

## **THIRD DIVISION**

**[ G.R. No. 127073, January 29, 1998 ]**

**JOSE P. DANS, JR., PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

**[G.R. NO. 126995. JANUARY 29, 1998]**

**IMELDA R. MARCOS, PETITIONER, VS. THE HONORABLE  
SANDIGANBAYAN (FIRST DIVISION), AND THE PEOPLE OF THE  
PHILIPPINES, RESPONDENTS.**

### **D E C I S I O N**

**ROMERO, J.:**

A man's signature, even if merely a flourish or even if indecipherable, may signify authority, agreement, acknowledgment and ownership. As indelible as his fingerprints, dental records or DNA genetic map, it denotes trust and honor. But the same trust and honor may be tainted by polluted intentions, as when signing is done in bad faith, or to perpetrate a fraud, to deceive others, or to commit a crime. The petitions at bar will illustrate how one's John Hancock can bring a man, or a woman for that matter, to ruin.

Sometime in 1984, then Minister of Human Settlements Imelda R. Marcos and then Transportation and Communications Minister Jose P. Dans, Jr., petitioners herein, entered into several contracts involving the Light Rail Transit Authority (LRTA) and the Philippine General Hospital Foundation, Inc. (PGHFI). Concurrently and respectively, Marcos and Dans served as ex-officio Chairman and ex-officio Vice-Chairman of the LRTA, and as Chairman and Director of the Board of Trustees of the PGHFI. By virtue of these agreements, which were authorized and in fact ratified by the LRTA Board of Directors, two vacant LRTA lots consisting of a 7,340-square meter parcel of land located in Pasay City (the Pasay lot), and a 1,141.20-square meter lot in Carriedo, Sta. Cruz, Manila (the Sta. Cruz lot), were leased out to the PGHFI. Specifically, the LRTA and the PGHFI, represented by Dans and Marcos, respectively, approved three deeds, namely, an "Agreement for the Development of the Areas Adjacent to the Light Rail Transit System Stations and the Management and Operation of the Concession Areas Therein,"<sup>[1]</sup> and two lease agreements<sup>[2]</sup> dated June 8 and June 18, 1984, covering the Pasay and the Sta. Cruz lots. The terms of the lease agreements were identical except as to the price: the lease would be good for 25 years subject to an annual escalation of 7.5%; PGHFI had the right to sublease the lots; and the monthly lease was P102,760.00 for the Pasay lot and P92,437.20 for the Sta. Cruz lot. Within the same month, the Pasay lot was subleased by PGHFI, through Marcos, to Transnational Construction Corporation (TNCC)<sup>[3]</sup> for P734,000.00 a month, while the Sta. Cruz lot was allegedly<sup>[4]</sup> subleased to Joy Mart Consolidated Corporation (Joy Mart)<sup>[5]</sup> for P199,710.00 per month.

Because of these deeds, petitioners were charged on January 14, 1992, with a violation of Republic Act No. 3019 (the Anti-Graft and Corrupt Practices Act), to wit:

Criminal Case No. 17449

"The undersigned Special Prosecution Officer I, Office of the Special Prosecutor, hereby accuses IMELDA R. MARCOS and JOSE P. DANS, JR. of Violation of Section 3(g) of RA 3019, as amended, committed as follows:

That on or about September 8, 1982, and for sometime prior or subsequent thereto, in Manila, Philippines, and within the jurisdiction of this Honorable Court, the accused IMELDA R. MARCOS and JOSE P. DANS, JR., public officers, being then the Chairman and Vice-Chairman, respectively, of the Light Rail Transit Authority (LRTA), a government corporate entity created under Executive Order No. 603 of the former President Ferdinand E. Marcos, while in the performance of their official functions, taking advantage of their positions and committing the crime in relation to their offices, did then and there wilfully, unlawfully and criminally conspiring with one another, enter on behalf of the aforesaid government corporation into an agreement for the development of the areas adjacent to the LRTA stations and the management and operation of the concession areas therein, with the Philippine General Hospital Foundation, Inc. (PGHFI), a private enterprise, under terms and conditions manifestly and grossly disadvantageous to the government.

CONTRARY TO LAW."

Criminal Case No. 17450

"The undersigned Special Prosecution Officer I, Office of the Special Prosecutor, hereby accuses IMELDA R. MARCOS and JOSE P. DANS, JR. of Violation of Section 3(g) of RA 3019, as amended, committed as follows:

That on or about June 8, 1984, and for sometime prior or subsequent thereto, in Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the accused IMELDA R. MARCOS and JOSE P. DANS, JR., public officers, being then the Chairman and Vice-Chairman, respectively, of the Light Rail Transit Authority (LRTA), a government corporate entity created under Executive Order No. 603 of the former President Ferdinand E. Marcos, while in the performance of their official functions, taking advantage of their positions and committing the crime in relation to their offices, did then and there wilfully, unlawfully and criminally conspiring with one another, enter on behalf of the aforesaid government corporation into a Lease Agreement covering LRTA property located in Pasay City, with the Philippine General Hospital Foundation, Inc. (PGHFI), a private

enterprise, under terms and conditions manifestly and grossly disadvantageous to the government.

CONTRARY TO LAW.”

Criminal Case No. 17451

“The undersigned Special Prosecution Officer I, Office of the Special Prosecutor, hereby accuses IMELDA R. MARCOS of Violation of Section 3(d) of RA 3019, as amended, committed as follows:

That on or about June 8, 1984, and for sometime prior or subsequent thereto, in Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the accused IMELDA R. MARCOS, a public officer, being then the Chairman of the Light Rail Transit Authority (LRTA), a government corporate entity created under Executive Order No. 603 of the former President Ferdinand E. Marcos, while in the performance of her official functions, taking advantage of her position and committing the offense in relation to her office, did then and there wilfully, unlawfully and criminally accepted employment and/or acted as Chairman of (the) Philippine General Hospital Foundation, Inc. (PGHFI), a private corporation duly organized under the laws of the Philippines, which private enterprise had, at that time(,) pending business transactions with the accused, in her capacity as Chairman of LRTA.

CONTRARY TO LAW.”

Criminal Case No. 17452

“The undersigned Special Prosecution Officer I, Office of the Special Prosecutor, hereby accuses JOSE P. DANS, JR. of Violation of Section 3(d) of RA 3019, as amended, committed as follows:

That on or about June 8, 1984, and for sometime prior or subsequent thereto, in Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the accused JOSE P. DANS, JR., a public officer, being then the Vice-Chairman of the Light Rail Transit Authority (LRTA), a government corporate entity created under Executive Order No. 603 of the former President Ferdinand E. Marcos, while in the performance of his official functions, taking advantage of his position and committing the offense in relation to his office, did then and there wilfully, unlawfully and criminally accepted employment and/or acted as Director of (the) Philippine General Hospital Foundation, Inc. (PGHFI), a private corporation duly organized under the laws of the Philippines, which private enterprise had, at that time(,) pending business transactions with the accused, in his capacity as Vice-Chairman of LRTA.

CONTRARY TO LAW.”

Criminal Case No. 17453

“The undersigned Special Prosecution Officer, Office of the Special Prosecutor, hereby accuses IMELDA R. MARCOS and JOSE P. DANS, JR. of Violation of Section 3(g) of RA 3019, as amended, committed as follows:

That on or about June 18, 1984, and for sometime prior or subsequent thereto, in Makati, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, the accused IMELDA R. MARCOS and JOSE P. DANS, JR., public officers, being then the Chairman and Vice-Chairman, respectively, of the Light Rail Transit Authority (LRTA), a government corporate entity created under Executive Order No. 603 of the former President Ferdinand E. Marcos, while in the performance of their official functions, taking advantage of their positions and committing the crime in relation to their offices, did then and there wilfully, unlawfully and criminally conspiring with one another, enter on behalf of the aforesaid government corporation into a Lease Agreement covering LRTA property located in Sta. Cruz, Manila, with the Philippine General Hospital Foundation, Inc. (PGHFI), a private enterprise, under terms and conditions manifestly and grossly disadvantageous to the government.

CONTRARY TO LAW.”

In short, Marcos and Dans were separately charged under Criminal Case Nos. 17451 and 17452 for accepting employment in and/or acting as Chairman and Director, respectively, of the PGHFI while the latter had pending business (the lease agreements) with the LRTA, which they both also headed. With regard to the other cases, Criminal Case Nos. 17449, 17450 and 17453, the accusations against both of them stemmed from the contracts they signed in representation of the LRTA and of the PGHFI which were allegedly entered into “under terms and conditions manifestly and grossly disadvantageous to the government.”

When arraigned, petitioners pleaded “not guilty” to all of the charges. Before trial could commence, Dans moved for the advance examination of defense witness Ramon F. Cuervo, Jr., a real estate broker, appraiser and friend of Dans who, as an expert witness, was in a position to inform the court that the agreed lease prices stated in the subject agreements were fair based on standard industry valuation standards. The court a quo granted said motion, and Cuervo was allowed to testify on August 12, 13, and 19, 1992. During this time, Marcos never questioned Cuervo and later expressed that she had no desire to further examine him.<sup>[6]</sup> Five days after the final hearing of Cuervo’s testimony, the trial of the five cases opened with the formal offer of the prosecution’s documentary evidence, which included, inter alia, the five agreements mentioned earlier. On November 23, 1992, the court issued an order admitting all the exhibits except Exhibits “D” and “E” as to Dans, who challenged the two sublease agreements, and Exhibit “E-1” as to Marcos, who, while accepting the validity of said sublease agreement, nevertheless questioned the authenticity of her signature thereon.

In Criminal Case No. 17543, Dans filed a Motion to Dismiss (demurrer to evidence) dated December 7, 1992, but the court denied the same, as well as his motion for reconsideration thereof.

By the time the case was submitted for decision, Marcos had neither submitted a formal offer of evidence, despite notice of the court's orders<sup>[7]</sup> to do so, nor the required memorandum. She did file a motion for inhibition of the justices of the Sandiganbayan's First Division on the ground of pre-judgment of her case based on the court's denial of Dans' demurrer to evidence, but this was denied in the court's resolution of May 20, 1993.

On September 24, 1993, the court a quo rendered judgment,<sup>[8]</sup> acquitting petitioners in Criminal Case Nos. 17449, 17451, and 17452, but convicting them in Criminal Case Nos. 17450 and 17453. The decretal portion of the assailed decision is reproduced hereunder:

"WHEREFORE, judgment is now rendered

1. ACQUITTING the accused IMELDA R. MARCOS and the accused JOSE P. DANS, JR. of the charge in Criminal Case No. 17449, there being no manifest and gross disadvantage brought about by the contract dated September 8, 1982;
2. ACQUITTING accused IMELDA R. MARCOS in Criminal Case No. 17451, it not having been demonstrated that the Information charging her had given her adequate notice of the acts for which she could be held liable under the law;
3. ACQUITTING accused JOSE P. DANS, JR. in Criminal Case No. 17452, it not having been demonstrated that the Information charging him had given him adequate notice of the acts for which he could be held liable under the law;

and considering that the charges against them have been proved beyond reasonable doubt

4. CONVICTING accused IMELDA R. MARCOS and JOSE P. DANS, JR. in Criminal Case No. 17450 under Sec. 3(g) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, and hereby imposes upon each accused the penalty of imprisonment for an indeterminate period of nine (9) years and one (1) day as minimum to twelve (12) years and ten (10) days as maximum.

Both accused shall also suffer the additional penalty of perpetual disqualification from public office as provided in Sec. 9 of R.A. No. 3019;

5. CONVICTING accused IMELDA R. MARCOS and JOSE P. DANS, JR. in Criminal Case No. 17453 under Sec. 3(g) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, and hereby imposes upon each accused the penalty of imprisonment for