

EN BANC

[G.R. No. 52341-46, November 25, 2005]

**DELIA PREAGIDO AND ULRICO BOLOTAULO, PETITIONERS, VS.
THE SANDIGANBAYAN AND THE PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before us is a petition for review on *certiorari* under Rule 45 of the Rules of Court filed by petitioners Delia Preagido and Ulrico Bolotaulo seeking annulment of the Decision^[1] dated December 28, 1979 of the Sandiganbayan rendered in Criminal Case Nos. 195, 196, 197, 198, 199 and 200 finding them guilty of 6 and 3 counts, respectively, of estafa thru falsification of official and commercial documents.

In a Resolution dated July 4, 1991, the instant petition was consolidated with another group of cases which were all petitions for review on *certiorari* from the joint decision of the Sandiganbayan dated October 24, 1990 in Criminal Case Nos. 1143-1341 and 5585-5782 finding accused-petitioners therein guilty on different counts of violation of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act.

However, the records of Criminal Case Nos. 195-200 were not included in the voluminous records of the consolidated cases. We learned from our Judicial Records Office that the original records of Criminal Case Nos. 195-200 were with the First Division of the Sandiganbayan. Thus, in a Resolution dated May 6, 2003,^[2] we directed the Clerk of Court of the First Division of the Sandiganbayan to elevate the records of the instant petition. In the same Resolution, we also effected the separation of the herein petition of Preagido and Bolotaulo from the other consolidated cases so as not to delay the disposition of the latter and considering that the instant petition involves the alleged anomalous transactions in the Tagbilaran City Engineering Office (CEO) committed in 1978 which are entirely different from the other consolidated cases which involved anomalous transactions in the Cebu Second Highway Engineering District in 1977 wherein neither of herein petitioners were accused.

Later, the Executive Clerk of Court III of the Sandiganbayan, Atty. Estela Teresita C. Rosete, submitted the original records and the transcripts of stenographic notes. She also filed a Manifestation wherein she informed us that despite her earnest efforts to locate some documentary exhibits, the same could no longer be found. Thus, in a Resolution dated March 23, 2004,^[3] we asked the Solicitor General to furnish us copies of the other unlocated exhibits listed in said Resolution as well as the counsel of herein petitioners to furnish us copies of their exhibits offered and marked for petitioners. We also directed them to manifest whether they are willing to dispense with the other unlocated exhibits and to submit the case for resolution

on the basis of the evidence already with us.

The Office of the Solicitor General (OSG) filed a Manifestation dated July 13, 2004 submitting the case for decision. Atty. Epifanio Bolando, petitioner Bolotaulo's new counsel, entered his appearance on December 19, 2004. Atty. Bolando filed his Compliance dated April 15, 2005 dispensing with the other exhibits and for submission of the case for resolution. He also informed us that petitioner Preagido had died on December 16, 2003.

On June 21, 2005, the Solicitor General, pursuant to our Resolution dated March 8, 2005 requiring him to verify and report the alleged death of petitioner Preagido, submitted a certified true copy of petitioner Preagido's death certificate issued by the Office of the City Civil Registrar, Cebu City. Petitioner Preagido's death during the pendency of her appeal extinguishes her criminal and civil liabilities. Thus, we will only resolve the appeal of petitioner Senior Civil Engineer Bolotaulo.

It is noteworthy to mention that when the instant petition was filed in 1980, the other co-accused of petitioner Bolotaulo in Criminal Case Nos. 195, 198 and 199 had separately filed their respective appeals which had been decided by us, to wit:

(1) Valentino G. Castillo vs. Sandiganbayan and the People of the Philippines, G.R.Nos. L-52352-57,^[4]

(2) Jose C. Bagasao vs. Sandiganbayan and the People of the Philippines, G.R. Nos. L-53813-53818,^[5]

(3) Isidoro Recamadas vs. Sandiganbayan and the People of the Philippines, G.R. Nos. L-53694-99,^[6]

(4) Rolando R. Mangubat vs. Sandiganbayan and the People of the Philippines, G.R.Nos. L-53724-29^[7]

where we affirmed the decision of the Sandiganbayan.

We adopt our factual findings in those cases which we now incorporate as an integral part of herein decision, to wit:

In the regional level, the requisition of funds for public works purposes, especially in the matter of road and bridge repairs, involves a graduated series of steps. As found by the respondent Sandiganbayan, it begins with the Sub-Allotment Advices (SAAs), as well as the Advices of Cash Disbursement Ceilings (ACDCs), issued by the Ministry of Public Highways in favor of its Highways Regional Offices. These serve as the Regional Offices' authority to obligate and disburse funds. In turn, these become the sources of funds of the various Engineering Districts apportioned throughout each region.

The Engineering District then requests for the release of these funds from the Regional Director through a Program of Work. The Regional Finance Officer issues a Letter of Advice of Allotment (LAA), certified as to availability of funds by the

Regional Accountant countersigned by the Regional Director, and addressed to the District (or City, as the case may be) Engineer. At the same time, he (the Regional Finance Officer) prepares a Sub-Advice of Cash Disbursement Ceiling (SACDC) for the Regional Director.

The LAA and SACDC are subsequently entered in a logbook. The funds requested are then released.

On the strength of such LAA and SACDC, the District then prepares a Requisition for Supplies or Equipment (RSE) as well as a Request for Obligation of Allotment (ROA), pursuant to the Program of Work. Both are likewise certified as to availability of funds by the Regional Accountant and approved by the Regional Director.

Thereafter, the Property Custodian or the Purchasing Officer, as the case may be, addresses Requests for Sealed Quotations to various suppliers, usually through newspaper advertisements or notices posted in conspicuous places in the District concerned. After ten days, the Sealed Quotations are submitted to the Price Verification Committee which determines the lowest bid in the presence of representatives of the District Engineer and the Auditor. An Abstract of Sealed Quotations is then signed by the members of the Committee as well as the said local representatives. Thereafter, and subject to the approval of the District Engineer, the proper award is made in favor of the lowest bidder. On the basis thereof, the Property Custodian issues a Purchase Order (PO) in favor of the winning bidder, again subject to the approval of the District Engineer and certified as to availability of funds by the Regional Accountant.

The supplies thus to be delivered are thereafter inspected (through Request for Inspection) by the Property Custodian. The deliveries themselves are recorded in a Tally Sheet after which a Record of Inspection, certified by the Property Custodian, is prepared by the representative of the Auditor and the Property Custodian.

Payment to the supplier is evidenced by a General Voucher (GV). Among others, the GV contains five parts; (1) a certification of receipt of supplies to be accomplished by the Property Custodian; (2) a certification of correctness, that is, that the expenses are necessary and lawful, and that the prices are not in excess of the current rates in the locality, to be accomplished by the Project Engineer; (3) approval by the District Engineer; (4) a certification, to be accomplished by the Auditor, that the GV has been properly approved, its account codes proper, and that it is supported by the proper documents; and (5) a certification that the GV has undergone pre-audit, to be accomplished by the Auditor.

The GV itself must carry with it the following: the RSE, ROA, Program of Work, Detailed Estimates, Request for Sealed Quotations, Abstract of Sealed Quotations, PO, Delivery Receipts, Request for Inspection, Record of Inspection, Test Reports, and Tax Clearance of the supplier.

The process winds up with the issuance of the check by the Cashier in the name of the supplier. Like the GV, the check is pre-audited and then released.

The District Accountant thereafter prepares a Report of Obligation Incurred (ROI) and a Report of Checks Issued (RCI) to be submitted to the Regional Office and entered in the journals and the General Ledger thereof. On the basis thereof, the Regional Accountant prepares a trial balance to be recommended by the Finance Officer and approved by the Regional Director. The same is then submitted to the Ministry of Public Highways.

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It appears that from May through June, 1978, the Tagbilaran City Engineering Office (CEO) embarked on certain projects involving the restoration of various roads and bridges in Tagbilaran City. Pursuant to five LAAs addressed to the Ministry of Public Highways purportedly issued by the Seventh Regional Highways Office on behalf of the Tagbilaran CEO, more specifically described as follows:

LAA No.	Date	Amount
107-780-05-78	April 29, 1978	P 150,000.00
107-0780-07-78	No date	26,000.00
107-780-012-78	April 24, 1978	48,100.00
107-780-014-78	April 24, 1978	150,000.00
107-780-011-78	No date	<u>100,000.00</u>
TOTAL		<u>P 474,100.00</u>

as well as six SACDCs, as follows:

SACDC No.	Amount
022-78	P 26,000.00
167-78	48,100.00
180-78	48,100.00
193-78	150,000.00
222-78	150,000.00
086-78	<u>225,830.00</u>
TOTAL	P 699,930.00

the Tagbilaran CEO prepared RSEs and ROAs for the procurement of materials and supplies, specifically, anapog binder, for the projects

aforementioned. All five LAAs were certified as to availability of funds by Rolando Mangubat, allegedly on behalf of Angelina Escaño, Finance Officer of the Seventh Regional Highways Office (Mangubat signed over her typewritten name) and countersigned by Jose Bagasao. The six SACDs were likewise signed by Mangubat for the Regional Director. The materials requisitioned were supplied by JV Sand & Gravel & Construction Supply, a private contractorship owned by James Tiu. Six GVs were prepared therefor, as follows:

GV No.	Program of Work	Amount
01-780601	Restoration of Shoulders, Tagbilaran North Road (TNR), Junction TNR-Airport Road, Junction TNR-Wharf Road and TCSR	P49,980.00
01-780606	Restoration of Shoulders, Tagbilaran North Road (TNR), Junction TNR-Wharf Road	49,980.00
01-780641	Restoration of Shourders, Tagbilaran Corella-Sikatuna Road	49,980.00
01-780682	Restoration, Totulan-Ubos-Dauis Bridge Approaches	49,980.00
01-780684	Restoration, Totulan, Ubos-Dauis Bridge Approaches	49,980.00
01-780694	Restoration, Junction, Tagbilaran East Road-Dauis Paulao Central Road Shoulders and Bridge Approaches	49,980.00
	TOTAL	P299,880.00 =====

representing partial payments in favor of JV Sand & Gravel & Constrution Supply, which has been named as a creditor therein. The GVs themselves were accompanied by various supporting papers, among them, the RSEs and ROAs earlier referred to.^[8]

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Eventually, the matter reached the Commission on Audit which constituted two teams to mount an inquiry.

The investigation disclosed that the above mentioned LAAs as well as SACDCs were spurious documents, and that the six GVs were in fact based on only two LAAs, Nos. 107-780-05-78 and 107-780-014-78. It was further established that the total sum requested under the said LAAs — P474,100.00 — supposedly to cover the Tagbilaran CEO's unliquidated obligations were not in fact supported by its statement of accounts, under which its total obligations totalled but P160,639.55. Moreover, the payee, JV Sand & Gravel & Construction Supply, was not listed in the City's books as a creditor, for which it could have been entitled to the