

SECOND DIVISION

[G.R. No. 205693, February 14, 2018]

**MANUEL M. VENEZUELA, PETITIONER, V. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

D E C I S I O N

REYES, JR., J:

This treats of the Petition for Review on *Certiorari*^[1] under Rule 45 of the Revised Rules of Court seeking the reversal of the Decision^[2] dated May 10, 2012, and Resolution^[3] dated February 4, 2013, rendered by the Sandiganbayan Third Division in Criminal Case No. 25963, which convicted petitioner Manuel M. Venezuela (Venezuela) of Malversation of Public Funds under Article 217 of the Revised Penal Code (RPC), as amended.

The Antecedents

Venezuela was the Municipal Mayor of Pozorrubio, Pangasinan from 1986 to June 30, 1998.^[4]

On June 10, 1998, a team of auditors composed of State Auditors II Ramon Ruiz (Ruiz), Rosario Llarenas, and Pedro Austria conducted an investigation on the cash and accounts of Pacita Costes (Costes), then Municipal Treasurer of Pozorrubio, Pangasinan, for the period covering December 4, 1997 to June 10, 1998.^[5]

In the course of the investigation, the Audit Team discovered a shortage of Php 2,872,808.00 on the joint accounts of Costes and Venezuela. Likewise, it noticed that the 17 cash advances made by Venezuela were illegal, due to the absence of the following essential requirements: (i) a public or official purpose indicated in the disbursement vouchers; (ii) required supporting documents; (iii) request for obligation of allotment; (iv) accomplishment or purchase request; (v) order or delivery made; (vi) charge invoice; (vii) approved *Sangguniang Bayan* resolution; and (viii) Certification issued by the Municipal Accountant.^[6] Moreover, the Audit Team found out that Venezuela was neither bonded nor authorized to receive cash advances.^[7] Finally, the Audit Team noted that most of the vouchers were paid in cash, notwithstanding the fact that the amounts covered by such vouchers were in excess of Php 1,000.00, in violation of the rules of the Commission on Audit (COA) which mandate payment in checks for amounts over Php 1,000.00.^[8]

Consequently, team member Ruiz issued three demand letters to Venezuela, ordering him to liquidate his cash advances. In response, Venezuela sent an explanation letter acknowledging his accountability for the cash advances amounting to Php 943,200.00, while denying the remainder of the cash advances.^[9]

An audit report was thereafter submitted by the Team. Venezuela denied the truth of the contents thereof.^[10]

Meanwhile, on March 20, 2000, an Information^[11] was filed by the Office of the Deputy Ombudsman for Luzon, accusing Venezuela of the crime of Malversation of Public Funds, as defined and penalized under Article 217 of the RPC, and committed as follows:

That for the period from December 4, 1997 to June 10, 1998, or sometime prior or subsequent thereto, in the municipality of Pozorrubio, Province of Pangasinan, Philippines, and within the jurisdiction of this Honorable Court, [**VENEZUELA**], a public officer being then the Municipal Mayor of Pozorrubio, Pangasinan, and as such is accountable for public funds received and/or entrusted to him by reason of his office, acting in relation to his office and taking advantage of the same, conniving and confederating with [**COSTES**], also a public officer being then the Municipal Treasurer of Pozorrubio, Pangasinan, did then and there, wilfully, unlawfully and feloniously take, misappropriate, and convert to his personal use and benefit the amount of TWO MILLION EIGHT HUNDRED SEVENTY[-]TWO THOUSAND EIGHT HUNDRED EIGHT PESOS (P2,872,808.00) from such public funds received by him as unauthorized cash advances to the damage of the government in the aforesaid amount.

CONTRARY TO LAW.^[12]

On May 3, 2000, the Sandiganbayan issued a warrant of arrest for the immediate apprehension of Venezuela.^[13]

On May 11, 2000, Venezuela voluntarily surrendered, and posted bail. However, Costes remained at large.^[14]

Venezuela moved for reconsideration and reinvestigation of the case, which was denied by the Office of the Special Prosecutor in a Memorandum dated January 14, 2001.^[15]

Thereafter, the trial of the case proceeded, but only with respect to Venezuela.

In the course of the trial, the prosecution presented witnesses, in the persons of Ruiz, State Auditor II of the COA and Unit Head of the Municipal Audit Team of Binalonan, Pangasinan,^[16] and Marita Laquerta (Laquerta), Municipal Accountant of Pozorrubio, Pangasinan.^[17]

Ruiz affirmed that on June 10, 1998, he, together with other state auditors, conducted an investigation on the cash and accounts of Costes, for the period of December 4, 1997 until June 10, 1998.^[18] The investigation unraveled a shortage of Php 2,872,808.00, in the same account of Costes and Venezuela, as well as illegal cash advances. They likewise discovered that Venezuela was not bonded or authorized to receive cash advances.^[19] Ruiz further confirmed that they issued demand letters to Venezuela, who admitted accountability for the cash advances amounting to Php 943,200.00.^[20]

On the other hand, Laquerta confirmed that the signatures appearing on 16 of the 17 illegal disbursement vouchers belonged to Venezuela, who was the claimant under the said vouchers.^[21]

Upon cross-examination, Laquerta related that Venezuela remitted the amount of Php 300,000.00 on November 6, 1998.^[22] This reduced the total amount of Venezuela's unliquidated cash advances to Php 2,572,808.00, as reflected in the Final Demand Letter sent by the COA Auditors to Venezuela.^[23]

On the other hand, Venezuela vehemently denied the charge leveled against him. To corroborate his claim of innocence, he testified, alongside his other witnesses, namely, Arthur C. Caparas (Caparas), Venezuela's Executive Assistant I; and Manuel D. Ferrer (Ferrer), Senior Bookkeeper of Pozorrubio from 1994 to 2004, among others.

Venezuela declared that he submitted to then Municipal Treasurer Costes all the supporting documents to liquidate his cash advances before the end of his term in June 1998. Further, he asserted that he remitted the amount of Php 2,572,808.00, in installments to Costes. In fact, he asserted that his payment was evidenced by official receipts bearing the following serial numbers and dates, to wit: (i) 5063309J dated November 8, 1999; (ii) 5063313J dated November 18, 1999; (iii) 5063321J dated November 26, 1999; (iv) 5063324J dated December 8, 1999; and (v) 5063330J dated December 15, 1999.^[24]

Supporting the claim of liquidation, Caparas affirmed that Venezuela liquidated his cash advances through his private secretary who submitted the same to the Municipal Treasurer.^[25]

Likewise, Ferrer related that he saw Venezuela going to the Office of the Municipal Treasurer to submit the liquidation of his cash advances. However, on cross-examination, Ferrer admitted that he did not actually see Venezuela liquidating his cash advances.^[26]

On rebuttal by the prosecution, Zoraida Costales (Costales), Officer in Charge in the Municipal Treasurer's Office of Pozorrubio, testified that as per records of the Municipal Treasurer's Office, the receipts presented by Venezuela, which purportedly evidence his payment of the unliquidated cash advances, did not actually reflect the payments so claimed by Venezuela. Rather, the receipts were issued to different persons, in different amounts and for different purposes. Moreover, during the period shown in the official receipts presented by Venezuela, Costes, the alleged issuer of the receipts, was no longer holding office at the Municipal Treasurer's Office.^[27]

Similarly, Laquerta attested that she never encountered the receipts presented by Venezuela, and that as per records, the last cash liquidation made by Venezuela was in November 1998, in the amount of Php 300,000.00.^[28]

Ruling of the Sandiganbayan

On May 10, 2012, the Sandiganbayan promulgated the assailed Decision^[29] convicting Venezuela of the crime of Malversation of Public Funds. The Sandiganbayan held that the prosecution proved all the elements of the crime beyond reasonable doubt.

The Sandiganbayan observed that during the period material to the case, Venezuela was a public officer, being the Municipal Mayor of Pozorrubio from 1986 to 1998.^[30] While Municipal Mayor, Venezuela received public funds, by reason of the duties of his office. Venezuela, along with then Municipal Treasurer Costes had a joint shortage of Php 2,872,808.00, which he could not account for upon demand by the COA Audit Team.^[31] His failure to have duly forthcoming the public funds with which he was chargeable, served as *prima facie* evidence that he has put such missing funds to his personal use.^[32]

Furthermore, the Sandiganbayan opined that Venezuela's defense of payment was unsubstantiated.^[33] The serial numbers in the receipts he presented as proof of his purported payment revealed that they were issued to other payees and for different purposes. Moreover, Costes, to whom Venezuela allegedly remitted his payments, was no longer the Municipal Treasurer of Pozorrubio during the dates when the supposed payments were made.^[34] There are no documents in the official records of the Municipality of Pozorrubio that would corroborate Venezuela's claim of payment.^[35] Furthermore, the Sandiganbayan emphasized that even assuming that Venezuela had indeed reimbursed his cash advances, payment is not a defense in malversation.^[36]

However, the Sandiganbayan acknowledged that Venezuela made a partial refund of his liabilities, thereby reducing his unliquidated cash advances to Php 2,572,808.00. The Sandiganbayan considered such refund as a mitigating circumstance akin to voluntary surrender. Thus, Venezuela was sentenced as follows:

WHEREFORE, premises considered, [**VENEZUELA**] is hereby found **GUILTY** beyond reasonable doubt of the crime of Malversation of Public Funds defined and penalized under Article 217 of the [RPC] and is hereby sentenced to suffer the indeterminate penalty of imprisonment ranging from TEN (10) YEARS and ONE (1) DAY of *prision mayor* as minimum to SEVENTEEN (17) YEARS, FOUR (4) MONTHS and ONE DAY of *reclusion temporal*, as maximum; to pay a fine of Two Million Five Hundred Seventy Two Thousand Eight Hundred Eight Pesos (Php 2,572,808.00); and to suffer the penalty of perpetual special disqualification from holding any public office.

Considering that the other accused, [COSTES], is still at large, let the herein case against her be archived.

SO ORDERED.^[37]

Aggrieved, Venezuela filed a Motion for Reconsideration,^[38] which was denied in the Sandiganbayan Resolution^[39] dated February 4, 2013.

Undeterred, Venezuela filed the instant Petition for Review on *Certiorari*^[40] under Rule 45 of the Revised Rules of Court, praying for the reversal of the assailed Sandiganbayan decision and resolution.

The Issue

Essentially, the main issue presented for the Court's resolution is whether or not the prosecution failed to establish Venezuela's guilt beyond reasonable doubt.

Venezuela maintains that the Sandiganbayan erred in convicting him of the crime of malversation of public funds. Venezuela avers that he had fully liquidated his cash advances to Costes.^[41] In fact, he presented receipts proving his payments. In this regard, Venezuela bewails that the Sandiganbayan erroneously discredited his receipts, adopting the prosecution's version.^[42] He points out that his receipts were issued in 1999, whereas those presented by the prosecution were issued in the year 2007.^[43] Moreover, Venezuela alleges that the charge of conspiracy with Costes was not sufficiently proven. In particular, Venezuela assails that the amount of Php 2,872,808.00, as charged in the Information was alleged to be his joint accountability with Costes. As such, pending the arrest of the latter, the case should have first been provisionally dismissed.^[44] It was unfair for him to solely bear the charge, while Costes was "absolved" from liability.^[45] Finally, Venezuela points out that the COA auditors sent the demand letters ordering the liquidation of his cash advances at a time when he was no longer the Mayor of Pozorrubio. He ceased to hold office on June 30, 1998. Consequently, if he should be charged of any offense under the RPC, it should have been Article 218 thereof, or Failure of Accountable Officer to Render Accounts.^[46]

On the other hand, the People, through the Office of the Ombudsman, counter that the prosecution proved all the elements for the crime of Malversation beyond reasonable doubt.^[47] The evidence showed that Venezuela indeed received the amount subject of the case by way of cash advances. Venezuela's purported claim of payment was a mere afterthought. The fact of payment was not proven, and even if established, would not exonerate him from the crime.^[48] The receipts Venezuela presented were sufficiently overthrown by the prosecution witness who proved that the serial numbers in the receipts show that they were issued in 2007, and not in 1999, as claimed by the former. Likewise, it was established during the trial that Costes was no longer holding office as the Municipal Treasurer, notwithstanding the fact that her name appeared on the purported receipts. Worse, the Municipal Accountant confirmed the absence of such purported payment in the books of the municipality.^[49] Neither did the COA, the complainant in the instant case, encounter such payments. Moreover, anent the issue of conspiracy, the People emphasize that the subject matter of the instant case are the cash advances granted to Venezuela, not those pertaining to Costes. Finally, the People maintain that Venezuela was properly charged and convicted of Malversation of Public Funds. Demand is not necessary for the charge of malversation to arise.^[50] The crime is committed from the moment the accountable officer is unable to satisfactorily explain his failure to produce the public funds he received.^[51]

Ruling of the Court

The instant petition is bereft of merit.

It must be noted at the outset that the appellate jurisdiction of the Court over the decisions and final orders of the Sandiganbayan is limited to questions of law. As a general rule, the Court does not review the factual findings of the Sandiganbayan, which are conclusive upon the Court.^[52] Parenthetically, "a question of law exists when there is doubt or controversy as to what the law is on a certain state of facts. On the other hand, a question of fact exists when the doubt or controversy arises as to the truth or falsity of the alleged facts."^[53]