

THIRD DIVISION

[G.R. No. 136266, August 13, 2001]

**EUTQUIO A. PELIGRINO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

PANGANIBAN, J.:

To convict the accused in a prosecution for the violation of Section 3(b) of the Anti-Graft Law, mere receipt of a gift or any other benefit is enough, even without any express demand for it. The duration of the possession is not controlling. Important are the appellant's words, action and reactions showing acceptance thereof. These are factual in nature and, absent any arbitrariness, abuse of discretion, or palpable error, the trial court's assessment of their presence or absence is generally binding on appellate review.

The Case

Before us is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, assailing the August 24, 1998 Decision^[1] and the November 16, 1998 Resolution^[2] of the Sandiganbayan, First Division, in Criminal Case No. 17086. The dispositive portion of the assailed Decision reads:

"WHEREFORE, premises considered judgment is hereby rendered, finding accused EUTQUIO A. PELIGRINO, GUILTY beyond reasonable doubt, as principal, of having violated Sec. 3(b) of R.A. 3019 as charged, and hereby imposes upon him in the absence of any modifying circumstances affecting criminal liability, an indeterminate prison term of SIX (6) YEARS and ONE (1) MONTH as minimum, to NINE (9) YEARS as maximum, with all the accessories of the law, to suffer perpetual disqualification from office, and to pay the cost.

"There is no pronouncement as to civil liability it being apparently clear that the amount of Three Thousand (P3,000.00) used in the entrapment has been returned to the offended party.

"Accused ATTY. BUENAVENTURA V. BUENAFE, on the other hand[,] is ACQUITTED on the basis of reasonable doubt, with cost de oficio.

"His bond is ordered cancelled and any Hold[-] Departure Order issued in this case is set aside and ordered lifted as to him."^[3]

The assailed Resolution denied the Motion for Reconsideration as follows:

"There being no adequate cause to set aside the decision herein, more particularly since the points raised by the accused in his motion for reconsideration dated September 2, 1998 have been adequately taken up in the decision, the said motion for reconsideration is denied."^[4]

This case originated from the Information filed on October 17, 1991 by Special Prosecution Officers Carlos D. Montemayor and Edna Herrera-Batacan. The accusatory portion reads thus:

"That on or about October 15, 1991, in Makati, Metro Manila, and within the jurisdiction of this Honorable Court, accused EUTIQUELO PELIGRINO y ALAAN, a public officer being then an Examiner II of Region IV-A of the Bureau of Internal Revenue, and as such [was] tasked among others, to examine or investigate Books of Accounts for Income and Business [t]ax [r]eturns earned by professionals (medical practitioners) in order to determine their compliance and/or tax deficiencies and to collect payments thereof, while in the performance of his official duties as such public officer, did then and there, willfully, unlawfully and criminally demand the amount of P200,000.00 from Dr. Antonio N. Feliciano, a practicing [g]ynecology [d]octor holding office at Pasong Tamo, Makati, Metro Manila, found by the accused to have incurred an alleged [d]eficiency income tax assessment of P500,000.00 for the calendar years 1988-1989, received P200,000.00, P51,858.57 was in the form of Prudential Bank Check No. 914077 dated October 15, 1991 payable to the Bureau of Internal Revenue as full payment of Dr. Feliciano's tax liabilities and the remaining balance to be appropriated to himself, to the damage and prejudice of Dr. Antonio Feliciano in the amount of P148,141.43 and the government in the amount equal to the deficiency income tax due it."^[5]

On February 25, 1992, the Information was amended to include Buenaventura V. Buenafe as co-accused. It is reproduced below:

"That on or about October 15, 1991 and/or for sometime prior thereto, in Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, accused EUTIQUELO PELIGRINO y ALAAN and BUENAVENTURA V. BUENAFE, both public officers, being then Examiner II and Supervisor, respectively, both of Region IV-A of the Bureau of Internal Revenue, Makati, Metro Manila, and as such are tasked, among others, to examine or investigate the Books of Accounts for Income and Business Tax and other accounting records of professionals (medical practitioners) and to determine their compliance and/or tax deficiencies after assessment, and to collect payments thereof, taking advantage of their public positions, while in the performance of said official duties as such public officers, conspiring, confederating and mutually helping each other, did then and there wil[l]fully, unlawfully and criminally demand directly from taxpayer Antonio N. Feliciano, a practicing [g]ynecology

[d]octor holding office at Pasong Tamo, Makati, Metro Manila, found by both accused to have incurred an alleged deficiency income tax assessment of P500,000.00 for the calendar years 1988 and 1989, the amount of P200,000.00 Philippine currency, for the purpose of applying a portion thereof in the amount of P51,858.57 as full payment for deficiency income tax due from said taxpayer for fiscal years 1988 & 1989 and the balance of P148,141.43 to be appropriated by both accused for themselves as gift or consideration for their promise to make as they did lower assessment for said fiscal years 1988 & 1989 in the amount of P51,858.57, which request or demand for money was in connection with a transaction between the government and Dr. Antonio N. Feliciano wherein both accused in their official capacities had to intervene under the law, and thereafter, accused Eutiquio A. Peligrino wilfully, unlawfully and criminally received the amount of P200,000.00 in behalf of both accused, to the damage and prejudice of Dr. Antonio Feliciano in the amount of P148,141.43 and the government in the amount equal to the deficiency income tax due it.”^[6] (Underscoring in the original.)

On August 28, 1992, the two accused, assisted by their respective lawyers,^[7] were arraigned. Both pleaded not guilty.^[8] On April 24, 1998, after full trial, the Sandiganbayan convicted petitioner of the offense charged, but acquitted his co-accused.

The Facts

Version of the Prosecution

The Sandiganbayan narrated the evidence of the prosecution in this wise:

“Stripped of the non-essentials, the prosecution’s evidence shows that about the last week of July or early August of 1991, accused Atty. Buenafe delivered a letter of authority dated July 4, 1991 (Exhibit K) to complainant Dr. Antonio N. Feliciano in the latter’s office at Valgozon Bldg., Pasong Tamo, Makati. Said Exhibit K is addressed to Dr. Antonio [N.] Feliciano signed by one Eufracio D. Santos a [d]eputy [c]ommissioner of the BIR stating inter alia that ‘x x x the bearer(s) hereof Revenue Officer Eutiquio Peligrino to be supervised by Buenaventura Buenafe is/are authorized to examine your books of accounts and other accounting records for income and business for the calendar/fiscal year(s) ending 1988 & 1989 x x x.’ Atty. Buenafe was referred to the accountant of the complaining witness.

“About two weeks later, the complainant received a telephone call from accused Atty. Buenafe asking him if his accountant had not told him anything, and when he (complainant) inquired from his accountant Ellen Quijano about the matter, he was informed that the accused were demanding half a million pesos. Surprised about the demand, since the books were not even examined, he instructed Ellen Quijano to further clarify the matter. Thereafter about Sept. 1991, Atty. Buenafe called him up requesting for a meeting in his (complainant’s) office.

"On October 10, 1991 accused Eutiquio Peligrino and Atty. Buenaventura Buenafe appeared in the complainant's office and told the latter that his tax deficiencies would amount to [f]ive [h]undred [t]housand [p]esos (P500,000.00)[.]

"Flabbergasted, because his books were not even examined, complainant entertained the idea that it was the beginning of an extortion, and he tried to negotiate for a smaller amount, and finally the two (2) accused agreed to the amount of [t]wo [h]undred [t]housand, of which [f]ifty [t]housand [p]esos would be paid to the BIR, and the rest to them. The pay-off would take place on that coming Monday. He immediately wrote a letter to the NBI (Exhibit A) requesting for assistance, and an NBI Agent Atty. Rafael Ragos, went to his office where they talked and arranged for an entrapment which was set on October 14. At around noon-time of the said date, he provided the NBI with the pay-off money consisting of [t]hree [t]housand (P3,000.00) pesos as the entrapment was scheduled at 4:00 p.m. Prior to this, he had executed an affidavit (Exhibit C). On the said entrapment date, October 14, 1991 neither accused appeared. The complainant further testified:

[']Q What happened next after October 14[?]

A We set it for the next day and I told the NBI people that I ha[d] a feeling that they [would] show up the next day and so early on the next morning the NBI came to my office.

PJ GARCHITORENA

Q On Monday, how many NBI agents came to your office?

A About two or three, Your Honor.

PROS. CAOILI

Q Now, at about what time did the NBI c[o]me to your office?

A They came before noon, sir.

Q And did the accused Atty. Buenafe and Mr. Peligrino appear on that date, October 15, 1991?

A Atty. Buenafe did not appear but Mr. Peligrino appeared at 4:00 p.m. in my office.

Q When Mr. Peligrino appeared in your office at 4:00 p.m., of October 15, 1991, what transpired?

A By this time I was already ready with the planted money in an envelope, brown Manila envelope and the NBI agents were already positioned and we ha[d] a pre-arranged signal that if I buzz[ed] or made a buzzer in the intercom that mean[t] that the money was accepted and they [would] come out and arrest Mr. Peligrino.

Q Now, were you able to hand the money to Mr. Peligrino?

A Yes, sir.

Q What did he do when he took hold of the money?

A He accepted the envelope and opened it and look inside and saw the money then close[d] it again and place[d] it in front of him.

Q What happened next?

PJ GARCITORENA

Q And after you turned over the envelope to him, you still ha[d] a conversation with him?

A No, your Honor, I immediately [pressed] the buzzer and then the NBI immediately c[a]me out.

PJ GARCHITORENA

Mr. Caoili.

PROS. CAOILI

Q When the NBI agents came to your room after pressing the button, what happened next?

A There was a commotion, sir, and it happened so fast that I don't remember anymore but they brought him out of my office with an instruction for me to follow.

Q Did you understand where to follow[?]

A Yes, sir, in the NBI office at Taft Avenue.

Q And did you do that Mr. Witness?

A Yes, sir.

Q Then what happened at the NBI office?

A I was asked to make an affidavit of what happened which I [did] and I signed it.
(TSN August 12, 1993 pp. 19-21)[']

"Corroborating the declaration of the complaining witness, witness Rafael Z. Ragos an NBI Agent testified that on October 11, 1991 he was handed a letter ([E]xhibit A) by NBI Deputy Director Antonio Aragon with instruction to handle the complaint of the author – Dr. Antonio Feliciano. He then contacted the physician – complainant and requested him to execute an affidavit (Exhibit C). After studying the affidavit, he decided together with other NBI agents to conduct an entrapment operation. Thus, 30 pieces of one-hundred peso bills were secured and submitted to the Forensic Chemist Section for marking. He made arrangement with Dr. Feliciano that on October 14, 1991, he, with the members of his team would standby at the office of the said doctor to conduct the entrapment. Nothing came out of their plan as the two (2) accused did not appear. The following day, he with 8 or 10 NBI agents returned to the office before lunch time and waited for the two (2) suspects. The arrangement was that, the NBI agents would stay in one of the rooms of the clinic, would wait for the signal of the Doctor which [was] the sound of the buzzer, and when the buzzer [was] heard they would proceed to arrest the subject of the operation.

"At around 4:30 p.m., accused Peligrino arrived, and so upon hearing the sound of the buzzer, he [Ragos], together with his co-NBI agents immediately proceeded to the room of Dr. Feliciano, and on seeing the accused in possession of the brown envelope which contained the marked money, arrested him, and made a body search on him. An inventory of the things found in the possession of the accused was made (Exhibit T). The following were seized from accused Peligrino: