



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SPECIAL SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case Nos. 25122 to 25145

-versus-

JOSE RAMISCAL, JR., ET AL.,
Accused.

Present:

Gomez-Estoesta, J., *Chairperson*
Trespeses, J., and
Jacinto, J.*

Promulgated:

October 8, 2018 *ya*

X ----- X

RESOLUTION

GOMEZ-ESTOESTA, J.:

This resolves accused Jose Ramiscal's *Motion for Reconsideration* of this Court's Decision promulgated on April 13, 2018 convicting him of twelve (12) counts of violation of Sec. 3(e) of R.A. 3019 and twelve (12) counts of Falsification of Public Document. A *Motion for Reconsideration* has likewise been filed by accused Flaviano,¹ but in view of his demise,² the cases against him were ordered dismissed by this Court in its Resolution dated July 13, 2018.³

In his *Motion for Reconsideration*,⁴ accused Ramiscal asserts that the Prosecution did not present sufficient evidence to convict him, and that this Court based its Decision on speculations and conjectures.

17.8

* Per A.O. No. 284-2017 dated August 18, 2017

¹ *Ad Cautelam - Records*, Vol. 7, pp. 244-265

² Notice of Death of a Party dated May 28, 2018 – *Id.*, pp. 333-335, as confirmed by the prosecution – Compliance dated July 11, 2018 – *Id.*, pp. 342-345

³ *Id.*, pp. 346-347

⁴ *Id.*, pp. 274-312

Accused Ramiscal dissociates himself from the unilateral Deeds of Sale, emphasizing that he was not a party or signatory thereto, had no participation in its execution, and was not aware of its existence until he was called to the committee hearing before the House of Representatives. He claims that his testimony to this effect was never rebutted. Neither was there any testimony that he conspired with his co-accused in executing the unilateral Deeds of Sale and effecting the registration of the unilateral Deeds of Sale. In fact, Prosecution witness and private complainant Luwalhati Antonino declared that she did not know if accused Ramiscal was aware of the execution of the unilateral Deeds of Sale.

Consequently, any untruthful narration in the unilateral Deeds of Sale cannot be attributed to accused Ramiscal, and he is not liable for falsification. Accused Ramiscal likewise ascribed error in this Court's "assumption", without basis, that the unilateral deed of sale was falsified because it was the one registered with the Register of Deeds.

Accused Ramiscal also argues that all documents emanating from the AFP-RSBS were above-board and showed no traces of misappropriation or conversion, much less by accused Ramiscal. It was accused Flaviano who paid the taxes and registered the unilateral Deeds of Sale. AFP-RSBS had no control over the documents submitted to the BIR and the Register of Deeds of General Santos City, where the irregularities could be traced. Not having control over these documents, accused Ramiscal cannot be deemed to be the author of the falsification.

Had accused Ramiscal known of the fraud found to be perpetrated by accused Flaviano, he could have filed cases against him, as he had done in similar circumstances. The unilateral deeds of sale were used precisely because whoever was at fault knew that accused Ramiscal would not have allowed the registration of anything other than the bilateral deeds of sale. This was why he never signed the unilateral deeds of sale. It was also beyond accused Ramiscal's functions as President of AFP-RSBS to inquire what happened after the checks were cleared and the certificates of title transferred.

Moreover, the Prosecution did not present evidence to establish the fair market value of the subject lots, which was merely assumed by this Court, which was an error, pursuant to *Arias v. Sandiganbayan*.⁵ Since the true purchase price was not proven, neither was undue injury to the government.

With regard to the finding that accused Ramiscal conspired with the other accused in the irregular transaction, he bemoans having been charged, while the other signatories were not, which was indicative of selective prosecution. Also, the regularity of the process observed by AFP-RSBS negated conspiracy.

Finally, accused Ramiscal recites a litany of cases filed before this Court against him, which did not prosper.

⁵ G.R. No. 81569, December 13, 1969

178

In its *Opposition/Comment*,⁶ the prosecution countered that the grounds raised by accused Ramiscal are baseless and absurd. The prosecution established that he acted with evident bad faith, as he knew from the start that the lots were valued at ₱10,500.00 per square meter, but was at the very least apprised of the documents prepared by accused Flaviano for the payment of taxes in order to transfer title from the sellers to AFP-RSBS. Accused Flaviano, a private individual, could not have perpetrated such acts without accused Ramiscal's consent. The falsification of the twelve (12) unilateral deeds of absolute sale stating a lower selling price resulted in the underpayment of taxes, which caused undue injury to the government.

There is likewise no merit in accused Ramiscal's argument that the fair market value of the lots has not been proven. In this case, the fair market value, or the price agreed upon by a person but not compelled to buy, and an owner not compelled to sell, is ₱10,500.00. In any event, the prosecution proved that the government sustained undue injury in the amount of ₱291,207.50.

While there was no document or eyewitness account showing accused Ramiscal's specific role in the conspiracy, it can be deduced from the entirety of the evidence pointing to him as co-conspirator in the offenses. Contrary to accused Ramiscal's allegations, there is nothing above-board in the RSBS documents when he never rectified the anomalous underpayment of taxes. Consequently, his claim that he only heard of the unilateral deeds of sale during the hearing before the House of Representatives is illogical. Complainant Luwalhati Antonino never testified on accused Ramiscal's innocence; neither was it proven before the Senate Blue Ribbon Committee. All that Antonino said was that she did not witness accused Ramiscal falsify the documents. That the signatories to the transactions were not charged is not a defense, as it is the fiscal's prerogative to determine the charges to be filed and who to file them against. Finally, the decisions cited by accused Ramiscal decided by other divisions of this Court have no bearing because there is no proof that they have identical facts, laws and evidence with these cases, and they cannot be utilized as precedents, not having been rendered by the Supreme Court.

Notwithstanding that accused Ramiscal was given time to file his Reply to the prosecution's Comment,⁷ this Court has not received any.

The *Motion* is bereft of merit.

Accused Ramiscal's arguments center on the lack of readily perceivable evidence of his participation in the documents, particularly the Unilateral Deeds of Sale, which he did not sign, and allegedly did not know about until he was called by the House of Representatives. However, evidence of his participation is not limited to his signature on the subject Unilateral Deeds of Sale. If such were the case, indispensable participants in a criminal scheme need only refrain from signing documents to evade prosecution. As

⁶ Records, Vol. 7, pp. 354-363

⁷ Resolution dated May 10, 2018, *Id.*, pp. 325-327

178

exhaustively explained in the assailed *Decision*, documentary evidence, which need not bear accused Ramiscal's signature, taken together, prove that the underpayment of taxes, which caused undue injury to the government, could not have been done by accused Flaviano without accused Ramiscal's consent. As President of AFP-RSBS, it should not have escaped his attention, unless purposely, that the taxes paid as a requisite for the transfer of titles, were too small for the actual consideration for the sale of the subject lots. He could argue that the documents with AFP-RSBS appeared to be above-board, but what is crucial is that the actual documents presented by the prosecution proved that there was no way accused Ramiscal could not have been aware of, and thus should have prevented, the commission of the crimes charged. Needless to say, this scheme is not something prosecution witness Luwalhati Antonino would be privy to, having no knowledge of the processes in AFP-RSBS, her complaint having centered on the anomalous sale of the properties.


Accused Ramiscal also contends that there was no proof of the fair market value of the subject lots, citing *Arias v. Sandiganbayan*. This is immaterial. *Arias v. Sandiganbayan* concerns the **purchase of property** for a price allegedly much higher than its market value, whereas these cases concern the deliberate underpayment of taxes, where what need only be established is the actual consideration for the purchase of the lots, and the actual taxes paid thereon, to determine undue injury to the government.

Finally, the Decisions of this Court cited by accused Ramiscal do not bind Us. Only decisions of the Supreme Court constitute binding precedents, forming part of the Philippine legal system.⁸

All told, to deliberate on the grounds raised by accused Ramiscal in his *Motion* would call for a mere repetition of the assailed *Decision*, as said grounds have already been considered and resolved by this Court in said *Decision*. The bases for this Court's findings in said *Decision*, which accused Ramiscal seeks in his *Motion*, are exhaustively explained therein, and need not be reiterated.

WHEREFORE, in view of the foregoing, the *Motion for Reconsideration* filed by accused Ramiscal is **DENIED** for lack of merit.


SO ORDERED.


MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

⁸ *Nippon Express (Philippines) Corporation v. CIR*, G.R. No. 196907, March 13, 2013

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


BAYANI H. JACINTO
Associate Justice

