



Republic of the Philippines  
**Supreme Court**  
 Manila

**THIRD DIVISION**

**PEOPLE OF THE PHILIPPINES,**     **G.R. No. 233437**  
 Petitioner,

Present:

-versus-

LEONEN, *J.*, Chairperson,  
 HERNANDO,  
 INTING,  
 DELOS SANTOS, and  
 LOPEZ, *J.*, *JJ.*

**HONORABLE**  
**SANDIGANBAYAN (FOURTH**  
**DIVISION), and LAURO L. BAJA,**  
**JR.,**  
 Respondents.

**Promulgated:**  
**April 26, 2021**  
*MisDCCB/H*

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**DECISION**

**LEONEN, *J.*:**

Once a demurrer to evidence has been granted in a criminal case, the grant amounts to an acquittal. Any further prosecution for the same offense would violate the accused’s constitutional right against double jeopardy.

This Court resolves a Petition for Certiorari<sup>1</sup> assailing the Resolutions<sup>2</sup> of the Sandiganbayan, which granted the Demurrer to Evidence filed by Lauro L. Baja, Jr. (Baja) and dismissed the prosecution’s case against him for violation of Section 3(e) Republic Act No. 3019, or the Anti-Graft and Corrupt Practices Act.

<sup>1</sup> *Rollo*, pp. 3–22. Filed under Rule 65 of the Rules of Court.

<sup>2</sup> *Id.* at 100–136 and 137–140. The March 20, 2017 and June 27, 2017 Resolution in SB-11-CRM-0031 was penned by Associate Justice Geraldine Faith A. Econg, and concurred in by Associate Justices Alex B. Quiroz and Reynaldo P. Cruz of the Sandiganbayan Special Fourth Division, Quezon City.

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From April 9, 2003 to February 2007, Baja was the Philippine Permanent Representative to the United Nations and Chief of Mission I, Department of Foreign Affairs,<sup>3</sup> for the Philippine Mission to the United Nations, New York City, United States of America. During his tenure, he incurred representation expenses, some of which he advanced and then submitted claims for reimbursement. All of these claims were allowed.<sup>4</sup>

On May 25, 2006, Commission on Audit Chairperson Guillermo N. Carague issued Office Order No. 2006-130, assigning personnel to audit foreign-based government agencies in New York City.<sup>5</sup> An audit of the Philippine Mission to the United Nations and the Philippine Consulate was conducted by Audit Team 1, composed of Director Roberto T. Marquez (Marquez), the director-in-charge, Auditor Manolo C. Sy (Sy), the team leader, and Auditors Merenisa B. Cordera<sup>6</sup> (Cordera) and Teresita D. Braga, the team members.<sup>7</sup>

From July 17 to 28, 2006, the audit team examined the cash and accounts of the assigned accountable officers and the finance officer for the period of April 25, 2002 to July 17, 2006. They examined the cash, accounts, disbursements, and measures adopted by the Philippine Mission to the United Nations.<sup>8</sup>

On July 27, 2006, Sy and Cordera prepared an Audit Observation Memorandum, which contained the following observations:

- a. Some reimbursements incurred in the calendar year 2005 totaling \$9,689.96 were not properly documented as required under Section 4(6) of P.D. No. 1445 and Section 231 of the 1995 Revised Regulations of the DFA.
- b. These expenses were supported only with a computerized receipt together with a photocopy of the check and the purpose of the expense was not indicated in the voucher or receipt.
- c. The computerized receipts were not pre-numbered and do not contain the name of the establishments to which payments were made. These are considered as merely temporary receipts which are not within the purview of Section 231.
- d. The photocopy of the checks did not show any indication that they were received by the payees and subsequently paid by the bank.

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<sup>3</sup> Id. at 102.

<sup>4</sup> Id. at 112.

<sup>5</sup> Id.

<sup>6</sup> Also referred to in the Court of Appeals Resolution as "Merenisa B. Codera."

<sup>7</sup> *Rollo*, p. 112.

<sup>8</sup> Id.



- e. The cancelled/paid checks should have been submitted in lieu of the official receipts to avoid suspension and/or disallowance in audit thereof pursuant to P.D. No. 1445.<sup>9</sup>

Cordera also prepared a table that was attached to the Audit Observation Memorandum, detailing Baja's representation expenses and claims.<sup>10</sup> A copy of the Audit Observation Memorandum was sent to Baja on July 28, 2006 for his comments.<sup>11</sup>

On January 15, 2007, Marquez sent Foreign Affairs Secretary Alberto G. Romulo (Secretary Romulo) a "Management Letter on the Audit of the Philippine Mission to the United Nations New York, USA,"<sup>12</sup> attached to which were copies of the Audit Observation Memorandum, Report of Cash Examination, and other annexes.<sup>13</sup>

On February 8, 2007, Crescente R. Relacion (Relacion), Acting Assistant Secretary of the Department of Foreign Affairs' Office of Fiscal Management, sent a Memorandum to the Philippine Mission to the United Nations, requesting it to comment on the audit findings and recommendations.<sup>14</sup> By the end of February, Baja finished his tour of duty at the Philippine Mission to the United Nations.<sup>15</sup>

On March 14, 2007, Foreign Affairs Acting Secretary Rafael E. Seguis wrote the Commission on Audit to request the audit on the Philippine Mission to the United Nations, as well as that of the Philippine Consulate General in New York, for the first quarter of 2007.<sup>16</sup>

In reply to the February 8, 2007 letter, Ambassador Hilario G. Davide, Jr., the Philippine Mission to the United Nations Permanent Representative, sent a Confidential Memorandum to Secretary Romulo. He requested that Baja be required to comment on the audit team's findings, comply with the recommendations, and submit supporting documents.<sup>17</sup>

On March 23, 2007, Relacion sent an Urgent and Confidential Memorandum to the Assistant Secretary of the Department of Foreign Affairs' Office of Personnel and Administrative Services, submitting the Commission on Audit Observations. He requested that the audit documents be submitted

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<sup>9</sup> Id. at 113–114.

<sup>10</sup> Id. at 114–119.

<sup>11</sup> Id. at 113.

<sup>12</sup> Id. at 119.

<sup>13</sup> Id.

<sup>14</sup> Id.

<sup>15</sup> Id. at 120.

<sup>16</sup> Id.

<sup>17</sup> Id.

to Baja for his clarifications and justifications.<sup>18</sup>

On April 26, 2007, Secretary Romulo issued Travel Authority No. 351-07 to a Department of Foreign Affairs fact-finding team to go to New York and validate the audit team's findings. The fact-finding team was composed of Relacion and Senior Special Assistant Mario De Leon, Jr. (De Leon) from the Office of the Undersecretary for Administration.<sup>19</sup>

On August 2, 2007, the fact-finding team validated the audit team's findings. In their report,<sup>20</sup> De Leon and Relacion stated that the Commission on Audit only audited representation expenses for 2005 and identified exceptions amounting to US\$9,869.96.<sup>21</sup>

The Commission on Audit "observed that the computerized receipts were not pre-numbered and [did] not contain the name of the establishments to which payments were made."<sup>22</sup> The photocopies of the checks that Baja submitted to support his reimbursement claims did not show that they were received by the payees and subsequently paid by the bank.<sup>23</sup>

After reviewing the books of the Philippine Mission to the United Nations for 2003 and 2004,<sup>24</sup> the fact-finding team also identified additional questionable representation expenses amounting to US\$8,145.00 for 2003 and US\$11,100.00 for 2004.<sup>25</sup> It found that only photocopies of checks from Chemical Bank, Jericho Quadrangle branch in New York, were presented as proof of payment to suppliers.<sup>26</sup> The original checks, which amounted to US\$13,656.00 from 2003 to 2004, were not presented.<sup>27</sup> It also attempted to secure Baja's bank account, but failed due to bank privacy laws.<sup>28</sup>

Moreover, the fact-finding team interviewed a Mr. Sung, the manager of Azure, one of the establishments from which expenses were claimed. Sung stated that while the receipts were genuine, he did not recognize the handwriting as his or his staff's. He observed that the amounts involved were "unusually high"<sup>29</sup> and he did not recall having the Philippine Mission to the United Nations as a customer. He also pointed out that while Azure's usual charge was US\$10.00 per head with additional US\$6.00 for drinks, the receipt

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<sup>18</sup> Id. at 120-121.

<sup>19</sup> Id. at 121.

<sup>20</sup> Id. Entitled "Report of the Fact-Finding Team on the Improper Documentation of Representation Expenses on the Permanent Representative."

<sup>21</sup> Id.

<sup>22</sup> Id.

<sup>23</sup> Id.

<sup>24</sup> Id. at 121-122.

<sup>25</sup> Id. at 122.

<sup>26</sup> Id. at 124.

<sup>27</sup> Id.

<sup>28</sup> Id. at 124-125.

<sup>29</sup> Id. at 125.

showed US\$40.00 per head with service charges, contrary to Azure's practice.<sup>30</sup>

On March 12, 2008, Jaime D. Jacob (Jacob), a representative of the Philippine Anti-Graft Commission, filed a Complaint-Affidavit before the Office of the Ombudsman against Baja. He accused Baja of violating Republic Act No. 9184, Republic Act No. 3019, and Article 220 of the Revised Penal Code. He alleged that Baja violated Section 3(e) of Republic Act No. 3019 by causing "undue injury to the government" through "gross negligence and/or evident bad faith" in reimbursing certain expenses without proper documentation.<sup>31</sup>

Accordingly, an Information was filed. It reads:

That on Calendar Years 2003, 2004 and 2005, or sometime prior or subsequent thereto, in the Philippine Mission to the United Nations, New York City, United States of America, which is an extension of the Philippine territory and within the jurisdiction of this Honorable Court, herein accused LAURO L. BAJA, JR., a high ranking public officer with Salary Grade 29, holding then the position of Philippine Permanent Representative to the United Nations and Chief of Mission I, Department of Foreign Affairs, who by reason of his office and while in the exercise and discharge of his functions, acting with manifest partiality, evident bad faith, or gross inexcusable negligence, and committing the offense in relation to office, did then and there, willfully, unlawfully, and criminally claim and receive from the Department of Foreign Affairs his reimbursement for non-existent or fictitious representation expenses in the total amounts of US\$8,145.00, US\$11,100.00, and US\$9,689.96 for Calendar Years 2003, 2004, and 2005, respectively, without proper documentation in the sum total of the above amounts of TWENTY EIGHT THOUSAND NINE HUNDRED THIRTY FOUR & 96/100 DOLLARS, United States Currency (US\$28,934.96), thereby causing undue injury to the Government in the said amount.<sup>32</sup>

The prosecution presented as witnesses Relacion, Fe Osea Balerite (Balerite), Jesus G. Salvador (Salvador), Edna V. De Leon (Edna), Clarence Joson (Joson), Cordera, and Sy.<sup>33</sup> Relacion testified as a member of the fact-finding team that validated the audit team's findings.<sup>34</sup> Balerite, as state auditor assigned to the Department of Foreign Affairs, identified documents in her Judicial Affidavit.<sup>35</sup> Salvador's, Edna's, and Joson's testimonies were dispensed with.<sup>36</sup>

Cordera testified that she prepared the tabulation on Baja's

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<sup>30</sup> Id.

<sup>31</sup> Id. at 127.

<sup>32</sup> Id. at 101-102.

<sup>33</sup> Id. at 103.

<sup>34</sup> Id. at 103-104.

<sup>35</sup> Id. at 104.

<sup>36</sup> Id. at 105-106.

representation expenses for the period of January 1 to December 31, 2005, and signed the Audit Observation Memorandum.<sup>37</sup> On cross-examination, she stated that no notice of disallowance was issued because the audit was suspended to await the submission of other documents, and that to her knowledge, no disallowance order or notice of suspension was issued by the Commission on Audit or the Department of Foreign Affairs-Commission on Audit.<sup>38</sup>

Sy, who reviewed the Audit Observation Memorandum, was no longer presented as his testimony would only corroborate Cordera's testimony.<sup>39</sup>

The prosecution filed its Formal Offer of Exhibits, to which Baja filed his Comments and Objections. Then the prosecution filed its Reply, and Baja filed his Rejoinder.<sup>40</sup>

On May 27, 2016, Baja moved for leave to file the demurrer to evidence, to which the prosecution filed its Comment. The Sandiganbayan denied the motion without prejudice to Baja filing such a demurrer despite the lack of leave of court, although subject to the consequences stated in Rule 119, Section 23 of the Rules of Court.<sup>41</sup>

On July 27, 2016, Baja filed his Demurrer to Evidence<sup>42</sup> which stated that the prosecution failed to present sufficient evidence to sustain the Information. Among others, he argued that the expenses for which reimbursement claims had been made were not proven to be "non-existent or fictitious[.]"<sup>43</sup> That Baja improperly documented the expenses, he said, did not mean that these expenses did not exist.<sup>44</sup>

Baja also claimed that there was no basis to charge him with a violation of Section 3(e) of Republic Act No. 3019 in relation to Section 4(6) of Presidential Decree No. 1445 and Section 231 of the Rules and Regulations of the Department of Foreign Affairs. He pointed out that there was no notice of disallowance issued, and failure to properly document expenses was not a crime under the cited laws.<sup>45</sup>

Finally, Baja argued that the prosecution failed to prove his bad faith, or that there was "undue injury, unwarranted benefits, advantage or preference

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<sup>37</sup> Id. at 106.

<sup>38</sup> Id. at 107-108.

<sup>39</sup> Id. at 108.

<sup>40</sup> Id.

<sup>41</sup> Id. at 108-109.

<sup>42</sup> Id. at 109.

<sup>43</sup> Id. at 110.

<sup>44</sup> Id. at 110-111.

<sup>45</sup> Id. at 111.

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in the discharge of his functions.”<sup>46</sup>

On March 20, 2017, the Sandiganbayan issued its Resolution<sup>47</sup> granting Baja’s Demurrer to Evidence. It explained that there are four elements for a violation of Section 3(e)<sup>48</sup> of Republic Act No. 3019:

1. The offender is a public officer or a private person charged in conspiracy with the former;
2. The act was done in the discharge of the public officer’s official, administrative or judicial functions;
3. The act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and,
4. The public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.<sup>49</sup>

While the first two elements were unquestionable, the Sandiganbayan found that the prosecution failed to sufficiently prove the third and fourth elements.<sup>50</sup> It found that the prosecution was unable to establish that Baja’s reimbursements were fictitious, owing to the improper documentation by the audit team and the fact-finding team.<sup>51</sup>

The Sandiganbayan faulted the prosecution for failing to present corroborating evidence, such as statements from persons with personal knowledge of the alleged nonpayment, to show that the expenses did not exist.<sup>52</sup> It also noted the fact-finding team’s failure to sufficiently inquire if the expenses reimbursed were indeed made.<sup>53</sup> Even Sung did not categorically declare that the receipts from Azure were fictitious, but only that they were irregular. The Sandiganbayan found that, while there was improper documentation of the reimbursement of expenses, these documents were not evidence of non-existent or fictitious transactions. Thus, the case against Baja was dismissed for insufficiency of evidence.<sup>54</sup>

The Sandiganbayan denied the prosecution’s Motion for

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<sup>46</sup> Id.

<sup>47</sup> Id. at 100–136.

<sup>48</sup> Republic Act No. 2019 (1960), sec. 3(e) states:

Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

.....  
(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

<sup>49</sup> Id. at 129.

<sup>50</sup> Id. at 130.

<sup>51</sup> Id. at 131.

<sup>52</sup> Id. at 132–133.

<sup>53</sup> Id. at 133.

<sup>54</sup> Id. at 134–135.

Reconsideration in its June 27, 2017 Resolution.<sup>55</sup>

On September 14, 2017, the People of the Philippines, represented by the Office of the Ombudsman through the Office of the Special Prosecutor, filed a Petition for Certiorari<sup>56</sup> before this Court, assailing the March 20, 2017 and June 27, 2017 Resolutions of the Sandiganbayan.

Petitioner argues that the Sandiganbayan gravely abused its discretion in finding insufficient evidence to show that respondent Baja claimed expenses for fictitious transactions.<sup>57</sup> It claims that as a lawyer, he knowingly submitted improper documents to claim reimbursements, demonstrating his intent to defraud the government.<sup>58</sup> It argues that he should have known that the computerized receipts, which were not pre-numbered and did not indicate the name of the establishments to which payments were allegedly made, were not official receipts and could not be the basis for reimbursements.<sup>59</sup>

The claims for reimbursements based on spurious documents, petitioner says, constituted “defraudation of, and damage or injury to the government,” punishable under Section 3(e) of Republic Act No. 3019.<sup>60</sup> While it concedes that the prosecution bears the burden of proving the allegation of fictitious transactions, it argues that the burden shifts to the accused if the claim “can readily be disproved by the production of documents or other evidence within the knowledge or control of the accused.”<sup>61</sup>

Petitioner claims that it convincingly proved that respondent Baja’s expenses were fictitious because of the irregular and incomplete documentation he presented, and as such, these were tantamount to no documentation at all. Therefore, petitioner claims, the Sandiganbayan committed a gross misapprehension of facts in dismissing the case.<sup>62</sup>

On November 8, 2017, this Court ordered respondent Baja to file a comment, which he did on January 17, 2018.<sup>63</sup>

In his Comment,<sup>64</sup> respondent Baja argues that the Petition should be dismissed for violating his right against double jeopardy. He points out that when a criminal case is dismissed for insufficiency of evidence, it is a

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<sup>55</sup> Id. at 137–140.

<sup>56</sup> Id. at 77–98.

<sup>57</sup> Id. at 84.

<sup>58</sup> Id. at 87.

<sup>59</sup> Id.

<sup>60</sup> Id. at 87.

<sup>61</sup> Id. at 88.

<sup>62</sup> Id.

<sup>63</sup> Id. at 150.

<sup>64</sup> Id. at 150–175.

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“dismissal on the merits” that results in the accused’s acquittal.<sup>65</sup> He also claims that the Petition raises questions of fact not reviewable under a Rule 65 petition.<sup>66</sup>

Further, respondent Baja claims that the prosecution failed to prove beyond reasonable doubt that he reimbursed fictitious representation expenses and caused undue injury to the government.<sup>67</sup> He says that the prosecution witnesses could only testify that his reimbursements were not properly documented, at most. He points out that Cordera admitted only making an assumption that his expenses were fictitious.<sup>68</sup>

The issues for this Court’s resolution are:

First, whether or not the Petition for Certiorari is barred by respondent Lauro L. Baja, Jr.’s right against double jeopardy; and

Second, whether or not the Sandiganbayan correctly found that the prosecution failed to prove the existence of respondent Lauro L. Baja, Jr.’s alleged fictitious or non-existent reimbursement expenses.

Under Article III, Section 21 of the Constitution, all persons have the right not to be placed in double jeopardy of punishment for one offense:

SECTION 21. No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

This Court has held that once a demurrer to evidence has been granted in a criminal case, the grant amounts to an acquittal, and any further prosecution for the same offense would violate Article III, Section 21 of the Constitution.<sup>69</sup> In *People v. Sandiganbayan*:<sup>70</sup>

Under Section 23, Rule 119 of the Revised Rules of Criminal Procedure, as amended, the trial court may dismiss the action on the ground of insufficiency of evidence upon a demurrer to evidence filed by the accused with or without leave of court. Thus, in resolving the accused’s demurrer to evidence, the court is merely required to ascertain whether there is competent or sufficient evidence to sustain the indictment or support a

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<sup>65</sup> Id. at 159.

<sup>66</sup> Id. at 159–160.

<sup>67</sup> Id. at 160.

<sup>68</sup> Id. at 165–166.

<sup>69</sup> *People v. Sandiganbayan*, 426 Phil. 453 (2002) [Per J. Sandoval-Gutierrez, Third Division]; *People v. Sandiganbayan*, 637 Phil. 147 (2010) [Per J. Mendoza, Second Division].

<sup>70</sup> 426 Phil. 453 (2002) [Per J. Sandoval-Gutierrez, Third Division].

verdict of guilt. The grant or denial of a demurrer to evidence is left to the sound discretion of the trial court, and its ruling on the matter shall not be disturbed in the absence of a grave abuse of discretion. Significantly, once the court grants the demurrer, such order amounts to an acquittal; and any further prosecution of the accused would violate the constitutional proscription on double jeopardy. This constitutes an exception to the rule that the dismissal of a criminal case made with the express consent of the accused or upon his own motion bars a plea of double jeopardy.<sup>71</sup> (Citations omitted)

The only time when assailing the grant of a demurrer to evidence will not violate the right against double jeopardy is when the trial court is shown to have gravely abused its discretion, such that the prosecution's right to due process was violated, denying it the opportunity to present its case.<sup>72</sup> The petitioner must prove that the trial court "blatantly abused its authority to a point so grave as to deprive it of its very power to dispense justice."<sup>73</sup>

Here, petitioner argues that its Petition does not violate respondent Baja's right against double jeopardy because the Sandiganbayan allegedly acted without or in excess of its jurisdiction.<sup>74</sup> Petitioner claims that the Sandiganbayan committed a "gross misapprehension of facts"<sup>75</sup> tantamount to grave abuse of discretion, warranting the reversal of the grant of Demurrer to Evidence.

There is a gross misapprehension of facts when the trial court makes findings based on significant contradictions in the testimonies of witnesses, or when these findings are unfounded, speculative, or arbitrary.<sup>76</sup>

Petitioner claims that the Sandiganbayan should have found that respondent Baja's expenses were non-existent or fictitious. It claims that it had convincingly established this:

In the instant case, the negative averment that Baja, Jr.'s expenses were non-existent or fictitious had been convincingly established by these proven facts: (a) computerized receipts which were not pre-numbered and did not contain the names of the establishments to which payments were made; (b) photocopies of Baja, Jr.'s personal checks which he submitted to support his claims for reimbursements did not show any indication that these were received by the payees and subsequently paid by the drawee bank.<sup>77</sup>

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<sup>71</sup> Id. at 457.

<sup>72</sup> Id. at 458.

<sup>73</sup> Id. at 459.

<sup>74</sup> *Rollo*, p. 78.

<sup>75</sup> Id.

<sup>76</sup> *People v. Berja*, 331 Phil. 514 (1996) [Per J. Regalado, Second Division]; *People v. Lapasaran*, 700 Phil. 770 (2012) [Per J. Leonardo-De Castro, First Division].

<sup>77</sup> *Rollo*, p. 88.

However, a review of the Sandiganbayan's March 20, 2017 and June 27, 2017 Resolutions shows that the Sandiganbayan did not commit a gross misapprehension of the facts in the case. Its findings were based on the evidence presented by the prosecution. As the Sandiganbayan pointed out, while the prosecution proved that respondent Baja's expenses were improperly documented, it failed to present enough evidence that would lead to a conclusion that these expenses were completely fictitious or non-existent:

The prosecution should have presented another evidence to prove that the checks were issued by the accused as payment for the service of waiters, purchase of food, caterers were never negotiated or paid to the waiters, caterers or restaurants. The mere fact that the checks submitted as proof of payment do not show that they were honored and paid for does not mean that the same were not paid. It should be remembered that the negotiation of the checks was not made in the Philippines but in another jurisdiction. The prosecution should have proven the indications that will determine negotiation of checks in the United States of America. Not even statements or affidavits of waiters, caterers or any person with personal knowledge that payment to waiters were presented to corroborate the evidence submitted. The fact that there were originals or even photocopies of the checks without any proof that these were negotiated at the issuing bank alone is not sufficient proof that the expenses were non-existing or fictitious. It must be corroborated by some other forms of evidence.

The teams sent by the Philippine government to conduct the audit and/or fact-finding investigation should have delved deeper and made inquiries to determine if payments or expenses sought to be reimbursed by the accused were indeed made. They could have even inquired from the accused himself about the originals of the checks or secured copies of the bank statements to reflect the debit of the checks issued. But, the investigators were content with simply inquiring on the fate of Chemical Bank, which was merged with Chase Manhattan Bank in 1996 and renamed as Chase Manhattan Corporation. And, when they were held off because of bank secrecy, they did not inquire further.

....

Sufficient evidence for purposes of frustrating a demurrer thereto is such evidence in character, weight or amount as will legally justify the judicial or official action demanded according to the circumstances. To be considered sufficient, therefore, the evidence must prove: (a) the commission of the crime, and (b) the precise degree of participation therein by the accused.

In the case of accused Baja, the prosecution failed to establish sufficient evidence that accused Baja caused the reimbursement of non-existent or fictitious representation expenses. Certainly, the hearsay statements made by Mr. Sung of Azure could cast doubt on the authenticity of the two (2) receipts that were submitted by accused Baja for reimbursement. But, it could not lead to certainty that the said receipts are fictitious or the entries therein fictitious. The provisional receipts attached to the reimbursement documents do not also indicate that no payments or expenses were incurred. And, as discussed above, the attached photocopy or original checks without proof that the same were paid or negotiated does not contradict payment of services or goods.

*This Court gives it to the prosecution that there was, indeed, improper documentation of reimbursement of expenses. Unfortunately, it could not lead to a conclusion that these documents, even if improper, are evidence of non-existent or fictitious transactions.*<sup>78</sup> (Emphasis supplied, citation omitted)

The Information specifically charged respondent Baja with claiming and receiving reimbursement for non-existent or fictitious representation expenses,<sup>79</sup> and not for merely submitting incomplete documents to support his claims. As the Sandiganbayan noted, the irregularities in the supporting documents are insufficient positive proof of the alleged nonpayment.<sup>80</sup> The prosecution bore the burden to prove the allegations in the Information.<sup>81</sup> If its evidence was insufficient to establish the elements of the offense charged, respondent Baja's guilt could not have been proved beyond reasonable doubt.<sup>82</sup> The grant of the Demurrer to Evidence was proper.

Petitioner was unable to show that the Sandiganbayan, in granting the Demurrer, blatantly abused its authority as to deprive itself of "its very power to dispense justice."<sup>83</sup> The Sandiganbayan did not commit grave abuse of discretion. To reverse its grant of the Demurrer to Evidence and dismissal of the case would be to violate respondent Baja's right against double jeopardy.

**WHEREFORE**, the Petition for Certiorari is **DISMISSED**. The March 20, 2017 and June 27, 2017 Resolutions of the Sandiganbayan Special Fourth Division in SB-11-CRM-0031 are **AFFIRMED**.

**SO ORDERED.**

  
MARVIC M.V.F. LEONEN  
Associate Justice

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<sup>78</sup> Id. at 132–135.

<sup>79</sup> Id. at 102.

<sup>80</sup> Id. at 139–140.

<sup>81</sup> *People v. Alipar*, 407 Phil. 86 (2001) [Per J. De Leon, Jr., En Banc]; *Botona v. Court of Appeals*, 446 Phil. 73 (2003) [Per J. Austria-Martinez, Second Division].

<sup>82</sup> *Burgos v. Sandiganbayan*, 459 Phil. 794 (2003) [Per J. Azcuna, First Division].

<sup>83</sup> *Paman v. People*, 813 Phil. 139 (2017) [Per J. Reyes, Third Division].

WE CONCUR:

  
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**RAMON PAUL L. HERNANDO**  
 Associate Justice

  
**HENRI JEAN PAUL B. INTING**  
 Associate Justice

  
**EDGARDO L. DELOS SANTOS**  
 Associate Justice

  
**JHOSEP LOPEZ**  
 Associate Justice

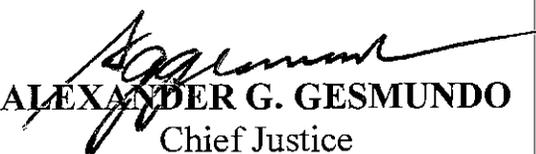
**ATTESTATION**

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.

  
**MARVIC M.V.F. LEONEN**  
 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.

  
**ALEXANDER G. GESMUNDO**  
 Chief Justice