

SECOND DIVISION

[G.R. No. 227371, October 02, 2019]

**CARLOS A. CATUBAO, PETITIONER, VS. SANDIGANBAYAN AND
THE PEOPLE OF THE PHILIPPINES, RESPONDENTS.**

DECISION

CAGUIOA, J:

Before the Court is a Petition for Review on *Certiorari* filed by the accused-appellant Carlos A. Catubao (Catubao) assailing the Decision^[1] dated April 6, 2016 (assailed Decision) and Resolution^[2] dated September 29, 2016 (assailed Resolution) of the Sandiganbayan in Criminal Case No. SB-11-CRM-0420, finding Catubao guilty beyond reasonable doubt of the crime of Direct Bribery.

The Facts

Acting on a complaint filed by Cornelio Ragasa (Ragasa) and Atty. Fernando Perito (Atty. Perito), an Information was filed by the Office of the Ombudsman (Ombudsman) against Catubao, the accusatory portion of which reads:

That sometime in December 2008 or sometime prior or subsequent thereto, in Guiuan, Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, CARLOS A. CATUBAO, a public officer being the Fourth Assistant Provincial Prosecutor of the Provincial Prosecutor's Office, Bacoar, Cavite, assigned to resolve criminal complaints filed in his Office, committing the offense in relation thereto, did then and there willfully, unlawfully and feloniously accept and receive the amount of three thousand pesos (P3,000.00) from one Cornelio Ragasa, a party litigation in I.S. Nos. B-07-5856 to 5858 and I.S. No. B-08-8161 and I.S. No. B-08-900, pending before him in consideration for expediting the resolution of said cases, to the damage and prejudice of public interest.

CONTRARY TO LAW.^[3]

During the arraignment on January 12, 2012, Catubao pleaded not guilty.^[4] Pre-trial and trial thereafter ensued.

Version of the Prosecution

The prosecution's version, as summarized by the Sandiganbayan, is as follows:

In 2007, estafa cases were filed against Cornelio Ragasa ("Ragasa"). He hired Atty. Fernando Perito ("Atty. Perito") as his lawyer. The cases were pending before the Office of the Provincial Prosecutor in Bacoor, Cavite and accused Catubao was then the handling prosecutor. For two years, the cases remained unresolved prompting Atty. Perito to personally follow them up with the accused several times. Accused Catubao asked him for "*pang inom*" whenever Atty. Perito makes a follow up. Before going on a Christmas vacation, they again met and it was there that the accused said he need[ed] money for he was leaving for Samar.

On December 19, 2008 and while in Guinan, Samar, accused Catubao called Atty. Perito asking any amount of money for a drinking session with his friends and mentioned that five thousand pesos (Php 5,000.00) will do. Atty. Perito immediately informed Ragasa about it. Ragasa proceeded to Atty. Perito's office and handed him said amount. Atty. Perito then ordered his secretary, Susan Remoquillo, to send only four thousand pesos (Php 4,000.00) to the accused through LBC Padre Faura.

Accused Catubao finally resolved the cases in favor of Ragasa. However, the resolution was denied by the Chief Provincial Prosecutor. Eventually, the case was reassigned to Fiscal Ferdinand Falafox.

Atty. Perito also testified that the accused had once asked him to prepare the resolution. Accused Catubao explained that he had no time to do it. Atty. Perito claimed that he drafted one but was not accepted by the Chief Prosecutor, Emmanuel Velasco, who was not convinced that the accused prepared it.

Atty. Perito then filed a complaint-affidavit on August 18, 2009 against accused Catubao before the Office of the Ombudsman for Luzon.^[5]

Version of the Defense

On the other hand, the version of the defense, as also summarized by the Sandiganbayan, is as follows:

Accused Catubao was assigned the estafa cases against Ragasa for purposes of conducting the preliminary investigation. Around September to December of 2008, Atty. Perito went to his office about three times to follow up the resolution of the cases. Accused explained that he had other cases to resolve that were submitted earlier than the estafa cases. Sometime in October 2008, Atty. Perito approached the accused telling him that he left his wallet. He asked the accused a favor since he needed to go home to San Pedro, Laguna. The accused gave him one thousand pesos (Php 1,000.00).

On December 19, 2008, accused was in his hometown in Guinan, Samar. Atty. Perito informed him through a text message that the former sent something for him which he can claim at the local LBC Branch. Accused Catubao expected Atty. Perito's payment of the Php 1,000.00 he lent him

so he replied, *"Thanks."*

After Christmas, he went to the town proper of Guinan which is about 18 to 20 kilometers away from his house. He remembered the text message and went to claim the money at the local LBC branch. He expected to receive Php 1,000.00 only but Atty. Perito sent him Php 4,000.00. He immediately called Atty. Perito and asked him why he sent such amount. Atty. Perito replied that he was just repaying the favor that accused extended to him and that he also won a case.

In January 2009, Atty. Perito continued following up on the estafa cases by calling and sending text messages. Accused repeatedly answered him that there are other cases earlier submitted for resolution. Atty. Perito became unfriendly and angry. To keep away from him, the accused then changed his cellphone number.

Early February of 2009, the accused resolved the estafa cases and submitted his resolution to the provincial prosecutor for approval. He informed Atty. Perito about it when the latter visited his office. Atty. Perito asked for a copy of the resolution but the accused refused explaining that it was not yet signed and released by the provincial prosecutor. Atty. Perito then said that he will file a case against the accused and he had evidence. The accused then realized that Atty. Perito set him up when he received the money sent through LBC.^[6]

Ruling of the Sandiganbayan

After trial on the merits, in its Decision^[7] dated April 6, 2016, the Sandiganbayan convicted Catubao of the crime charged. The dispositive portion of the said Decision reads:

ACCORDINGLY, accused **Carlos A. Catubao** is found **guilty beyond reasonable doubt** for violation of Article 210 of the Revised Penal Code and sentenced to suffer in prison the indeterminate penalty of **7 years 4 months and 1 day of prision mayor, as minimum, up to 8 years and 8 months of prision mayor, as maximum**. He has to pay the fine of Nine Thousand Pesos (Php 9,000.00) and to suffer the penalty of special temporary disqualification from holding any public office.

SO ORDERED.^[8]

The Sandiganbayan ruled that all the elements of the crime had been sufficiently proved by the prosecution. The Sandiganbayan held that, based on the evidence, Catubao solicited and received a gift from Atty. Perito to expedite the resolution of the estafa cases of Ragasa pending before him. Thus, Catubao received a gift in consideration for doing an act, though not constituting a crime in itself, but was related to the exercise of his functions as a public officer.

Catubao filed a motion for reconsideration, but the same was denied by the

Sandiganbayan through a Resolution^[9] dated September 29, 2016.

Hence, Catubao filed the instant appeal.

Issue

For resolution of this Court is the issue of whether the Sandiganbayan erred in convicting Catubao of the crime of Direct Bribery.

The Court's Ruling

The appeal is impressed with merit. The Court acquits Catubao of the crime of Direct Bribery because of reasonable doubt.

In questioning his conviction, Catubao relies on supposed contradictions in the testimonies of Ragasa and Atty. Perito. For instance, he points out that Atty. Perito testified that he called Ragasa after the former's phone conversation with Catubao. He then compared the said testimony with Atty. Perito's other testimony that he was in a car with Ragasa when Catubao called Atty. Perito to ask for money,^[10] arguing then that Atty. Perito could not have called Ragasa afterwards as they were supposedly together in the latter's car. He also points out that Atty. Perito testified that he only asked for money from Ragasa on December 19, 2008 — as the supposed phone call between Atty. Perito and Catubao only happened on the same date — but Ragasa testified that he gave Atty. Perito the money before that date, or around December 17 or 18, 2008.^[11]

He also claims as inconsistent Atty. Perito's testimonies as to when Catubao would ask money from him and/or his client. In one instance, Atty. Perito testified that Catubao asked money from him whenever they would meet in the corridors of Regional Trial Courts (RTCs), but then Atty. Perito likewise testified that Catubao asked money from him when they were in the office of the Provincial Prosecutor in Bacoor, Cavite.^[12] He likewise insists that, contrary to Atty. Perito and Ragasa's claims, the estafa cases involving Ragasa were not pending in his docket for two years, but instead were only pending with him for months.^[13]

The Sandiganbayan, however, simply dismissed his contentions, explaining that the inconsistencies referred to were just minor inconsistencies which did not discredit their credibility.^[14]

To recall, the crime of direct bribery as defined in Article 210 of the Revised Penal Code consists of the following elements: (1) that the accused is a public officer; (2) that he received directly or through another some gift or present, offer or promise; (3) that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which is his official duty to do; and (4) that the crime or act relates to the exercise of his functions as a public officer.^[15]

The existence of the first element of the crime is undisputed, it being established by the prosecution, and admitted by Catubao himself, that he held the position of Forth Assistant Provincial Prosecutor in the Office of the Provincial Prosecutor in Cavite at

the time of the incident complained of.

The second element is also undoubtedly present. As the Sandiganbayan found:

There is likewise no question that the accused received a gift or present by himself. Accused Catubao received the amount of Php 4,000.00 from Atty. Perito's client, Cornelio Ragasa. He personally claimed the amount from the local LBC Branch in Guiuan, Samar while he was there [in] December 2008. There was a clear intention on his part to accept and take the money sent and consider it as his own. He pocketed the money. His defense that he only received the amount as a return of a favor he extended to Atty. Perito does not convince this Court to free him from liability.

The records and the evidence establish that sometime in October of 2008, Atty. Perito went to the accused to tell the latter that he lost his wallet. As a kind gesture, the accused gave Atty. Perito the amount of Php 1,000.00 since the latter had to travel to his residence in San Pedro, Laguna. The fact that accused Catubao lent Php 1,000.00 to Atty. Perito as testified by a Mr. Regino Monzon, a staff of the Regional Trial Court of Bacoor, was given probative weight by the Office of the Ombudsman. However, assuming *arguendo* that the Php 1,000.00 was repayment of the money the accused lent Atty. Perito, there was no effort on his part to return the Php 3,000.00. He admitted that he did not return the Php 3,000.00. His excuse that the excess was a gift from Atty. Perito in appreciation of his kindness and it was a "*balato*" for a case he won does not hold water. The amount is three times more than the money he lent him. Considering the Php 3,000.00 as a return of a favor amounting to a mere Php 1,000.00 he once lent the lawyer of a party litigant is not sufficient to lead this Court to accept such absurd defense.^[16]

It is an established fact, therefore, that Catubao received a *gift* of at least P3,000.00 from Atty. Perito and Ragasa. There is thus no doubt that the second element is present.

The fourth element is likewise undoubtedly present because the resolution of the estafa cases filed against Ragasa indubitably relates to the exercise of his functions as a public officer.

The third element, however, was not duly proven. The third element of the crime requires that the gift be given in consideration of the accused's commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his official duty to do.

In the present case, the prosecution claimed, and the Sandiganbayan believed, that the P3,000.00 was solicited by Catubao in exchange for finally acting on the estafa cases filed against Ragasa that were then pending before Catubao. Catubao, on the other hand, claims that it was only (1) a "return of favor" because he previously lent Atty. Perito P1,000.00, and (2) a "*balato*" because Atty. Perito told him that Atty. Perito just won another case.