

## FIRST DIVISION

**[ G.R. No. 136462, September 19, 2002 ]**

**PABLO N. QUIÑON, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### DECISION

**YNARES-SANTIAGO, J.:**

This petition for review seeks to set aside the September 21, 1998 decision and the December 4, 1998 resolution of the Sandiganbayan<sup>[1]</sup> in Criminal Case No. 16279, convicting petitioner Pablo N. Quiñon of the crime of malversation of public property as defined and penalized under Article 217 of the Revised Penal Code.

The Information filed against accused-appellant reads:

That on or about March 14, 1988 or subsequent thereto, in Calinog, Iloilo, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, a public officer, being then the Station Commander of the Calinog, Iloilo PC/INP, and who by reason of the duties of his office is accountable for public properties that come to his possession and control, received in his official capacity the following firearms: two (2) super caliber .38 pistol and their magazines, with Serial Nos. 310136 and 310150, valued at P5,500.00 per pistol, with total value of P11,000.00; and one (1) 12 gauge shotgun, with Serial No. 242446 valued at P4,000.00, and with grave abuse of confidence, did then and there willfully, unlawfully and feloniously apply and convert to his personal use and benefit said firearms to the damage and prejudice of the government in the total amount of Fifteen Thousand Pesos (P15,000.00), Philippine Currency.

CONTRARY TO LAW.<sup>[2]</sup>

On May 13, 1991, petitioner pleaded not guilty. Petitioner, however, failed to appear when the case was set for pre-trial and trial from July 18, 1991 to February 23, 1993, allegedly due to hypertension.<sup>[3]</sup>

The facts as established by the prosecution: Petitioner Police Sergeant Pablo N. Quiñon was the Station Commander of Calinog, Iloilo, Philippine Constabulary-Integrated National Police (PC-INP), now Philippine National Police (PNP), from February 5, 1987 to March 14, 1988. During his incumbency and by reason of his functions as Station Commander, he was issued the following firearms and ammunitions under Memorandum Receipts duly signed by him, to wit:

Memorandum Receipt dated February 20, 1987:

1 each

Pistol Star Cal.  
38

|   |  |
|---|--|
|   | Sn<br>310150                             |
| 1 each                                      | Mag                                      |
| 1 each                                      | Pistol Star Cal.<br>38                   |
|   | Sn<br>310151                             |
| 6 Rounds                                    | Ammos Cal 38<br>w/ mag                   |
| 1 each                                      | Pistol Star Cal.<br>38                   |
|   | [Sn]<br>310136                           |
| 6 Rounds                                    | Ammos Cal.<br>38 w/ mag                  |
| 1 each                                      | Rifle M16<br>armalite Cal.<br>5.45       |
|   | Sn<br>157840                             |
| 40 Rounds                                   | Ammos Cal.<br>5.56 <sup>[4]</sup>        |
| Memorandum Receipt dated April<br>24, 1987: |  |
| 1 each                                      | Shotgun<br>Squire<br>Bingham 12<br>gauge |
|   | Sn<br>242446 <sup>[5]</sup>              |

On March 15, 1988, Police Sergeant Emilio Aviator assumed office as Station Commander of the Calinog, Iloilo, PC-INP, *vice* petitioner who was transferred to the 322nd Philippine Constabulary Co., at Camp Tirador, Iloilo. After an inventory of the firearms of the Calinog, Iloilo Police Station, it was discovered that petitioner did not turn over the firearms issued to him. Thus, Police Sergeant Aviator sent a radio message to petitioner demanding the return of the unaccounted firearms. Police Sergeant Aviator likewise sought the help of the Provincial Commander/Police Superintendent of the Iloilo PC-INP for the return of said firearms and ammunitions.<sup>[6]</sup>

Subsequently, petitioner surrendered one (1) unit M16 armalite rifle with Serial No. 157840 and one (1) pistol cal. 38 with Serial No. 310151 to the 322nd PC Co., at Camp Tirador, Iloilo, which in turn delivered said firearms to the Calinog, Iloilo Police Station. On March 17, 1989, Police Sergeant Aviator recovered the shotgun with Serial No. 242446 from a certain Rudy Penuela, an alleged asset or informer of petitioner when he was still the Station Commander of Calinog.<sup>[7]</sup>

Petitioner failed to return the two remaining .38 caliber pistols with Serial Nos. 310136 and 310150 despite demands of the Calinog Police Station. The value of the unaccounted firearms per the updated cost valuation dated July 30, 1984 of the

Ministry of National Defense, amounted to P5,500.00 each, or a total of P11,000.00.  
[8]

After the prosecution rested its case, the Sandiganbayan issued an order directing petitioner to present evidence on July 22 and 23, 1983. Petitioner again failed to appear on the scheduled dates despite notice. Hence, the Sandiganbayan considered his absence a waiver of his right to present evidence. Upon motion of the prosecution, the case was submitted for decision. Petitioner filed a motion for reconsideration claiming that he was denied due process, however, the same was denied by the Sandiganbayan.[9]

Hence, the instant petition for certiorari and prohibition docketed as G.R. No. 113908. Petitioner contended, *inter alia*, that he was denied due process of law and that the information filed against him does not charge an offense. The petition was denied for lack of merit.[10]

On August 7, 1998, the Sandiganbayan rendered judgment in Criminal Case No. 16279, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered, finding the accused guilty beyond reasonable doubt of the crime of malversation of public properties, more particularly of two .38 Cal. Pistols, with a total value of P11,000.00; and the Court hereby sentences the accused to suffer an indeterminate sentence of imprisonment of six (6) years and one (1) day of *prision mayor*, as minimum, to ten (10) years and one (1) day of *reclusion temporal*, as maximum, to pay a fine of P11,000.00 and also to suffer the penalty of perpetual special disqualification; and to pay the costs.

SO ORDERED.[11]

Petitioner's motion for reconsideration was denied and the decretal portion of the August 7, 1998 decision was amended with respect to the penalty, thus-

WHEREFORE, judgment is hereby rendered, finding the accused guilty, beyond reasonable doubt, of the crime of malversation of public properties, more particularly of two .38 Cal. pistols, with a total value of P11,000.00; and the Court hereby sentences the accused to suffer an indeterminate sentence of imprisonment of six (6) years and one (1) day of *prision mayor*, as minimum, to twelve (12) years and one (1) day of *reclusion temporal*, as maximum, to pay a fine of P11,000.00, and also to suffer the penalty of perpetual special disqualification and to pay the costs.

SO ORDERED.[12]

Hence, the instant petition on the following grounds:

## I

THE SANDIGANBAYAN PATENTLY ERRED IN HOLDING THAT PETITIONER IS AN ACCOUNTABLE PUBLIC OFFICER.

## II