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Directors. Decisions of the said corporation are made in Quezon City. The employees of the Dagupan Electric Corporation in Dagupan City merely carry out the orders issued by the officials of said corporation in Quezon City. Hence the acts sought to be restrained are being committed in Quezon City."

ACCORDINGLY, the Petition is hereby dismissed, without prejudice to the filing of the complaint before the proper Court. The Temporary Restraining Order heretofore issued is hereby ordered to be lifted effective after fifteen (15) days from notice hereof. Costs against petitioner.

SO ORDERED.

Teehankee (Chairman), Plana, Relova, Gutierrez, Jr., and *de la Fuente, JJ.*, concur.

EN BANC

[G.R. Nos. 54719-50. January 17, 1985]

LORENZO GA. CESAR, *petitioner*, *vs.* HON. SANDIGANBAYAN and PEOPLE OF THE PHILIPPINES, *respondents.*

SYLLABUS

1. REMEDIAL LAW; EVIDENCE; FINDINGS OF THE SANDIGANBAYAN GENERALLY BINDING ON APPEAL; CASE AT BAR, AN EXCEPTION.— In *Tolentino v. de Jesus* (56 SCRA 167) we summarized the exceptions to the rule on conclusiveness of factual findings of the Court of Appeals as follows: "The findings of facts of the respondent Court of Appeals are conclusive on the parties and on this Court (Tamayo *v.* Callejo, L-25563, July 28, 1972, 46 SCRA 27) unless (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3)

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there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the Court of Appeals went beyond the issue of the case and its findings are contrary to the admission of both appellant and appellees [Roque *v.* Buan, L-22459, Oct. 31, 1967, 21 SCRA 648]; (6) the findings of facts of the Court of Appeals are contrary to those of the trial court; (7) said findings of facts are conclusions without citation of specific evidence on which they are based; (8) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents [Garcia *v.* CA, L-26490, June 30, 1970, 33 SCRA 622]; and (9) when the finding of fact of the Court of Appeals is premised on the absence of evidence and is contradicted by evidence on record [Salazar *v.* Gutierrez, L-21727, May 29, 1970, 33 SCRA 243]." The same exceptions apply to findings of the Sandiganbayan. We are constrained to reverse the respondent court's finding and to rule that this kind of evidence is too conclusive and conjectural to form a basis for a prison sentence of 577 years. There is no basis for a finding of guilt beyond reasonable doubt that the petitioner really signed the vouchers. The documents are missing and the witnesses are relying on pure memory of what they saw around three years earlier.

2. **ID.; ID.; CREDIBILITY OF WITNESSES; TESTIMONY OF CO-ACCUSED INTERESTED IN EXCULPATING THEMSELVES FROM LIABILITY REVIEWED WITH EXTREME CAUTION.**— The recollections of lay witnesses Del Prado, Samonte, and Vizco on the alleged signatures of the petitioner on the missing vouchers are not only scanty but they are mere opinions which must be reviewed with extreme caution. Moreover, coming from two persons who admittedly typed the fraudulent checks and a co-accused who ordered their preparation, all of whom are understandably interested in exculpating themselves from any possible liability, the testimonies do not deserve the unhesitating and unqualified trust given by the respondent court.

3. **ID.; ID.; EXPERT EVIDENCE; EXPERT TESTIMONY AS SOLE GROUND FOR CONVICTION IN THE PRESENCE OF EQUALLY CONVINCING EXPERT TESTIMONY TO THE CONTRARY; CONSTITUTIONAL PRESUMPTION OF INNOCENCE, PREVAILS.**— If there is other satisfactory evidence that an accused committed the crime of falsification,

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perhaps evidence of fundamental similarities alone would be acceptable. However, where the supposed expert's testimony would constitute the sole ground for conviction and there is equally convincing expert testimony to the contrary, the constitutional presumption of innocence must prevail.

4. **ID.; ID.; GUILT BEYOND REASONABLE DOUBT; NOT SUSTAINED IN CASE AT BAR.**— During the hearing before this Court on August 25, 1983, it was also elicited that absolutely no sign of affluence, no unexplained wealth, or other indication of having profited from the stolen millions could be traced to the petitioner who allegedly signed all those checks as the highest ranking official among the accused. Apart from his signatures appearing on the questioned checks, there is nothing in the records to prove that the petitioner conspired with the principal co-accused in the overall execution of the crime. As a matter of fact, during the period when the conspiracy was allegedly being hatched, the petitioner was abroad attending an international conference. Considering all the foregoing, we are constrained to rule that the evidence on record cannot sustain a verdict of guilt beyond reasonable doubt insofar as the petitioner is concerned.

APPEARANCES OF COUNSEL

Alentajan, Ricasa & Associates for petitioner.
Solicitor General for respondents.

DECISION

GUTIERREZ, JR., *J.:*

Petitioner Lorenzo Ga. Cesar was one of thirteen officials and employees of the Ministry of Education and Culture and the Bureau of Treasury who were accused in thirty-two (32) informations for estafa through falsification of public documents filed with the Sandiganbayan. The thirty-two charges arose out of the much publicized loss of P12,233,596.40 intended for construction projects in Teachers' Camp, Baguio City. The charges were tried jointly.

In this petition for review, the petitioner states that the prosecution evidence about his alleged conspiracy with the other

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accused was grossly insufficient to convict him. Petitioner Cesar contends that there is nothing in the records of the cases to show that he actually signed the questioned checks. He states that the prosecution witnesses failed to categorically point to his criminal responsibility. He argues in this petition that he had consistently maintained that the signatures purporting to be his in all the questioned checks were forgeries, that he repeatedly requested for the examination, photo copying, and evaluation of all the checks but each time, the request was denied and that when the checks were produced at the trial and the photographs taken by NBI technicians presented, "the glaring and apparent forgeries of the signatures on all the TCAA checks were revealed."

The petitioner was charged under the following information:

"That in, about and during the period from July 27, 1977 up to September 9, 1977, both dates inclusive, in the City of Manila and within the jurisdiction of this Honorable Court, the accused Amado Fernandez, Superintendent of the Teachers' Camp in Baguio and Joseph Estanislao, Cashier of the same office with the intent of defrauding the Philippine Government and with the indispensable cooperation and assistance of Lorenzo Cesar, former Assistant Director of the Bureau of Elementary Education; Reynaldo Bayot, a former auditor of the Ministry of Education and Culture (MEC); Jaime Lubina, a Cashier's Aide of the Teachers' Camp in Baguio; Iluminada Vizco, Cashier of the Ministry of Education and Culture in Manila; Maximiano Huguete, a Cashier Assistant; Rosalia Lopez, a Ministry of Education Senior Budget Examiner; Salvador Daza, Assistant National Cashier of the Bureau of Treasury; and Ernesto de Guzman, a Teller of the Bureau of Treasury, all taking advantage of their positions and mutually helping one another, did then and there wilfully, unlawfully and feloniously cause the preparation and falsification of the following TCAA checks: x x x by making it appear that all of the foregoing checks were duly funded and covered by cash disbursement ceilings of the Ministry of Education and Culture; that said checks were payable to supplier in payment of previously delivered construction supplies and materials and that the same checks were supported by duly prepared and approved vouchers; when in truth and in fact, as all the accused knew, all of the foregoing were all false and incorrect and by making it appear further that the signatories to the TCAA checks, namely: Lorenzo Cesar and Reynaldo Bayot were duly authorized to sign and issue the said checks and that the same checks were all regularly

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endorsed to either Amado Fernandez or Joseph Estanislao when in truth and in fact, as all the accused knew, all these were not true because Lorenzo Cesar and Reynaldo Bayot were no longer authorized to sign Ministry of Education and Culture TCAA checks and supposed payees never delivered the alleged supplies and thus never endorsed the TCAA checks and as a result of all of the foregoing falsifications, the said accused were able to illegally encash and get the proceeds of all of the stated TCAA checks in the total amount of FIVE HUNDRED NINETY TWO THOUSAND SEVENTY TWO & 70/100 PESOS (P592,072.70), Philippine currency, all of which offenses were clearly committed in relation to the offices of the accused, and once in the possession of the said amount, the accused misappropriated, misapplied and converted the said amount for their own personal needs to the damage and prejudice of the Philippine Government in the total amount of FIVE HUNDRED NINETY TWO THOUSAND SEVENTY TWO & 70/100 PESOS (P592,072.70), Philippine currency.

"CONTRARY TO LAW."

The principal accused, Amado Fernandez and Joseph Estanislao, were not arraigned and tried because they were able to flee the country before the charges were filed.

Jaime Lubina, Ernesto de Guzman, Juanito Dalangin, Sergio Garcia, and Urbano de Guia were acquitted upon the failure of the prosecution to prove their guilt beyond reasonable doubt. The other accused including petitioner Lorenzo Ga. Cesar were found guilty as charged and sentenced accordingly except in Criminal Case No. 438 where all accused were acquitted.

The Sandiganbayan denied a motion for reconsideration filed by the petitioner, hence this petition.

The facts upon which the judgment of conviction rests are summarized by the respondent court as follows:

From the evidence presented by the prosecution and the defense in the joint trial agreed upon by them, the following facts which unfold the manner the crimes charged were committed, remain undisputed: All of the accused under the trial are occupying their respective positions alleged in the information up to the present time except Cesar who was appointed as Regional Director of Region IV on April 6, 1977, and Reynaldo Bayot who was transferred to the Bureau of Internal

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Revenue in July 1975 but was purged from the government service by the President in September 1975. Sometime in September 1977, Fernandez, who was then the Superintendent of the Teachers' Camp in Baguio City, one of the agencies under the administration and supervision of the Ministry of Education and Culture (which will be hereinafter referred to as MEC), went to the office of Vizco, cashier of the MEC, located within the compound of the said Ministry of Arroceros, Manila, to seek Vizco's help in typing checks for alleged prior obligations of the Teachers' Camp which were funded but the funds for which have never been used. Fernandez sought the help of Vizco because it would be better for him to go to Baguio City with the approved checks already signed than if he were still to go to Baguio City just to have the checks typed and then come back to Manila for the signatories thereof which will entail too much expense on the part of the government. Vizco was under no obligation to do what Fernandez was requesting from her for that was the duty of the cashier of Teachers' Camp, but nevertheless, she acceded thereto though she was surprised by the number of approved vouchers to each of which were attached a blank check and a piece of paper with a 1975 date. The blank checks were TCAA checks of the SN 4 series issued by the Bureau of Treasury only in 1976 (TSN., p. 255, February 6, 1980 hearing) and requisitioned in 1977 by the MEC (Exhibits NN-20-1 to NN-20-11) and under the custody of Huguete, a cashier assistant of Vizco. The aforesaid vouchers were duly accomplished and the originals thereof were signed by Rosalia Lopez in behalf of David Tomelden, Chief, School Finance Division of the MEC. Assistant Director Lorenzo Ga. Cesar, who in his capacity as Assistant Director of the Bureau of Public Schools in 1975 was authorized to sign checks for payment of the Baguio Teachers' Camp and Reynaldo Bayot, who as Auditor of the Bureau of Public Schools used to sign the checks of the Teachers' Camp, also signed the originals of the vouchers. There was no supporting document attached to the vouchers whatsoever. Vizco accompanied Fernandez to her two clerks, Merly del Prado and Estrella Samonte, told the two to attend to the request of Fernandez. Faithful employees as they are, del Prado and Samonte typed the checks in 4 copies as instructed by putting the 1975 date written on the pieces of paper attached to the checks as the date thereof and the other entries therein like payees, the amounts and the accounting symbols which were attached. Actually, however, the Teachers' Camp had no obligation to pay said payees as it had never negotiated with or received any supply and material from them. The names of Cesar and Bayot as the persons who will sign the checks were typed based also on the vouchers

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or pursuant to the instruction of Fernandez. After typing the checks, the two clerks stamped the word 'Paid' on all copies of the vouchers and then brought them to Hilario Guiyab, who initialed them and thereafter forwarded the same to Vizco who also initialed them whenever she had time as a matter of procedure after she tallied the checks against the vouchers from which the clerks copied. The vouchers and checks were then given to Fernandez who came back for them. There were about three or four times that Fernandez went back to Vizco's office for preparation of the checks.

"Eventually, the checks were cashed by Fernandez and Estanislao in the Bureau of Treasury, accompanied once in a while by Lubina, a cashier's aide in the Teachers' Camp. The checks appeared to have been indorsed to them but in truth and in fact such indorsements were all forgeries. Before encashment, the checks were first brought by Fernandez and Estanislao to Daza, Assistant National Cashier, who initialed them to show his approval for encashment pursuant to a standing regulation in his Bureau that TCAA checks in the amount of from P2,000.00 to less than P10,000.00 should first be approved by him before encashment. Then said checks were cashed either by de Guzman, de Guia, Garcia or Dalangin. The TCAA checks recovered by the cases at bar are among those checks prepared and cashed as heretofore narrated (Exhibits F, F-1, to F-48; G, G-1 to G-27; H, H-1 to H-9; I, I-1 to I-70; K, K-1 to K-31; L, L-1 to L-62; M, M-1 to M-101; N, N-1 to N-64; O, O-1 to O-61; P, P-1 to P-40; Q, Q-1 to Q-43; R, R-1 to R-35; S, S-1 to S-40; T, T-1 to T-10; U, U-1 to U-35; V, V-1 to V-14, W, W-1 to W-40; X, X-1 to X-30; Y, Y-1 to Y-14; Z, Z-1 to Z-45; AA, AA-1 to AA-50, BB, BB-1 to BB-49; CC, CC-1 to CC-56; DD, DD-1 to DD-26; EE, EE-1, FF, FF-1 to FF-4; GG, GG-1 to GG-3; HH, HH-1 to HH-80; II, II-1 to II-21; JJ, JJ-1 to JJ-11; KK, KK-1 to KK-60).

"One way or another, the Ministry of Education and Culture, Juan Manuel, was informed of said disbursements which appeared irregular as the TCAA checks are of the SN 4 series which were issued out to the MEC only in 1977 but the date appearing therein was 1975, signatories may have been occupying a different position or purged already at the time of signing, splitting of requisitions as the checks are all P9,000.00 each, there were only three or four suppliers involved, there was no certification of availability of funds by the Chief Accountant, and checks were made to appear to have been issued to the field but signatories were from Manila and encashments were made in Manila (Exhibit MM-1, last page). For which reasons, Minister

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Manuel wrote a letter to Director Jolly R. Bugarin of the NBI (Exhibit MM) requesting him to conduct a discreet investigation of the same. NBI Agent Leonardo Jimenez of Baguio City was the one directed by Director Bugarin to conduct the required investigation which culminated in the filing of these cases before this Court.

"Professing innocence under the said facts, the accused interposed varying defenses: Cesar and Bayot averred that their signatures in the checks were forged; Lopez denied having signed the originals of the vouchers in question; Huguete asserted that he was on rural service, hence, he did not know how the blank checks in his office were disposed of; Lubina claimed that not an iota of evidence was presented against him; Vizco maintained that she performed only a routinary duty and was completely unaware of the criminal design to defraud the government; Daza asserted that he approved payment of the checks as they appeared regularly issued and properly signed and indorsed by the payees, while De Guzman, De Guia, Garcia and Dalangin uniformly stated that they cashed the TCAA checks in question as no irregularity appeared thereon and the encashment was approved beforehand by Daza.

"The only issue in these cases, therefore, is whether or not the accused are liable for the crimes charged, hence a discussion of their liability in seriatim."

The petitioner Lorenzo Ga. Cesar was convicted on a finding that he signed the vouchers and the checks.

The Sandiganbayan discussed his liability as follows:

"The liability of Cesar is shown by the fact that he signed the originals of all the vouchers which were the bases of the issuance of the checks in question. Though the originals of said vouchers were not produced, secondary evidence, however, were sufficiently presented to show their existence and the fact that after a diligent search said originals could not be located. Chief Accountant Blanquita Bautista spontaneously testified that despite the information relayed to her by Estanislao that Bayot burned the originals of the vouchers, she still made diligent search in the Auditor's Office of the MEC, but the same could not be located (TSN., pp. 283-289, February 6, 1980 hearing). Prosecution witnesses Del Prado and Samonte categorically declared that they typed the name of Cesar on the checks the names appearing in the vouchers, and the name of Cesar was one of the names appearing therein. His co-accused, Vizco, likewise unequivocably

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testified on the existence of the originals of said vouchers and the fact that Cesar and Bayot signed them, to wit:

"FISCAL HERRERA

Q Now, of course, you looked at the vouchers one by one?

"WITNESS

A Yes, sir.

"FISCAL HERRERA

Q And you saw the signatures of Bayot and Cesar on the originals of the vouchers, correct?

"WITNESS

A Yes, sir.

"FISCAL HERRERA

Q And you were convinced that those were the genuine signatures of these two - Bayot and Cesar?

"WITNESS

A Yes, sir.

(TSN., pp. 52-53, Feb. 25, 1980 hearing)

"In her sworn statement (Exhibit NN-11), the voluntary execution of which has never been assailed, Vizco stated:

"Q8: When you initial the said checks, did you verify or ascertain anything as contained in the vouchers?

"A: I initialed the checks, because as a matter of SOP I have to ascertain if the signatures of the Chief, School Finance Division, Asst. Director, and the auditor are duly affixed on the said vouchers. I likewise ascertain that the amount on the check tallies with the amount indicated in the vouchers.

"Q9: Does the signatures of the above cited Officials were pre-affixed (sic) on the said vouchers, if so, will you kindly tell us the name of the Officials who affixed their signatures on those vouchers?

A: For the name of the MR. DAVID TOMELDEN, Chief of the School Finance Division, the signature of Miss ROSALIA N. LOPEZ affixed, DR. LORENZO GA. CESAR, as Assistant Director and the Auditor, REYNALDO R. BAYOT have been affixed on the said vouchers.

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This statement executed by Vizco on September 28, 1978, shows that her aforequoted testimony was not an afterthought.

"Cesar likewise signed all the checks issued pursuant to the aforesaid vouchers, thus, causing said checks to be processed and finally encashed.

"The claim of Cesar that his signatures in all of the checks in question were forged as shown by the differences between his standard signatures (Exhibits 73-A to 73-X) and his signatures in some of the checks (Exhibits 73-AA to 73-EEE) called questioned signatures, pointed out by handwriting expert Maniwang in his handwriting examination report (Exhibit 74), are too feeble to overturn the conclusion that his signatures on the checks in question are genuine due to the following reasons:

"a. Differences in signatures are common even among the genuine signatures of one person. As has been said, 'no person writes his signature precisely the same twice in succession x x x . If a signature, for example, looks on first impression different from other authentic signatures, that fact alone may indicate genuineness. A forger cannot afford to present an obviously different signature. Only the owner of the name can safely permit himself the leeway' (Disputed Documents by Hana F. Sulner, pp. 42-43). Another known author on questioned documents, Albert S. Osborn, said that genuine writing by the same writer does vary for 'The arm, hand and fingers do not constitute an absolutely accurate reproducing machine, like an engraved print or printing process and certain natural divergences are inevitable x x x.' (Questioned Documents, Osborn, p. 205, 2nd Edition);

"b. A careful examination of the signatures of Cesar on the checks in question shows that they were all written by the same hand as shown by the following common traits, namely, the open loop of the letter L; the line forming letter L is continued up to the last letter of Lorenzo and connecting the surname; the elongated dot above the last stroke of the signature and the horizontal terminal stroke. When some of the said signatures of Cesar on the checks were compared with his sample or standard signatures by NBI Supervising Document Examiner Segundo Tabayoyong under magnifying lenses and stereoscopic microscope with the aid of photographic enlargement, it was revealed that there exist fundamental significant similarities in writing

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characteristics between the questioned and standard signatures of Cesar such as in:

(1) structural pattern;

(2) inconspicuous identifying details;

(3) free and coordinated strokes specially in curves and ornate designs of the signatures (Exhibit "FFF").

In his testimony which showed the professionalism attendant to his examination, Tabayoyong clarified:

"WITNESS

A Yes, sir. The first structural pattern on the standards is the capital L and O combination. The initial stroke of the capital L is a broad but pronounced trough-like stroke and this is written in a continuous manner. As shown by the photograph enlargements on the wall, the capital L likewise starts with broad garland group and similarly the upper and lower loop of the L, the loops are likewise written in a continuous manner. The structural pattern of what is supposed to be O after L is a so-called blind eyelet. In the standard, there is a blind eyelet appearing as if a stroke is just retracing the previous stroke. The same is true in the case of the questioned signatures. Then we have the spacing between the LO combination and the capital G equivalent, which is a personalized form in small letter f but big design. The connecting stroke is long.

"DIR. HERRERA

Q Connecting where?

"WITNESS

A The LO combination and what is supposed to be capital G design, sir. It is long and written in upward manner. And this is a characteristic of genuine writing because the forceful power of the writing hand is usually found in the upward stroke. Then we have the oval of the equivalent of the letter C. What is supposed to be capital C is basically with an oval as a body and an eye loop for the 'ce' combination. This is written in a continuous manner and so are the questioned signatures. The remainder of what is supposed to be Cesar on the standards is written in a slurred but simplified manner and done in a tapering or vanishing to the right. The same

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> is true with the questioned signatures. Even the structural pattern of what is supposed to be an apostrophe is done in an arcaded manner. And in handwriting identification with the dotting done in a careless manner, we call that careless dot. The same is true with the questioned signatures, there is arcading and a careless dot.'
> (TSN., pp. 113-116, March 5, 1980 hearing)

"A meticulous examination of the questioned and standard signatures of Cesar supports said testimony. Moreover, the testimony or report of Tabayoyong carries with it the presumption that an official duty has been regularly performed (Rule 131, Section 5, Rules of Court), as Tabayoyong performed his examination pursuant to the request of NBI Agent Jimenez preparatory to the filing of these cases in court. There was likewise no evil or bad motive shown for Tabayoyong to testify or conclude in the manner he did if such were not the fact, hence, his testimony is entitled to full weight and credit (People *v.* Borbano, 76 Phil. 702; People *v.* Macalindong, 76 Phil. 719; People *v.* Valera, 90 SCRA 400). It cannot also be said that Tabayoyong is incompetent to make said conclusion for the Court is satisfied with his credentials, he being at present the Acting Chief of the Questioned Documents Section of the NBI since November 27, 1979. Prior thereto, he was Officer-in-Charge, Supervising Examiner and Acting Executive Officer of said section. He had also examined at least 12,000 questioned documents involving questioned signatures and writings and had appeared as an expert witness on questioned documents before the different courts about four(4) times a month from 1966 to the present time;

c. It is but natural for Cesar to sign the checks in question because it was strongly established that he signed the vouchers in support thereof. Cesar has never made any categorical denial of his signature or participation in the said vouchers, the duplicates of which are shown in Exhibits LL, LL-1 and LL-2, either in his testimony in court or in his statement (Exhibit NN-12); and

d. The genuineness of his signatures on the checks in question has never been doubted by the government officials who acted thereon because after a scrutiny of the same and their comparison with the signatures of Cesar in their files, they really appeared genuine. Daza, who approved the checks for encashment and Garcia, one of the cashiers who encashed them, uniformly testified on this score."

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The petitioner was sentenced to a total of 577 years imprisonment by the Sandiganbayan. In this petition for review, he raises the following assignments of errors:

I

IN UTTERLY FAILING TO ANALYZE AND EVALUATE THE TESTIMONIES OF THE TANODBAYAN WITNESSES AND AT LEAST TO CONSIDER THE DEFENSE EVIDENCE.

II

PROSECUTION EVIDENCE NOT ONLY INSUFFICIENT TO CONVICT, BUT ACCUSED LORENZO GA. CESAR CONVINCINGLY PROVED HIS INNOCENCE.

III

IN FAILING TO APPLY THE CONSTITUTIONAL MANDATE OF PROOF BEYOND A REASONABLE DOUBT.

The initial arguments in the petition call to mind the challenge in *Nuñez v. Sandiganbayan* (111 SCRA 433) that P.D. 1486 as amended by P.D. 1606 creating the Sandiganbayan dilutes an accused's right to appeal and is therefore, violative of the rights of an accused to due process, equal protection, and safeguards against ex post facto legislation. Speaking through Chief Justice Enrique M. Fernando, this Court stated:

xxx xxx xxx

"x x x Petitioner makes much, perhaps excessively so as is the wont of advocates, of the fact that there is no review of the facts. What cannot be too sufficiently stressed is that this Court in determining whether or not to give due course to the petition for review must be convinced that the constitutional presumption of innocence (According to Article IV, Section 19 insofar as pertinent: 'In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, * * *.') has been overcome. In that sense, it cannot be said that on the appellate level there is no way of scrutinizing whether the quantum of evidence required for a finding of guilt has been satisfied. The standard as to when there is proof of such weight to justify a conviction is set forth in People *v.* Dramayo. (L-21325, 42 SCRA 59) Thus: 'Accusation is not, according to the fundamental law, as synonymous with guilt. It is incumbent on the prosecution to

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demonstrate that culpability lies. Appellants were not even called upon then to offer evidence on their behalf. Their freedom is forfeit only if the requisite quantum of proof necessary for conviction be in existence. Their guilt must be shown beyond reasonable doubt. To such a standard, this Court has always been committed. x x x This Court has repeatedly reversed convictions on a showing that this fundamental and basic right to be presumed innocent has been disregarded. (To speak of 1981 decisions alone, the judgment of acquittal was handed down in the following cases: People *v.* Novales, 102 SCRA 86; People *v.* Mendoza, 103 SCRA 122; People *v.* Duero, 104 SCRA 379; People *v.* Tabayoyong, 104 SCRA 724; Perez *v.* People, L-43548, June 29, 1981; People *v.* Anggot, L-38101-02, June 29, 1981; People *v.* Utrela, L-38172, July 15, 1981; People *v.* Francisco, L-43789, July 15, 1981; People *v.* Cuison, 51363, July 25, 1981; People *v.* Pisalvo, L-32886, Oct. 23, 1981; People *v.* Verges, L-36436, Oct. 23, 1981; People *v.* Tapao, L-41704, Oct. 23, 1981; People *v.* Delmendo, L-32146, Nov. 23, 1981; People *v.* Orpilla, L-30620, Dec. 14, 1981; People *v.* Marquez, L-31403, Dec. 14, 1981; People *v.* Rosales, L-31694, Dec. 14, 1981; People *v.* Felipe, 54335, Dec. 14, 1981. In People *v.* Corpus, L-36234, Feb. 10, 1981, 102 SCRA 674, of the 10 accused, three were acquitted)."

Considering further that no less than three senior members of this Court, Justices Teehankee, Makasiar, and Fernandez dissented from the Court's opinion in *Nuñez* partly because of the absence of an intermediate appeal from Sandiganbayan decisions, where questions of fact could be fully threshed out, this Court has been most consistent in carefully examining all petitions seeking the review of the special court's decisions to ascertain that the fundamental right to be presumed innocent is not disregarded. This task has added a heavy burden to the workload of this Court but it is a task we steadfastly discharge.

Section 7 of P. D. 1606 provides that decisions and final orders of the Sandiganbayan shall be subject to review on certiorari by the Supreme Court in accordance with Rule 45 of the Rules of Court. Rule 45 governs appeals from the Court of Appeals, now the Intermediate Appellate Court, to the Supreme Court.

In *Tolentino v. de Jesus* (56 SCRA 167) we summarized the exceptions to the rule on conclusiveness of factual findings of the Court of Appeals as follows:

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"The findings of facts of the respondent Court of Appeals are conclusive on the parties and on this Court (Tamayo *v.* Callejo, L-25563, July 28, 1972, 46 SCRA 27; Nery, et al. *v.* Lorenzo, et al., L-23096 & L-23376, April 27, 1972, 44 SCRA 431; Viacrusis *v.* CA, L-29831, March 29, 1972, 44 SCRA 176; De la Cruz, et al. *v.* CA, L-24000, Nov. 29, 1971, 42 SCRA 68; Naga Dev. Corp. *v.* CA, L-28175, Sept. 30, 1971, 41 SCRA 105, 115; Lacson & Basilio *v.* Pineda, et al., L-28523, July 16 1971, 40 SCRA 35; Quiñano, et al. *v.* CA, et al., L-23024, May 31, 1971, 39 SCRA 227; Reyes, et al. *v.* CA, et al., L-28466, March 27, 1971, 38 SCRA 138, 142; Gotamco Hermanas *v.* Shotwell, et al., L-22519, March 27, 1971, 38 SCRA 112-117; Limjoco *v.* CA, L-20656, Feb. 27, 1971, 37 SCRA 663-669; De Garcia, et al. *v.* CA, L-20264, Jan. 30, 1971, 37 SCRA 130, 136-137; Simeon *v.* Peña, L-29049, Dec. 29, 1970, 36 SCRA 611), unless (1) the conclusion is a finding grounded entirely on speculation, surmise and conjectures; (2) the inference made is manifestly mistaken; (3) there is grave abuse of discretion; (4) the judgment is based on misapprehension of facts; (5) the Court of Appeals went beyond the issues of the case and its findings are contrary to the admission of both appellant and appellees [Roque *v.* Buan, L-22459, Oct. 31, 1967, 21 SCRA 648]; (6) the findings of facts of the Court of Appeals are contrary to those of the trial court; (7) said findings of facts are conclusions without citation of specific evidence on which they are based; (8) the facts set forth in the petition as well as in the petitioner's main and reply briefs are not disputed by the respondents [Garcia *v.* CA, L-26490, June 30, 1970, 33 SCRA 622]; and (9) when the finding of fact of the Court of Appeals is premised on the absence of evidence and is contradicted by evidence on record [Salazar *v.* Gutierrez, L-21727, May 29, 1970, 33 SCRA 243]."

The same exceptions apply to findings of the Sandiganbayan.

From the decision of the respondent court, it can be seen that the criminal liability of the petitioner is drawn from only two findings — (1) Petitioner signed the vouchers which formed the bases for the preparation and issuance of the checks; and (2) Petitioner signed the checks themselves.

The acts of signing the vouchers and the checks are separate and distinct from the acts or participation of the other co-accused. The prosecution introduced evidence to show that the petitioner's alleged signing of the vouchers and checks constituted a chain in an overall conspiracy to defraud the public treasury.

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Did the petitioner sign the original vouchers which must be prepared before the checks are, in turn, prepared and issued?

A careful review of the voluminous records of this case shows that the evidence pointing to the petitioner's having signed the vouchers is woefully inadequate. Except for the fact that the inclusion of petitioner Cesar gives a neat and clear picture of how the crime was probably perfected, there is no showing of his signing any of the vouchers.

The signed vouchers were never presented in court. The duplicate copies form part of the records but they do not contain any signatures. The name of the petitioner is typed on the duplicate copies but no signature appears on top of his name. Through witness Blanquita Bautista, the prosecution tried to show that despite diligent efforts, the original vouchers could not be located. The "diligent search" consisted of a query to Joseph Estanislao, the accused cashier of Teachers' Camp on the whereabouts of the vouchers and, after Estanislao informed Bautista that Reynaldo Bayot, accused auditor of the Ministry of Education and Culture, had burned the vouchers, she went to the auditor's office where original vouchers are usually stored but she found no records whatsoever.

Bautista's testimony that one of the accused had burned the vouchers laid the basis for introduction of secondary evidence on petitioner Cesar's having signed the missing documents.

Merly del Prado, a clerk and Estelita Samonte, a laborer-typist testified that they prepared the questioned checks upon instructions of accused Superintendent Amado Fernandez. They stated that the original vouchers for the preparation of the checks contained three (3) signatures each and that one of the signatures was that of Lorenzo Ga. Cesar.

The witnesses testified that the usual supporting papers were not attached to the vouchers. Not one prosecution witness saw petitioner Cesar sign a single voucher. In fact, Samonte admitted on cross-examination that she did not see Dr. Cesar sign the vouchers.

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According to Del Prado, she recognized Cesar's signature on the missing vouchers "x x x because they (Cesar included) sign payrolls and vouchers in our office x x x."

On the other hand, Samonte was able to identify Cesar's signatures on the missing vouchers because she "knows" his signature, the petitioner having been a former Assistant Director of the Bureau of Public Schools and that in the past she had seen him affix his signature in the course of his work at the Bureau.

Co-accused Iluminada Vizco, cashier at the Manila office of the Ministry also testified that the petitioner must have signed the missing vouchers. Vizco stated that she saw the original vouchers and that she saw the signatures of Bayot and Cesar on the originals. Asked if she was convinced that these were the genuine signatures of Bayot and Cesar, she answered, "Yes, sir."

On the basis of the foregoing testimonies that the *signatures on the missing documents* must have been genuine signatures of the petitioner *because they had seen his undisputed signatures in the past,* the respondent court arrived at a conclusion that the petitioner signed the lost vouchers.

We are constrained to reverse the respondent court's finding and to rule that this kind of evidence is too conclusive and conjectural to form a basis for a prison sentence of 577 years.

There is no basis for a finding of guilt beyond reasonable doubt that the petitioner really signed the vouchers. The documents are missing and the witnesses are relying on pure memory of what they saw around three years earlier. Having had a hand in the typing and preparation of instruments to a serious crime which shocked the nation, they would not testify otherwise or they would themselves be respondents, at the very least, in administrative proceedings. Accused Vizco was, herself, found guilty and sentenced accordingly in these cases.

Moreover, the two typists were acting under instructions from Superintendent Fernandez and their own Chief, Iluminada Vizco. The number of checks being prepared was voluminous. The clerks could not have given more than a quick glance at the signatures on the missing vouchers. It was not their duty to

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verify authenticity of signatures. Their work was purely manual or mechanical in obedience to instructions. There is the added factor in this case that no less than the Secretary of Education, the Honorable Juan L. Manuel himself later sent formal letters addressed to the "Treasurer of the Philippines" stating that the questioned checks "signed by Dr. Lorenzo Ga. Cesar and countersigned Mr. Reynaldo Bayot are all valid for encashment by that Office" and stating that "kind consideration on the matter would be highly appreciated."

Familiarity by lay witnesses with signatures that were never presented to the court and based on pure recollection arrived at in hindsight some years after the event was the evidence used to convict the petitioner.

It has been stated:

"It is possible for an occasional lay witness to become familiar with a particular signature by seeing it often and under conditions that enable the observer to gain a knowledge of its features and qualities. But even this knowledge in almost every case covers only an acquaintance with the general appearance of the signature as a whole. As every imitation takes on some elements of this general appearance, and a tracing, if well made, very closely approximates the general appearance of the genuine model from which it was traced, a dependence on general appearance alone on which to base an opinion that a signature is genuine is always dangerous. x x x"

xxx xxx xxx

"The most frequent conflict in testimony in disputed document cases is, however, brought about, not by expert testifying against expert, but by the bringing in of uninformed lay witnesses who disagree with other lay witnesses or with experts. Strange to say, as has been pointed out elsewhere, the law allows anyone, who has seen a person write anything, anywhere, at any time, to give an opinion under oath regarding that person's handwriting. Diligence usually is rewarded by finding one or more of these lay witnesses who, when properly led, will testify, as is desired, that any genuine signature is a forgery, or that any forgery is a genuine signature. Witnesses of this class are not usually dishonest, but are not qualified to solve the problem submitted and simply answer as they are led to answer.

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"These unqualified witnesses give only bare opinions and their testimony seldom has but little if any technical or scientific value. Conflicts of this kind are not serious except when this merely opinion testimony, by the procedure, or the precedents followed, or the judge's charge, is given an importance which it does not deserve. It is a well established principle that testimony on any subject that is a mere opinion should always be received with caution, and this rule certainly should cover the testimony of untrained lay witnesses who, without giving reasons, testify as to the genuineness, or identity, of disputed handwriting. x x x" (The Problem of Proof, Osborn, pp. 465-466; 190-191)

The recollections of lay witnesses Del Prado, Samonte, and Vizco on the alleged signatures of the petitioner on the missing vouchers are not only scanty but they are mere opinions which must be reviewed with extreme caution. Moreover, coming from two persons who admittedly typed the fraudulent checks and a co-accused who ordered their preparation, all of whom are understandably interested in exculpating themselves from any possible liability, the testimonies do not deserve the unhesitating and unqualified trust given by the respondent court.

The second ground for the judgment of conviction was the finding that petitioner Cesar signed the falsified checks.

The respondent court arrived at this finding on the basis of three considerations:

(1) The testimony of a handwriting expert shows the signatures to be genuine;

(2) The signatures of Cesar on the missing vouchers having been established, it is but natural that he also signed the checks; and

(3) The genuineness of the signatures was not doubted by the government officials who acted on the checks.

The second and third grounds given by the respondent court have already been discussed and cannot form the bases for a conclusion that the petitioner signed the falsified checks. As earlier explained, the evidence on Cesar's having signed the missing vouchers is too conjectural and presumptive to establish personal culpability. Under the particular circumstances of this case earlier

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mentioned, the fact that the two typists and the co-accused who acted on the checks or vouchers believed that the petitioner's signature was really his signature cannot form a basis for a conclusion that he really signed them.

Which leaves us with the expert testimony as the sole basis for conviction.

The respondent court relied on Examiner Segundo Tabayoyong's testimony on fundamental significant similarities between sample signatures and the signatures of Cesar on the checks. These consisted of an open loop and a continuing line in the letter "L" and an elongated dot above the last stroke and the horizontal terminal stroke. Tabayoyong also discussed what he called free and coordinated strokes.

If there is other satisfactory evidence that an accused committed the crime of falsification, perhaps evidence of fundamental similarities alone would be acceptable. However, where the supposed expert's testimony would constitute the sole ground for conviction and there is equally convincing expert testimony to the contrary, the constitutional presumption of innocence must prevail.

An accurate examination to determine forgery should dwell on both the differences and similarities in the questioned signatures. The reason for this kind of examination is explained:

"There are two main questions, or difficulties, that confront the examiner of an alleged forgery. The first of these is to determine how much and to what extent genuine writing will diverge from a certain type, and the second is how and to what extent will a more or less skillful forgery be likely to succeed and be likely to fail in embodying the essential characteristics of a genuine writing. Here we have the very heart of the problem, for, at least in some measure, a forgery will be like the genuine writing, and there is also always bound to be some variation in the different examples of genuine writing by the same writer. Incorrect reasoning infers forgery from any variation or infers genuineness from any resemblance.

"The process of identification, therefore, must include the determination of the extent, kind, and significance of this resemblance as well as of the variation. It then becomes necessary to determine

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whether the variation is due to the operation of a different personality, or is only the expected and inevitable variation found in the genuine writing of the same writer. It is also necessary to decide whether the resemblance is the result of a more or less skillful imitation, or is the habitual and characteristic resemblance which naturally appears in a genuine writing. When these two questions are correctly answered the whole problem of identification is solved." (The Problem of Proof, Osborn, pp. 481-482)

The questioned documents examiner, Mr. Eduardo V. Maniwang, testified in part:

"ATTY. ALENTAJAN:

Q Now, these arrows with corresponding numbers like 1, 2, 3, and 4 in the standards likewise appear in the questioned documents as same numbers 1,2, 3, and 4. Will you please explain to this Honorable Court what you meant when you placed there the numbers on the arrows?

"PJ PAMARAN:

You mean those figures?

"ATTY. ALENTAJAN:

Yes, your Honor.

"PJ PAMARAN:

What do they represent?

"WITNESS:

A The figures represent, your Honor, the differences as shown in the standards as against the questioned signatures. Figure 1 would mean the first downward stroke of the initial letter L in the name Lorenzo, so in the standard the curve is not as prominent as manifested in the questioned signature. The questioned signature showed a pronounced letter C movement, whereas, in the standard, the curve is not as distinct as appearing here.

No. 2 showed the first big downward movement or the shaft as straight because it is abruptly made downward to the left, from the right to the left, whereas, in the standard — in the questioned, rather, the movement is more of an 8; it is curving. It is not abrupt but curving owing it to the fact that . . . rather, the result of this is that the lower loops of the letter L are more rounded.

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"PJ PAMARAN:

Just a while, let us clarify this.

"PJ PAMARAN:

The Court observed that there are figures.

"WITNESS:

A Yes, your Honor.

"PJ PAMARAN:

Q Now, let us go to Figure 1 in the standards. Does the matter or fact referred to in Figure 1 in the standard the same matter or fact referred to in No. 1 in the questioned?

"WITNESS:

A Yes, your Honor.

"PJ PAMARAN:

Proceed.

"WITNESS:

A As I have said that No. 2 in the questioned is also referred to by the figure 2 in the standards. The same is an 8 movement, meaning the curve is from the right then downward. The tendency is that the curving is from the right to the left upward and the result of which can be gleaned more prominently on the lower loops of the capital letter L of the questioned.

"PJ PAMARAN:

Q Did you not reduce that summary of yours in writing so that we can have a perusal of it?

"WITNESS:

A I did, your Honor.

"PJ PAMARAN:

Q Where is that?

"ATTY. ALENTAJAN:

We have here a summary, your Honor.

"WITNESS:

I have reduced the same in writing.

"PJ PAMARAN:

Q Where is your description of the figures?

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"WITNESS:

A The figures here, your Honor, are also represented by numbers 1, 2, 3, and 4 in my report. They are numbered 1 to 4, your Honor.

"PJ PAMARAN:

So you refer to that?

"ATTY. ALENTAJAN:

Yes, your Honor.

Q May we request that this report of examiner of questioned documents Eduardo Maniwang, consisting of three pages, be marked as Exhibits 74-Cesar, 74-a and 74-b-Cesar?

"PJ PAMARAN:

Mark them.

(Deputy Clerk Cortez marking the report referred to by counsel consisting of three pages as Exhibits 74, 74-a and 74-b Cesar)

"PJ PAMARAN:

Q In other words, Exhibits 74, 74-a and 74-b is the written result of your comparison of the standards and the questioned?

"WITNESS:

A Yes, your Honor.

"ATTY. ALENTAJAN:

Q Now, you have already explained to the Honorable Court the differences of Figure 1 also in the questioned documents which appear also on your findings here also as No. 1. Now, will you please explain this finding No. 2 of yours which says - the first downward stroke or the shaft of the first letter L in the questioned is characterized with a slight 5 movement, whereas, in the standards, the same are straight and abrupt.

"WITNESS:

A I have already explained that, sir.

"PJ PAMARAN:

Are you not satisfied with that written report? They are there already so he will just be repeating what are stated there.

"ATTY. ALENTAJAN:

Q Now, will you please just point out to this Honorable Court this No. 3 finding of yours? What does that mean?

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"PJ PAMARAN:

Is it not stated in the report?

"ATTY. ALENTAJAN:

It states here only the connection between the first letter O in Lorenzo and the first . . . (unfinished)

"PJ PAMARAN:

Then you correlate that with the comparison chart.

"ATTY ALENTAJAN:

Q And your finding No. 4, what is this diacritical mark on the questioned signature - you are referring to what?

"WITNESS:

A Also to the arrow No. 4 both in the standards and the questioned, sir.

"ATTY. ALENTAJAN:

Q Will you please point which diacritical mark are you referring to here?

"WITNESS:

A This one pointed by the arrow figure No. 4.

"ATTY. ALENTAJAN:

Q What do you mean by the words diacritical mark?

"WITNESS:

A Diarcritical mark is what we term as those marks over or on top of these letters for purposes of stress - these are known as diacritical marks in our parlance.

"ATTY. ALENTAJAN:

Q Why did you mark No. 4 this diacritical mark on the standards and No. 4 also in the questioned documents? What did you find in this diacritical mark?

"PJ PAMARAN:

It is stated in the report?

"WITNESS:

A Yes, your Honor.

"PJ PAMARAN:

It is stated already in the report.

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"ATTY. ALENTAJAN:

I was just trying to put more emphasis in reference to the pictures, your Honor.

"PJ PAMARAN:

It is already there.

"PJ PAMARAN:

With all these fundamental differences that you have found in the standards and the questioned documents, will you please tell this Honorable Court of your opinion, based on the findings ... (unfinished)

"PJ PAMARAN:

Is it not stated in the report? It must be there in the report.

"ATTY. ALENTAJAN:

As stated in the report, *the conclusion is that the questioned signatures of Lorenzo Ga. Cesar are not authentic.*

"PJ PAMARAN:

That answers your question already.

"ATTY. ALENTAJAN:

Q Do you affirm all these matters stated in your findings marked Exhibits 74, 74-a and 74-b?

"WITNESS:

A Yes, sir."
(TSN., March 24, 1980, pp. 16-25)

Mr. Maniwang pointed to other significant divergences and distinctive characteristics between the sample signatures and the signatures on the questioned checks in his report which the court's Presiding Justice kept mentioning during Maniwang's testimony.

In the course of his cross-examination, NBI expert Tabayoyong admitted that he saw the differences between the exemplars used and the questioned signatures but he dismissed the differences because he did not consider them fundamental. We rule that significant differences are more fundamental than a few similarities. A forger always strives to master some similarities.

The defense counsel tried to impeach the qualifications of the prosecution's expert witness and in this respect, it was partly successful.

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The testimony of Mr. Segundo Tabayoyong on March 5, 1980, part of which is cited on pages 19-23 of the petition, shows admissions which are summarized by the petitioner as follows:

"He never finished any degree in Criminology. Neither did he obtain any degree in physics or chemistry. He was a mere trainee in the NBI laboratory. He said he had gone abroad only once - to Argentina which, according to him 'is the only one country in the world that gives this degree (?) . . . 'People go there where they obtain this sort of degree (?) where they are authorized to practise examination of questioned documents.'

"His only civil service eligibility was second grade (general clerical). His present position had to be 're-classified' 'confidential' in order to qualify him to it. He never passed any other board examination.

"He has never authored any book on the subject on which he claimed to be an expert.' Well, he did 'write' a so-called pamphlet pretentiously called 'Fundamentals of Questioned Documents Examination and Forgery Detection.' In that pamphlet, he mentioned some references '- (some) are Americans and one I think is British, sir, like in the case of Dr. Wilson Harrison, a British' (he repeated with emphasis). Many of the 'theories' contained in his pamphlet were lifted body and soul from those references, one of them being Albert Osborn. His pamphlet has neither quotations nor footnotes, although he was too aware of the crime committed by many an author called 'plagiarism.' But that did not deter him, nor bother him in the least.

He has never been a member of any professional organization of experts in his supposed field of expertise, because he said there is none locally. Neither is he on an international level."

Moreover, the prosecution did not deal fairly with its own expert witness. Mr. Tabayoyong was given standard signatures dated February, 1973; January 31, 1974; October 14, 1974; December 27, 1974; May 5, 1975; and June 5, 1975. The falsified checks were prepared in 1977. It would have been an easy matter to produce samples written in 1977. The petitioner signed hundreds of documents and communications every month in his capacity as Regional Director of the huge Ministry of Education and Culture. The prosecution did not furnish better sample or standard signatures.

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The passage of time and a person's increase in age may have decisive influences in his writing characteristics. As stated in *Testamentaria de le Finada Da. Maria Zuniga v. Vda. de Vidal* (91 Phil. 126, April 21, 1952), "the closeness or proximity of the time in which the standard used had been written to that of the suspected signature or document is very important to bring about an accurate analysis and conclusions." Hence, "x x x authorities are of the opinion that in order to bring about an accurate comparison and analysis, the standards of comparison must be as close as possible in point of time to the suspected signature." (*Ibid.*) Mr. Tabayoyong explained that he used 1973 to 1975 samples because these were the only ones furnished him and that he was not given the facts and circumstances of the signatures he was asked to examine.

The petitioner's counsel was constrained to deal harshly and rather unkindly with the prosecution's expert witness while impeaching his qualifications. Mr. Tabayoyong's many years and considerable experience while working for the National Bureau of Investigation must have somehow compensated for his lack of educational and civil service qualifications. Nonetheless, his handling of this particular investigation leaves much to be desired. As the 577 years sentence of the petitioner depends solely on his examination of the questioned signatures, a more credible analysis is essential.

There are other loose ends which the prosecution and the respondent court failed to settle.

The findings in the Sandiganbayan decision show that Superintendent Fernandez of Teachers' Camp and MEC Cashier Vizco were primarily responsible for the preparation of the falsified checks. The decision states that Fernandez and Estanislao brought the checks to the Bureau of Treasury to be initialed by Assistant National Cashier Daza before they were cashed by De Guzman, De Guia, Garcia, or Dalangin. Since the signature of petitioner Cesar happens to appear on the falsified checks, the respondent court convicted him as part of the conspiracy.

The questioned checks are of the SN 4 series issued to the MEC only in 1977. The checks were dated by the authors or

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drawers to make them appear as having been drawn in 1975, a year when they were still non-existent. Petitioner Cesar was no longer connected with the central office of MEC in 1977. He was already assigned to Region IV-A as its Regional Director. He had no authority in 1977 to sign checks for Teachers' Camp in Baguio City. The Assistant Treasurer of the Philippines wrote the Secretary of Education and Culture that Series of 1977 checks had been drawn by the Department and dated 1975. Asst. Treasurer Almeyda stated that *they doubted the validity of the antedated checks* and that it was the second time they intercepted antedated TCAA checks issued by the Department of Education and Culture. The answer to this official query was that all the checks were valid for encashment.

During the hearing before this Court on August 25, 1983, it was also elicited that absolutely no sign of affluence, no unexplained wealth, or other indication of having profited from the stolen millions could be traced to the petitioner who allegedly signed all those checks as the highest ranking official among the accused.

Apart from his signatures appearing on the questioned checks, there is nothing in the records to prove that the petitioner conspired with the principal co-accused in the overall execution of the crime. As a matter of fact, during the period when the conspiracy was allegedly being hatched, the petitioner was abroad attending an international conference.

Considering all the foregoing, we are constrained to rule that the evidence on record cannot sustain a verdict of guilt beyond reasonable doubt insofar as the petitioner is concerned.

WHEREFORE, the petition is hereby GRANTED. The judgment of the respondent court is REVERSED and SET ASIDE insofar as it refers to accused Lorenzo Ga. Cesar. The petitioner is ACQUITTED on grounds of reasonable doubt.

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SO ORDERED.

Fernando, C.J., Teehankee, Abad Santos, Plana, Escolin, Relova, de la Fuente, and *Cuevas, JJ.,* concur.

Makasiar, J., I reserve my vote.

Aquino, Concepcion Jr., and *Melencio-Herrera, JJ.,* no part.

FIRST DIVISION

[G.R. No. 55998. January 17, 1985]

RAMON MAGSAYSAY AWARD FOUNDATION, *petitioner,* *vs.* THE COURT OF APPEALS and SALCEDO, DEL ROSARIO, BITO, MISA & LOZADA, *respondents.*

SYLLABUS

1. **CIVIL LAW; OBLIGATIONS AND CONTRACTS; LEASE CONTRACT; MEETING OF THE MINDS ON THE RENEWAL THEREOF; CASE AT BAR.**— The Court finds this ruling that the parties had in fact agreed on the two-year renewal of the lease thru their exchanges of letters and implementing acts as above recited — notwithstanding that the draft renewal contract had not been signed by petitioner — to be in accordance with the facts and the law. The only point of disagreement was with reference to the deficiency rental arrearages based on the previous adjusted rate of P16.00 per square meter but we find no reason to disturb the appellate court's observation that "during the negotiations, although petitioner adverted to the arrearages in rental still due from the private respondent, it appears that said claim had been treated as a distinct or separate matter such that its resolution was not considered a condition precedent to the renewal under negotiation."

2. **ID.; ID.; ID.; HELD NOT RENEWED BY IMPLICATION, UPON ITS EXPIRATION.**— But the appellate court erred in upholding the trial court's judgment that after the expiration of the two-year period of the renewed lease on March 10, 1975, there was an