

## FIRST DIVISION

[ G.R. No. 176317, July 23, 2014 ]

**MANOLITO GIL Z. ZAFRA, PETITIONER, VS. PEOPLE OF THE  
PHILIPPINES, RESPONDENT.**

### DECISION

**BERSAMIN, J.:**

In convicting an accused of the complex crime of malversation of public funds through falsification of a public document, the courts shall impose the penalty for the graver felony in the maximum period pursuant to Article 48 of the *Revised Penal Code*, plus fine in the amount of the funds malversed or the total value of the property embezzled. In addition, the courts shall order the accused to return to the Government the funds malversed, or the value of the property embezzled.

#### The Case

This appeal by petition for review on *certiorari* is taken from the judgment promulgated on August 16, 2006,<sup>[1]</sup> whereby the Court of Appeals affirmed the consolidated decision rendered on February 17, 2004 by the Regional Trial Court (RTC) in San Fernando, La Union in Criminal Cases Nos. 4634 to Nos. 4651, inclusive,<sup>[2]</sup> finding Manolito Gil Z. Zafra, a Revenue Collection Agent of the Bureau of Internal Revenue (BIR) assigned in Revenue District 3 in San Fernando, La Union guilty of 18 counts of malversation of public funds through falsification of public documents.<sup>[3]</sup>

#### Antecedents

The CA summarized the factual antecedents as follows:

Appellant was the only Revenue Collection Agent of the Bureau of Internal Revenue (BIR), Revenue District 3, in San Fernando, La Union from 1993-1995. Among his duties was to receive tax payments for which *BIR Form 25.24* or the revenue official receipts (ROR) were issued. The original of the ROR was then given to the taxpayer while a copy thereof was retained by the collection officer.

Every month, appellant submitted *BIR Form 12.31* of the Monthly Report of Collections (MRC) indicating the numbers of the issued RORs, date of collection, name of taxpayer, the amount collected and the kind of tax paid. The original copy of the MRC with the attached triplicate copy of the issued RORs was submitted to the Regional Office of the Commission on Audit (COA).

The Assessment Division of the BIR Regional Office, likewise, kept a copy of the duplicate original of the Certificate Authorizing Registration (CAR) relating to the real property transactions, which contained, among other data, the number of the issued ROR, its date, name of payor, and the amount the capital gains tax and documentary stamp tax paid.

On 06 July 1995, an audit team composed of Revenue Officers Helen D. Rosario, Maria Lourdes G. Morada, Marina B. Magluyan and Norma Duran, all from the central office of the BIR, was tasked to audit the cash and non-cash accountabilities of the appellant.

Among the documents reviewed by the audit team were the CARs furnished by the Assessment Division of the BIR; triplicate copies of the RORs attached to the MRCs submitted by appellant to COA; and appellant's MRCs provided by the Finance Division of the BIR. The audit team likewise requested and was given copies of the RORs issued to the San Fernando, La Union branch of the Philippine National Bank (PNB). A comparison of the entries in said documents revealed that the data pertaining to 18 RORs with the same serial number, i.e., (a) 1513716, (b) 1513717, (c) 1513718, (d) 1513719, (e) 1529758, (f) 2016733, (g) 2018017, (h) 2018310, (i) 2023438, (j) 2023837, (k) 2617653, (l) 2617821, (m) 2627973, (n) 3095194, (o) 3096955, (p) 3097386, (q) 3503336, (r) 4534412, vary with respect to the name of the taxpayer, the kind of tax paid, the amount of tax and the date of payment. Of particular concern to the audit team were the lesser amounts of taxes reported in appellant's MRCs and the attached RORs compared to the amount reflected in the CARs and PNB's RORs.

The CARs showed that documentary stamp tax and capital gains tax for ROR Nos. 1513716, 1513717, 1513718, 1513719, 2018017, and 2023438 totalled Php114,887.78, while the MRCs and COA's copies of the RORs submitted by appellant, the sum of the taxes collected was only Php227.00, or a difference of **Php114,660.78**. ROR Nos. 2018017 and 2023438, mentioned in CAR as duly issued to taxpayers and for which taxes were paid, were reported in the MRC as cancelled receipts.

Likewise, PNB's RORs bearing Serial Nos. 1529758, 2016733, 2018310, 2023837, 2617653, 2617821, 2627973, 3095194, 3096955, 3097386, 3503336, and 4534412, show that it paid the total sum of Php500,606.15, as documentary stamp tax. Yet, appellant's MRCs yielded only the total sum of Php1,115.00, for the same RORs, or a difference of **Php499,491.15**.

The subject 18 RORs were the accountability of appellant as shown in his Monthly Reports of Accountability (MRA) or *BIR Form 16 (A)*. The MRA contains, among others, the serial numbers of blank RORs received by the collection agent from the BOR as well as those issued by him for a certain month.

In sum, although the RORs bear the same serial numbers, the total amount reflected in the CARs and PNB's 12 copies of RORs is Php615,493.93, while only Php1,342.00 was reported as tax collections

in the RORs' triplicate copies submitted by appellant to COA and in his MRCs, or a discrepancy of Php614,151.93, Thus, the audit team sent to appellant a demand letter requiring him to reconstitute the total amount of **Php614,151.93**. Appellant ignored the letter, thus, prompting the institution of the 18 cases for malversation of public funds through falsification of public document against him.”<sup>[4]</sup>

On his part, the petitioner tendered the following version, to wit:

Appellant denied that he committed the crimes charged. He averred that as Revenue Collection Officer of San Fernando, La Union, he never accepted payments from taxpayers nor issued the corresponding RORs. It was his subordinates, Andrew Aberin and Rebecca Supsupin, who collected the taxes and issued the corresponding RORs. To substantiate his claim, he presented Manuel Meris, who testified that when he paid capital gains tax, at the district office of BIR in San Fernando, La Union, it was a female BIR employee who received the payment and issued Receipt No. 2023438. Likewise, Arturo Suyat, messenger of PNB from 1979 to 1994, testified that when he made the payments to the same BIR office, it was not appellant who received the payments nor issued the corresponding receipts but another unidentified BIR employee.”<sup>[5]</sup>

### **Decision of the RTC**

On February 17, 2004, the RTC rendered its consolidated decision convicting the petitioner of 18 counts of malversation of public funds through falsification of public documents,<sup>[6]</sup> decreeing as follows:

**WHEREFORE, the Court finds the accused GUILTY of the crime with which he is charged in:**

- 1) **Criminal Case No. 4634** and sentences him to suffer the indeterminate penalty of 10 years and 1 day of *prision mayor* as minimum up to 14 years, 8 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P19,775.00;
- 2) **Criminal Case No. 4635** and sentences him to suffer the indeterminate penalty of 2 years, 4 months and 1 day of *prision correccional* as minimum up to 6 years and 1 day of *prision mayor* as maximum; to suffer perpetual special disqualification; and to pay a fine of P4,869.00;
- 3) **Criminal Case No. 4636** and sentences him to suffer the indeterminate penalty of 10 years and 1 day of *prision mayor* as minimum up to 14 years, 8 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P13,260.90;

4) **Criminal Case No. 4637** and sentences him to suffer the indeterminate penalty of 10 years and 1 day of *prision mayor* as minimum up to 14 years, 8 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P17,419.00;

5) **Criminal Case No. 4638** and sentences him to suffer the indeterminate penalty of 6 years and 1 day of *prision mayor* as minimum up to 10 years and 1 day of *prision mayor* as maximum; to suffer perpetual special disqualification; and to pay a fine of P11,309.20;

6) **Criminal Case No. 4639** and sentences him to suffer the indeterminate penalty of 6 years and 1 day of *prision mayor* as minimum up to 10 years and 1 day of *prision mayor* as maximum; to suffer perpetual special disqualification; and to pay a fine of P9,736.86;

7) **Criminal Case No. 4640** and sentences him to suffer the indeterminate penalty of 10 years and 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P39,050.00;

8) **Criminal Case No. 4641** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P38,878.55;

9) **Criminal Case No. 4642** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P20,286.88;

10) **Criminal Case No. 4643** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P42,573.97;

11) **Criminal Case No. 4644** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P40,598.40;

12) **Criminal Case No. 4645** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P42,140.45;

13) **Criminal Case No. 4646** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P47,902.60;

14) **Criminal Case No. 4647** and sentences him to suffer the indeterminate penalty of 10 years and 1 one day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P52,740.66;

15) **Criminal Case No. 4648** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine P75,489.76;

16) **Criminal Case No. 4649** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P54,948.47;

17) **Criminal Case No. 4650** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay fine of P45,330.18;

18) **Criminal Case No. 4651** and sentences him to suffer the indeterminate penalty of 10 years and one 1 day of *prision mayor* as minimum up to 17 years, 4 months and 1 day of *reclusion temporal* as maximum; to suffer perpetual special disqualification; and to pay a fine of P37,842.05;

And to pay costs.

SO ORDERED.

### **Judgment of the CA**

On appeal, the petitioner asserted that the RTC had erred as follows:

- I. x x x IN FINDING THE ACCUSED GUILTY OF MALVERSATION OF PUBLIC FUNDS THRU FALSIFICATION OF PUBLIC DOCUMENTS BASED ON THE PRESUMPTION THAT HE WAS NEGLIGENT IN THE PERFORMANCE OF HIS OFFICIAL DUTIES.