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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

NARZAL R. MUÑEZ and ROGELIO LALUCAN, Petitioners,	**G.R. No. 247777** **Present:**
- versus -	CARPIO, *Chairperson*, CAGUIOA, REYES, J., JR., LAZARO-JAVIER, and ZALAMEDA, *JJ.*
THE PEOPLE OF THE PHILIPPINES, Respondent.	**Promulgated:** 28 AUG 2019

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DECISION

LAZARO-JAVIER, *J:*

The Case

This petition for review[1] assails the Decision of the Court of Appeals in CA-G.R. CR No. 01327-MIN dated July 12, 2018,[2] affirming petitioners' conviction for violation of Section 3(b) of Republic Act (RA) 3019.[3]

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[1] Filed under Rule 45 of the Rules of Court.

[2] Penned by Associate Justice Edgardo A. Camello with Associate Justices Walter S. Ong and Perpetua T. Atal-Paño concurring, *Rollo*, pp. 55-64.

[3] 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

(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other part, wherein the public officer in his official capacity has to intervene under the law.

The Proceedings Before the Trial Court

The Charge

Petitioners Narzal R. Muñez and Rogelio Lalucan, employees of the Department of Environment and Natural Resources (DENR) - Cagayan De Oro, were charged with violation of Section 3(b) of RA 3019,[4] *viz:*

Criminal Case No. 2013-169

> That on or about the month of March 2002, and subsequent thereto, in Cugman, Cagayan de Oro City, Philippines, and within the jurisdiction of this Honorable Court, accused NARZAL R. MUÑEZ, ROGELIO LALUCAN and ALFREDO QUILILAN, all are low ranking public officers of the Provincial Environment and Natural Resources, Department of Environment and Natural Resources, Cagayan de Oro City, while in the performance of their official functions and committing the offense in relation to the office, did then and there willfully, unlawfully, criminally and conspiring with each other, propose and inveigle DEMETRIO VELASCO to enter into a Contract for Seedling Production with the Department of Environment and Natural Resources dated 01 April 2002 in consideration of the sum of P1,235,000.00 and in return, these accused demanded and received, in several instances, part of the contract price, in the total amount of ONE MILLION ONE HUNDRED SIXTY FIVE THOUSAND PESOS (P1,165,000.00) in cash as share, percentage or benefit for themselves in connection with the said contract with the government, wherein these accused, had the right to intervene therein under the law in their official capacities as public officers, to the damage and prejudice of the Government.
>
> CONTRARY TO LAW.[5]

The case was raffled to the Regional Trial Court (RTC) – Branch 41, Cagayan de Oro City.

On arraignment, petitioners pleaded *not guilty*. Trial thereafter ensued.[6]

During the trial, Atty. Marco Anacleto Buena,[7] Demetrio Velasco, and Elvis Seriña[8] testified for the prosecution. On the other hand, petitioners, Greg B. Alavanza[9] and Rex Monsanto[10] testified for the defense.[11]

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[4] 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:

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[5] *Rollo,* pp. 70-71.

[6] *Id.* at 71.

[7] Chief of the Fact Finding Unit of the Office of the Ombudsman for Mindanao.

[8] Certified Public Accountant of the Department of Environment and Natural Resources, Cagayan de Oro City.

[9] An employee of PENRO.

[10] Regional Director of the Mines and Geoscience Bureau of the DENR-Region X.

[11] *Rollo*, p. 71.

The Prosecution's Version

On March 12, 2007, the Ombudsman received an anonymous letter-complaint, reporting anomalies in the procurement of seedlings by DENR-Cagayan de Oro. An investigation on the matter led the Ombudsman to Demetrio Velasco, owner of Velasco Nursery Plants.[12]

According to Velasco, he entered into a contract with DENR for the production of 247,000 clonal seedlings. This was upon favorable recommendation of petitioner Muñez, then Officer-in-Charge (OIC) of CENRO.[13] The contract price for the seedlings was Php5.00 each for a total of Php1,235,000.00.

Despite the terms of the contract, Velasco and petitioners entered into a side agreement. In accordance therewith, Velasco only produced 50,000 clonal seedlings and was paid Php1.50 for each or Php75,000.00 in total. The difference between the contract price and the amount actually paid to Velasco was pocketed by petitioners. More, petitioners themselves produced, and was paid for, the remaining 197,000 clonal seedlings.[14]

The prosecution therefore maintained that petitioners had undue interest in the seedling production contract and benefited therefrom in violation of Section 3(b), RA 3019.

The Defense's Evidence

For their part, petitioners presented documents including progressive billings, disbursement vouchers, checks and receipts to establish the regularity of the questioned transaction. The parties to the contract fulfilled their respective obligations: Velasco produced 247,000 clonal seedlings for DENR which in turn paid him the contract price as evidenced by disbursement vouchers and checks. Further, the COA already audited the project and found it to be above board.[15] Lastly, the prosecution failed to prove any conspiracy between them and Velasco. If there was conspiracy at all, Velasco should have also been charged with violation of Section 3(b), RA 3019.[16]

The Trial Court's Ruling

By Decision dated June 16, 2015,[17] the RTC rendered a verdict of conviction, *viz:*

> WHEREFORE, the prosecution having established the guilt of accused NARZAL R. MUÑEZ and ROGELIO LALUCAN beyond

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[12] *Id.* at 72.
[13] Rex S. Monsanto, Provincial Chief of the DENR for Misamis Oriental, approved and signed the contract; *Rollo*, p. 81.
[14] *Rollo*, p. 71-72.
[15] *Id.* at 74.
[16] *Id.* at 57, 73.
[17] Penned by Presiding Judge Jeoffre W. Acebido, *Id.* at 70-76.

> reasonable doubt, they are hereby sentenced to suffer the indeterminate penalty of imprisonment of Six years and one month of *prision mayor* to Ten years of *prision mayor*, and perpetual disqualification from public office.
>
> As to the accused ALFREDO QUILILAN, the case against him shall be placed in the archives, to be lifted therefrom should circumstances warrant.
>
> SO ORDERED.[18]

It found that petitioners took advantage of their positions in the DENR to intervene in the seedling production contract and gain pecuniary benefit therefrom.[19] It thus sentenced petitioners to imprisonment of six (6) years and one (1) month of *prision mayor* as minimum to ten (10) years of *prision mayor* as maximum, with perpetual disqualification from public office.[20]

The Proceedings Before the Court of Appeals

Petitioners argued that: (1) the trial court's ruling is not supported by evidence on record, as the billings, disbursement vouchers, checks and receipts proved regularity of transactions; (2) the prosecution did not come to court with clean hands because Velasco was not discharged as state witness; (3) no other evidence showed conspiracy among petitioners and Velasco, except his testimony; (4) Lalucan was merely a forest guard who could not have influenced the negotiation, execution and implementation of the seedlings contract, while Muñez was not the approving authority thereof; and (5) the Commission on Audit did not find the seedling production contract irregular, proving the Government did not suffer damage.[21]

The Office of the Solicitor General (OSG), through Assistant Solicitor General Renan E. Ramos and State Solicitor Ma. Teresa Ana V. Bermejo defended the verdict of conviction. It argued that the trial court did not err in rendering a verdict of conviction for petitioners' violation of Section 3(b) of RA 3019. All the elements of the offense are present: petitioners were public officers; they benefitted from the contract by taking advantage of their positions; and they participated in the actual production of the clonal seedlings and shared in the proceeds.[22]

More, Velasco's credibility is entitled to great weight, even finality, considering the trial court judge observed his demeanor and manner in which he testified during the trial. Finally, Velasco's testimony is replete with details to show that petitioners acted with a common design to prove conspiracy between them.[23]

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[18] *Rollo*, pp. 75-76.
[19] *Id.* at 75.
[20] *Id.*
[21] *Id.* at 59.
[22] *Id.* at 101-112.
[23] *Id.* at 110.

The Court of Appeals' Ruling

By Decision dated July 12, 2018,[24] the CA affirmed.[25] It held that: ***First***, the trial court considered the voluminous documentary evidence but remained convinced of petitioners' guilt. ***Second***, it was not necessary to discharge Velasco as a state witness since he was not charged in the same crime. ***Third***, the lone testimony of a witness was sufficient to prove the guilt of the petitioners since it was credible and positive. ***Fourth***, Muñez, as officer-in-charge of CENRO, clearly had authority to intervene in the seedling production contract as he did by recommending its approval. Meanwhile, Lalucan's position as forest guard was inconsequential in view of the conspiracy between him, Muñez, and Velasco. ***Finally***, damage to the government is not an element of the crime charged.[26]

The Present Appeal

Petitioners now ask the Court for a verdict of acquittal. For the first time on appeal, they object to Velasco's qualification as a witness and the admissibility of his sworn statement. They claim he "was not in the right frame of mind" or was otherwise coerced when he signed his affidavit out of fear that he might get jailed.[27] He is, therefore, disqualified to testify under Rule 130, Section 21(a) of the Rules of Court, and his affidavit, inadmissible as "fruit of the poisonous tree."[28]

Too, they fault the CA in affirming the verdict of conviction despite the fact that they were wrongly charged under RA 3019.[29]

Threshold Issue

Did the Court of Appeals have jurisdiction to review the verdict of conviction rendered by the trial court for violation of Section 3(b) of RA 3019?

Ruling

The Court of Appeals does not have appellate jurisdiction over appeals from final judgments, resolutions or orders of regional trial courts pertaining to violations of RA 3019. The assailed rulings should, therefore, be vacated and the case, remanded to the court of origin for referral to the proper forum -- the *Sandinganbayan*.

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[24] Penned by Associate Justice Edgardo A. Camello with Associate Justices Walter S. Ong and Perpetua T. Atal-Paño concurring.
[25] *Rollo*, pp. 55-64.
[26] *Id.* at 59-61.
[27] *Id.* at 25-30.
[28] The *fruit of the poisonous tree* doctrine provides that evidence derived from illegal searches and seizures or from admissions made by an accused under conditions proscribed by the Constitution are inadmissible in court.
[29] *Rollo*, p. 9-39.

Section 4 of Presidential Decree (PD) 1606[30] provides:

> Jurisdiction. – The *Sandiganbayan* shall exercise exclusive original jurisdiction in all cases involving:
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> a. **Violations of Republic Act No. 3019**, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII, Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:
>
> xxxx
>
> *Provided,*
>
> xxxx
>
> In cases where none of the accused are occupying positions corresponding to Salary Grade "27" or higher, as prescribe in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129, as amended.
>
> The *Sandiganbayan* shall **exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts** whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided. (Emphases supplied).

Here, petitioners Muñez and Lalucan were OIC-CENRO and forest guard of DENR-Cagayan de Oro, respectively. Their positions corresponded to Salary Grades below 27. For acts committed in relation to their offices, they were charged with violation of Section 3(b) of RA 3019. The offense carries a penalty of more than six (6) years,[31] placing it within the original jurisdiction of the RTC.[32]

By Decision dated June 16, 2015,[33] the trial court found petitioners guilty as charged and sentenced them to imprisonment of six (6) years and one (1) month of *prision mayor* as minimum to ten (10) years of *prision mayor* as maximum, with perpetual disqualification from public office.

Aggrieved, petitioners sought relief from the verdict of conviction. Under Section 4 of PD 1606, it is the *Sandiganbayan* which has **exclusive** appellate jurisdiction over the appeal. The case, however, was erroneously

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[30] REVISING PRESIDENTIAL DECREE NO. 1486 CREATING A SPECIAL COURT TO BE KNOWN AS "SANDIGANBAYAN" AND FOR OTHER PURPOSES, As amended by RA 10660: AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR.

[31] Six (6) years and one (1) month to fifteen (15) years; See Sec. 9 of RA 3019 as amended.

[32] See Sections 20 and 32 of Batas Pambansa Blg. 129.

[33] Penned by Presiding Judge Jeoffre W. Acebido.

transmitted to the Court of Appeals. The subsequent Decision dated July 12, 2018 and Resolution dated May 15, 2019 of the Court of Appeals were therefore rendered without jurisdiction, hence, void.

Petitioners are not responsible for the error in transmitting the case. For such duty rests on the shoulders of the clerk of court. Rule 122, Section 8 of the Rules of Court commands:

> **Section 8.** *Transmission of papers to appellate court upon appeal.* — Within five (5) days from the filing of the notice of appeal, **the clerk of the court with whom the notice of appeal was filed must transmit to the clerk of court of the appellate court the complete record of the case**, together with said notice. The original and three copies of the transcript of stenographic notes, together with the records, shall also be transmitted to the clerk of the appellate court without undue delay. The other copy of the transcript shall remain in the lower court. (emphasis added)

Thus, petitioners should not be prejudiced by the clerk of court's mistake.

Similarly, in ***Dizon v. People***,[34] the Court ruled that petitioner's appeal from his conviction for the crime of Malversation of Public Funds through Falsification of Public Documents in the trial court fell within the exclusive appellate jurisdiction of the *Sandiganbayan*, but the appeal was erroneously taken to the Court of Appeals. Thus, the Court set the Court of Appeals' dispositions aside and remanded the case to the RTC for transmission of the case records to the *Sandiganbayan.*

Indeed, the accused here should not be prejudiced by the shortcoming or fault caused by the clerk of court concerned. For what is at stake is no less than the life and liberty of the accused. Hence, on the strength of *Dizon* and in the higher interest of substantial justice, the Court is constrained to order the dispositions of the Court of Appeals vacated and the case remanded to the trial court for transmission of the records to the *Sandiganbayan.*

ACCORDINGLY, the Decision dated July 12, 2018 and Resolution dated May 15, 2019 of the Court of Appeals in CA-G.R. CR No. 01327-MIN are **VACATED**. The Court of Appeals is directed to immediately **REMAND** the case records to the Regional Trial Court–Branch 41, Cagayan de Oro City which shall transmit the same to the *Sandiganbayan*, with utmost dispatch.

SO ORDERED.

AMY C. LAZARO-JAVIER
Associate Justice

[34] G.R. No. 227577, January 24, 2018.

WE CONCUR:

ANTONIO T. CARPIO
Senior Associate Justice
Chairperson

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

JOSE C. REYES, JR.
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

ATTESTATION

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

ANTONIO T. CARPIO
Associate Justice
Chairperson

CERTIFICATION

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

LUCAS P. BERSAMIN
Chief Justice