Republic of the Philippines
Sandiganbayan
Quezon City
***

SEVENTH DIVISION

MINUTES of the proceedings held on 2 July 2019.

Present:

Justice MA. THERESA DOLORES C. GOMEZ-ESTOESTA--------- Chairperson
Justice ZALDY V. TRESPESES---------- Member
Justice GEORGINA D. HIDALGO---------- Member

The following resolution was adopted:

Crim. Case No. SB-18-A/R-0002 - People vs. HELEN A. RAMOS

This resolves the following:

1. Accused-appellant Helen A. Ramos' "MOTION FOR RECONSIDERATION" dated April 22, 2019;[1]

2. Prosecution's "COMMENT/OPPOSITION (On the Partial Motion for Reconsideration dated 22 April 2019)" dated June 4, 2019.[2]

TRESPESES, *J.*

This resolves the Motion for Reconsideration filed by accused-appellant Helen Ramos of the Decision promulgated on 29 March 2019, affirming the judgment of conviction issued by the Regional Trial Court of San Fernando, La Union, Branch 66 in Criminal Case No. 11128 for the crime of Malversation of Public Funds under Art. 127 of the Revised Penal Code.

ACCUSED-APPELLANT'S MOTION

Accused-appellant claims that all the funds collected by her as barangay treasurer were fully receipted and deposited to the City Treasurer. She argues that the prosecution witnesses failed to explain how they came up with the amount of cash shortage. She adds that the documents on which the cash

---

[1] *Record*, pp. 121-124.
[2] Id. at 141-151.

examination report was based were never presented, identified and authenticated by the persons who were in custody thereof.

Accused-appellant further claims that inconsistencies in the testimonies cast doubt on the credibility of the prosecution witnesses. For one, the COA auditors failed to explain how it took them 24 days to finish the audit from 5 October to 24 October 2010 when the cash examination report was dated 5 October 2010, the day they went to Barangay Biday, San Fernando, La Union. She also maintains that the COA auditors were not authorized to conduct audit on 5 October 2010 because the travel order only authorized them to proceed to the location and conduct audit on 3 October 2010.

As to the letter which contains her alleged admission, accused avers that the court should have considered the circumstances that led to its execution. She stresses that prior to the admission, she was taken by a policeman and was brought to the barangay hall. She was surrounded by barangay officials and auditor who threatened her. Thus, her statement cannot be considered to have been given voluntarily.

Finally, accused-appellant argues that conversion must be affirmatively proved, otherwise the presumption is deemed to have never existed.

PROSECUTION'S COMMENT/OPPOSITION

The prosecution opposes the motion and argues that the court a *quo* correctly found accused-appellant guilty beyond reasonable doubt of the crime charged. It further claims that the judgment of conviction was correctly affirmed by the Sandiganbayan.

It maintains that the prosecution's evidence sufficiently established the unremitted collection in the amount of ₱143,320.00 through the summary sheet or breakdown prepared by the COA auditors and the certified copies of the official receipts. The receipts which were used to acknowledge collection of fees, taxes and monies accruing to the barangay were not recorded in the cash book. For having failed to present credible explanation on the disappearance of funds under her custody, the presumption under Art. 217 of the Revised Penal Code should be considered against her.

The prosecution also insists that accused voluntarily executed the letter wherein she offered to settle her accountability. It invokes *People v. Pamon*, which states that no sane person or one of normal mind will deliberately and knowingly confess himself to be the perpetrator of a crime, unless prompted by truth and conscience. Therefore, it is impossible for one to be forced into confessing at the risk of incriminating oneself.

The prosecution further avers that the arguments raised are the same arguments interposed in the appellant's brief which were rejected by the Court. Accused having failed to advance cogent reason warranting the reversal of the judgment of conviction against her, the motion for reconsideration must fail.

OUR RULING

We resolve to **deny** accused-appellant's motion for lack of merit.

The Court maintains that accused's cash shortage in the amount of ₱143,320.00 was sufficiently established by the documents presented before the court a *quo* particularly, through the certified copies of the official receipts. Although in the assailed decision, the court noted that some official receipts were not marked, the court still considered them as they were formally offered[3] and admitted in evidence.[4]

In a long line of cases, the Supreme Court allowed the relaxation of the rules on formal offer and considered exhibits not formally offered, provided that: (a) the same was duly identified by testimony duly recorded; and (b) the same was incorporated in the records of the case.[5] In the instant case, the official receipts marked as Exh. N and submarkings were, in fact, offered and admitted in evidence. They were identified by prosecution witness Dulay as reflected in the transcript of stenographic notes, only that despite the request for their markings, some copies were inadvertently left unmarked.[6] As such, they deserve more consideration than documents not formally offered. They were also attached to the records and can be identified by counterchecking the official receipt numbers with the numbers reflected in the list of the official receipts[7] issued by the City Treasurer to Barangay Biday.

All the documentary exhibits were identified by the prosecution witnesses. Exh. M and its submarkings which consists of certified copy of cash books reflects the official receipts issued by accused during her stint as barangay treasurer. It was certified by Acting Barangay Treasurer Cherilyn G. Lachica, who has custody of the said document and identified by prosecution witness Dulay. The rule provides that entries in official records made in the performance of the duty of a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are prima facie

---

[3] Original Record, pp. 95-97.
[4] Id. at 102.
[5] *Sabay v. People*, G.R. No. 192150, 01 October 2014; *People v. Napat-a*, 258-A Phil. 994 (1989); *People v. Mate*, 191 Phil. 72 (1981); *The Heirs of Romana Saves, et al. v. The Heirs of Escolastico Saves, et al.*, G.R. No. 152866, 06 October 2010, 632 SCRA 236.
[6] TSN, 23 February 2016, pp. 19-24.
[7] Exhs. P, Q, R, S, T, U and V.

evidence of the facts therein stated. Being official entries, Exh. M and submarkings are admissible even if the person who made the entries did not testify during the trial to verify the said documents. They are considered prima facie evidence of the facts stated therein and presumed to be truthful, since accused failed to present evidence to rebut its truthfulness.

Further, accused-appellant's accountability was bolstered by her own admission. Record shows that she personally received the demand letter dated 22 October 2010[8] requiring her to produce the missing funds and to explain the cash shortage. Despite the directive, none was heard from accused-appellant. Her silence on the matter can already be viewed as an admission on her part. The Supreme Court's pronouncement in *HDI Holdings Philippines, Inc. v. Cruz*[9] finds application, thus:

> The natural instinct of man impels him to resist an unfounded claim or imputation and defend himself. It is totally against our human nature to just remain reticent and say nothing in the face of false accusations. Silence in such cases is almost always construed as implied admission of the truth thereof. Consequently, we are left with no choice but to deduce his implicit admission of the charges levelled against him. *Qui tacet consentire videtur.* Silence gives consent.

The admission on the cash shortage was further supported by a letter dated 15 July 2011,[10] which was executed by accused-appellant nine months from receipt of the demand letter. A reading of the said letter shows that she acknowledged the amount of ₱143,320.00 collected during her term and that it was not remitted and further promised to pay the said amount. Nowhere from the said letter did she dispute the audit conducted by the COA auditors or the amount being claimed.

Accused-appellant's admission in the letter dated 15 July 2011, is considered as best evidence which proves the fact in issue. The rationale for the rule is based on the presumption that no man would declare anything against herself unless such declaration was true. Thus, it is fair to presume that the declaration corresponds with the truth, and it is her fault if it does not.[11]

Record shows that it is only when the case was filed that accused claimed that the subject letter was not given voluntarily. However, the Court maintains its ruling that the letter dated 15 July 2011 was voluntarily executed. In this regard, it is well to restate herein the pertinent portion of the assailed decision:

---

[8] Exh. H.
[9] A.C. No. 11724, 31 July 2018.
[10] Exh. I.
[11] *De Lima v. Guerrero*, G.R. No. 229781, 10 October 2017.

Other than her bare allegation, there was no other evidence presented to support her claim that the letter was executed through coercion. Accused testified that on 15 July 2011, a police officer went to their house and invited her to go to the Police Station. There she met Barangay Chairperson Valvez and *Kagawad* Rodolfo Flores, and they proceeded to the barangay hall. However, when she executed the subject letter, only the barangay officials and the audit team members were present and the police officer was no longer with them.[12]

That she was told by the barangay chairperson to execute a promissory note, cannot at all be considered a threat or intimidation sufficient to successfully claim vitiated consent. On the contrary, accused-appellant revealed her real purpose in executing the said letter. Accused-appellant thus testified:

ATTY. LAPEÑA (Direct-examination)

Q So what happened in the Barangay Hall, Madam Witness?

A When we were there at the Barangay Hall together with the audit team and the Barangay Officials, they told me to make a promissory note.

Q So, what did you do if any Madam Witness?

A At that time ma'am, I was confused and disturbed because of family problem and then this problem arose, so I was really not myself at that time.

Q What is that family problem, Madam Witness?

A Because of that issue, their accusations, ma'am, they messaged my husband and they told him many things about me, that's the reason why we got separated.

Q Madam Witness, when they told you to make a promissory note, what did you do, if any?

A I was not able to make one ma'am, because I have so many problems that time. They just dictated the contents of the promissory note ma'am, so that everything will be over.

Q So Madam Witness, they dictated to you the contents of this letter?

A Yes, ma'am.

Q So, did you follow them, Madam Witness?

A ***Because I just really want to get out from that situation, I just followed them ma'am.*** (Emphasis supplied)

---

[12] TSN, 26 July 2017, p. 14.

> It appears that in executing the subject letter, accused-appellant was compelled by her own personal circumstances and not by any act attributable to the COA auditors and barangay officials present. Accused-appellant failed to prove that she was deprived of her free will and choice or that the execution of the letter was tainted with deceit or coercion. Her allegation that she was confused and disturbed and thus, was forced to execute the letter to get out of the situation does not amount to vitiated consent.

Besides, accused-appellant's claim of threat and intimidation were not substantiated by other evidence other than her bare allegations. It should be stressed that allegations are not proof.

On the issue of misappropriation, accused-appellant argues that conversion of public funds must be affirmatively proved. We do not agree.

Article 217 of the RPC provides that the failure of a public officer to have duly forthcoming any public funds with which he is chargeable upon demand by any duly authorized officer gives rise to the presumption that he has put such missing funds to personal use. This presumption is disputable and rebuttable by evidence showing that the public officer had fully accounted for the alleged cash shortage. However, in here, after the cash shortage was discovered and made known to accused-appellant through a demand letter, the latter failed to rebut the *prima facie* presumption that she has put such missing funds to her personal use thus, warranting conviction.

Finally, the Court finds that the travel order which directed the COA auditors to proceed to Barangay Biday on 3 October 2010 will not render invalid the audit conducted on 5 October 2010. As the Court sees it, the order did not strictly limit the audit to be completed on 3 October 2010 but simply sets the period on which the audit may be proceed.

Accordingly, there being no other new matters raised, We find no cogent reason to justify the reconsideration of the assailed Decision.

WHEREFORE, premises considered, the Motion for Reconsideration of the Decision promulgated on 29 March 2019, filed by accused-appellant Helen A. Ramos, is hereby **DENIED** for lack of merit.

SO ORDERED.

Quezon City, Philippines.

ZALDY V. TRESPESES
Associate Justice

WE CONCUR:

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

GEORGINA D. HIDALGO
Associate Justice