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SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE

Republic of the Philippines
Supreme Court
Manila

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THIRD DIVISION

CAMILO LOYOLA SABIO (Former
Chairman),

Petitioner,

G.R. Nos. 233853-54

Present:

- versus -

PERALTA, J., Chairperson,
LEONEN,
REYES, A., JR.,
HERNANDO, and
INTING, JJ.

SANDIGANBAYAN (FIRST
DIVISION),

Respondent.

Promulgated:

July 15, 2019

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DECISION

PERALTA, J.:

Before Us is a petition for review on *certiorari* under Rule 45 of the Rules of Court assailing the Decision¹ dated June 22, 2017 of the Sandiganbayan, First Division, in Criminal Case Nos. SB-12-CRM-0014 to 0015 entitled, *People of the Philippines v. Camilo L. Sabio, Ricardo M. Abcede, Tereso L. Javier, Narciso S. Nario and Nicasio A. Conti*.

The antecedent facts are summarized as follows:

On April 18, 2007, the Presidential Commission on Good Government (PCGG) and United Coconut Planters Bank Leasing and Finance Corporation (UCPB Leasing) entered into a Lease Agreement for the lease of five (5) motor vehicles. Two years later, or in 2009, another lease contract was executed by the PCGG and UCPB Leasing for six (6) service vehicles.

¹ Penned by Associate Justice Geraldine Faith Econg, with Associate Justices Efren N. De La Cruz (Chairperson) and Bernelito R. Fernandez concurring; *rollo*, pp. 55-74.

Sometime in November 2012, the Field Investigation Office (*FIO*) of the Office of the Ombudsman filed criminal cases against PCGG Chairman Camilo Sabio (*Sabio*), Commissioners Ricardo M. Abcede, Tereso L. Javier, Narciso S. Nario and Nicasio A. Conti, for violations of Section 3(e) of Republic Act (*R.A.*) No. 3019 and R.A. 9184, or the *Government Procurement Reform Act*, arising from the aforementioned lease of motor vehicles from UCPB Leasing, as those were done without the required public bidding.

On February 13, 2014, two (2) Informations for violation of Section 3(e) of R.A. 3019 were filed before the Sandiganbayan entitled *People of the Philippines v. Camilo L. Sabio, Ricardo M. Abcede, Tereso L. Javier, Narciso S. Nario & Nicasio A. Conti*, docketed as SB-12-CRM-0014 and SB-12-CRM-0015. The accusatory portion of the Informations read:

SB-12-CRM-0014

That on 18 April 2007, or sometime prior or subsequent thereto, in Mandaluyong City, Philippines, and within the jurisdiction of this Honorable Court, accused Camilo L. Sabio, a high ranking public officer, being then the Acting Chairman of the Presidential Commission on Good Government (PCGG), conspiring, confabulating, and confederating with Ricardo M. Abcede, Tereso L. Javier, Narciso S. Nario, and Nicasio A. Conti, then PCGG Commissioners, while in the performance of their official functions as such, taking advantage thereof and committing the offense in relation to office, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage or preference to UCPB Leasing and Finance Corporation, a sequestered company of PCGG, thru gross inexcusable negligence, evident bad faith, or manifest partiality, by entering into and/or cause the entering into a Lease Agreement dated 18 April 2007 with the said leasing corporation for the lease of five (5) service vehicles through negotiated procurement without the required public bidding under Section 10 of Republic Act 9184 (Government Procurement Reform Act) for the total amount of P5,393,000.00, to the damage and prejudice of the government and to the detriment of public interest.

SB-12-CRM-0015

That in 2009, or sometime prior or subsequent thereto, in Mandaluyong City, Philippines, and within the jurisdiction of this Honorable Court, accused Camilo L. Sabio, a high ranking public officer, being then the Acting Chairman of the Presidential Commission on Good Government (PCGG), conspiring, confabulating, and confederating with Ricardo M. Abcede, Tereso L. Javier, Narciso S. Nario, and Nicasio A. Conti, then PCGG Commissioners, while in the performance of their official functions as such, taking advantage thereof and committing the offense in relation to office, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage or preference to UCPB Leasing and Finance Corporation, a sequestered company of PCGG, thru gross inexcusable negligence, evident bad faith, or manifest partiality, by entering into and/or cause the entering into an undated Lease Agreement



with the said leasing corporation for the lease of six (6) service vehicles through negotiated procurement without the required public bidding under Section 10 of Republic Act 9184 (Government Procurement Reform Act) for the total amount of Php6,734,610.00, to the damage and prejudice of the government and to the detriment of public interest.²

In a Resolution dated May 29, 2014, the Sandiganbayan dismissed the cases against accused Javier, Nario and Conti, for violation of their constitutional right to a speedy disposition of cases. Accused Abcede, on the other hand, passed away during the pendency of the case. Sabio was arraigned as the sole accused on January 28, 2015 and he entered a plea of not guilty.

During the preliminary conference and the pre-trial, the parties entered into a stipulation of facts, *viz.*: (a) accused Sabio is a public officer, then being the Chairman of the PCGG, who is charged in the cases; (b) the UCPB is a sequestered company of the PCGG; (c) Sabio was appointed Chairman of the Board of Directors of UCPB effective May 10, 2005 until his successor was duly elected and qualified; (d) he was elected OIC Chairman of the Board of Directors of CIIF Oil Mills Group effective May 10, 2005 until his successor was duly elected and qualified; and (e) he was elected Director of the UCPB effective May 12, 2005.³ The sole issue formulated during pre-trial was whether or not the Sabio is guilty of the offense charged.

During trial, the prosecution presented six (6) witnesses, namely: Marita B. Villarica, Romulo Siazon, Corinne Joie M. Carillo,* Teresita Avante-Rosal, Marcial V. Flores and Irma S. Carlos.

Villarica, the head of the Administrative Services Division of the PCGG, identified the Personal Data Sheet, Appointment Papers, Oath of Office, Service Records, and Position Description Forms of Sabio. Siazon, a supervising administrative officer/OIC of the Human Resources Development Division of the PCGG, identified the certified true copies of the said documents which he had issued.

Carillo, an Associate Graft Investigation Officer III of the Office of the Ombudsman, testified that she conducted a fact-finding investigation on the alleged irregularities in the acquisition of new vehicles for top officials of the PCGG without public bidding. During the investigation, she found out that there are sixteen (16) other vehicles issued to different PCGG officials; three (3) of said vehicles were issued to Sabio. She also discovered that the PCGG entered into Lease Agreements with UCPB Leasing for the lease of five (5) vehicles in the total amount of ₱5,393,000.00 in 2007 and six (6) vehicles in the total amount of ₱6,734,610.00 in 2009.

² *Id.* at 56-57.

³ *Id.* at 57-58

* "Garillo" in some parts of the *rollo*.



Carillo learned, however, that no fund was appropriated to the PCGG for the purchase of motor vehicles in 2007. She stated that for the years 2006-2009, the procurement (plan) of goods and services of the PCGG did not include the lease/lease purchase of vehicles, and that the lease/lease purchase of the eleven (11) vehicles did not go through public bidding – all in violation of Commission on Audit (COA) Circular No. 85-55 and R.A. 9184.

Avante-Rosal, an intelligence officer of the PCGG, testified that she was designated as the Secretary of the Bids and Awards Committee (BAC) of the PCGG from 2006 to 2009, and her duties include the taking of minutes of meeting, preparing bidding guidelines, keeping records of bidding documents and assisting in the conduct of the bidding process. She stated that there were only five services for which the BAC of the PCGG annually conducted public bidding: janitorial, security, copier machine rental, air-condition maintenance, and supply of drinking water. She pointed out that no bidding process was conducted by the BAC for the lease of motor vehicles for the period of 2006 to 2009.

Flores testified that he was designated as OIC of the Finance and Administration Department of the PCGG from 2007 to 2010. In the course of his testimony, he identified a certification that he signed regarding the funds appropriated to the PCGG involving the purchase of motor vehicles from 2007 to 2008. He stated that upon checking the general appropriations for those years, he found out that no fund was appropriated to the PCGG for the purchase of vehicles in the said years.

Carlos, an accounting clerk employed by the PCGG, testified that in 2005, Sabio was issued a 2000 Isuzu Crosswind, a Toyota Innova, and a Toyota Fortuner DSL. She also said that the ownership of the motor vehicles subject of the 2007 lease agreement with UCPB Leasing were transferred to the PCGG after termination of the contract.

For his defense, Sabio testified that he was appointed as PCGG Chairman on April 27, 2005, as Chairman of the Board of Directors of the Coconut Industry Investment Fund (CIIF) Oil Mills Group, a sequestered group of coconut companies, as Board Member of UCPB, and as member of the Executive Committee, Trust Committee, and Capital Adequacy Committee of the UCPB. He stated that UCPB was the administrator and trustee of the CIIF Oil Mills Group, a sequestered company, and that UCPB Leasing and Finance Corporation is a wholly-owned subsidiary of the UCPB.

On June 22, 2017, the Sandiganbayan rendered judgment finding Sabio guilty beyond reasonable doubt of violations of Section 3(e) of R.A. No. 3019 in Criminal Case Nos. SB-12-CRM-0014 and SB-12-CRM-0015, the dispositive portion of which reads:



WHEREFORE, judgment is rendered finding Camilo L. Sabio

- a. **GUILTY** of the charges in Criminal Case No. SB-12-CRM-0014 and hereby sentences him to suffer an indeterminate sentence of Six Years and One Month[,] as minimum[,] to Ten Years[,] as maximum[,] and to suffer the accessory penalty of perpetual disqualification from holding public office, and
- b. **GUILTY** of the charges in SB-12-CRM-0015 and hereby sentences him to suffer an indeterminate sentence of Six Years and One Month[,] as minimum[,] to Ten Years[,] as maximum[,] and to suffer the accessory penalty of perpetual disqualification from holding public office.⁴

On July 6, 2017, Sabio sought the reconsideration of the Decision on these cases.

Sabio argues that as Chair of the PCGG, he held the rank of Cabinet Secretary and, thus, considered as the President's alter ego or political agent. It goes without saying, therefore, that when he approved the contract of lease for the vehicles used by himself and the PCGG Commissioners, it was as if the President approved the same. One of the basic principles of political law is the non-suability of the President of the Republic of the Philippines.

Sabio maintains that because of the PCGG's mandate and task, it is exempt from the requirements of the Procurement Law being vested with extraordinary constitutional, legal powers and authority. For instance, no civil action can be brought against the Commission or any of its member. It cannot be restrained by the courts. The lease agreements do not have to undergo the requirements of the Procurement Law. The PCGG then should be treated as *sui generis*.

Sabio's motion for reconsideration was denied by the Sandiganbayan in a Resolution⁵ dated August 25, 2017.

Dissatisfied, Sabio filed the instant Petition for Review on *Certiorari* on the sole ground that the judgment rendered by the Sandiganbayan is contrary to the provisions of Executive Order No. 1 of 1987 issued by then President Corazon Aquino, creating the PCGG for the purpose of recovering ill-gotten wealth accumulated by former President Ferdinand E. Marcos, theorizing in arguments the following:

- 1) The PCGG, being *sui generis*, it follows that the laws, rules and regulations involved and relied upon by the complainant did not apply to it;

⁴ *Id.* at 72.

⁵ *Id.* at 86-89.

- 2) Entering into lease-purchase agreements had been the practice of the PCGG prior to their assumption of office;
- 3) They had no personal gain in entering into agreements; and
- 4) Sabio was an alter ego of the President who did not disapprove his acts.

We summarize the issues as follows:

- A.) WHETHER OR NOT PCGG, BEING *SUI GENERIS*, IS EXEMPTED FROM THE REQUIREMENTS OF THE PROCUREMENT LAW;
- B.) WHETHER OR NOT SABIO, BEING AN ALTER EGO OF THE PRESIDENT, IS IMMUNE FROM SUIT; AND
- C.) WHETHER OR NOT THE SANDIGANBAYAN ERRED OR COMMITTED REVERSIBLE ERROR IN FINDING PETITIONER GUILTY OF SECTION 3(E) OF R.A. NO. 3019.

The petition is unmeritorious.

Sabio's contention that the PCGG, being *sui generis*, is exempted from the requirements of the procurement law has no basis in law and jurisprudence.

R.A. No. 9184, or the *Government Procurement Reform Act*, explicitly provides that, as a rule, all procurement shall be done through competitive bidding, except as provided for in Article XVI.⁶

Sections 4 and 10 of R.A. No. 9184 reads:

Section 4. *Scope and Application.*- This act shall apply to the Procurement of Infrastructure Projects, Goods and Consulting Services, regardless of source of funds, whether local or foreign, by **all** branches and instrumentalities of government, its departments, offices and agencies, including government-owned and/or-controlled corporations and local government units, subject to the provisions of Commonwealth Act No. 138. Any treaty or international or executive agreement affecting the subject matter of this Act to which the Philippine government is signatory shall be observed.

Section 10. *Competitive Bidding.* - **All** Procurement shall be done through Competitive Bidding, except as provided for in Article XVI of this Act.⁷

⁶ R.A. No. 9184, Sec. 10.

⁷ Emphases supplied.

One of the primary and basic rules in statutory construction is that where the words of a statute are clear, plain, and free from ambiguity, it must be given its literal meaning and applied without attempted interpretation.⁸

It is clear from the provisions of R.A. No. 9184 that ALL procurement by ALL branches and instrumentalities of government, its departments, offices and agencies, including government-owned and/or controlled corporations and local government units shall be done through Competitive Bidding, except as provided for in Article XVI. This includes procurement by the PCGG, which is an attached agency under the administrative supervision of the Department of Justice.

Thus, the PCGG is NOT exempted from the requirements of R.A. No 9184.

**Sabio, who was then the Acting
PCGG Chairman, an alter ego
of the President of the Philippines,
is NOT immune from suit.**

Settled is the doctrine that the President, during his tenure of office or actual incumbency, is immune from suit and may not be sued in any civil or criminal case. However, such immunity does not extend to his alter egos.

In *Gloria v. Court of Appeals*,⁹ petitioners therein theorized that the petition for prohibition is improper, because the same attacks an act of the President, in violation of the doctrine of presidential immunity from suit. We held that “petitioners’ contention is untenable for the simple reason that the petition is directed against petitioners and not against the President. The questioned acts are those of petitioners and not of the President.”¹⁰

Thus, Sabio cannot claim immunity from suit for being an alter ego of the President. It was the PCGG, through Sabio and his Commissioners, not the President, who entered into the subject lease agreements without the requisite public bidding. It will be ridiculous to hold that alter egos of the President are, likewise, immune from suit simply because their acts are considered acts of the President if not repudiated. In fact, the 1987 Constitution is replete with provisions on the constitutional principles of accountability and good governance that should guide a public servant. The rule is that unlawful acts of public officials are not acts of the State and the

⁸ *National Food Authority v. Masada Security Agency, Inc.*, 493 Phil. 241, 250 (2005); *Philippine National Bank v. Garcia, Jr.*, 437 Phil. 289, 291 (2002).

⁹ 392 Phil. 536, 541 (2000).

¹⁰ *Id.*

officer who acts illegally is not acting as such but stands in the same footing as any other trespasser.¹¹

**The Sandiganbayan did not
commit any reversible error
in finding petitioner Sabio
guilty of violating Section 3(e)
of R.A. No. 3019**

The following are the elements of Section 3(e) of R.A. No. 3019:

1. The offender is a public officer;
2. The act was done in the discharge of the public officer's official, administrative, or judicial functions;
3. The act was done through manifest partiality, evidence bad faith, or gross inexcusable negligence; and
4. The public officer caused any undue injury to any party, including the Government, or gave any unwarranted benefits, advantage or preference.¹²

The first element – the offender is a public officer – was established, in that the parties stipulated that Sabio is a public officer.

The second element is also present, in that the act was in the discharge of Sabio's function as the Chairman of the PCGG.

The third element is, likewise, present. In several cases, We have held that this element may be committed in three ways, *i.e.*, 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.¹³

Explaining what "partiality," "bad faith" and "gross negligence" mean, We held:

"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 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

¹¹ *In The Matter of the Petition for the Writ of Amparo and Habeas Data in Favor of Noriel H. Rodriguez; Noriel H. Rodriguez v. Gloria Macapagal-Arroyo*, 676 Phil. 84, 108 (2011).

¹² *Sison v. People*, 628 Phil. 573, 583 (2010).

¹³ *Id.*

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.” (Citations omitted)¹⁴

In the instant case, there was bad faith on the part of Sabio in entering into the subject lease agreements based on the following: (1) for not undertaking the required procurement process; and (2) subjecting government funds to unnecessary expenditure without pre-allocation and the necessity for the same.

The lease agreements between the PCGG and UCPB Leasing involving the eleven (11) vehicles in the years 2007-2009 were awarded to the latter without conducting public bidding. This is a clear violation of R.A. No. 9184. Moreover, it was shown that there was no allotment for the lease of the subject vehicles.

Petitioner clearly disregarded the law meant to protect public funds from irregular or unlawful utilization. In fact, petitioner admitted that the lease agreements were not subjected to public bidding, because it is their position that the PCGG is exempted from the procurement law and that they were merely following the practice of their predecessors. This is totally unacceptable, considering that the PCGG is charged with the duty, among others, to institute corruption preventive measures. As such, they should have been the first to follow the law. Sadly, however, they failed.

Moreover, at the time of the execution of the lease agreements, Sabio was a member of the Board of Directors of the UCPB, the parent company of UCPB Leasing. This fact bolstered the presence of the fourth element, that there was unwarranted benefit, advantage or preference given to UCPB Leasing.

As correctly ruled by the Sandiganbayan, Sabio’s acts unmistakably reflect “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.”

WHEREFORE, premises considered, the petition is hereby **DENIED**. The Decision and Resolution of the Sandiganbayan, dated June 22, 2017 and August 25, 2017, respectively, in Criminal Case Nos. SB-12-CRM-0014 to 0015 are hereby **AFFIRMED**.



¹⁴ *Id.* at 583-584.

SO ORDERED.

DIOSDADO M. PERALTA
Associate Justice

WE CONCUR:

MARVIC MARIO VICTOR F. LEONEN
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

ATTESTATION

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

DIOSDADO M. PERALTA
Associate Justice
Chairperson, Third Division

CERTIFICATION

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

CERTIFIED TRUE COPY

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MISAELO DOMINGO C. BATTUNG III
Deputy Division Clerk of Court
Third Division

SEP 02 2019

LUCAS P. BERSAMIN
Chief Justice