

FIRST DIVISION

[G.R. No. 156643, June 27, 2006]

FRANCISCO SALVADOR B. ACEJAS III, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

[G.R. No. 156891]

VLADIMIR S. HERNANDEZ, PETITIONER, VS. PEOPLE OF THE PHILIPPINES, RESPONDENT.

D E C I S I O N

PANGANIBAN, C.J.:

This Court defers to the Sandiganbayan's evaluation of the factual issues. Not having heard any cogent reasons to justify an exception to this rule, the Court adopts the anti-graft court's findings. In any event, after meticulously reviewing the records, we find no ground to reverse the Sandiganbayan.

The Case

Before us are consolidated Petitions for Review^[1] assailing the March 8, 2002 Decision^[2] and the January 3^[3] and 14, 2003^[4] Resolutions of the Sandiganbayan in Criminal Case No. 20194. Francisco SB. Acejas III and Vladimir S. Hernandez were found guilty beyond reasonable doubt of direct bribery penalized under Article 210 of the Revised Penal Code.

Vladimir S. Hernandez, Victor D. Conanan, SPO3 Expedito S. Perlas, Francisco SB. Acejas III and Jose P. Victoriano were charged on February 8, 1994, in an Information that reads thus:

"That on or about January 12, 1994, or sometime prior thereto in the City of Manila, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused VLADIMIR S. HERNANDEZ and VICTOR CONANAN, being then employed both as Immigration officers of the Bureau of Immigration and Deportation, Intramuros, Manila, hence are public officers, taking advantage of their official positions and committing the offense in relation to office, conspiring and confederating with Senior Police Officer 3 EXPEDITO S. PERLAS of the Western Police District Command, Manila, together with co-accused Atty. FRANCISCO SB. ACEJAS III, of the LUCENARIO, MARGATE, MOGPO, TIONGCO & ACEJAS LAW OFFICES, and co-accused JOSE P. VICTORIANO, a private individual, did then and there, willfully, unlawfully and feloniously demand, ask, and/or extort One Million (P1,000,000.00) PESOS from the spouses BETHEL GRACE PELINGON and Japanese TAKAO AOYAGI and FILOMENO PELINGON, JR., in exchange for the return of the passport of said Japanese Takao Aoyagi confiscated earlier by co-accused Vladimir S.

Hernandez and out of said demand, the complainants Bethel Grace Pelingon, Takao Aoyagi and Filomeno Pelingon, Jr. produced, gave and delivered the sum of Twenty-Five Thousand (P25,000.00) Pesos in marked money to the above-named accused at a designated place at the Coffee Shop, Ground Floor, Diamond Hotel, Ermita, Manila, causing damage to the said complainants in the aforesaid amount of P25,000.00, and to the prejudice of government service."^[5]

After trial, all the accused — except Victoriano — were convicted. The challenged Decision disposed as follows:

"WHEREFORE, premises considered, accused Vladimir S. Hernandez, Victor D. Conanan, Expedito S. Perlas and Francisco SB. Acejas III are hereby found GUILTY beyond reasonable doubt of the crime of Direct Bribery, and are sentenced to suffer the indeterminate penalty of four (4) years, nine (9) months and ten (10) days of *prision correccional*, as minimum, to seven (7) years and four (4) months of *prision mayor*, as maximum, and to pay a fine of three million pesos (P3,000,000.00). Accused Vladimir S. Hernandez and Victor D. Conanan shall also suffer the penalty of special temporary disqualification. Costs against the accused.

"On ground of reasonable doubt, accused Jose P. Victoriano is hereby ACQUITTED of the crime charged. The surety bond he posted for his provisional liberty is cancelled. The Hold Departure Order against him embodied in this Court's Order dated July 24, 2000 is recalled."^[6]

The first Resolution acquitted Conanan and denied reconsideration of the other accused. The second Resolution denied Petitioner Acejas' Motion for New Trial.

Hence, petitioners now seek recourse in this Court.^[7]

The Facts

The facts^[8] are narrated by the Sandiganbayan as follows:

"At around 4:00 to 5:00 p.m. of December 17, 1993, accused Bureau of Immigration and Deportation (BID) Intelligence Agent Vladimir Hernandez, together with a reporter, went to the house of Takao Aoyagi and Bethel Grace Pelingon-Aoyagi at 27 Pacific Drive, Grand Villa, Sto. Niño, Parañaque, Metro Manila. His purpose was to serve Mission Order No. 93-04-12 dated December 13, 1993, issued by BID Commissioner Zafiro Respicio against Takao Aoyagi, a Japanese national. Hernandez told Takao Aoyagi, through his wife, Bethel Grace, that there were complaints against him in Japan and that he was suspected to be a Yakuza big boss, a drug dependent and an overstaying alien.

"To prove that he had done nothing wrong, Takao Aoyagi showed his passport to Hernandez who issued an undertaking (Exh. 'B') which Aoyagi signed. The undertaking stated that Takao Aoyagi promised to appear in an investigation at the BID on December 20, 1993, and that as a guarantee for his appearance, he was entrusting his passport to Hernandez. Hernandez acknowledged receipt of the passport.

"On December 18, 1993, Bethel Grace Aoyagi called accused Expedito 'Dick' Perlas^[9] and informed him about the taking of her husband's passport by Hernandez. Perlas told her he would refer their problem to his brother-in-law, Atty. Danton Lucenario of the Lucenario, Margate, Mogpo, Tiongco and Acejas III Law Firm. It was at the Sheraton Hotel that Perlas introduced the Aoyagis to Atty. Lucenario. They discussed the problem and Atty. Lucenario told the Aoyagis not to appear before the BID on December 20, 1993.

"As advised by Atty. Lucenario, Takao Aoyagi did not appear before the BID. Instead, Atty. Rufino M. Margate of the Lucenario Law Firm filed with the BID an Entry of Appearance (Exh. '6' – Acejas). Atty. Margate requested for copies of any complaint-affidavit against Takao Aoyagi and asked what the ground was for the confiscation of x x x Aoyagi's passport.

"Hernandez prepared a Progress Report (Exh. '5' – Hernandez) which was submitted to Ponciano M. Ortiz, the Chief of Operations and Intelligence Division of the BID. Ortiz recommended that Takao Aoyagi, who was reportedly a Yakuza and a drug dependent, be placed under custodial investigation.

"In the evening of December 22, 1993 at the Diamond Hotel, the Aoyagis met accused Atty. Francisco Acejas III who was then accompanied by Perlas. Atty. Acejas informed them that it would be he who would handle their case. A Contract for Legal Services (Exh. 'D') dated December 22, 1993 was entered into by Takao Aoyagi and Atty. Acejas, who represented the Lucenario Law Firm.

"In the morning of December 23, 1993, Perlas and Atty. Acejas accompanied the Aoyagis to the Domestic Airport as the latter were going to Davao. It was here that Takao Aoyagi paid Atty. Acejas P40,000.00, P25,000 of which is 50% of the acceptance fee, and the P15,000.00 is for filing/docket fee (Exh. 'O'). The Aoyagis were able to leave only in the afternoon as the morning flight was postponed.

"On December 24, 1993, while attending a family reunion, Bethel Grace Pelingon-Aoyagi informed her brother, Filomeno 'Jun' Pelingon, Jr., about her husband's passport.

"On January 2, 1994, Jun Pelingon talked to BID Commissioner Zafiro Respicio in Davao and told the latter of Takao Aoyagi's problem with the BID. Respicio gave Pelingon his calling card and told Pelingon to call him up in his office. That same day, Jun Pelingon and Mr. and Mrs. Aoyagi flew back to Manila.

"On January 5, 1994, Jun Pelingon, Dick Perlas, Atty. Acejas, Vladimir Hernandez, Vic Conanan and Akira Nemoto met at the Aristocrat Restaurant in Roxas Boulevard.

"Another meeting was arranged at the Manila Nikko Hotel in Makati on January 8, 1994 with Jun Pelingon, Perlas, Atty. Acejas and Hernandez attending.

"On January 11, 1994, on account of the alleged demand of P1 million for the return of Takao Aoyagi's passport, Jun Pelingon called up Commissioner Respicio. The latter referred him to Atty. Angelica Somera, an NBI Agent detailed at the BID. It was Atty. Carlos Saunar, also of the NBI, and Atty. Somera who arranged the entrapment operation.

"On January 12, 1994, Vladimir Hernandez returned the passport to Takao Aoyagi at the Coffee Shop of the Diamond Hotel. The NBI Team headed by Attorneys Saunar and Somera arrested Dick Perlas, Atty. Acejas and Jose Victoriano after the latter picked up the brown envelope containing marked money representing the amount being allegedly demanded. Only Perlas, Acejas and Victoriano were brought to the NBI Headquarters."^[10]

Version of the Prosecution

Testifying for the prosecution were Bethel Grace Pelingon Aoyagi, Filomeno "Jun" Basaca Pelingon, Jr., and Carlos Romero Saunar.^[11]

The prosecution evidence showed that it was during a meeting on January 5, 1994, when P1 million as consideration for the passport was demanded. Conanan averred that Aoyagi was a drug trafficker and Yakuza member. The money was to be used to settle the alleged "problem" and to facilitate the processing of a permanent visa. When Pelingon negotiated to lower the amount demanded, Conanan stated that there were many of them in the Bureau of Immigration and Deportation (BID).^[12]

During the second meeting held at Hotel Nikko, Pelingon was informed that the press and government enforcers were after Aoyagi. Hernandez asked for a partial payment of P300,000, but Pelingon said that the whole amount would be given at just one time to avoid another meeting.^[13]

After talking to Commissioner Respicio on January 11, 1994,^[14] Pelingon called up Dick Perlas to schedule the exchange.

Regarding the involvement of Petitioner Acejas, the Office of the Solicitor General (OSG) adds the following facts:

"1.2. On 5 January 1994, [Acejas] and Perlas met Pelingon at the Aristocrat Restaurant. [Acejas] informed Pelingon that he would file a P1 million lawsuit against the BID agents who confiscated the passport of Takao Aoyagi. [Acejas] showed Pelingon several papers, which allegedly were in connection with the intended lawsuit. However, when Hernandez and Conanan arrived at the Aristocrat Restaurant, [Acejas] never mentioned to the BID agents the P1 million lawsuit. [Acejas] just hid the papers he earlier showed to Pelingon inside his [Acejas'] bag.

"1.3. [Acejas] was present when Hernandez proposed that Takao Aoyagi pay the amount of P1 million in exchange for the help he would extend to him (Takao) in securing a permanent visa in the Philippines. [Acejas], who was Aoyagi's lawyer, did nothing.

"1.4. On 10 January 1994, [Acejas], Pelingon, Perlas and Hernandez met at the Hotel Nikko. Thereat, Hernandez informed the group that certain government officials and even the press were after Takao Aoyagi.

Hernandez said that Takao Aoyagi can make a partial payment of P300,000.00. Pelingon however, assured the group that Takao Aoyagi would pay in full the amount of P1 million so as not to set another meeting date. [Acejas] kept quiet throughout the negotiations.

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"1.5.a. [Acejas] was present during the entrapment that took place at the Diamond Hotel. Hernandez handed the passport to [Acejas], who handed it then to Perlas and thereafter to Takao Aoyagi. After Takao Aoyagi went over his confiscated passport, Bethel Grace handed to Hernandez the envelope^[15] containing the supposed P1 million. Hernandez refused and motioned that [Acejas] be the one to receive it. [Acejas] willingly got the envelope and placed it beside him and Perlas.

x x x before Hernandez handed out Aoyagi's passport, he reminded the group of their earlier agreement of '*kaliwaan*,' i.e., that after the passport is released, the Aoyagis should give the P1 million."^[16]

Version of the Defense

Vladimir S. Hernandez, Expedito S. Perlas, Francisco SB. Acejas III, Victor D. Conanan and Ponciano M. Ortiz testified for the defense.^[17]

To the Sandiganbayan's narration, Hernandez adds:

"6. x x x [Hernandez], an intelligence agent of the Bureau of Immigration and Deportation (BID), went to the house of Private Respondents Takao and Bethel Grace Aoyagi to enforce and serve a Mission Order issued and assigned to him by BID Commissioner Zafiro Respicio on December 13, 1993, for the arrest of Takao Aoyagi.

"7. When Bethel Grace showed [Hernandez] her husband's passport, [Hernandez] found out that the latter's [authority] to stay had already been duly extended. He invited private respondents to go with him to the BID office. They declined, but made a written undertaking to appear at the BID office for investigation on December 20, 1993. As security for said undertaking, Bethel Grace Aoyagi entrusted to [Hernandez] her husband's passport, receipt of which [Hernandez], in return, acknowledge[d] in the same instrument.

"8. On January 19, 1994, [Hernandez] signified that the record of Aoyagi has been cleared and that he can pick up his passport at the BID office. In connection therewith, [Hernandez] was invited by Perlas to make the return at a lunchtime meeting to be held at the Diamond Hotel Coffee Shop. Upon arrival thereat, [Hernandez] gave the passport to Atty. Acejas, Aoyagi's counsel, and within less than ten minutes, he left the coffee shop."^[18]

In his Petition, Acejas narrates some more occurrences as follows:

"1. 18th December 1993 – The law firm of Lucenario Margate Mogpo Tiongco & Acejas was engaged by the spouses Takao Aoyagi and Bethel Grace Pelingon Aoyagi. x x x.