



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

EFREN M. CANLAS,

Petitioner,

G.R. Nos. 236308-09

Present:

PERLAS-BERNABE, S.A.J.,
Chairperson,

REYES, A., JR.,

HERNANDO,

INTING, and

DELOS SANTOS, JJ.

- versus -

PEOPLE OF THE PHILIPPINES
and the SANDIGANBAYAN (Third
Division),

Respondents.

Promulgated:

17 FEB 2020

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RESOLUTION

INTING, J.:

This is a Petition for *Certiorari*¹ under Rule 65 of the Rules of Court assailing the Resolutions dated September 25, 2017² and November 20, 2017³ of the Sandiganbayan Third Division (Sandiganbayan). The Resolutions denied the two Motions to Quash Information,⁴ and the Motion for Reconsideration⁵ filed by Efren M. Canlas (petitioner), respectively.

¹ Rollo, pp. 6-33.

² *Id.* at 36-46; penned by Presiding Justice Amparo M. Cabotaje-Tang with Associate Justices Sarah Jane T. Fernandez and Bernelito R. Fernandez, concurring.

³ *Id.* at 47-56.

⁴ *Id.* at 93-103, 104-114.

⁵ *Id.* at 128-140.

The Antecedents

Two Informations were filed against petitioner, along with public officers named therein, before the Sandiganbayan in Criminal Case Nos. SB-16-CRM-0080 and SB-16-CRM-0084.⁶ The Informations charged him and his co-accused, former Mayor Jejomar Erwin S. Binay, Jr., among others, with violations of Section 3(e)⁷ of Republic Act No. (RA) 3019 in relation to the construction of the Makati City Hall Parking Building.⁸

The Information⁹ in Criminal Case No. SB-16-CRM-0080 alleged that the accused former Makati City Mayor Jejomar Erwin S. Binay, Jr. and the other accused public officers of Makati City mentioned therein, in the performance of their official and/or administrative functions, conspired with petitioner, a private individual and the representative of Hilmarc's Construction Corporation (Hilmarc's), in giving unwarranted benefits, advantage, and preference to Hilmarc's, and causing undue injury to the Government by awarding Hilmarc's the contract for the Phase IV construction of the Makati City Hall Parking Building amounting to ₱649,275,681.73, through simulated public bidding.¹⁰ The relevant portions of the Information as to petitioner's participation in the offense are quoted as follows:

SB-16-CRM-0080

x x x x

- c) De Veyra, San Gabriel, Dasal, Amores, and Binay, Jr., collectively making it appear in the BAC Resolution that Hilmarc's, through *Canlas*, became the bidder with the Lowest Calculated and Responsive Bid, which BAC Resolution was approved by Binay, Jr. despite knowing the absence of public bidding;

⁶ *Id.* at 39.

⁷ Section 3. *Corrupt practices of public officers.* — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxxx

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

⁸ *Rollo*, pp. 71, 76.

⁹ *Id.* at 69-73.

¹⁰ *Id.* at 70-71.

- d) Entering, through Binay, Jr., into a Contract for the Phase IV construction of the Makati City Hall Parking Building with *Canlas*, on behalf of Hilmarc's, and proceeding with the said project despite the absence of the project's accepted and approved plans and specifications, and the failure of Hilmarc's to post its performance security; and
- e) Processing and releasing of the payments to Hilmarc's by De Veyra, Amores, Lim, Barlis, which payments were approved by Binay, Jr. and received by *Canlas* despite the baseless Accomplishment Report prepared by Dela Peña and Consulta, and the deficiencies in the required supporting documents.¹¹ (Emphasis omitted; italics supplied.)

The Information¹² in Criminal Case No. SB-16-CRM-0084 is similarly worded as to petitioner's participation, except that SB-16-CRM-0084 involved the Phase V construction of the Makati City Hall Parking Building amounting to ₱141,649,366.00.¹³

Petitioner filed a Motion to Quash Information dated July 13, 2017 in Criminal Case No. SB-16-CRM-0080, and another Motion to Quash Information dated July 19, 2017 in Criminal Case No. SB-16-CRM-0084.¹⁴ He argued that the facts alleged in the Informations which charged him with the offense of violation of Section 3(e) of RA 3019 did not constitute the charged offense for the following reasons: (1) RA 3019 explicitly applies only to public officers; however, the Informations alleged that he is a private individual; and (2) the Informations did not allege that he induced or caused any public officer to commit a violation of Section 3(e) of RA 3019 to render him liable under Section 4¹⁵ thereof.¹⁶

¹¹ *Id.* at 71-72.

¹² *Id.* at 74-78.

¹³ *Id.* at 76.

¹⁴ *Id.* at 36-37.

¹⁵ Section 4. *Prohibition on private individuals.* — (a) It shall be unlawful for any person having family or close personal relation with any public official to capitalize or exploit or take advantage of such family or close personal relation by directly or indirectly requesting or receiving any present, gift or material or pecuniary advantage from any other person having some business, transaction, application, request or contract with the government, in which such public official has to intervene. Family relation shall include the spouse or relatives by consanguinity or affinity in the third civil degree. The word "close personal relation" shall include close personal friendship, social and fraternal connections, and professional employment all giving rise to intimacy which assures free access to such public officer.

(b) It shall be unlawful for any person knowingly to induce or cause any public official to commit any of the offenses defined in Section 3 hereof.

¹⁶ *Rollo*, p. 37.

The prosecution then filed on August 4, 2017 its *Consolidated Opposition to Accused Canlas' Separate Motions to Quash Information*¹⁷ dated August 3, 2017. Thereafter, petitioner filed his Reply to "Consolidated Opposition to Accused Canlas' Separate Motions to Quash Information"¹⁸ dated August 11, 2017.

In its Resolution¹⁹ dated September 25, 2017, the Sandiganbayan denied the two motions to quash information.²⁰

Petitioner filed a Motion for Reconsideration of the Resolution dated September 25, 2017, but this was denied by the Sandiganbayan in its Resolution²¹ dated November 20, 2017.²²

Hence, the petition.

Petitioner adopts his arguments in the two motions to quash information and argues that as a private individual, he can only be held liable under Section 4(b) of RA 3019.²³ Moreover, Section 3 of RA 3019 applies only to public officers.²⁴ Since the Informations did not allege that he committed the acts provided under Section 4, the Informations should be quashed under Section 3(a), Rule 117 of the Rules of Court.²⁵

Petitioner maintains that while the prosecution alleged that the accused public officers acted in conspiracy with him, conspiracy does not make him a public officer.²⁶

Petitioner further argues that there is not a single case in which a private person was held liable for violation of Section 3(e) of RA 3019 under Section 4(b) of the law.²⁷ Thus, he prays for a reversal, or at least a clarification, of the ruling in several cases decided by the Court to the

¹⁷ *Id.* at 115-120.

¹⁸ *Id.* at 121-127.

¹⁹ *Id.* at 36-46.

²⁰ *Id.* at 45.

²¹ *Id.* at 47-56.

²² *Id.* at 56.

²³ *Id.* at 22.

²⁴ *Id.* at 24.

²⁵ *Id.* at 22-23.

²⁶ *Id.* at 25.

²⁷ *Id.* at 28.

effect that private individuals may be held liable under Section 3 of RA 3019 if they act in conspiracy with public officers. Pursuant to Sections 3(h) and 3(m), Rule 2 of the Internal Rules of the Supreme Court (A.M. No. 10-4-20-SC), the petition falls within the responsibility of the Court *En Banc*.²⁸

Lastly, he prays for the issuance of a temporary restraining order (TRO) to restrain the Sandiganbayan from holding further proceedings in the two cases,²⁹ and the setting aside of the Resolutions dated September 25, 2017 and November 20, 2017 of the Sandiganbayan in Criminal Case Nos. SB-16-CRM-0080 and SB-16-CRM-0084.³⁰

On the other hand, in its Comment,³¹ the People argues that a private individual, when acting in conspiracy with public officers, may be indicted and held liable for the pertinent offenses under Section 3 of RA 3019.³² Moreover, by the very nature of the transaction involved in this case, which is a government procurement and by petitioner's indispensable acts towards the consummation of the offense, he should be indicted together with the accused public officials for violation of Section 3(e) of RA 3019.³³ Lastly, the People argues that the issuance of a TRO to hold in abeyance a criminal prosecution is proscribed.³⁴

The petition has no merit.

The Sandiganbayan did not commit grave abuse of discretion amounting to lack or excess of jurisdiction in denying petitioner's motions to quash the information. Moreover, the Court does not find the need to revisit the doctrine that private individuals may be held liable under Section 3(e) of RA 3019 if they act in conspiracy with public officers.

The well-settled rule is that "private persons, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses *under Section 3 of RA 3019*, in

²⁸ *Id.* at 29.

²⁹ *Id.* at 29-30.

³⁰ *Id.* at 30-31.

³¹ *Id.* at 160-174.

³² *Id.* at 162-166.

³³ *Id.* at 168.

³⁴ *Id.* at 170-172.

consonance with the avowed policy of the anti-graft law to repress certain acts of public officers and private persons alike constituting graft or corrupt practices act or which may lead thereto.”³⁵

In *PCGG v. Office of the Ombudsman*,³⁶ the Court reiterated the well-settled elements of Section 3(e) of RA 3019 as follows: (i) that the accused must be a public officer discharging administrative, judicial, or official functions, *or a private individual acting in conspiracy with such public officers*; (ii) that he acted with manifest partiality, evident bad faith, or inexcusable negligence; and (iii) that his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage, or preference in the discharge of his functions.

The Court, in various cases, had the occasion to affirm the indictment and/or conviction of a private individual, acting in conspiracy with public officers, for violation of Section 3 of RA 3019 particularly paragraph (e) thereof.

Thus, in *Go v. The Fifth Division, Sandiganbayan*,³⁷ while the issue therein was whether a private individual may be charged with violation of Section 3(g) of RA 3019, the Court discussed and relied on *Singian, Jr. v. Sandiganbayan (Third Division)*³⁸ (*Singian, Jr.*) to rule in the affirmative.³⁹ In *Singian, Jr.*, Gregorio Singian, Jr., therein petitioner, a private individual who was then the Executive Vice President of Integrated Shoe, Inc. (ISI), was charged together with some officers of the Philippine National Bank (PNB) with violation of both paragraphs (e) and (g), Section 3 of RA 3019 in connection with the loan accommodations extended by PNB to ISI which were characterized as behest loans.⁴⁰ The Court ruled that the Ombudsman and the Sandiganbayan did not commit grave abuse of discretion when they respectively found probable cause against Singian, Jr. for violation of both paragraphs (e) and (g), Section 3 of RA 3019.⁴¹

³⁵ *Uyboco v. People*, 749 Phil. 987, 993-994 (2014), citing *People v. Go*, 730 Phil. 362, 369 (2014).

³⁶ G.R. No. 194619, March 20, 2019.

³⁷ 549 Phil. 783 (2007).

³⁸ 514 Phil. 536. (2005).

³⁹ *Supra* note 37 at 800-801 (2007).

⁴⁰ *Supra* note 38 at 539-541(2005). See also *supra* note 37 at 800 (2007).

⁴¹ *Id.* at 546-552.


Further, in *Uyboco vs. People*,⁴² the Court discussed the criminal liability of Edelbert C. Uyboco (Uyboco), a private individual who acted in conspiracy with his co-accused public officer in the procurement of overpriced dump trucks.⁴³ The Court affirmed his conviction by the Sandiganbayan under Section 3(e) of RA 3019.⁴⁴

Similarly, in *PCGG v. Navarro-Gutierrez, et al.*,⁴⁵ the Presidential Commission on Good Governance filed an Affidavit-Complaint against private respondents who were former officers/stockholders of National Galleon Shipping Corporation (Galleon), together with the public respondents who were former officers/directors of the Development Bank of the Philippines (DBP), for violation of Section 3(e) and (g) of RA 3019 in connection with the loans/accommodations obtained by Galleon from DBP which possessed the characteristics of behest loans.⁴⁶ Reversing the Office of the Ombudsman's ruling, the Court ruled that there was probable cause to indict the private respondents and the public respondents for violation of Section 3(e) and (g) of RA 3019.⁴⁷

Given the foregoing pronouncements, the petition, together with the prayer therein that the case be referred to the Court *En Banc* and that a TRO be issued, should be denied.

WHEREFORE, the petition is **DISMISSED**. The Resolutions dated September 25, 2017 and November 20, 2017 of the Sandiganbayan Third Division are **AFFIRMED**.

SO ORDERED.


HENRI JEAN PAUL B. INTING
Associate Justice

⁴² 749 Phil. 987 (2014).

⁴³ *Id.* at 992-996.

⁴⁴ *Id.* at 998.


⁴⁵ 772 Phil. 91 (2015).

⁴⁶ *Id.* at 94-97.

⁴⁷ *Id.* at 106.




WE CONCUR:


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice

ATTESTATION

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


ESTELA M. PERLAS-BERNABE
Senior Associate Justice
Chairperson



CERTIFICATION

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



DIOSDADO M. PERALTA
Chief Justice

