



Republic of the Philippines  
Supreme Court  
Baguio City

SECOND DIVISION

RAYMUNDO E. ZAPANTA,  
Petitioner,

G.R. Nos. 192698-99

Present:

- versus -

CARPIO, *J.*, Chairperson,  
BRION,  
DEL CASTILLO,  
MENDOZA, and  
LEONEN, *JJ.*

PEOPLE OF THE  
PHILIPPINES,

Promulgated:

Respondent.

22 APR 2015

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DECISION

**MENDOZA, J.:**

Before the Court is a petition for review on *certiorari* seeking to reverse and set aside the October 29, 2009 Decision<sup>1</sup> and the June 10, 2010 Resolution<sup>2</sup> of the Sandiganbayan Fifth Division (*Sandiganbayan*), in Criminal Case Nos. 27502 and 27503, which found accused-petitioner Raymundo E. Zapanta (*Zapanta*) and his co-accused, Atty. Aludia P. Gadia (*Atty. Gadia*), guilty beyond reasonable doubt of the crimes of Violation of Section 3(e) of Republic Act (*R.A.*) No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act; and Infidelity in the Custody of Documents, defined and penalized under Article 226 of the Revised Penal Code (*RPC*).

<sup>1</sup> Penned by Associate Justice Ronald B. Jurado with Presiding Justice Ma. Cristina G. Cortez-Estrada and Associate Justice Napoleon E. Inoturan, concurring; *rollo*, pp. 129-181.

<sup>2</sup> *Id.* at 195-201.

***The Antecedents***

Zapanta, together with Atty. Gadia, was indicted for the crime of Violation of Section 3(e) of R.A. No. 3019 in the Information, docketed as Criminal Case No. 27502, the accusatory portion of which reads:

**That [on] or about August 2000, in Davao City, Philippines, and within the jurisdiction of this Honorable Court, the above named accused ALUDIA P. GADIA, a high ranking public officer, being then the Registrar of Deeds, and RAYMUNDO E. ZAPANTA, vault/records keeper, both of the Registry of Deeds, Davao City, conspiring and confederating with one another, with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there, willfully, unlawfully and feloniously cause the issuance of TCT NO. T-285369, deleting the encumbrance annotated in TCT No. T-256662, from where the former title was derived, thereby affording unwarranted benefits to First Oriental Ventures, Inc., the owner of TCT No. T-285369, to the damage and prejudice of Manuel Ang, Sr., the mortgagee in TCT No. 256662 in the amount of FIVE HUNDRED THOUSAND PESOS (₱500,000.00).**

**CONTRARY TO LAW.<sup>3</sup>**

**[Emphasis Supplied]**

In Criminal Case No. 27503, Zapanta and Atty. Gadia were charged with the crime of Infidelity in the Custody of Documents under Article 226 of the RPC. The accusatory portion of the Information states:

**That [on] or about August 2000, in Davao City, Philippines and within the jurisdiction of this Honorable Court, the above named accused ALUDIA P. GADIA, a high ranking public officer, being then the Registrar of Deeds and RAYMUNDO E. ZAPANTA, Vault/Records Keeper, both of the Registry of Deeds, Davao City, conspiring and confederating with one another, did then and there, willfully, unlawfully and feloniously cause the removal and disappearance of TCT No. 256662, which public document is under their custody and officially entrusted to them, thereby causing damage to the mortgagee of TCT No. 256662, in the amount of FIVE HUNDRED THOUSAND PESOS (P500,000.00) which amount is duly annotated in TCT No. 256662.**

**CONTRARY TO LAW.<sup>4</sup>**

**[Emphasis Supplied]**

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<sup>3</sup> Id. at 10.

<sup>4</sup> Id. at 130.

On June 18, 2002, the Sandiganbayan issued the Hold Departure Order and the Order of Arrest against Atty. Gadia and Zapanta. Both accused posted bail for their provisional liberty.<sup>5</sup> On October 13, 2003, Atty. Gadia was arraigned and she pleaded “Not Guilty” to the charges. Zapanta also pleaded “Not Guilty” to the charges when arraigned on November 12, 2003. After pre-trial was terminated, trial on the merits ensued.

The prosecution presented private complainant Dr. Manuel T. Ang, Sr. (*Dr. Ang*), PO3 Steve Bohol Dela Cruz (*PO3 Dela Cruz*) and Atty. Asteria E. Cruzabra (*Atty. Cruzabra*).

Dr. Ang was a physician who was also engaged in a lending and investment business using the business name Cebu Sterling Lending Investors, Inc. (*CSLII*). He recalled that sometime in January 1996, a certain Erlinda Galvez-Sultan applied for a loan in the amount of ₱500,000.00 and offered to mortgage a 27,442 square-meter lot covered by Transfer Certificate of Title (*TCT*) No. T-256662 in the names of Zenaida Galvez-Lamparero, Nelia Galvez Comendador, Ricardo Galvez, Pancho Galvez, Ismael Galvez, Erlinda Galvez-Sultan, Olympio Galvez, and Edwin Galvez (*Zenaida Galvez-Lamparero, et al.*), to secure the said loan. TCT No. T-256662 was registered at the Registry of Deeds of Davao City (*RD*) and was duly signed by Atty. Gadia, the Register of Deeds.

Dr. Ang agreed to extend the loan and, on January 29, 1996, caused the annotation of the real estate mortgage in favor of CSLII at the back of TCT No. T-256662 in the office of the RD. Later, Dr. Ang was informed that the mortgaged property had been the subject of a sale transaction; that TCT No. T-256662 was already cancelled; and that two new derivative titles were issued bearing the same technical description as that of TCT No. T-256662. On August 24, 2000, to check the veracity of the report, Dr. Ang made a formal request to the RD for the issuance of a certified true copy of the original copy of TCT No. T-256662 which was in the custody of the said office. He reiterated his request on October 23, 2000.

Zapanta told Dr. Ang that the original copy of TCT No. T-256662 could not be located in the particular volume where it was filed in the vault of the RD. Dr. Ang made a follow-up on his request for three consecutive days, but to no avail. Suspecting an irregularity, Dr. Ang filed a complaint before the Presidential Anti-Organized Crime Task Force (*PAOCTF*), Davao Satellite Office, and requested for an investigation. Results of the investigation confirmed that the original copy of TCT No. T-256662 was

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<sup>5</sup> *Id.* at 131.

missing from the vault of the RD. Dr. Ang then filed a complaint against Atty. Gadia and Zapanta before the Office of the Ombudsman (*Ombudsman*).<sup>6</sup>

PO3 Dela Cruz was the Chief Investigator of the Legal Department, Davao City Police Station in 2000, after serving as the Chief Investigator of the PAOCTF, Davao Satellite Office, from 1988 to 1991. He narrated that after conducting an investigation in connection with the complaint filed by Dr. Ang, he prepared his Investigation Report/Memorandum and submitted the same to the Ombudsman. In the said report, he highlighted the commission of irregularities by Zapanta and Atty. Gadia, and recommended the filing of appropriate administrative and criminal charges against the two. He came to know of the existence of TCT No. T-285369, the derivative title of TCT No. T-256662, when it was showed to him by Dr. Ang during the preliminary investigation proceedings before the Ombudsman. He noticed that the signatures of Atty. Gadia appeared on all the pages of TCT No. T-285369 and that it was registered in the name of First Oriental Property Ventures, Inc. (*FOPVI*) whose president was former Congresswoman and Governor, Atty. Corazon N. Malanyaon (*Atty. Malanyaon*).<sup>7</sup>

Atty. Cruzabra, the Acting Register of Deeds of Davao City, testified that while both criminal cases were awaiting trial, she conducted an investigation regarding the missing title in compliance with the directive of the Office of the Administrator of the Land Registration Authority (*LRA*), dated October 13, 2003. She instructed the employees of the office to look for the missing original copy of TCT No. T-256662. She specifically asked the vault keeper, Zapanta, and the records officer, who were tasked with the safekeeping of the documents in the office, about the missing title but she was told that the same was nowhere to be found inside the vault.

In her letter-report,<sup>8</sup> dated November 25, 2003, addressed to Administrator Benedicto Ulep of the LRA, Atty. Cruzabra stated that the missing TCT No. T-256662 was found in the “pending transactions” steel cabinet located outside the vault but within the premises of the office of the RD. She observed that the original copy of TCT No. T-256662 did not bear any signs of cancellation. She added that another certificate of title, TCT No. T-285369, was also found within the “pending transaction” files together with TCT No. T-256662.

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<sup>6</sup> TSN dated February 17, 2004, pp. 7-18.

<sup>7</sup> TSN, dated February 18, 2004, pp. 1-18.

<sup>8</sup> *Rollo*, pp. 212-213.

Atty. Cruzabra explained that TCT No. T-285369 was issued in lieu of TCT No. T-256662 and was registered in the name of FOPVI. She opined that TCT No. T-285369 was spurious because: 1] TCT No. T-256662 had never been cancelled; 2] the Deed of Absolute Sale<sup>9</sup> executed between the original owners, Zenaida Galvez-Lamparero, et al., and FOPVI (*subject deed of sale*), which could have been the basis for cancellation of TCT No. T-256662, was not registered and annotated at the back of the latter title; and 3] the encumbrance in favor of CSLII was not carried over to TCT No. T-285369. She concluded that the issuance of TCT No. T-285369 was without any legal basis. TCT No. T-285369 was registered with the RD on May 28, 1997 and was signed by Atty. Gadia.<sup>10</sup>

In her defense, Atty. Gadia countered that she was no longer the Register of Deeds of Davao City on August 24, 2000, when Dr. Ang requested for a certified true copy of the original copy of TCT No. T-256662. She admitted that, as the Register of Deeds, she signed TCT No. T-256662 as well as the encumbrances annotated at the back page. She also admitted that she signed the derivative title TCT No. T-285369 on May 28, 1997, which bore the following certification: “*This certificate is a transfer from Transfer Certificate of Title No. T-256662 which is cancelled by virtue hereof in so far as the above described land is concerned.*”

She further testified that the original copies of the certificates of title were kept in a vault and the person in charge was the vault keeper. The chief of the vault keeper was the records officer. She named two (2) vault keepers, Zapanta and Mrs. Dimaquias, but the one in charge was Zapanta. She claimed that she had nothing to do with the removal and disappearance of the original copy of TCT No. T-256662. She identified Epimaco Gambong (*Gambong*) as the examiner who inspected the subject deed of sale and its attachments, for registration. Incidentally, Gambong had already passed away at the time of the trial.

Atty. Gadia further averred that the subject deed of sale was not registered because there were some requirements that had not been submitted, particularly the owner’s duplicate copy of TCT No. T-256662. She admitted to have written the following notation on the routing slip attached to the subject deed of sale: “*Pls. don’t deliver the title unless requirements are complied.*” She would usually write such cautionary notice because it always took some time before the registering parties could complete the submission of the required documents. Atty. Gadia explained that there were occasions when she had to leave her station for some meetings in Manila or to report to Region XI where she was the Regional Register of Deeds, and so as not to prejudice the public for want of

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<sup>9</sup> Id. at 216-217.

<sup>10</sup> TSN, dated June 7, 2004, pp. 6-22.

signature, she would usually sign the title but cautioned the examiner not to release or deliver the title until all the requirements were completed.

According to her, TCT No. T-285369 should not have been delivered because certain requirements were still lacking. She asserted that transactions, which were not completed or transactions in which the requirements were not complied with, were filed in the “pending transaction” cabinets. She denied knowledge of the circumstances surrounding the issuance of TCT No. T-285369 despite her signature on it.<sup>11</sup>

Zapanta, on the other hand, proffered the defense of denial. He alleged that he was the vault keeper of the RD, whose duty was to safeguard the archives and the original copies of certificates of title. He claimed that the original copy of a title could be pulled out from the vault upon the written request of the examiner or records officer, indicating the title and volume numbers. The said officer would then take custody of the same until the transaction would be finished. He stated that Atty. Gadia, being the Register of Deeds, could also order the pull out of the documents from the vault. He denied participation in the removal and disappearance of the original copy of TCT No. T-256662 from the vault. He insisted that he did not participate in the processing of TCT No. T-285369. He pointed out that aside from him, three utility workers were allowed by his office to pull out titles from the vault. His only link to the missing title incident was that he was the one who helped Jimboy Ibañez, the person approached by Dr. Ang, to look for the missing title. He assured Dr. Ang that he would continue to look for it. He denied that he conspired with Atty. Gadia in the commission of the crimes charged.<sup>12</sup>

On rebuttal, the prosecution presented two additional witnesses, namely, Jorlyn B. Paralisan (*Paralisan*) and Johanness Maceda (*Maceda*).

Paralisan testified that she was the Land Registration Examiner from March 1992 until March 1998. The primary function of an examiner was to determine whether the requirements for registration were complete. The documents that must be presented for the registration of a sale of real property were the transfer tax fee, realty tax certification, capital gains tax certification, deed of sale and the owner’s duplicate copy of the certificate of title. She said that if the requirements were incomplete, the documents so far submitted shall be placed in the files for “pending transactions” until full compliance was made by the registering party. Paralisan added that the Register of Deeds reviewed the findings of the examiner and signed the title or document only after the latter was satisfied as to the completeness of the

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<sup>11</sup> TSN, dated October 5, 2004, pp. 8-58.

<sup>12</sup> TSN, dated February 15, 2005, pp. 5-19.

requirements. As the Register of Deeds of Davao City, Atty. Gadia was tasked, among others, to review deeds and other documents for compliance with the legal requirements of registration.

According to Paralisan, her office has adopted the following regular procedural steps in the registration of land titles and deeds: 1) the presenting party would first bring the deed of sale and its attachments to the entry clerk, who would stamp the corresponding entry number, as well as the date and time of receipt; 2) the submitted documents would then go to the cashier for payment of registration and other fees; 3) thereafter, the documents would be handed to a Records Officer II who would assign an examiner for examination; 4) if the documents were complete, the same would go to the administrative officer for assignment of title, otherwise, the documents would be forwarded to Records Officer II for stamping of the words, "pending document"; 5) for complete documents, the administrative officer would assign a new title for typing by the office typist; 6) the document would afterwards be returned to the Records Officer II, who would assign another examiner for the cancellation of the mother title; 7) after the proper cancellation of the mother title, the new title and other pertinent documents would then be submitted to the Register of Deeds for review, examination and signature; 8) then the documents would go to Record Officer I, who would release the owner's duplicate copy of the title to the presenting party and forward the original copies of the new title and the cancelled title to the vault keeper for archiving. The above procedure was sanctioned by the Manual for Registration of Land Titles and Deeds of the LRA.

Continuing her testimony, Paralisan recalled that when she examined the documents for registration in 1997, the reference and assessment slip/routing slip did not contain any handwritten notations. After noting the attached documents to the subject deed of sale, she wrote down on the slip, "*Pls. submit owner's copy of TCT,*" and forwarded all the documents to the administrative officer. She claimed that because the documents were incomplete, the title should be kept in the "pending transaction" cabinet by Records Officer II, who was Maceda at the time in 1997.

Paralisan further stated that it was vault keeper Brigido Musqueta who found the missing original copy of TCT No. T-256662 in the "pending transaction" files. Upon inspection of the documents, she noticed that the entry number and the date "5-28-1997" were handwritten on the face of the reference and assessment slip/routing slip.<sup>13</sup> She found it odd that the date of registration, May 28, 1997, was the same as the date written on the reference and assessment slip. Furthermore, the name "Mr. Gambong" was also written after the word "Examiner." She claimed that these entries were

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<sup>13</sup> *Rollo*, p. 215.

in the handwriting of Atty. Gadia. When following proper procedure, it should have been the entry clerk who would stamp the entry number and the date of receipt of the document/s for registration on the reference and assessment slip. Also, it should have been the records officer who would assign an examiner to determine the registrability of the document. She noticed too that the slip now bore the handwritten notation of Atty. Gadia, “*Pls. don’t deliver title unless requirements are complied.*” She clarified that the so-called cautionary notice by Atty. Gadia was never recognized in the regular procedure for registration of land titles and deeds. She observed that there was obvious deviation from the procedure because despite the non-submission of the owner’s duplicate copy of TCT No. T-256662, the derivative title was still signed and registered by Atty. Gadia.<sup>14</sup>

Maceda testified that she was appointed Records Officer II on March 2, 1998. She stated that, contrary to the testimony of Paralisan, she was only the Clerk II in 1997. The Records Officer II was responsible for assigning the documents submitted for registration to an examiner for further scrutiny. If the documents were not complete, the examiner would give them to the administrative officer who, in turn, would forward them to the Records Officer II for safekeeping in the “pending transaction” files. Maceda averred that Atty. Gadia had access to the documents in the “pending transaction” files. She claimed that her logbook or record book did not contain any entry involving TCT No. T-256662.<sup>15</sup>

By way of surrebuttal evidence, the defense presented Atty. Malanyaon who testified to the supposed satisfaction of any pecuniary damage suffered by Dr. Ang. The prosecution strongly objected and moved that her testimony be stricken off the record on the ground that it absolutely had no connection with the proof presented on rebuttal. The Sandiganbayan merely noted the opposition and motion of the prosecution.<sup>16</sup>

### *The Sandiganbayan Decision*

On October 29, 2009, the Sandiganbayan rendered the assailed decision finding Atty. Gadia and Zapanta guilty as charged. The anti-graft court stated that the prosecution was able to satisfactorily establish the elements of Violation of Section 3 (e) of R.A. No. 3019, as well as the elements of Violation of Art. 226 of the RPC. It found sufficient evidence inculcating Atty. Gadia and Zapanta for conspiring and confederating with one another in the anomalous registration and issuance of TCT No. T-285369 in favor of FOPVI, which resulted in undue injury to private complainant Dr. Ang in the sum of ₱500,000.00. Also, it held that Atty.

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<sup>14</sup> TSN, dated July 17, 2006, pp. 7-39; TSN, dated July 18, 2006, pp. 13-20; and TSN, dated July 19, 2006, pp. 17-35.

<sup>15</sup> TSN, dated November 27, 2006, pp. 21-41; TSN, dated November 28, 2006, pp.13-15.

<sup>16</sup> *Rollo*, p. 163.



Gadia and Zapanta conspired with each other in causing the removal and disappearance of the original copy of TCT No. T-256662 from the vault of the RD, which was then under their official custody, to the damage and prejudice of the mortgagee, Dr. Ang. The dispositive portion of the said decision reads:

WHEREFORE, in light of the foregoing, judgment is hereby rendered:

- a.) In Criminal Case No. 27502, finding accused ALUDIA P. GADIA and RAYMUNDO E. ZAPANTA, GUILTY, beyond reasonable doubt of the offense of violation of Section 3 (e) of Republic Act No. 3019, and after applying the Indeterminate Sentence Law, there being no aggravating or mitigating circumstances, hereby sentences each of them to suffer the penalty of imprisonment ranging from six (6) years and one (1) month as minimum to ten (10) years as maximum;
- b.) In Criminal Case No. 27503, finding accused ALUDIA P. GADIA and RAYMUNDO E. ZAPANTA, GUILTY, beyond reasonable doubt of Infidelity in the Custody of Documents, particularly violation of Article 226 of the Revised Penal Code, or removal or concealment of documents and hereby sentences each of them to suffer the indeterminate penalty of imprisonment ranging from four (4) years and two (2) months of *prision correctional* as minimum, to eight (8) years and one (1) day of *prision mayor* as maximum, and to pay a fine of One Thousand Pesos (₱1,000.00).
- c.) To indemnify, jointly and severally, private complainant Dr. Manuel T. Ang, in the amount of Five Hundred Thousand Pesos (₱500,000.00).
- d.) Accused Aludia P. Gadia and Raymundo E. Zapanta, being public officers, are henceforth perpetually disqualified from holding public office.

SO ORDERED.<sup>17</sup>

Zapanta moved for the reconsideration of the foregoing judgment but his motion was denied by the Sandiganbayan in its June 10, 2010 Resolution.

Hence, this petition.

### The Issues

Zapanta imputes to the Sandiganbayan the following errors:

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<sup>17</sup> Id. at 179-180.

**Criminal Case No. 27503, Violation of Article 226 of the Revised Penal Code**

- I. The Sandiganbayan erred in not ruling that the petitioner had no custody [of] the Original Copy of Transfer Certificate of Title No. T-256662 (marked as Exhibit "V-Rebuttal") while outside the vault.
- II. The Sandiganbayan erred in not ruling that the petitioner could not have "removed" the subject record (Original Copy of Transfer Certificate of Title No. T-256662 marked as Exhibit "V-Rebuttal"), as it was not in his custody in the first place.
- III. The Sandiganbayan erred in not ruling that the Original Copy of Transfer Certificate of Title No. T-256662 (marked as Exhibit "V-Rebuttal") was not lost.
- IV. The Sandiganbayan erred in not ruling that there was no proof of conspiracy and there was no certainty that it was the petitioner who pulled out that Original Copy of Transfer Certificate of Title No. T-256662 (marked as Exhibit "V-Rebuttal").

**Criminal Case No. 27502 Violation of Section 3(e) of Republic Act No. 3019, as amended**

- V. The Sandiganbayan erred in not ruling that the petitioner had no physical custody of Transfer Certificate of Title No. T-256662 (marked as Exhibit "A") since the time it was pulled out from the vault until it was found.
- VI. The Sandiganbayan erred in not ruling that the participation of the alleged crime committed by his co-accused, Atty. Gadia, was not necessary and indispensable in the alleged perpetuation thereof.
- VII. The Sandiganbayan erred in not ruling that the petitioner had no participation in the review of Deed of Absolute Sale (marked as Exhibit "U-Rebuttal"); the release of the form of Transfer Certificate of Title No. T-285369 (marked as Exhibit "J"); the typing, review, and approval of the entries of Transfer Certificate of Title No. T-285369 (marked as Exhibit "J"); the release of Transfer Certificate of Title No. T-285369 (marked as Exhibit "J") to its purported new owner; and the safekeeping of Transfer Certificate of Title No. T-256662 (marked as Exhibit "A") while outside the vault; and thus he could not have committed the crime of violation of Section 3(e) of Republic Act No. 3019, as amended, by himself or in conspiracy with Atty. Gadia.
- VIII. The Sandiganbayan erred in not ruling that the crime committed, if ever there was any, was only criminal negligence, not violation of Section 3(e) of Republic Act No. 3019, as amended.<sup>18</sup>

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<sup>18</sup> Id. at 96-98.

Zapanta's assignment of errors can be condensed into two: 1] whether or not the prosecution was able to establish his guilt of the offenses charged beyond reasonable doubt; and 2] whether or not there was sufficient evidence to support the charge of conspiracy between him and Atty. Gadia.

### **The Court's Ruling**

The petition is impressed with merit.

At the outset, it has been emphasized that, as a rule, the Court does not review factual questions in petitions under Rule 45 of the Rules of Court. In appeals from the Sandiganbayan decisions, only questions of law and not issues of fact may be raised. Issues on whether the prosecution evidence proved the guilt of the accused beyond reasonable doubt; whether the presumption of innocence was properly accorded the accused; whether there was sufficient evidence to support a charge of conspiracy; or whether the defense of good faith was correctly appreciated are all, in varying degrees, questions of fact.<sup>19</sup> As a rule, the factual findings of the Sandiganbayan are conclusive on this Court, subject to the following limited exceptions: 1] the conclusion is a finding grounded entirely on speculations, surmises, and conjectures; 2] the inference made is manifestly mistaken; 3] there is grave abuse of discretion; 4.) the judgment is based on misapprehension of facts; and 5] the findings of fact of the Sandiganbayan are premised on the absence of evidence and are contradicted by evidence on record.<sup>20</sup> The foregoing instances attend the case at bench.

This Court spelled out in *Ampil v. Office of the Ombudsman*<sup>21</sup> the following elements of the offense falling under Section 3(e) of R.A. No. 3019:

- 1] The offender is a public officer;
- 2] The act was done in the discharge of the public officer's official, administrative or judicial functions;
- 3] The act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and
- 4] The public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.<sup>22</sup>

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<sup>19</sup> *Jaca v. People*, G.R. No. 166967, January 28, 2013, 689 SCRA 270, 294.

<sup>20</sup> *Pareño v. Sandiganbayan*, 326 Phil. 255, 279 (1996).

<sup>21</sup> G.R. No. 192685, July 31, 2013, 703 SCRA 1.

<sup>22</sup> *Id.* at 24.

On the other hand, in *Fajelga v. Hon. Escareal*,<sup>23</sup> an accused may be held criminally liable of Infidelity in the Custody of Documents under Article 226 of the RPC, provided that the following elements are present:

- 1] The offender must be a public officer;
- 2] There must be a document abstracted, destroyed or concealed;
- 3] The document destroyed or abstracted must be entrusted to such public officer by reason of his office; and
- 4] Damage or prejudice to the public interest or to that of a third person must be caused by the removal, destruction or concealment of such document.<sup>24</sup>

In convicting Atty. Gadia for Violation of Sec. 3(e) of R.A. No. 3019, the Sandiganbayan held that the series of acts she had performed in obvious disregard to the established rules in land registration were badges of evident bad faith and manifest partiality towards FOPVI. According to the anti-graft court, scandalous irregularities in the procedure were committed by Atty. Gadia in registering and issuing the derivative title, TCT No. T-285369, but without the proper cancellation of TCT No. T-256662, and the carrying over of the mortgage encumbrance annotated as Entry No. 930010 in the latter title in favor of mortgagee Dr. Ang. In so doing, she gave unwarranted benefit, advantage and preference to FOPVI, to the damage and injury of Dr. Ang in the sum of ₱500,000.00.

Anent the charge of Infidelity in the Custody of Document, the Sandiganbayan held that Atty. Gadia, who was entrusted with the safekeeping of TCT No. T-256662, caused the removal of its original copy from the vault of the RD and, thereafter, concealed the same to facilitate the issuance of TCT No. T-285369. This caused damage to Dr. Ang and eroded public trust and confidence in the Register of Deeds. Citing the case of *Kataniag v. People*,<sup>25</sup> the Sandiganbayan wrote that damage under Art. 226 of the RPC may also consist in mere alarm to the public or in the alienation of its confidence in any government agency. The Sandiganbayan added that Atty. Gadia's act of concealing TCT No. T-256662 constituted a breach of trust in the official care of the said certificate of title.

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<sup>23</sup> 249 Phil. 350 (1988).

<sup>24</sup> Id. at 357.

<sup>25</sup> 74 Phil. 45 (1942).

Regarding the guilty verdict against Zapanta, the vault keeper, the Sandiganbayan explained that the series of acts of Atty. Gadia would not have been completed or their criminal purpose would not have been achieved were it not for the disappearance of the original copy of TCT No. T-256662 from the vault which was amply covered by the active participation of the said petitioner. It added that those series of acts smacked of conspiracy which showed their common design to achieve one common goal to the damage and prejudice of Dr. Ang. The pith of the assailed October 29, 2009 decision of the Sandiganbayan relative to Zapanta's criminal liabilities states:

Verily, where the acts of the accused collectively and individually demonstrate the existence of a common design towards the accomplishment of the same unlawful purpose, conspiracy is evident, and all the perpetrators will be liable as principals. While it may be true that accused Zapanta did not sign in any of the two (2) titles, he nevertheless had allowed that TCT No. T-256662, be withdrawn or removed from the vault which he was expected to safekeep and thereafter allowed that the same be concealed not only from the private complainant but also from the public.

This Court gives weight and credence to the testimonies of the prosecution witnesses. The strength of their testimonies was bolstered by the details shown in the documentary evidence that they have presented. They testified to the effect that the title indeed was missing for a certain period of time and that accused Gadia issued a new title without the mortgage being cancelled. They demonstrated how these were made possible by the concerted efforts of accused Gadia, as Register of Deeds, and accused Zapanta, as the Vault Keeper.<sup>26</sup>

A judicious examination of the evidence on record belies the findings and conclusions of the Sandiganbayan with respect to the criminal culpability of Zapanta.

In *People v. Bautista*,<sup>27</sup> the Court had the occasion to elaborately discuss the concept of conspiracy, to wit:

Judge Learned Hand once called conspiracy "the darling of the modern prosecutor's nursery." There is conspiracy when two or more persons agree to commit a felony and decide to commit it. **Conspiracy as a mode of incurring criminal liability must be proven separately from and with the same quantum of proof as the crime itself.** Conspiracy need not be proven by direct evidence. After all, secrecy and concealment are essential features of a successful conspiracy. Conspiracies are clandestine in nature. **It may be inferred from the conduct of the accused before, during and after the**

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<sup>26</sup> *Rollo*, pp.178-179.

<sup>27</sup> 636 Phil. 535, 553-554 (2010).

**commission of the crime, showing that they had acted with a common purpose and design. Paraphrasing the decision of the English Court in Regina v. Murphy, conspiracy may be implied if it is proved that two or more persons aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent of each other, were, in fact, connected and cooperative, indicating a closeness of personal association and a concurrence of sentiment. To hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity. There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose. [Emphases Supplied]**

To reiterate, in order to hold an accused guilty as a co-principal by reason of conspiracy, he must be shown to have performed an overt act in pursuance or furtherance of the complicity. Conspiracy can be inferred from, and established by, the acts of the accused themselves when said acts point to a joint purpose and design, concerted action and community of interests. What is determinative is proof establishing that the accused were animated by one and the same purpose.<sup>28</sup> There must be intentional participation in the transaction with a view to the furtherance of the common design and purpose. Conspiracy must, like the crime itself, be proven beyond reasonable doubt<sup>29</sup> for it is a facile device by which an accused may be ensnared and kept within the penal fold. Suppositions based on mere presumptions and not on solid facts do not constitute proof beyond reasonable doubt.<sup>30</sup>

In the case at bench, the Court finds that the prosecution failed to prove beyond reasonable doubt that Zapanta conspired with Atty. Gadia in committing the crimes charged. No testimonial or documentary evidence was presented to substantiate Zapanta's direct or indirect participation in the anomalous registration of TCT No. T-285369, and in the concealment/disappearance of the original copy of TCT No. T-256662.

Not a scintilla of proof was adduced to show with absolute certainty that Zapanta was the one who actually withdrew the original copy of TCT No. T-256662 from the vault of the RD. Prosecution witness Atty. Cruzabra testified that there were several vault keepers in the RD<sup>31</sup> and they were all authorized to pull out titles from the vault at the instance of the examiner or the records officer.<sup>32</sup> The prosecution's rebuttal witness, Paralisan, testified that there were five personnel employed as vault keepers but she could not pinpoint who among those vault keepers pulled out the original copy of TCT

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<sup>28</sup> *Quidet v. People*, 632 Phil. 1, 12 (2010).

<sup>29</sup> *Umipig v. People*, G.R. No. 171359, July 18, 2012, 677 SCRA 53, 88.

<sup>30</sup> *Li v. People*, 471 Phil. 128, 148 (2004).

<sup>31</sup> TSN, dated June 7, 2004, p. 38.

<sup>32</sup> *Id.* at 39.

No. T-256662 from the vault.<sup>33</sup> At best, the prosecution witnesses only identified Zapanta as a vault keeper of the RD but not necessarily the vault keeper who pulled out the subject title. Prosecution witnesses neither testified that he was present during the withdrawal of the subject title from the vault nor mentioned or referred to Zapanta in any manner to show his probable complicity or involvement in the crimes charged. Further, there is no showing that Zapanta was instrumental or that he ever participated in the registration process of the spurious derivative title or had foreknowledge of any irregularity therein or of its fraudulent nature.

Granting, in *gratia argumenti*, that it was Zapanta who took the original copy of TCT No. T-256662 from the vault, this alone would not suffice to prove the conspiracy theory advanced by the prosecution. Plainly, the accusation against Zapanta rests upon his alleged act of pulling out the subject title from the vault which the Sandiganbayan considered as necessary for Atty. Gadia to attain her criminal design of entering TCT No. T-285369 in the Registry Book of the RD in the name of FOPVI and concealing the original copy of TCT No. T-256662 to prevent the discovery of the aberrant registration of the said derivative title. The only deduction extant from the prosecution evidence is that, being then the vault keeper, Zapanta had the duty to safeguard the documents kept inside the vault and to withdraw any title therefrom upon the request of any proper officer of the RD.

It must be emphasized, however, that what he did here was the very function he had to discharge in the performance of his official duties. Also, once the title was released from his custody, his responsibility ceased and it then devolved upon the recipient to keep the document until the transaction was finished. Hence, Zapanta could not be faulted if after the subject title was released to the requestor, it was subsequently utilized in the furtherance of an illegal and fraudulent design as he had no control or participation over the registration process or in the issuance of TCT No. T-285369.

Verily, it is also too sweeping to conclude the existence of conspiracy against Zapanta from the evidence on record. Besides, a public officer is presumed to have acted in good faith in the performance of his duties. Well-settled is the rule that good faith is always presumed and the Chapter on Human Relations of the Civil Code directs every person, *inter alia*, to observe good faith which springs from the fountain of good conscience.<sup>34</sup> The burden is on the prosecution to prove bad faith on the part of Zapanta or that he was impelled by malice or some evil motive but the prosecution failed to do that. To repeat, it is sheer speculation to perceive and ascribe

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<sup>33</sup> TSN, dated July 18, 2006, p. 14.

<sup>34</sup> *Collantes v. Hon. Marcelo*, 556 Phil. 794, 806 (2007).

corrupt intent and conspiracy of wrongdoing for Violation of Section 3(e) of R.A. No. 3019 and Violation of Article 226 of the RPC, solely from the mere pulling out of a title from the vault of the RD because Zapanta was just performing one of his duties as a vault keeper.

The Sandiganbayan believed that Zapanta took part in the conspiracy to commit the offenses charged because of the following circumstances: 1] Zapanta was then the vault keeper and as such had access to the certificates of title kept therein; 2] It was the official duty of Zapanta to pull out a title from the vault upon request of authorized and proper officers of the RD; 3] Dr. Ang was informed by Zapanta that the original copy of TCT No. T-256662 could not be found in the particular volume where it was supposed to have been filed inside the vault and that he promised to look for the missing title; and 4] Zapanta confirmed during the preliminary hearing at the PAOCTF-Davao Satellite Office that the subject title was indeed missing.

An accused may be convicted on the basis of credible and sufficient circumstantial evidence provided that the proven circumstances lead to the inescapable and reasonable conclusion that he committed the imputed crime. The settled rule is that a judgment of conviction based purely on circumstantial evidence can be upheld only if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences were derived were proven; and (3) the combination of all the circumstances is such as to produce conviction beyond reasonable doubt.<sup>35</sup> The corollary rule is that the circumstances proven must constitute an unbroken chain which leads to one fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the guilty person.<sup>36</sup>

Here, the pieces of circumstantial evidence are not sufficient to convict Zapanta of the crimes charged. When the four circumstances are examined with the other evidence on record, it becomes clearer that these circumstances do not lead to a logical conclusion that Zapanta lent support to the alleged conspiracy. Moreover, there is no proof that he allowed an outsider inside the vault or that he knew of the unauthorized withdrawal of the subject title and consented to it. There is nothing to indicate that he was simply negligent in securing the safety of the subject certificate of title under his custody. If Zapanta were negligent, this would be incompatible with conspiracy because negligence denotes the absence of intent while conspiracy involves a meeting of the minds to commit a crime.<sup>37</sup>

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<sup>35</sup> Section 4, Rule 133 of the Rules of Court, *People v. Canlas*, 423 Phil. 655, 677 (2001).

<sup>36</sup> *People v. Flores*, 389 Phil. 532, 541 (2000).

<sup>37</sup> *Crisostomo v. Sandiganbayan*, 495 Phil. 718, 744 (2005).



Clearly, the Sandiganbayan had no basis to convict Zapanta because the prosecution failed to produce the evidence necessary to overturn the presumption of innocence. Proof, not mere conjectures or assumptions, should be proffered to indicate that he had taken part in the alleged conspiracy to commit the crimes charged. Otherwise, a careless use of the conspiracy theory could send to jail even innocent persons who may have only been made unwitting tools by the criminal minds really responsible for those irregularities.

The evidence adduced must be closely examined under the lens of the judicial microscope and that conviction flows only from moral certainty that guilt had been established by proof beyond reasonable doubt. In the case at bench, that quantum of proof has not been satisfied. Hence, the Court must reckon with a *dictum* of the law, *in dubilis reus est absolvendus*. All doubts must be resolved in favor of the accused.

**WHEREFORE**, the petition is **GRANTED**. The assailed October 29, 2009 Decision and the June 10, 2010 Resolution of the Sandiganbayan in Criminal Case Nos. 27502 and 27503 are **MODIFIED** in that petitioner Raymundo E. Zapanta is **ACQUITTED** of the crimes of Violation of Section 3(e) of Republic Act No. 3019 and Infidelity in the Custody of Documents, defined and penalized under Article 226 of the Revised Penal Code, on reasonable doubt.


Accordingly, let the bond of the petitioner posted for his provisional liberty be released to him.

The Hold Departure Order, dated June 18, 2002, issued by the Sandiganbayan against the petitioner, is hereby lifted and set aside.

**SO ORDERED.**

  
**JOSE CATRAL MENDOZA**  
Associate Justice

**WE CONCUR:**



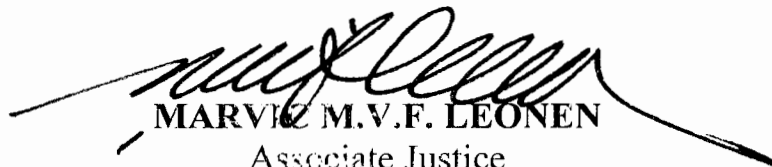
**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson



**ARTURO D. BRION**  
Associate Justice



**MARIANO C. DEL CASTILLO**  
Associate Justice



**MARVIC M.V.F. LEONEN**  
Associate Justice

**ATTESTATION**


I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**ANTONIO T. CARPIO**  
Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARIA LOURDES P. A. SERENO**  
Chief Justice