

EN BANC

[G.R. No. 161455, May 20, 2008]

**ATTY. RODOLFO D. PACTOLIN, PETITIONER, VS. THE
HONORABLE FOURTH DIVISION OF THE SANDIGANBAYAN, THE
HON. SIMEON V. MARCELO, IN HIS OFFICIAL CAPACITY AS THE
OMBUDSMAN, AND MARIO R. FERRAREN, RESPONDENTS.**

DECISION

VELASCO JR., J.:

Petitioner Atty. Rodolfo P. Pactolin was a former member of the *Sangguniang Panlalawigan* of Misamis Occidental. During Pactolin's term, sometime in May 1996, the mayor of Ozamis City, Benjamin A. Fuentes, received a letter dated May 3, 1996 from Elmer Abastillas, the playing coach and team captain of the Ozamis City volleyball team, requesting financial assistance for the city's volleyball team. Mayor Fuentes immediately approved the request and then forwarded Abastillas' letter to the City Treasurer's Office for processing. Mayor Fuentes at that time designated Mario R. Ferraren, a member of the city council, as OIC (Officer-in-Charge)-Mayor for the duration of his trip to Cagayan de Oro City starting May 5, 1996. Abastillas received the check for PhP 10,000 on behalf of the volleyball team on May 8, 1996.

While Ferraren was OIC-Mayor, Pactolin went to the Ozamis City Treasurer's Office and asked to photocopy Abastillas' letter. Assistant City Treasurer Alma Y. Toledo lent the letter to Pactolin, having known him as a member of the *Sangguniang Panlalawigan*. Besides, he was accompanied by Solomon Villaueran, a city employee. Pactolin returned the letter to the City Treasurer's Office immediately after photocopying it.

Thereafter, on June 24, 1996, Pactolin filed a complaint, docketed as OMB-MIN-96-0416, against Mario with the Office of the Deputy Ombudsman-Mindanao, alleging that Mario illegally disbursed public funds worth PhP 10,000 in connivance with then City Accountant Cynthia Ferraren. Attached as Annex "A" to the complaint was the alleged falsified version of the Abastillas letter. The purported falsified letter showed that it was Mario and not Mayor Fuentes who approved the request for financial assistance. Aggrieved, Mario instituted a criminal complaint against Pactolin. Pactolin was charged with falsification of a public document under Article 171(2)^[1] of the Revised Penal Code (RPC) in an Amended Information filed on January 31, 2000, as follows:

That on or about June 24, 1996, or some time prior or subsequent thereto, in Ozamis City, Misamis Occidental, Philippines, and within the jurisdiction of this Honorable Court, the accused RODOLFO D. PACTOLIN, a high ranking public officer, being a member of the Sangguniang Panlalawigan of Misamis Occidental, committing the felony herein charged in relation to his office, and taking advantage of his official

position as Sangguniang Panlalawigan Member and head of the athletic delegation of Misamis Occidental, did then and there, willfully, unlawfully and feloniously, falsify a document dated May 3, 1998 requesting from the city mayor of Ozamis City financial assistance, by intercalating thereon the printed name of Mario R. Ferraren, and the latter's position as OIC Mayor, and by imitating the latter's signature on top of the intercalated name "Mario R. Ferraren", thereby making it appear that OIC Mayor Mario R. Ferraren approved the request for financial assistance, when in truth and in fact, Mario R. Ferraren neither signed the subject letter nor approved the said request for financial assistance.

After arraignment in which Pactolin appeared on his own behalf and pleaded not guilty, and after trial on the merits in which Pactolin repeatedly failed to appear, the Sandiganbayan issued a Decision^[2] on November 12, 2003, disposing, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding accused Rodolfo D. Pactolin, guilty of Falsification under Article 172 of the Revised Penal Code, and in the absence of any aggravating or mitigating circumstances, he is sentenced to suffer the indeterminate penalty of imprisonment of 2 years and 4 months of *prision correccional* as minimum to 4 years, 9 months and 10 days of *prision correccional* as maximum, to suffer all the accessory penalties of *prision correccional*, and to pay a fine of P5,000.00, with subsidiary imprisonment in case of insolvency to pay the fine.

SO ORDERED.

On the stated premise that the falsified document was not in the official custody of Pactolin, nor was there evidence presented showing that the falsification was committed by him while in the performance of his duties, the Sandiganbayan found him liable for falsification under the first paragraph of Art. 172, penalizing "any private individual who shall commit any of the falsifications enumerated in the next preceding article in any public or official document or letter of exchange or any other kind of commercial document."

Pactolin's motion for reconsideration was denied. Hence, he filed this petition, raising the following issues:

I. WHETHER OR NOT FALSIFICATION UNDER THE REVISED PENAL CODE IS WITHIN THE PURVIEW OF THE JURISDICTION OF THE SANDIGANBAYAN? [sic]

II. WHETHER RESPONDENT COURT GRAVELY ABUSED ITS DISCRETION AMOUNTING TO ACTING WITHOUT OR IN EXCESS OF JURISDICTION IN CONVICTING PETITIONER WHEN BY ITS OWN FINDINGS OF FACTS THE FALSIFIED DOCUMENT WAS NOT IN THE OFFICIAL CUSTODY OF THE ACCUSED NOR WAS THERE ANY EVIDENCE PRESENTED THAT THE FALSIFICATION WAS COMMITTED BY ACCUSED WHILE IN THE PERFORMANCE OF HIS OFFICIAL DUTIES? [sic]

Simply, the issues are: Did the Sandiganbayan have jurisdiction over the case? If so, did it gravely abuse its discretion when by its own findings the falsified document

was not in the custody of Pactolin, and he falsified the document while in the performance of his duties?

Pactolin claims that the Sandiganbayan has no jurisdiction over the crime of falsification. First, according to Pactolin, even as Republic Act No. (RA) 8249, known as *An Act Further Defining the Jurisdiction of the Sandiganbayan, amending for the Purpose P.D. 1606, as Amended, Providing Funds therefor and for Other Purposes*, vests the Sandiganbayan with exclusive jurisdictional authority over certain offenses, the following requisites must concur before that court can exercise such jurisdiction: (1) the offense is committed in violation of (a) RA 3019, as amended, known as *The Anti-Graft and Corrupt Practices Act*, (b) RA 1379 or *The Law on Ill-gotten Wealth*, (c) Chapter II, Section 2, Title VII, Book II of the RPC, (d) Executive Order Nos. 1, 2, 14, and 14-A, or (e) other offenses or felonies whether simple or complex with other crimes; (2) the offender committing the offenses in items (a), (b), (c), and (e) is a public official or employee holding any of the positions enumerated in Section 4, par. (a) of RA 8249; and (3) the offense committed is in relation to the office.^[3] Pactolin argues that these requisites show that the crime of falsification as defined under Arts. 171 and 172 of the RPC is not within the jurisdiction of the Sandiganbayan. He also points out that nowhere under Sec. 4 of Presidential Decree No. 1606, RA 3019, RA 1379, or in Title VII, Book II of the RPC is "falsification of official document" mentioned. He relies on *Bartolome v. People*^[4] as a case in point.

Our Ruling: The Sandiganbayan Has Jurisdiction

Falsification of public document under the RPC is within the jurisdiction of the Sandiganbayan. This conclusion finds support from Sec. 4 of RA 8249, which enumerates the cases in which the Sandiganbayan has exclusive jurisdiction, as follows:

Section 4. x x x

- a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

- (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade `27' and higher, of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:

- (a) Provincial governors, vice-governors, members of the **Sangguniang Panlalawigan** and provincial treasurers, assessors, engineers and other provincial department heads;

x x x x