

SECOND DIVISION

[G.R. No. 227577, January 24, 2018]

**ANGEL FUELLAS DIZON, PETITIONER, V. PEOPLE OF THE
PHILIPPINES, RESPONDENT.**

DECISION

PERLAS-BERNABE, J.:

Before the Court is a petition for review on *certiorari*^[1] assailing the Resolutions dated June 16, 2016^[2] and October 6, 2016^[3] of the Court of Appeals (CA) in CA-G.R. CR No. 37292, which denied petitioner Angel Fuellas Dizon's (petitioner) Motion to Endorse the Case to the *Sandiganbayan* (Motion to Endorse).^[4]

The Facts

This case stemmed from six (6) separate Informations^[5] filed before the Regional Trial Court of Manila, Branch 42 (RTC), respectively docketed as Criminal (Crim.) Case Nos. 09-272518 to 23, charging petitioner of the crime of Malversation of Public Funds through Falsification of Public Documents. The accusatory portion of the Information in Crim. Case No. 09-272518 reads as follows:

That on or about July 4, 2006, in the City of Manila, Philippines, the said accused, being then an employee of the Manila Traffic and Parking Bureau, City of Manila, holding the position of Clerk II, hence, a government and/or public employee, entrusted in the collection of parking fees from various establishments with the corresponding obligation on the part of the accused to remit the collections made by him and submit the triplicate copy of the official receipt to the City Treasurer of Manila and therefore, responsible and accountable for the funds collected and received by him by reason of his duties as such, with intent to defraud the City Government of Manila, did then and there willfully, unlawfully and feloniously commit the crime of malversation of public funds through falsification of public document, in the following manner, to wit: the said accused prepared, forged and falsified and/or caused to be prepared, forged and falsified Official Receipt (OR) No. 3272946 C which is similar and/or an imitation of the Official Receipt No. 3272946 C issued by the City Treasurer of the City of Manila and therefore, a public document, by then and there printing and/or causing to be filled in the blank spaces thereon, consisting, among others, the date "7/4/06" and the amount of Php200.00, thereby making it appear as it did appear, the said O.R. No. 3272946 C in the said amount Php200.00 is genuine as he remitted the sum of Php200.00 to the City Treasurer of Manila and submitted the triplicate copy of said receipt in the said amount of Php200.00, when in truth and in fact, as the said accused fully well knew, such is not the case in that said document is an

outright forgery because the true and original amount appearing in the original O.R. No. 3272946 is Php12,000.00 and not Php200.00, thus, having the difference of Php11,800.00, and once in possession of the said amount of Php11,800.00, said accused, with intent to defraud and grave abuse of trust and confidence, did then and there willfully, unlawfully and feloniously misappropriate, embezzle and take away from the funds of the City Government of Manila the said amount of Php11,800.00 which he misappropriated, misapplied and converted to his own personal use and benefit, to the damage and prejudice of City Government of Manila, represented by Franklin Gacutan, Jr., in the aforesaid amount of Php11,800.00, Philippine Currency.

Contrary to law.^[6]

The Informations in Crim. Case Nos. 09-272519 to 23 are similarly worded with the foregoing, except that they pertain to different official receipts (O.R.), all issued to Golden Fortune Seafood Restaurant,^[7] namely: (a) in Crim. Case No. 09-272519, O.R. No. 0478598^[8] issued on August 7, 2006; (b) in Crim. Case No. 09-272520, O.R. No. 0478666 ^[9] issued on October 10, 2006; (c) in Crim. Case No. 09-272521, O.R. No. 0478682^[10] issued on October 17, 2006; (d) in Crim. Case No. 09-272522, O.R. No. 5069801 issued on November 7, 2006; and (e) in Crim. Case No. 09-272523, O.R. No 5442301 issued on February 5, 2007^[11] (collectively, subject receipts).

The prosecution averred that petitioner, being then an employee of the Manila Traffic and Parking Bureau of the City of Manila with the position of Special Collecting Officer, was entrusted to collect monthly parking fees from various establishments, and subsequently, forward such fees, together with the triplicate copies of the corresponding O.R.s, to the City Treasurer of Manila.^[12] In the course of petitioner's employment, several discrepancies were discovered in the parking receipts which he allegedly signed and issued, whereby the amounts paid, collected, and remitted as parking fees do not match with each other.^[13] Thus, the City Legal Office of Manila instructed City Personnel Officer, Redencion Pitajen Caimbon (Caimbon), to conduct a questioned document examination for handwriting comparison and analysis. In conducting the same, she was given the Personnel Data Sheet (PDS) of petitioner as basis for comparison, and thereafter, compared the handwriting on the PDS against the receipts submitted to her for examination.^[14] After her analysis, Caimbon issued Questioned Document Report No. 0907-01^[15] and thereupon, concluded that the questioned handwritings and the submitted standard handwriting of petitioner reveal a strong indication that they were written by one and the same person. ^[16] Caimbon, however, admitted that the questioned documents or receipts which were allegedly issued to the payors were not the duplicate or triplicate copies but mere photocopies of the receipts submitted to the City of Manila and to the Commission on Audit.^[17]

In his defense, petitioner maintained that he was not the one who signed the O.R.s issued to Golden Fortune Seafood Restaurant.^[18] He further explained the process of the City's collection of monthly parking fees; particularly, that upon the execution of the memorandum of agreement between their office and the private entity pertaining to parking privileges and payment of fees, a billing statement will be

delivered to the establishment, and thereafter, the latter's representative will pay at their office for which he will be issued a receipt.^[19] Petitioner, however, admitted that there were instances when he collected the fees directly at the offices of the payors, and added that he was the only collecting officer with respect to the payors covered by the subject O.R.s.^[20]

The RTC Ruling

In a Decision^[21] dated December 23, 2014, the RTC found petitioner guilty of six (6) counts of Malversation of Public Funds Through Falsification of Public Documents, and thereby, sentenced him to suffer the penalty of six (6) years and ten (10) days of *prision correccional*, as minimum, to ten (10) years and ten (10) days of *prision mayor*, as maximum, for each count, including the penalty of perpetual special disqualification, and to pay a fine of P70,800.00.^[22] It held that the prosecution was able to prove all the elements of the crime charged, given that: (a) petitioner, being Clerk II and then Special Collecting Officer, was a public officer; (b) the funds involved are public funds for which he was accountable as they were due to and paid to the City of Manila; (c) he has custody and control over the said funds by reason of his office, since he was officially designated to collect the monthly parking fees from various establishments; and (d) he has appropriated, taken, or misappropriated the said public funds when he failed to discharge his duty of remitting the same in full.^[23] Moreover, it ruled that he falsified the subject receipts in order to commit the crime of Malversation.^[24]

Aggrieved, petitioner filed a Notice of Appeal^[25] before the RTC, which was acted upon in an Order^[26] dated February 2, 2015. Accordingly, the RTC ordered the case to "be elevated to the Appellate Tribunal for appropriate action."

As it turned out; the records were transmitted by the RTC to the CA, which, in turn, sent petitioner a Notice to File Appellant's Brief dated June 22, 2015.^[27] Petitioner then filed motions^[28] to extend the period within which to file the appellant's brief on account of his counsel's alleged heavy workload: *first*, for an extended period of forty-five (45) days from August 28, 2015 until October 12, 2015, which was granted in a Resolution^[29] dated September 7, 2015; *second*, for another extension of thirty (30) days from October 12, 2015 to November 11, 2015, which was granted in a Resolution^[30] dated October 21, 2015; and *third*, for a final extended period of fourteen (14) days from November 11, 2015 to November 25, 2015, which was granted in a Resolution^[31] dated November 23, 2015.^[32]

However, petitioner subsequently noticed that his appeal was erroneously taken to the CA instead of the *Sandiganbayan*, which has appellate jurisdiction over his case pursuant to Section 4 (c) of Republic Act No. (RA) 8249.^[33] Thus, to rectify the error, he filed the Motion to Endorse Case to the *Sandiganbayan*,^[34] as well as the appellant's brief,^[35] before the CA.

The CA Ruling

In a Resolution^[36] dated June 16, 2016, the CA denied petitioner's Motion to Endorse, and consequently, dismissed his appeal for having been erroneously filed.^[37] It opined that petitioner should have promptly moved for the endorsement of

the case within the original period of fifteen (15) days instead of requesting for numerous extensions and belatedly claiming that the appeal has been filed in the wrong court.^[38]

Undaunted, petitioner moved for reconsideration,^[39] which was, however, denied in a Resolution^[40] dated October 6, 2016; hence, the instant petition.

The Issue Before the Court

The issue for the Court's resolution is whether or not the CA erred in dismissing petitioner's Motion to Endorse.

The Court's Ruling

The petition is meritorious.

It is undisputed that petitioner is a low-ranking public officer having a salary grade below 27, whose appeal from the RTC's ruling convicting him of six (6) counts of Malversation of Public Funds Through Falsification of Public Documents falls within the appellate jurisdiction of the *Sandiganbayan*, pursuant to Section 4 (c) of RA 8249^[41] (prior to its amendment by RA 10660^[42]), which reads:

Section 4. Section 4 of the same decree is hereby further amended to read as follows:

xxxx

c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

"In cases where none of the accused are occupying positions corresponding to salary grade '27' or higher, as prescribed in the said Republic Act No. 6758, or military or PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court and municipal circuit trial court as the case may be, pursuant to their respective jurisdiction as provided in *Batas Pambansa Blg. 129*, as amended.

"The *Sandiganbayan* shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders or regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

x x x x

In *Quileste v. People*,^[43] the Court remarked that:

It may be recalled that this case involves malversation of public funds, punishable under Article 217 of the Revised Penal Code, committed by a low-ranking public officer (with salary grade below SG 27). Thus the case was correctly filed with, and tried by, the RTC, the court that has exclusive original jurisdiction over the case. Upon Quileste's conviction by the RTC, his remedy should have been an appeal to the *Sandiganbayan*, pursuant to Presidential Decree No. (PD) No. 1606, as amended by

Republic Act (R.A.) No. 7975 and R.A. No. 8249, specifically Section 4 thereof[.] x x x x^[44]

Thus, since petitioner's case properly falls within the appellate jurisdiction of the *Sandiganbayan*, his appeal was erroneously taken to the CA.

This notwithstanding, the Court finds that the foregoing error is not primarily attributable to petitioner, since the duty to transmit the records to the proper court devolves upon the RTC.

To recount, petitioner timely filed a Notice of Appeal before the RTC on January 6, 2015, which reads:

Accused, with the assistance of the Public Attorney's Office, through the undersigned Public Attorney, respectfully serves notice that he is appealing the Decision rendered in Criminal Cases No. 09-272518-23 which was promulgated on December 23, 2014 for being contrary to law, established jurisprudence, and evidence adduced during trial.^[45]

Notably, petitioner did not specify that his appeal be taken to the CA. This was precisely because it was not even his duty to designate to which court his appeal should be taken. Case law states that "[i]n the notice of appeal[,], it is not even required that the appellant indicate the court to which its appeal is being interposed. The requirement is merely directory and failure to comply with it or error in the court indicated is not fatal to the appeal", ^[46] as it should be in this case.

In the case of *Ulep v. People*,^[47] (*Ulep*) the Court held that it was the trial court which was duty bound to forward the records of the case to the proper forum. Thus, in *Ulep*, the Court granted the plea of the accused therein to remand the case to the RTC for transmission to the *Sandiganbayan*:

x x x **[P]etitioner's failure to designate the proper forum for her appeal was inadvertent.** The omission did not appear to be a dilatory tactic on her part. Indeed, **petitioner had more to lose had that been the case as her appeal could be dismissed outright for lack of jurisdiction** — which was exactly what happened in the CA.

The trial court, on the other hand, was duty bound to forward the records of the case to the proper forum, the *Sandiganbayan*. It is unfortunate that the RTC judge concerned ordered the pertinent records to be forwarded to the wrong court, to the great prejudice of petitioner. Cases involving government employees with a salary grade lower than 27 are fairly common, albeit regrettably so. The judge was expected to know and should have known the law and the rules of procedure. He should have known when appeals are to be taken to the CA and when they should be forwarded to the *Sandiganbayan*. He should have conscientiously and carefully observed this responsibility specially in cases such as this where a person's liberty was at stake.

WHEREFORE, the motion is hereby GRANTED. The August 27, 2008 resolution of this Court and the September 25, 2007 and June 6, 2008 resolutions of the Court of Appeals in CA-G.R. CR No. 30227 are SET ASIDE. The Court of Appeals is hereby directed to remand the records of