



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

PEOPLE OF THE PHILIPPINES,
 Plaintiff-Appellee,

G.R. No. 252173

- versus -

Present:

LORENZO MAYOGBA CEREZO
 and **EDWIN GODINEZ**
CASTILLO,

GESMUNDO, C.J.,
Chairperson,
CAGUIOA,
INTING,
GAERLAN, and
DIMAAMPAO, JJ.

Accused,

EDWIN GODINEZ CASTILLO,
 Accused-Appellant.

Promulgated:
MAR 15 2022

X-----

DECISION

GAERLAN, J.:

Before this Court is an ordinary appeal,¹ filed by accused-appellant Edwin Godinez Castillo (Castillo) pursuant to Section 1(a), Rule XI of A.M. No. 13-7-05-SB or the 2018 Revised Internal Rules of the Sandiganbayan, seeking the reversal and setting aside of the Decision² dated February 27, 2020 (the assailed Decision) issued by the Sixth Division of the Sandiganbayan in SB-15-CRM-0320 to 0329, 0333 to 0336, and 0338 to 0339 (the cases *a quo*), which found Lorenzo Mayogba Cerezo (Cerezo) and Castillo criminally liable under Section 3(e) of Republic Act (R.A.) No. 3019 or the Anti-Graft and Corrupt Practices Act.³

¹ *Rollo*, pp. 81-82.

² *Id.* at 4-72.

³ *Id.* at 70-72.

The Antecedent Facts

The criminal cases involve 16 out of 21 lease contracts (the lease contracts) for heavy equipment entered into by and between the Municipality of Binmaley, Pangasinan through its then mayor, Cerezo, with MTAC's Merchandising, a business owned and operated by Castillo, from 2011 to 2013, purportedly to be used for the hauling of garbage and debris in Binmaley brought about by typhoons and monsoon rains. On November 27, 2013, Anita U. Urbano (Urbano), a resident of Binmaley, Pangasinan, filed an affidavit-complaint dated November 27, 2013 with the Office of the Ombudsman against Cerezo; Castillo; Gertrudes C. Reyes (Reyes), Municipal Accountant of the local government of Binmaley, Pangasinan; and Jesus Aquino (Aquino), Punong Barangay of Biec East, Binmaley, Pangasinan, of violation of R.A. No. 9184 or the Government Procurement Reform Act because the lease contracts were entered into without the benefit of public bidding.⁴

In a Resolution dated July 23, 2014, the Office of the Ombudsman found probable cause to charge both Cerezo and Castillo with twenty-one (21) counts of violation of Section 3(e) of R.A. No. 3019 in connection with the lease contracts and dismissed the criminal charges against Reyes and Aquino. The aforementioned findings were upheld by the Office of the Ombudsman in its Order dated December 10, 2014 which dismissed the separate motions for reconsideration filed by Urbano and Cerezo.⁵

Thereafter, on November 27, 2015, 21 Informations (the Informations) were filed by the Office of the Ombudsman with the Sandiganbayan in relation to the lease contracts.⁶ The Informations, docketed as SB-15-CRM-0320 to 0340 charged Cerezo and Castillo with twenty-one (21) counts of violation of Section 3(e) of R.A. No. 3019. The Information dated October 22, 2015 and docketed as SB-15-CRM-0320 reads:

That on November 11, 2011, or sometime prior or subsequent thereto, in the Municipality of Binmaley, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, above-named accused **LORENZO M. CEREZO**, a public officer, being then the Municipal Mayor of Binmaley, Pangasinan, **WHILE IN THE PERFORMANCE OF HIS OFFICIAL FUNCTION, AND TAKING ADVANTAGE OF HIS POSITION, CONSPIRING AND CONFEDERATING WITH PRIVATE INDIVIDUAL** accused **EDWIN G. CASTILLO**, owner and operator of MTAC's Merchandising, **ACTING WITH EVIDENT BAD FAITH, MANIFEST PARTIALITY OR GROSS INEXCUSABLE NEGLIGENCE**, did then and there willfully, unlawfully and criminally **GIVE UNWARRANTED BENEFIT, ADVANTAGE OR**

⁴ Id. at 6.

⁵ Id. at 9.

⁶ Id. at 4.

PREFERENCE TO THE AFORE-NAMED PRIVATE INDIVIDUAL BY ENTERING IN BEHALF OF THE MUNICIPALITY INTO A CONTRACT OF SERVICE dated November 11, 2011 with MTAC's Merchandising for the lease of Two (2) units of Dump Truck with rental rate of One Thousand Pesos (P1,000.00) per hour/unit or for a total amount of Eighty Thousand Pesos (P80,000.00) for the period November 7, 8, 9, 10 and 11, 2011 ***WITHOUT THE BENEFIT OF PUBLIC BIDDING AND THE REQUIRED BIDS AND AWARDS COMMITTEE (BAC) RESOLUTION RECOMMENDING TO ACCUSED CEREZO TO RESORT TO ALTERNATIVE MODE[S] OF PROCUREMENT, TO THE PREJUDICE OF PUBLIC INTEREST.***

CONTRARY TO LAW.⁷

The other 20 Informations corresponding to SB-15-CRM-0321 to 0340 are couched in the same language except for particulars pertaining to the date of the contract of lease, the equipment leased, the rate, total contract price, and the period covered by the lease contract.⁸

The aforementioned cases were consolidated and raffled to the Sixth Division of the Sandiganbayan.⁹

Upon arraignment, Cerezo and Castillo both entered a plea of not guilty to all twenty-one (21) counts of violation of Section 3(e) of R.A. No. 3019.¹⁰

During pre-trial, the parties entered into the following stipulation of facts:

- A. Accused Cerezo and Castillo admitted the following proposed stipulations of the prosecution:
1. Identity of Lorenzo M. Cerezo and Edwin G. Castillo as the same persons named in the twenty-one Informations; and
 2. Accused Cerezo was the duly elected and sitting mayor of Binmaley, Pangasinan from June 30, 2010 to June 30, 2013.
- B. Accused Cerezo admitted the following proposed stipulations of accused Castillo, to wit:
1. The disbursement vouchers prepared by the Municipality of Binmaley as payments made to MTAC's Merchandising were never disallowed by the Commission on Audit (COA);

⁷ Id. at 4-5.

⁸ Id. at 5-6.

⁹ Id. at 9.

¹⁰ Id. at 10.

2. There was no disallowance relative to the subject contracts in any COA Report;
3. Accused Castillo is the owner/proprietor of MTAC's Merchandising, a legitimate business entity.¹¹

Evidence for the Prosecution

Aside from presenting, among others, various disbursement vouchers, obligation slips, checks, official receipts, and contracts of service in connection with the lease contracts,¹² the prosecution also presented nine witnesses during trial. Their testimonies were summarized by the Sandiganbayan as follows:

Anita U. Urbano was the whistleblower who filed her complaint-affidavit before the Office of the Ombudsman on November 27, 2013. x x x

x x x x

Gertrude C. Reyes was the Municipal Accountant of Binmaley, Pangasinan from 1993 to August 2013. x x x She certified the disbursement vouchers (DVs) vis a vis the contract of lease of heavy equipment between the municipality of Binmaley and MTAC's Merchandising. Thence, "the expenses were lawful" and "there was actually a need for garbage collections." None of the DVs were disallowed by the Commission on Audit (COA).

x x x x

Dr. Cecilio P. Terrado, Jr. was the Municipal Administrator of Binmaley, Pangasinan from July 2010 to June 30, 2013 x x x [H]e signed Obligation Slips (OS), thereby "certifying that there is an allotment for the obligation and that the same is necessary, lawful, and under [his] direct supervision." The contracts of lease for heavy equipment were "necessary because there's the need to immediately collect the garbage that were piling up."

x x x x

Jeffrey De los Angeles, Municipal Budget Officer of Binmaley from 2011 to 2018, certified several Obligation Slips in relation to the contracts of lease of heavy equipment entered into by the municipality from 2011 to 2013. x x x

x x x x

Erlinda C. Erguiza, the Municipal Treasurer of Binmaley, Pangasinan from 2007 to 2015, was the custodian of the checks issued by the

¹¹ Id. at 19-20.

¹² Id. at 25-32.

municipality. x x x [S]he signed Box "B" of several disbursement vouchers, as well as the checks for the payment of heavy equipment leased by the municipality from MTAC's Merchandising. x x x She clarified that "before [she] issued the check, a disbursement voucher and all other documents to support the disbursement vouchers will have to be approved first by the Mayor."

x x x x

Evangeline L. Payumo, Statistician I, was designated as Bids and Awards Committee (BAC) Secretariat from 2010 to 2013. She categorically stated that based on her personal knowledge, no public bidding was conducted by the BAC from 2010 to 2013 in connection with the lease of heavy equipment by the municipality of Binmaley from MTAC's Merchandising. She could not recall taking any minutes of any BAC meeting in connection with the subject lease contracts. Neither could she remember having prepared any document in connection with a BAC Resolution pertaining thereto.

x x x x

Antonio S. Royeca was designated as Officer-in-Charge, Municipal Accountant of Binmaley from August 2016 to December 2017. He issued certified true copies of checks related to the payment of rentals of heavy equipment to MTAC's Merchandising.

x x x x

Josephine F. Anchiboy, then-Assistant Municipal Treasurer of Binmaley, Pangasinan from 2007 to 2015, identified each check vis a vis the corresponding disbursement voucher in connection with the payment of rentals for the lease of heavy equipment by the municipality of Binmaley, Pangasinan from MTAC's Merchandising.

x x x x

State Auditor IV Lydia P. Baysic identified and submitted certified true copies of disbursement vouchers, obligation slips, contracts and official receipts relative to the payment of rentals for heavy equipment that were leased by the municipality of Binmaley, Pangasinan from MTAC's Merchandising.¹³

Evidence for the Defense

Castillo waived his right to adduce evidence in view of his filing of his Demurrer to Evidence (Without Leave of Court) dated July 3, 2018, without express leave of the Sandiganbayan.¹⁴ Cerezo, on the other hand, presented several documents in connection with the damage caused by typhoons and

¹³ Id. at 21-25.

¹⁴ Id. at 13, 37 and 39.

monsoon rains in the Province of Pangasinan from 2011 to 2013¹⁵ as well as seven witnesses during trial. Their testimonies were summarized by the Sandiganbayan as follows:

Froilando V. Fernandez, *Punong Barangay* of Barangay Gayaman, Binmlaey, Pangasinan from 2010 to 2013, had personal knowledge of the garbage problem in his locale. This was aggravated by the accumulation of typhoon debris. He brought this matter to the attention of Mayor Cerezo who in turn, referred it to Dr. Cecilio P. Terrado, the Municipal Administrator, for immediate action. Eventually, dump trucks collected solid wastes regularly, especially during the typhoon season.

x x x x

- 1) Eugenio Datuin, then-*Kagawad* from 2004 to 2013 of Barangay Buenlag, Binmaley, Pangasinan, said that “due to the immediate action of the good Mayor (Cerezo), the garbage collection problem was solved as early as 2010.”
- 2) Eduardo M. De Vera was the Baragay Administrator of Barangay Pallas, Binmaley, Pangasinan. He testified that only one (1) dump truck used to collect tons of garbage in the thirty-three (33) barangays of Binmaley. After bringing this problem to the attention of Mayor Cerezo, a six-wheeler dump truck came to collect garbage every week and whenever urgently needed.
- 3) Joselito B. Mejia served as *Kagawad* of Barangay Linoc, Binmaley, Pangasinan from 2010 to 2013. He aired to Mayor Cerezo the solid waste management problem in his locale and the local chief executive addressed this accordingly.
- 4) Crisostomo B. De Vera was the *Punong Barangay* of Barangay Manat, Binmaley, Pangasinan. Upon the behest of the Municipal Administrator, De Vera, together with officials of neighboring barangays, asked for emergency assistance from Mayor Cerezo in order to clear typhoon debris and to haul the garbage swiftly.
- 5) Jerry Cabrera served as *Kagawad* of Barangay Caloocan Norte, Binmaley from 2010 to 2013. He, together with *kagawads* of other barangays had an audience with Mayor Cerezo concerning their problem with solid waste disposal. Immediately, Mayor Cerezo dispatched a dump truck to haul regularly the garbage.

x x x x

Annie B. Manuel, Administrative Officer III / Records Officer II of the *Sangguniang Panlalawigan* Secretariat of the Province of Pangasinan, presented certified copies from the Office of the *Sangguniang Panlalawigan* of said local government unit (LGU). x x x

¹⁵ Id. at 38-39.

x x x x

Avenix S. Arenas is the Local Disaster Risk Reduction and Management Officer (LDRRMO) IV / Deputy Provincial Disaster Risk Management Officer (PDRRMO)) of the province of Pangasinan. She identified and authenticated the following documents [.]¹⁶

The Sandiganbayan Ruling

On February 27, 2020, the Sandiganbayan promulgated the assailed Decision¹⁷ and found Cerezo and Castillo guilty under Section 3(e) of R.A. No. 3019 in 16 out of the 21 cases (in SB-15-CRM-0320 to 0329, 0333 to 0336, and 0338 to 0339). The Sandiganbayan held that: (a) Cerezo during the time material to the cases *a quo* is a public officer and his acts subject of the cases *a quo* were done in the performance of his official functions;¹⁸ (b) Cerezo acted with manifest partiality and gross inexcusable negligence, when he, on behalf of the municipality of Binmaley, entered into the lease contracts with MTAC's Merchandising without the benefit of public bidding and without legal justification to dispense with the same;¹⁹ (c) Cerezo gave unwarranted benefits and preference to Castillo due to the lease contracts;²⁰ and (e) Cerezo and Castillo conspired to commit the offenses charged.²¹

Accordingly, the dispositive portion of the assailed Decision²² reads:

WHEREFORE, premises considered, the Court hereby finds and so holds that –

In Criminal Case No.	Accused Lorenzo Mayogba Cerezo and accused Edwin Godinez Castillo
SB-15-CRM-0320; SB-15-CRM-0321; SB-15-CRM-0322; SB-15-CRM-0323; SB-15-CRM-0324; SB-15-CRM-0325; SB-15-CRM-0326; SB-15-CRM-0327; SB-15-CRM-0328; SB-15-CRM-0329; SB-15-CRM-0333; SB-15-CRM-0334;	Are found GUILTY beyond reasonable doubt of violating Section 3(e), of Republic Act No. 3019, as amended.

¹⁶ Id. at 34-37.

¹⁷ Id. at 4-72.

¹⁸ Id. at 42-43.

¹⁹ Id. at 43-46 and 56-62.

²⁰ Id. at 62-64.

²¹ Id. at 64-67.

²² Id. at 4-72.

SB-15-CRM-0335; SB-15-CRM-0336; SB-15-CRM-0338; SB-15-CRM-0339;	
SB-15-CRM-0330; SB-15-CRM-0331; SB-15-CRM-0332; SB-15-CRM-0337; SB-15-CRM-0340	are NOT GUILTY of the alleged violation of Section 3(e) of Republic Act No. 3019, as amended.

Accordingly, in Criminal Case Nos. –

- SB-15-CRM-0320;
- SB-15-CRM-0321;
- SB-15-CRM-0322;
- SB-15-CRM-0323;
- SB-15-CRM-0324;
- SB-15-CRM-0325;
- SB-15-CRM-0326;
- SB-15-CRM-0327;
- SB-15-CRM-0328;
- SB-15-CRM-0329;
- SB-15-CRM-0333;
- SB-15-CRM-0334;
- SB-15-CRM-0335;
- SB-15-CRM-0336;
- SB-15-CRM-0338; and
- SB-15-CRM-0339

accused **CEREZO** is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as *minimum*, to ten (10) years and one (1) day, as *maximum*, with perpetual disqualification from public office, and loss of all retirement and gratuity benefits under any law, for **each** violation of Republic Act No. 3019, as amended, in the Criminal Cases mentioned above; **Provided, however**, that the duration of CEREZO's total imprisonment shall not exceed forty (40) years.

For his part, accused **CASTILLO** is sentenced to suffer the indeterminate penalty of six (6) years and one (1) month, as *minimum*, to ten (10) years and one (1) day, as *maximum*, with perpetual disqualification from public office for **each** violation of Republic Act No. 3019, as amended, in the Criminal Cases mentioned above; **Provided, however**, that the duration of CASTILLO's total imprisonment shall not exceed forty (40) years.

With respect to Criminal Case Nos. -

- SB-15-CRM-0330;
- SB-15-CRM-0331;
- SB-15-CRM-0332;
- SB-15-CRM-0337; and
- SB-15-CRM-0340

Accused **CEREZO** and **CASTILLO** are **ACQUITTED**.

SO ORDERED.²³

Hence, the present appeal.

In the Appellant's Brief²⁴ dated October 18, 2020, Castillo claims that the Sandiganbayan erred when it: (a) held that Castillo is guilty beyond reasonable doubt of the offenses charged; (b) held that Cerezo and Castillo conspired to commit the offenses charged; and (c) ruled that Annie B. Manuel's (Manuel) testimony and the Sangguniang Panlalawigan resolutions with respect to the declarations of a state of calamity during the time material to the cases *a quo* are worthless.²⁵

In support of his assignment of errors, Castillo argues that: (a) there was an immediate need to haul garbage in Binmaley due to the effects of typhoons;²⁶ (b) it was never alleged nor proven that he committed any irregular, illegal or unlawful act in entering into the lease contracts with the local government of Binmaley;²⁷ (c) it was never alleged nor proven that he influenced, prodded, pressured, or offered monetary consideration or gift for the approval of the disbursement vouchers;²⁸ (d) the Commission on Audit (COA) found no irregularity with the lease contracts and did not disallow the same;²⁹ (e) conspiracy between himself and Cerezo cannot be proven by virtue of his mere signing of the lease contracts;³⁰ and (f) the Sandiganbayan should have considered and given due weight to the Sangguniang Panlalawigan resolutions offered as evidence as the same are *prima facie* evidence of the facts stated therein.³¹

In its Plaintiff-Appellee's Brief³² dated February 17, 2021, the Office of the Solicitor General (OSG) is of the position that the Sandiganbayan correctly found Castillo criminally liable for the offenses charged considering that the Prosecution in the cases *a quo* was able to prove beyond reasonable doubt the existence of all the elements of the offense defined under Section 3(e) of R.A. No. 3019. The OSG insists that: (a) the Prosecution was able to establish that "Cerezo and Castillo, in conspiracy, acted with evident bad faith, manifest partiality, or at the very least, gross inexcusable negligence, when during Cerezo's incumbency as Binmaley mayor, he repeatedly entered into several

²³ Id. at 70-72.

²⁴ Id. at 100-126.

²⁵ Id. at 109.

²⁶ Id. at 119.

²⁷ Id. at 115.

²⁸ Id.

²⁹ Id. at 116-117.

³⁰ Id. at 120-122.

³¹ Id. at 122-124.

³² Id. at 139-159.

contracts with MTAC's Merchandising, represented by Castillo, for the lease of heavy equipment, without the requisite public bidding or legal justification to dispense with public bidding and resort to an alternative mode of procurement";³³ (b) also that "Cerezo demonstrated manifest partiality towards Castillo when he repeatedly contracted with MTAC's Merchandising without prior approval of the Sangguniang Bayan of Binmaley";³⁴ (c) conspiracy was sufficiently established as the "chain circumstances" supposedly "indubitably shows the conspiracy between Cerezo and Castillo" since "[t]hey executed at least twenty-one (21) contracts in total disregard of the laws on procurement, in a span of almost three (3) years";³⁵ and (d) that the Sandiganbayan correctly ruled that Manuel's testimony and the Sangguniang resolutions presented by Cerezo as evidence were worthless.³⁶

Issue

Whether the Sandiganbayan correctly ruled that Castillo is guilty of sixteen (16) counts of the offense defined under Section 3(e) of R.A. No. 3019?

The Court's Ruling

The appeal is meritorious.

Contrary to the ruling of the Sandiganbayan, there is reasonable doubt to hold Castillo liable for violation of Section 3(e) of R.A. No. 3019.

It is settled that the burden is on the prosecution to prove an accused's guilt beyond reasonable doubt. This is demanded by the due process clause of the Constitution, which protects an accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he or she is charged. Unless the prosecution is able to discharge its burden, the accused need not even offer evidence in his/her behalf, and he/she would be entitled to an acquittal.³⁷

Section 3(e) of R.A. No. 3019 provides:

Section 3. Corrupt practices of public officers. — In addition to acts or omissions of public officers already penalized by existing law, the

³³ Id. at 152.

³⁴ Id.

³⁵ Id. at 154.

³⁶ Id. at 155-157.

³⁷ *Villarosa v. People*, G.R. Nos. 233155-63, June 23, 2020.

following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

(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.

To sustain a conviction under Section 3(e) of R.A. No. 3019, the following elements must be proven beyond reasonable doubt:

1. [T]he accused must be a public officer discharging administrative, judicial, or official functions;
2. [He or She] must have acted with manifest partiality, or evident bad faith or [gross] inexcusable negligence; and
3. [His or Her] action caused any undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage or preference in the discharge of his [or her] functions.³⁸

The second element provides for the three distinct modes of committing the violation of Section 3(e) of R.A. No. 3019, that is, through “manifest partiality,” or with “evident bad faith,” or through “gross inexcusable negligence.” In *Coloma, Jr. v. Sandiganbayan*,³⁹ this Court held that:

The second element of Section 3(e) of R.A. No. 3019 may be committed in three ways, that is, through manifest partiality, evident bad faith or gross inexcusable negligence. Proof of any of these three in connection with the prohibited acts mentioned in Section 3(e) of R.A. No. 3019 is enough to convict.

On the meaning of “partiality,” “bad faith,” and “gross negligence,” the Court has elucidated:

“Partiality” is synonymous with “bias” which “excites a disposition to see and report matters as they are wished for rather than as they are.” “Bad faith” does not simply connote bad judgment or negligence; it imputes 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; it partakes of the nature of fraud. “Gross negligence” has been so defined as negligence

³⁸ *Rivera v. People*, G.R. No. 228154, October 16, 2019.

³⁹ 744 Phil. 214 (2014).

characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property.⁴⁰ (Citations omitted)

There is “manifest partiality” when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another.⁴¹ Similarly, bad faith *per se* is not enough for one to be held criminally liable for violation of Section 3(e) of R.A. No. 3019, it must be evident and must partake the nature of fraud or a manifest deliberate intent on the part of the accused to do wrong or to cause damage.⁴²

From the foregoing, to constitute evident bad faith or manifest partiality, it must be proven that the accused acted with malicious motive or fraudulent intent. It is not enough that the accused violated a law, committed mistakes or was negligent in his or her duties. There must be a clear showing that the accused was spurred by a corrupt motive or a deliberate intent to do wrong or to cause damage.⁴³

On the other hand, “gross inexcusable negligence” does not signify mere omission of duties nor plainly the exercise of less than the standard degree of prudence. Rather, it 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. It entails the omission of care that even inattentive and thoughtless men never fail to take on their own property, and in cases involving public officials it takes place only when breach of duty is flagrant and devious.⁴⁴

The third element refers to the two separate acts that qualify as violation of Section 3(e) of R.A. No. 3019. The *first* punishable act is that the accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The *second* punishable act is that the accused is said to have given unwarranted benefits, advantage, or preference to a private party. Proof of the extent or *quantum* of damage is not thus essential. It is sufficient that the accused has given “unjustified favor or benefit to another.”⁴⁵

⁴⁰ Id. at 229.

⁴¹ *Fuentes v. People*, 808 Phil. 586, 594 (2017).

⁴² *People v. Bacaltos*, G.R. No. 248701, July 28, 2020.

⁴³ *Republic v. Desierto*, 516 Phil. 509, 516 (2006); *Collantes v. Marcelo*, 556 Phil. 794, 806 (2007).

⁴⁴ *Sistoza v. Desierto*, 437 Phil. 117, 132 (2002).

⁴⁵ *Cabrera v. People*, G.R. Nos. 191611-14, July 29, 2019.

Settled is the rule 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 R.A. No. 3019, in 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.⁴⁶

Here, a review of the Informations filed against Cerezo and Castillo would readily show that they were charged with conspiring to violate Section 3(e) of R.A. No. 3019 for **“ACTING WITH EVIDENT BAD FAITH, MANIFEST PARTIALITY, OR GROSS INEXCUSABLE NEGLIGENCE”**⁴⁷ when Cerezo, by virtue of his position as Mayor of Binmaley, Pangsasinan, willfully, unlawfully and criminally gave unwarranted benefit, advantage or preference to Castillo by entering into the lease contracts with MTAC’s Merchandising **“WITHOUT THE BENEFIT OF PUBLIC BIDDING AND THE REQUIRED BIDS AND AWARDS COMMITTEE (BAC) RESOLUTION RECOMMENDING TO ACCUSED CEREZO TO RESORT TO ALTERNATIVE MODE[S] OF PROCUREMENT[.]”**⁴⁸

A review of the evidence on record will however show that the Prosecution failed to prove beyond reasonable doubt that a conspiracy existed between Cerezo and Castillo.

The prosecution failed to establish beyond reasonable doubt the existence of a conspiracy between Cerezo and Castillo.

The Sandiganbayan based its finding of conspiracy solely on Castillo consenting to the lease contracts, to wit:

The subject “Contract[s] of Service” are, for all intents and purposes, contracts of lease of equipment. A contract of lease, as defined in Civil Law, calls for some form of collaboration or association between the parties since lease is a “consensual, bilateral, onerous and commutative contract by which one person binds himself to grant temporarily the use of a thing or the rendering of some service to another who undertakes to pay some rent, compensation or price.”

x x x x

⁴⁶ *People v. Go*, 730 Phil. 362, 369 (2014).

⁴⁷ *Rollo*, p. 5.

⁴⁸ *Id.*

A conspiracy of silence and inaction arising from gross inexcusable negligence would almost always be inferred only from the surrounding circumstances and the parties' acts or omissions, though apparently independent, were in fact connected and cooperative, indicating a closeness of personal association and concurrence of sentiments respecting the commission of the offense. x x x⁴⁹

In *Bahilidad v. People*,⁵⁰ this Court summarized the basic principles in determining whether there exists conspiracy or not, to wit:

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

It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction.⁵¹ (Citations omitted)

In *Macapagal-Arroyo v. People*,⁵² this Court discussed how conspiracy, express or implied, is proven, viz.:

In terms of proving its existence, conspiracy takes two forms. **The first is the express form, which requires proof of an actual agreement among all the co-conspirators to commit the crime.** However, conspiracies are not always shown to have been expressly agreed upon. Thus, we have the second form, the implied conspiracy. An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment. **Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably**

⁴⁹ Id. at 65-66.

⁵⁰ 629 Phil. 567 (2010).

⁵¹ Id. at 575.

⁵² 790 Phil. 367 (2016).

pointing to a joint purpose, a concert of action and a community of interest.⁵³ (Emphasis and underscoring supplied; citations omitted)

Also, in *Sistoza v. Desierto*,⁵⁴ this Court held that for implied conspiracy or a conspiracy of silence and inaction to exist, there must be conscious criminal design evinced by circumstances where the silence of the accused is tantamount to tacit approval of the crime.

The instant case brings to the fore the importance of clearly differentiating between acts simply negligent and deeds grossly and inexcusably negligent punishable under Sec. 3, par. (e), of the *Anti-Graft and Corrupt Practices Act*. While we do not excuse petitioner's manner of reviewing the award of the supply of tomato paste in favor of Elias General Merchandising, whereby he cursorily perused the purchase order and readily affixed his signature upon it, since he could have checked the supporting documents more lengthily, it is our considered opinion that his actions were not of such nature and degree as to be considered brazen, flagrant and palpable to merit a criminal prosecution for violation of Sec. 3, par. (e), of *RA 3019*. To paraphrase *Magsuci v. Sandiganbayan*, petitioner might have indeed been lax and administratively remiss in placing too much reliance on the official documents and assessments of his subordinates, **but for conspiracy of silence and inaction to exist it is essential that there must be patent and conscious criminal design, not merely inadvertence, under circumstances that would have pricked curiosity and prompted inquiries into the transaction because of obvious and definite defects in its execution and substance.** To stress, there were no such patent and established flaws in the award made to Elias General Merchandising that would have made his silence tantamount to tacit approval of the irregularity.⁵⁵ (Emphasis and underscoring supplied; citations omitted)

Contrary to the ruling of Sandiganbayan, there is reasonable doubt as to Castillo's knowing participation in the charged offenses. His mere consent to the lease contracts does not *ipso facto* show that he intentionally participated in the transaction with a view to the furtherance of the common criminal design and purpose, *i.e.*, the commission of a crime. Verily, the "collaboration" necessary for the execution of lease contracts does not rise to the level of criminal collaboration, *i.e.*, a conspiracy, especially here where **there is absence of any allegation or evidence that Castillo entered into the lease contracts with knowledge that the same was defective, or should have known that the same is defective, for failure of the municipality of Binmaley to conduct public bidding with respect to the same.**

The fact that the local government of Binmaley and Castillo entered into 21 separate lease contracts cannot be considered as sufficient to prove

⁵³ Id. at 419-420.

⁵⁴ Supra note 44.

⁵⁵ Id. at 135-136.

conspiracy considering the absence of any evidence that graft and corruption attended the same. To be sure, the record is bereft of any finding that: (a) there was no need to rent out heavy equipment to haul trash and debris from Binmaley; (b) the residents of Binmaley did not receive any benefit from the lease of the heavy equipment; (c) there were other entities who could have had leased the heavy equipment to the local government of Binmaley; (d) the municipal government of Binmaley could have had leased the heavy equipment at a lower price if it did not transact with MTAC's Merchandising; and (e) that MTAC's Merchandising failed to fulfill its obligation under the lease contracts. It must be stressed that a conviction premised on a finding of conspiracy must be founded on facts, not on mere inferences and presumptions.⁵⁶

Failure to establish the existence of the conspiracy renders each accused only liable for his or her own specific acts.⁵⁷ Thus, for failure to establish that a conspiracy existed between the two accused in the cases *a quo*, Castillo could only be held liable for his own specific act, *i.e.*, his signing of the lease contracts and fulfillment of his obligations therein, which clearly is not a criminal act.

Aside from failing to establish that a conspiracy existed between Cerezo and Castillo, the prosecution likewise failed to establish with moral certainty the concurrence of all of the elements of the offense charged.

The prosecution failed to establish beyond reasonable doubt that Cerezo's acts caused undue injury to the government or gave unwarranted benefits, advantage and preference to a private party.

It must be stressed that Cerezo's and Castillo's convictions by way of conspiracy is grounded solely on Cerezo's violation of relevant procurement laws. However, in *Martel v. People*,⁵⁸ this Court sitting *en banc* held that the violation of procurement laws does not *ipso facto* mean that all the elements of the offense under Section 3(e) of R.A. No. 3019 are present, to wit:

Thus, in order to successfully prosecute the accused under Section 3(e) of R.A. 3019 based on a violation of procurement laws, the prosecution cannot solely rely on the fact that a violation of procurement laws has been committed. **The prosecution must prove beyond reasonable doubt that:**

⁵⁶ *People v. Jesalva*, 811 Phil. 299, 311 (2017).

⁵⁷ G.R. No. 225640, July 30, 2019.

⁵⁸ G.R. Nos. 224720-23, February 2, 2021.

(1) the violation of procurement laws caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference, and (2) the accused acted with evident bad faith, manifest partiality, or gross inexcusable negligence. This the prosecution failed to do. Specifically, the prosecution miserably failed to prove beyond reasonable doubt that petitioners acted with evident bad faith, manifest partiality, or gross inexcusable negligence in relation to the subject procurements.⁵⁹ (Emphasis and underscoring supplied)

As will be shown below, the Prosecution failed to discharge its burden to prove beyond reasonable doubt that the violation of procurement laws caused undue injury to any party, including the government or gave any private party unwarranted benefits, advantage or preference.

A finding of “undue injury” in the context of Section 3(e) of R.A. No. 3019 requires that the injury must be specified, quantified, and proven to the point of moral certainty. In *Llorente, Jr. v. Sandiganbayan*,⁶⁰ this Court held thusly:

This point is well-taken. **Unlike in actions for torts, undue injury in Sec. 3[e] cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime.** In fact, the causing of undue injury, or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. **Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.**

In jurisprudence, “undue injury” is consistently interpreted as “actual damage.” Undue has been defined as “more than necessary, not proper, [or] illegal;” and injury as “any wrong or damage done to another, either in his person, rights, reputation or property[; that is, the] invasion of any legally protected interest of another.” Actual damage, in the context of these definitions, is akin to that in civil law.

x x x x

Furthermore, damages must not only be capable of proof, but must be actually proven with a reasonable degree of certainty. They cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture or guesswork. They cannot include speculative damages which are too remote to be included in an accurate estimate of the loss or injury.⁶¹ (Emphasis and underscoring supplied; citations omitted)

⁵⁹ Id.

⁶⁰ 350 Phil. 820 (1998).

⁶¹ Id. at 837-839.

avored MTAC's Merchandising over any other business entity. Likewise, there is absence of any evidence that Cerezo's act of directly contracting with MTAC's Merchandising was spurred by a malicious motive or fraudulent intent.

Relevantly, the evidence proffered by the Prosecution only tends to prove that the leasing of heavy machinery for the purposes of hauling trash and debris in Binmaley **should have gone through public bidding**. To reiterate, no evidence was presented by the Prosecution during trial that will prove that: (a) there was in fact no need to lease heavy equipment to haul garbage and debris brought about by typhoons and monsoon rains; (b) that the municipality of Binmaley could have gotten a better rate from a different service provider; or (c) that MTAC's Merchandising failed to satisfactorily perform the service that they were contracted for. In the absence of any evidence that will tend to prove any malicious motive or fraudulent intent against Cerezo, it cannot be said he gave any unwarranted benefits, advantage and preference to Castillo.

Finally, similar to *Macairan*, there is also no iota of proof that Cerezo profited from the questioned transactions. As for Castillo, there is likewise no evidence that whatever profits he received from the lease contracts were the result of any corrupt scheme or dishonest design as it was never proven that he knew of the defect in the procurement process that eventually led to the signing of the lease contracts and it was never disputed that MTAC's Merchandising performed the services it was legally obligated to do under the lease contracts.

In every criminal prosecution, the State must prove beyond reasonable doubt **all the elements** of the crime charged.⁷⁰ Here, considering that the Prosecution failed to do the same, Castillo is entitled to an acquittal as a matter of right. Likewise, pursuant to the ruling of this Court in *People v. Libre*,⁷¹ Cerezo is also entitled to an acquittal as a matter of right.


WHEREFORE, the appeal is **GRANTED**. The Decision dated February 27, 2020 issued by the Sandiganbayan in SB-15-CRM-0320 to 0329, 0333 to 0336, and 0338 to 0339 is hereby **REVERSED** and **SET ASIDE**. Accordingly, accused-appellant **EDWIN GODINEZ CASTILLO** and accused **LORENZO MAYOGBA CEREZO** are **ACQUITTED** of sixteen (16) counts of violation of Section 3(e) of Republic Act No. 3019 or the Anti-Graft and Corrupt Practices Act.

Let an entry of judgment be issued immediately.

⁷⁰ *People v. Limpangog*, 444 Phil. 691, 693 (2003).

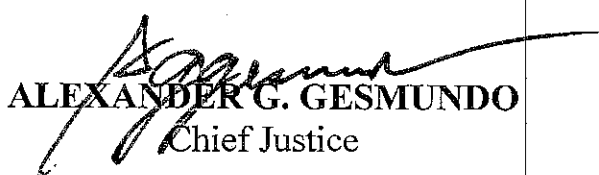
⁷¹ 839 Phil. 221 (2018).

SO ORDERED.

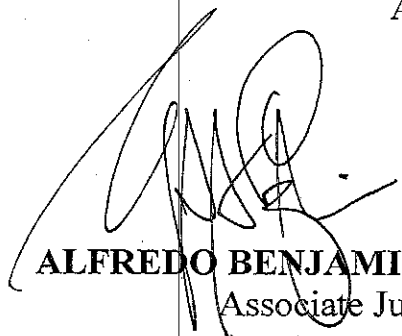


SAMUEL H. GAERLAN
Associate Justice

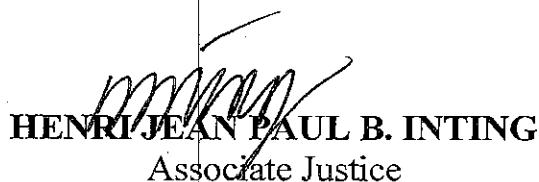
WE CONCUR:



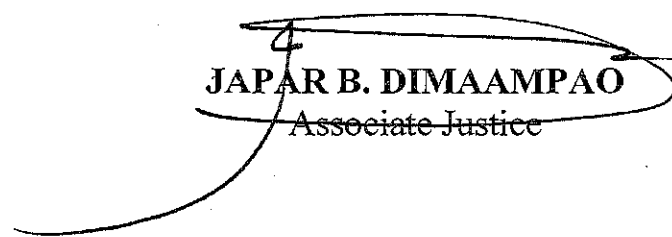
ALEXANDER G. GESMUNDO
Chief Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



JAPAR B. DIMAAMPAO
Associate Justice

CERTIFICATION

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



ALEXANDER G. GESMUNDO
Chief Justice

