

SECOND DIVISION

[G.R. No. 210603, November 25, 2015]

**EDITHA B. SAGUIN AND LANI D. GRADO, PETITIONERS, VS.
PEOPLE OF THE PHILIPPINES, RESPONDENT.**

DECISION

MENDOZA, J.:

This is a petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure assailing the April 4, 2013 Decision^[1] and the December 4, 2013 Resolution^[2] of the Sandiganbayan in Criminal Case No. SB-10-A/R-0002, which affirmed the November 10, 2009 Decision^[3] of the Regional Trial Court, Branch 8, Dipolog City (RTC), in Criminal Case No. 15841, entitled "*People v. Editha B. Saguin, Lani D. Grado and Ruby C. Dalman.*"

The RTC decision upheld the May 14, 2009 Decision^[4] of the Municipal Trial Courts in Cities, Dapitan City (MTCC), convicting petitioners Editha B. Saguin (*Saguin*) and Lani D. Grado (Grado) for Violation of Section 23 of Presidential Decree (P.D.) No. 1752,^[5] as amended by Republic Act (R.A.) No.7742. The law was also covered by Executive Order (E.O.) No. 35.

The Facts:

Petitioners Saguin and Grado, together with Ruby C. Dalman (*Dalman*), all of Rizal Memorial District Hospital (*RMDH*), Dapitan City, were charged with violation of P.D. No. 1752,^[6] as amended by R.A. No. 7742 before the MTCC in the Information, dated December 4, 1997, which reads:

The Undersigned Special Prosecution Officer, Office of the Ombudsman-Mindanao, accuses EDITHA B. SAGUIN, LANI D. GRADO and RUBY C. DALMAN for Violation of Section 23 of Presidential Decree No. 1752 as amended by Executive Order 35 and Republic Act No. 7742, committed as follows:

That during the period of March 1993, sometime prior or subsequent thereto, in the City of Dapitan, Zamboanga del Norte, Philippines, and within the jurisdiction of this Honorable Court, the above-accused EDITHA B. SAGUIN, a public officer, being then the Accountant II of the Rizal Memorial District Hospital, Dapitan City; LANI D. GRADO, also a public officer being then the Cashier of the said hospital; and RUBY C. DALMAN, also a public officer being the Administrative Officer II, same hospital, all with salary grades below 27, while in the performance of their respective public office, thus, committing the offense in relation to

their public office, with abuse of confidence and taking advantage of their positions, conspiring and confederating with each other, did then and there cause the deduction from the salaries of the employees of the Rizal Memorial District Hospital, Dapitan City contributions for the Home Development Mutual Fund (HDMF) amounting to P7,965.58 and HDMF loan repayments amounting to Pi5,8i8.8i for the month of March 1993 but accused willfully, unlawfully and feloniously failed to remit the said collections to the FUND, to the prejudice of the abovementioned government officials and employees who paid penalties and surcharges.

CONTRARY TO LAW.^[7]

Version of the Prosecution

Through the testimony of its witnesses, the prosecution was able to establish that in the payment of the salaries and wages of the employees of RMDH and of the Rural Health Unit, the payroll would be prepared in the accounting section under the Accountant's Office for the approval of the Administrative Officer. The latter would then prepare the Request for Obligation of Allotment (ROA) and together with the payroll, submit the same to the Chief of Hospital for approval. The documents would then be returned to the Accountant's Office for certification and determination of the amount to be obligated.

In March 1993, accused Dalman was the Administrative Officer II, accused Saguin was the Accountant II, and accused Grado was the Cashier of RMDH, where a payroll was prepared showing all the amounts deductible from the salaries of the employees including Medicare, loan repayment, withholding taxes, retirement insurance premium, and Pag-IBIG contributions. In the said payroll, a total amount of P15,818.81 was deducted for the Pag-IBIG loan repayments and a total amount of P7,965.58 was deducted for the Pag-IBIG contributions of all the hospital and rural health employees. It was later discovered by the employees that these amounts were not at all remitted to the Pag-IBIG Fund after some of them applied for a loan and were denied due to non-remittance and billing of surcharges against them. This led to the filing of complaints by the employees before the Office of the Chief of the Hospital, which called the attention of Saguin.

Version of the Defense

Taking the witness stand, Grado testified that one of her duties as a cashier was to collect the fees paid to the hospital and deposit the same to the bank. She was also responsible for the payment of the salaries of the employees and the remittance of the deductions reflected in the payroll. The remittances to the Pag-IBIG Fund were made through checks and sent by mail. For the month of March 1993, however, they could no longer issue checks because of the devolution of the hospital to the provincial government. She was of the belief that it would be the provincial government that would make the remittance to the Pag-IBIG Fund because the check which they earlier issued was cancelled.

For her part, Saguin claimed that in 1993, as the accountant of RMDH, she certified as to the availability of funds, prepared the financial statements and reports submitted to the COA, DBM and the Regional Health Office. With respect to the

hospital remittances to the Pag-IBIG Fund, GSIS, BIR, her participation was the preparation of the payroll; all accounts would be obligated and the gross amount would be certified by her. During the devolution of the hospital to the province in April 1993, they were just told to prepare the vouchers and the final transaction would be approved by the province. For her failure to effect the remittances in March 1993, she was made to explain by the Chief of the Hospital. She gave the reason that they were no longer allowed to issue checks for the month of April 1993, although there was already a voucher prepared by Grado.

Dalman testified that she was aware that in March 1993, there was no payment for the remittances to the Pag-IBIG Fund for all the employees including her, Grado and Saguin. A meeting was called by the Chief of the Hospital regarding the matter and she explained that their allotment was lacking and there was no way for them to make the remittances because the provincial government was already in control of the hospital finances due to the devolution. The Chief of the Hospital made representations to the Governor but the matter of non-remittance was not brought up.

The Ruling of the MTCC

On May 14, 2009, the MTCC rendered its decision finding all the accused guilty beyond reasonable doubt of violation of P.D. No. 1752, as amended by R.A. No. 7742. The dispositive portion of the decision reads:

WHEREFORE, judgment is rendered declaring accused RUBY DALMAN, EDITHA SAGUIN and LANI GRADO guilty beyond reasonable doubt of the crime charged in the Information. They are hereby sentenced to pay a FINE in the total amount of ₱50,000.00 each with subsidiary imprisonment in case of failure to pay the fine and to pay jointly and severally the total amount of ₱23,784.39 plus interest of 12% per annum from April 1993 until the amount is fully satisfied.

SO ORDERED.^[8]

The Ruling of the RTC

On appeal, the RTC affirmed the decision of the MTCC with modification as to the sentence imposed. The RTC was of the view that the devolution of the hospital to the provincial government was not a sufficient reason to prevent it from functioning in its usual and normal course. Such devolution should not have hampered the operation of the hospital to the extent of causing undue damage and prejudice to its employees considering that all the accused continued to perform their official tasks as employees of the hospital in April 1993.

The RTC reiterated the statement of the MTCC that the case involved a violation of a special law and the offense committed was *malum prohibitum*. Thus, the act alone, irrespective of the motive or reason of the accused, already constituted a violation. The mere failure, without a lawful cause, to remit the Pag-IBIG contributions and loan payments for the month of March 1993 was punishable. Thus, it disposed:

WHEREFORE, in view of the foregoing observations, judgment is hereby rendered affirming the decision of the MTCC, Dapitan City dated May 14, 2009, finding the accused Ruby C. Dalman, Editha D. Saguin and Lani D. Grado guilty beyond reasonable doubt for violation of Section 23 of P.D. 1752 as amended by E.O. No. 35 and R.A. 7742 with modification. The herein accused are hereby sentenced to pay jointly and severally the amount of 923,784.39 representing the remittances for Pag-ibig loan repayment in the amount of P15,818.81 and for Pag-ibig contribution in the amount of P7,965.58 plus 12% interest per annum from April, 1993 until fully paid and to pay jointly and severally a fine of P23,784.39 with subsidiary imprisonment in case of insolvency.

SO ORDERED.^[9]

The Ruling of the Sandiganbayan

The three accused elevated the matter to the Sandiganbayan. In its assailed decision, dated April 4, 2013, the Sandiganbayan affirmed the decisions of the MTCC and the RTC, stating that the testimonial and documentary evidence of the prosecution proved the guilt of the accused beyond reasonable doubt for violation of P.D. No. 1752, as amended by R.A. No. 7742. The subsequent repeal of these laws by R.A. No. 9679^[10] did not absolve the accused from criminal liability because the provisions of P.D. No. 1752, as amended, were reenacted in R.A. No. 9679. Moreover, the participation of the private prosecutor during the trial did not render the entire proceedings null and void, there being no serious objection raised and pursued by the accused-petitioners. In view of the institution of a separate civil action to recover civil liability, however, the Sandiganbayan deleted the award of civil indemnity. Thus, the dispositive portion reads as follows:

WHEREFORE, premises considered, the Court hereby affirms the Decision dated November 10, 2009, rendered by the Regional Trial Court, Branch 8, Dipolog City in Criminal Case No. 15841, affirming the Decision dated May 4, 2009 of the Municipal Trial Court in Dapitan City in Criminal Case No. 15415, finding accused Editha B. Saguin, Ruby C. Dalman and Lani D. Grado guilty beyond reasonable doubt of Violation of Section 23 of Presidential Decree (P.D.) No. 1752, as amended by Executive Order No. 35 and Republic Act No. 7742, and imposing upon each of them the penalty of a fine of P23,784.39.

The award of civil indemnity by both the RTC and MTCC is hereby cancelled.

SO ORDERED.^[11]

Saguin and Grado filed their motion for reconsideration but it was denied in the Sandiganbayan Resolution, dated December 4, 2013.

Hence, this petition.

Petitioners Saguin and Grado contend that the Sandiganbayan committed grave and serious errors:

1. in applying the penal sanctions in Sec. 23, P.D. No. 1752, as amended by R.A. No. 7742, to them, who are mere ordinary employees of the hospital despite that the subject provision applies specifically only to the "employer" upon whom the "duty... to set aside and remit the contributions required" is incumbent, or in case of a corporation, "upon the members of the governing board and the President or General Manager."
2. in failing to consider that there exists no legal basis to hold them criminally liable for the charge because it was only with the enactment of R.A. No. 9679 in 2009, integrating all laws relating to the HDMF, that penal sanctions were provided for 'other officials and employees' of government instrumentalities for acts subject of the indictment in this case.
3. in failing to take into account the overriding considerations and undisputed evidence on record establishing that they were no longer tasked or responsible for HDMF remittances of the hospital employees for March 1993 in view of the "devolution" which transferred the control and functions over hospital financial operations and transactions to the Provincial Government of Zamboanga del Norte.
4. in finding that no serious objection was raised and pursued by them over the prosecution of the case by a Private Prosecutor does not conform to the records, and ruling that such defect nonetheless does not affect the validity of the proceedings conducted by the Court *a quo*.^[12]

In its Comment,^[13] the respondent through the Office of the Special Prosecutor (OSP) sought the dismissal of the petition on the ground that it raises factual issues which were beyond the coverage of a petition for review on *certiorari* under Rule 45 and outside the jurisdiction of this Court.

The OSP argued that the Sandiganbayan did not commit any error of law in ruling that the petitioners' criminal liability was not obliterated by the passage of R.A. No. 9679 which repealed P.D. No. 1752. Likewise, it insisted that the Sandiganbayan was correct when it ruled that there was no basis to nullify the MTCC proceedings on the ground that a private prosecutor actively participated in the prosecution of the case because the private prosecutor was under the direction and control of the public prosecutor.

Issue:

The sole issue for the Court's resolution is whether the Sandiganbayan committed reversible errors to warrant the exoneration of the petitioners from criminal liability.