



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

GIL "BOYING" R. CRUZ,
Petitioner,

G.R. No. 197142

- versus -

PEOPLE OF THE PHILIPPINES,
Respondent.

x-----x
SERAFIN N. DELA CRUZ AND
DENNIS C. CARPIO,

G.R. No. 197153

Petitioners,

Present:

- versus -

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

PEOPLE OF THE PHILIPPINES,
Respondent.

Promulgated: **09 OCT 2019**

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DECISION

CAGUIOA, J.:

The instant consolidated Petitions for Review on *Certiorari*¹ filed by petitioner Gil "Boying" R. Cruz (Cruz), docketed as G.R. No. 197142; and by petitioners former Mayor Serafin N. Dela Cruz (Mayor Dela Cruz) and Dennis C. Carpio (Carpio), docketed as G.R. No. 197153, assail the Decision² dated September 10, 2008 and Resolution³ dated May 30, 2011 of the Sandiganbayan in CRIM. CASE NO. 23147 finding them guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019 (RA 3019), otherwise known as the "Anti-Graft and Corrupt Practices Act" and

¹ *Rollo* (G.R. No. 197142), pp. 25-72; *rollo* (G.R. No. 197153), pp. 13-51.

² *Rollo* (G.R. No. 197142), pp. 73-119. Penned by Associate Justice Francisco H. Villaruz, Jr. with Associate Justices Edilberto G. Sandoval and Samuel R. Martires, concurring.

³ *Id.* at 120-124.

imposing upon them the penalty of six (6) years and one (1) month imprisonment as minimum to ten (10) years imprisonment as maximum.

The Facts and Antecedent Proceedings

A complaint for ejectment dated October 22, 1986 was filed before the Municipal Trial Court (MTC) of Bulacan by plaintiffs Maria Rosario Batongbacal, Celso S. Lazaro, Lauro S. Lazaro, Consorcia L. Santiago, Rodolfo L. Lazaro and Pablo R. Santiago against the defendants-spouses Marcelo L. Del Rosario and Amelia V. Del Rosario. The case was docketed as Civil Case No. 1526⁴ and was raffled to the sala of the Hon. Manuel R. Ortiguerra (Judge Ortiguerra).

On November 17, 1989, the MTC decided in favor of the plaintiffs. The judgment of the MTC attained finality on December 27, 1989 and became entirely enforceable on December 27, 1990. On January 17, 1991, plaintiffs moved for the issuance of a writ of execution. Plaintiffs also filed a motion for the issuance of writ of demolition, which was favorably granted by the MTC. However, difficulties arose in the enforcement of the writ of execution and the writ of demolition which further necessitated the issuance of seven alias writs of execution and six alias writs of demolition.⁵

On March 5, 1993, herein petitioners Cruz, Mayor Dela Cruz and Carpio, together with Isidoro S. Mauricio (Mauricio) and Jose A. Aspuria (Aspuria) allegedly prevented the enforcement of the fourth alias writ of execution and third alias writ of demolition sought to be implemented.⁶

Feeling aggrieved, the husband and Attorney-in-fact of plaintiff Maria Rosario Batongbacal, Atty. Mario A. Batongbacal (Atty. Batongbacal), lodged a complaint before the Office of the Ombudsman.⁷ Consequently, petitioners Mauricio and Aspuria were indicted for violating Section 3(e) of RA 3019. The Information⁸ against them reads as follows:

That on or about March 5, 1993, or sometime prior or subsequent thereto, in the Municipality of Bocaue, Bulacan, Philippines, and within the jurisdiction of this Honorable Court, accused Serafin M. dela Cruz, then Municipal Mayor; Gil "Boying" Cruz, then Acting Municipal Administrator; Dennis Carpio, then Secretary of the Sangguniang Bayan and Private Secretary to the mayor; and Isidoro S. Mauricio, then Municipal Assessor, all public officials of the Municipality of Bocaue, Bulacan, while in the performance of their official functions, and as such, taking advantage of the same, conspiring and confederating together and with accused Jose "Jerry" Aspuria, the brother-in-law of certain Alex Halili, with evident bad faith and manifest partiality, did

⁴ Id. at 112.

⁵ Id. at 113.

⁶ Id.

⁷ Id.

⁸ Id. at 135-136.

then and there willfully, unlawfully and criminally obstruct and stop the execution of the Court's valid writs of execution and demolition of the structure illegally constructed on the lot owned by the wife of the complainant, thereby causing undue injury to the complainant and giving unwarranted benefits to certain Alex Halili.

CONTRARY TO LAW.⁹

When arraigned, petitioners pleaded not guilty to the offense charged. Pre-trial was held on December 12 and 13, 1996 and the Pre-Trial Order reflected the following stipulations agreed upon by the parties:

1. Accused Serafin M. Dela Cruz was a Municipal Mayor of Bocaue, Bulacan on or about March 5, 1989;
2. Gil "Boying" Cruz was an Acting Municipal Administrator on or about March 5, 1989 of Bocaue, Bulacan;
3. Dennis Carpio was a secretary of the Sangguniang Bayan and Private Secretary to the Mayor on or about March 5, 1989 of Bocaue, Bulacan;
4. Alex Halili is not a party in Civil Case No. 1526 entitled "Rosario Batungbakal v. Marcelo Del Rosario" of MTC Bulacan;
5. Civil Case No. 774-M-94 was already pending at the time the preliminary investigation of this case was on-going;
6. The Second Alias Writ of Execution dated September 15, 1992 and the Second Alias Writ of Demolition was issued on the same day;
7. No summonses were served on Alex Halili in Civil Case No. 1526;
8. No administrative case was filed against the then Presiding Judge of Bocaue, Bulacan, Manuel R. Ortiguerra for issuing the Order dated March 5, 1993 in Civil Case No. 1526 entitled "Ma. Rosario Batungbakal vs. Marcelo del Rosario" holding in abeyance the implementation of the Writ of Demolition;
9. The building has been demolished in 1995; and
10. There is a subsequent issuance of writ of execution and demolition after the enforcement of the four writs.

Thereafter, trial ensued.

Version of the Prosecution

The prosecution presented the following witnesses: (1) Atty. Batongbacal, the private complainant in the instant case; (2) Bienvenido G. Villarente (Sheriff Villarente), Sheriff IV, Branch 17, Regional Trial Court

⁹ Id.



(RTC) of Sta. Cruz, Sta. Maria, Bulacan; (3) Dioscoro B. Aligato (Aligato), Process Server of the RTC Bulacan; and (4) Gregorio M. Pagulayan (Sheriff Pagulayan), former Deputy Sheriff of Bulacan.


Atty. Batongbacal's testimony was summarized in the assailed Decision as follows:

He became a complainant in the instant case because he is the attorney-in-fact of his wife and the administrator of her paraphernal property. With respect to Civil Case No. 1526, a portion of the property involved therein is a paraphernal property of his wife.

Civil Case No. 1526 is a case for ejectment filed by his wife, Ma. Rosario Batongbacal, and her siblings and which involves a parcel of land leased by defendant-spouses Marcelo del Rosario and Amelia Villanueva del Rosario for purposes of putting up a commercial building. The court ruled in favor of the plaintiffs and the defendants were ordered ejected. After the finality of the judgment, he filed a motion for partial execution of the judgement. It was only for partial execution because although the lease was terminated, another term of one (1) year after its finality was provided and which includes the payment of arrears in rents. The partial execution covers the arrears in rents and the rental that have accrued from 1986, the date of execution of the judgment, until the possession of the land is returned to the plaintiffs. In the motion filed, no ejectment of the defendants was yet asked.

The partial writ of execution was partially satisfied. After which, he filed a motion for total execution but which was denied by the court. They then caused the filing of a motion for the issuance of a writ of total execution. This motion was for the purpose of collecting the arrears and for ejectment. However, the same was not satisfied as the defendants refused to pay and to vacate the premises. Because of such refusal, he filed a motion for the issuance of alias writs of execution and for motion for issuance of a writ of demolition against the defendants and those claiming rights under the names of the defendants. The motions were subsequently granted and the corresponding writs issued x x x.

In the original writ of demolition and the alias writ of demolition, a temporary restraining order was issued by the court. A suit for injunction was filed (Civil Case No. 780-90-91) by Manuel Salvador, Angeles Castro and another person whose shanties were erected behind the house and hardware of defendant-spouses Del Rosario (Civil Case No. 1526). The petitioners for injunction were the employees of spouses Del Rosario. The petition for injunction was dismissed. Thereafter, a second alias writ of execution and a first alias writ of demolition was issued by the Court. The first alias writ of demolition was partially satisfied with the dismantling of the shanties by the petitioners themselves and the greater portion of the commercial building was dismantled. He then again caused the issuance of a third alias writ of demolition and a second alias writ of execution but which, just the same, were not satisfied due to the intervention of accused mayor Dela Cruz, Carpio, Cruz, Aspuria, together with Alexander Halili, who started intervening since the enforcement of the second alias writ of



execution and the first alias writ of demolition. Alexander Halili is the son of a sub-lessee of the spouses Del Rosario who is Leopoldo Halili.

When the second alias writ of execution and the third alias writ of demolition were returned unsatisfied, he moved for the issuance of a third alias writ of execution and a fourth alias writ of demolition. The same were granted by the court and the corresponding writs were issued. Again, these writs were returned unsatisfied due to the interference and obstruction of the accused.

He filed a complaint-affidavit for violation of Articles 241 (Usurpation of Public Functions) and 243 against accused-public officers. He then filed the instant case.

He and his wife suffered damages due to the acts committed by the accused which deprived them of their right as owners and possessors of the property. Their right and the government's right to enforce the writs of demolition was also violated by the accused. The accused took advantage of their public positions and with bad faith, evident partiality, they conspired to execute an unlawful act. They (the accused) caused the delay and prevented the delivery of the property adjudged in favor of them in Civil Case No. 1526 which resulted to damages on their part.¹⁰

The assailed Decision likewise summarized Sheriff Villarente's testimony in this wise:

x x x He is currently employed as sheriff at the Regional Trial Court (RTC) of Branch 17, Malolos, Bulacan.

x x x x

He was first assigned to enforce the writ of execution and demolition in 1996, but was not able to enforce it because he was enjoined by the Regional Trial Court Branch 9.

He was only able to partially enforce the third alias writ of execution and the third alias writ of demolition. He demolished the store owned by Marcelo Del Rosario, the defendant in Civil Case No. 1526, and the other shanties at the back of the store. He, however, was not able to fully enforce the writ of demolition because, according to Mayor Serafin Dela Cruz, the land occupied by Alexander Halili was not included in the land of plaintiff Batongbacal. He was instructed by Mayor Serafin Dela Cruz to see him the following day (January 5, 1993).

Prior to enforcing the fifth alias writ of demolition, he wrote a letter dated February 6, 1995, to Atty. Batongbacal, the lawyer of the plaintiff in Civil Case No. 1526 and also the husband of the plaintiff, requesting for police assistance. He was prompted to do so when brothers-in-law Jose Aspuria and Alexander Halili warned him that something untoward will happen to him should he continue to demolish the house of Halili.¹¹

¹⁰ Id. at 83-84.

¹¹ Id. at 75-76.



Aligato's testimony was summarized in the assailed Decision, viz.:

On March 5, 1993, he was at the office of Regional Trial Court (RTC) Branch 16. He was visited by Sheriffs Villarente and Pagulayan who asked him if he has people who can help them in a demolition in Bocaue. He obliged and was able to find 18 persons composed of civilian and construction workers.

He was then instructed by Sheriffs Villarente and Pagulayan to proceed to Barangay Wakas, Bocaue.

He and his men arrived at the place around 10:00 o'clock in the morning. Sheriffs Villarente and Pagulayan then instructed him to demolish the building with "NO TRESPASSING" signboard. Sheriff Pagulayan told him to destroy the padlock and to start the demolition.

The building was only partially demolished because it was stopped by Mayor Serafin Dela Cruz together with his companions who were armed. The Mayor thereafter said something to his men who were demolishing the building.

He and Sheriff Pagulayan were brought at the office of the police in the municipal building of Bocaue as ordered by the Mayor. When Mayor Dela Cruz arrived at the office of the police, he instructed someone that they be investigated and be charged for trespassing. Afterwards, they were asked to proceed to the Office of the Clerk of Court.

The Clerk of Court told them that Judge Ortiguerra wanted to talk to them. Upon seeing the judge, he told them that they will first wait for the Mayor. When the Mayor arrived, he told them (he and Pagulayan) that he does not want to see their faces and then he (the mayor or him?) left.

x x x x

During the demolition, Mayor Serafin Dela Cruz ordered them to stop and told them, "*Itigil na yan, itigil na ang demolition na yan*". He saw firearms, long and short ones, but these firearms were not pointed at them. He and Sheriff Pagulayan were brought at the Municipal Building. Sheriff Villarente was not brought to the municipal building because he was not at the demolition site. He was not aware of an Order dated March 5, 1993 issued by Hon Judge Manuel Ortiguerra which suspended the implementation of the writ.¹²

On the other hand, the assailed Decision summarized Sheriff Pagulayan's testimony in this wise:

He was formerly a Deputy Sheriff of Bulacan from 1983 until 1985 x x x.

¹² Id. at 77-78.

Sheriff Bienvenido Villarente approached him to ask if he can help in the implementation of the writ of demolition in connection with Civil Case No. 1526 as there has been some resistance from the occupants of the property and that the relatives of Alexander Halili were threatening him (Villarente). He and Villarente first discussed the plan for the implementation of the writ. After which, he acceded to the request of Villarente.

He was given a copy of the third alias writ of execution and of the fourth alias writ of demolition a week before the demolition itself. He then prepared a Notice to Vacate dated March 2, 1993 addressed to Alexander Halili. Thereafter, they served a copy of the notice, together with the writ of demolition. When they went to the place of residence of Halili, he was not around. The notice was served to a woman who introduced herself as Halili's mother at a store which is the third establishment from the place supposed to be demolished. It was around 3:00 o'clock in the afternoon when they caused the notice to be served.

On March 5, 1993, they implemented the writ of demolition. Upon securing assistance from the Bulacan (Philippine Constabulary (PC) Company (provincial office), he and Dioscoro Aligato proceeded to the municipal building to inform the police authorities of Bocaue they will implement a writ of demolition on that day and to have the said fact reflected in a police blotter.

He, together with the demolition team, Aligato, and the police escort from the PC Company in Malolos went to the demolition site but found nobody there. They then went to the store of Jalili to inform them of the demolition. The people at the auto spare parts store tried to prevent them.

They then went back to the demolition site and started dismantling the structures at the place. While doing so, accused Mayor Dela Cruz shouted from behind for them to stop. The Mayor was also hurling invectives and told them, "*Mga putang-ina ninyo, para kayong mga hari, basta na lang kayo mangingiba ng bahay ng may bahay, hindi man lang kayo nagpapaalam sa akin, sige, ituloy ninyo yan at pagbabarilin ko kayo, komo may dala kayong order.*" There were people watching the commotion including his companions and the companions of Mayor Dela Cruz.

He was approached by about three or four of the companions of the Mayor who he later learned were Halili and accused Mauricio, Cruz and Carpio. They showed to him a sketch/plan and a piece of paper and they were explaining to him that the building sought to be demolished is not included in the property ordered by the court to be demolished. They explained this to him for about ten (10) to fifteen (15) minutes and told him that if he will not desist from the demolition something untoward might happen to him or that he might be slapped with a court case. He then told them that only a restraining order can stop him from his duty of implementing the demolition.

He instructed his men to continue with the demolition. When they were about to commence demolishing again, he was held by the shoulder by

accused Gil "Boying" Cruz, pushed and forced to board the patrol car. There were other people ganging up on him and he was in the middle.

Aligato was also forced to board another car, but he instructed him first to secure his men. Inside the police car with him were the Station Commander of Bocaue who was assisting the Mayor.

It was accused Mayor Dela Cruz who instructed for them to be brought to the municipal building, specifically at the police station located inside the building, but nobody told him the purpose of his being brought to the municipal building.

When they reached the municipal building, the police officers who were with the Mayor were also there, together with Halili and all the other accused who approached him at the demolition site. However, the Mayor was not around.

While at the municipal building, he reported the incident to the desk clerk and the fact that he was stopped from implementing the writ of demolition.

Thereafter, he went to see Judge Ortiguerra and personally reported to the judge as to what transpired. While thereat, Mayor Dela Cruz arrived together with Halili and accused Cruz, Aspuria and Mauricio (now deceased) and explained the situation. During the course, Aligato and the Mayor had an exchange of words in front of the judge. The accused Mayor was hurling invectives, while Aligato was telling the Mayor that the problem is not his but that of other people's and therefore, it should not be his concern. The judge told them to stop and to respect the authority inside the courtroom. The Mayor then left and the judge issued an Order.¹³

Version of the Defense

After the prosecution rested its case, the defense presented as witnesses, petitioners, Aspuria and Alexander Halili (Halili).

The assailed Decision summarized their testimonies as follows:

Petitioner Cruz testified that:

On 5 March 1993, he was Acting Municipal Administrator of Bocaue, Bulacan. On the said date, he was at his office in the Municipal Hall. He reported for work at around 7:45 o'clock in the morning. At that time, he saw Alexander Halili looking for Mayor Serafin Dela Cruz and saw him go inside the Office of the Mayor. Later, he (the witness) was told by one of the staff of the Mayor to proceed to the Mayor's Office. Inside, he saw Alexander Halili again.

¹³ Id. at 79-80.

Mayor Dela Cruz asked him to accompany Halili to the demolition site. After, Mayor Dela Cruz, Alex Halili, the Chief of Police and himself proceeded to the site. Upon arrival, they saw the demolition team composing more or less twenty (20) personnel. The Mayor immediately asked for the Officer in Charge, Sheriff Villarente but the latter was not around. The Mayor was able to talk to Gregorio Pagulayan. He then asked Sheriff Pagulayan to proceed to the Municipal Hall in order to discuss some matters complained of by Halili in the presence of Judge Manuel R. Ortiguerra.

Sheriff Pagulayan, together with Mr. Dioscoro Aligato, agreed to the request of the Mayor. They were at the sala of the judge at around 10:30 o'clock in the morning. Among those who were there were Mayor Dela Cruz, Dioscoro Aligato, Gregorio Pagulayan and Alexander Halili.

They agreed that Sheriff Pagulayan and Aligato should conduct first an ocular inspection. The agreement was reduced in writing. It was confirmed and agreed upon in the presence of the judge.

After the meeting, he personally saw that there was an Order that the demolition of the site be held in abeyance. There were no invectives shouted by the Mayor in the presence of Judge Ortiguerra.

x x x x

He has not been charged administratively in connection with the incident
x x x.¹⁴

Petitioner Mayor Dela Cruz, on the other hand, testified as follows:

He was the municipal mayor of Bocaue, Bulacan on the material date in the instant case, particularly, March 5, 1993. As a municipal mayor, it is his duty to safeguard his constituents.

On March 5, 1993, at 8:00 o'clock in the morning, he reported for work at the municipal building. On that day, Alexander Halili came and told him that his store was being demolished. [He is friends with Alexander Halili but it was his first time to see the latter's house on the day of the demolition even though Halili was running as councilor under his political ticket.]¹⁵ Halili was a resident of Brgy. Batya, Bocaue, Bulacan. His store was located at Brgy. Wakas which is also a part of the municipality of Bocaue.

When Halili came to his office, he told him that his store was being included in the demolition of Marcelo del Rosario's establishment. He then conferred with the City Assessor, Isidoro Muaricio, to inquire from the latter as to who has been paying the taxes and the plans on the said property. Mauricio confirmed that Halili was the one paying the taxes although the said property is a government property. The property was formerly a creek. He also checked the papers of the defendant in Civil

¹⁴ Id. at 99-101.

¹⁵ Id. at 103.



Case No. 1526, Marcelo del Rosario, and found that Halili is not included therein.

He also told his chief of police, Lintao, to go to the demolition site because as narrated by Halili there was a commotion going on. He instructed Lintao to proceed at the site to control the said commotion and to check the demolition.

He also proceeded to the demolition site. [He was with his private secretary, Gil "Boying" Cruz. When he arrived at the demolition site, the site of the property of Halili was already partially demolished.¹⁶ He was not shown any document at the demolition site. When he got there, he did not ask or tell any person to stop the on-going demolition. He never told the sheriff to stop the demolition, neither did the sheriff tell the demolition team to stop. It was the demolition team who voluntarily stopped the demolition. He just invited them to the sala of the judge who issued the writ of demolition. He only stayed for a while at the site to secure the orderliness as there has been a commotion as related by Halili.]¹⁷ From there, they went to the sala of Judge Manuel Ortiguerra and informed the judge that he was not preventing the execution of the writ of demolition. He went there to inquire whether the property of Halili is included in the case of Rosario Batongbacal vs. Marcelo del Rosario. He showed the plans and the tax payments made on the property to the judge to prove that one of those who have been paying the property was Halili. He also tried to secure receipts of payment of taxes by the Batongbacals from the documents in possession of Halili but he could not find any. The Batongbacals were not present at the sala of Judge Ortiguerra. He only saw Sheriffs Pagulayan and another sheriff whose name he cannot recall. He was not aware whether or not any action or order was issued by the judge, but he knows that the demolition was no longer pursued not until after a week.

When the judge issued the Order dated March 5, 1993 holding in abeyance the demolition, he did nothing anymore. He was not cited for contempt by the judge for delaying the implementation of the writ of demolition. He was not also ordered imprisoned by the judge. After that day, there was no any motion filed by the aggrieved party to cite him for indirect contempt for obstructing the administration of justice.

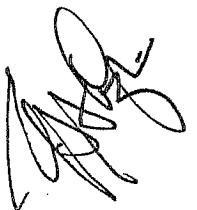
Despite knowing that an order of demolition has already been issued by the judge, he helped Halili because the latter sought his assistance. As the Mayor, it was his duty to protect his constituents. He did not act with evident bad faith or manifest partiality as he had no other intention but to clear matters out regarding the report of Halili. He also spoke with the Batongbacals and told them to first check the establishment being demolished, the plans and the tax payments.

As a result of the instant case, he was suspended from office for three (3) months. It also caused him embarrassment since he had no ill motives.¹⁸

¹⁶ Id. at 103.

¹⁷ Id. at 104.

¹⁸ Id. at 102-103.



Aspuria's testimony was summarized by the Sandiganbayan as follows:

x x x Alex Halili is his brother-in-law.

He did not conspire with his co-accused. He was not at the demolition site on March 5, 1993. Rather, he was at Malolos, Bulacan to open a project. He only learned that he was charged for violation of Section 3(e), R.A. No. 3019 when a warrant for his arrest has been issued. He was erroneously included perhaps because he was the financier of Halili – that he funds his schooling and that [he] helps the latter in acquiring contracts.

Because of the filing of the instant case, he incurred expenses in attending the hearings and could not supervise his men.

He did not cause the stoppage of the demolition nor did he prevent the enforcement of the writ of demolition.

x x x x

He filed a counter-affidavit when the instant case was still undergoing preliminary investigation, but as per advice of his lawyer, it is only now that he will relate as to what actually transpired x x x He was not at the demolition site on March 5, 1993 when the incident occurred x x x.

On March 5, 1993, he was at Malolos, Bulacan from 7:00 o'clock in the morning until 5:30 to 6:00 o'clock in the evening for the opening of his project there which involved the installation of marble furnishings. x x x Malolos is about 30 kilometers away from Bocaue and takes up around 2 hours travel time. On the way to Malolos, he passed by Bocaue because he is from Bocaue, but he did not pass by at the site of the incident nor did he return to Bocaue upon reaching Malolos x x x.¹⁹

Halili, on the other hand, testified as follows:

He owns a piece of land located at Wakas, Bocaue, Bulacan which measures 81 square meters. The same was applied for by his father, Leopoldo Halili, with the DENR through one Renato Bondoc who was supervising the application for the ownership of lands. For the application, his father presented a Barangay Resolution entitled "Kapasyahan Blg. 23", a Mayor's Certificate, and the Approved Plan. The barangay resolution was from the barangay council of Barangay Caingin, Bulacan, dated July 30, 1991 and was signed by the barangay secretary, Antonio Mendoza. The approved plan does not reflect any lot number. Beginning 1992, improvements were introduced to the land, namely, his residence and his store.

It was transferred to him by virtue of a document entitled "*Pagpapaubaya*" executed by his father, Alexander Halili, and his mother, Lourdes

¹⁹ Id. at 104-105.

Mauricio, on August 31, 1992. Prior to the transfer, his father was in possession of the said land for more than thirty (30) years.

The land is covered by Tax Declaration No. 02004-00832. A Certification from the Office of the Municipal Assessor was also issued in his favor to serve as proof that he was the one who has been paying taxes thereon. Prior to March 5, 1993, he was the one occupying the land. The land has not been the subject matter of any suit from the time it was held by his father until it was conveyed to him. On the mentioned date, it was, however, being demolished and he cannot understand why it was sought to be demolished. It was Sheriff Gregorio Pagulayan and one named Aligato who told him that his house will be demolished. These sheriffs went to his house with their men on March 5, 1993 at around 7:00 o'clock in the morning. They showed to him the writ of demolition wherein the parties involved were the spouses Del Rosario and Rosario Batongbacal. He does not know who Rosario Batongbacal is.

When he was told that his house will be demolished, he sought assistance from Mayor Serafin Dela Cruz. Also, he did so to convince the sheriffs that he is really not included in the charge. He did not go to the MTC of Bocaue because he was not a party in the case which resulted to the issuance of the writ of demolition. He went to see the mayor at the municipal building at around 8:00 o'clock in the morning x x x He told the mayor that he needs his help and showed the latter the approved plan of the DENR and his receipts evidencing payment of taxes thereon. The mayor then called on the assessor, Isidoro Mauricio, to verify his claims x x x. When he already verified the same, he went back to the office of the mayor to confirm his claims. The mayor then told him to proceed to the demolition site and that he will follow. He did so. When the mayor arrived, he was with Gil "Boying" Cruz, Dennis Carpio and some policemen. The mayor, upon arrival, asked the 2 sheriffs why his house is being demolished when it is not even included in the order of the court. The sheriffs got angry and insisted that his house is included in the demolition. It is not true that the mayor was holding/carrying a gun at that time and it is not also true that he threatened to shoot them if the demolition pushes through. The policeman at the demolition site served as the peacemaker and was summoned by the mayor. The mayor did not go to the demolition site to order a stoppage of the demolition. He was there to make clarifications as to which properties are going to be demolished. It was Sheriff Pagulayan who ordered the stoppage.

The demolition stopped x x x. The mayor invited the sheriffs to go to the sala of Judge Ortiguerra and the sheriffs acceded. He also went to the sala of the judge who was around when they arrived. It was around 10:00 o'clock in the morning when they saw the judge. The mayor asked the judge [if] his property was really included in the demolition. The judge ordered that the matter be held in abeyance, but he does not know the reason for such order. The judge also told the sheriffs to demolish only the property included in the order. Nothing else happened on that day after the judge issued the order.

When he was ejected from the premises, he filed a complaint before the Regional Trial Court of Bulacan for the recovery of ownership over the land under Civil Case NO. 774M-94 entitled 'For recovery of Ownership of a Parcel of Land'. The defendants in the case were Ma. Rosario

Batongbacal, Celso Lazaro, Lauro Lazaro, Consortia Santiago, Rodolfo Lazaro, and Pablo Santiago. Until now, the case is still being heard.

He knows Jose Aspuria as he is his brother-in-law. Aspuria was not present at the demolition site on March 5, 1993 because he went to a construction-related project. He knows Gil "Boying" Cruz who was holding a government position at that time. Cruz was at the demolition site on March 5, 1993. It is not true that Cruz prevented the implementation of the writ of demolition. Cruz was never cited for contempt. He also knows Dennis Carpio, who, based on his recollection, was not holding any government position at that time. He was at the demolition site on the material date. Carpio was not cited for contempt.²⁰

Finally, the defense presented petitioner Carpio, who testified to the following:

On March 5, 1993, he was the secretary of Mayor Dela Cruz. As such, he takes care of the official transactions and businesses of the mayor, including his appointments.

On the aforementioned date, he was at the office of the Mayor. Between 8:00 to 9:00 o'clock in the morning, he remembers someone being there at the office of the mayor. Later on, he found out that it was Alex Halili. When Halili came to their office, he had with him some documents and wanted to talk to the mayor.

The Mayor, Halili and Municipal Assessor, Mauricio, had a short conversation. He was at the office at that time and was within the hearing distance of not less than one (1) meter away from them. He overheard Halili saying that there were persons who wanted to demolish his establishment. Halili also said that he had documents with him showing that he is the owner of the store/house subject to demolition. He requested the mayor to talk to the people at the demolition site. Mayor Dela Cruz said that he will follow Halili at the demolition site on or before 9:00 o'clock in the morning.

The mayor went to the demolition site sometime between 8:00 o'clock to 9:00 o'clock in the morning. He (the witness) went there also. He saw Cruz, the Sheriff, the demolition workers, the policemen. The demolition site is just near the municipal building. He and the mayor rode two separate vehicles. He (the witness) rode his car and was unaccompanied. He went to the site because as the private secretary, it is his duty to follow the mayor wherever he goes. He (the witness) had no firearms with him. The mayor did not have any firearm also. He is sure of this because the mayor does not carry firearms with him, not used to carrying a gun and he is a very kind person. The mayor did not have any bodyguards with him also x x x. When they arrived in the site, he noticed that there was tension and the people were afraid because of the presence of the sheriffs and the policemen with firearms.

He observed that the house to be demolished had a sign which reads "NO TRESPASSING". There were many people at the site, including

²⁰ Id. at 106-107.



policemen. The mayor talked to the sheriff. At that time, he was more or less one (1) meter away from where they were. He overheard the mayor inviting the sheriff to the sala of the judge. The mayor did not harass the sheriff and the demolition team. It was the sheriff who ordered the men to stop the demolition and not the mayor. The men did as they were told by the sheriff. However, [i]t was only the fence which was demolished. They (the mayor and the sheriffs) then proceeded to see the judge. He, on the other hand, went back to the office.²¹

Ruling of the Sandiganbayan

In the assailed Decision, the Sandiganbayan found petitioners guilty beyond reasonable doubt of violation of Section 3(e) of RA 3019. The case against Mauricio was dismissed on account of his death. The dispositive portion of the assailed Decision reads:

WHEREFORE, premises considered, the Court finds accused **Serafin M. Dela Cruz, Gil "Boying" R. Cruz and Dennis C. Carpio GUILTY BEYOND REASONABLE DOUBT**. Accordingly, with the application of the Indeterminate Sentence Law, there being no modifying circumstances, the Court hereby sentences them to suffer the indeterminate penalty of imprisonment, ranging from six (6) years and one (1) month to ten (10) years.

Considering the death of accused **Isidoro S. Mauricio** and pursuant to Article 89 of the Revised Penal Code, the case is hereby **DISMISSED** as against him.

Accused **Jose "Jerry" S. Aspuria** is hereby **ACQUITTED** on the basis of insufficiency of evidence.

There is no pronouncement as to civil liability as the facts upon which it may arise did not appear to be indubitable.

SO ORDERED.²²

The Sandiganbayan limited the legal issue to whether petitioners, in preventing the enforcement of the fourth alias writ of execution and third alias writ of demolition, caused undue injury to any party, including the Government or gave any private party any unwarranted benefits, advantage or preference.²³

The Sandiganbayan found the records of the case wanting of any proof of undue injury or damage to any party or even to the Government.²⁴ According to the Sandiganbayan, the prosecution had adduced no evidence by which it may determine the amount of damages allegedly suffered by the

²¹ Id. at 108-109.

²² Id. at 118.

²³ Id. at 113-114.

²⁴ Id. at 114.



complainant; and while there was an attempt to show that complainant was unduly injured, it was never substantiated.²⁵

However, the Sandiganbayan found that, except for Aspuria, Mayor Dela Cruz, Cruz and Carpio were in conspiracy in giving Halili unwarranted benefits by interfering and obstructing the enforcement of a legal process issued by the court.²⁶ The Sandiganbayan further ruled that petitioners exhibited evident bad faith which does not simply connote bad judgment or negligence, but a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will.²⁷

In a Resolution dated May 30, 2011, the Sandiganbayan denied the respective motions for reconsideration²⁸ filed by petitioners.

Hence, the instant consolidated petitions, raising the following issues:

Whether the Sandiganbayan erred in ruling that there was conspiracy among petitioners.

Whether the Sandiganbayan erred in declaring that petitioners are guilty of violating Section 3(e) of RA 3019.

The Court's Ruling

Mayor Dela Cruz' death extinguished his criminal and civil liability.

During the pendency of the consolidated petitions, counsel for petitioner Mayor Dela Cruz notified the Court that the latter had died on February 20, 2017 attaching a certified true copy of the Certificate of Death.²⁹

Article 89, paragraph 1 of the Revised Penal Code (RPC), provides for the consequences of Mayor Dela Cruz's death, to wit:

ART. 89. *How criminal liability is totally extinguished.* – Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment.

²⁵ Id.

²⁶ Id. at 117-118.

²⁷ Id. at 118.

²⁸ *Rollo* (G.R. No. 197142), pp. 162-182; *rollo* (G.R. No. 197153), pp. 115-142.

²⁹ *Rollo* (G.R. No. 197142), pp. 473-476.

Construing the foregoing provision, the Court, in *People v. Bayotas*,³⁰ explained that “[t]he term final judgment employed in the Revised Penal Code means judgment beyond recall x x x[;] as long as a judgment has not become executory, it cannot be truthfully said that defendant is definitely guilty of the felony charged against him.”³¹

In the same case, the Court summarized the rules in case the accused dies prior to final judgement:

1. Death of the accused pending appeal of his conviction extinguishes his criminal liability as well as the civil liability based solely thereon. As opined by Justice Regalado, in this regard, “the death of the accused prior to final judgment terminates his criminal liability and *only* the civil liability *directly* arising from and based solely on the offense committed, *i.e.*, civil liability *ex delicto in senso strictiore*.”

2. Corollarily, the claim for civil liability survives notwithstanding the death of accused, if the same may also be predicated on a source of obligation other than delict. Article 1157 of the Civil Code enumerates these other sources of obligation from which the civil liability may arise as a result of the same act or omission:

- a) Law
- b) Contracts
- c) Quasi-contracts
- d) x x x x x x x x x
- e) Quasi-delicts

3. Where the civil liability survives, as explained in Number 2 above, an action for recovery therefor may be pursued but only by way of filing a separate civil action and subject to Section 1, Rule 111 of the 1985 Rules on Criminal Procedure as amended. This separate civil action may be enforced either against the executor/administrator or the estate of the accused, depending on the source of obligation upon which the same is based as explained above.

4. Finally, the private offended party need not fear a forfeiture of his right to file this separate civil action by prescription, in cases where during the prosecution of the criminal action and prior to its extinction, the private offended party instituted together therewith the civil action. In such case, the statute of limitations on the civil liability is deemed interrupted during the pendency of the criminal case, conformably with the provisions of Article 1155 of the Civil Code, that should thereby avoid any apprehension on a possible privation of right by prescription.³²

Thus, applying these established rules in the instant case, the death of petitioner Mayor Dela Cruz pending the resolution of his appeal,

³⁰ 306 Phil. 266 (1994).
³¹ Id. at 270, citing *People v. Castillo*, No. 22211-R, November 4, 1959, 56 O.G. No. 23, p. 4049.
³² Id. at 282-284.

extinguished his criminal liability. The civil action grounded on the criminal action is also extinguished.³³ Accordingly, the Court holds that the death of petitioner Mayor Dela Cruz results in the dismissal of the criminal case against him and the Sandiganbayan's Decision, which finds him guilty of violating Section 3(e) of RA 3019, is rendered ineffectual.³⁴

In view of the foregoing, the Decision of the Court will now solely focus on the criminal liability of petitioners Cruz and Carpio.

The guilt of Cruz and Caprio were not proven beyond reasonable doubt.

In *Maamo v. People*,³⁵ the Court reiterated the settled rule that "findings of fact of the [Sandiganbayan,] as trial court are accorded great weight and respect. However, in cases where there is a misappreciation of facts, the Court will not hesitate to reverse the conclusions reached by the trial court. At all times, the Court must be satisfied that in convicting the accused, the factual findings and conclusions of the trial court meet the exacting standard of proof beyond reasonable doubt."³⁶

After a judicious examination of the records of the case and the submission of the parties, the Court finds that the prosecution failed to prove petitioners' guilt beyond reasonable doubt.

In the assailed Decision, the Sandiganbayan held that that petitioners Cruz and Carpio are guilty of violating Section 3(e) of RA 3019 by reason of conspiracy. However, in finding Cruz and Carpio liable through conspiracy, the Sandiganbayan simply ruled that it "lend[s] credence to the claim of the Prosecution that there had been conspiracy among accused x x x [i]n giving Alexander Halili unwarranted benefits by interfering and obstructing in the enforcement of a legal process enjoined by the court x x x accused exhibited evident bad faith."³⁷ To the mind of the Court, these pronouncements are insufficient to establish that petitioners acted in conspiracy to commit the crime charged. To be certain, the Sandiganbayan failed to point to a specific act performed by each petitioner that would indicate a unity of purpose or common design to give Halili unwarranted benefits, advantage or preference in the discharge of their functions.

It has been consistently ruled that conspiracy exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.³⁸ To be held guilty as a co-conspirator, the prosecution

³³ See *People v. Egagamao*, 792 Phil. 500, 508 (2016).

³⁴ See *People v. Abungan*, 395 Phil. 456, 462 (2000).

³⁵ 801 Phil. 627 (2016).

³⁶ Id. at 652.

³⁷ *Rollo* (G.R. No. 197142), pp. 117-118.

³⁸ *People v. Gimpaya*, G.R. No. 227395, January 10, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64013>>.

must be able to show, at the very least, with the same degree of proof required to establish the crime – proof beyond reasonable doubt, that all participants performed specific acts with such closeness and coordination as to indicate a common purpose or design to commit the felony.³⁹ The participation in the transaction must be intentional.⁴⁰ Otherwise, none of them will be liable as a co-conspirator, and each may only be held responsible for the results of his own action.⁴¹

The overt act or acts of the accused may consist of **active participation in the actual commission of the crime itself, or of moral assistance to his co-conspirators by moving them to execute or implement the criminal plan.**⁴² Thus, in a catena of cases, the Court found mere knowledge, acquiescence, or agreement to cooperate,⁴³ mere presence at the scene of the crime at the time of its commission,⁴⁴ and mere companionship,⁴⁵ insufficient to constitute a conspiracy.

Similar to the foregoing cases, the Court finds petitioners' participation in the crime not adequately proved with moral certainty. No overt act may be attributed to them which will hold them guilty of the crime charged.

Section 3(e) of RA 3019, under which petitioners were charged and convicted, punishes a public officer who gives “any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.”⁴⁶ To sustain a conviction under this provision, the following elements must concur:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. He must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
3. That his action gave any private party unwarranted benefits, advantage or preference in the discharge of his functions.⁴⁷

³⁹ *People v. Salga*, G.R. No. 233334, July 23, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64340>>.

⁴⁰ *People v. Bautista*, 636 Phil. 535, 555 (2010).

⁴¹ *Macapagal-Arroyo v. People*, 790 Phil. 367, 420 (2016).

⁴² *People v. Salga*, supra note 39.

⁴³ *People v. Compo*, 410 Phil. 514, 521 (2001); *People v. Jesalva*, 811 Phil. 299, 311 (2017).

⁴⁴ *Timbal v. Court of Appeals*, 423 Phil. 617, 622 (2001); *Rimando v. People*, G.R. No. 229701, November 29, 2017, 847 SCRA 339, 352.

⁴⁵ *People v. Vda. de Ramos*, 451 Phil. 214, 226 (2003); *People v. Salga*, supra note 39.

⁴⁶ *Abubakar v. People*, G.R. Nos. 202408, 202409 & 202412, June 27, 2018, accessed at <<http://elibrary.judiciary.gov.ph/thebookshelf/showdocs/1/64405>>.

⁴⁷ *Id.*



Manifest partiality, evident bad faith and gross inexcusable negligence are defined as follows:

x x x There is “**manifest partiality**” when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. “**Evident bad faith**” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. “**Gross inexcusable negligence**” refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.⁴⁸

None of the foregoing elements is present in the case of petitioners Cruz and Carpio. Apart from sweeping conclusions, the prosecution failed to present evidence of evident bad faith, manifest partiality and gross inexcusable negligence on the part of Cruz and Carpio. There is also no showing that they actively participated in granting Halili unwarranted benefits.

The only evidence of the prosecution against petitioners is their presence at the demolition site and the municipal hall to accompany Mayor Dela Cruz. Prosecution witness, Sherriff Pagulayan, identified Cruz and Carpio, as part of the group, together with the policemen, who accompanied Mayor Dela Cruz at the demolition site, showed him a sketch/plan and a piece of paper, and explained to him that the building sought to demolished is not included in the property ordered by the court.⁴⁹ Sheriff Pagulayan further narrated that he was allegedly forced by the group to ride the police car to proceed to the municipal hall, where they went to see Judge Ortiguerra to report the incident.⁵⁰

As the Court sees it, these do not qualify as overt acts made in pursuance or in furtherance of the conspiracy. It must be stressed that the community of design to commit an offense must be a conscious one.⁵¹ Conspiracy transcends companionship.⁵² Mere knowledge of, or acquiescence in, or agreement to cooperate, by themselves, are not enough to implicate a party in a conspiracy to commit a crime.⁵³ **It is necessary that the overt act should have been the ultimate step towards the**

⁴⁸ *Uriarte v. People*, 540 Phil. 477, 494-495 (2006).

⁴⁹ *Rollo* (G.R. No. 197142), pp. 79-80.

⁵⁰ *Id.* at 80.

⁵¹ *People v. Salga*, supra note 39.

⁵² *People v. Vda. de Ramos*, supra note 45; *People v. Salga*, supra note 39.

⁵³ *People v. Salga*, *id.*



consummation of the design.⁵⁴ It must have an immediate and necessary relation to the offense.⁵⁵

Petitioners Cruz's and Carpio's assistance to Mayor Dela Cruz, in the ordinary course of things, could not have prevented the implementation of the subject writs; and thus, cannot be said to have an immediate and necessary relation to the supposed grant of unwarranted benefits to Halili. The Sandiganbayan overlooked Sheriff Pagulayan's assertion that he would not stop the implementation of the demolition without a court order;⁵⁶ as well as the Order⁵⁷ dated March 5, 1993 issued by Judge Ortiguerra, holding in abeyance the demolition "to help the Court and the sheriff to pinpoint the exact location of the land subject matter of the case and in order to ascertain the exact structures to be demolished."⁵⁸ Said Order explained the real reason why Sheriff Pagulayan decided not to proceed with the enforcement of the Writ of Demolition.⁵⁹

All told, the evidence of the prosecution does not meet the test of moral certainty in order to establish petitioners Cruz's and Carpio's participation in a conspiracy. The prosecution failed to prove by evidence beyond reasonable doubt the guilt of petitioners Cruz and Carpio for violation of Section 3(e) of RA 3019, as amended.

Indeed, while it is true that factual findings of the trial court are entitled to great weight and are even conclusive and binding to this Court, this principle does not apply here inasmuch as the Sandiganbayan misappreciated vital pieces of evidence presented by both parties, leaving serious doubts regarding the culpability of petitioners. Thus, petitioners Cruz and Carpio must perforce be acquitted.

WHEREFORE, in view of the foregoing, the Court **RESOLVES** to:

1. **DISMISS** the case insofar as petitioner Serafin M. Dela Cruz is concerned, in view of his death;
2. **GRANT** the Petitions for Review filed by Petitioners Gil "Boying" R. Cruz and Dennis C. Carpio. The Decision dated September 10, 2008 and Resolution dated May 30, 2011 of the Sandiganbayan in CRIM. CASE NO. 23147 are **REVERSED** and **SET ASIDE**. Petitioners Gil "Boying" R. Cruz and Dennis C. Carpio are hereby **ACQUITTED** on the ground that their guilt were not proven beyond reasonable doubt.

Let an entry of judgment be issued immediately.

⁵⁴ *People v. Lizada*, 444 Phil. 67, 99 (2003).

⁵⁵ *Id.*

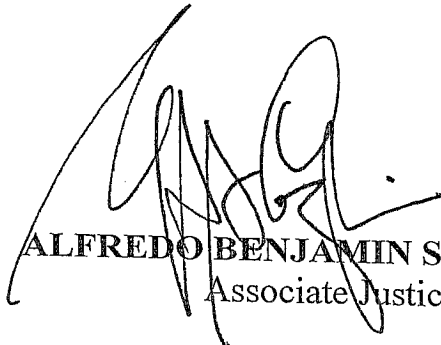
⁵⁶ *Rollo* (G.R. No. 197142), pp. 255-256, citing TSN, March 2, 1999, pp. 25-36.

⁵⁷ *Id.* at 183.

⁵⁸ *Id.*

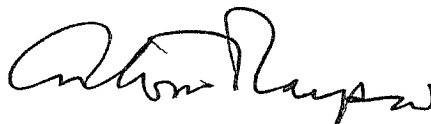
⁵⁹ *Id.* at 61-62, citing TSN, June 17, 1999, pp. 24-26.

SO ORDERED.

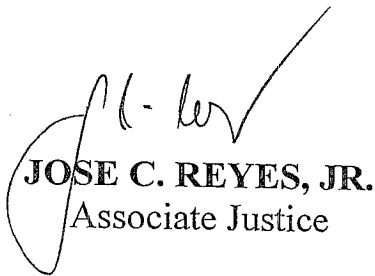


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:



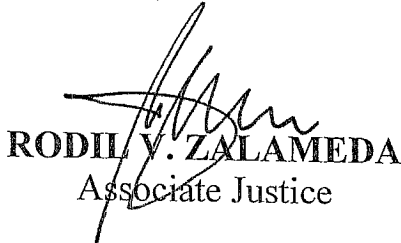
ANTONIO T. CARPIO
Associate Justice
Chairperson



JOSE C. REYES, JR.
Associate Justice




AMY C. LAZARO-JAVIER
Associate Justice



RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

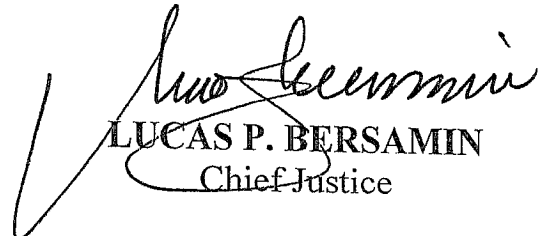
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



ANTONIO T. CARPIO
Associate Justice
Chairperson, Second Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


LUCAS P. BERSAMIN
Chief Justice

