

## SECOND DIVISION

[ G.R. No. 197204, March 26, 2014 ]

**DANILO O. GARCIA AND JOVEN SD. BRIZUELA, PETITIONERS,  
VS. SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,  
RESPONDENTS.**

### D E C I S I O N

**CARPIO, J.:**

#### The Case

Before the Court is a petition for review on certiorari<sup>[1]</sup> assailing the Decision dated 14 October 2010<sup>[2]</sup> and Resolutions dated 9 March 2011<sup>[3]</sup> and 1 June 2011<sup>[4]</sup> of the Sandiganbayan in Criminal Case No. 20574 entitled "*People of the Philippines v. Dir. Gen. Cesar P. Nazareno, P/Dir. Guillermo T. Domondon, C/Supt. Armand D. Agbayani, P/Supt. Van D. Luspo, C/Insp. Joven SD. Brizuela, C/Insp. Juan G. Luna, and C/Insp. Danilo O. Garcia.*"

#### The Facts

For the 3<sup>rd</sup> quarter of calendar year 1992, the PNP Office of the Directorate for Comptrollership issued and released two Advice of Sub-Allotments<sup>[5]</sup> (ASA): (1) ASA No. 4363 dated 11 August 1992 for P5,000,000, and (2) ASA No. 4400 dated 18 August 1992 for P15,000,000, in the total amount of P20,000,000, for the purchase of combat clothing and individual equipment (CCIE) items of the Cordillera Regional Command (CRECOM) of the Philippine National Police (PNP) located at Camp Bado, Dangwa, La Trinidad, Benguet.

The ASAs were addressed "For the Chief, Philippine National Police; by Guillermo T. Domondon, Director." The PNP Chief and PNP Director for Comptrollership at the time were Cesar P. Nazareno (Nazareno) and Guillermo T. Domondon (Domondon), respectively. On behalf of Domondon, the ASAs were signed by P/Supt. Van Luspo (Luspo), then Chief, Fiscal Division, Budget and Fiscal Services of the PNP Directorate for Comptrollership, by virtue of a Memorandum<sup>[6]</sup> dated 31 January 1991, where Domondon gave Luspo and a certain Supt. Reynold Osia, the authority to sign for him and on his behalf, allotments for personal services in the amount not exceeding Five Million Pesos (P5,000,000), and in his absence, the amount of Twenty Million Pesos (P20,000,000). Thereafter, the proceeds of the two ASAs were transferred to CRECOM's deposit account with the Land Bank of the Philippines (LBP), Baguio Branch.

After receipt of the ASAs, petitioner Chief Inspector Danilo O. Garcia (Garcia), then CRECOM Assistant Regional Director for Comptrollership, directed the preparation of cash advances in the form of 15 disbursement vouchers,<sup>[7]</sup> 4 dated 12 August 1992

and 11 dated 21 August 1992, in the total amount of P20,000,000. The disbursement vouchers were signed and approved by either Garcia or Armand D. Agbayani (Agbayani), then CRECOM Regional Director, and issued in favor of petitioner Chief Inspector Joven SD. Brizuela (Brizuela), then CRECOM Disbursing Officer, as lone payee and claimant.

After the approval of the disbursement vouchers, Chief Inspector Juan Luna (Luna), then CRECOM Finance Officer, issued 250 LBP checks<sup>[8]</sup> (Check Nos. 037483-037533 and 037584-037783) of various dates, from 11 to 22 August 1992, in the amounts of P50,000 or P100,000 totalling to P20,000,000. Luna and Garcia were the signatories of the checks issued in the amount of P50,000, while Luna and Agbayani were the signatories of checks amounting to P100,000. The 250 LBP checks were all issued in favor of Brizuela as payee, in his capacity as disbursing officer.

On 13 August 1992, Brizuela encashed the check dated 11 August 1992 from the LBP, Baguio Branch. Again, on 26 August 1992, Brizuela encashed the checks dated 18, 19, 20, 21 and 22 August 1992. All the proceeds of the encashed checks amounting to P20,000,000 were turned over by Brizuela to Garcia in the presence of Luna.

For the purpose of liquidating the cash advances, CRECOM Regional Accountant Jocelyn Versoza-Hinanay received the following documents: (1) original copies of the disbursement vouchers; (2) 250 LBP checks; (3) corresponding Clothing Requirements and Certifications that were signed by the heads of the various commands and units of CRECOM; and (4) PNP Personnel Payrolls that were also signed by the various CRECOM command heads, "approved payable" by Luna, and certified by Brizuela that the amount of P11,270.00 representing CCIE for the 3rd quarter of 1992 was paid to each "payee whose name appears on the (above) payroll."

The various CRECOM command and unit heads, who allegedly signed the Clothing Requirements and Certifications and the PNP Personnel Payrolls, were identified as:

- (1) Supt. Manuel T. Raval of PNP Abra;
- (2) Supt. Rolando C. Garcia of PNP Benguet;
- (3) C/Insp. Prospero C. Noble, Jr. of PNP Ifugao;
- (4) Supt. Rodrigo F. Licudine of the Regional Mobile Force;
- (5) Supt. Juan T. Refe of the Northern Luzon Training Center;
- (6) Supt. Conrado R. Peregrino, Jr. of PNP Kalinga-Apayao; and
- (7) Supt. Amparo C. Cabigas of the Headquarter Services.

Thereafter, for post-audit purposes, the documents were submitted to Adelaida C. Urbanozo (Urbanozo), State Auditor II of the Commission on Audit (COA) assigned at CRECOM PNP.

On 26 February 1993, after the post-audit, PNP Chief Inspector General Benjamin Valenton directed a PNP IG Fact-Finding Team to conduct an investigation on the alleged fictitious CCIE purchase of CRECOM PNP worth P20,000,000. The fact finding team was composed of team leader P/Supt. Rafael Jayme, P/C Insp. Ricardo M. Orot

(Orot) and P/Sr. Insp. Evangeline L. Candia (Candia).

In the course of the investigation, the fact finding team invited for questioning and took the statements of the following:

- (1) Supt. Manuel T. Raval who executed a Sworn Statement dated 23 March 1993 stating that Personnel Payrolls for PNP Abra were fabricated and that his signature indicated in said payrolls was not his;
- (2) Supt. Rolando C. Garcia who executed a Sworn Statement dated 23 March 1993 stating that Personnel Payrolls for PNP Benguet were fabricated and that his signature indicated in said payrolls was not his;
- (3) Ciriaco C. Wagan, then Regional and Supply Accountable Officer of CRECOM, who executed a Sworn Statement dated 17 February 1993 stating that CRECOM did not receive any CCIE for the 3rd quarter of 1992;
- (4) Dominador Pamolar, Carlos D. Capinding, and Sanilo Dosdos, Jr., who executed a Joint-Affidavit dated 2 March 1993 stating that no CCIE, in cash or in kind, was received by CRECOM Headquarters for the 3rd quarter of 1992;
- (5) SPO4 Romulo B. Rosido, Chief Clerk of the Office of the Regional Inspector, PNP CRECOM; SPO4 Wilson B. Pulido, Chief Clerk of the Office of the Regional Police Legal Service (RPLS); and SPO2 Jorge S. Benitez of the Office of the RPLS, who executed a Joint-Affidavit on 2 March 1993 stating that CRECOM did not receive any CCIE for the 3rd quarter of 1992;
- (6) Brizuela who executed a Sworn Statement dated 22 February 1993;
- (7) Garcia; and
- (8) Luna who executed a Sworn Statement dated 4 March 1993.

The fact finding team also gathered Personnel Payrolls, covering the 3rd quarter of calendar year 1992, which contained the names of the members of the PNP in Abra, Benguet and Kalinga-Apayao. The payrolls were prepared by CRECOM and signed by Supt. Manuel T. Raval or Supt. Rolando C. Garcia and Brizuela.

In an Investigation Report<sup>[9]</sup> dated 2 April 1993, the fact finding team revealed the irregularity of the release of the ASAs worth P20,000,000 by the PNP Office of the Directorate for Comptrollership. Based on the documents collected and the sworn statements taken from CRECOM personnel and other witnesses, the fact finding team discovered the following: (1) that the ASAs were issued without the corresponding Personnel Program from the PNP Directorate of Personnel, the office which determines the needs of the units of the PNP; (2) that the ASAs were received by CRECOM Comptroller Garcia from PNP Headquarters; (3) that Garcia received the proceeds of the ASAs from CRECOM Disbursing Officer Brizuela in the presence of CRECOM Finance Officer Luna after Brizuela encashed the 250 LBP checks; and (4) that all the liquidating documents, consisting of the Clothing Requirement and Certifications and the list of the PNP Personnel Payrolls, supposedly signed by the various CRECOM command and unit heads, were all fictitious. The signatures appearing in the liquidating documents were forged and the personnel listed in the respective Official Rosters of the officers' commands did not receive any CCIE for the 3rd quarter of 1992.

On 11 May 1993, the fact finding team filed its Investigation Report and recommended the filing of appropriate criminal charges with the Sandiganbayan against Nazareno, Domondon, Agbayani, Garcia, Luna, and Brizuela for (1) Malversation through Falsification of Public Documents, and (2) violation of Republic Act No. 3019 (RA 3019) or the Anti-Graft and Corrupt Practices Act.

After the preliminary investigation, the Office of the Ombudsman filed an Amended Information<sup>[10]</sup> dated 28 July 1997 for violation of Section 3(e) of RA 3019, docketed as Criminal Case No. 20574, against all the police personnel, as recommended by the fact finding team, allegedly involved in the procurement of the fraudulent CCIE purchase, including Luspo. The Amended Information states:

That on or about August 1992, and for sometime prior or subsequent thereto, in Quezon City and Baguio City, Philippines, and within the jurisdiction of this Honorable Court, the said accused public officers, namely: Maj. Gen. Cesar Nazareno, then Director General, Philippine National Police (PNP); P/Dir. Guillermo Domondon, then Director for Comptrollership, PNP; C/Supt. Armand Agbayani, then Regional Director, Cordillera Regional Command (CRECOM), PNP; P/Supt. Van Luspo, then Chief, Fiscal Division, Budget and Fiscal Services, Office of the Director for Comptrollership, PNP; C/Insp. Joven Brizuela, then Disbursing Officer, CRECOM, PNP; C/Insp. Juan Luna, then Finance Officer, CRECOM, PNP; and C/Insp. Danilo Garcia, then Comptroller, CRECOM, PNP, **while in the performance of their official functions, committing the offense in relation to their office, conspiring and confederating with each other, did then and there, willfully, unlawfully and criminally, with evident bad faith, cause undue injury to the government** by: approving without budgetary basis the release of Advise of Sub-Allotment SN No. 4363 dated August 11, 1992 in the amount of PHP 5,000,000.00 and Advise of Sub-Allotment SN No. 4400 dated August 18, 1992 in the amount of PHP 15,000,000.00 for the procurement of combat, clothing and individual equipment (CCIE) for the use of PNP personnel of CRECOM, La Trinidad, Benguet; causing to be issued and encashed Land Bank Check Nos. 037483 to 037533, 037584 to 037611, 037613, 037615 to 037777, 037779 to 037783, 137612 and 137614 with an aggregate amount of TWENTY MILLION PESOS (PHP 20,000,000.00), Philippine Currency, for payment of ghost purchases of the said CCIE items; falsifying the signatures of the military personnel listed in the payroll of CRECOM to make it appear therein that the military personnel of CRECOM have received the said CCIE items; and, thereafter, misappropriating the said amount of PHP 20,000,000.00 to the damage and prejudice of the government in the aforementioned amount.

CONTRARY TO LAW.<sup>[11]</sup> (Emphasis supplied)

All the accused, except Agbayani, who was still at large and beyond the jurisdiction of the Sandiganbayan, refused to enter any plea upon their separate arraignments. The Sandiganbayan entered a plea of not guilty for each of them.

In the Pre-Trial Order dated 17 May 2005 issued by the Sandiganbayan, all the accused agreed to the following stipulation of fact and issue:

### III Stipulation of Fact

The parties stipulated that all the accused were public officers, occupying their respective positions as described in the Information, at the time the matters of this case allegedly occurred.

### IV Issue

The ultimate issue to be resolved is whether or not the accused, individually or in conspiracy with one another, committed manifest partiality, evident bad faith or gross inexcusable negligence in the performance of their public functions in connection with the subject matter of the Information, thereby causing undue injury to the government.

Respondent People of the Philippines, as plaintiff in the case, presented the following witnesses:

- (1) Retired Senior Supt. Rafael E. Jayme;
- (2) Supt. Rolando C. Garcia;
- (3) Supt. Manuel T. Raval;
- (4) Candia;
- (5) CRECOM Regional Accountant Jocelyn Versoza-Hinanay;
- (6) COA State Auditor Adelaida Urbanozo;
- (7) Gen. Nicasio Javier Radovan, Jr., then Provincial Commander of Mountain Province;
- (8) SPO1 Carlos D. Capinding, a PNP officer assigned at CRECOM in 1992;
- (9) Ret. PNP Officer Brigilio Balaba, then CRECOM's Assistant Regional Director for Logistic; and
- (10) Ret. Gen. Rufino Ibay, the PNP Director for Comptrollership in April 1993.

During the trial held on 1 August 2006, the Sandiganbayan issued an Order containing the stipulations of the prosecution and defense on the testimonies of five police officers, intended to be called to the witness stand, and dispensed with their testimonies. The relevant portions of the Order state:

1. Gen. Prospero C. Noble, Jr., Provincial Commander, will testify that the signatures appearing on Exhibits "B43" up to "N47," consisting of payrolls, clothing requirements and certifications purporting to be his are actually not his signatures and that the listed personnel have not been paid their CCIE;