

## THIRD DIVISION

**[ G.R. No. 121215, November 13, 1997 ]**

**MAYOR OSCAR DE LOS REYES, PETITIONER, VS.  
SANDIGANBAYAN, THIRD DIVISION, AND THE PEOPLE OF THE  
PHILIPPINES, RESPONDENTS.**

### DECISION

**ROMERO, J.:**

The significance of the minutes taken during the session of a local legislative assembly is the determinant issue in this present petition.

Petitioner, along with two others, was charged with the crime of falsification of a public document, specifically Resolution No. 57-S-92 dated July 27, 1992 of the Municipal Council of Mariveles, Bataan. The complaint<sup>[1]</sup> alleged that the resolution, appropriating the amount of P8,500.00 for the payment of the terminal leave of two municipal employees, was anomalous for not having been approved by the said Council, as the minutes of the proceedings therein made no reference to the supposed approval thereof. It contended that its seeming passage was carried out by petitioner in connivance with Sangguniang Bayan (SB) Member Jesse Concepcion and SB Secretary Antonio Zurita.

After preliminary investigation, the deputized prosecutor of Balanga, Bataan recommended the filing of an information<sup>[2]</sup> for Falsification of Public Document against petitioner and Concepcion, excluding Zurita who died during the pendency hereof.

On September 21, 1994, the information filed before the Sandiganbayan reads as follows:

"That on or about July 27, 1992 or sometimes (sic) prior or subsequent thereto, in Mariveles, Bataan, Philippines, and within the jurisdiction of this Honorable Court, OSCAR DELOS REYES and JESSE CONCEPCION, both public officers, being Municipal Mayor of Mariveles, Bataan and Member of the Sangguniang Bayan of Mariveles, Bataan, passed and approved the said resolution appropriating the amount of P8,500.00 for payment of the terminal leave of two (2) employees of the municipality, when in truth and in fact as both accused knew well the same is false and incorrect as the said resolution was not approved by the aforesaid Sangguniang Bayan for which both accused has the obligation to disclose the truth.

CONTRARY TO LAW.<sup>[3]</sup>

On October 14, 1994, prior to his arraignment, petitioner filed a Motion for Reinvestigation arguing, among other things, "that the Ombudsman previously dismissed a similar complaint against him involving the same factual setting."<sup>[4]</sup>

Likewise adduced in the motion is the joint affidavit of the other members of the Sangguniang Bayan of Mariveles attesting to the actual passage and approval of Resolution No. 57-S-92.

In a resolution dated December 29, 1994, respondent Sandiganbayan denied the Motion for Reinvestigation, the pertinent portion of which reads:

"Acting on accused Mayor Oscar delos Reyes' Motion for Reinvestigation and accused Jesse Concepcion's Manifestation, the same are hereby DENIED, being without merit and the prosecution having vigorously opposed the Motion. The allegations of fact and the arguments of counsel are best taken up in the trial on the merits. As found by the prosecution, a prima facie case exists.

Consequently, let the arraignment of the above entitled case be set on March 03, 1995, at 8:30 A.M."<sup>[5]</sup>

After the motion for reconsideration was denied on May 24, 1995, petitioner filed this instant petition for certiorari. On September 18, 1995, the Court resolved to issue the temporary restraining order prayed for by petitioner.

The order of respondent Sandiganbayan must be sustained.

In an effort to exonerate himself from the charge, petitioner argues that the deliberations undertaken and the consequent passage of Resolution No. 57-S-92 are legislative in nature. He adds that as local chief executive, he has neither the official custody of nor the duty to prepare said resolution; hence, he could not have taken advantage of his official position in committing the crime of falsification as defined and punished under Article 171<sup>[6]</sup> of the Revised Penal Code.

Petitioner would like to impress upon this Court that the final step in the approval of an ordinance or resolution, where the local chief executive affixes his signature, is purely a ministerial act. This view is erroneous. Article 109(b) of the Local Government Code outlines the veto power of the Local Chief Executive which provides:

"Article 109 (b) The local chief executive, except the punong barangay shall have the power to veto any particular item or items of an appropriations ordinance, an ordinance or resolution adopting a local development plan and public investment program or an ordinance directing the payment of money or creating liability. x x x." (Underscoring supplied)

Contrary to petitioner's belief, the grant of the veto power confers authority beyond the simple mechanical act of signing an ordinance or resolution, as a requisite to its enforceability. Such power accords the local chief executive the discretion to sustain a resolution or ordinance in the first instance or to veto it and return it with his

objections to the Sanggunian, which may proceed to reconsider the same. The Sanggunian concerned, however, may override the veto by a two-thirds (2/3) vote of all its members thereby making the ordinance or resolution effective for all legal intents and purposes. It is clear, therefore, that the concurrence of a local chief executive in the enactment of an ordinance or resolution requires, not only a flourish of the pen, but the application of judgment after meticulous analysis and intelligence as well.

Petitioner's other contention that the Ombudsman should have dismissed the present case in view of a previous dismissal of a similar complaint involving the same factual context is likewise misplaced.

As explained by Deputy Special Prosecutor Leonardo P. Tamayo in his comment, the other case relied upon by petitioner has no relation whatsoever with the one in question. Notably, the former case was subject of a separate complaint and preliminary investigation, hence, the findings and records therein could not be "made part of the case under consideration."<sup>[7]</sup>

It must be stressed that the Ombudsman correctly relied on the minutes taken during the session of the Sangguniang Bayan held last July 27, 1992, which petitioner regards as inconclusive evidence of what actually transpired therein. In a long line of cases, the Court, in resolving conflicting assertions of the protagonists in a case, has placed reliance on the minutes or the transcribed stenographic notes to ascertain the truth of the proceedings therein.

The following cases illustrate the importance of the minutes:

It was held that "contrary to petitioner's claim, what the minutes only show is that on August 12, 1994 the Sanggunian took a vote on the administrative case of respondent Mayor and not that it then rendered a decision as required by Section 66(a) of the Local Government Code."<sup>[8]</sup>

With the same factual context as in the case at bar, petitioners herein were "accused of having falsified or caused the falsification of the excerpts of the minutes of the regular sessions of the Sangguniang Panlalawigan of Quirino province on August 15, 1988 and September 19, 1988. x x x."<sup>[9]</sup>

"In his resolution, Secretary Drilon declared that there were no written notices of public hearings on the proposed Manila Revenue Code that were sent to interested parties as required by Article 276(b) of the Implementing Rules of the Local Government Code nor were copies of the proposed ordinance published in three successive issues of a newspaper of general circulation pursuant to Article 276(a). No minutes were submitted to show that the obligatory public hearings had been held."<sup>[10]</sup>

"It appears from the minutes of the board meeting of February 28, 1958 that the names of the members present as well those who were absent have been recorded, and that all those present took active part in the debates and deliberations. At the end of the session, when the presiding officer asked the members if there were any objections to the approval of