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Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

SILVINO B. MATOBATO, SR.,  
Petitioner,

G.R. No. 229265

— versus —

PEOPLE OF THE  
PHILIPPINES,  
Respondent.

X-----X

WALTER B. BUCAO and  
CIRILA A. ENGBINO,  
Petitioners,

G.R. No. 229624

Present:

— versus —

HONORABLE  
SANDIGANBAYAN-SPECIAL  
FIFTH DIVISION and PEOPLE  
OF THE PHILIPPINES,

CAGUIOA, *Acting Chairperson*,  
HERNANDO,\*  
LAZARO-JAVIER,  
LOPEZ, M., and  
LOPEZ, J., *JJ.*

Respondents.

Promulgated:

FEB 15 2022

X-----X

DECISION

LOPEZ, M. J.:

Under the "threefold liability rule," the wrongful acts or omissions of public officers may give rise to civil, criminal and administrative liabilities.<sup>1</sup> Corollarily,

\* Designated as additional Member in lieu of Chief Justice Alexander G. Gesmundo per Raffle dated October 27, 2021.

<sup>1</sup> *Office of the Ombudsman v. Andutan, Jr.*, 670 Phil. 169, 188-189 (2011).

public officers could still be held civilly liable to reimburse the injured party notwithstanding their acquittal.

### ANTECEDENTS

On September 22, 1994, the Sangguniang Bayan of the Municipality of Pantukan, Compostela Valley, passed Resolution No. 164, Series of 1994 authorizing Silvino B. Matobato, Sr. (Silvino), the Municipal Treasurer, to transfer an unspecified amount of municipal funds from the Land Bank of the Philippines (LBP) to Davao Cooperative Bank (DCB).<sup>2</sup> Accordingly, Silvino opened a time deposit account with DCB and transferred therein various amounts from 1994 to 1998. However, DCB suffered insolvency in 1998, and was placed under receivership. As a result, the Municipality of Pantukan failed to withdraw the deposited amounts. In its Annual Audit Report for 1998, the Commission on Audit (COA) found that the Sangguniang Bayan of Pantukan treated the funds deposited with DCB as idle funds. The COA also noted that the Sangguniang Bayan should have allocated the funds to certain municipal projects. Yet, the implementation of these projects was jeopardized since the funds cannot be withdrawn. Thus, the COA recommended the filing of criminal and administrative charges against the municipal officials involved in the transaction with DCB.<sup>3</sup>

Acting on the COA's report, the Ombudsman filed an Information<sup>4</sup> for violation of Section 3(e) of Republic Act (RA) No. 3019<sup>5</sup> against Silvino and Sangguniang Bayan members Walter B. Bucao (Walter), and Cirila A. Engbino (Cirila), along with seven other municipal officials before the Sandiganbayan docketed as Criminal Case No. SB-10-CRM-0015. The Information charged the accused of conspiracy and gross inexcusable negligence in issuing Resolution No. 164, Series of 1994. Allegedly, the funds were not idle funds that may be deposited at any bank under a time deposit account. Moreover, the accused authorized the transaction without investigating DCB's financial status.<sup>6</sup>

<sup>2</sup> *Rollo* G.R. NO. 229265, pp. 35-36. "RESOLUTION AUTHORIZING THE MUNICIPAL TREASURER TO TRANSFER THE TIME DEPOSIT OF THE MUNICIPALITY OF PANTUKAN FROM THE LAND BANK OF THE PHILIPPINES TO THE DAVAO COOPERATIVE BANK." The pertinent portion of the Resolution reads: "RESOLVED, as it is hereby resolved to authorize the Municipal Treasurer to transfer the time deposit of the Municipality of Pantukan, from the Land Bank of the Philippines to the Davao Cooperative Bank at Tagum, Davao; x x x[.]"

<sup>3</sup> *Id.* at 36-38. See also COA Circular No. 92-382 dated July 3, 1992, Sections 21 and 22 which provide:  
SEC. 21. *Time deposit accounts.* - Provinces, cities and municipalities may deposit with duly authorized depository banks **idle funds in the General Fund** under time deposit accounts, upon prior authority of the sanggunian and approval of the chief executive. (Emphasis supplied.)

SEC. 22. *Definition of idle funds.* - Idle funds in excess of normal operating requirements shall generally mean the level of funds which an entity can freely invest in government securities and/or fixed term deposits after considering provisions for coverage of regular and recurring operating expenses like salaries and wages, repairs and maintenance, inventories and supplies, debt servicing, etc., within the context of the entity's cash operating cycle. Unremitted national collections and funds set aside for payment of obligations to government corporations/cooperatives shall not form part of the idle funds of local government units. ([Department of Finance] Department Circular No. 6-90, [December] 6, 1990).

<sup>4</sup> *Rollo*, G.R. No. 229265, pp. 18-19.

<sup>5</sup> Otherwise known as the "ANTI-GRAFT AND CORRUPT PRACTICES ACT," approved on August 17, 1960.

<sup>6</sup> *Rollo*, G.R. No. 229265, pp. 18-19.

After trial, the Fifth Division of the Sandiganbayan acquitted Silvino, Walter, and Cirila, as well as their co-accused based on reasonable doubt in a Decision dated September 20, 2016, and a Resolution dated January 11, 2017, in Crim. Case No. SB-10-CRM-0015.<sup>7</sup> The Sandiganbayan held that the prosecution failed to prove the second element of the offense, *i.e.*, that the accused committed *gross and inexcusable negligence*, which entails an omission of care that even inattentive and thoughtless men never take in their own property, and in cases involving public officials, takes place only when breach of duty is flagrant and devious.<sup>8</sup> For the Sandiganbayan, the prosecution's evidence do not concretely establish that the funds were not idle when Resolution No. 164, Series of 1994 was passed.<sup>9</sup> As such, the fund transfer from LBP to DCB can hardly be considered as unlawful, or violative of Section 21 of COA Circular No. 92-382.<sup>10</sup> Nevertheless, the Sandiganbayan ordered the accused civilly and solidarily liable for the municipality's unrecovered funds in the amount of ₱9.25 million. The Sandiganbayan explained that even if the accused were not grossly and inexcusably negligent to be held criminally liable under Section 3(e) of RA No. 3019, they were still negligent enough to incur civil liability.<sup>11</sup> According to the Sandiganbayan, the accused negligently transferred the municipal funds despite their failure to conduct reasonable due diligence in ascertaining DCB's solvency by merely relying on the bank manager's assurances.<sup>12</sup>

Hence, these consolidated petitions: Petition for Review on *Certiorari*<sup>13</sup> G.R. No. 229624, assailing the Decision dated September 20, 2016; and Petition for Review on *Certiorari*,<sup>14</sup> G.R. No. 229265, assailing the Resolution dated January 11, 2017. Silvino, Walter, and Cirila attack the Sandiganbayan's ruling with regard to their civil liability. Silvino argues that he is not civilly liable because DCB is still under liquidation. Thus, actual damage to the municipality has not yet been ascertained. If later on the amount can be recovered from DCB after liquidation, then the municipality would be unjustly enriched at the expense of the accused. On the other hand, Walter and Cirila maintain that there is no preponderant evidence to support the Sandiganbayan's ruling. Walter and Cirila invoke the presumption of regularity in the performance of their official functions.

## RULING

The petitions are unmeritorious.

Every person criminally liable for a felony is also civilly liable.<sup>15</sup> Yet, the dismissal of the criminal action does not carry with it the extinction of the civil

<sup>7</sup> Id. at 17-48. Penned by Associate Justice Alexander G. Gesmundo (now Chief Justice of this Court), with the concurrence of Associate Justices Roland B. Jurado and Ma. Theresa Dolores C. Gomez-Estoesta.

<sup>8</sup> Id. at 44, citing *Alvarez v. People*, 692 Phil. 89 (2012); and *Sistoza v. Desiertom*, 437 Phil. 117 (2002).

<sup>9</sup> Id. at 39.

<sup>10</sup> Id. at 41-44.

<sup>11</sup> Id. at 46.

<sup>12</sup> Id. at 42-43.

<sup>13</sup> Id. at 3-18.

<sup>14</sup> Id. at 3-11.

<sup>15</sup> REVISED PENAL CODE, Article 100.

liability where: “(a) the acquittal is based on reasonable doubt as only preponderance of evidence is required; (b) the court declares that the liability of the accused is only civil; and (c) the civil liability of the accused does not arise from or is not based upon the crime of which the accused is acquitted.”<sup>16</sup> The quantum of proof to establish civil liability is preponderance of evidence which is defined as the “weight, credit, and value of the aggregate evidence on either side and is usually considered to be synonymous with the term ‘*greater weight of the evidence*’ or ‘*greater weight of the credible evidence*.’ It is evidence which is more convincing to the court as worthy of belief than that which is offered in opposition thereto.”<sup>17</sup> Notably, the Sandiganbayan acquitted Silvino, Walter, and Cirila because their guilt were not proven beyond reasonable doubt. Thus, any civil liability survives because only preponderant evidence is necessary to establish it. Here, the required quantum of proof was met to sustain the Sandiganbayan’s findings on the civil liability of Silvino, Walter, and Cirila.

Under Section 101(1) of Presidential Decree (PD) No. 1445,<sup>18</sup> Silvino, as Municipal Treasurer, was accountable for the safekeeping of municipal funds in conformity with law.<sup>19</sup> However, Silvino did not exercise that reasonable care and caution which an ordinarily prudent person would have used in the same situation.<sup>20</sup> *First*, Silvino failed to at least flag any possible risk relating to the transaction of the Municipality of Pantukan with DCB. *Second*, Silvino vouched on DCB’s financial status and continued depositing municipal funds despite the business climate, specifically the Asian Financial Crisis, besetting at that time. *Third*, the relatively new entry of DCB at such a turbulent time for the banking industry served as a warning sign, but Silvino pushed for the investment proposal. *Fourth*, Silvino continued to deposit the municipal funds despite the expiration of DCB’s authority to accept government deposits on June 14, 2006.<sup>21</sup> *Lastly*, Silvino did not establish any precautionary or contingent measure to protect the financial interests of the Municipality of Pantukan from the whiplash of DCB’s insolvency. As the Sandiganbayan aptly observed in its Decision,<sup>22</sup> preponderant evidence exists that Silvino was negligent in the discharge of his duties as Municipal Treasurer, thus:

It is apparent that [Silvino] was also remiss in the exercise of his duties as Municipal Treasurer. Under Section 470 of the Local Government Code, the Municipal Treasurer is tasked, among others, with the following duties: (1) advise the governor or mayor, as the case may be, the sanggunian, and other local government and national officials concerned regarding disposition of local

<sup>16</sup> *Dayap v. Sendiong*, 597 Phil. 127, 141 (2009).

<sup>17</sup> *BP Oil And Chemicals International Philippines, Inc. v. Total Distribution & Logistic Systems, Inc.*, 805 Phil. 244, 262 (2017), citing *Raymundo v. Lunaria*, 590 Phil. 546, 553 (2008).

<sup>18</sup> Entitled “ORDAINING AND INSTITUTING A GOVERNMENT AUDITING CODE OF THE PHILIPPINES,” dated June 11, 1978.

<sup>19</sup> PD No. 1445, Section 101(1) provides:

SEC. 101. *Accountable officers: bond requirement.*

1. Every officer of any government agency whose duties permit or require the possession or custody of government funds or property shall be accountable therefor and for the safekeeping thereof in conformity with law.

<sup>20</sup> See *Crisostomo v. Court of Appeals*, 456 Phil. 845, 856-857 (2003); *Ruks Konsult and Construction v. Adworld Sign and Advertising Corp.*, 751 Phil. 284, 290-291 (2015); and *Picart v. Smith*, 37 Phil. 809, 813 (1918).

<sup>21</sup> *Rollo*, G.R. No. 229265, p. 43.

<sup>22</sup> *Id.* at 17-48.

government funds and on such other matters relative to public finance[;] and (2) take custody of and exercise proper management of the funds of the local government unit concerned. Also, as officer charged with the possession or custody of the government funds, he is accountable therefor and for the safekeeping thereof in conformity with the law. **Pursuant to his mandate, he is duty bound to conduct due diligence before making a proposal to the local legislative body for the investment of municipal funds. It is likewise the Municipal Treasurer's duty to ensure that these funds are safe guarded [sic]. But [Silvino] failed to comply with these duties.**<sup>23</sup> (Emphasis supplied and citation omitted.)

Silvino's contention that he could not be held civilly liable pending DCB's liquidation is specious. The Municipality of Pantukan already suffered damage for all these years that it was, and is still, not able to withdraw and utilize the funds for government purposes.<sup>24</sup> Verily, were it not for the negligence of Silvino and his co-accused, the funds could have been spent long ago to meet the exigencies of public service and to address the pressing needs of the constituency. Until today, the Municipality of Pantukan still has not benefitted from even a single centavo of the wasted public funds. Differently stated, damage has been done and it is immaterial whether DCB is still under liquidation or not. Further, as the Sandiganbayan noted, there is no evidence that the present assets of DCB pending liquidation would be able to cover the ₱9.25 million liability in favor of the municipality.<sup>25</sup> On this premise, Silvino and his co-accused, who all negligently caused the inability of the municipality to timely withdraw and make use of the funds should compensate the municipality in accordance with the dictum that "[f]undamental in the law on damages is that one injured by a x x x wrongful or negligent act or omission[,] shall have a fair and just compensation commensurate to the loss sustained as a consequence of defendant's act. x x x. Actual damages are primarily intended to simply make good or replace the loss caused by the wrong."<sup>26</sup> (Citation omitted.)

Similarly, Walter and Cirila cannot conveniently invoke the presumption of regularity in the performance of their official functions. This disputable presumption crumbles in light of Walter and Cirila's negligence and indispensable participations in the transfer of funds from LBP to DCB. Considering the substantial amount of money and the financial risks involved, Walter and Cirila merely relied on the verbal representations of the bank manager about DCB's financial stability. As Sangguniang Bayan members, Walter and Cirila should have further required and examined the audited financial statements of DCB since, as mentioned earlier, the bank was relatively new in existence at the time the investment proposal was submitted for the Sangguniang Bayan's consideration. In comparison with other Sangguniang Bayan members, Walter and Cirila did not protest the investment or interpose serious reservations on the proposal. They actively participated in authorizing Silvino to deposit substantial amount of

<sup>23</sup> Id. at 43.

<sup>24</sup> Id. at 112.

<sup>25</sup> Id. at 111.

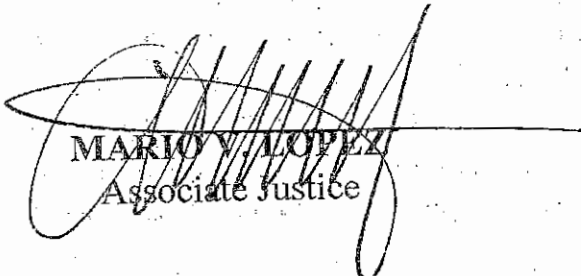
<sup>26</sup> *Llorente, Jr. v. Sandiganbayan*, 350 Phil. 820, 838 (1998).

municipal funds to a risky bank. Under Section 340<sup>27</sup> of RA No. 7160 otherwise known and cited as the "Local Government Code of 1991," dated October 10, 1991, other local officers who, though not accountable by the nature of their duties, may likewise be held accountable and responsible for local government funds through their participation in the use and application thereof. Also, pursuant to Section 21 of COA Circular No. 92-382,<sup>28</sup> idle funds of the local government unit may only be deposited with duly authorized depository banks under time deposit accounts upon prior authority of the Sangguniang Bayan and approval of the local chief executive. Thus, without Resolution No. 164, Series of 1994 of the Municipality of Pantukan, Compostela Valley, which, to emphasize, should have been preceded by a painstaking scrutiny of the investment proposal by Walter, Cirila, and other Sangguniang Bayan members, the municipal funds would not have been transferred from LBP to DCB.

All told, the Sandiganbayan correctly held Silvino, Walter, and Cirila civilly and solidarily liable to indemnify the Municipality of Pantukan, Compostela Valley. On this point, the Court reminds that public funds, like public office, are founded on public trust. How the public funds are managed and how they are safely kept reflect on the ability of the government to keep inviolate its fiduciary duty to the people. All public servants must ever be conscious that they are accountable for public resources that they handle for the people.

**FOR THESE REASONS,** the petitions are **DENIED.** The Sandiganbayan's Decision dated September 20, 2016 and the Resolution dated January 11, 2017 in Criminal Case No. SB-10-CRM-0015 are **AFFIRMED.**

**SO ORDERED.**

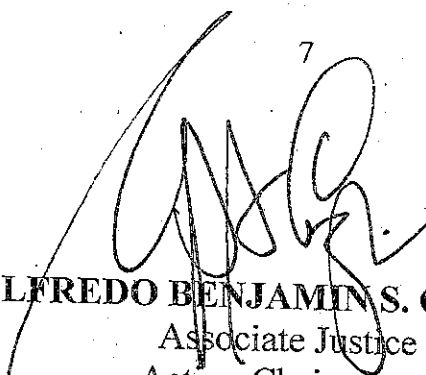
  
MARIO V. LOPEZ  
Associate Justice

<sup>27</sup> SEC. 340. Persons Accountable for Local Government Funds. – Any officer of the local government unit whose duty permits or requires the possession or custody of local government funds shall be accountable and responsible for the safekeeping thereof in conformity with the provisions of this Title. **Other local officers who, though not accountable by the nature of their duties, may likewise be similarly held accountable and responsible for local government funds through their participation in the use or application thereof.** (Emphasis supplied.)


<sup>28</sup> Dated July 3, 1992, the subject and purpose of which reads: "This Circular on Accounting and Auditing Rules and Regulations designed to implement the provisions of Republic Act No. 7160, the 'Local Government Code of 1991,' is issued pursuant to Section 2(2), Article IX-D, of the Constitution."

WE CONCUR:


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**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Acting Chairperson



**RAMON PAUL L. HERNANDO**  
Associate Justice



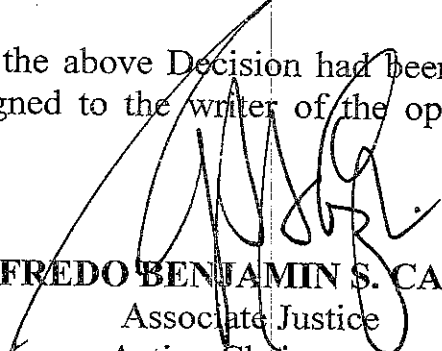
**AMY C. LAZARO-JAVIER**  
Associate Justice



**JHOSEP Y. LOPEZ**  
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.



**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice  
Acting Chairperson

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution, and the Division Acting 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice

