

THIRD DIVISION

[G.R. NO. 146217, April 07, 2006]

**ANUNCIO C. BUSTILLO, PETITIONER, VS. SANDIGANBAYAN,
PEOPLE OF THE PHILIPPINES, ALFREDO S. LIM AS SECRETARY
OF THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT
(DILG), AND JEAN MARY PASCUA, RESPONDENTS.**

D E C I S I O N

CARPIO, J.:

The Case

This is a petition for certiorari^[1] of the Resolutions^[2] dated 28 August 2000 and 4 December 2000 of the Sandiganbayan. The 28 August 2000 Resolution ordered the suspension from office for 90 days of petitioner Anuncio C. Bustillo ("petitioner")^[3] pending the proceedings in Criminal Case No. 23076 for falsification of official documents. The 4 December 2000 Resolution denied petitioner's motion for reconsideration.

The Facts

In 1995, the Office of the Special Prosecutor ("OSP") charged petitioner, then incumbent mayor of Bunawan, Agusan del Sur, and his daughter Rowena Bustillo (collectively referred to as "accused"), in the Sandiganbayan with Falsification of Official Documents under Article 171 of the Revised Penal Code ("RPC") in Criminal Case No. 23076. The Information alleged:

The undersigned Special Prosecution Officer I, Office of the Special Prosecutor, hereby accuses ANUNCIO C. BUSTILLO and ROWENA G. BUSTILLO of the crime of Falsification of Official Documents, defined and penalized under Article 171 of the Revised Penal Code, committed as follows:

That on or about September 6, 1991, in Bunawan, Agusan del Sur, Philippines, and within the jurisdiction of this Honorable Court, accused ANUNCIO C. BUSTILLO, a public officer, being then the Municipal Mayor of Bunawan, Agusan del Sur, committing the crime herein charged in relation to, while in the performance and taking advantage of his official functions, and conspiring and confederating with accused ROWENA G. BUSTILLO, his daughter, did then and there wilfully, unlawfully and feloniously make it appear in official documents that municipal funds totalling THIRTY THOUSAND PESOS (P30,000.00) were expended for the purchase of lumber from Estigoy Lumber when, in truth and in fact, as both accused

well knew, said lumber were actually purchased from Rowena Woodcraft, a single proprietorship owned by accused Rowena G. Bustillo.^[4]

The accused were charged of falsifying three vouchers^[5] in which the name of the original payee was erased and replaced with "Estigoy Lumber." Rowena Bustillo received the payments covered by the vouchers.

The accused sought to quash the Information on the ground that the Sandiganbayan lacked jurisdiction over petitioner and that, at any rate, the Information did not charge an offense. The Sandiganbayan denied the motion.^[6] The accused apparently did not appeal this ruling.

In May 1998, the Sandiganbayan arraigned the accused who entered "not guilty" pleas. Trial ensued. After the prosecution rested its case, it moved for petitioner's suspension from office *pendente lite* under Section 13 of Republic Act No. 3019 ("RA 3019") or the Anti-Graft and Corrupt Practices Act, as amended by Batas Pambansa Blg. 195. Petitioner sought an extension of time to Comment on the motion. The Sandiganbayan granted the extension. However, despite the extension, petitioner still failed to file his Comment.

The Ruling of the Sandiganbayan

In its Resolution of 28 August 2000, the Sandiganbayan granted the prosecution's motion and suspended petitioner from office for 90 days. The Sandiganbayan held:

While the Information charges Falsification of Official Document[s,] it was clear from the wordings of the same, that the accused is being charged or indicted for a fraud involving public or government funds. Thus it says:

"x x x willfully, unlawfully and feloniously make it appear in official documents that municipal funds total[ing] P30,000.00 were expended for the purchase[] of lumber from Estigoy Lumber, when in truth and in fact, x x x said lumber were actually purchased from Rowena Woodcraft, a single proprietorship owned by accused Rowena G. Bustil[o x x x]"

At the risk of being tautological, the Court once again states what has been repeatedly held by the Supreme Court in many cases that upon determination of the validity of the information, it becomes mandatory for the court to issue the suspension order. In the case at bench, there is no dispute as to the validity of the information accused having to respond to the Motion for Suspension *Pendente Lite*, it behooves upon this Court to issue immediately the suspension order in consonance with the imperious mandate of the law.^[7]

Petitioner sought reconsideration but the Sandiganbayan denied his motion in the Resolution of 4 December 2000.

Hence, petitioner filed this petition for certiorari alleging that:

A. [THE] SANDIGANBAYAN ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION IN FINDING THAT THE INFORMATION AGAINST

PETITIONER IS VALID.

B. [THE] SANDIGANBAYAN ERRED AND COMMITTED GRAVE ABUSE OF DISCRETION WHEN IT ORDERED THE SUSPENSION OF PETITIONER BECAUSE SECTION 13 OF R.A. 3019 MANDATES THE SUSPENSION OF AN ACCUSED *PENDENTE LITE* CHARGED WITH OFFENSES DEFINED AND PENALIZED UNDER TITLE 7, BOOK II OF THE REVISED PENAL CODE YET THE CHARGE OF "FALSIFICATION OF OFFICIAL DOCUMENTS" FALLS UNDER TITLE 4, BOOK II OF THE SAME CODE, HENCE, EXCLUDED AS BASIS OF SUSPENSION FROM OFFICE.

C. [THE] SANDIGANBAYAN ERRED AND LIKEWISE COMMITTED GRAVE ABUSE OF DISCRETION IN ORDERING THE 90-DAY SUSPENSION OF [PETITIONER FROM OFFICE].^[8]

The Issues

The petition raises the following issues:

1. Whether the Information filed against the accused is valid; and
2. Whether petitioner's suspension from office *pendente lite* finds basis in Section 13 of RA 3019.

The Ruling of the Court

The petition has no merit.

On the Validity of the Information in Criminal Case No. 23076

Petitioner contends that the Information filed against him and his co-accused is invalid because it failed to allege the element of gain, the party benefited or prejudiced by the falsification, or that the "integrity of the [falsified] document was tarnished." Petitioner also invokes the findings of Special Prosecutor II Francis Ilustre, Jr. ("Ilustre") of the OSP who recommended the dismissal of the complaint against the accused.^[9]

Petitioner's contentions are futile.

The Sandiganbayan already settled the question of the Information's validity when it denied the motion of the accused to quash the same. That ruling had long become final. Thus, petitioner can no longer resurrect this issue.

At any rate, the allegation of intent to gain, the party benefited or prejudiced by the falsification, or tarnishing of a document's integrity, is not essential to maintain a charge for falsification of official documents. Such charge stands if the facts alleged in the Information fall under any of the modes of committing falsification under Article 171^[10] of the RPC. Here, the Information alleges that petitioner, a public officer, conspiring with a private individual (Rowena Bustillo), "feloniously ma[d]e it appear in official documents that municipal funds totalling [thirty thousand pesos]