

EN BANC

[G.R. Nos. 98494-98692, July 17, 2003]

**ROGELIO ALVIZO, FLORITO MONTECILLO, POMPEYO ALMAGRO
AND CATALINO MAGNO, JR., PETITIONERS, VS. THE HONORABLE
SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R. NOS. 99006-20

**JOSELITO J. GENSON, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R. NOS. 99059-99259

**EFREN COYOCA, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R. NOS. 99309-18

**OSCAR BELCINA, PETITIONER, VS. THE HONORABLE
SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R. NOS. 99412-16 99436-99636

**HARVEY RUIZ, EDGAR OSMEÑA, GUILBERTO HERMOSA AND
ANICETO ARRIOLA, PETITIONERS, VS. THE HONORABLE
SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

G.R.NOS. 99417-21 99637-99837

**SANTOS CABUSAS AND SOFRONIO MAG-UYON, PETITIONERS,
VS. THE HONORABLE SANDIGANBAYAN AND PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

G.R. NOS. 99887-100084

**RAFAEL RABAYA, JR. AND NESTOR RABAYA, PETITIONERS, VS.
THE HONORABLE SANDIGANBAYAN AND PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

D E C I S I O N

AUSTRIA-MARTINEZ, J.:

Before us are the consolidated petitions for review on *certiorari* under Rule 45 of the Rules of Court filed by accused Rogelio Alvizo, Florito Montecillo, Pompeyo Almagro, Catalino Magno, Jr., Efren Coyoca, Oscar Belcina, Harvey Ruiz, Edgar Osmeña, Guilberto Hermosa, Aniceto Arriola, Santos Cabusas, Sofronio Mag-uyon, Rafael Rabaya, Jr., Nestor Rabaya and Joselito Genson which seek to annul the Decision dated October 24, 1990 of the Sandiganbayan^[1] in Criminal Cases Nos. 1143-1341 finding them guilty on different counts of violation of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, and the Resolution^[2] dated April 15, 1991 denying their respective motions for reconsideration.

The factual background of the consolidated petitions are as follows:

Sometime in 1978, a team from the Commission on Audit (COA) was organized by Sofronio Flores, Jr., the COA Region VII Director, to verify the alleged issuances of fake Letters of Advice of Allotments (LAAs) and Sub-Advices of Cash Disbursement Ceilings (SACDCs) during the period of 1976-1978 in various Highway Engineering Districts (HEDs) of Region VII. The special audit team was composed of auditors Victoria C. Quejada and Ruth Paredes. Then President Marcos also created a Special Cabinet Committee composed of the heads of the COA, Ministry of Justice, Office of the Budget and Management, Bureau of Treasury and the National Bureau of Investigation to investigate the fund anomalies in Region VII. This Special Cabinet Committee created a Special Task Force made up of various teams, among others, Team II, headed by Supervising Agent Amado de Coco to cover the Cebu 2nd HED. The task force worked with the Audit team and retrieved documents and records from the Regional Office and the Cebu 2nd HED. The Audit team found out that fake LAAs and SACDCs were issued in the year 1977 leading to irregular disbursements of public funds for the payment of "ghost" projects.

The investigations resulted in the filing of 397 criminal cases with the Sandiganbayan charging certain officials and employees of the government as well as private contractors with violation of the Anti-Graft and Corrupt Practices Act.

In the 198 cases docketed as Criminal Cases Nos. 5585-5782, the accused were officials and employees of Central Office of the then Ministry of Public Highways, Manila (MPH for brevity), now Department of Public Works and Highways. They were all acquitted by the Sandiganbayan for failure of the prosecution to prove their guilt beyond reasonable doubt.^[3]

In the 199 cases docketed as Criminal Cases Nos. 1143-1341, subject-matter of herein petitions, the following officials and employees of the Cebu 2nd HED were charged: Manuel de Veyra (Regional Director), Rolando Mangubat (Regional Accountant), Delia Preagido (Regional Accountant III), Santos Cabusas (District Property Custodian), Sofronio Mag-uyon (District Accountant), Adventor Fernandez (Highway District Engineer), Jose Genson (Highway District Engineer), Domingo Rayos (Highway District Engineer), Rafael Rabaya, Jr. (Assistant Highway District Engineer), Godofredo Lagura (Assistant Highway District Engineer), Nestor Rabaya (Material Testing Engineer), Oscar Belcina, Sr. (Civil Engineer), Rogelio Alvizo, (Civil Engineer), Florito Montecillo (Supervising Civil Engineer I), Catalino Magno, Jr.

(Supervising Civil Engineer), Perseverando Licen (Civil Engineer), Pompeo Almagro, (Civil Engineer), Efren Coyoca (Auditor), Harvey Ruiz (Auditor), Edgar Osmeña (Auditor), Fe delos Reyes (Auditing Examiner), Guilberto Hermosa, Aniceto Arriola and Graciano Navales, Jr. (COA Auditing Aides); together with private contractors/suppliers Rufino Nuñez, Antolin Jariol, Erasmo Gabison, Feliciano Echavez, Joselito Genson and Pablo Guinocor.

The 199 Informations are identically worded, except as to names of the persons charged, dates of the commission, amounts defrauded, and supplies/materials involved. We adopt the same format used by the Sandiganbayan in its decision by reproducing only the Information filed in Criminal Case No. 1143, leaving blank and unfilled the proper spaces corresponding to the above-mentioned particulars, thus:

That in, about and during the period from [period specified] in the City and Province of Cebu, within the jurisdiction of this Honorable SANDIGANBAYAN, the accused [name]^[4] all public officers and employees in the Ministry of Public Highways and Commission on Audit, Republic of the Philippines, conspiring, confederating, conniving and cooperating with each other, and conspiracy, confederation, connivance and cooperation with [name]^[5] a private contractor for the supply of materials, with manifest partiality, evident bad faith and/or inexcusable negligence in the discharge and performance of their official and administrative functions, did then and there unlawfully and feloniously cause undue injury, loss and prejudice to the Government of the Philippines by causing, allowing, approving and receiving the illegal and unauthorized disbursement and expenditure of public funds, out of the National Treasury, in the amount of x x x x x Philippine Currency, thru General Voucher No. x x x x x and charged against spurious and fake 'Letter of Advice of Allotment' (LAA) and fake 'Advice of Cash Disbursement Ceiling' (ACDC); supported by simulated and falsified public bidding proposals, abstract of sealed quotations, Requisitions, Purchase Order, Delivery Receipts, Inspection of Reports and Tally Sheets thus making it appear (1) that said expenditures and disbursements were legally funded out of authorized budgetary appropriations of the Ministry of Public Highways; (2) that the accounting and auditing rules and requirements on public biddings in relation to government purchases of equipment supplies and materials were complied with; (3) that a valid purchase order was prepared and approved; and (4) that ...worth ... were needed, ordered, delivered, receipted, inspected and consequently, paid for - when in truth and in fact, as all the aforementioned accused very well knew, that such were all false and falsified as same were prepared to merely give semblances of regularity of the transactions and as designed means to pursue and cover-up the fraud; and finally, upon receipt of the aforesaid amount the accused misappropriated, converted and misapplied the same for their own personal benefit, uses and gain thus, causing injury to the government in the aforesaid amount of ...

CONTRARY TO LAW.^[6]

The following tabulation specifies the data corresponding to the particulars alleged in each of the Information under which the petitioners are charged:

Crim. Case No.	Date of commission	Amount	GV ^[7] No.	Treasury Check No.	Material
1143	Dec. 1976 - Feb. 23, 1977	25,220.00	288	2400749	Aggregate base course
1144	Dec.-Feb. 28, 1977	38,446.92	145	959604	-do-
1145	-do-	47,530.00	261	240072	-do-
1146	-do-	27,645.00	139	959598	-do-
1147	Nov. 1976 - Feb. 1977	25,220.00	134	959592	-do-
1148	Dec. 1976- Feb. 28, 1977	40,123.08	138	959597	-do-
1149	Nov. 1976- Feb. 1977	47,530.00	133	959591	-do-
1150	Nov. - Feb.28, 1977	38,446.92	105	959563	-do-
1151	Nov. 1976 - Jan. 1977	40,123.00	77	959535	-do-
1152	Nov. 1976 - Feb. 1977	27,645.00	76	959534	-do-
1153	Feb. 28, 1977	37,927.81	71	959529	-do-
1154	Dec. - Jan. 1977	43,527.00	38	959495	-do-
1155	Nov. - Feb. 28, 1977	26,645.00	35	959492	-do-
1156	Nov. - Feb. 10, 1977	37,870.74	30	959487	-do-
1157	Nov. - Jan. 30, 1977	26,675.00	18	959475	-do-
1158	Nov. - Feb. 28, 1977	46,075.00	15	959472	-do-
1159	Nov. - Feb. 1977	40,699.26	08	959465	-do-
1160	Sept. 1977-Jan. 1978	40,740.00	1773	4217072	Bituminous concrete Surface Course
1161	Oct. 1976 - Jan. 1977	38,800.00	1769	4217068	Bituminous concrete surface course
1162	Sept. - Nov.30, 1977	38,800.00	1682	4216981	-do-
1163	Aug. - Nov. 1977	38,800.00	1556	4216480	-do-
1164	Aug.-Nov. 15, 1977	38,800.00	1497	4216421	-do-

1165	Aug.-Oct. 30, 1977	38,800.00	1397	2887321	-do-
1166	July-Oct. 15, 1977	38,800.00	1384	2887278	-do-
1167	July - Sept. 30, 1977	38,800.00	1286	2887208	-do-
1168	July - Sept. 30, 1977	38,800.00	1266	2887188	-do-
1169	Aug. - Nov. 1977	33,465.00	1481	4216405	Aggregate base course
1170	July - Oct. 1977	30,555.00	1362	2887286	-do-
1171	July - Sept. 30, 1977	29,100.00	1241	2887163	-do-
1172	Aug. - Nov. 1977	48,015.00	1462	4216386	-do-
1173	Aug.- Oct. 30, 1977	39,900.37	1402	2887326	Bituminous concrete surface course
1174	Aug.-Nov. 1977	48,132.18	1401	2887325	-do-
1175	Aug.-Oct. 30, 1977	48,158.56	1400	2887324	-do-
1176	-do-	48,301.34	1399	2887323	-do-
1177	Aug-Sept. 1977	48,253.23	1398	2887322	-do-
1178	July - Oct. 1977	47,118.19	1380	2887304	-do-
1179	-do-	48,364.59	1361	2887285	-do-
1180	July-Oct. 1977	43,650.00	1360	2887284	Aggregate base course
1181	-do-	32,010.00	1358	2887282	-do-
1182	Sept.-Nov. 15, 1977	29,100.00	1357	2887281	-do-
1183	July-Oct. 1977	48,283.40	1355	2887279	Bituminous concrete surface course
1184	July-Oct. 1977	43,650.00	1353	2887277	Aggregate base course
1185	-do-	48,384.13	1343	2887267	Bituminous concrete surface course