



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 17, 2022, which reads as follows:

G.R. No. 257132 – ERNESTO R. MIRO,* *petitioner, versus PEOPLE OF THE PHILIPPINES, respondent.*

X-----X

RESOLUTION

After careful review of the *rollo* of the case, the Court finds that the Sandiganbayan Second Division (Sandiganbayan) gravely erred in convicting petitioner Ernesto R. Miro (Miro) of Falsification under Article 171(2) of the Revised Penal Code (RPC) in its Decision¹ dated April 16, 2021 and Resolution² dated July 9, 2021 in Criminal Case No. SB-16-CRM-0702.

The elements for the crime of Falsification under Article 171(2) of the RPC are: (1) that the offender is a public officer, employee or notary public; (2) that he or she takes advantage of his or her official position; (3) that he or she falsifies a document by causing it to appear that a person or persons have participated in any act or proceeding when they did not in fact so participate.³

The first element is not disputed. Miro was the Provincial Agriculturist of the Province of Davao del Sur at the time of the commission of the alleged crime. Miro, however, denies that he took advantage of his official position by issuing the letter⁴ dated May 3, 2004 and caused it to appear that beneficiaries identified in the master lists attached thereto participated in the Department of Agriculture's (DA) Farm Inputs/Farm Implements Program (Farm Inputs/Implements Program) when they did not in fact participate therein.

* "Ernesto Ramos Miro" in some parts of the *rollo*.

¹ *Rollo*, pp. 43-94. Penned by Chairperson and Associate Justice Oscar C. Herrera, Jr. with Associate Justices Michael Frederick L. Musngi and Bayani H. Jacinto, concurring.

² See Minutes of Proceedings dated July 9, 2021, *id.* at 95.

³ *Bernardino v. People*, 536 Phil. 961, 970 (2006).

⁴ *Rollo*, p. 350.

In convicting Miro, the Sandiganbayan relied on the following documentary evidence: 1) Miro's letter dated May 3, 2004 addressed to Department of Agriculture – Regional Office No. XI (DA-Region XI), Regional Executive Director Roger Chio (Chio) with the attached master lists of beneficiaries (Exhibits “UUU-1” to “UUU-35”); 2) the master list for the Municipality of Bansalan, Davao del Sur attached to the said letter which former Agricultural Technologist Zaldy D. Sumangil (Sumangil) claims was fraudulently issued since his signature therein was forged and considering that the list contained erroneous entries; and 3) the master list for the Municipality of Kiblawan, Davao del Sur attached to the letter which former Agricultural Technologist Hayde C. de Asis (de Asis) denied was issued by her office.

The pieces of evidence relied upon by the prosecution failed to establish that Miro committed the crime of Falsification under Article 171(2) of the RPC.

Miro did not prepare the master list of beneficiaries. He was not even tasked to prepare the same.

An offender who is prosecuted for Falsification under Article 171(2) of the RPC is understood to have taken advantage of his or her official position in the falsification of a document when he or she has the duty to make or prepare or otherwise intervene in the preparation of the document or had official custody of the document.⁵ In the present case, Miro was not tasked to make or prepare the master lists. During his testimony, Miro explained that the bags of yellow corn seeds were delivered to the different Municipal Agriculture Offices (MAO) of the province which were then tasked to distribute the seeds and required to submit a master list of the names of the recipients for purposes of liquidation.⁶ This was not disputed by the prosecution. State Auditor Angelina Patlingrao (Patlingrao), in her testimony, acknowledged that it was the Agricultural Technologists of the MAO who prepared the master list of beneficiaries, not the Office of the Provincial Agriculturist (OPAg), viz.:

ATTY. EVANGELISTA:

Q

So who is supposed to submit the list of beneficiaries? The MAO, is that correct?

WITNESS:

A

The MAO, because it was coursed through to [sic] them.

ATTY. EVANGELISTA:

Q

⁵ *Dr. Malabanan v. Sandiganbayan*, 815 Phil. 183, 200 (2017).

⁶ *Rollo*, pp. 464-465.

Because they were the ones who are tasked with the distribution of those corn seeds?

WITNESS:

A

Yes, ma'am.⁷

This fact was also confirmed by de Asis during her testimony, viz.:

Q: Would you know where the agricultural technologists get the supplies to be distributed to the farmers?

A: The inputs we received is coming [*sic*] from the Office of the Provincial Agriculturist.

Q: Again, Madam Witness, I just have to recap.

A: Yes, ma'am.

Q: It was your office who prepared the master list of beneficiaries. It was the agricultural technologists who got the supplies for distribution from the office of the Provincial Agriculturist. The agricultural technologists got the supplies of the hybrid corn seeds from the Office of the Provincial Agriculturists.

A: Yes. The seeds shall be dropped at our office; then, the agricultural technologist will distribute to the respective barangays.⁸

The duty of the MAO to prepare the master list is also shown in the document where the Agricultural Technologist is required to affix his or her signature right at the "Submitted By" portion while the Municipal Agriculturist is required to sign at the "Noted By" portion. Miro categorically denied any participation in the preparation of the master list and none of the attachments bore his signature.

Furthermore, the prosecution was not even able to prove that the master lists were falsified. Exhibits "UUU-1" to "UUU-35" of the prosecution is composed of the master list of beneficiaries of the Municipalities of Davao del Sur and identifies 679 farmers in total. The prosecution did not present witnesses for the master lists found in Exhibits "UUU-10" to "UUU-35" to prove that these were falsified. Notably, Patlingrao admitted that the MAOs of Sta. Maria and Don Marcelino, Davao del Sur confirmed that the beneficiaries identified in Exhibits "UUU-10" to "UUU-29" received the yellow corn seeds from the OPAg.⁹ Meanwhile, Patlingrao's testimony did not cover how the audit team concluded that Exhibits "UUU-30" to "UUU-35" were falsified.

⁷ TSN, May 21, 2018, p. 71, id. at 218.

⁸ TSN, July 30, 2018, p. 23, id. at 261.

⁹ Id. at 115-116.

As for Exhibits “UUU-1” to “UUU-9,” the prosecution presented Sumangil and de Asis who were the Agricultural Technologists of the Municipalities of Bansalan and Kiblawan, respectively.

Sumangil claims that the master list for Bansalan (marked as Exhibits “UUU-1” to “UUU-5”) attached to Miro’s letter was fraudulent based on the following: 1) his signature therein is a forgery; 2) the list contains erroneous material entries such as wrong spelling of the barangays in the Municipality and wrong addresses of the beneficiaries; and 3) Bansalan received yellow corn seeds from a different program of the DA-Region XI, not from the OPAG.¹⁰ In order to prove this, Sumangil provided a list of the names of the beneficiaries of the yellow corn seeds received directly from the DA-Region XI with their correct addresses. This list was attached as Annex C of Sumangil’s Sworn Affidavit¹¹ and submitted to the Commission on Audit (COA) audit team during its investigation.

A review of Sumangil’s Sworn Affidavit shows that he initially acknowledged that the Municipality of Bansalan received yellow corn seeds through the DA Farm Inputs/Implements Program and identified the actual beneficiaries thereof through a list attached to the affidavit as Annex A, viz.:

That in the above period, the Municipal Agriculture Office received *YELLOW CORN SEEDS*- under the Farm Inputs/Farm Implements Program of the Department of Agriculture for CY 2004 which the Municipal Agriculture Office have [*sic*] released to the farmers-beneficiaries in the different identified barangays of Bansalan, Davao del Sur, [*sic*] Attached is a copy of the list of actual farmers/beneficiaries which our office prepared, as Annex A, forming part hereof;

However, sometime on July 15, 2008, I received a copy of a report from COA, stating the recipients of yellow corn seeds per barangay with their corresponding signatures, copy of which is hereto attached as Annex B for comparison;

That I declare that the report referred to in the next preceding paragraph is not the one we prepared and the signature above my name is not mine;

That said report contains erroneous material entries which could have been correctly stated if said report originated from our office including correct spelling of barangays in this municipality, and the addresses of beneficiaries, attached hereto is a copy of the list of farmers/beneficiaries with their correct addresses as annex C;

That the above received report is a fabrication and clearly does not contain the correct data in relation to the above program[.]¹² (Emphasis supplied; italics in the original)

¹⁰ Id. at 271.

¹¹ Id. at 128.

¹² Id

This Sworn Affidavit was submitted by Sumangil to the COA audit team and became the basis of the latter's conclusion that the master list for Bansalan attached to Miro's letter was falsified. However, Annex A of the Sworn Affidavit was never introduced as evidence by the prosecution. While Sumangil's Sworn Affidavit is identified as Exhibit "XXX" of the prosecution's evidence, Annex A was not attached thereto. Sumangil also admitted during his testimony that Annex A was not attached to the Sworn Affidavit.¹³

The Court also notes that, during the trial, Sumangil contradicted his own Sworn Affidavit when he denied that Bansalan received yellow corn seeds under the Farm Inputs/Implements Program, and instead claimed that the said Municipality received yellow corn seeds through a different program of the DA-Region XI.¹⁴ Moreover, contrary to his statement in his Sworn Affidavit that Annex C is a correction of the names and addresses of the beneficiaries, Sumangil testified that Annex C is the list of beneficiaries of yellow corn seeds received by Bansalan directly from the DA-Region XI under a different program.¹⁵ These inconsistencies are not trivial as they form the basis of the COA audit team's finding that the master list for the Municipality of Bansalan was falsified. The prosecution failed to clarify these glaring contradictions and did not bother to explain why Annex A was never presented.

With the foregoing discussion, the Court is not convinced that Annex C and Sumangil's bare allegation of forgery prove that the master list for Bansalan attached to the letter dated May 3, 2004 was falsified by Miro. Annex C can hardly constitute evidence of falsification because it pertains to a different list of beneficiaries of yellow corn seeds received from another program of the DA. Moreover, a review of the allegedly falsified master list shows that the same only provides, in table format, the following information of the beneficiaries: Last Name, First Name, Gender, Age, Size of Farm, Tenure Status, Years in Corn Farming, and Varietal Preference.¹⁶ Thus, Sumangil's claim that Miro's master list for Bansalan contained erroneous addresses is unfounded because such data is not provided therein.

For her part, de Asis confirms that the Municipality of Kiblawan received yellow corn seeds from the OPAG under the Farm Inputs/Implements Program and that she participated in the distribution thereof.¹⁷ She confirmed that the beneficiaries in the OPAG's master list were residents of Kiblawan, only that, according to her, they were not the actual recipients of the yellow corn seeds. She provided a certification with an attached list of actual beneficiaries prepared by former Municipal Agriculturist Benjamin M.

¹³ See *id.* at 272.

¹⁴ *Id.* at 271.

¹⁵ *Id.* at 272, 275-276.

¹⁶ *Id.* at 87.

¹⁷ *Id.* at 138, 261.

Somera (Somera).¹⁸ Further, de Asis testified that Kiblawan did not receive as many bags of yellow corn seedlings as that declared in the OPAg's master list.

Again, the prosecution was not able to prove that the master list for Kiblawan was falsified. For one, contrary to Patlingrao's assertion, de Asis did not claim, in her Judicial Affidavit or during her testimony, that her signature in the master list attached to the letter dated May 3, 2004 was forged. Moreover, the COA audit team itself concluded that Somera's list was full of inconsistencies and could not be relied upon, *viz.*:

53. What is your **fourth** observation and finding?

A: *In a letter dated July 25, 2008 (Exhibit "ZZZ"). The "Team" requested MAO Benjamin B. Somera of Kiblawan, Davao del Sur for a Certification as to whether or not the names appearing in the Master List submitted by respondent Miro are constituents of Barangays Tacul and San Jose and that they were indeed beneficiaries of Hybrid Corn Seeds. In a CERTIFICATION dated August 7, 2008, MAO Somera certified that although the 76 farmers in the Master list of Program Beneficiaries (Exhibit "UUU-6" and "UUU-9") submitted by respondent Miro were constituents of Barangays Tacul and San Jose, they were not able to avail/receive the provision of GSI corn seeds. Instead, MAO Somera submitted a Hybrid Corn Area Expansion Program Form and HYBRID CARE 2004 showing the names of the actual recipients, however, verification by the "team" showed that even the said reports are full of inconsistencies hence, cannot be relied upon. Also, during the interview, MAO Somera and his staff [Hayde de] Asis, Agricultural Technician verbally claimed that their signatures as appearing in the Master list were forged. (Emphasis and underscoring supplied; italics in the original)¹⁹*

It likewise appears that Somera's list covers a different program altogether. Despite the audit team's finding that the certified list from the MAO of Kiblawan was riddled with unexplained inconsistencies, the prosecution submitted the same as part of its evidence to prove the charge of falsification. Certainly, based on the audit team's own observation, Somera's list can hardly constitute proof beyond reasonable doubt that the master list for Kiblawan attached to Miro's letter was falsified, much less that Miro is the author of such falsification.

The prosecution failed to prove that Miro falsified the Letter dated May 3, 2004.

During his testimony, Miro claims that he does not remember issuing the letter dated May 3, 2004, but acknowledges that the signature therein was his.²⁰ Throughout the proceedings before the Sandiganbayan, Miro had consistently argued that the claimed falsified document does not bear any stamp of receipt from the DA-Region XI. Likewise, based on the document,

¹⁸ Id.

¹⁹ Id at 115.

²⁰ Id. at 462.

it appears that he was merely submitting the master list supplied to him by the MAOs. The letter dated May 3, 2004 reads:

May 3, 2004

ROGER C. CHIO
Regional Executive Director
Department of Agriculture
Region No. XI
Davao City

Attention: HERNA PALMA
Regional Corn Coordinator

Sir:

Submitting herewith Masterlist of Farmers received Hybrid Corn Seeds with signature re 1,000 bags delivered in the province of Davao del Sur for your information and reference.

Very truly yours,
ERNESTO R. MIRO
Provincial Agriculturist²¹

The defense is well taken. A review of the testimony of the prosecution witnesses shows a glaring absence in detail as to how and where the letter and its attachment were obtained by the COA audit team. Patlingrao failed to testify where the letter originated or if the same was officially submitted by the OPAG to the DA-Region XI. In fact, there is no indication on the face of the letter or any of its attachments that it was submitted by Miro to Chio. Officer-in-charge of the Evaluation Investigation Bureau B of the Office of the Ombudsman in Mindanao Marco Anacleto P. Buena, who filed the Complaint-Affidavit, testified that he did not know where the COA obtained the May 3, 2004 letter and its attachments and claimed that he merely relied on the presumption of regularity in the conduct of official duty, viz.:

ATTY. EVANGELISTA:

Q

Would you know who submitted the falsified documents to the COA?

CHAIRPERSON HERRERA:

Oh, do you know?

WITNESS:

A

I don't know, Ma'am.

ATTY. EVANGELISTA:

Q

You did not verify during your investigation Mr. Witness?

WITNESS:

²¹ Id. at 350.

A

Verify meaning go out to the (interrupted)

ATTY. EVANGELISTA:

Q

Verify the source of the supposed falsified documents.

WITNESS:

A

We presumed regularity in all these Ma'am because these are all parts of the COA audit report, so there's no need to verify them anymore.

x x x x

ATTY. EVANGELISTA:

Q

You mean, just because the COA report says that it was submitted by the accused, you also say that it was submitted by the accused?

WITNESS:

A

We have presumed to have regularly perform [*sic*] their functions Ma'am so (unfinished) [.]²²

The fact of submission of the document and the date of actual receipt by the DA-Region XI is material considering that one of the reasons the Sandiganbayan convicted Miro is because the May 3, 2004 letter contradicts the Inspection Report prepared by State Auditor and DA Designated Inspector which indicates that the 1,000 bags of yellow corn seeds were still with the OPAG as of May 12, 2004. While the letter is dated May 3, 2004, this does not automatically mean that it was also submitted on the same date. It could have been received by the DA-Region XI at a later date or not received at all.

Verily, Patlingrao's claim that Miro falsified the letter and submitted it to the DA-Region XI knowing that the statement contained therein is not true cannot be the basis to determine that Miro is guilty of the crime charged. Neither does reliance on presumption of regularity in the performance of official duty amount to proof beyond reasonable doubt.

To stress, it is the prosecution's duty to prove each and every element of the crime charged. Proof beyond reasonable doubt must be established.²³ There must be moral certainty that the accused has committed the crime to warrant conviction.²⁴ In proving the guilt of the accused, the prosecution must rely on the strength of its own evidence and not upon the weakness of the evidence of the accused.²⁵ Thus, when the prosecution fails to discharge its

²² TSN, October 12, 2017, pp. 41-42, id. at 618-619.

²³ *Buencamino v. People*, G.R. Nos. 216745-46, November 10, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/67126>>.

²⁴ *Froilan v. Sandiganbayan*, 385 Phil. 32, 44 (2000).

²⁵ *Catubao v. Sandiganbayan*, G.R. No. 227371, October 2, 2019, 921 SCRA 311, 326-327.

burden thereby creating reasonable doubt, the accused must be acquitted. For this reason, Miro should be acquitted of the crime charged.

WHEREFORE, the Decision dated April 16, 2021 and Resolution dated July 9, 2021 of the Sandiganbayan Second Division in Criminal Case No. SB-16-CRM-0702 are **REVERSED and SET ASIDE**. Petitioner Ernesto R. Miro is **ACQUITTED** of the crime of Falsification under Article 171(2) of the Revised Penal Code on the ground that his guilt was not established beyond reasonable doubt.

SO ORDERED.

By authority of the Court:

Mis DC Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *12-2-22*

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