



Republic of the Philippines
Supreme Court
 Manila

FIRST DIVISION

SUPREME COURT OF THE PHILIPPINES
 PUBLIC INFORMATION OFFICE
RECEIVED
 AUG 24 2017
 BY: LA
 TIME: 3:05

CORAZON M. LACAP,
 Petitioner,

G.R. No. 198162

Present:

- versus -

SERENO, C.J., Chairperson,
 LEONARDO-DE CASTRO,
 DEL CASTILLO,
 PERLAS-BERNABE, and
 CAGUIOA, JJ.

**SANDIGANBAYAN [Fourth
 Division] and THE PEOPLE OF
 THE PHILIPPINES,**
 Respondents.

Promulgated:

JUN 21 2017

X-----X

DECISION

CAGUIOA, J.:

Before the Court is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision¹ dated February 21, 2011 (Decision) of the Sandiganbayan² in Crim. Case No. SB 08-CRM-0030, finding accused Corazon Mallari Lacap (Corazon) guilty beyond reasonable doubt of violation of Section 3(f) of Republic Act No. 3019 (RA 3019), otherwise known as the “Anti-Graft and Corrupt Practices Act,” and imposing upon her the indeterminate penalty of six (6) years and one (1) month imprisonment as minimum to ten (10) years imprisonment as maximum, with perpetual disqualification from public office.

The Charge Against the Accused

Corazon was indicted for violation of Section 3(f) of RA 3019, for having allegedly neglected or refused, after due demand, and without sufficient justification, to act within a reasonable time, on the application of complainant Fermina Santos (Fermina) for a business permit in Masantol,

¹ *Rollo*, pp. 9-29. Penned by Associate Justice Maria Cristina J. Cornejo, with Associate Justices Gregory S. Ong and Jose R. Hernandez concurring.

² Fourth Division.

Pampanga for the years 1999 and 2000 for the purpose of discriminating against Fermina.³ The Information reads:

That during the period from February 1999 to March 2000, or sometime prior or subsequent thereto, in the Municipality of Masantol, Pampanga, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, CORAZON M. LACAP, a high ranking public officer, being the Municipal Mayor of Masantol, Pampanga, while in the performance of her official functions, committing the offense in relation to duty and taking advantage thereof, motivated by one criminal impulse, did then and there willfully, unlawfully and criminally neglect or refuse to act, within a reasonable time, on private complainant Fermina Santos' application for Mayor's Permit, duly filed with the office of the accused within the above-stated periods (sic), and despite her repeated demands or requests and complete documentary requirements supporting the same, which unlawful act of the accused was done to spite and retaliate against said private complainant for having previously filed a criminal complaint against the accused's husband, thereby favoring the latter's own interest and discriminating against Fermina Santos, to her damage and prejudice.

CONTRARY TO LAW.⁴

The pertinent sub-section of RA 3019 provides:

Sec. 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:

x x x x

(f) Neglecting or refusing, after due demand or request, without sufficient justification to act within a reasonable time on any matter pending before him for the purpose of obtaining directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

The Facts and Antecedent Proceedings

Corazon was arraigned on April 28, 2008 and, with the assistance of her counsel, she pleaded not guilty to the charge against her. The pre-trial conference was terminated on July 11, 2008. Trial on the merits then ensued.⁵

Version of the Prosecution

The prosecution presented the following witnesses:

³ *Rollo*, pp. 9-10.

⁴ Sandiganbayan records, Vol. 1, pp. 1-2.

⁵ *Rollo*, p. 10.

1. Fermina Santos, the private complainant;
2. Atty. Julita Santos Manalac Calderon (Atty. Calderon), the Graft Investigation and Prosecution Officer III of the Office of the Ombudsman assigned at the Public Assistance Bureau Central Office;
3. Marina Josieriza Fronda Paras, the municipal treasurer of Masantol, Pampanga;
4. Alejandro G. Santos, the husband of the complainant;
5. Tomas S. Manansala, the son-in-law of the complainant and an ambulant vendor of school supplies in Sto. Niño, Masantol, Pampanga; and
6. Andres T. Onofre, Jr., a businessman engaged in selling school supplies in Sto. Niño, Masantol, Pampanga.⁶

Fermina's testimony is summarized in the assailed Decision, *viz*:

She owns the Fersan Variety Store [located in Masantol, Pampanga and] engaged in the sale of school supplies, furniture and accessories since 1975. x x x

She usually applies for a Mayor's Permit between February and March of every year and has been submitting to the Office of the Mayor for the issuance of Mayor's Permit the [required] documents x x x. If everything is complete, she will present these documents to the Office of the Treasurer in Masantol, Pampanga for assessment and evaluation and then it will be submitted to the Office of the Mayor for approval. From 1975 to 1998, the Mayor of Masantol has been issuing her a Mayor's Permit x x x.

For the year 1999, she filed an Application for Mayor's Permit (Exh. A) and submitted to the Mayor's Office the following documents in compliance with the requirements: Taxpayer's Information Sheet (Exh. B), Social Security Systems' Clearance x x x ([Exh.] D), Community Tax Certificate x x x (Exh. E), Health Certificate (Exh. F), Sanitary Permit x x x (Exh. G), Fire Permit x x x (Exh. H), Barangay Certificate (Exh. I), Certificate of Registration of Business Name (Exh. J). However, accused Mayor Corazon Lacap denied her application and she (accused) was angry at her x x x. She went back to accused Lacap twice to ask for reconsideration but she (Lacap) was even more angry, and told them (sic) to leave the place. Accused Lacap even said "I will not sign it, are you lucky?" x x x.

The misunderstanding started when she filed [a complaint] against Abelardo Dizon, the compadre of Mayor Corazon Lacap x x x. Epifanio Lacap [, the husband of the accused] called her up and asked her to withdraw the complaint against his compadre. She told Epifanio to be fair

⁶ Id. at 10-19.

but Epifanio shouted invectives at her. Epifanio said "*kung hindi kayo susunod sa akin, makikita nyo, mga walanghiya kayo, magsilayas kayo diyan!*" x x x.

She went to the Office of Elpidian Asuncion, the Director of the Public Assistance Bureau of the Ombudsman and she was referred to Atty. Julita Calderon.

Atty. Calderon issued a notice to accused Lacap to visit her Office. Atty. Calderon also advised her (Santos) to go to accused Lacap, and after two days, she went to accused Lacap's office together with her husband and a radio reporter x x x. However, accused Lacap still denied her application and told her "[A]re you lucky? You filed a case against my husband, you filed a case against me, and now, I will issue you a permit? Get out!" x x x.

x x x [S]he filed four complaints against the Lacap Spouses. The first was filed against Corazon Lacap in the Sangguniang Panlalawigan of San Fernando, Pampanga when she had the Fersan Store closed on July 3, 1998 (Exh. R); the second was a complaint against her husband, Epifanio Lacap[,] before the Office of the Prosecutor of San Fernando, Pampanga for Serious Oral Defamation (Exh. B); third is a complaint filed before the DILG Region 3 x x x; and the fourth is before the Office of the Ombudsman (Exh. O). She did not violate anything but still former Mayor Epifanio Lacap ordered the closure of her store because of the cases.

x x x [S]he is not aware of a Task Force created in 1998 to eradicate the illegal businesses within Masantol, Pampanga.

In 1998, former Mayor Epifanio Lacap ordered the closure of her store because she filed a complaint against him on March 17, 1998 x x x. It was Epifanio Lacap who asked her to get a permit from the DTI which is one of the requirements for the approval of the application for Mayor's Permit. On April 1, 1998 she was issued a Mayor's Permit but she was told to get a DTI Certificate of Registration x x x. She claimed that her documents were complete when she applied for Mayor's Permit in 1998. At first her store was ordered closed by Epifanio Lacap and the second time it was ordered closed by Mayor Corazon Lacap on July 3, 1998 x x x.

She also own[ed] the Pining Variety Store which operated from 1980 to 1998 until it was ordered closed by accused Corazon Lacap x x x. She has only one x x x store in Masantol[,] Pampanga. She alleged that every five years, the name of the store should be changed as instructed by the DTI x x x. The name of the store before was Pining [V]ariety [S]tore and after five years x x x [i]n 1998, the name x x x changed to x x x Fersan Variety Store that was ordered closed by Mayor Corazon Lacap x x x.

When she presented her application (Exh. A) for approval, accused Lacap did not look at it and she was very angry x x x.

Witness said that she has a permit in 1998 and yet they closed her store. There were two x x x policemen and a bodyguard carrying firearms who went to her store and forcibly padlocked her store x x x. She was not able to get her merchandise until x x x 2001 so none were (sic) sold or

could be sold because they were damaged, either eaten by molds or cockroaches x x x. It was RTC Judge Reynaldo Raura who ordered that her store be opened.⁷

The assailed Decision likewise summarized the testimony of Atty. Calderon in this wise:

She met Fermina Santos in 1998 when the latter went to her office to seek assistance regarding the closing and padlocking of her business establishment x x x.

She wrote to x x x Mayor x x x Corazon Lacap, to ask her the reasons for the closure and padlocking of Santos' store. Accused responded but since it was already late in the year, Santos said that she is no longer interested in the closure and padlocking of her store x x x.

In 1999, Santos again went to her office to ask for assistance in the renewal of her business permit in x x x Masantol, Pampanga because the City Government of Pampanga refused to accept her application for renewal of business permit x x x.

Santos submitted to her documents including the original copy of the application which was refused. She (Atty. Calderon) wrote to the Municipal Treasurer of Masantol, Pampanga, Criselda Diaz vda. de Santillan to invite her for a conference and to ask why she refused to accept the documents x x x. When Santillan appeared, she handed a letter (Exh. M) stating that Santos withdrew her application. The letter also states that the Municipal Bookkeeper already processed the application for business permit but when it was brought to the Office of the Mayor, she is no longer in the position to know the result because it was not returned to her anymore x x x.

They wrote Santos to bring the application for them to make a letter forwarding all the documents to the Municipal Mayor. In [a letter dated April 26,] 1999, she wrote again the Municipal Mayor forwarding to her all the documents which were brought by Santos to her Office. She attached to her letter (Exh. N) Exh. A, B, C, D, E, F, G, H, I, K, L. At the time she wrote the letter she had in mind that everything was complete and it is the duty of the Mayor to issue a permit x x x.

Mayor Lacap did not reply but her counsel requested for time to answer the letter dated April 26, 1999. In May, 1999, accused Lacap's counsel made a response (Exh. P) that it was Santos who withdrew her application and thus[,] there is nothing, no application in the Office of the Mayor which they could act on x x x.⁸

In turn, the gist of Marina Josieriza Paras' testimony, as reflected in the assailed Decision, is as follows:

⁷ Id. at 10-13.

⁸ Id. at 14-15.



[As the Municipal Treasurer of Masantol, Pampanga], [h]er office is tasked to make the proper implementation of the collection of taxes and fees for the issuance of Mayor's Permit.

Prior to the issuance of a Mayor's Permit, the applicant must x x x proceed to the Office of the Treasurer to secure [an] application form. x x x.

When all the documents are presented, the applicant will proceed to the Assessment Office and will be required to pay the assessment fees. The Municipal Treasurer will in turn issue receipt. The applicant can now go to the Office of the Mayor for the approval and issuance of a Mayor's permit x x x.

The same procedure applies, except that in the year 1999 [during the incumbency of Lacap] before they can issue the Mayor's Permit, the application should be approved by the Mayor x x x.

x x x x

She knows Fermina Santos because Santos ran for Mayor in 1998. At the time when Santos filed the application for business permit for the year 1999 Santos was already a candidate for Mayor in Masantol, Pampanga x x x.⁹

Alejandro Santos, husband of Fermina, testified that:

x x x [O]n two (2) occasions he was maligned by a certain Epifanio Lacap, the husband of accused Corazon Lacap.

Sometime on March 11, 1998, while he was fixing the roof in their warehouse in Arabia, Masantol, Pampanga, he was picked-up by (two) 2 policemen of the then Mayor Epifanio Lacap. He was brought to the Mayor's house and Mayor Epifanio demanded that the case against his compadre, Abelardo Dizon, be withdrawn. He explained to him (Epifanio) that he and Abelardo Dizon had already an agreement and that he can no longer withdraw the case as the same is a case of double sale and is already pending with the court x x x. The Mayor was so angry at him and told him that he does not care even how many agreements he had with his compadre as long as he will withdraw the case against Dizon. His wife also arrived at the Mayor's house and when the Mayor saw her, he even shouted at her: "*Ayan ang isang sakim dumarating, mga putang inang yan mga sakim!* x x x Feeling so humiliated at that time because they were berated in front of so many people, they eventually left the place. After that incident, he and his wife filed complaints against Mayor Epifanio Lacap but he can no longer recall what happened with those complaints.

Sometime in 1999, his wife filed an application for Mayor's permit to operate the business in the market area under the business name Fersan Variety Store, but the same was not approved by accused Mayor Corazon Lacap. But in 1998, they were issued a business permit because at that time they have not yet filed a complaint against Mayor Epifanio Lacap x x x. He thought that there was already a bad blood between their families

⁹ Id. at 16-17; underscoring supplied.

because he refused to heed the demand of former Mayor Epifanio Lacap to withdraw the complaint against Abelardo Dizon x x x.

It was accused Mayor Corazon Lacap who ordered the closure of their store x x x.¹⁰

Lastly, Andres T. Onofre, Jr. testified that:

He is a businessman engaged in the selling of school supplies also in Sto. Nino, Masantol, Pampanga.

From 1990 to 1999, he was not able to secure license/permit from the Municipality. What he just did was to fill up an application form to operate a store and submit the same to the Municipality of Masantol and then he was already issued an official receipt x x x. He already considered that as an authority to operate his business x x x and all those years, he was never questioned by the Mayor for operating a business without a permit x x x.¹¹

Version of the Defense

After the prosecution rested its case, the defense presented the following two witnesses:

1. Corazon M. Lacap, the accused and elected Mayor of Masantol, Pampanga in May 1998; and
2. Belinda B. Trinidad, the former bookkeeper of Masantol, Pampanga.¹²

As culled from the assailed Decision, Corazon testified that:

She knows the private complainant Santos because she is a kumare whom she considers a friend. Complainant Santos owns a variety store which she allegedly ordered to be closed. The truth was that she did not order the closure of the store because when she assumed her post as a Mayor, Santos' store was already closed by her husband, the former Mayor Epifanio Lacap, way back June 23, 1997 x x x. The reason for the said closure was that x x x Santos was operating without a Mayor's permit, DTI, SSS and that she was not issuing official receipt to their customers x x x.

x x x x

The Office of the Ombudsman, thru a certain Atty. Calderon, wrote her a letter asking her to inform the Ombudsman of whatever action she may have taken with regard to the application of Fermina Santos for a Mayor's Permit x x x.

¹⁰ Id. at 17-18.

¹¹ Id. at 19.

¹² Id. at 20-22.

x x x [I]t was her lawyer who answered the letter of Atty. Calderon. It was stated in the letters that accused Mayor cannot possibly act on the alleged application of complainant Santos for the simple reason that the application was not yet submitted to the Mayor's Office for appropriate action x x x. Her basis is the certification issued by the Treasurer's Office to the effect that there is no application that reached their office for 1999-2000 x x x.¹³

Belinda B. Trinidad, on the other hand, testified that:

She was the former Bookkeeper of the Municipality of Masantol, Pampanga. One of her duties was to process the application for municipal license and to check if the requirements are complete.

Sometime in February, 2000, upon verification with their record book, there was no application for a business permit filed by Fermina Santos x x x. As proof of that statement, she issued a Certification to that effect x x x.

x x x x

On March 10, 2000, she again issued a Certification (Exh. 7) stating therein that there is still a missing document that is why the Mayora did not approve the application of Santos x x x.

Way back 1999, there was no application for Municipal license filed by complainant Santos in their office x x x.¹⁴

The Sandiganbayan Ruling

The Sandiganbayan rendered a Decision¹⁵ dated February 21, 2011 finding the prosecution's evidence sufficient for conviction and holding Corazon guilty beyond reasonable doubt of violation of Section 3(f) of RA 3019, and imposed upon her the indeterminate penalty of six (6) years and one (1) day imprisonment as minimum to ten (10) years imprisonment as maximum, with perpetual disqualification from public office.

Corazon filed a motion for reconsideration, which was denied by the Sandiganbayan in its Resolution¹⁶ dated August 4, 2011 for lack of merit and because there were no new matters raised therein.

Aggrieved, Corazon filed the instant petition under Rule 45 of the Rules of Court. The Office of the Special Prosecutor of the Office of the Ombudsman, representing the People of the Philippines, filed its Comment dated March 23, 2012.¹⁷ Corazon then filed a Manifestation with Motion to

¹³ Id. at 20-21.

¹⁴ Id. at 21-22.

¹⁵ Supra note 1.

¹⁶ Id. at 30-36.

¹⁷ Id. at 129-182 (with Annexes).

Admit Attached Reply to Comment.¹⁸ The Office of the Special Prosecutor filed its Memorandum dated March 20, 2014.¹⁹ Corazon filed a Motion to Admit Attached Memorandum dated May 8, 2014.²⁰

In a Resolution dated August 17, 2016,²¹ this case was transferred from the Third Division to the First Division.

Issues

Corazon raised three issues in her Petition:

- (1) whether the Sandiganbayan committed serious misapprehension of facts in having found the accused guilty beyond reasonable doubt of official inaction under Section 3(f) of the Anti-Graft Law;
- (2) whether the accused's act of referring the letter of Atty. Calderon to her lawyer for appropriate response constitutes a felony; and
- (3) whether the Sandiganbayan wrongly assumed that the accused acted with criminal intent to discriminate against the private complainant absent any categorical evidence therefor.²²

The Court's Ruling

There is no merit in Corazon's petition.

The issues raised by Corazon in her petition essentially show that she disputes the existence of the elements of the offense penalized under Section 3(f) of RA 3019, to wit:

- [1.] The offender is a public officer;
- [2.] The said officer has neglected or has refused to act without sufficient justification after due demand or request has been made on him;
- [3.] Reasonable time has elapsed from such demand or request without the public officer having acted on the matter pending before him; and

¹⁸ Id. at 194-202.

¹⁹ Id. at 211-227.

²⁰ Id. at 232-254.

²¹ Id. at 257.

²² Id. at 46.



- [4.] Such failure to so act is for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage in favor of an interested party, or discriminating against another.²³

The resolution of the three issues, therefore, rests upon the existence of sufficient proof to establish the four elements enumerated above.

The first element is not disputed. As the then Municipal Mayor of Masantol, Pampanga, who assumed office on June 30, 1998,²⁴ Corazon was, at the time of the commission of the offense charged, a public officer.

The second issue raised by Corazon disputes the presence of the second and third elements, while the third issue puts in doubt the fourth element.

Corazon argues that she did not refuse to act on Fermina's application for a mayor's permit as contained in the transmittal letter of Atty. Calderon (Exh. "N") to Corazon. Corazon deemed it wise to refer the said letter to her retained lawyer, Atty. Andres Pangilinan (Atty. Pangilinan), because of "other pending cases lodged by [Fermina] against [Corazon] in the Regional Trial Court of Macabebe, Pampanga, and the Sangguniang Panlalawigan of Pampanga."²⁵ Corazon adds that, as a non-lawyer, she had to refer the matter to her lawyer for legal advice "because [to her mind] there were already a number of cases filed by [Fermina] against her involving the same subject matter pending before the courts and other agencies, which may render the issue thereat moot and academic."²⁶ For Corazon, she made a "POSITIVE AND CATEGORICAL ACT" when she referred Atty. Calderon's letter to her lawyer, Atty. Pangilinan, "in order to appropriately respond to the same."²⁷ Moreover, Corazon posits that Atty. Pangilinan's response to Atty. Calderon's transmittal letter that "[Fermina] had already withdrawn her application for business permit and, thus, there is no more application to act upon" is proof that Corazon acted on Fermina's application for business permit.

Corazon further argues that there is no direct proof of her criminal intent to discriminate against Fermina "established by the prosecution in this case which is why the [Sandiganbayan] merely relied on the assumption that when [Corazon] referred the letter of [Atty. Calderon] to her lawyer, [Atty. Pangilinan], she simply refused to issue to [Fermina] the Mayor's Permit she was asking for."²⁸

²³ *Coronado v. Sandiganbayan*, 296-A Phil. 414, 419 (1993).

²⁴ Petition, *rollo*, p. 42.

²⁵ Petition, *id.* at 52.

²⁶ *Id.* at 53-54.

²⁷ *Id.* at 52.

²⁸ Petition, *id.* at 58.

The foregoing arguments have been squarely addressed by the Sandiganbayan which found them without merit. The assailed Decision states:

Accused Lacap acknowledged in open court her receipt of the letter (Exh. N) sent to her by Atty. Calderon with attachments which included Santos' application and other requirements (Exhs. A to L), (TSN, p. 42, July 1, 2009). It is to be noted that Atty. Calderon wrote the Mayor, accused Lacap, and forwarded to the latter all the documents. In that letter, Atty. Calderon stated: "We hope that by this transmittal letter, action on Mrs. Santos' application will now be attended to with dispatch". Accused Lacap did not reply, and instead, simply referred the matter to her lawyer with whom she allegedly consulted (Ibid., p. 49). Having received the documents and necessarily aware of what those documents are, the appreciation of and action on which being within her official competence as Mayor, it was incumbent upon, as it was expected of, accused Lacap to act promptly on the matter, given the request that the matter be acted upon with dispatch, and considering prior incidents of rejection of the same application allegedly due to incomplete requirements. It has been held that "Public officials are called upon to act expeditiously on matters pending before them. For only in acting thereon either by signifying approval or disapproval may the plaintiff continue on to the next step of the bureaucratic process. On the other hand, official inaction brings to a standstill the administrative process and the plaintiff is left in the darkness of uncertainty." (Jose V. Nessia vs. Jesus M. Fermin, and Municipality of Victorias, Negros Occidental, G.R. No. 102918, March 30, 1993).

The duty of accused Lacap as the public official concerned, to act is clear and unambiguous. The situation then obtaining did not call for any legal expertise. There was no need for accused Mayor Lacap to refer the matter to a lawyer for consultation. The Mayor simply had to check if the documents are complete and then act on it. It was obviously a case of refusal to act, and for which we find no justification, as none is extant in the records.

Observably, accused Lacap's acknowledgement of receipt of the documents runs counter to her lawyer's letter-reply to Atty. Calderon which, while acknowledging their receipt of Atty. Calderon's letter dated April 26, 1999, nevertheless, pointed out that the Office of the Mayor could not, "at this point in time" (obviously referring to the time of their receipt of the letter allegedly on May 7, 1999), act on the alleged application for a business permit "for the simple reason that her application was not yet submitted to the Honorable Mayor's Office for appropriate action". (Exh. P; Exh. 8). Considering the inconsistency, it becomes apparent that the lawyer was either misinformed or misled.

In the same letter, the lawyer further stated that upon their inquiry, they discovered that "the application of Fermina Santos which was submitted to the Office of the Treasurer was withdrawn, hence, for all intents and purposes, no more application for business license was formally pending before the Office of the Mayor or even at the Office of the Municipal Treasurer of Masantol Pampanga." Such alleged withdrawal of Santos' application has not been substantiated. The sources of that information have not been disclosed and stated for verification. Defense' (sic) Exh. 6 (Certification issued by Belinda B. Trinidad, Bookkeeper, Office of the Municipal Treasurer, x x x Masantol, Pampanga) indicates

that as per records kept on file in their office, certain Ms. Fermina Santos has no pending application for business license for the year 2000 as of this date (February 28, 2000). Likewise, the Certification dated March 10, 2000 issued by the same official (Exh. 7) indicates that Santos' application for business license and business permit was not approved by Mayor Corazon Lacap due to lack of SSS clearance for 2000. x x x Plainly, the certifications do not support the alleged withdrawal of application. It should not be forgotten that the application together with all the supporting documents were directly sent to and received by accused Lacap.

What clearly appears to have been withdrawn by Santos was her administrative charge against accused Lacap in her (Santos') letter to the Sangguniang Panlalawigan dated April 6, 1999 (Exh. O; Exh. 9). In the same letter, Santos stated that she has decided to cease/stop doing business in Masantol, Pampanga, a statement which the Defense took to mean a withdrawal of Santos' application for a business permit. We are not persuaded. Taken in its entirety, the letter directly relates to Santos' withdrawal of her administrative charge. Her decision to stop doing business in Masantol, Pampanga is, as appropriately pointed out by the Prosecution in its Memorandum, "an expression of Ms. Santos' frustrations over the case she filed in said body" (citing TSN, September 1, 2008).

Notably moreover, when confronted by the Chairperson of the Fourth Division of this Court hearing this case with the observation that the truth of the matter is that x x x accused Lacap x x x did not give Santos the Mayor's Permit notwithstanding the documents sent to her by Atty. Calderon x x x, accused Lacap was evasive in her response. Pushed against the wall, she sought to hide behind her lawyer whose services clearly were not called for at that point in time. She merely came up with the following lame response: "My Lawyer. I consulted my lawyer so he was the one who answered the letter of Atty. Calderon" (TSN, p. 49, July 1, 2009).

Given the foregoing considerations, the conclusion is inevitable, that is, that accused Corazon's inaction on Santos' application was willful and deliberate, and the motive behind the same cannot but be deducible from her (Corazon's) open court admission that Santos filed cases against her, one for Violation of Section 3(e) of R.A. 3019; another for Mandamus in the Regional Trial Court of Macabebe, Pampanga; and an administrative case before the Sangguniang Panlalawigan in San Fernando, Pampanga (TSN, p. 8, July 1, 2009). Prosecution's documentary Exhibits R and V show that Santos filed administrative and criminal case against accused Corazon's husband, Epifanio Lacap in 1998 and 1999. These documented facts bolster the conclusion as aforesaid, and correspondingly establish the fact that the deliberate refusal to act is for the purpose of discriminating against Santos. Such discrimination is further made manifest by the testimony of Andres T. Onofre, Jr., who is, like Santos, engaged in the sale of school supplies in Masantol, Pampanga that from 1990 to 1999, he was not able to secure [a] license to operate his store from the Municipality (TSN, January 7, 2009, p. 23). And all those years, he was never questioned by the Mayor from operating a business without a permit (ibid., p. 30).



Perceptibly, the filing of this case was triggered or impelled by the personal animosity between the principal protagonists (complainant Santos and accused Corazon) but the latter should not be unmindful of the fact that she is a public official who is enjoined to respond to the call of her duty with the highest degree of dedication often beyond her own interest (A.M. No. P-97-1241, March 20, 2001, Dinna Castillo vs. Zenaida C. Buencillo). As a public official, she must rise above personal differences, personal conflicts she may have with the public whom she committed to serve.²⁹

Corazon raised the same arguments in her Motion for Reconsideration dated March 7, 2011³⁰ before the Sandiganbayan, but the Sandiganbayan stood its ground and denied the Motion for Reconsideration.

In its Resolution³¹ dated August 4, 2011 (Resolution), the Sandiganbayan reasoned out:

Notably, no new matters have been raised by the accused to warrant a reconsideration of the judgment rendered in this case. The arguments reiterated and later amplified, failed to convince.

The judgment of conviction was not based on mere assumptions simply conjured up. Accused's guilt for the offense charged was based on and/or drawn from facts which have been established.

1. There was inaction on Santos' application for the business permit, prompting Santos to seek the assistance of the Public Assistance Bureau of the Office of the Ombudsman. The inaction became more perceptibly deliberate when, despite receipt from Atty. Calderon of the Ombudsman's Public Assistance Bureau of the letter-request for immediate action, accused Mayor still did not take action on the application, neither on the request. The only official action required of her by law as the Municipal Mayor was to either approve or disapprove the application. She did neither, but simply referred the letter to her lawyer even when nothing demanded referral to a lawyer. That referral was not the official action contemplated by the law in that situation. That referral is inaction which, however, is not the same as, nor can it be equated with, disapproval.
2. To constitute a violation of Sec. 3(f), R.A. 3019, the inaction on the part of the public official is not solely for the purpose of obtaining some gain, benefit or advantage for him (accused public officer). It may also be for the purpose of discriminating against another (Coronado vs. Sandiganbayan, 44 SCAD 21).

x x x x

Accused had the motive to discriminate against the private complainant, and this has not been simply assumed or surmised, but drawn

²⁹ CA Decision, id. at 24-28.

³⁰ Motion for Reconsideration, id. at 65-75.

³¹ Also rendered by the Sandiganbayan Fourth Division and was penned by Associate Justice Maria Cristina J. Cornejo, with Associate Justices Gregory S. Ong and Jose R. Hernandez concurring; id. at 30-36.



from facts which have been established, documented, and even admitted by the accused (as discussed in pages 18 and 19 of the assailed Decision).³²

The Court completely agrees with the findings and ruling of the Sandiganbayan.

The Constitution mandates that: “Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.”³³ Thus, “[they] are called upon to act expeditiously on matters pending before them. For only in acting thereon either by signifying approval or disapproval may the [public] continue on to the next step of the bureaucratic process. On the other hand, official inaction brings to a standstill the administrative process and the [public] is left in the darkness of uncertainty.”³⁴

In an application for a mayor’s permit or license to do business in a municipality or city, the procedure is fairly standard and uncomplicated. It requires the submission of the required documents and the payment of the assessed business taxes and fees. In case of failure to comply with the requirements, the application deserves to be disapproved. If the application is compliant, then approval is the action to be taken. An inaction or refusal to act is a course of action anathema to public service with utmost responsibility and efficiency. If the deliberate refusal to act or intentional inaction on an application for mayor’s permit is motivated by personal conflicts and political considerations, it thus becomes discriminatory, and constitutes a violation of the Anti-Graft and Corrupt Practices Act.

The authority of the mayor to issue licenses and permits is not ministerial, it is discretionary. In *Roble Arrastre, Inc. v. Villaflor*,³⁵ the Court held:

The crux of the instant controversy is whether respondent mayor can be compelled by a writ of *mandamus* to grant petitioner’s application for a renewal of a business permit to operate an arrastre service at the Municipal Port of Hilongos in Leyte.

Ostensibly, it is petitioner’s contention that respondent mayor’s power to issue permits as contained in the aforesaid law [Republic Act No. (RA) 7160, otherwise known as the Local Government Code of 1991] is ministerial; hence, *mandamus* lies.

X X X X

³² Id. at 34-36.

³³ CONSTITUTION, Article XI, Section 1.

³⁴ *Nessia v. Fermin*, 292-A Phil. 753, 760 (1993).

³⁵ 531 Phil. 30 (2006).

x x x [W]e make a determination of the nature of the power of respondent mayor to grant petitioner a permit to operate an arrastre service. Central to the resolution of the case at bar is a reading of Section 444(b)(3)(iv) of the Local Government Code of 1991, which provides, thus:

SEC 444. *The Chief Executive: Powers, Duties, Functions and Compensation.*

(b) For efficient, effective and economical governance the purpose of which is the general welfare of the municipality and its inhabitants pursuant to *Section 16 of this Code*, the Municipal mayor shall:

x x x x

(3) Initiate and maximize the generation of resources and revenues, and apply the same to the implementation of development plans, program objectives and priorities as provided for under Section 18 of this Code, particularly those resources and revenues programmed for agro-industrial development and country-wide growth and progress, and relative thereto, shall:

x x x x

(iv) Issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance. (*Italics supplied.*)

As Section 444(b)(3)(iv) so states, the power of the municipal mayor to issue licenses is pursuant to Section 16 of the Local Government Code of 1991, which declares:

SEC. 16. *General Welfare.* – Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare. Within their respective territorial jurisdictions, local government units shall ensure and support, among other things, the preservation and enrichment of culture, promote health and safety, enhance the right of the people to a balanced ecology, encourage and support the development of appropriate and self-reliant scientific and technological capabilities, improve public morals, enhance economic prosperity and social justice, promote full employment among their residents, maintain peace and order, and preserve the comfort and convenience of their inhabitants.

Section 16, known as the general welfare clause, encapsulates the delegated police power to local governments. Local government units exercise police power through their respective legislative bodies.

Evidently, the Local Government Code of 1991 is unequivocal that the municipal mayor has the power to issue licenses and permits and suspend or revoke the same for any violation of the conditions upon which said licenses or permits had been issued, pursuant to law or ordinance. x x x

x x x x

x x x What can be deduced from [Section 444(b)(3)(iv)] is that the limits in the exercise of the power of a municipal mayor to issue licenses, and permits and suspend or revoke the same can be contained in a law or an ordinance. Otherwise stated, a law or an ordinance can provide the conditions upon which the power of the municipal mayor under Section 444(b)(3)(iv) can be exercised. x x x

x x x x

Section 444(b)(3)(iv) of the Local Government Code of 1991, whereby the power of the respondent mayor to issue license and permits is circumscribed, is a manifestation of the delegated police power of a municipal corporation. Necessarily, the exercise thereof cannot be deemed ministerial. x x x ³⁶

While a discretionary power or authority of Corazon, as the then Municipal Mayor of Masantol, Pampanga, is involved in this case, its exercise must be pursuant to law and ordinance. The mayor must act on the application for a business permit, and as correctly pointed out by the Sandiganbayan, the action expected of the mayor was either to approve or disapprove the same.

When Corazon referred to her lawyer, Atty. Pangilinan, the transmittal letter of Atty. Calderon, **to which Fermina's application for mayor's permit and supporting documents were attached**, Corazon did not act according to law or ordinance. Indeed, she failed to cite any law or ordinance which required her to do so. Her purported good faith belief that the cases which Fermina had filed against her and her husband had a bearing on Fermina's application for mayor's permit is not borne out, and actually belied, by Atty. Pangilinan's reply to Atty. Calderon's letter which made no mention of those pending cases. Rather than being a proof of "POSITIVE AND CATEGORICAL ACT"³⁷ as claimed by Corazon in her Petition, the reply letter shows that Corazon merely dribbled the ball, so to speak, and made Corazon's deliberate refusal to act on Fermina's application for business/mayor's permit and her motive clear and patent.

The reply letter emphasized that Fermina had no pending application and considering the non-existence of her application, how could Corazon act on a non-existing application; and advised Fermina to re-apply for a business permit. But the reply letter ignored Atty. Calderon's supplication: "We hope that by this transmittal letter, action on Mrs. Santos' application will now be

³⁶ *Roble Arrastre, Inc. v. Villaflor*, id. at 43-46.

³⁷ *Supra* note 27.

attended to with dispatch.”³⁸ The reply letter even made no reference to the application of Fermina and supporting requirements that were attached to Atty. Calderon’s transmittal letter. There is no question then, to the mind of the Court, that Corazon simply ignored Fermina’s application for mayor’s permit and its supporting documents. There is likewise no doubt that the act of Corazon in referring the matter to her lawyer was merely a ploy to mask her refusal to act and avoid possible sanction for her inaction.

The purported advice for Fermina to re-apply for a business permit in the face of the duly filled-up application and supporting documents attached to Atty. Calderon’s letter, as well as the express supplication for an action with dispatch on the application unequivocally show the intentional inaction or deliberate refusal to act on Corazon’s part.

That discrimination underlied this refusal is also apparent in the reply letter, which states:

After going over your letter, it is clear that Mrs. Fermina Santos is merely using your office to harass the Honorable Mayor of Masantol. x x x Mrs. Fermina Santos concealed vital informations (sic) regarding her application for business license and to enlighten your office, under date of April 06, 1999, the Office of the Mayor was copy furnished of a letter addressed to the Acting-Vice Governor of the Sangguniang Panlalawigan, wherein in the said letter, Fermina Santos categorically stated she decided to cease/stop doing business in Masantol, Pampanga and several days thereafter she withdrew her application for business license in the Municipality of Masantol, Pampanga.³⁹

Assuming that Fermina indeed had evil motives in seeking the intervention of the Office of the Ombudsman, Corazon, being the public officer tasked to issue municipal permits and licenses, was expected to rise above personal conflicts and political rivalries and act pursuant to the applicable law and ordinance. The actuations of Corazon vis-à-vis Fermina, being a political rival, should have been above board and circumspect to forestall any complaint from Fermina of political vendetta. The alleged withdrawal of Fermina’s application on April 6, 1999 clearly has no bearing on her application for mayor’s permit attached to the transmittal letter of Atty. Calderon dated April 26, 1999. Corazon should have thus acted on Fermina’s application as transmitted.

In her Petition, Corazon says:

A perusal of her application in 1999 which was marked by the prosecution as Exhibit “A”, will instantly reveal that it does not bear any rubber stamp marking which would show that the same was either received officially by the Municipal Assessor’s Office or the Office of the Municipal Mayor. Also, it is the original application itself, which could

³⁸ Id. at 24.

³⁹ Annex “15,” Comment (*To the Petition of Corazon M. Lacap dated October 3, 2011*), rollo, p. 181; underscoring supplied.

only mean that, indeed, she carried with her the application and had never filed the same.

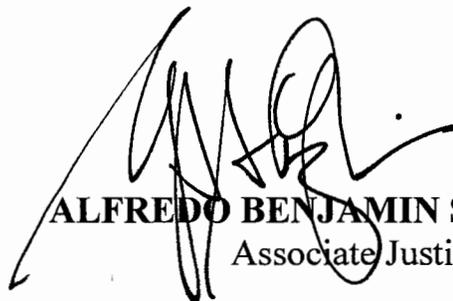
x x x x

In fact, a deep perusal of the attachments in the application for business permit submitted by the complainant to Atty. Calderon, it instantly reveals that the complainant has not paid the Mayor's Permit fee in 1998 inasmuch as the Official Receipts which she presented and marked by the prosecution as Exhs. "K" and "L" are official receipts pertaining to the year 1998." x x x⁴⁰

This argument does not convince. If the defects in the application and supporting requirements attached to Atty. Calderon's transmittal letter were so obvious, then Corazon could have easily disapproved Fermina's application. She did not do this. Instead, Corazon referred the matter to her personal lawyer. Rather than advance her cause, those allegations in her Petition continue to make obvious the criminal intent to discriminate against Fermina, her political rival, which animated her deliberate refusal to act or intentional inaction on Fermina's application for a business/mayor's permit.

WHEREFORE, the Court **AFFIRMS** the Decision of the Sandiganbayan promulgated on February 21, 2011 in Crim. Case No. SB 08-CRM-0030 finding accused Corazon Mallari Lacap **GUILTY** beyond reasonable doubt of Violation of Section 3(f) of Republic Act No. 3019 otherwise known as the Anti-Graft and Corrupt Practices Act, as amended, and imposing upon her the penalty of imprisonment for an indeterminate period of six (6) years and one (1) month imprisonment, as minimum, to ten (10) years imprisonment, as maximum, with perpetual disqualification from public office.

SO ORDERED.


ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson

⁴⁰ Petition, id. at 48-50.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Associate Justice

Mariano C. Del Castillo
MARIANO C. DEL CASTILLO
Associate Justice

Estela M. Perlas-Bernabe
ESTELA M. PERLAS-BERNABE
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.

Maria Lourdes P. A. Sereno
MARIA LOURDES P. A. SERENO
Chief Justice

[Handwritten signature]