

## SECOND DIVISION

[ G.R. No. 197142, October 09, 2019 ]

**GIL "BOYING" R. CRUZ, PETITIONER, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

[G.R. No. 197153, October 9, 2019]

**SERAFIN N. DELA CRUZ AND DENNIS C. CARPIO, PETITIONERS, V. PEOPLE OF THE PHILIPPINES, RESPONDENT.**

### D E C I S I O N

**CAGUIOA, J:**

The instant consolidated Petitions for Review on *Certiorari*<sup>[1]</sup> filed by petitioner Gil "Boying" R. Cruz (Cruz), docketed as G.R. No. 197142; and by petitioners former Mayor Serafin N. Dela Cruz (Mayor Dela Cruz) and Dennis C. Carpio (Carpio), docketed as G.R. No. 197153, assail the Decision<sup>[2]</sup> dated September 10, 2008 and Resolution<sup>[3]</sup> dated May 30, 2011 of the Sandiganbayan in CRIM. CASE NO. 23147 finding them guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019 (RA 3019), otherwise known as the "Anti-Graft and Corrupt Practices Act" and imposing upon them the penalty of six (6) years and one (1) month imprisonment as minimum to ten (10) years imprisonment as maximum.

#### ***The Facts and Antecedent Proceedings***

A complaint for ejectment dated October 22, 1986 was filed before the Municipal Trial Court (MTC) of Bulacan by plaintiffs Maria Rosario Batongbacal, Celso S. Lazaro, Lauro S. Lazaro, Consorcia L. Santiago, Rodolfo L. Lazaro and Pablo R. Santiago against the defendants-spouses Marcelo L. Del Rosario and Amelia V. Del Rosario. The case was docketed as Civil Case No. 1526<sup>[4]</sup> and was raffled to the sala of the Hon. Manuel R. Ortiguerra (Judge Ortiguerra).

On November 17, 1989, the MTC decided in favor of the plaintiffs. The judgment of the MTC attained finality on December 27, 1989 and became entirely enforceable on December 27, 1990. On January 17, 1991, plaintiffs moved for the issuance of a writ of execution. Plaintiffs also filed a motion for the issuance of writ of demolition, which was favorably granted by the MTC. However, difficulties arose in the enforcement of the writ of execution and the writ of demolition which further necessitated the issuance of seven alias writs of execution and six alias writs of demolition.<sup>[5]</sup>

On March 5, 1993, herein petitioners Cruz, Mayor Dela Cruz and Carpio, together with Isidoro S. Mauricio (Mauricio) and Jose A. Aspuria (Aspuria) allegedly prevented the enforcement of the fourth alias writ of execution and third alias writ of demolition sought to be implemented.<sup>[6]</sup>

Feeling aggrieved, the husband and Attorney-in-fact of plaintiff Maria Rosario Batongbacal, Atty. Mario A. Batongbacal (Atty. Batongbacal), lodged a complaint before the Office of the Ombudsman.<sup>[7]</sup> Consequently, petitioners Mauricio and Aspuria, were indicted for violating Section 3(e) of RA 3019. The Information<sup>[8]</sup> against them reads as follows:

That on or about March 5, 1993, or sometime prior or subsequent thereto, in the Municipality of Bocaue, Bulacan, Philippines, and within the jurisdiction of this Honorable Court, accused Serafin M. dela Cruz, then Municipal Mayor; Gil "Boying" Cruz, then Acting Municipal Administrator; Dennis Carpio, then Secretary of the Sangguniang Bayan and Private Secretary to the mayor; and Isidoro S. Mauricio, then Municipal Assessor, all public officials of the Municipality of Bocaue, Bulacan, while in the performance of their official functions, and as such, taking advantage of the same, conspiring and confederating together and with accused Jose "Jerry" Aspuria, the brother-in-law of certain Alex Halili, with evident bad faith and manifest partiality, did then and there willfully, unlawfully and criminally obstruct and stop the execution of the Court's valid writs of execution and demolition of the structure illegally constructed on the lot owned by the wife of the complainant, thereby causing undue injury to the complainant and giving unwarranted benefits to certain Alex Halili.

CONTRARY TO LAW.<sup>[9]</sup>

When arraigned, petitioners pleaded not guilty to the offense charged. Pre-trial was held on December 12 and 13, 1996 and the Pre-Trial Order reflected the following stipulations agreed upon by the parties:

1. Accused Serafin M. Dela Cruz was a Municipal Mayor of Bocaue, Bulacan on or about March 5, 1989;
2. Gil "Boying" Cruz was an Acting Municipal Administrator on or about March 5, 1989 of Bocaue, Bulacan;
3. Dennis Carpio was a secretary of the Sangguniang Bayan and Private Secretary to the Mayor on or about March 5, 1989 of Bocaue, Bulacan;
4. Alex Halili is not a party in Civil Case No. 1526 entitled "Rosario Batungbakal v. Marcelo Del Rosario" of MTC Bulacan;
5. Civil Case No. 774-M-94 was already pending at the time the preliminary investigation of this case was on-going;
6. The Second Alias Writ of Execution dated September 15, 1992 and the Second Alias Writ of Demolition was issued on the same day;
7. No summonses were served on Alex Halili in Civil Case No. 1526;
8. No administrative case was filed against the then Presiding Judge of Bocaue, Bulacan, Manuel R. Ortiguerra for issuing the Order dated March 5, 1993 in Civil Case No. 1526 entitled "Ma. Rosario Batungbakal vs. Marcelo del Rosario"

holding in abeyance the implementation of the Writ of Demolition;

9. The building has been demolished in 1995; and
10. There is a subsequent issuance of writ of execution and demolition after the enforcement of the four writs.

Thereafter, trial ensued.

Version of the Prosecution

The prosecution presented the following witnesses: (1) Atty. Batongbacal, the private complainant in the instant case; (2) Bienvenido G. Villarente (Sheriff Villarente), Sheriff IV, Branch 17, Regional Trial Court (RTC) of Sta. Cruz, Sta. Maria, Bulacan; (3) Dioscoro B. Aligato (Aligato), Process Server of the RTC Bulacan; and (4) Gregorio M. Pagulayan (Sheriff Pagulayan), former Deputy Sheriff of Bulacan.

Atty. Batongbacal's testimony was summarized in the assailed Decision as follows:

He became a complainant in the instant case because he is the attorney-in-fact of his wife and the administrator of her paraphernal property. With respect to Civil Case No. 1526, a portion of the property involved therein is a paraphernal property of his wife.

Civil Case No. 1526 is a case for ejectment filed by his wife, Ma. Rosario Batongbacal, and her siblings and which involves a parcel of land leased by defendant-spouses Marcelo del Rosario and Amelia Villanueva del Rosario for purposes of putting up a commercial building. The court ruled in favor of the plaintiffs and the defendants were ordered ejected. After the finality of the judgment, he filed a motion for partial execution of the judgement. It was only for partial execution because although the lease was terminated, another term of one (1) year after its finality was provided and which includes the payment of arrears in rents. The partial execution covers the arrears in rents and the rental that have accrued from 1986, the date of execution of the judgment, until the possession of the land is returned to the plaintiffs. In the motion filed, no ejectment of the defendants was yet asked.

The partial writ of execution was partially satisfied. After which, he filed a motion for total execution but which was denied by the court. They then caused the filing of a motion for the issuance of a writ of total execution. This motion was for the purpose of collecting the arrears and for ejectment. However, the same was not satisfied as the defendants refused to pay and to vacate the premises. Because of such refusal, he filed a motion for the issuance of alias writs of execution and for motion for issuance of a writ of demolition against the defendants and those claiming rights under the names of the defendants. The motions were subsequently granted and the corresponding writs issued x x x.

In the original writ of demolition and the alias writ of demolition, a temporary restraining order was issued by the court. A suit for injunction was filed (Civil Case No. 780-90-91) by Manuel Salvador, Angeles Castro and another person whose shanties were erected behind the house and hardware of defendant-spouses Del Rosario (Civil Case No. 1526). The

petitioners for injunction were the employees of spouses Del Rosario. The petition for injunction was dismissed. Thereafter, a second alias writ of execution and a first alias writ of demolition was issued by the Court. The first alias writ of demolition was partially satisfied with the dismantling of the shanties by the petitioners themselves and the greater portion of the commercial building was dismantled. He then again caused the issuance of a third alias writ of demolition and a second alias writ of execution but which, just the same, were not satisfied due to the intervention of accused mayor Dela Cruz, Carpio, Cruz, Aspuria, together with Alexander Halili, who started intervening since the enforcement of the second alias writ of execution and the first alias writ of demolition. Alexander Halili is the son of a sub-lessee of the spouses Del Rosario who is Leopoldo Halili.

When the second alias writ of execution and the third alias writ of demolition were returned unsatisfied, he moved for the issuance of a third alias writ of execution and a fourth alias writ of demolition. The same were granted by the court and the corresponding writs were issued. Again, these writs were returned unsatisfied due to the interference and obstruction of the accused.

He filed a complaint-affidavit for violation of Articles 241 (Usurpation of Public Functions) and 243 against accused-public officers. He then filed the instant case.

He and his wife suffered damages due to the acts committed by the accused which deprived them of their right as owners and possessors of the property. Their right and the government's right to enforce the writs of demolition was also violated by the accused. The accused took advantage of their public positions and with bad faith, evident partiality, they conspired to execute an unlawful act. They (the accused) caused the delay and prevented the delivery of the property adjudged in favor of them in Civil Case No. 1526 which resulted to damages on their part.<sup>[10]</sup>

The assailed Decision likewise summarized Sheriff Villarente's testimony in this wise:

x x x He is currently employed as sheriff at the Regional Trial Court (RTC) of Branch 17, Malolos, Bulacan.

x x x x

He was first assigned to enforce the writ of execution and demolition in 1996, but was not able to enforce it because he was enjoined by the Regional Trial Court Branch 9.

He was only able to partially enforce the third alias writ of execution and the third alias writ of demolition. He demolished the store owned by Marcelo Del Rosario, the defendant in Civil Case No. 1526, and the other shanties at the back of the store. He, however, was not able to fully enforce the writ of demolition because, according to Mayor Serafin Dela Cruz, the land occupied by Alexander Halili was not included in the land of plaintiff Batongbacal. He was instructed by Mayor Serafin Dela Cruz to see him the following day (January 5, 1993).

Prior to enforcing the fifth alias writ of demolition, he wrote a letter dated February 6, 1995, to Atty. Batongbacal, the lawyer of the plaintiff in Civil Case No. 1526 and also the husband of the plaintiff, requesting for police assistance. He was prompted to do so when brothers-in-law Jose Aspuria and Alexander Halili warned him that something untoward will happen to him should he continue to demolish the house of Halili.<sup>[11]</sup>

Aligato's testimony was summarized in the assailed Decision, viz.:

On March 5, 1993, he was at the office of Regional Trial Court (RTC) Branch 16. He was visited by Sheriffs Villarente and Pagulayan who asked him if he has people who can help them in a demolition in Bocaue. He obliged and was able to find 18 persons composed of civilian and construction workers.

He was then instructed by Sheriffs Villarente and Pagulayan to proceed to Barangay Wakas, Bocaue.

He and his men arrived at the place around 10:00 o'clock in the morning. Sheriffs Villarente and Pagulayan then instructed him to demolish the building with "NO TRESPASSING" signboard. Sheriff Pagulayan told him to destroy the padlock and to start the demolition.

The building was only partially demolished because it was stopped by Mayor Serafin Dela Cruz together with his companions who were armed. The Mayor thereafter said something to his men who were demolishing the building.

He and Sheriff Pagulayan were brought at the office of the police in the municipal building of Bocaue as ordered by the Mayor. When Mayor Dela Cruz arrived at the office of the police, he instructed someone that they be investigated and be charged for trespassing. Afterwards, they were asked to proceed to the Office of the Clerk of Court.

The Clerk of Court told them that Judge Ortiguerra wanted to talk to them. Upon seeing the judge, he told them that they will first wait for the Mayor. When the Mayor arrived, he told them (he and Pagulayan) that he does not want to see their faces and then he (the mayor or him?) left.

x x x x

During the demolition, Mayor Serafin Dela Cruz ordered them to stop and told them, "*Itigil na yan, itigil na ang demolition na yan*". He saw firearms, long and short ones, but these firearms were not pointed at them. He and Sheriff Pagulayan were brought at the Municipal Building. Sheriff Villarente was not brought to the municipal building because he was not at the demolition site. He was not aware of an Order dated March 5, 1993 issued by Hon Judge Manuel Ortiguena which suspended the implementation of the writ.<sup>[12]</sup>

On the other hand, the assailed Decision summarized Sheriff Pagulayan's testimony in this wise: