

## FIRST DIVISION

[ G.R. No. 236807, January 12, 2021 ]

**CONCHITA M. DELA CRUZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

[G.R. No. 236810]

**MAXIMO A. BORJE, ET AL., PETITIONERS, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**PERALTA, C.J.:**

Before this Court are consolidated Petitions for Review on *Certiorari* Under Rule 45 of the Rules of Court assailing the November 10, 2016 Decision<sup>[1]</sup> and the January 15, 2018 Resolution<sup>[2]</sup> of the Sandiganbayan in Criminal (*Crim.*) Case Nos. 28100 and 28253, finding petitioners guilty beyond reasonable doubt of Estafa through Falsification of Documents defined and penalized under Article 315, in relation to Article 171 and Article 48 of the Revised Penal Code (*RPC*) (Crim. Case No. 28100), and Violation of Section 3(e) of Republic Act No. 3019 (*R.A. No. 3019*) or the "Anti-Graft and Corrupt Practice Act", as amended (Crim. Case No. 28253).

#### **Factual Antecedents**

This controversy involves the alleged fictitious transactions in the Department of Public Works and Highways (*DPWH*) made during the period of March to December 2001. The accused in the criminal cases are high-ranking public officials and employees of the DPWH and private individuals, who allegedly forged and falsified documents to cause the payment of fictitious repairs and purchases of spare parts purportedly in the amount of P6,368,364.00 from public funds.<sup>[3]</sup> The accused and their positions during the relevant period are the following:<sup>[4]</sup>

Julio T. Martinez (Martinez)	Clerk III / Supply Officer, ADB Project Management Office
Burt B. Favorito (Favorito)	Director III, Administrative and Manpower Management Services (AMMS)
Florendo B. Arias (Arias)	Assistant Director, Bureau of Equipment (BOE)
Violeta C. Amar (Amar)	Accountant II, Claims, Processing and Documentation Station (CPDS)
Napoleon S. Anas (Anas)	Chief, Procurement Section
Rogelio L. Beray (Beray)	Chief, Facilities and Maintenance Division

Maximo A. Borje (Borje)	Chief, Motorpool Section, BOE
Rolando C. Castillo (Castillo)	Equipment Inspector, BOE
Jessica J. Catibayan (Catibayan)	Accountant II, Subsidiary and Revenue Section
Ma. Luisa T. Cruz (Cruz)	Assistant Chief, Procurement Section, AMMS
Ricardo M. Juan, Jr. (Juan)	Chief, Assets and Supplies, Management and Control Division
Agerico C. Palaypay (Palaypay)	Chief, Supply and Property Management Division
Erdito Q. Quarto (Quarto)	Chief, Central Equipment and Spare Parts Division
Felipe A. San Jose (San Jose)	Store Keeper, Central Equipment and Spare Parts Division
Ronaldo G. Simbahan (Simbahan)	Senior Book Keeper, Subsidiary and Revenue Section
Violeta R. Tadeo (Tadeo)	Accountant III, Bookkeeping Section
Norma A. Villarmino (Villarmino)	Chief, CPDS
Jesus D. Capuz (Capuz)	Owner of J-CAP Motorshop (supplier)
Conchita M. Dela Cruz (Dela Cruz)	Owner of DEB Repair Shop and Parts Supply (supplier)

The amounts paid covered 409 transactions purportedly for the emergency repairs of 39 DPWH service vehicles, 274 of which were made in the name of accused Martinez, while others were made in the name of petitioner Maximo A. Borje (*Borje*) and other co-accused. The spare parts were purportedly supplied by J-CAP Motorshop (*J-CAP*) owned by accused Capuz, and DEB Repair Shop and Parts Supply (*DEB*) owned by petitioner Conchita Dela Cruz (*Dela Cruz*).

The transactions are covered by Disbursement Vouchers (*DV*) with the following supporting documents to justify the release of checks: Job Orders; Pre-Repair Inspection Reports; Requisitions for Supplies and Equipment (*RSE*); Accreditation Papers; Sales Invoices or Office Receipts; Certificates of Acceptance; Post-Repair Inspection Reports; Reports of Waste Materials; Requests for Obligation of Allotment (*ROA*); Certificates of Emergency Purchase; Certificates of Fair Wear and Tear; Canvas from three suppliers and Price Monitoring Sheets.<sup>[5]</sup>

On May 16, 2005, petitioners Borje and Dela Cruz, together with their co-accused, were arraigned in Crim. Case No. 28100<sup>[6]</sup> in an Information dated March 1, 2005 that reads as follows:

That during the period from March to December, 2001, or sometime prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named high-ranking public officials and employees of the Department of Public Works and Highways (DPWH), Port Area, Manila, namely: JULIO T. MARTINEZ, then the Clerk/Supply Officer, BURT FAVORITO y BARBA, Director III, Administrative and Manpower Management Services (SG 27), FLORENDO ARIAS y BUÑAG, Assistant Director, Bureau of [E]quipment (SG 27),

VIOLETA AMAR y CASTILLO, NAPOLEON ANAS y SEBASTIAN, ROGELIO BERAY y LAGANGA, MAXIMO BORJE JR. y AQUINO, ROLANDO CASTILLO y COMIA, JESSICA CATIBAYAN y JARDIEL, MA. LUISA CRUZ y TALAO, RICARDO JUAN, JR. y MACLANG, AGERICO PALAYPAY y CORTES, ERDITO QUARTO y QUIAOT, FELIPE A SAN JOSE, RONALDO G. SIMBAHAN, VIOLETA TADEO y RAGASA, NORMA VILLARMINO y AGCAOILI and JOHN DOES, whose true names are not yet known, acting with unfaithfulness and abuse of confidence, committing the offense in relation to their office, and taking advantage of their official positions, and private individuals, namely: JESUS D. CAPUZ and CONCHITA M. DELA CRUZ and JOHN DOES, whose true names are not yet known, conspiring, confederating and mutually helping one another, with intent to defraud the government, did then and there, willfully[,] unlawfully and feloniously forge and falsify or cause to be forged and falsified documents, purportedly for emergency repairs of various DPWH vehicles and/or purchase of spare parts, with a total amount of SIX MILLION THREE HUNDRED SIXTY-EIGHT THOUSAND THREE HUNDRED SIXTY-FOUR PESOS (P6,368,364.00), and thereafter, cause the payment of said fictitious repairs and/or purchase of spare parts in the said total amount from funds held in trust and for administration by the said public officers, and which payments were made by the government on the basis of and relying on said forged and falsified documents, when in truth and in fact, the accused knew fully well that there were no emergency repairs of DPWH vehicles and/or purchases of spare parts, which said amount, accused, thereafter, willfully, unlawfully and criminally take, convert and misappropriate, to the personal use and benefit of person(s) not entitled to receive said funds, to the damage and prejudice of the government and the public interest in the aforesaid sum.

CONTRARY TO LAW.<sup>[7]</sup>

On July 20, 2005, petitioners Borje and Dela Cruz, together with their co-accused, were arraigned in Crim. Case No. 28253<sup>[8]</sup> in an Information dated June 8, 2005 that reads as follows:

That during the period from March to December, 2001, or sometime prior or subsequent thereto, in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named high-ranking public officials and employees of the Department of Public Works and Highways (DPWH), Port Area, Manila, namely: JULIO T. MARTINEZ, then the Clerk/Supply Officer, BURT FAVORITO y BARBA, Director III, Administrative and Manpower Management Services (SG 27), FLORENDO ARIAS y BUNAG, Assistant Director, Bureau of [E]quipment (SG 27), VIOLETA AMAR y CASTILLO, NAPOLEON ANAS y SEBASTIAN, ROGELIO BERAY y LAGANGA, MAXIMO BORJE, [JR.] y AQUINO, ROLANDO CASTILLO y COMIA, JESSICA CATIBAYAN y JARDIEL, MA. LUISA CRUZ y TALAO, RICARDO JUAN, JR. y MACLANG, AGERICO PALAYPAY y CORTES, ERDITO QUARTO y QUIAOT, FELIPE A. SAN JOSE, RONALDO G. SIMBAHAN, VIOLETA TADEO y RAGASA, NORMA VILLARMINO y AGCAOILI, and JOHN DOES, whose true names are not yet known, committing the offense in relation to their office, and taking advantage of their official positions, and private individuals, namely: JESUS D. CAPUZ

and CONCHITA M. DELA CRUZ and JOHN DOES, whose true names are not yet known, conspiring, confederating and mutually helping one another, acting with evident bad faith, manifest partiality or at the very least gross inexcusable negligence, did then and there, willfully, unlawfully and feloniously forge and falsify or cause to be forged and falsified documents purportedly for emergency repairs of various DPWH vehicles and/or purchase of spare parts, with a total amount of SIX MILLION THREE HUNDRED SIXTY EIGHT THOUSAND THREE HUNDRED SIXTY FOUR PESOS ([P]6,368,364.00), and which payments were made by the government on the basis of and relying on said forged and falsified documents, when in truth and in fact, as the accused fully well knew, that there were no emergency repairs of DPWH vehicles and/or purchases of spare parts, and these are ghost repairs in the total amount of SIX MILLION THREE HUNDRED SIXTY EIGHT THOUSAND THREE HUNDRED SIXTY FOUR PESOS (P6,368,364.00), thereby causing undue injury to the government in the aforesaid sum.

CONTRARY TO LAW.<sup>[9]</sup>

During trial, the prosecution presented documentary evidence including the DVs, the pertinent details of which were summarized by the Sandiganbayan.<sup>[10]</sup> Notably, petitioner Borje was identified as Payee even though he was not necessarily the end-user, and DEB, which petitioner Dela Cruz owns, was identified as Supplier in several of the DVs presented in relation to the emergency repairs and reimbursements of the following vehicles:

1. Mitsubishi L200 with Plate No. TSC-482 with petitioner Borje as Payee in thirty-three DVs, which indicate DEB as Supplier;<sup>[11]</sup>
2. Nissan Pick-up with Plate No. PLH-256 with petitioner Borje as Payee in two DVs, which indicate DEB as Supplier;<sup>[12]</sup>
3. Toyota Land Cruiser with Plate No. TNY-416 with petitioner Borje as Payee in four DVs, which indicate DEB as Supplier;<sup>[13]</sup>
4. Toyota Land Cruiser with Plate No. CEJ-514 with petitioner Borje as Payee in four DVs, which indicate DEB as Supplier;<sup>[14]</sup>
5. Mitsubishi L200 with Plate No. SFC-309 with petitioner Borje as Payee in five DVs, which indicate DEB as Supplier;<sup>[15]</sup>
6. Mitsubishi L200 with Plate No. SFG-346 with petitioner Borje as Payee in one DV, which indicates DEB as Supplier;<sup>[16]</sup>
7. Mitsubishi L200 with Plate No. SFG-455/H1-4231 with petitioner Borje as Payee in six DVs, which indicate DEB as Supplier;<sup>[17]</sup>
8. Mitsubishi L200 with Plate No. SFG-465 with petitioner Borje as Payee in one DV, which indicates J-CAP as Supplier;<sup>[18]</sup>
9. Mitsubishi L200 with Plate No. SFG-527 with petitioner Borje as Payee in one DV, which indicates DEB as Supplier;<sup>[19]</sup>
10. Mitsubishi L200 with Plate No. SFK-735 with petitioner Borje as Payee in one DV, which indicates DEB as Supplier;<sup>[20]</sup>
11. Mitsubishi L200 with Plate No. SED-732 with petitioner Borje as Payee in two DVs, which indicate DEB as Supplier;<sup>[21]</sup> and
12. Mitsubishi L200 with Plate No. SFG-485 with petitioner Borje as Payee in one DV, which indicates DEB as Supplier.<sup>[22]</sup>

In addition to the above DVs that have Borje named as Payee, DEB is also named as Supplier in several of the DVs presented in relation to the emergency repairs and reimbursements of the following vehicles:

1. Nissan Pathfinder with Plate No. PND-918;<sup>[23]</sup>
2. Nissan Pick-up with Plate No. PMY-110;<sup>[24]</sup>
3. Toyota Land Cruiser (Jeep) with Plate No. CEJ-591;<sup>[25]</sup>
4. Mitsubishi Pajero with Plate No. TKL-106;<sup>[26]</sup>
5. Nissan Pick-up with Plate No. PMB-631/HI-4148;<sup>[27]</sup>
6. Mitsubishi L200 with Plate No. SFG-496;<sup>[28]</sup>
7. Nissan Pick-up with Plate No. PME-676;<sup>[29]</sup>
8. Toyota Land Cruiser with Plate No. SFT-208;<sup>[30]</sup>
9. Toyota Land Cruiser with Plate No. SFT-308/HI-4398;<sup>[31]</sup>
10. Mitsubishi L200 with Plate No. SFG-417;<sup>[32]</sup>
11. Mitsubishi L200 with Plate No. SFT-272;<sup>[33]</sup>
12. Mitsubishi L200 with Plate No. SFT-282;<sup>[34]</sup>
13. Mitsubishi L200 with Plate No. SFT-715;<sup>[35]</sup>
14. Nissan Pick-up with Plate No. PME-687;<sup>[36]</sup>
15. Mitsubishi L200 with Plate No. SFT-732;<sup>[37]</sup>
16. Mitsubishi L200 with Plate No. SFG-407;<sup>[38]</sup>
17. Toyota Prado with Plate No. SFG-402;<sup>[39]</sup>
18. Mitsubishi L200 with Plate No. SFD-732;<sup>[40]</sup>
19. Mitsubishi L200 with Plate No. SFG-369;<sup>[41]</sup>
20. Toyota Land Cruiser with Plate No. SFD-302;<sup>[42]</sup> and
21. Toyota Prado with Plate No. SFT-207.<sup>[43]</sup>

Some of these vehicles were assigned to some of the prosecution's witnesses who were then DPWH officers and employees. The testimony of these witnesses similarly involved a narration of the assignment of a service vehicle, investigation by the Internal Audit Service (IAS) Office concerning repairs made on the said vehicle, and a statement denying, not recognizing and/or not authorizing some or all of the said repairs made as described in the DVs.<sup>[44]</sup>

Among the prosecution's witnesses was Ramoncito C. Jimenez (*Jimenez*), who testified that since 1999 up to present (*i.e.*, the time of his testimony), he was the Project Manager 1 at the ADB Project Monitoring Office of the DPWH. In 1999, he was issued a brand new service vehicle, a Mitsubishi L200 Pick-up with Plate No. SFG 496. This vehicle, under his directive, was previously subjected to maintenance service and repairs for four times. He was surprised when petitioner Dela Cruz, the owner of DEB, presented a DV and other documents for him to sign, allegedly for the payment of the repairs in the amount of P22,420.00. While he was at first hesitant because he did not give any advance payment for the service and repairs, he agreed to sign the DV. The IAS Office showed six DVs with six checks covering repairs on his service vehicle reportedly done by J-CAP, but the signatory in the DVs are co-accused Martinez and Arias, instead of witness Jimenez as end-user. In these alleged transactions, there were no actual repairs or services done on his service vehicle.<sup>[45]</sup>