

THIRD DIVISION

G.R. Nos. 258182 and 259950 – PEOPLE OF THE PHILIPPINES,
Plaintiff-Appellee, **v. ROMEO CHAN REALES,** Accused-Appellant.

Promulgated:

January 22, 2024

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DISSENTING OPINION

SINGH, J.:

The *ponencia* acquits accused-appellant Romeo Chan Reales (**Reales**) of Violation of Section 3(e) of Republic Act (**RA**) No. 3019¹ or the Anti-Graft and Corrupt Practices Act, and Malversation through Falsification of Public Documents under Article 217, in relation to Articles 48 and 171, of the Revised Penal Code (**RPC**) on the ground of the prosecution's supposed failure to prove the non-existence or, at least, the non-rendition of services by the twenty-five (25) job order workers purportedly hired by the Province of Samar (**Province**) for the periods October 1 to 31, 2005 and November 1 to 30, 2005.

I respectfully dissent.

An examination of the evidence presented by the prosecution leads to the opposite conclusion.

To secure a conviction for Violation of Section 3(e) of RA No. 3019, the following elements must be established: (a) the accused must be a public officer discharging administrative, judicial, or official functions; (b) he or she must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and (c) his or her action caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.²

On the other hand, the elements of Malversation under Article 217 of the RPC are: (1) that the offender is a public officer; (2) that he or she had custody or control of funds or property by reason of the duties of his or her office; (3) that those funds or property were funds or property for which he or

¹ Approved on August 17, 1960.

² *Villanueva v. People*, G.R. No. 218652, February 23, 2022 [Per J. Hernando, Second Division].



she was accountable; and (4) that he or she appropriated, took, misappropriated, or consented or, through abandonment or negligence, permitted another person to take them.³

The *ponencia* concedes the presence of all the elements of the crimes charged except for the second element of Violation of Section 3(e) of RA No. 3019 and the fourth element of Malversation, which, according to it, were not established by the prosecution. This finding is anchored on the prosecution's alleged failure to prove the non-existence or, at least, the non-rendition of services by the 25 job order workers.

I beg to differ.

The evidence for the prosecution shows that Reales is the approving authority in every phase of the payroll process involving the twenty-five (25) job order workers. By affixing his signatures on: (a) the Daily Time Records⁴ (**DTRs**) of the twenty-five (25) job order workers; (b) the Summary of Payrolls⁵ (above the names "Milagrosa T. Tan, Governor" and "Romeo C. Reales, Provincial Accountant"); and (c) the Time Book and Payroll⁶ (over the names "Milagrosa T. Tan, Superintendent or Foreman-in-Charge" and "Milagrosa T. Tan, Superintendent or Foreman-in-Charge"), Reales facilitated the release of corresponding salaries by the Provincial Treasurer's Office in the total amount of PHP 76,500.00.⁷

Interestingly, notwithstanding the absence of the signatures of the job order workers, a glaring irregularity, Reales signed their DTRs certifying the correctness of the entries therein.

As aptly found by the Sandiganbayan, the absence of the signatures of the job order workers on the DTRs, coupled with the fact that no other document evidencing the purported engagement of the job order workers was shown to exist, adequately demonstrate the non-existence of the job order workers or, at the very least, the fact that they did not render any work. Juliet T. Dayap, the Officer-in-Charge of the Human Resource Management Office of the Province, certified that despite diligent efforts, their office could not locate Personal Data Sheets, Contracts of Services, or any other document relative to the hiring of the job order workers by the Province in 2005.⁸

The absence of any evidence pointing to the engagement of the twenty-five (25) job order workers, or even to the fact that they rendered some form

³ *Corpuz v. People*, G.R. No. 241383, June 8, 2020 [Per J. J.C. Reyes, Jr., First Division].

⁴ SBN Records, pp. 433–437, 439–441.

⁵ *Id.* at 431, 437.

⁶ *Id.* at 432, 438.

⁷ *Ponencia*, p. 3; Sandiganbayan Decision, dated June 25, 2021, p. 14.

⁸ SBN records, p. 430.



of service for which they were hired by the Province, establishes a *prima facie* case against Reales. Lest it be forgotten that, here, what is sought to be established is the absence of any trace of the existence of the workers. The absence, therefore, of documentation of any sort relating to their engagement is itself proof that they are “ghost employees.” Given the circumstances, the prosecution could not have adduced any proof more direct than those that it already offered.

Concomitantly, the burden of evidence then shifted to the defense to disprove the non-existence of the job order workers or their non-rendition of services, but Reales failed in this regard.

It must be stressed that Reales, by affixing his signatures on the DTRs, Summary of Payrolls, and Time Book and Payroll, certified that the twenty-five (25) job order workers rendered work for the times stated therein. He cannot feign good faith, that he merely signed, because, first, he signed the DTRs even if the workers’ signatures did not appear thereon; and second, he signed for, or over the name of, Governor Milagrosa T. Tan when he had no right or authority to do so, clearly with the intention of securing the release of the payment for the ghost employees. He cannot thus disclaim knowledge of the job order workers’ supposed rendition of services.

I must, therefore, differ from the *ponencia*’s pronouncement that the Sandiganbayan erred in ruling that the rendition of work by the job order workers was within Reales’ knowledge.⁹ On the contrary, Reales’ failure to adduce proof to rebut the prosecution’s evidence was correctly appreciated by the Sandiganbayan against him.

I note that the Court has previously exonerated public officials charged with either Violation of RA No. 3019 or Malversation for facilitating the payment of salaries to alleged ghost employees despite some irregularities in the documents submitted in support thereof. However, unlike in the present case, the accused in those cases were able to present independent proof that the alleged ghost employees indeed rendered services.

In *People v. Gil-Roflo*,¹⁰ which involved charges for Violation of Section 3(e) of RA No. 3019 and Estafa through Falsification of Public Documents against a Member of the Sangguniang Panlalawigan of the Province of Davao Oriental for allegedly maintaining ghost employees, the accused submitted the Contracts of Services of the supposed ghost employees, as well as their duly signed DTRs and Accomplishment Reports, in addition to the employees’ testimonies.

⁹ *Ponencia*, p. 14.

¹⁰ G.R. Nos. 249564 & 249568-76, March 21, 2022 [Per J. Hernando, Second Division].



Meanwhile, in *Maamo v. People*,¹¹ the Court acquitted the Mayor and Municipal Treasurer of Lilo-an, Southern Leyte of the charges of Malversation for allegedly keeping fictitious workers on the municipality's payroll. In the said case, the Municipal Accountant testified that the Time Book and Payrolls corresponded to the projects of the municipality, which, according to her verification, existed, and attested that the Emergency Employment Contracts of the purported ghost employees were on file with the LGU. In addition to this, the existence of the project was also confirmed by the testimonies of several witnesses.

Here, no independent proof was ever submitted by Reales to rebut the overwhelming evidence proffered by the prosecution pointing to the non-existence of, or the non-rendition of work, by the job order workers.

Concededly, in view of the presumption of innocence granted by the Bill of Rights, the accused in criminal cases are entitled to acquittal unless their guilt is shown beyond reasonable doubt. However, proof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Only moral certainty is required, or that degree of proof which produces conviction in an unprejudiced mind.¹²

In this case, the evidence of the prosecution successfully overturned the presumption of innocence in favor of Reales. Hence, he should not be acquitted of the charges.

Accordingly, I vote to DENY the appeal.



MARIA FILOMENA D. SINGH
Associate Justice

¹¹ G.R. No. 201917, 801 Phil. 627 (2016) [Per J. Caguioa, First Division].

¹² RULES OF COURT, Rule 133, sec. 2.