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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

CARLOS A. CATUBAO,
Petitioner,

G.R. No. 227371

Present:

- versus -

CARPIO, J., Chairperson,
CAGUIOA,
J. REYES, JR.,
LAZARO-JAVIER, and
ZALAMEDA, JJ.

SANDIGANBAYAN and THE
PEOPLE OF THE PHILIPPINES,
Respondents.

Promulgated:

02 OCT 2019

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a Petition for Review on *Certiorari* filed by the accused-appellant Carlos A. Catubao (Catubao) assailing the Decision¹ dated April 6, 2016 (assailed Decision) and Resolution² dated September 29, 2016 (assailed Resolution) of the Sandiganbayan in Criminal Case No. SB-11-CRM-0420, finding Catubao guilty beyond reasonable doubt of the crime of Direct Bribery.

The Facts

Acting on a complaint filed by Cornelio Ragasa (Ragasa) and Atty. Fernando Perito (Atty. Perito), an Information was filed by the Office of the Ombudsman (Ombudsman) against Catubao, the accusatory portion of which reads:

¹ *Rollo*, pp. 31-45. Penned by Associate Justice Jose R. Hernandez with Associate Justices Alex L. Quiroz and Maria Cristina J. Cornejo concurring.
² *Id.* at 46-49. Penned by Associate Justice Jose R. Hernandez with Associate Justices Alex L. Quiroz and Zaldy V. Trespeses concurring.

That sometime in December 2008 or sometime prior or subsequent thereto, in Guiuan, Samar, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, CARLOS A. CATUBAO, a public officer, being the Fourth Assistant Provincial Prosecutor of the Provincial Prosecutor's Office, Bacoor, Cavite, assigned to resolve criminal complaints filed in his Office, committing the offense in relation thereto, did then and there willfully, unlawfully and feloniously accept and receive the amount of three thousand pesos (P3,000.00) from one Cornelio Ragasa, a party litigant in I.S. Nos. B-07-5856 to 5858 and I.S. No. B-08-8161 and I.S. No. B-08-900, pending before him in consideration for expediting the resolution of said cases, to the damage and prejudice of public interest.

CONTRARY TO LAW.³

During the arraignment on January 12, 2012, Catubao pleaded not guilty.⁴ Pre-trial and trial thereafter ensued.

Version of the Prosecution

The prosecution's version, as summarized by the Sandiganbayan, is as follows:

In 2007, estafa cases were filed against Cornelio Ragasa ("Ragasa"). He hired Atty. Fernando Perito ("Atty. Perito") as his lawyer. The cases were pending before the Office of the Provincial Prosecutor in Bacoor, Cavite and accused Catubao was then the handling prosecutor. For two years, the cases remained unresolved prompting Atty. Perito to personally follow them up with the accused several times. Accused Catubao asked him for "*pang inom*" whenever Atty. Perito makes a follow up. Before going on a Christmas vacation, they again met and it was there that the accused said he need[ed] money for he was leaving for Samar.

On December 19, 2008 and while in Guiuan, Samar, accused Catubao called Atty. Perito asking any amount of money for a drinking session with his friends and mentioned that five thousand pesos (Php 5,000.00) will do. Atty. Perito immediately informed Ragasa about it. Ragasa proceeded to Atty. Perito's office and handed him said amount. Atty. Perito then ordered his secretary, Susan Remoquillo, to send only four thousand pesos (Php 4,000.00) to the accused through LBC Padre Faura.

Accused Catubao finally resolved the cases in favor of Ragasa. However, the resolution was denied by the Chief Provincial Prosecutor. Eventually, the case was reassigned to Fiscal Ferdinand Falafox.

Atty. Perito also testified that the accused had once asked him to prepare the resolution. Accused Catubao explained that he had no time to do it. Atty. Perito claimed that he drafted one but was not accepted by the Chief Prosecutor, Emmanuel Velasco, who was not convinced that the accused prepared it.

³ Records, pp. 1-2.

⁴ Rollo, p. 32.

Atty. Perito then filed a complaint-affidavit on August 18, 2009 against accused Catubao before the Office of the Ombudsman for Luzon.⁵

Version of the Defense

On the other hand, the version of the defense, as also summarized by the Sandiganbayan, is as follows:

Accused Catubao was assigned the estafa cases against Ragasa for purposes of conducting the preliminary investigation. Around September to December of 2008, Atty. Perito went to his office about three times to follow up the resolution of the cases. Accused explained that he had other cases to resolve that were submitted earlier than the estafa cases. Sometime in October 2008, Atty. Perito approached the accused telling him that he left his wallet. He asked the accused a favor since he needed to go home to San Pedro, Laguna. The accused gave him one thousand pesos (Php 1,000.00).

On December 19, 2008, accused was in his hometown in Guiuan, Samar. Atty. Perito informed him through a text message that the former sent something for him which he can claim at the local LBC Branch. Accused Catubao expected Atty. Perito's payment of the Php 1,000.00 he lent him so he replied, "*Thanks.*"

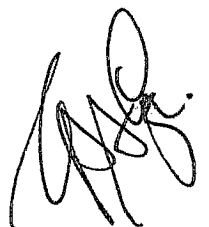
After Christmas, he went to the town proper of Guiuan which is about 18 to 20 kilometers away from his house. He remembered the text message and went to claim the money at the local LBC branch. He expected to receive Php 1,000.00 only but Atty. Perito sent him Php 4,000.00. He immediately called Atty. Perito and asked him why he sent such amount. Atty. Perito replied that he was just repaying the favor that accused extended to him and that he also won a case.

In January 2009, Atty. Perito continued following up on the estafa cases by calling and sending text messages. Accused repeatedly answered him that there are other cases earlier submitted for resolution. Atty. Perito became unfriendly and angry. To keep away from him, the accused then changed his cellphone number.

Early February of 2009, the accused resolved the estafa cases and submitted his resolution to the provincial prosecutor for approval. He informed Atty. Perito about it when the latter visited his office. Atty. Perito asked for a copy of the resolution but the accused refused explaining that it was not yet signed and released by the provincial prosecutor. Atty. Perito then said that he will file a case against the accused and he had evidence. The accused then realized that Atty. Perito set him up when he received the money sent through LBC.⁶

⁵ Id. at 33-34.

⁶ Id. at 34-35.



Ruling of the Sandiganbayan

After trial on the merits, in its Decision⁷ dated April 6, 2016, the Sandiganbayan convicted Catubao of the crime charged. The dispositive portion of the said Decision reads:

ACCORDINGLY, accused **Carlos A. Catubao** is found **guilty beyond reasonable doubt** for violation of Article 210 of the Revised Penal Code and sentenced to suffer in prison the indeterminate penalty of **7 years 4 months and 1 day of prision mayor, as minimum, up to 8 years and 8 months of prision mayor, as maximum**. He has to pay the fine of Nine Thousand Pesos (Php 9,000.00) and to suffer the penalty of special temporary disqualification from holding any public office.

SO ORDERED.⁸

The Sandiganbayan ruled that all the elements of the crime had been sufficiently proved by the prosecution. The Sandiganbayan held that, based on the evidence, Catubao solicited and received a gift from Atty. Perito to expedite the resolution of the estafa cases of Ragasa pending before him. Thus, Catubao received a gift in consideration for doing an act, though not constituting a crime in itself, but was related to the exercise of his functions as a public officer.

Catubao filed a motion for reconsideration, but the same was denied by the Sandiganbayan through a Resolution⁹ dated September 29, 2016.

Hence, Catubao filed the instant appeal.

Issue

For resolution of this Court is the issue of whether the Sandiganbayan erred in convicting Catubao of the crime of Direct Bribery.

The Court's Ruling

The appeal is impressed with merit. The Court acquits Catubao of the crime of Direct Bribery because of reasonable doubt.

In questioning his conviction, Catubao relies on supposed contradictions in the testimonies of Ragasa and Atty. Perito. For instance, he points out that Atty. Perito testified that he called Ragasa after the former's phone conversation with Catubao. He then compared the said testimony with Atty. Perito's other testimony that he was in a car with Ragasa when Catubao called Atty. Perito to ask for money,¹⁰ arguing then that Atty. Perito could not

⁷ Supra note 1.

⁸ *Rollo*, p. 44.

⁹ Supra note 2.

¹⁰ *Rollo*, pp. 17-19.

have called Ragasa afterwards as they were supposedly together in the latter's car. He also points out that Atty. Perito testified that he only asked for money from Ragasa on December 19, 2008 — as the supposed phone call between Atty. Perito and Catubao only happened on the same date — but Ragasa testified that he gave Atty. Perito the money before that date, or around December 17 or 18, 2008.¹¹

He also claims as inconsistent Atty. Perito's testimonies as to when Catubao would ask money from him and/or his client. In one instance, Atty. Perito testified that Catubao asked money from him whenever they would meet in the corridors of Regional Trial Courts (RTCs), but then Atty. Perito likewise testified that Catubao asked money from him when they were in the office of the Provincial Prosecutor in Bacoor, Cavite.¹² He likewise insists that, contrary to Atty. Perito and Ragasa's claims, the estafa cases involving Ragasa were not pending in his docket for two years, but instead were only pending with him for months.¹³

The Sandiganbayan, however, simply dismissed his contentions, explaining that the inconsistencies referred to were just minor inconsistencies which did not discredit their credibility.¹⁴

To recall, the crime of direct bribery as defined in Article 210 of the Revised Penal Code consists of the following elements: (1) that the accused is a public officer; (2) that he received directly or through another some gift or present, offer or promise; (3) that such gift, present or promise has been given in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which is his official duty to do; and (4) that the crime or act relates to the exercise of his functions as a public officer.¹⁵

The existence of the first element of the crime is undisputed, it being established by the prosecution, and admitted by Catubao himself, that he held the position of Fourth Assistant Provincial Prosecutor in the Office of the Provincial Prosecutor in Cavite at the time of the incident complained of.

The second element is also undoubtedly present. As the Sandiganbayan found:

There is likewise no question that the accused received a gift or present by himself. Accused Catubao received the amount of Php 4,000.00 from Atty. Perito's client, Cornelio Ragasa. He personally claimed the amount from the local LBC Branch in Guiuan, Samar while he was there [in] December 2008. There was a clear intention on his part to accept and take the money sent and consider it as his own. He pocketed the money. His

¹¹ Id. at 18.

¹² Id. at 19-20

¹³ Id. at 14-16.

¹⁴ Id. at 47.

¹⁵ *Marifosque v. People*, 479 Phil. 219, 227 (2004).

defense that he only received the amount as a return of a favor he extended to Atty. Perito does not convince this Court to free him from liability.

The records and the evidence establish that sometime in October of 2008, Atty. Perito went to the accused to tell the latter that he lost his wallet. As a kind gesture, the accused gave Atty. Perito the amount of Php 1,000.00 since the latter had to travel to his residence in San Pedro, Laguna. The fact that accused Catubao lent Php 1,000.00 to Atty. Perito as testified by a Mr. Regino Monzon, a staff of the Regional Trial Court of Bacoor, was given probative weight by the Office of the Ombudsman. However, assuming *arguendo* that the Php 1,000.00 was repayment of the money the accused lent Atty. Perito, there was no effort on his part to return the Php 3,000.00. He admitted that he did not return the Php 3,000.00. His excuse that the excess was a gift from Atty. Perito in appreciation of his kindness and it was a “*balato*” for a case he won does not hold water. The amount is three times more than the money he lent him. Considering the Php 3,000.00 as a return of a favor amounting to a mere Php 1,000.00 he once lent the lawyer of a party litigant is not sufficient to lead this Court to accept such absurd defense.¹⁶

It is an established fact, therefore, that Catubao received a *gift* of at least ₱3,000.00 from Atty. Perito and Ragasa. There is thus no doubt that the second element is present.

The fourth element is likewise undoubtedly present because the resolution of the estafa cases filed against Ragasa indubitably relates to the exercise of his functions as a public officer.

The third element, however, was not duly proven. The third element of the crime requires that the gift be given in consideration of the accused’s commission of some crime, or any act not constituting a crime, or to refrain from doing something which it is his official duty to do.

In the present case, the prosecution claimed, and the Sandiganbayan believed, that the ₱3,000.00 was solicited by Catubao in exchange for finally acting on the estafa cases filed against Ragasa that were then pending before Catubao. Catubao, on the other hand, claims that it was only (1) a “return of favor” because he previously lent Atty. Perito ₱1,000.00, and (2) a “*balato*” because Atty. Perito told him that Atty. Perito just won another case.

Apart from the testimonial evidence of Atty. Perito and Ragasa, the prosecution presented no other evidence that the money was solicited by Catubao and that it was given in consideration of the latter finally acting on the case. The existence of the third element, therefore, boils down to the credibility of the testimonies of the prosecution witnesses.

The Court holds that the testimonies of the prosecution witnesses failed to establish beyond reasonable doubt the third element. This is so because the testimonies of the prosecution witnesses were so marred by inconsistencies

¹⁶ Rollo, pp. 39-40.

that they are no longer believable. For instance, Atty. Perito testified that the first time Catubao asked money from him was around December 16, 17, or 18, 2008.¹⁷ On direct examination, he said that Catubao demanded money from him via phone call,¹⁸ and that he called Ragasa after to tell him that Catubao was demanding money.¹⁹ Yet, on cross-examination, Atty. Perito was so confused about the supposed incident as to when Catubao actually demanded money. Thus:

Q You told us that the accused has been demanding money before he resolves these cases pending before him. That's what you told us, is it not?

A What I said, sir, is that sometime in December, he asked from me P4,000.00 to resolve the case, more or less, P5,000.00, but I gave only P4,000.00.

Q Precisely. And this happened at the Office of the Provincial Prosecutor of Bacoor?

A No, no, sir.

Q Where?

A **It was... whenever we meet in the corridor, in the sala of the RTC judges, sir when we see each other, he would ask and I will warn him that I will file a case against you.**

Q So, you saw each other on December 16, 17, 18, and 19?

A Sir, I was just surmising the dates, sir, but he called me on those dates. **In fact, Mr. Ragasa was beside me in his car when he called me through his cellphone.**

Q But, Mr. Witness, you said that whenever you meet at the hallway or at the sala of Branch 19, where else, wherever you meet? Where else that accused will demand money from you?

A Specifically on those dates he will ask from me in December, sir.

Q: You said that whenever you meet at the hallway, at the sala of Branch...

A **I never said that, sir. I never said that.**

Q So where else?

A I was emphatic about December 19 when he asked money from me, sir.

Q You never said that the accused was demanding money whenever you meet at the hallway, at the sala of Branch 19? So, where else?

A The truth is that whenever I have to follow up the cases especially the resolution, he will always intimate to me, "*wala bang pang inom d'yan?*"

¹⁷ TSN dated July 16, 2012, p. 29.

¹⁸ TSN dated July 16, 2012, p. 13.

¹⁹ TSN dated July 16, 2012, p. 14.

Q So, whenever you follow up? So you will follow up at the Office of the Provincial Prosecutor of Cavite in Bacoor, am I correct? Because you denied awhile ago.....

A **Yes, sometimes whenever in the presence of the court, he will always have to ask from me.**²⁰ (Emphasis and underscoring supplied)

Atty. Perito was not the only one confused as to how Catubao demanded money from them. Even Ragasa's testimony was confusing. During his direct examination, his version of the incident was that Catubao called Atty. Perito while the latter and Ragasa were together in Ragasa's car.²¹ However, during the cross-examination, he confusingly testified:

Q Now, Mr. Witness, during the setting of the preliminary investigation of your case, was there any instance or occasion where the accused demanded from you cash or money before he would resolve these cases?

A No, not from me, sir.

Q Not from you. So, we are clear about this matter, Mr. Witness. The accused never demanded personally from you any cash or even hinted that he need some money before he would resolve these cases of you?

A He did hint in my presence, sir.

Q He did not hint?

A He did hint, sir.

Q When was that during the conduct of the preliminary investigation?

A No, sir after the cases had been dragging and no resolutions were released, sir.

Q Where was that, Mr. Witness, that Pros. Catubao hinted that you must give him money before he would resolve these cases of you, where was that?

A **That was in the Office of the Provincial Prosecutor in Imus, Cavite, sir.**

Q Do you know, Mr. Witness, that the Office of Fiscal Catubao is in Bacoor and not in Imus, are you aware of that?

A He also goes to the Office of the Prosecutor in Imus because that is their office, sir.

Q For purposes of conducting a preliminary investigation, is that correct?

A Yes, sometimes we see him in the Court in Bacoor, Cavite, sir.

Q Mr. Witness, where is the office of Pros. Catubao in Imus, could you tell us the room?

²⁰ TSN dated July 16, 2012, pp. 47-49.

²¹ TSN dated July 17, 2012, p. 9.

AJ HERNANDEZ Room number?

ATTY. CORTEZ Whatever, Your Honors.

A There is no room number, sir.

Q So, the office of Pros. Catubao is in Imus, you are sure about that?
A I know that Pros. Catubao conducts preliminary investigation in Imus and he has also an office in Bacoor, Cavite, sir.

Q You mentioned that Pros. Catubao hinted that he needs money at his office in Imus so, you are sure that it was in his office?

A **Actually, it is outside the office of the Prosecutor's Office, sir.**

Q Now, it is not at the office of Pros. Catubao, it was outside?
A Yes, sir.

Q Where in particular in the compound of the Justice Hall, Mr. Witness?

A **In front of the office, at the parking lot, sir.**

Q When Pros. Catubao showed you at the parking lot, he went to you and told you that he needed money, is that correct?

A It's like this, sir, I was with Atty. Perito and we catch upon him in the Imus office and we were following up the resolution of the case and he hinted that he needs some money, sir.

Q So, it's now at the Imus office, not at the parking lot?

A The whole area is the Office of the Provincial Prosecutor and that was the place where it happened, sir.

Q What particular area, Mr. Witness, at the office or at the parking lot because the parking lot is different from the office, am I correct?

A **Yes, that is the Office of the Provincial Prosecutor, sir.**

Q So, you said that Pros. Catubao hinted that you must give him money at the parking lot?

A That is one instance, that he hinted to ask money from Atty. Perito, sir.²² (Emphasis and underscoring supplied)

Ragasa even added that the events he testified to happened around last week of November to around second week of December 2008,²³ contrary to Atty. Perito's claim that Catubao demanded money from him on December 19, 2008.

The Sandiganbayan, however, simply dismissed the above inconsistencies by saying:

²² TSN dated July 17, 2012, pp. 22-26.

²³ TSN dated July 17, 2012, pp. 29-30.

Accused Catubao points out the inconsistencies of the testimonies of prosecution witnesses Atty. Fernando Perito (“Atty. Perito”) and Cornelio Ragasa (“Ragasa”) as to the solicitation for *pang-inom* (money for drinking) and for money to finance his drinking spree for his friends while in Samar. **This Court agrees with the prosecution that the inconsistencies as to the particular date, time and place of communication between the prosecution witnesses and the accused where the latter asked for money are just minor inconsistencies which do not discredit their credibility.** The Supreme Court has held that *discrepancies and inconsistencies in the testimonies of witnesses referring to minor details, and not in actuality touching upon the central fact of the crime, do not impair their credibility. In fact, these minor inconsistencies may even serve to strengthen the credibility of the witnesses as they negate any suspicion that the testimonies have been rehearsed.*²⁴ (Emphasis and underscoring supplied, italics in the original)

The Court disagrees.

The inconsistencies are not trivial or minor, as they do, in fact, touch upon the central fact of the crime. To reiterate, the existence of the third element of the crime — that the gift was given in consideration of Catubao doing an act — is altogether hinged on the testimonies alone of Atty. Perito and Ragasa. These testimonies, in turn, then have to be credible enough to establish the said element *beyond reasonable doubt*.

It bears stressing that “[t]he burden of proving **beyond reasonable doubt each element of the crime** is upon the prosecution, as its case will rise or fall on the strength of its own evidence. Any doubt shall be resolved in favor of the accused.”²⁵ As the Court held in *Patula v. People*:²⁶

[I]n all criminal prosecutions, the Prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the **Prosecution’s duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime** or for any other crime necessarily included therein. The Prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the Prosecution must rely on the strength of its own evidence, and not anchor its success upon the weakness of the evidence of the accused. **The burden of proof placed on the Prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed.** Conversely, as to his innocence, the accused has no burden of proof, that he must then be acquitted and set free should the Prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the Prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.²⁷ (Emphasis and underscoring supplied)

²⁴ *Rollo*, p. 47.

²⁵ *Dela Cruz v. People*, 792 Phil. 214, 236 (2016).

²⁶ 685 Phil. 376, 411 (2012).

²⁷ *Id.* at 391-392.

Here, the prosecution clearly failed to discharge its duty. Not only is the prosecution's version unable to stand on its own; worse, the version of the defense, in fact, is more believable all things considered. What further bolsters the believability of the version of the defense is that part of his claim has already been an established fact since the preliminary investigation of this case. The Ombudsman's Resolution²⁸ dated April 28, 2011 finding probable cause against Catubao already found that Catubao indeed lent ₱1,000.00 to Atty. Perito in a previous instance. It said:

We must state that We give probative weight to respondent's allegation that complainant borrowed one thousand pesos (₱1,000.00) from him. We are persuaded by the sworn statement of Mr. Regino N. Monzon that respondent gave complainant the said amount sometime in October 2008. Mr. Monzon is a staff of RTC, Bacoor, Cavite, Branch 19.²⁹

The foregoing is the reason why the Information filed against Catubao alleged that he received and accepted only ₱3,000.00 and not ₱4,000.00. The Sandiganbayan similarly adopted this finding of fact.³⁰

Thus, Catubao's version that the money he received was partly a repayment by Atty. Perito and partly "*balato*" is, to the mind of the Court, more believable. As Catubao testified during the Sandiganbayan's clarificatory questions:

Q Now, upon learning that the amount sent to you was Four Thousand Pesos (₱4,000.00), what did you do?

A Well, I called him, and tell (*sic*) him, why did you send me this amount, I was only expecting One Thousand (₱1,000.00) in repayment of the amount I lent to you, Sir.

Q So, what was the answer of Atty. Perito?

A The answer was, he was just repaying the favor that I have extended to him, and that he won a case, Sir.

CHAIRPERSON: Off the record.

[OFF THE RECORD]

Back to record.

You mean to say that Atty. Perito instead of giving you, sending you One Thousand Pesos (₱1,000.00), he sent Four Thousand Pesos as what?

MR. CATUBAO As repayment---

CHAIRPERSON No, you had said something.

²⁸ Exhibit '5', Defense's Exhibits.

²⁹ Page 7, Exhibit '5', Defense's Exhibits.

³⁰ *Rollo*, p. 48.

- AJ HERNANDEZ Repayment of the One Thousand Pesos (₱1,000.00) and for the favor of having won in a case with you. That is what you said.
- MR. CATUBAO No, Your Honors. He said in repayment of the favor that I have extended to him, the One Thousand Pesos (₱1,000.00), and he just won a case, Your Honors.
- CHAIRPERSON He just won a case, so, at that time, he was giving you additional Three Thousand Pesos (₱3,000.00).
- MR. CATUBAO “Balato”, Your Honors.
- CHAIRPERSON Yes. Balato.³¹

This claim of Catubao that the money was sent and received as “*balato*” was brushed aside by the Sandiganbayan, as it ruled that:

Being a government employee for more than twenty years, the accused is highly expected to be familiar and knowledgeable of the rules and to refrain from soliciting or accepting money for *public servants shall not solicit or accept, directly or indirectly, any gift gratuity, favor, entertainment, loan or anything for monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.* Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.³² (Italics in the original)

While the Sandiganbayan was not wrong in its exhortation regarding integrity of public officials, it erred in its reliance on Section 7(d) of Republic Act No. 6713³³ (RA 7613), a different penal law, which provides that:

x x x Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.³⁴

Verily, the crime charged against Catubao was Direct Bribery and it has specific elements which are different from a violation of Section 7(d) of RA 6713. While the standard provided in Section 7(d) of RA 6713 may be the ideal for all public officials, the Sandiganbayan nevertheless erred in adjudging the guilt of Catubao on the basis of the same standard when, to recall, Direct Bribery requires that the gift be in consideration of his commission of some crime, or any act not constituting a crime, or to refrain from doing something which is his official duty to do.

³¹ TSN dated November 26, 2012, pp. 39-42.

³² *Rollo*, p. 48.

³³ Also known as “Code of Conduct and Ethical Standards for Public Officials and Employees.”

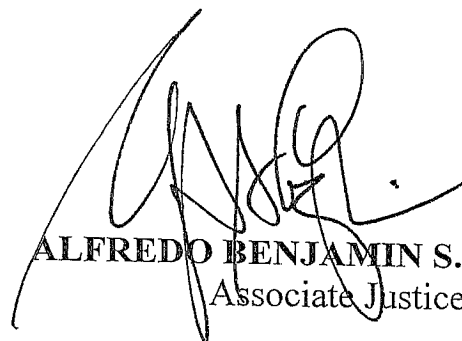
³⁴ R.A. 6713, Sec. 7(d).

In other words, while a prosecutor's receipt of a "*balato*" from a party litigant may indeed be reprehensible from the lens of public service, such act, at the end of the day, is not punishable as Direct Bribery.

In sum, for failure of the prosecution to establish all the elements of the crime of Direct Bribery beyond reasonable doubt, Catubao must thus be acquitted of the charge.

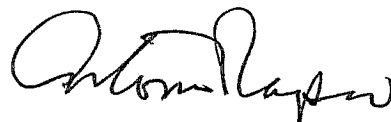
WHEREFORE, the Decision dated April 6, 2016 and Resolution dated September 29, 2016 of the Sandiganbayan in Crim. Case No. SB-11-CRM-0420 are hereby **REVERSED** and **SET ASIDE**. Petitioner Carlos A. Catubao is **ACQUITTED** of the crime of Direct Bribery on the ground that his guilt was not established beyond reasonable doubt.

SO ORDERED.

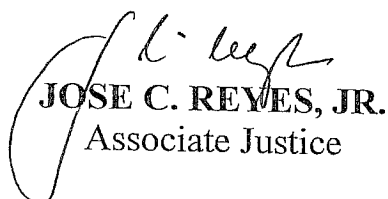


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



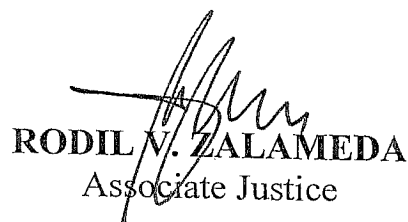
ANTONIO T. CARPIO
Associate Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice



RODIL V. ZALAMEDA
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.



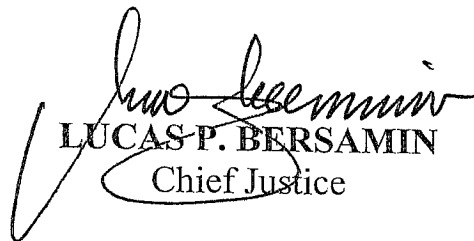
ANTONIO T. CARPIO

Associate Justice

Chairperson

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.



LUCAS P. BERSAMIN

Chief Justice

