

THIRD DIVISION

[G.R. No. 139610, August 12, 2002]

**AUREA R. MONTEVERDE, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

PANGANIBAN, J.:

Time and time again, this Court has emphasized the need to stamp out graft and corruption in the government. Indeed, the tentacles of greed must be cut and the offenders punished. However, this objective can be accomplished only if the evidence presented by the prosecution passes the test of moral certainty. Where doubt lingers, as in this case, the Court is mandated to uphold the presumption of innocence guaranteed by our Constitution to the accused.

The Case

Before us is a Petition for Review under Rule 45 of the Rules of Court, assailing the April 29, 1999 Decision^[1] and February 3, 2000 Resolution^[2] of the Sandiganbayan (Second Division) in Criminal Case No. 18768. The dispositive portion of the assailed Decision reads as follows:

"WHEREFORE, premises considered, judgment is hereby rendered finding accused AUREA MONTEVERDE y RASUELO guilty beyond reasonable doubt of the crime of Falsification of Commercial Document under Article 172 of the Revised Penal Code, and in default of any mitigating or aggravating circumstances and applying the Indeterminate Sentence Law, she is hereby sentenced to suffer a prison term of SIX (6) MONTHS of Arresto Mayor as minimum, to SIX (6) YEARS of Prision Correccional as maximum, to pay a fine of Five Thousand (P5,000.00) pesos with subsidiary imprisonment in case of insolvency, with all the accessory penalties of the law, and to pay the cost.

"She shall be credited with the full period of any preventive imprisonment suffered, pursuant to and as mandated by Batas Pambansa Blg. 85.

"The facts from which the civil liability may arise not being indubitable, there is no pronouncement as to the same.

"The bailbond of herein accused is hereby ordered cancelled."^[3]

The assailed resolution denied petitioner's Motion for Reconsideration.

This case originated from the Information dated February 4, 1993, signed by Special Prosecution Officer Gualberto J. dela Llana with the approval of then Ombudsman Conrado M. Vasquez. Charging petitioner with estafa through falsification of commercial documents, the accusatory portion reads thus:

"That on or about January 17, 1991, or sometime prior or subsequent thereto, in Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being the Chairman of Barangay 124 of Zone 10, District 1, Malaya, Balut, Tondo, Manila with intent to defraud, and by taking advantage of [her] official position and to liquidate the funds donated/granted by the Philippine Games and Amusement Corporation submitted Sales Invoice No. 21568 dated January 17, 1991 in the amount of P13,565.00 allegedly issued by Sanford Hardware when in truth and in fact said sales invoice is falsified and later did then and there, willfully, unlawfully and feloniously misappropriate, misapply and convert the same to her personal use and benefit, to the damage of the Government and which crime was committed in relation to her office."^[4]

During her arraignment on April 5, 1993, petitioner, assisted by her counsel de parte,^[5] pleaded not guilty.^[6] After trial on the merits, the Sandiganbayan acquitted petitioner of the crime of estafa, but convicted her of falsification of a commercial document under Article 172 of the Revised Penal Code.

The Facts

Version of the Prosecution

The prosecution's version of the facts is curtly summarized by the Office of the Special Prosecutor (OSP) as follows:

"Petitioner Aurea A. Monteverde was from 1991 to 1993 the Barangay Chairman of Barangay 124 of Zone 10, District 1, Malaya, Balut, Tondo, Manila. In that capacity, she received the amount of P44,800.00 from the Philippine Amusement and Gaming Corporation (PAGCOR). The amount was spent for lighting, cleanliness and beautification programs of the Barangay. To liquidate the amount, she submitted a financial statement (Exhibits '1 to 1-A-3') with copies of sales invoices/receipts to PAGCOR.

"Sometime in August 1991, Antonio R. Araza, Jose Salvatierra, Santos L. Lopez, and Narciso Cruz, residents of Brgy. 124, charged Petitioner and Bella Evangelista, then Barangay Treasurer, with Malversation of the following funds: 1.) P82,500.00 from [the] Barangay General Fund; 2.) P44,800.00 from the PAGCOR; and 3.) P600.00 allowance of Kagawad Lito Galinda for the period July 16, to December 1990. The complaints were docketed as OMB-0-91-12694 and OMB-0-92-0643 (Exhs. A, B and C)."^[7]

Version of the Defense

The foregoing account is reiterated by the Office of the Solicitor General (OSG) in its Memorandum.^[8] The petitioner did not submit her own Memorandum, but merely adopted the position of the OSG which recommended her acquittal.

Version of the Sandiganbayan

The foregoing narration does not adequately explain the evidence. In fairness to the Sandiganbayan ("SBN" hereafter) which is being faulted with reversible errors by petitioner and the OSG, we deem it prudent to quote the facts and the evidence it relied upon in its assailed Decision, as follows:

"EVIDENCE FOR THE PROSECUTION

In its bid to establish the guilt of the accused beyond reasonable doubt, the People presented the following documentary evidence:

1. Exhibit A which is a letter complaint addressed to the Ombudsman dated September 2, 1991 signed by Santos Lopez, Narciso Cruz, Antonio Araza and Jose Salvatierra;
2. Exhibit B which is a Joint-Affidavit of the said four (4) complainants subscribed and sworn to before a Notary Public on September 8, 1991;
3. Exhibit C which is a letter dated June 13, 1991 signed by complainants Jose Salvatierra and Antonio Araza addressed to Mr. Manuel de la Fuente of the Chief Barangay Bureau, City of Manila;
4. Exhibit D which is the cover of the Booklet of Sales invoice[s]/Receipts of Sanford Hardware.
5. Exhibit D-1 which is the duplicate original copy of Sales Invoice No. 21568 dated July 20, 1981 listing only three (3) items;
6. Exhibit D-1-A which is a genuine machine copy of Exhibit D-1;
7. Exhibit E which is a machine copy of an official receipt with Aurea Monteverde appearing as buyer and listing eleven items as articles purchased;
8. Exhibit E-1 which is a certification of Luz Co, Manager of Sanford Hardware stating that Exhibit E is not a genuine reproduction of the duplicate original;
9. Exhibit F (offered lately) is a xerox copy of Invoice No. 21568 dated January 17, 1991;
10. Exhibit G is a machine copy of an undated letter signed by Bella Evangelista authorizing Antonio Araza to verify the authenticity of Invoice No. 21568 dated January 17, 1991 in the sum of P13,565.00 as well as witnesses Luz Co y Tan and Antonio Araza y Reposo.

"LUZ CO y TAN declared that she is the manager of Sanford Hardware since 1976, that Exhibit D-1 which is [a] duplicate copy of Invoice No. 21568 dated July 2, 1981 where the amount of purchase is only P157.00 is the invoice used by her firm in the conduct of its business; that Exhibit E was not her receipt and that she executed a certification to that effect (Exhibit E-1) when required by a male person; that she does not know the entries appearing in Exhibit E but the entries in Exhibit D-1 are of her business; that Sanford Hardware is owned by [her] sister-in-law Delia Co; that there are three copies of the sales invoice her business is issuing, and the third copy or last copy is the one left in the store, and that the one who approached her and asked about Exhibit E is one Narciso Cruz and when she answered that she did not issue Exhibit E she was requested to execute an affidavit; that she does not know accused Aurea Monteverde and that she had no delivery of hardware materials to the Barangay on January 17, 1991 (TSN May 14, 1993).

"It was the testimony of ANTONIO ARAZA that he is a resident of 2256 Malaya St., Balut, Tondo, Manila and that he secured a copy of Exhibits E and F from the Barangay Treasurer; that he brought the same to the owner of the Sanford Hardware for verification; that Luz Co to whom he talked x x x in said store manifested that said Exhibits E and F are not issued by the firm; and for which he requested Luz Co to issue a certification (Exhibit E-1); that after realizing that the receipts used by the accused are falsified receipts, he signed letter complaints and [a]

Joint-Affidavit together with Santos Lopez, Narciso Cruz and Jose Salvatierra, and charged the accused before the Ombudsman; that the money involved in this case are barangay funds because it was donated by the PAGCOR to the Barangay and he was able to secure a copy from the PAGCOR evidencing that it was donated to the Barangay but the copy was submitted to the Ombudsman; that the Barangay Treasurer lent to him the receipts with the advice to verify it from the proprietor of [the] Hardware and she even gave a letter of authorization to him (Exhibit G); that the P13,565.00 appearing in Exhibits E and F was not used to buy electrical materials or lightings, and the bulbs in the Meralco post were donated by Councilor Rene Jose (TSN March 18, 1994).

"EVIDENCE FOR THE ACCUSED

"The defense presented eighty-one (81) Exhibits with Exhibits 35 to 80 dealing with certificates of commendation in favor of the accused during her stint as Barangay Chairman from 1991 to 1993 and even prior to her being a Barangay Chairman. Exhibits 1 with its submarkings (Exhibits 1-A to Exhibits 1-A-3) is a letter of the accused addressed to Alice LI Reyes of the PAGCOR with attachment she captioned Financial Statement; Exhibits 2 to 15 are Sales Invoices/Receipts from different hardware stores and individuals while Exhibits 16 and 17 are pictures depicting a basketball court portion thereof being sub-marked, and Exhibits 18 to 32 are fifteen (15) pictures depicting different alleys at Barangay 124. Exhibit 33 is a turn-over certificate/record of the Barangay properties signed by the incoming Barangay Chairman with the third page submarked as Exhibits 33-A to 33-b-2; and Exhibit 34 is the counter-affidavit of the accused sworn to before a Notary Public on September 5, 1991. Exhibit 81 is a Joint-Affidavit of Alfonso Cua Jr. and Joel Magbanua.

"Aside from her, the accused presented ALFONSO CUA, JR. whose testimony is as follows: that he knows the accused to be the Chairman of Barangay 124 from 1991 up to 1992 while he was a Barangay Tanod in the said Barangay; that one project of the accused was the installation of lights or lighting the streets and playgrounds in the Barangay; that in January 1991 materials were delivered to the house of the Barangay Chairman (accused) and around three (3) days thereafter, he helped in the installation of the electrical materials consisting of electrical wirings, electrical tapes, bulbs, lamps and lamp covers, and it took them (he and the husband of the accused) about three Sundays in doing so; that he executed a Joint-Affidavit together with one Joel Magbanua in connection with the incident (Exhibit 81) (TSN April 2, 1997).

"Testifying in her behalf accused took the witness stand and declared:

'That she was the Barangay Chairman in Brgy. 124 since 1989 to 1994; that in January 1991 she received donation or cash money in the amount of P44,800.00 from PAGCOR which she used in Barangay projects like lighting, and cleanliness and beautification; that she reported the matter to PAGCOR and submitted [a] financial statement (Exhibits 1 to 1-A, 1-A-1); that when she purchased electrical and hardware items from Sanford Hardware she was issued a receipt (Exhibit 9) and considering Exhibit D-1 and D-1-A, it would appear that Sanford Hardware issued two (2) receipts; she denied the charge of Estafa thru Falsification of Commercial

Documents, and claimed that with the meager amount involved, she is not going to sacrifice her good name and reputation; she then identified x x x several awards she received (Exhibits 35 to 79); that she was the one who personally purchased the items in Exhibit F, and she actually paid the same in cash for which she was issued Exhibit 9 (Exhibit F and 9 contain the same items); that the receipt was issued in her name and the money was in her possession that was why it was she and not the Barangay Treasurer who personally made the purchase; that the PAGCOR check was issued in her name and was directly given to her and so she was the one who encashed the check accompanied by one of the councilors but she did not turn over the cash to the treasurer; that even after she came to know of the existence of Exhibit E, she did not go to Sanford Hardware to inquire about the said document; that the original of the said exhibit was given to her but she submitted it to PAGCOR. (TSN September 3, November 5, 1996 and April 1, 1997).^[9]

Ruling of the Sandiganbayan

The assailed Decision noted that petitioner was supposed to have been charged with the complex crime of estafa through falsification of a commercial document. However, there was no clear allegation in the Information that the falsification was a necessary means to commit the estafa.^[10] Nevertheless, going along “with the supposition” that a complex crime had been charged, the SBN held:

“Despite the ambiguity and disquietude, however, the court is constrained to go with the supposition that what has been charged is that of a complex crime, otherwise the logical consequence is that the accused has been indicted with two crimes - that of Estafa and that of Falsification of Commercial Document which is not beneficial to her.”^[11]

The anti-graft court acquitted petitioner of estafa, because there was no evidence that funds had been misappropriated or converted.^[12] Neither was there proof that petitioner had been required to account for the money received.^[13] Without these proofs, no conviction for estafa was possible.^[14]

However, the court a quo convicted her for allegedly falsifying the document she had submitted to show that the P13,565 donated by PAGCOR was used and spent for lighting materials for her barangay. According to the SBN, the falsification became very clear when the document was compared with another one purporting to be a duplicate original presented by the prosecution.^[15] While the prosecution did not present any proof evidencing that it was petitioner who had caused the falsification, the SBN relied on the presumption that in the absence of a satisfactory explanation, a person who is found in possession of a forged document, and who uses it, is the forger.^[16]

Nevertheless, petitioner was not convicted of falsification as defined by Article 171 of the Revised Penal Code, because there was no proof that she had taken advantage of her position in committing the crime.^[17] Instead, she was convicted of falsification under Article 172.^[18]

Hence, this Petition.^[19]

Issues