

FIRST DIVISION

[G.R. Nos. 70168-69, July 24, 1996]

**RAFAEL T. MOLINA AND REYNALDO SONEJA, PETITIONERS, VS.
THE PEOPLE OF THE PHILIPPINES AND THE HON.
INTERMEDIATE APPELLATE COURT, RESPONDENTS.**

D E C I S I O N

HERMOSISIMA, JR., J.:

This is an appeal by certiorari under Rule 45 of the Revised Rules of Court whereby petitioners Rafael Molina and Reynaldo Soneja seek the review of the decision^[1] of the Court of Appeals^[2] affirming their conviction^[3] for the crimes of Estafa through Falsification of Public Documents^[4] and Violation of Section 3 (h) of Republic Act No. 3019, as amended,^[5] otherwise known as the Anti-Graft and Corrupt Practices Act.

Petitioners, together with Rudy Concepcion and Aristeo Arcilla, Jr. were charged before the then Court of First Instance of Catanduanes under Criminal Case No. 659 for Estafa thru Falsification of Public Document under Article 315 in relation to Article 171 of the Revised Penal Code allegedly committed in this wise:

"That on or about and during the period from August 1, 1977 to November 11, 1977, the above-named accused Rudy T. Concepcion, chief of the JMA Memorial Hospital, San Andres, Catanduanes, a government owned and operated institution; Reynaldo C Soneja, Administrative Officer and Cashier of the same hospital; Aristeo T. Arcilla, Jr., Bookkeeper of the same hospital and Rafael T. Molina, in his capacity as Assistant Provincial Auditor of Catanduanes, conspiring and confederating with one another, did then and there willfully, unlawfully and feloniously, with intent of gain, simulated and falsified public documents consisting of requisition and issue vouchers, canvass papers, bidders (sic) tenders, contract of sale, invoices and general vouchers, thereby making it appear that the D'Vinta Marketing Center owned and operated by Homer Tabuzo, sold and delivered to the JMA Memorial Hospital supplies consisting of 50 pieces of bed sheets, 25 pieces of patients (sic) gowns, 10 gallons of merthiolate, 10 gallons of lysol disinfectant and 10 gallons of muriatic acid, worth P7,610.00, thereby facilitating and making possible the issuance of Treasury Cheque Nos. SN 3-9982421 and SN 3-9982422 in the total amount of P7,610.00 payable to the order of the D'Vinta Marketing Center and cashed the aforesaid treasury cheques at the PNB Virac Branch by forging the signature of Homer Tabuzo making it appear in said cheques that the original payee indorsed the cheques to the accused Rafael Molina who also signed said cheques indorsing the

same to the accused Aristeo Arcilla, Jr., thereby enabling the said accused after cashing the cheques to appropriate or divide among themselves the amount of P7,610.00, to the damage and prejudice of the government who was defrauded in the aforesaid amount, and to the damage and prejudice of Homer Tabuzo, who suffered a besmirched reputation thereby entitling the latter to moral damages in the amount of P50,000.00."^[6]

Petitioners, together with said Rudy Concepcion and Aristeo Arcilla and one Oliver Vargas were charged before the same trial court under Criminal Case No. 658 for Violation of Section 3 (h) of R.A. 3019, as amended, purportedly committed in this fashion:

"That on or about and during the period from August 1, 1977 to November 11, 1977, the above-named accused Rudy T. Concepcion, Chief of the JMA Memorial Hospital, San Andres, Catanduanes, a government owned and operated institution; Reynaldo C. Soneja, Administrative Officer and Cashier of the same hospital; Aristeo T. Arcilla, Jr., Bookkeeper of the same hospital; Rafael T. Molina, in his capacity as Asst. Provincial Auditor of Catanduanes and Oliver F. Vargas, Checker-Inspector of the Provincial Auditor's Office, same province, conspiring and confederating with one another, did then and there willfully, unlawfully and feloniously simulated a contract or transaction making it appear that the D'Vinta Marketing Center, owned and operated by Homer Tabuzo, sold and delivered to the JMA Memorial Hospital supplies consisting of 50 pieces bed sheets, 25 pieces patients (sic) gowns, 10 gallons of merthiolate, 10 gallons of muriatic acid and 10 gallons of lysol disinfectant worth P7,610.00 by simulating and falsifying requisition and issue vouchers, canvass papers, bidders (sic) tenders, contract of sale, invoices and general vouchers, thereby making possible the issuance of Treasury Cheques Nos. SN 3-9982421 and SN 3-9982422 in the total amount of P7,610.00, as supposed payment for the above-described undelivered medical and/or hospital supplies which up to the present have never been delivered for the simple reason that the proprietor and manager of the D'Vinta Marketing Center had no knowledge whatsoever of the aforesaid illegal transaction defrauding the government in the amount of P7,610.00 thereby directly having financial or pecuniary interest in the aforesaid transaction in connection with which the above-named accused took part in their respective official capacities in which they are prohibited by law from having any such interests; said accused having appropriated and/or divided among themselves the aforesaid amount."^[7]

These two cases were jointly tried upon agreement of the parties.

The facts as adduced by the Solicitor General without objection from the accused in any of their subsequent pleadings are as follows:

"THE FACTS

8. On August 23, 1977, petitioner Reynaldo C. Soneja was the Administrative Officer, Cashier (sic) Supply and Disbursing Officer of Juan M. Alberto Memorial Hospital (JMA) of Virac, Catanduanes, a government-owned institution (p. 4, tsn., April 19, 1977). Accused Aristeo T. Arcilla, Jr., was the bookkeeper. On the other hand, accused Oliver Vargas was the checker-inspector of the Provincial Auditor's Office and petitioner Rafael T. Molina was the Assistant Provincial Auditor of Catanduanes (pp. 27-28, tsn., January 18, 1979; Exh. 'D', Envelope of Exhibits, unnumbered).

9. On November 11, 1977 at about 8:30 o'clock in the morning, Asuncion Tabuzo was in their house at Salvacion, Virac, Catanduanes. Her husband Homer Tabuzo left that morning for Manila (Exh 'J', p. 56, tsn., March 21, 1979). Molina arrived and asked her to give him an invoice of their business establishment, the D'Vinta Marketing Center (p. 101, tsn, March 21, 1979; p. 179, record). She refused as she was not authorized by her husband Homer to give their invoice (p. 102, tsn, *ibid*). Molina intimated to her that he will use the invoice to facilitate the processing of a check from JMA Memorial Hospital in favor of D'Vinta Marketing Center (p. 180, record). Molina left as she stood pat on her decision not to give him any invoices (p. 102, tsn, March 21, 1977; p. 180, record).

10. In the afternoon of the same day, Molina returned to the Tabuzo residence with Arcilla, Jr. With them were two Treasury Warrants (Nos. 9982421 and 9982422) payable to the order of D'Vinta Marketing Center (p. 180, rec.). Molina asked her to indorse the Treasury Warrants in his favor (pp. 102-103, tsn., *ibid*; p. 180, *ibid*). Again, she refused because her husband had no transaction with JMA Memorial Hospital (*ibid*). They left when they could not convince her (p. 104, tsn., *ibid*).

11. Later, Asuncion 's son, Ronald Tabuzo, went to their house (p. 104, tsn, *ibid*, p. 108, rec.). He came from PNB Virac Branch to withdraw from their savings deposit. He said that in the PNB Branch he saw Arcilla, Jr. cash two checks which are payable to the order of the D'Vinta Marketing Center (p. 180, rec.). Immediately, Asuncion went to the PNB Virac Branch and asked Manuel Romero, the teller, how the Treasury Warrant (check) Nos. 9982421 and 9982422 were encashed despite their non-indorsement by her and her husband (*ibid*). Romero explained to her that he thought the signatures on the two checks were the signatures of Homer Tabuzo; that the second indorsement contains what appears to be the genuine signature of Molina and that the third indorsement thereat appears to be by Arcilla, Jr. (*ibid*). In view thereof Manuel Romero claimed that he paid the amount of P7,610.00 to Arcilla, Jr. (pp. 27-31, tsn, March 21, 1979).

12. On November 12, 1977, Asuncion received a long distance call from Homer. She asked him if he had made deliveries of hospital and medical supplies to the JMA Memorial Hospital which would entitle him to the issuance of Check Nos. 9982421 and 9982422 in the total sum of P7,610.00. He said he had not. When informed that the aforesaid checks were already encashed by Molina and Arcilla, Jr., he instructed her (Asuncion) to file a formal complaint with the Fiscal's Office and to request the bank authorities to allow her to obtain xerox copies of the said checks (pp. 180-181, record). She went to the Fiscal's Office to file her complaint but due to the absence of the stenographer thereat, she had to proceed to the Headquarters, Catanduanes Constabulary Command, at Camp Francisco Camacho, Virac, Catanduanes, where she executed a sworn statement about the incident (pp. 179-181, rec.). She was also to get xerox copies of the two checks from the Acting Cashier of PNB Virac Branch Estelito Bagadiong (ibid).

13. On November 16, 1977, Homer Tabuzo arrived from Manila (pp. 56-60, tsn, March 21, 1979). On the following day, he went to the Headquarters of the Catanduanes Constabulary Command at Virac, where he also filed a formal complaint regarding the falsification of his signature in the invoice of his establishment as well as in the two checks encashed by Molina and Arcilla, Jr. In his sworn statement, he stated that the accused conspired with one another in simulating bidder's tender, canvass, contract, voucher and invoices to make it appear that he sold to the HMA (sic) Memorial Hospital supplies while in truth he had not. Furthermore, he stated that he did not deliver any hospital supplies because he did not enter into any contract with the said hospital. (p. 182, rec.; pp. 46-51, tsn, March 21, 1979).

14. On November 18, 1977, Sergeant Monico B. Peyra of the Catanduanes Constabulary Command conducted an investigation regarding the complaint of Homer Tabuzo and Concepcion Tabuzo; and, thereafter, or on November 21, 1977, he filed criminal complaint against the accused for violation of the Anti-Graft and Corrupt Practices Act, and Estafa thru Falsification of Public Documents with the Provincial Fiscal of Catanduanes (pp. 175-177, rec.). A preliminary investigation was conducted by Fiscal Edgardo S. Surtida (pp. 189-245, rec.).

15. On January 18, 1978, Salvador Echavez (sic), Officer-In-Charge of the Office of the Provincial Auditor of Virac, Cataduanes, appeared before Fiscal Surtida in compliance with the latter's subpoena duces tecum. He (Salvador Echano) brought with him several documents concerning the alleged purchased of (sic) D'Vinta Marketing Center (p. 31, tsn, January 18, 1979; pp. 209-213, rec.). The aforesaid documents were retrieved by Echano from the possession of accused Oliver Vargas (p. 31, tsn, ibid; p. 209, rec.).

From these documents, Fiscal Surtida found an undated voucher of JMA Memorial Hospital evidencing payment to D'Vinta Marketing Center in the sum of P2,110.00 for ten gallons of merthiolate, ten (10) gallons of Lysol and ten (10) gallons of muriatic acid (Exh. 'F'). The documents supporting aforesaid voucher (Exh 'G') are the following:

(a) Requisition and Issue Voucher dated August 23, 1977, for ten (10) gallons of merthiolate, ten (10) gallons of Lysol and ten (10) gallons of muriatic acid. In this voucher Soneja certified that the supplies requisitioned were necessary and will be used solely for the purpose stated. He further acknowledged receipt of the supplies requisitioned. Vargas wrote thereat the word 'Inspected' (Exhs. 'D', '4-A' and '4-b'). There was no certification made by Arcilla, Jr., as bookkeeper, that there are available funds (ibid).

(b) Canvass paper dated August 23, 1977 allegedly addressed to Virac Pharmacy of Catanduanes, for ten (10) gallons of merthiolate, ten (10) gallons of lysol and ten (10) gallons of muriatic acid. Said establishment allegedly gave the unit price of P99.00 for merthiolate, P69.00 for lysol and P52.00 of (sic) muriatic acid. This canvass was initialed by Soneja (Exh. 'A').

(c) Canvass paper dated August 23, 1977 allegedly addressed to Catanduanes Pharmacy, for ten (10) gallons of merthiolate with a unit price of P98.00, ten (10) gallons of lysol with a unit price of P68.00 and ten (10) gallons of muriatic acid with a unit price of P55.00. A certain 'B. Reyes' signing for the dealer gave the aforestated price. This canvass was also initialed by Soneja (Exh 'B');

(d) Canvass paper dated August 23, 1977 allegedly addressed to D'Vinta Marketing Center of Virac, Catanduanes, for ten (10) gallons of lysol and ten (10) gallons of muriatic acid, no unit cost stated, and initialed by Soneja (Exh 'C'). An illegible signature appears on the position 'signature of dealer' (ibid);

(e) An abstract of price quotations or Bid dated August 23, 1977, signed by Soneja as Administrative Officer and approved by Concepcion. This document reflected the requisition of JMA Memorial Hospital (Exh 'D') and canvass (Exhs. 'A', 'B' and 'C') for ten (10) gallons of merthiolate, ten (10) gallons of lysol and ten (10) gallons of muriatic acid, and awarded to D'Vinta Marketing Center. Virac and Catanduanes Pharmacies appeared to have made higher bids than that of D'Vinta Marketing Center (Exh. 'E');

(f) A Sales Invoice No. 0516 of D'Vinta Marketing Center, dated August 25, 1977. This document stated the delivery to JMA Memorial Hospital of ten (10) gallons of merthiolate for P95.00, ten (10) gallons of lysol for P680.00 and ten (10) gallons of muriatic acid for P480.00. Soneja affixed his signature below the