

EN BANC

[G.R. No. L-46148-49, April 10, 1996]

ATTY. ALFONSO A. OSIAS, PETITIONER, VS. THE HON. COURT OF APPEALS AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.

DECISION

HERMOSISIMA, JR., J.:

Petitioner Alfonso A. Osias was originally charged^[1] in the Municipal Court^[2] of Limay, Bataan, with three (3) Violations^[3] of Section 3(b) of Republic Act 3019, otherwise known as the Anti-Graft and Corrupt Practices Act. After preliminary investigation, the cases were remanded to the Court of First Instance of Bataan and the corresponding Informations^[4] were filed on June 11, 1973. The three (3) cases were transferred to the Circuit Criminal Court^[5] on August 17, 1973 in accordance with law.

Petitioner, upon arraignment, pleaded not guilty to all the charges. In view of the failure of the prosecution to present offended party Lucio Cortez, Criminal Case CCC-V-824 was dismissed for failure to prosecute.

We quote the informations in the two remaining cases:

Criminal Case No. CCC-V-823

"That on or about the month of December, 1979, in the Municipality of Limay, Province of Bataan, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused who was then a public officer, he being the chief of the Legal Services Staff of the Bureau of Plant Industry, did then and there willfully, unlawfully and feloniously request or demand and receive from PEDRO AGAS the sum of THREE THOUSAND (P3,000.00) PESOS, in cash as share, percentage or benefit for himself in the proceeds from said Pedro Agas claim for retirement gratuity and workmen compensation under Com. Act No. 186, as amended, and Rep. Act No. 3428, as amended, with the Government Service Insurance System and Workmen's Compensation Commission which granted said claims and paid by the Government with the help of the said accused who had to intervene therein under the law in his official capacity as such public officer, to the damage and prejudice of said Pedro Agas.

CONTRARY TO LAW."

Criminal Case No. CCC-V-825

"That on or about the month of September, 1970, in the Municipality of Limay, Province of Bataan, and within the jurisdiction of this Honorable Court, the above-named accused who was then a public officer, he being the chief of the Legal Services Staff of the Bureau of Plant Industry, did then and there willfully, unlawfully and feloniously request or demand and receive from PEDRO AGAS the sum of THREE THOUSAND (P3,000.00) PESOS, in cash as share, percentage or benefit for himself in the proceeds from said Pedro Agas' claim for medical expenses under Rep. Act No. 3428, as amended, with the Workmen's Compensation Commission which granted said claim and paid by the Government with the help of the said accused who had to intervene therein under the law in his official capacity as such public officer to the damage and prejudice of said offended party, Pedro Agas.

CONTRARY TO LAW."

Joint trial of these two cases was commenced on October 3, 1973, the same day petitioner was arraigned.

Let us unfurl the basic facts:

Petitioner was employed by the Bureau of Plant Industry (hereafter, BPI) in 1952. He rose from the ranks and was promoted to the position of Chief of the Legal Services Staff. In 1968, another employee of the BPI by the name of Pedro Agas had developed an acute heart problem. Agas was a plant propagator at the BPI's Lamao Experiment Station in Limay, Bataan. On account of his debilitating coronary illness, Agas applied for terminal leave and disability retirement effective immediately after June 20, 1969. The claim for disability benefits was considered meritorious by the BPI Evaluation Committee which thus recommended payment thereof with the manifestation that "the Bureau does not intend to controvert the said claim for disability compensation."^[6] However, passing upon the claim of Agas for reimbursement of medical expenses, the same committee recommended that "claims for medical expenses, if any, incurred by the claimant should be the subject of a formal hearing to ascertain the legality and reasonableness of such medical expenses."^[7] The Evaluation Committee Report was signed by all but one of the five committee members. Petitioner signed the said report as the Vice-Chairman of the Evaluation Committee.

The records show that Agas was paid P6,000.00 as compensation for disability under the Workmen's Compensation Act on October 30, 1969.^[8] The corresponding treasury warrant^[9] for the same amount was issued on the same date. The said warrant was received by one Alfonso Agas on October 31, 1969 at 5:30 p.m.^[10]

It is also borne out by the records that Agas was paid P5,945.53 as retirement gratuity on November 26, 1969.^[11] Likewise, the corresponding treasury warrant^[12] for the same amount was issued on the same date. While the Warrant Register showed that the said warrant was received by a person with the surname of Lago on December 13, 1969,^[13] on record there is another document dated December 4, 1969 acknowledging receipt of the same treasury warrant; this receipt

was signed by Pedro Agas who was personally certified and guaranteed by one Encarnacion Gadia, Assistant Chief of the Records Section of the BPI.^[14]

The claim of Agas for reimbursement of medical expenses was adjudicated upon by the Department of Labor.^[15] In an Order^[16] dated June 18, 1970, Agas was awarded P6,800.00 as reimbursement of medical expenses incurred for the treatment of his illness. The pertinent portion of that Order reads:

"x x x Claimant spent the sum of P6,855 pesos x x x

Considering however that claimant (sic) disability was declared permanent and total in the letter of computation of this Office dated October 9, 1969 and that in the order issued by this office assigning the case to the undersigned for hearing and adjudication it was so stated that claimant's right to reimbursement of medical expenses should not go beyond October 9, 1969, when his disability was pronounced permanent and total, the expenses x x x represented by the receipt dated March 9, 1970 x x x and the other receipt dated March 3, 1970 x x x cannot therefore be allowed. In short claimant is entitled to reimbursement in the amount of x x x P6,800.000 pesos, respondent having presented no evidence disputing the same x x x."^[17]

There is no document on record that definitively establishes the fact that said medical expenses had been reimbursed or that Agas had actually received payment thereof. Agas, however, executed an Affidavit, dated January 26, 1973, wherein he alleged that he received said reimbursement in September, 1970.^[18] Furthermore, a prosecution witness, Freddie Jolindo who was then the Chief of the Budget and Fiscal Division of the BPI, testified that said reimbursement for the medical expenses of Agas was indeed paid because he was the one who signed for the treasury warrant in the accounting log book and the one who tendered the treasury warrant to Isidra Agas, wife of Pedro Agas.^[19] Jolindo had his accounting ledger at the time of his direct examination^[20] Representing himself in the trial court, petitioner, for his part, desisted from cross-examining Jolindo.^[21]

On the other hand, there was no testimony on the part of Agas pertaining to his receipt of such reimbursement for medical expenses. While he positively alleged receipt thereof in his aforementioned Affidavit, he was not at all in any way queried as to the circumstances surrounding both his receipt of said reimbursement and petitioner's alleged demand for and receipt of, a percentage of that amount. Significantly, the private prosecutor inquired only as regards his receipt of his disability compensation and retirement gratuity. We have gone over the transcript of stenographic notes of the direct and cross-examination of Pedro Agas held on November 26, 1973, all fifty (50) pages of his testimony, and there is absolutely no mention at all of anything regarding the reimbursement of medical expenses which is the subject of the Information in Criminal Case No. CCC-V-825.

Further complicating matters regarding reimbursement of medical expenses of complainant Agas is the fact that on record is a Department of Labor Order, dated April 2, 1974.^[22] which, while issued pursuant to the same Section 13 of the Workmen's Compensation Act, awarded Agas only the amount of P1,673.00 as reimbursement of medical expenses. The Solicitor General, instead of questioning its

authenticity, rationalized in his Comment that the said order referred to a claim for reimbursement of medical expenses filed subsequent to the issuance by the Labor Department of its letter-award dated October 9, 1969.^[23] It appears to be the submission of the Solicitor General that there were two reimbursements awarded: one for P6,800.00 under the Order dated June 18, 1970 and another for P1,673.60 under the Order dated April 2, 1974. We have examined both orders, however, and we find that both have been issued on the strength of the same letter award of October 9, 1969, pursuant to the same Section 13 of the Workmen's Compensation Act, and in the same case of complainant Agas denominated as W.C. Case No. RO4-114331.

We note that, in contrast to his oral testimony, Pedro Agas, in his aforecited Affidavit, executed in January, 1973, manifested that petitioner had been offering help for a fee, to BPI employees like him who had contracted occupational illnesses and are retireable, in order for them to expeditiously receive their retirement benefits; that petitioner had prepared the papers for his retirement claims and made him sign them so that petitioner could process them; that petitioner received P3,000.00 on two occasions, i.e., in December, 1969 when Agas received his retirement gratuity in the amount of P5,945.53 and his disability compensation in the amount of P6,000.00 and in September, 1970 when Agas received his reimbursement for medical expenses in the amount of P6,800.00.

Agas confirmed his allegations only as to his receipt in 1970 of his disability compensation of P6,000.00 and in 1969 of his retirement gratuity of P5,945.53,^[24] and he maintained such stance during cross-examination.^[25]

After the joint trial, petitioner was found guilty beyond reasonable doubt of two counts of Violation of Section 3(b) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The trial court imposed upon petitioner the penalty of One (1) Year imprisonment in each case, with perpetual disqualification from public office, to pay complainant Pedro Agas the sum of P3,000.00 in each of the two cases, and to pay the costs, but without subsidiary imprisonment in case of insolvency.^[26]

Petitioner appealed^[27] in the due time the decision of the trial court to the Court of Appeals before whom he raised the following assignment of errors:^[28]

1. The trial court erred in declaring the accused-appellant guilty beyond reasonable doubt in the absence of sufficient proof of the essential elements of the crime charged and for not considering the evidence of the defense and other exculpatory facts and circumstances in his favor.
2. The trial court erred in not properly arraigning the accused-appellant, and in not allowing two days for defense counsel to prepare for trial and in denying preliminary investigation to said accused-appellant, which constitute serious irregularities that rendered the proceedings null and void.
3. The trial court erred in holding that the payment and receipt of the

checks for the retirement gratuity and reimbursement of medical expenses which were the sources of cash money allegedly given to the accused-appellant were proven by the prosecution.

4. The trial court erred in holding that it is the official duty of accused-appellant to controvert claims under the Workmen's Compensation Act, as amended, against the Bureau of Plant Industry, but did not perform such alleged duty and when the claims were paid he demanded P3,000.00 as payment for services in preparing the papers of the claims of complainants.

5. The trial court erred in pronouncing accused-appellant guilty in one single judgment for two distinct offenses charged in two separate informations and in convicting said accused-appellant on mere conjectures, suspicion and presumptions.

6. The trial court erred in holding that the dismissal of accused-appellant from the services under Letter of Instruction No. 14-A and Presidential Decree No. 6 for administrative charges wherein he was exonerated, which dismissal is on appeal with Malacañang, and other cases not proven, could be considered as evidence of similar acts to prove the acts charged in the instant cases.

7. The trial court erred in not holding that the delay in the enforcement of a claim is an implied admission of lack of merit and that delay in the commencement of a criminal prosecution creates suspicion upon the sincerity, honesty or truthfulness or the motive of the complaining witness.

8. The trial court erred in holding that the complainant was more credible than the accused-appellant and that the sole and uncorroborated testimony of complainant is direct, positive and straightforward and is sufficient basis for convicting accused-appellant.

The Court of Appeals^[29] rendered judgment affirming in toto the decision of the trial court.

In a decision penned by Justice Relova, the appellate court disposed of the third, fourth, sixth and eighth assigned errors by applying the well-entrenched rule that the findings of the lower court with respect to the credibility of witnesses will generally not be disturbed on appeal because the lower court is deemed to have been in a better position to appreciate the same, having seen and heard the witnesses themselves and observed their behavior and manner in testifying during the trial; it did not find any ground to consider the case as falling under any of the exceptions to this rule.

As to the second assigned error, the appellate court found that while it is true that defendant after arraignment is entitled to at least two (2) days to prepare for trial, the said right may be waived either expressly or impliedly, and petitioner did so because there was no objection on record from the defense when the trial court, after arraignment, proceeded to hear the testimonies of the prosecution witnesses