

EN BANC

[G.R. No. 71523-25, December 08, 2000]

**ROLANDO SANTOS Y RAMIREZ, PETITIONER, VS.
SANDIGANBAYAN AND PEOPLE OF THE PHILIPPINES,
RESPONDENTS.**

[G.R. No. 72420-22]

**JESUS E. ESTACIO, PETITIONER, VS. SANDIGANBAYAN,
RESPONDENT.**

[G.R. No. 72384-86]

**ALFREDO R. FAJARDO, JR., PETITIONER, VS. SANDIGANBAYAN
AND PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

[G.R. No. 72387-89]

**MARCELO S. DESIDERIO, PETITIONER, VS. PEOPLE OF THE
PHILIPPINES AND SANDIGANBAYAN, RESPONDENTS.**

D E C I S I O N

BUENA, J.:

Challenged in these four separate petitions for review on *certiorari* is the Decision dated July 19, 1985^[1] of the Sandiganbayan disposing of Criminal Case Nos. 5949 to 5951 as follows:

"WHEREFORE, judgment is hereby rendered, finding accused Alfredo Fajardo, Jr. alias Boy Fajardo, Marcelo Desiderio y Silvestre, Jesus Estacio y Estrella and Rolando Santos y Ramirez alias Mickey Mouse, GUILTY as co-principals in the three (3) separate complex crimes of Estafa Thru Falsification of Public Documents and hereby sentences them as follows:

"1. In Criminal Case No. 5949, there being no modifying circumstance in attendance, each of said accused to suffer the indeterminate penalty ranging from FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correccional as the minimum, to TEN (10) YEARS and ONE (1) DAY of prision mayor as the maximum; to pay a fine of P5,000.00 each, to indemnify, jointly and severally, the Bank of the Philippine Islands and/or the Central Bank of the Philippines in the amount of P1 million representing the amount defrauded, and to pay their proportionate costs of said action;

"2. In Criminal Case No. 5950, there being no modifying circumstance in attendance, sentences each of said accused to suffer the indeterminate penalty ranging from FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correccional as the minimum, to TEN (10) YEARS and ONE (1) DAY of prision mayor as the maximum, to pay a fine of P5,000.00 each, to indemnify, jointly and severally, the Bank of the Philippine Islands and/or the Central Bank of the Philippines, in the amount of P3 million representing the amount defrauded, and to pay their proportionate share of the costs of said action;

"3. In Criminal Case No. 5951, there being no modifying circumstance in attendance, sentences each of them to suffer the indeterminate penalty ranging from FOUR (4) YEARS, TWO (2) MONTHS and ONE (1) DAY of prision correccional as the minimum, to TEN (10) YEARS and ONE (1) DAY of prision mayor as the maximum, to pay a fine of P5,000.00 each, to indemnify, jointly and severally, the Bank of the Philippine Islands in the amount of P5 million representing the amount defrauded, and to pay their proportionate share of the costs of said action.

"Accused Estacio, Fajardo, Jr., Santos and Desiderio appear to have been detained at the NBI as of February 16, 1982 by virtue of a Presidential Commitment Order, although all of them were later bonded and released on different dates, except Santos who has remained in custody up to the present. Accordingly, they should be granted the benefits of such preventive imprisonment under Article 29 of the Revised Penal Code, as amended, as follows: Santos from February 16, 1982 up to the date of the promulgation of this decision; Estacio up to April 29, 1985; Fajardo, Jr. up to April 26, 1982 and Desiderio up to April 19, 1982.

"Let copies of this decision be furnished the Hon. Governor, Central Bank; the Citibank; the Bank of the Philippine Islands and the Bankers Association of the Philippines for their information and guidance.

"SO ORDERED."

On April 15, 1982, the Tanodbayan filed with the Sandiganbayan three (3) informations for estafa thru falsification of public documents against Felipe Salamanca, Mariano Bustamante, Basilio Tan, Alfredo Fajardo, Jr., Jesus Estacio, Rolando San Pedro, Manuel Valentino, Rolando Santos, Marcelo Desiderio, Jaime Tan and Emilio Reyes.^[2] The informations filed were similarly worded except for the dates of commission of the crime charged, the number of the checks involved, and the amounts allegedly misappropriated. Thus:

"That on or about (October 19, 1981 in Crim. Case No. 5949, November 20, 1981 in Crim. Case No. 5950, and October 30, 1981 in Crim. Case No. 5951), in the City of Manila and within the jurisdiction of this Honorable Court, accused Manuel Valentino, employed as Bookkeeper detailed at the Clearing Office, Central Bank of the Philippines and accused Jesus Estacio y Estrella, employed as Janitor-Messenger of the Central Bank of the Philippines, and as such are public employees, with

abuse of confidence and taking advantage of their official position, in order to implement a plan or scheme to defraud the Bank of the Philippine Islands, Laoag City Branch, which plan or scheme was previously formulated and agreed upon by all the herein accused immediately prior to (October 19, 1981 in Crim. Case No. 5949, November 20, 1981 in Crim. Case No. 5950, and October 30, 1981 in Crim. Case No. 5951), accused Manuel Valentino pursuant to said plan or scheme, did then and there wilfully, unlawfully and feloniously and taking advantage of his official position and with intent to gain and to defraud, falsify the Clearing Statement prepared by the Central Clearing office of the Bank of the Philippine Islands and submitted to the Clearing Section of the Central Bank of the Philippines as well as the Manifest prepared by the Central Bank Clearing Office in connection thereto by crossing out the entry in the duplicate copies of the aforesaid Clearing Statement and Manifest which entries refer to Check No. (27101 in Crim. Case No. 5949, 27111 in Crim. Case No. 5950, and 27108 in Crim. Case No. 5951) and Check No. (27105 in Crim. Case No. 5949, 27118 in Crim. Case No. 5950 and 27121 in Crim. Case No. 5951) issued by accused Bustamante against his checking account at the Bank of Philippine Islands, Laoag City Branch, which has only an outstanding balance of P1,000.00 and which checks were deposited in the current account of Magna Management Consultant with the Citibank Greenhills Branch by accused Rolando San Pedro and as a result of the aforesaid falsification which made it appear that no such checks were submitted by the Bank of Philippine Islands to the Central Bank of the Philippines for clearing, the Bank of the Philippine Islands, Laoag City Branch has not issued any notice of dishonor or stop payment to the Citibank Greenhills Branch, and as a consequence thereof accused Rolando San Pedro was able to withdraw from the Citibank the full amount of the two checks amounting to (P1,000,000.00 in Crim. Case No. 5949, P3,000,000.00 in Crim. Case No. 5950, and P5,000,000.00 in Crim. Case No. 5951) and thereafter all the accused appropriated among themselves the proceeds thereof to their own personal use and benefit and to the damage and prejudice of the Central Bank of the Philippines or the Bank of the Philippine Islands, Laoag City Branch in the aforementioned amount of (P1,000,000.00 in Crim. Case No. 5949, P3,000,000.00 in Crim. Case No. 5950, and P5,000,000.00 in Crim. Case No. 5951)."

Upon arraignment, accused Fajardo, Jr. @ Boy Fajardo, Desiderio, Estacio, Valentino and Santos, assisted by their respective counsel, pleaded not guilty to the crimes charged.^[3] Salamanca, Basilio Tan, Jaime Tan, Reyes and Bustamante have remained at-large while San Pedro died. Upon agreement of the prosecution and the defense, a joint trial of the three cases was ordered conducted.^[4]

Estacio was first discharged as an accused to be utilized as a state witness.^[5] Later, he filed a motion for his re-inclusion in the information as an accused allegedly for the sake of the safety of his family. The Sandiganbayan granted his motion and thus he was re-included as an accused in Crim. Case Nos. 5949-5951.^[6] The prosecution also moved for the discharge of Valentino as an accused but the Sandiganbayan denied that motion. Exercising its discretion, the Sandiganbayan

eventually discharged Valentino from the three informations to be a state witness.^[7]

The antecedent facts that gave rise to the instant petitions are as follows:

Sometime in 1981, a syndicate masterminded by Felipe Salamanca infiltrated the Clearing Center of the Central Bank of the Philippines (Central Bank, for brevity). In its operation, the syndicate employed two schemes: the switching scheme, and the pilferage scheme.

In the *switching scheme*, a syndicate would open a current account with such banks as the Bank of America (BA) and the Philippine Veterans Bank (PVB) in Iloilo. As a matter of procedure, checks drawn on the BA were forwarded to the Central Bank for clearing. Upon receipt of those checks by the clearing clerk of the Central Bank, who was a member of the syndicate, he would substitute those checks with ones bearing the stamp of another bank. Thus, instead of forwarding the checks to the BA, these were misrouted to cause delay in the clearing procedure. Upon the lapse of the clearing period, the depositor would withdraw the amount of the checks. However, the scheme faltered as the huge amounts covered by the checks caused suspicion on the part of the PVB. It called up the BA to inquire about those checks and hence, the former bank discovered that the checks were insufficiently funded.

In the *pilferage scheme*, current accounts would be opened with a provincial bank, such as the Bank of the Philippine Islands (BPI), Laoag branch, and a city bank such as the Citibank-Greenhills, Manila. A BPI check deposited with Citibank would then be forwarded to the Central Bank clearing house where members of the syndicate, who were employed there, would pilfer the check and alter the Central Bank manifest and the entries in the clearing bank statements. The pilferage was intended to provide opportunity for the syndicate to blot out entries referring to the pilfered check. Consequently, BPI-Laoag would not know that a check drawn on it had been deposited with Citibank. After the lapse of the five-day clearing period, the syndicate would withdraw the amount deposited from Citibank simply because said bank would have considered the check cleared and funded, as no protest or notice of dishonor could be received from BPI-Laoag. In utilizing this scheme in the commission of the crimes charged in Criminal Case Nos. 5949 to 5951, the syndicate netted Nine Million Pesos (P9,000,000.00).

EVIDENCE FOR THE PROSECUTION

The prosecution offered the testimonies of sixteen (16) witnesses,^[8] and documentary evidence marked Exhibits "A" to "DD", and Annexes "B" to "QQ", with sub-markings, to prove the following:

On October 14, 1981, one Mariano Bustamante^[9] opened a savings account with BPI-Laoag with an initial deposit of P3,000.00: P2,000.00 of which was in check, and P1,000.00 in cash.^[10] That same day, he opened a current account with P1,000.00 as initial deposit in the same bank. Upon his request, a checkbook was issued to him.^[11]

That same month, Marcelo Desiderio, allegedly a representative of Magna Management Consultant, approached Maria Nieves Garrido, personal banker of Citibank-Greenhills, and requested signature cards and other requirements for the

purpose of opening a current account. Thereafter, Desiderio returned to the bank, submitted the required documents and duly accomplished forms, and made an initial deposit of P10,000.00. Thus, a checking account in the name of Magna Management Consultant was opened in Citibank-Greenhills with Rolando San Pedro as its representative. A checkbook was given to Desiderio.^[12]

On October 15, 1981, at the Ramada Hotel, Felipe Salamanca informed Manuel Valentino that two (2) checks were to be deposited with Citibank the following day. Salamanca instructed Valentino to watch out for those checks in the clearing house at the Central Bank. On October 16, 1981, two (2) checks in the amounts of Four Hundred Ninety-Eight Thousand Seven Hundred Nineteen Pesos (P498,719.00), and Five Hundred One Thousand Two Hundred Sixty Pesos and Thirty Centavos (P501,260.30) were indeed deposited with the Citibank-Greenhills under the current account of Magna Management Consultant, represented by Rolando San Pedro. On October 30, 1981, two (2) more checks were deposited at the same bank in the total amount of P3,000,000.00. Another deposit of checks was made on November 20, 1981 in the total amount of P5,000,000.00. All these checks were brought to the Central Bank Clearing Center.

The checks deposited on October 16, 1981 did not reach the Central Bank on that day, which was a Friday, but on Monday, October 19, 1981. Manuel Valentino, a bookkeeper at the Clearing Operations Division of the Central Bank, received from Jesus Estacio, a Central Bank janitor-messenger, the demand envelope containing the two (2) BPI-Laoag checks in the total amount of P1,000,000.00 in the comfort room on the fourth floor of the Central Bank administration building. Therein Valentino altered the amount of P1,076,416.95 by crossing out the amount of One Million Pesos. Thus, under the column "Total amount received", only the amount of P76,416.95 was reflected in order that BPI-Laoag would not look for the P1 million check.^[13] Valentino then brought the altered clearing statement back to the Clearing Center and prepared a Central Bank Manifest where he changed the figure in the original copy to tally with those in the altered clearing statement.

On October 30, 1981, the syndicate employed the same scheme. As soon as the demand envelope containing the BPI-Laoag checks arrived, Valentino took it and gave it to Jesus Estacio who then brought the same to the comfort room at the fourth floor. Valentino followed him there and took the two BPI checks amounting to P3,000,000.00, and altered the figures in the BPI Clearing Statement. Valentino thereafter brought said envelopes to the clearing house, and prepared the Central Bank Manifest, likewise altering the figures in the original to tally with the figures in the altered clearing statement.

At the last operation on November 20, 1981, the group followed the same procedure - Valentino asked Estacio to give him the demand envelope and the former then went to the comfort room. Valentino took the two BPI-Laoag checks in the total amount of P5,000,000.00 which he later gave to Salamanca. Again, he altered the figures in the clearing statement and those in the Central Bank Manifest so that these would conform with each other.^[14]

As a matter of procedure, the demand envelopes containing the checks intended for BPI-Laoag, the altered Central Bank Manifests, and the clearing statements were forwarded to the Regional Clearing Center. The pilfered checks deposited in the