written request for such inspection prepared by the Property Custodian to the Auditor. The Auditor’s representative inspects the deliveries, signs the Delivery Receipts (DRs) and finally, the Report of Inspection

(ROI), duly concurred in by the Property Custodian. During said deliveries, samples of the materials are also tested for their conformity with specifications and the results of such tests are submitted to the District Engineer to be attached to the payment vouchers, together with all other supporting documents.

“After completion of deliveries, the corresponding General Voucher (GV) for the payment of the supplies or materials delivered is prepared, usually by someone at the district office. Said GV contains on the face thereof five (5) certifications to be signed by the proper officials, namely, the Property Custodian, the Project Engineer, the District or City Engineer, the Accountant and the District or City Auditor attesting and certifying to the correctness, legality and propriety of the transaction covered by said GV. Attached to said GV and required to be examined and verified by the proper district officials and their subordinates are the requisite supporting documents, such as, the RSE, ROA, Program of Work. Detailed Estimates, Request for Sealed Quotations, Abstract of Bids, PO, DRs, Request for Inspection, Test Reports and Tax Clearance Certificate of the supplier-contractor. After the GV is processed, pre-audited and approved, the papers are brought to the Cashier for the preparation of the check or treasury warrant or TCAA check, which is also pre-audited. The check is then released to the supplier-contractor or his duly authorized representative who issues the corresponding official receipt.

“At the end of each calendar month, the District Accountant prepares several reports, including the Report of Obligations Incurred (ROI) and the Report of Checks Issued (RCI), which are submitted to the Regional Office. At the Regional Budget and Finance division, these reports, together with those coming from other districts, are entered in the proper journals and, in the course of ordinary accounting procedures, are entered in the General Ledger. In turn, the entries in the General Ledger become the basis for monthly Trial Balances (TBs) which are prepared cumulatively by the Regional Accountant, recommended for approval by the Regional Finance Officer and approved by the Regional Director, which TBs are also submitted every month to the Central Office of the MPH. At the end of the fiscal calendar year, the final Trial Balance is prepared by the Regional Office and likewise submitted to the MPH.” (pp. 31-37, Rollo.)

Upon the evidence presented at the trial, the Sandiganbayan found that:

1. Although the BCHED had received its allocation of P568,487.80 for 1978 for the maintenance and repair of roads and bridges in that district the defendants caused the disbursement of an additional sum of P627,239.88 through 14 fake general vouchers paid to accused Jaime Ponce De Leon, for supposed deliveries from January to April 1978 of materials for the Dumaguete City North Road (2-1/2 kms.) and the Bais- Kabankalan Road (4 kms.), utilizing three (3) fake LAAs and four (4) SACDCs (pp. 60-61, Rollo). Per estimate of the Central Office, the average cost of maintenance was only P11,000 per kilometer of highway in 1978 (p. 57, Rollo) but P627,239.88 was spent by the defendants in January to April 1978 to repair or maintain 6-1/2 kms. of the Dumaguete City North Road and the Bais-Kabankalan Road, which should have cost only P71,500 more or less.
2. The “badges of fraud” proving the fake character of the three (3) LAAs and four (4) SACDCs which served as bases for the preparation and payment of the 14 GVs to Ponce De Leon were:

- (a) the improper charging of alleged prior year’s (1977) obligation to the 1978 LAAs and SACDCs which were irregularly issued,
- (b) the improper charging likewise of the illegal disbursements to “savings on equipment rentals,”
- (c) the fake or doubtful LAAs were not numbered in sequence,
- (d) there were no references to the mother SAA numbers which are always cited in the regular or authentic LAAs,

(e) the fake LAAs were not recorded in the logbook maintained by the Regional Office,

(f) the rubber stamps for the certification of availability of funds in the fake LAAs ‘were all signed by accused Rolando Mangubat, Chief Accountant I.’ Such certification in the regular LAAs were usually signed by his assistant, Delia Preagido, and

(g) the authorized signatories of regular LAAs were either Finance Officer Escano alone or jointly with Asst. Regional Director Jose Bagasao, while the fake LAAs were signed by Mangubat and Bagasao (pp. 64-65, Rollo).

3. No copies of the programs of work were presented during the investigation. The programs of work for the two projects prepared by Mananquil (and checked and approved by Ramirez and Renacia) were “antedated or manufactured” after, not before, the issuance of the 14 GVs (pp. 66-67, Rollo).

4. To facilitate the defraudation of the Government, although the three (3) fake LAAs were for amounts of P200,000, P250,000 and P200,000 each, and the SACDCs were for P100,000, P450,000, P20,000 and P200,000 each (p. 68, Rollo) the RSEs, POs and GVs were split into amounts of less than P50,000 each so that they could be processed, pre-audited, and approved by the accused BCHED resident auditor Jose Veloso instead of the COA Regional Auditor, as provided in COA Circular No. 76-41 dated July 30, 1976, in relation to COA Circular No. 16-16-A dated March 23, 1976, clarifying COA Circular No. 76-A dated February 10, 1976 (p. 69, Rollo).

5. The materials for the two road projects were not delivered by the contractor, Ponce De Leon. The documents supporting the GVs payable to De Leon were either antedated or undated, and all were hastily and haphazardly prepared (pp. 70-71, Rollo).

6. Ponce De Leon was not a gravel-and-sand extractor nor a supplier. His business was registered as “Allied Auto Supply/Marketing” and “Allied Transport Services.” In 1978, he had not paid any extraction fees and he did not own or lease any quarry, or trucks for hauling gravel and sand. The delivery receipts (DRs) for the materials supposedly delivered by him showed that only one truck was used to make simultaneous deliveries at the two project sites which were more than 60 kilometers apart (pp. 72-73, Rollo), proving that the DRs were fictitious.

7. No maintenance engineers or foremen of the BCHED supervised and inspected the two projects (p. 73, Rollo) which otherwise would have been done if there was actual ongoing work in those projects.

8. The accused public officials, by the nature of their duties, would have known that the documents (LAAs, SACDs, RSEs, POs, and GVs) were fake by merely scrutinizing them, or by the exercise of ordinary diligence, for the funding of the three LAAs was irregular and the RSEs and GVs had been “split” into uniform amounts of not more than P50,000 each.

9. Ponce De Leon knew fully well that his participation in the transactions was “only make-believe or a farce;” but he whole-heartedly cooperated and conspired with his co-accused to consummate their common plan to defraud the Government (p. 79, Rollo).

Section 3(e) of Republic Act No. 3019, which the petitioners violated, provides:

“Sec. 3. Corrupt Practices of Public Officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

“xxx xxx xxx

“(e) Causing any undue injury to any party, including the Government, or giving any private party any

unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.”

The elements of this offense are:

- (1) That the accused are public officers or private persons charged in conspiracy with them;
- (2) That said public officers commit the prohibited acts during the performance of their official duties or in relation to their public positions;
- (3) That they cause undue injury to any party, whether the Government or a private party;
- (4) That such injury is caused by giving unwarranted benefits, advantage or preference to such parties; and
- (5) That the public officers have acted with manifest partiality, evident bad faith or gross inexcusable negligence (pp. 82-83, Rollo).

As observed by the Sandiganbayan, all these elements are present in these 14 cases.

“In the cases at bar, all the above-cited requisite elements are present. When accused Bagasao and Mangubat, as Asst. Regional Director and Regional Accountant, respectively, issued the fake LAAs and corresponding SACDCs to the BCHED, knowing fully well that the allotments and/or allocation thereunder were not properly authorized by the Ministries of the Budget and the Public Highways and neither have they been programmed for release in accordance with standard operating procedure, they thus acted with evident bad faith. Accused Renacia and Delostrico likewise acted with evident bad faith in receiving and implementing the fake LAAs and SACDCs since they should have known and noticed that the allotments released thereunder were not for ‘regular maintenance,’ especially so when the district had just received its first quarter allocations for 1978; that they had not requested formally for such extra allocations; that the LAAs and SACDCs were fake or spurious on their faces and signed by unauthorized officials, and that they had not prepared any program of work to justify such extra allocations.

“All the accused officials from the BCHED, namely, Renacia, Salva, Camarra, Ramirez, Posadas and Mananquil, who were all engineers, and their subordinates in the prosecution of projects in the district, namely, Babao and Altura, together with those involved in administrative, accounting and auditing functions, namely, Mier, Delostrico, Racho, Pascualdo and Sevilla, likewise acted with evident bad faith and manifest partiality in participating in the preparation, processing and approval of the GVs and supporting documents, such as RSEs, Requests for Obligation of Allotment (ROAs), Abstracts of Bids, POs, Delivery Receipts (DRs), Summary of Deliveries, Reports of Inspection (ROIs) and Checks in payment of ‘ghost projects’ to a fake or spurious contractor-supplier, Jaime Ponce de Leon. They not only connived and confederated in the hasty and mass production of such ante-dated documents, including programs of work, but also allowed their names, positions and signatures to be used in completing the cycle which would lend a semblance of legality or regularity to the questioned transactions and illegal disbursements [of public funds to a fake contractor-supplier], thus causing undue injury to the Government in the total amount of P627,230.99. x x x.

“x x x. He also knew for a fact that the district had no prior year’s unliquidated obligations in the amount of P650,000.00, hence, any and all LAAs with corresponding SACDCs would be questionable, if not fake, spurious or irregular. He and accused Delostrico, the district accountant, were fully aware of the standard operating procedure in the release of quarterly allotments and should not have accepted, much less, utilized the fake LAAs

and SACDCs for alleged ‘ghost projects’ which were not supported by approved programs of work and RSEs approved in the Regional Office. x x x.

“xxx xxx xx

“Finally, Mangubat cannot escape or be absolved from liability in the sordid mess. He initiated the entire scheme, together with accused Asst. Regional Director Jose Bagasao, when they issued fake LAAs and which he followed up by issuing fake SACDCs. He later tried to cover-up the illegal and improper disbursement of public funds by certifying to the correctness of the Journal Vouchers at the end of the year through the utilization of ‘negative entries’ which enabled the region’s financial records to reflect what he only wanted to reflect, which is, the disbursements of funds thru regular LAAs and SACDCs for 1978 but negating the amounts of the disbursements thru the fake LAAs and SACDCs.” (pp. 83-87, Rollo.)

The petitioners’ attempt to denigrate the testimonies of the prosecution witnesses, Apollo Sayo and Victoria Quejada, members of the investigating team, is unavailing for the principal evidence against the accused in these cases are documentary. The existence of the documents and of their signatures therein, is not denied by them. Their guilt of the crimes charged had been established beyond reasonable doubt.

WHEREFORE, the petition for review is dismissed. The appealed decision in SB Crim. Cases Nos. 7201 to 7214 is affirmed in toto, with costs against the petitioners.

SO ORDERED.

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

* Criminal Cases Nos. 7201-7214

* Who are not petitioners in this case.

* All from the Manila Central Office.

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