



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

FELIX G. VALENZONA,
Petitioner,

G.R. No. 248584

Present:

- versus -

THE PEOPLE OF THE
PHILIPPINES,
Respondent.

CAGUIOA, J., Chairperson,
INTING,
GAERLAN,
DIMAAMPAO, and
SINGH, JJ.

Promulgated:

August 30, 2023

Mis-DeBatt

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DECISION

CAGUIOA, J.:

Before this Court is a Petition for Review on *Certiorari*¹ (Petition) filed by petitioner Felix G. Valenzona (Valenzona), assailing the Decision² dated June 29, 2018 and Resolution³ dated July 24, 2019 of the Court of Appeals (CA) in CA-GR CR. No. 37119. The CA Decision affirmed the Decision⁴ dated May 29, 2014 of Branch 203, Regional Trial Court of Muntinlupa City (RTC) in Crim. Case No. 08-018, which found Valenzona guilty beyond

¹ *Rollo*, pp. 15–34.

² *Id.* at 39–49. Penned by Associate Justice Myra V. Garcia-Fernandez and concurred in by Associate Justices Ramon R. Garcia and Germano Francisco D. Legaspi.

³ *Id.* at 52–53.

⁴ *Id.* at 84–94. Penned by Presiding Judge Myra B. Quiambao.

reasonable doubt of violation of Section 17,⁵ in relation to Section 39,⁶ of Presidential Decree No. (P.D.) 957 or the Subdivision and Condominium Buyers' Protective Decree.⁷

ANTECEDENTS

On January 16, 2008, an Information for violation of Section 17, P.D. 957 was filed against Valenzona, which reads:

That sometime in March 2003, in the City of Muntinlupa, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, being then the President of ALSGRO Industrial and Development Corporation, a real estate company, sold subdivision lots at the Bayfair of Margana Subdivision at Putatan, Muntinlupa City to Ricardo Porteo but did then and there willfully, unlawfully and feloniously **fail to register said transaction with the Register of Deeds as required by Section 17 of P.D. 957**, in violation thereof.

Contrary to law.⁸ (Emphasis and underscoring supplied)

As mentioned in the Information, Valenzona was then the president of ALSGRO Industrial and Development Corporation (ALSGRO), a real estate company that specializes in the development and management of housing communities. Among ALSGRO's projects was the sale of subdivision lots located in the Bayfair of Margana Subdivision (the project).⁹

On March 24, 2003, ALSGRO entered into two Contracts to Sell (subject contracts) with Ricardo B. Porteo (Porteo) covering Lots 17 and 19 in the project, with an area of 100 square meters each (subject lots). The price of each lot was ₱600,000.00, payable in installments. According to Porteo, he was able to pay the amount of ₱499,000.00 for the subject lots until September

⁵ SECTION 17. *Registration.* — All contracts to sell, deeds of sale and other similar instruments relative to the sale or conveyance of the subdivision lots and condominium units, whether or not the purchase price is paid in full, shall be registered by the seller in the Office of the Register of Deeds of the province or city where the property is situated.

Whenever a subdivision plan duly approved in accordance with Section 4 hereof, together with the corresponding owner's duplicate certificate of title, is presented to the Register of Deeds for registration, the Register of Deeds shall register the same in accordance with the provisions of the Land Registration Act, as amended: Provided, however, that if there is a street, passageway or required open space delineated on a complex subdivision plan hereafter approved and as defined in this Decree, the Register of Deeds shall annotate on the new certificate of title covering the street, passageway or open space, a memorandum to the effect that except by way of donation in favor of a city or municipality, no portion of any street, passageway, or open space so delineated on the plan shall be closed or otherwise disposed of by the registered owner without the requisite approval as provided under Section 22 of this Decree.

⁶ SECTION 39. *Penalties.* — Any person who shall violate any of the provisions of this Decree and/or any rule or regulation that may be issued pursuant to this Decree shall, upon conviction, be punished by a fine of not more than twenty thousand (P20,000.00) pesos and/or imprisonment of not more than ten years: *Provided*, That in the case of corporations, partnerships, cooperatives, or associations, the President, Manager or Administrator or the person who has charge of the administration of the business shall be criminally responsible for any violation of this Decree and/or the rules and regulations promulgated pursuant thereto.

⁷ Titled "REGULATING THE SALE OF SUBDIVISION LOTS AND CONDOMINIUMS, PROVIDING PENALTIES FOR VIOLATIONS THEREOF," dated July 12, 1976.

⁸ *Rollo*, p. 84, RTC Decision.

⁹ *Id.* at 17, Petition.



2003. Thereafter, he suffered business reverses, so he informed ALSGRO that he could no longer pay the monthly installments for the two lots and requested for the refund of his payments. When his request for refund was denied by ALSGRO, he hired a lawyer to look into the situation.¹⁰

Upon verification with the Registry of Deeds of Muntinlupa City, Porteo found out that the subject contracts were not registered, as evidenced by the January 18, 2006 Certification issued by the Deputy Register of Deeds III certifying that no contract to sell had been filed by ALSGRO.¹¹ Porteo also discovered that the subject lots had already been sold to different buyers on July 6, 2004. On January 20, 2006, Porteo sent a letter to ALSGRO demanding the refund of ₱500,000.00 representing the payments he had made. His request was denied by ALSGRO in a letter dated January 30, 2006.¹² Thus, he filed a criminal complaint against Valenzona as president of ALSGRO for violation of P.D. 957.

For his part, Valenzona claimed that as president of ALSGRO, he oversees the business, deals with their joint venture partner, and is the designated signatory of contracts, checks, and other documents of ALSGRO. According to him, it is not among his functions to register documents pertaining to the business of ALSGRO since they have a different department handling the same, *i.e.*, the Marketing, Documentations, and Processing Department. As ALSGRO's President, he encounters an average of 30 transactions and around a hundred documents for signing per week. After signing, he returns the documents to the department concerned.¹³ Considering the nature of his job, he denies any liability under P.D. 957 for the non-registration of the subject lots.

RULING OF THE RTC

In a Decision¹⁴ dated May 29, 2014, the RTC found Valenzona guilty beyond reasonable doubt for the crime charged, the dispositive portion of which provides:

WHEREFORE, premises considered, the Court finds accused Felix G. Valenzona GUILTY beyond reasonable doubt of violation of Section 17, P.D. 957 and hereby imposes upon the accused the indeterminate imprisonment of one (1) year, as minimum[,] to two (2) years as maximum[,] and penalty of fine in the amount of twenty thousand pesos (P20,000.00).

SO ORDERED.¹⁵

¹⁰ *Id.* at 85–86, RTC Decision.

¹¹ *Id.* at 87.

¹² *Id.* at 86–87.

¹³ *Id.* at 87.

¹⁴ *Supra* note 4.

¹⁵ *Rollo*, p. 94.



The RTC found that indeed, ALSGRO failed to register the subject contracts within 180 days from execution, in violation of Section 17 of P.D. 957, in relation to Section 25¹⁶ of its Implementing Rules and Regulations (IRR). Although Porteo defaulted in the payment of his monthly installments beginning on September 2003, which led to the notarial rescission of the subject contracts on April 21, 2004, the same does not excuse the non-registration of the subject lots because the subject contracts were required to be registered until September 20, 2003, or 180 days after their execution on March 24, 2003. Thus, prior to the rescission of the subject contracts, a violation of Section 17 of P.D. 957 was already committed.¹⁷ Consequently, Valenzona, as President of ALSGRO, is criminally liable for violation of Section 17 of P.D. 957, in accordance with Section 39 thereof.

The RTC rejected Valenzona's claim that it is not his function to register ALSGRO's contracts and documents as the same was unsupported by evidence. Moreover, mere commission of the act prohibited under P.D. 957, which is a special law, constitutes the offense; hence, his defenses of good faith and lack of criminal intent cannot be considered. Violations of a special law are characterized as *mala prohibita* wherein intent to commit is immaterial.¹⁸

As for Porteo's claim for the refund of his payments to ALSGRO, the RTC ruled that the jurisdiction over such refund lies exclusively with the Housing and Land Use Regulatory Board (HLURB), citing Section 1(b)¹⁹ of P.D. 1344 (Empowering the National Housing Authority to Issue Writ of Execution in the Enforcement of its Decision under Presidential Decree No. 957).²⁰

Valenzona moved for reconsideration but this was denied by the RTC in an Order dated September 22, 2014.²¹

RULING OF THE CA

Valenzona appealed his conviction before the CA. During the pendency of his appeal, Valenzona submitted a Manifestation before the CA stating that on August 4, 2015, he and Porteo had agreed to amicably settle the

¹⁶ SECTION 25. *Registration of Conveyances*. — Sales or conveyances of the subdivision lots and condominium units shall be registered within 180 days from execution thereof by the seller with the Register of Deeds of the province or city where the property is situated pursuant to Section 17 of the Decree. Except as may otherwise be provided for by law, the Board may in appropriate cases cause the Register of Deeds to cancel registration, entries or annotations on titles made on this regard.

¹⁷ *Rollo*, pp. 90–91, RTC Decision.

¹⁸ *Id.* at 92.

¹⁹ SECTION 1. In the exercise of its functions to regulate real estate trade and business and in addition to its powers provided for in Presidential Decree No. 957, the National Housing Authority shall have exclusive jurisdiction to hear and decide cases of the following nature:

...
b. Claims involving refund and any other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman[.]

²⁰ *Rollo*, p. 94, RTC Decision.

²¹ *Id.* at 44, CA Decision.



controversy between them. As a result, they executed a compromise agreement where they agreed to settle the civil aspect of the case for the amount of ₱400,000.00. Porteo also executed an affidavit of desistance stating that in view of their settlement, he was no longer interested in pursuing the criminal case against Valenzona. Meanwhile, the Office of the Solicitor General (OSG) filed its appellee's brief for the People of the Philippines recommending the denial of the appeal.²²

In a Decision²³ dated June 29, 2018, the CA denied the appeal. As for the compromise agreement and the affidavit of desistance, the CA ruled that notwithstanding the execution of such documents between the parties, the court could still resolve the appeal on the merits.²⁴ Thus, it affirmed the findings and ruling of the RTC which found Valenzona guilty of the crime charged.

On the penalty, the CA did not find merit in Valenzona's contention that the penalty of both fine and imprisonment is harsh, as the penalty is within the range of penalties provided under P.D. 957.²⁵

Valenzona filed a Motion for Reconsideration, which was denied by the CA in a Resolution²⁶ dated July 24, 2019. Hence, this instant Petition.

PROCEEDINGS BEFORE THIS COURT

In his Rule 45 Petition, Valenzona mainly argues that there is no evidence of his direct and active participation in ALSGRO's failure to register the conveyances, and that proof beyond reasonable doubt on his supposed liability cannot rest on mere assumptions. Valenzona cites the 2015 case of *ABS-CBN v. Gozon*²⁷ (*ABS-CBN*) on the indispensability of determining the degree of a corporate officer's participation before holding him responsible for the offense committed.²⁸ Valenzona claims that his conviction rested on a mere assumption that he had direct and active participation in the non-compliance with Section 17 of P.D. 957 on the lone evidence that he is the President of ALSGRO.²⁹ In this regard, he maintains that it is not his function to register the deeds entered into by ALSGRO; rather, such task falls under the Marketing, Documentations, and Processing Department.³⁰

While Valenzona concedes that the State had established that Section 17 of P.D. 957 was violated, he argues that such pertains only to the commission of the offense and does not address the issue on whether he was

²² *Id.* at 44–45.

²³ *Supra* note 2.

²⁴ *Rollo*, p. 45.

²⁵ *Id.* at 48.

²⁶ *Supra* note 3.

²⁷ 755 Phil. 709 (2015).

²⁸ *Rollo*, p. 27.

²⁹ *Id.* at 32.

³⁰ *Id.* at 31.



the perpetrator thereof. Even assuming *arguendo* that he had supervision over ALSGRO's Marketing, Documentation, and Processing Department, no evidence of conspiracy involving him had been presented.³¹ Thus, his guilt has not been proven beyond reasonable doubt.

In its Comment,³² the People, through the OSG, submits that Valenzona's guilt was proven beyond reasonable doubt as the law specifically penalizes the president of the corporation for the commission of the offense. The OSG points out that Valenzona admitted that among his functions is the "overseeing of the business," which is synonymous to "administration of the business," as mentioned in the description of the law for persons criminally responsible for violation of P.D. 957. Moreover, the OSG underscores that the Court, in *Cabral v. Uy*,³³ has already ruled that violations of P.D. 957, a special law, are *mala prohibita* so that no amount of good faith can exempt Valenzona from liability.³⁴

In his Reply,³⁵ Valenzona maintains that he is not the person in charge of administering the registration of the lots of ALSGRO. Citing *ABS-CBN* anew, he argues that the State must first prove that his functions as President required him to willfully, directly, and actively participate in the task of registering ALSGRO's purchased lots before he can be held liable for violating P.D. 957.³⁶ In this regard, Valenzona underscores the fact that the Information filed against him charges him for "willfully, unlawfully and feloniously" failing to register the subject contracts; however, the State failed to prove that he willfully prevented the registration of the subject contracts.³⁷

ISSUE

The issue to be resolved is whether the CA erred in affirming the RTC Decision finding Valenzona guilty beyond reasonable doubt for violating Section 17 of P.D. 957.

RULING OF THE COURT

The petition is meritorious.

As a general rule, only questions of law may be raised in a petition for review on *certiorari* under Rule 45 of the Rules of Court. Nonetheless, this rule admits of exceptions.³⁸ If unconvinced that the findings of the lower

³¹ *Id.* at 32.

³² *Id.* at 122–130.

³³ 624 Phil 402 (2010).

³⁴ *Rollo*, p. 127, Comment.

³⁵ *Id.* at 133–140.

³⁶ *Id.* at 134.

³⁷ *Id.* at 135.

³⁸ *See Uy v. Villanueva*, 553 Phil. 69, 79 (2007):

Rule 45 of the Rules of Civil Procedure provides that only questions of law shall be raised in an appeal by *certiorari* before this Court. This rule, however, admits of certain exceptions, namely, (1) when the findings are grounded entirely on speculations, surmises,



courts are conformable to the evidence on record, the Court will not be precluded from reviewing such factual findings, or even arriving at a different conclusion.³⁹ The factual findings of the lower courts will not bind the Court if certain facts that could affect the result of the case were overlooked or disregarded.⁴⁰

Moreover, it bears stressing that all criminal prosecutions are governed by the constitutional precept that a person is innocent until proven guilty beyond reasonable doubt, and the prosecution bears the *onus probandi* of establishing the guilt of the accused.⁴¹ Consequently, every conviction must rest on the strength of the prosecution's evidence and not on the weakness of the defense.⁴²

Guided by the foregoing considerations, and after a very assiduous review of the records of the case, the Court finds that the prosecution failed to establish Valenzona's guilt beyond reasonable doubt for violation of Section 17 of P.D. 957.

To recall, Valenzona was charged with violation of Section 17 of P.D. 957, which provides:

SECTION 17. *Registration.* — All contracts to sell, deeds of sale and other similar instruments relative to the sale or conveyance of the subdivision lots and condominium units, whether or not the purchase price is paid in full, shall be registered by the seller in the Office of the Register of Deeds of the province or city where the property is situated.

Whenever a subdivision plan duly approved in accordance with Section 4 hereof, together with the corresponding owner's duplicate certificate of title, is presented to the Register of Deeds for registration, the Register of Deeds shall register the same in accordance with the provisions of the Land Registration Act, as amended: Provided, however, that [if] there is a street, passageway or required open space delineated on a complex subdivision plan hereafter approved and as defined in this Decree, the Register of Deeds shall annotate on the new certificate of title covering the street, passageway or open space, a memorandum to the effect that except by way of donation in favor of a city or municipality, no portion of any street, passageway, or open space so delineated on the plan shall be closed or otherwise disposed of by the registered owner without the requisite approval as provided under Section 22 of this Decree. (Emphasis supplied)

or conjectures; (2) when the inference made is manifestly mistaken, absurd, or impossible; (3) when there is a grave abuse of discretion; (4) when the judgment is based on misappreciation of facts; (5) when the findings of fact are conflicting; (6) when in making its findings, the same are contrary to the admissions of both appellant and appellee; (7) when the findings are contrary to those of the trial court; (8) when the findings are conclusions without citation of specific evidence on which they are based; (9) when the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondent; and (10) when the findings of fact are premised on the supposed absence of evidence and contradicted by the evidence on record.

³⁹ *People v. Macasinag*, 255 Phil. 279, 281 (1989).

⁴⁰ *People v. Ortiz*, 334 Phil. 590, 601 (1997).

⁴¹ *Franco v. People*, 780 Phil. 36, 38 (2016).

⁴² *People v. Ansano*, G.R. 232455, December 2, 2020, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/66861>>.



Valenzona concedes that a violation of Section 17 of P.D. 957 has been established by the prosecution as indeed, the subject contracts have not been registered within 180 days from execution, in accordance with Section 25 of the IRR. Nevertheless, he insists that this only pertains to the commission of the offense, and it does not address the issue on whether he himself is the perpetrator of such non-registration so as to make him criminally liable for the same.

Fundamentally, a vital part of the definition of every crime is the designation of the author of the crime upon whom the penalty is to be inflicted.⁴³ Proof that a crime has been committed is useless if the prosecution is unable to prove the offender's identity, for the constitutional presumption of innocence enjoyed by the accused is not demolished by an identification that is marred by uncertainties.⁴⁴ For crimes committed by a corporation, the responsible officers thereof would personally bear the criminal liability since a corporation, as an artificial being created by fiction of law, can only act through its officers and agents.⁴⁵ In this regard, Section 39 of P.D. 957 states:

SECTION 39. *Penalties.* — Any person who shall violate any of the provisions of this Decree and/or any rule or regulation that may be issued pursuant to this Decree shall, upon conviction, be punished by a fine of not more than twenty thousand (P20,000.00) pesos and/or imprisonment of not more than ten years: *Provided, That in the case of corporations, partnerships, cooperatives, or associations, the President, Manager or Administrator or the person who has charge of the administration of the business shall be criminally responsible* for any violation of this Decree and/or the rules and regulations promulgated pursuant thereto. (Emphasis supplied)

Here, Valenzona was charged specifically — and only — because he was the President of ALSGRO. However, he testified under oath that in the set up in ALSGRO, the function to register the contracts entered into by ALSGRO is with the Marketing, Documentations, and Processing Department. This testimony has never been sufficiently rebutted. Nonetheless, the consistent defense of Valenzona was countered by the prosecution and rejected by the lower courts on the belief that mere non-registration constitutes the offense since P.D. 957 is a special law and as such, Valenzona's defenses of good faith and lack of criminal intent cannot be considered.

At this juncture, it is necessary to discuss the nuances of criminal liability for crimes under special laws which are considered *mala prohibita*.

The Court has already recognized that a violation of P.D. 957 is regarded as *malum prohibitum*:

⁴³ *Ching v. Secretary of Justice*, 517 Phil. 151, 177 (2006).

⁴⁴ *People v. Maglinas*, G.R. 255496, August 10, 2022, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68503>>.

⁴⁵ *Suarez v. People*, G.R. 253429, October 6, 2021, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68000>>.



. . . P.D. 957 has been enacted to regulate for the public good the sale of subdivision lots and condominiums. Its Section 5 prohibits such sale without the prior issuance of an HLURB license and punishes those who engage in such selling. **The crime is regarded as *malum prohibitum* since P.D. 957 is a special law designed to protect the welfare of society and ensure the carrying on of the purposes of civil life. It is the commission of that act as defined by law, not its character or effect that determines whether or not its provision has been violated. Malice or criminal intent is immaterial in such crime.** In crimes that are *mala prohibita*, the forbidden acts might not be inherently immoral. Still they are punished because the law says they are forbidden. With these crimes, the sole issue is whether the law has been violated.⁴⁶ (Emphasis supplied)

The Court, in *People v. Lacerna*,⁴⁷ explained that “[o]n grounds of public policy and compelled by necessity, courts have always recognized the power of the legislature . . . to forbid certain acts in a limited class of cases and to make their commission criminal without regard to the intent of the doer.”⁴⁸ For this type of offenses, there is a recognition that the prohibited act is so injurious to the public welfare that, regardless of the person’s intent, it is in itself the consummated crime.

That said, dispensing with proof of criminal intent for crimes *mala prohibita* does not, in any way, discharge the prosecution of its burden to show that the prohibited act was done intentionally by the accused. On this note, it is important to distinguish between *intent to commit the crime* and *intent to perpetrate the act* — while a person may not have consciously intended to commit a crime regarded as *malum prohibitum*, he or she may still be held liable if he or she did intend to commit an act that is, by the very nature of things, the crime itself. Thus, for acts that are *mala prohibita*, the intent to perpetrate the prohibited act under the special law must nevertheless be shown.⁴⁹

In contrast to crimes *mala in se*, which presuppose that the person who did the felonious act had criminal intent in doing so, crimes *mala prohibita* do not require such knowledge or criminal intent; rather, what is crucial is *volition* or the intent to commit the act. While volition or voluntariness refers to knowledge of the act being done (as opposed to knowledge of the nature of the act), criminal intent is the state of mind that goes beyond voluntariness, and it is this intent which is punished by crimes *mala in se*.⁵⁰ To hold an offender liable for an offense that is *malum prohibitum*, it is sufficient that there is a conscious intent to perpetrate the act prohibited by the special law, for the essence of *mala prohibita* is voluntariness in the commission of the act constitutive of the crime.⁵¹

⁴⁶ *Cabral v. Uy*, *supra* note 33 at 406–407.

⁴⁷ 344 Phil. 100 (1997).

⁴⁸ *Id.* at 122.

⁴⁹ *Id.*

⁵⁰ *Matalam v. People*, 783 Phil. 711, 728 (2016).

⁵¹ *People v. Ramoy*, G.R. 212738, March 9, 2022, accessed at <<https://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/68245>>.



Succinctly put, for crimes *mala in se*, there must be proof of criminal intent, while for crimes *mala prohibita*, it is sufficient that the prohibited act is done freely and consciously. As applied here, even if a violation of P.D. 957 is *malum prohibitum*, it must still be established that the accused had the volition or intent to commit the prohibited act, which is the non-registration of the subject contracts.

With these considerations in mind, a review of the records of the instant case shows that the evidence presented is insufficient to establish Valenzona's guilt beyond reasonable doubt. All that was established was that the subject contracts were not registered by ALSGRO, and that Valenzona was the President of ALSGRO. However, as laid down in the preceding discussions, these premises are not enough. To hold Valenzona criminally liable, it must also be established that he had the volition or intent to not register or cause the non-registration of the subject contracts. This, the prosecution miserably failed to do.

Relatedly, it should be emphasized that a corporation's personality is separate and distinct from its officers, directors, and shareholders. To be criminally liable for the acts of a corporation, there must be a showing that its officers, directors, and shareholders actively participated in or had the power to prevent the wrongful act.⁵²

Accordingly, Valenzona was correct to cite the case of *ABS-CBN* which likewise involved a *malum prohibitum* crime (*i.e.*, violation of the Intellectual Property Code) where the corporate officers were charged with criminal liability. Therein, the Court made the following pronouncements:

Corporations have separate and distinct personalities from their officers or directors. This court has ruled that corporate officers and/or agents may be held individually liable for a crime committed under the Intellectual Property Code:

. . . .

However, the criminal liability of a corporation's officers or employees stems from their active participation in the commission of the wrongful act:

The principle applies whether or not the crime requires the consciousness of wrongdoing. It applies to those corporate agents who themselves commit the crime and to those, who, by virtue of their managerial positions or other similar relation to the corporation, could be deemed responsible for its commission, *if by virtue of their relationship to the corporation, they had the power to prevent the act. Moreover, all parties active in promoting a crime, whether agents or not, are principals.* Whether such officers or employees are benefited by their delictual acts is

⁵² *SEC v. Price Richardson Corporation*, 814 Phil. 589, 615 (2017).



not a touchstone of their criminal liability. Benefit is not an operative fact.

An accused's participation in criminal acts involving violations of intellectual property rights is the subject of allegation and proof. **The showing that the accused did the acts or contributed in a meaningful way in the commission of the infringements is certainly different from the argument of lack of intent or good faith. Active participation requires a showing of overt physical acts or intention to commit such acts.** Intent or good faith, on the other hand, are inferences from acts proven to have been or not been committed.

We find that the Department of Justice committed **grave abuse of discretion when it resolved to file the Information against respondents despite lack of proof of their actual participation in the alleged crime.**

. . . .

Mere membership in the Board or being President *per se* does not mean knowledge, approval, and participation in the act alleged as criminal. There must be a showing of active participation, not simply a constructive one.

Under principles of criminal law, the principals of a crime are those “who take a direct part in the execution of the act; [t]hose who directly force or induce others to commit it; [or] [t]hose who cooperate in the commission of the offense by another act without which it would not have been accomplished.” There is conspiracy “when two or more persons come to an agreement concerning the commission of a felony and decide to commit it”:

Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

*It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators.*⁵³ (Emphasis and underscoring supplied)

The doctrine that a corporate officer's criminal liability stems from his or her active participation in the commission of a wrongful act is consistent

⁵³ *ABS-CBN v. Gozon*, *supra* note 27, at 776–777 and 781–782.



with the wording of P.D. 957. To recall, Section 39 thereof provides that in case of a corporation, the “President, Manager or Administrator **or the person who has charge of the administration of the business** shall be criminally responsible”⁵⁴ for a violation of P.D. 957. Thus, in assigning liability for crimes committed by a corporation, the law refers to the person in charge of the administration of the business — who may or may not be the President, Manager, or Administrator. What is crucial in ascertaining criminal liability is not the position of said officer, but his or her functions in relation to the specific violation he or she is charged with. In this case, the prosecution had the burden of showing that Valenzona was responsible for the registration of ALSGRO’s contracts in order to hold him liable under Section 17 of P.D. 957. However, it has been established that the specific obligation to comply with Section 17 was given to another department within ALSGRO, *i.e.*, the Marketing, Documentations, and Processing Department. Thus, the Court gives weight to the following averments in the Petition:

It should be emphasized that records reveal that on August 15, 2012, the Petitioner testified before the RTC that he was the President of the Corporation since 1994. As such, he had the following functions, duties, and responsibilities: (a) overseeing the business; (b) deals with the Corporation’s joint-venture partners; and (c) acts as the designated signatory in contracts, checks, and other documentations involving the Corporation.

However, **his office as President excludes processing of registration requirements under the law**, particularly, Section 17 of PD 957.

In fact, the **Petitioner clearly illustrated the Corporation’s organizational structure; in that the Corporation had designated departments to handle this function, particularly the Corporation’s Marketing, Documentations, and Processing Department.**

He further emphasized that he encounters an average of 25 to 30 transactions, and an average of 80 to 100 documents piled for perusal per week. It was impractical, if not impossible, for him to monitor each and every documented transaction of the Corporation and follow-through until their completion. Thus, the Corporation created the Marketing, Documentations, and Processing Department.

....

Assuming *arguendo*, the Petitioner had supervision over the Corporation’s Marketing, Documentations, and Processing Department, no evidence of conspiracy had been presented that he was in cahoots with the erring employees and personnel of such corporate division (if at all there be, which is denied).⁵⁵ (Emphasis supplied)

Verily, the fact that the president is specifically made liable under P.D. 957 for violations made by a corporation does not excuse the prosecution from proving Valenzona’s active participation in the crime charged. Having the

⁵⁴ Emphasis supplied.

⁵⁵ *Rollo*, pp. 31–32.



burden of proving the accused's guilt beyond reasonable doubt, it was incumbent upon the prosecution to provide evidence showing that Valenzona's duties and responsibilities as President entailed his active participation in ALSGRO's non-registration of the subject contracts. However, what has been established is that the specific obligation to comply with Section 17 was given to another department, not to the president. The evidence on record is bereft of any showing that Valenzona's acts or omissions had caused ALSGRO to violate Section 17 of P.D. 957. Likewise, the prosecution failed to prove that it was within Valenzona's power as President of ALSGRO to prevent such violation. In the absence of proof that Valenzona had any direct and active participation in the non-registration of the subject contracts, he cannot be made criminally liable for violation of Section 17 of P.D. 957.

Notably, and as pointed out by Valenzona, even the Information filed against him charges him for "willfully, unlawfully and feloniously" failing to register the subject contracts.⁵⁶ In this regard, and consistent with the preceding discussions, there must at least be a showing of his volition or intent to not register or cause the non-registration of the subject contracts through his active participation or by conspiring with others to commit the crime. Absent a showing of such participation done willfully, unlawfully, and feloniously, the prosecution failed to discharge its burden of proving Valenzona's guilt.

In this regard, the case of *Apurado v. People*⁵⁷ is instructive in showing how an accused's volition in perpetrating an act is punishable under P.D. 957. Therein, petitioner Jocelyn T. Apurado, as President and Project Manager of Panimalay ATB Realty Services, Inc., was found guilty of violating Section 5 of P.D. 957 for selling subdivision lots without first securing the necessary license to sell from the HLURB. The relevant pronouncements are reproduced below:

Here, it was established that the sale of the lots was made without a license to sell duly issued by the HLURB. *First, the terms of the MOAs are explicit that the license to sell is yet to be secured by petitioner from the HLURB* within 18 months from the signing of agreement. *Second, petitioner effectively admitted this fact when she testified that the Spouses Branzuela knew fully well that the license to sell was still being processed* with the HLURB at the time the two MOAs were executed. Further, the two MOAs are covered by the prohibition in Section 5 of P.D. No. 957 as it contemplates an agreement to dispose of subdivision lots. . .

. . . .

Pursuant to Section 39 of P.D. No. 957, when committed by a corporation, as in this case, it is the president, manager, or administrator or the person who has charge of the administration of the business who shall be criminally liable for the violation of the law. Thus, the CA correctly adjudged petitioner, as the person in charge of

⁵⁶ *Id.* at 135.

⁵⁷ G.R. 247419, August 22, 2022. (Unsigned Resolution)



ATB Builders, criminally liable for violation of Section 5 of P.D. No. 957. On this note, however, we differ with the CA's view that petitioner is a principal by indispensable cooperation as defined under Article 17 (3) of the Revised Penal Code. On the contrary, we find that **petitioner is a principal by direct participation since she directly took part in the execution of the crime when she facilitated the sale of the subdivision lots without a license to sell.**⁵⁸ (Emphasis supplied)

As can be seen in *Apurado*, the guilt of the accused did not hinge on the mere fact of her being the President of the erring company. In addition to such fact, it was necessary for the Court to look into whether it had been established that she herself directly took part in the execution of the act — and she did, as she admitted that they sold the lots knowing fully well that their license to sell was still being processed. In stark contrast to the case at bar, the accused's volition or intent to perpetrate the act in *Apurado* was clearly established.

On this note, a vital aspect of intent to perpetrate the act is knowledge. Without awareness or knowledge of the fact of non-registration of the subject contracts, it cannot be concluded with certitude that Valenzona had the intent to perpetrate such offense. Even if it cannot be established with absolute certainty that Valenzona did not know about the non-registration of the subject contracts, what is more crucial is that there is, at the very least, reasonable doubt as to whether he does have knowledge of the same, which constrains the Court to rule in favor of acquittal. This is consistent with the criminal law principle that when the facts and evidence are susceptible to two or more interpretations, one consistent with the innocence of the accused, and the other with his or her guilt, acquittal must ensue.⁵⁹

A Final Note

Verily, mere speculations and probabilities cannot substitute for proof required to establish the guilt of an accused beyond reasonable doubt. The rule applies whether the offense is *malum in se* or *malum prohibitum*.⁶⁰ The reasonable doubt standard is demanded by no less than the due process clause of the Constitution,⁶¹ which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he or she is charged. The burden of proof is on the prosecution, and unless it discharges that burden, the accused need not even offer evidence in his or her behalf, and he or she would be entitled to an acquittal.⁶²

To be sure, an accused has in his or her favor the presumption of innocence, which is guaranteed by no less than the Constitution.⁶³ Notably,

⁵⁸ *Id.*

⁵⁹ *Mendoza v. People*, 843 Phil. 881, 894 (2018).

⁶⁰ *People v. Dela Rosa*, 348 Phil. 173, 189 (1998).

⁶¹ CONST., art. III, sec. 1: "No person shall be deprived of life, liberty, or property without due process of law, nor should any person be denied the equal protection of the laws."

⁶² *Villarosa v. People*, G.R. 233155-63, June 23, 2020, 939 SCRA 502, 544.

⁶³ CONST., art. III, sec. 14(2):



the Bill of Rights guarantees this right to the accused in *all* criminal prosecutions, *without distinction* as to whether they involve an offense that is *malum in se* or *malum prohibitum*. After all, the penalty of deprivation of liberty looms over the accused regardless of whether he or she was charged under the Revised Penal Code or a special law.

Bearing in mind these constitutional rights of the accused, it became incumbent upon the Court to meticulously examine the presence of the elements of the crime of violation of P.D. 957 in order to rule on Valenzona's criminal liability. The Court cannot simply rely on the bare findings that a violation of P.D. 957 was committed by ALSGRO, and that Valenzona is the President of said corporation. The Court must be satisfied that the nexus between Valenzona's position in the corporation, and the commission of the offense with which he was charged, has been shown. If such nexus is not required for purposes of conviction, and the mere pretext that a violation of P.D. 957 is *malum prohibitum* is deemed sufficient, then the President (or Manager or Administrator) of every corporation engaged in the real estate business covered by the law automatically becomes criminally liable for every violation of P.D. 957 committed by such corporation. Surely, this would be an absurd interpretation of the law. Who would want to be such a president, if by merely assuming such position, he or she will be automatically held criminally liable by mere proof that there was a violation of P.D. 957?

To reiterate, dispensing with proof of criminal intent for crimes *mala prohibita* does not discharge the prosecution's burden of proving, beyond reasonable doubt, that the prohibited act was done by the accused intentionally. On this note, the State should be reminded that the primary duty of the public prosecutor is not to convict but to see that justice is done.⁶⁴

For its part, the trial court, as well as the appellate court, should not have been content with convicting the accused by the mere fact that a violation of the law was committed and that the law provides for the liability of the corporation's president. The duty of the court in ensuring that justice is served in criminal cases is not diminished by the fact that the crime involved is *malum prohibitum*. It is still incumbent upon the court to make a finding that the accused had the volition or intention to perpetrate the act that constitutes the crime. A more circumspect appreciation of the case should have led the lower courts to acquit the accused for failure to prove, beyond reasonable doubt, his active participation in the commission of the crime.

Notably, there are circumstances present in this case that should have stayed the hand of the court in imposing the penalty of imprisonment against

In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused provided that he has been duly notified and his failure to appear is unjustifiable.

⁶⁴ See CODE OF PROFESSIONAL RESPONSIBILITY AND ACCOUNTABILITY, Sec. 31.



Valenzona. To recall, the subject contracts in this case were eventually rescinded. Moreover, Valenzona and Porteo had entered into a compromise agreement where they agreed to settle the civil aspect of the case, which also led to Porteo's execution of an affidavit of desistance. These should have likewise led the lower courts to be more prudent in deciding the instant case against Valenzona, especially since what is involved here is the deprivation of his right to liberty.

The Court recognizes the common desire of the bench and bar in ensuring that crime does not go unpunished. Nevertheless, it is no less important — if not more so — that the innocent be shielded from hasty prosecution and rash conviction.⁶⁵ While sincerity and zeal in ensuring compliance with the law are laudable, “the undeserved penalties inflicted on the blameless, and the indelible stain upon their name”⁶⁶ as a result of being charged and convicted, ought to caution all concerned to carefully and conscientiously scrutinize the facts “before the finger is pointed and the stone is cast.”⁶⁷ The prosecution and the courts are enjoined to ensure that the fulfillment of their duties are not made at the expense of the person who stands accused, especially in cases involving crimes that are *mala prohibita*, where evidence of criminal intent is dispensed with. To repeat, the rights of the accused, as enshrined in the Bill of Rights, apply in *all* criminal prosecutions, without distinction as to whether they involve an offense that is *malum in se* or *malum prohibitum*.

Evidently, the primordial consideration in criminal prosecutions is not whether the court doubts the innocence of the accused, but whether there is reasonable doubt as to his or her guilt, in which case, the Court is under “a long[-]standing injunction”⁶⁸ imposed by the Constitution to resolve the doubt in favor of the accused. Here, the evidence presented by the prosecution failed to pass the test of moral certainty necessary to warrant Valenzona's conviction. For its failure to overcome Valenzona's constitutional presumption of innocence, the Court is compelled to rule for his acquittal.

WHEREFORE, the Petition for Review on *Certiorari* filed by petitioner Felix G. Valenzona is **GRANTED**. The June 29, 2018 Decision and July 24, 2019 Resolution of the Court of Appeals in CA-GR CR. No. 37119, affirming the Decision dated May 29, 2014 of Branch, 203, Regional Trial Court of Muntinlupa City in Crim. Case No. 08-018 convicting petitioner, are hereby **REVERSED** and **SET ASIDE**. Petitioner is **ACQUITTED** of the crime of violation of Section 17 of Presidential Decree No. 957 or the Subdivision and Condominium Buyers' Protective Decree, due to the prosecution's failure to prove his guilt beyond reasonable doubt.

Let entry of judgment be issued immediately.

⁶⁵ *Salvacion v. Sandiganbayan*, 226 Phil. 604, 610 (1986).

⁶⁶ *Id.*

⁶⁷ *Id.*

⁶⁸ *People v. Salidaga*, 542 Phil. 295, 308 (2007).



SO ORDERED.



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



HENRI JEAN PAUL B. INTING
Associate Justice



SAMUEL H. GAERLAN
Associate Justice



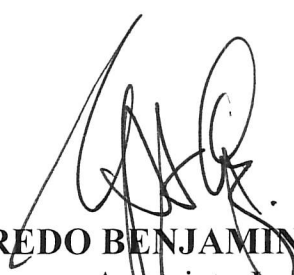
JAPAR B. DIMAAMPAO
Associate Justice



MARIA FILOMENA D. SINGH
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.



ALFREDO BENJAMIN S. CAGUIOA
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

