

EN BANC

[G.R. Nos. 89700-22, October 01, 1999]

**AURELIO M. DE LA PEÑA AND ISAAC T. MANANQUIL,
PETITIONERS, VS. SANDIGANBAYAN AND THE PEOPLE OF THE
PHILIPPINES, RESPONDENTS.**

D E C I S I O N

GONZAGA-REYES, J.:

Before us is a Petition for Review on *Certiorari* of the decision of the Sandiganbayan^[1] in Criminal Case Nos. 2073-2095 and 3323-3345 finding AURELIO M. DE LA PEÑA guilty beyond reasonable doubt of ten (10) counts^[2] of Estafa through Falsification of Public Documents and ISAAC T. MANANQUIL guilty beyond reasonable doubt of twenty three (23) counts^[3] of Estafa through Falsification of Public Documents.^[4] The informations filed against the accused-appellants Aurelio M. Dela Peña (DE LA PEÑA) and Isaac T. Mananquil (MANANQUIL) were worded insofar as pertinent, as follows:

"That during the period from xxx to xxx, or thereabout, in the City of Cebu and in the province of Siquijor (both of Region VII), Republic of the Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, with deliberate intent and with intent to defraud the Republic of the Philippines, conspiring and confederating together with their co-accused xxx, and mutually helping one another, and taking advantage of their public positions, did, then and there willfully, unlawfully and feloniously commit the following acts of falsification and/or fraudulent acts executed prior to or simultaneously with the commission of the fraud, to wit: x x x

In Crim. Case No. 2073:

(c) above-named accused Trinidad T. Manlolooyo, Chairman, Aurelio M. de la Peña, Herminio T. Buac, Zosimo S. Dinsay, Cresencia L. Tan, Members of the Awards Committee, signed and approved Bid No. 049-12-77 which was opened on Dec. 7, 1977 and approved by above-named accused Isaac T. Mananquil, Highway District Engineer I;

In Crim. Case No. 2074:

(c) above-named accused Trinidad T. Manlolooyo, Aurelio M. de la Peña, Herminio T. Buac, Zosimo S. Dinsay, Cresencia L. Tan, Asst. Highway District Engineer, Administrative Officer, Supervising Civil Engineer, Senior Civil Engineer, District Accountant, respectively of the Siquijor Highway District Engineer, and Chairman and Members, respectively, of the

Committee on Awards, approved the Abstract of Bids which was opened on November 3, 1977 and made an award to M & M Enterprises, owned by co-accused Manuel Mascardo, to supply 500 gallons of Rust Remover when, as the accused well know that there was no funds for the purpose;

In Crim. Case No. 2076:

(e) accused Eugenio S. Machan, Wilfredo L. Monte, Cresencia L. Tan, Aurelio M. de la Peña, Isaac T. Mananquil and Jose R. Veloso, signed, pre-audited and approved Gen. Voucher No. 00739 in favor of M & M Enterprises, owned by co-accused Manuel Mascardo, in the total amount of P49,610.00, in payment of the above-mentioned paints, charged to the aforesaid fake LAA;

In Crim. Case No. 2083:

(b) Accused Aurelio M. de la Peña, Cresencia L. Tan, Herminio T. Buac, Zosimo Dinsay and Trinidad T. Manlolooy, signed and approved the Abstract of Bids No. 048-12-77 and awarded the Bid to co-accused Juliana de los Angeles for the latter to supply 1,450 Cu. M. of Aggregate Sub-Base, Item 108, and 450 Cu. M. of Aggregate Base Course, Item 200;

In Crim. Case No. 2084:

(c) accused Aurelio M. de la Peña, Administrative Officer, SED, Ediltrudes S. Kilat, Auditing Aide, and Jose R. Veloso, Auditor, both of the Commission on Audit, jointly signed the Report of Inspection of the said guard rails, knowing that there was neither purchase order nor funds for the purpose;

(d) accused Aurelio M. de la Peña, Cresencia L. Tan, Zosimo S. Dinsay, Herminio T. Buac and Jose R. Veloso, all officials of the Siquijor Engineering District, prepared, signed, certified, pre-audited and approved Gen. Voucher No. 00228 in favor of M & M Enterprises, owned by co-accused Manuel Mascardo, in the amount of P44,550.00 in payment of said Steel Guard Rails, and charged to the said fake LAA;

(f) accused Aurelio M. de la Peña, Ediltrudes S. Kilat and Jose R. Veloso, jointly signed the Report of Inspection of the said 100 pcs. Steel Guard Rails, knowing that there was neither purchase order nor funds for the purpose;

In Crim. Case No. 2085:

(b) accused Juan O. Sumagang, Herminio T. Buac and Aurelio M. de la Peña, officials of Siquijor Engineering District, prepared, signed and approved Requisition and Issue Voucher dated December 19, 1977 for 1,450 Cu. M. of Aggregate Sub-Base, Item No. 108, and 450 Cu. M. of Aggregate Base Course, Item 200;

In Crim. Case No. 2086:

(c) accused Aurelio M. de la Peña, Herminio T. Buac, Zosimo Dinsay, Cresencia L. Tan, and Trinidad T. Manlolooy, signed and approved Abstract of Bids No. 036-10-77, awarding the Bid to accused Juliana de los Angeles for the latter to supply the said road materials;

In Crim Case No. 2087:

(c) accused Aurelio M. de la Peña, Herminio T. Buac, Zosimo S. Dinsay, Cresencia L. Tan and Trinidad T. Manlolooy, all members of the Bids and Awards Committee of the Siquijor Engineering District, signed and approved Abstract of Bids No. 036-10-77, and awarded to co-accused Juliana de los Angeles for the latter to supply the said road materials;

In Crim. Case No. 2088:

(c) accused Aurelio M. de la Peña, Herminio T. Buac, Zosimo S. Dinsay, Cresencia L. Tan and Trinidad Manlolooy, all members of the Bids and Awards Committee of the Siquijor Engineering District, signed and approved the Abstract of Bids No. 036-10-77 and awarded the Bid to Juliana de los Angeles for the latter to supply the said road materials;

In Crim. Case No. 2093:

(b) accused Eugenio S. Machan, Wilfredo Monte, and Aurelio M. de la Peña, Property Custodian, Asst. Chief, Maintenance Engineer and Administrative Officer, respectively, of the Siquijor Engineering District, prepared, signed and approved Requisition and Issue Voucher for 1380 Cu. M. Aggregate Base Course, Item 200;

(d) accused Aurelio de la Peña, Herminio T. Buac, Zosimo S. Dinsay, Cresencia L. Tan and Trinidad Manlolooy, members of the Bids & Awards Committee of the SED, signed and approved abstract of Bids No. 043-12-77;

In Crim. Case No. 2094:

(b) accused Wilfredo Monte and Aurelio M. de la Peña, Asst. Chief, Maintenance Engineer and Administrative Officer, respectively, of the Siquijor Engineering District, prepared, certified and approved Requisition and Issue Voucher for the purchase of 1470 Cu. M. Aggregate Base Course, item 200;

(d) accused Aurelio M. de la Peña, Herminio T. Buac, Zosimo S. Dinsay, Cresencia L. Tan and Trinidad T. Manlolooy, members of the Bids and Awards Committee of the Siquijor Engineering District, signed and approved Abstract of Bids No. 047-12-77 and awarded the Bid to co-accused Clodualdo G. Gomilla;

In Crim. Case No. 2095:

(c) accused Aurelio M. de la Peña, Herminio T. Buac, Zosimo S. Dinsay, Cresencia L. Tan and Trinidad T. Manlolooyo, all members of the Bids and Awards Committee of the Siquijor Engineering District, signed and approved Abstract of Bids No. 047-12-77 and awarded the Bid to Clodualdo G. Gomilla;

xxx thus, the above-named accused were able to appropriate, as they did in fact appropriate and convert to their own personal use and benefit, to the damage and prejudice of the Government of the Republic of the Philippines in the total amount of x x x.

ALL ACTS CONTRARY to Article 315, par. 2, in relation to the Article 171 of the Revised Penal Code.

Manila, August 15, 1980.”^[5]

In each of the criminal cases, both accused-appellants were sentenced to suffer an indeterminate penalty of four (4) years, two (2) months and one (1) day of *prision correccional* as minimum, to ten (10) years of *prision mayor* as maximum; to pay a fine of P1,500.00; to pay the cost of the action for each of the aforementioned cases; and to indemnify jointly and severally the Government of the Republic of the Philippines.

At the outset, we resolve to dismiss the criminal cases against MANANQUIL who died of cardio-respiratory arrest on January 3, 1991^[6], in line with the ruling in the case of *People vs. Bayotas*^[7] where this Court ruled that the death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon^[8]. We thus limit our discussion to the case of petitioner DE LA PEÑA.

This case stems from the discovery of fake Letters of Advice Allotments (LAAs) issued during the period of 1976-1978^[9] in the Siquijor Highway Engineering District (SHED) which led to irregular disbursements of public funds for the payment of non-existent deliveries of supplies used for various highway projects in the district amounting to P982,207.60.^[10] The disbursement of funds for engineering projects and the issuance of a LAA in connection therewith is described in the following standard operating procedure as found by the Sandiganbayan:

“Among the fifteen (15) highway engineering districts which comprises Region VII of the Ministry of Public Highways (or MPH) in 1976-1978 is the Siquijor Highway Engineering District (SHED, for short) which covers the entire province of Siquijor. It is headed by the District Engineer of Siquijor and maintains its auditing staff headed by the District Auditor. At the start of every quarter of the year, the Ministry of Budget releases funds appropriated for the MPH in the form of Advice of Allotments (AAs) and Cash Disbursement Ceilings (CDCs) which are released to the Regional Offices in the form of Sub-Advice of Allotments (SAAs) and Advices of Cash Disbursement Ceilings (ACDCs) and, in turn, the Regional Offices released said funds to the district level in the form of

Letters of Allotments (LAAs) and Sub-Advice of Cash Disbursement Ceilings (SACDCs).

While AAs, SAAs and LAAs serve as authority to incur obligations by the MPH, its regional offices and the latter's district offices, the authority to make payments for said obligations incurred is derived from Cash Disbursement Ceilings (CDCs), which are also issued by the Ministry of Budget to the MPH together with the AAs. The MPH, in turn, issue Advices of Cash Disbursement Ceilings (ACDCs) to its regional offices, and the latter then issue the corresponding Sub-Advice of Cash Disbursement Ceilings (SACDCs) to the different highway engineering districts under it. Said releases made through LAAs and SACDCs are entered in the appropriate books of account or ledgers of the regional office, principally in the Budget and Finance Division thereof. In the case of the Siquijor Highway Engineering District (SHED), disbursement of the quarterly allotments for regular maintenance or other needs of the districts is effected through the proper written request by the District Engineer for the release of such funds accompanied by the supporting programs of work, directed to the Regional Director. Upon approval of said request by the latter, an LAA is issued to the District Engineer by the Regional Finance Officer, certified as to the availability of funds by the Regional Accountant, and countersigned by the Regional Director. Correspondingly, the requisite SACDC is prepared by the Regional Finance Officer to be signed by him and the Regional Director, after which they are duly recorded in a logbook. Both the LAA and SACDC are then sent to the district office and which are carried and received by duly-authorized representatives. The LAA is signed by the Finance Officer and, in her absence, by her authorized representative, such as the Chief Accountant. The LAA indicates the authority, the allotment and the project number.

When the LAA reaches the office of the District Engineer, it is received and kept by the District Accountant. The allotments to the district engineering office normally increase from year to year although there is no fixed amount of increase but the District Engineer would know how much funds would be needed by his district. If the vouchers (GVs) in question do not exceed P50,000.00, there is no need for the Regional Office to approve the vouchers and it is only the RIV or RSE which has to be approved by the Regional Office. However, it is incumbent upon the Regional Office to supervise the operations of the district offices and by going over the approved programs of work, the regional officials would be able to find out whether the allowable expenses intended for the district had already been exhausted.

Implementation of the district's program of work now go into the requisition stage, wherein the proper Requisition and Issue Voucher (RIV), or Requisition for Supplies and Equipment (RSE), for the procurement of the supplies and materials needed for the prosecution of the project as embodied in the approved program of work, is prepared by the requisitioning officer in the district office and approved by the Regional Director. Also, the District Accountant prepares a Request for Obligation of Allotment (ROA) and certifies as to the availability of funds.