



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

THE PEOPLE OF THE PHILIPPINES, G.R. No. 248701
Plaintiff-Appellee,

-versus-

Members:

PERALTA, *CJ., Chairperson,*
CAGUIOA,
REYES, J.C., JR.
LAZARO-JAVIER, *and*
LOPEZ, *JJ.*

LIONEL ECHAVEZ BACALTOS,
Accused-Appellant.

Promulgated:

JUL 28 2020

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DECISION

LAZARO-JAVIER, J.:

The Case

Appellant Lionel Echavez Bacaltos seeks to reverse and set aside the Decision¹ dated May 17, 2019 of the Sandiganbayan in SB-18-CRM-0010 finding him guilty of violation of Section 3(e) of RA 3019, the *Anti-Graft and Corrupt Practices Act*.

Antecedents

The charge and plea

¹ *Rollo*, pp. 5-19.

By Information dated January 12, 2018, appellant was charged before the Sandiganbayan with violation of Section 3(e) of RA 3019, viz.:

That in February 2015, or sometime prior or subsequent thereto, in the Municipality of Sibonga, Province of Cebu, Philippines and within the jurisdiction of this Honorable Court, **LIONEL ECHAVEZ BACALTOS**, a high-ranking public officer, being the Mayor of the Municipality of Sibonga, Cebu, in such capacity, committing the crime in relation to office, acting with manifest partiality, evident bad faith and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the government by receiving an honorarium from the Philippine Health Insurance Corporation (PhilHealth) in the amount of Php17,512.50, despite the fact that he was not entitled to receive it since the said honorarium was exclusively given and intended for the municipal health personnel, and accused was not a member of the municipal health personnel, thereby causing undue injury to the government in the aforesaid amount.

CONTRARY TO LAW.²

On arraignment, appellant pleaded not guilty.³ During the pre-trial, the parties stipulated, thus:⁴

JOINT STIPULATIONS

The PEOPLE, represented by the Office of the Special Prosecutor and accused **LIONEL ECHAVEZ BACALTOS**, represented by ATTY. JULIUS CEASAR S. ENTISE, unto this Honorable Court, most respectfully stipulate on the following:

1. At the time material to the allegation in the Information, the accused is a public officer holding the position of the Municipal Mayor of Sibonga, Province of Cebu;
2. That whenever referred to orally or in writing by the Honorable Court and the Prosecution and/or its witnesses the accused admits that he is the same person being referred to in this case;
3. Under its program, Philhealth Regional Office VII released the fund for Per Family Payment Rate (PFPR) for the provision of primary care benefit services to the Municipal Health Office of Sibonga, Cebu for the years 2012, 2013, 2014, and 2015;
4. Under the prescribed disposition and allocation of the PFPR, twenty percent (20%) of the fund shall be exclusively utilized as honoraria of the staff of the health facility and in the improvement of their capability to be able to provide better health services:
 - (a) Ten percent (10%) for the physician;
 - (b) Five percent (5%) for the other health professional staff of the facility;

² *Id.* at 5-6.

³ *Id.* at 6.

⁴ Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, pp. 148-154.

- (c) Five percent (5%) for non-health professional/staff including volunteers;
5. In February 2015, accused Bacaltos certified the Obligation Request No. 0499-02-15-300 (Exhibit "E") for the payment of the twenty percent (20%) PhilHealth honoraria to health personnel in the amount of Php280,197.00;
 6. From the 20% Philhealth Capitation Fund for Personnel Honorarium, accused Bacaltos received the amount of Php17,512.50 as *honorarium* in 2015 and signed payrolls (EXHIBIT "F") for this purpose;
 7. Accused Bacaltos is not a physician, or a health or non-health professional staff, nor a volunteer of Municipal Health Office of Sibonga, Cebu from 2014-2015.

II ISSUES

1. Whether accused Bacaltos acted with manifest partiality, evident bad faith or gross inexcusable negligence in receiving an honorarium from the Philippine Health Insurance Corporation (PhilHealth) in the amount P17,512.50, despite the fact that he was not entitled thereto since the said honorarium was exclusively given and intended for the municipal health personnel, and accused was not a member thereof or not;

2. Whether accused Bacaltos caused undue injury to the government by receiving the honorarium;

3. Whether accused Bacaltos violated Section 3(e) of Republic Act No. 3019, as amended in receiving an honorarium from the Philippine Health Insurance Corporation (PhilHealth) in the amount of P17, 512.50, despite the fact that he was not entitled to receive it since the said honorarium was exclusively given and intended for the municipal health personnel, and accused was not a member thereof, causing undue injury to the government in the aforesaid amount;

4. Whether accused is entitled to the honorarium being the Municipal Mayor of Sibonga, Cebu.⁵ xxx xxx xxx

On the basis thereof, the prosecution and the defense manifested that they would dispense with the presentation of evidence.⁶ The Sandiganbayan then ordered the prosecution and the defense to formally offer their exhibits and file their respective comments thereon. Both parties complied and filed their respective memoranda.⁷

The Prosecution's Version

⁵ *Id.* at 7.

⁶ *Id.* at 6.

⁷ Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, p. 139.

In line with the government's Kalusugang Pangkalahatan Program, the Philippine Health Insurance Corporation (PhilHealth), by Board Resolution No. 1587, s. 2012, approved the Primary Care Benefit (PCB) Package, designed to provide Filipinos access to quality health services. The PCB Package was offered through government health facilities registered with PhilHealth. In exchange for their services, these PCB Providers were paid incentives on a Per Family Payment Rate (PFPR).⁸

On May 28, 2012, PhilHealth Regional Vice President William O. Chavez sent a letter to appellant informing him of Section V (G) of PhilHealth Circular No. 010 s. 2012 which prescribed the allocation of the PFPR, thus:⁹

G. The disposition and allocation of the PFPR shall be, as follows:

1. Eighty percent (80%) of PFPR is for operational cost and shall be divided, as follows:

a. Minimum of forty percent (40%) for drugs and medicines (PNDF) (to be dispensed at the facility) including drugs and medicines for Asthma, AGE and pneumonia; and

b. Maximum of forty percent (40%) for reagents, medical supplies, equipments (i.e., ambulance, ambubag, stretcher, etc.), information technology (IT equipment specific for facility use needed to facilitate reporting and database build-up), capacity building for staff, infrastructure or any other use related, necessary for the delivery of required service including referral fees for diagnostic services if not able in the facility.

2. **The remaining twenty percent (20%) shall be exclusively utilized as honoraria of the staff of the PCB facility** and for the improvement of their capabilities as would enable them to provide better health services:

a. **Ten percent (10%) for the physician;**

b. **Five percent (5%) for other health professional staff of the facility;**
and

c. **Five percent (5%) for non-health professionals/staff, including volunteers and community members of health teams (e.g., Women's Health Team, Community Health Team).** (Emphases supplied)

The Municipal Health Office of Sibonga, Cebu was registered as a PCB provider and had been allocated PFPRs from 2012 to 2015.¹⁰

In February 2015, appellant, then Municipal Mayor of Sibonga, Cebu, certified Obligation Request No. 0499-02-15-300¹¹ for the release of the twenty percent (20%) *honoraria* for health personnel in the amount of ₱280,197.00. Based on Item 16 of the 2015 payroll summary, appellant received ₱17,512.50 of the amount as *honorarium*.¹² The same payroll

⁸ *Rollo*, p. 11.

⁹ *Id.*

¹⁰ *Id.*

¹¹ Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, p. 183.

¹² *Rollo*, p. 13.

summary bore the Municipal Accountant's annotation, expressing reservation for Item 16 to the effect that payment thereof was still subject to the PhilHealth's existing rules and regulations. Appellant admitted during the pre-trial that he was not a physician, health or non-health staff, nor volunteer of the Municipal Health Office in the years 2014 and 2015. Neither did his name appear on its list of personnel.¹³

Hence, appellant was not entitled to the *honorarium*. He clearly acted with manifest partiality, evident bad faith, or gross inexcusable negligence when he requested and accepted the *honorarium* over the Municipal Accountant's reservation. Appellant's unwarranted receipt of the honorarium caused undue injury to the government in the amount of ₱17,512.50.¹⁴

The prosecution offered in evidence appellant's Service Record (Exhibit B), Municipal Health Office's List of Personnel (Exhibit C), Letter dated August 24, 2015 to Mary Jojie P. Chan (Exhibit D), Obligation Request No. 0499-02-15-300 (Exhibit E), payroll summary with attached list (Exhibit F), disbursement voucher dated March 2, 2015 (Exhibit G), PhilHealth Regional Vice President William O. Chavez' letter dated May 28, 2012 (Exhibit HH), performance commitment dated December 16, 2014 (Exhibit H), PFP's summary released to LGU Sibonga (Exhibit I), Disbursement Vouchers and Official Receipts issued by the Office of the Treasurer, Sibonga, Cebu.¹⁵

The Version of the Defense

Appellant admitted having received ₱17,512.50 as *honorarium* from the PhilHealth Capitation Fund but denied having acted with manifest partiality, evident bad faith, or gross inexcusable negligence in his receipt thereof. Owing to his exercise of control and supervision over the Municipal Health Office and its personnel, he honestly believed he was entitled to the five percent (5%) *honorarium* for non-health personnel. In fact, the Commission on Audit (COA) did not even issue a Notice of Disallowance on the release of the subject *honorarium*.¹⁶ Lastly, the prosecution failed to adduce evidence that the PhilHealth suffered injury as a result thereof.¹⁷

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Disbursement Voucher No. 140940 (Exhibit J), Official Receipt No. 7221579 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit K), Disbursement Voucher No. 160141 (Exhibit L), Official Receipt No. 11396017 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit M), Disbursement Voucher No. 160137 (Exhibit N), Official Receipt No. 11396018 issued by Office of the Treasurer, Sibonga, Cebu (Exhibit O), Disbursement Voucher No. 160277 (Exhibit P), Official Receipt No. 113998919 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit Q), Disbursement Voucher No. 140914 (Exhibit T), Official Receipt No. 7221578 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit U), Disbursement Voucher No. 150032 (Exhibit V), Official Receipt No. 8206356 issued by the Office of the Treasurer, Sibonga, Cebu (Exhibit W), Disbursement Voucher No. 140939 (Exhibit X), Official Receipt No. 7221580 issued by the Office of the Treasure, Sibonga, Cebu (Exhibit Y), Disbursement Voucher No. 160140 (Exhibit Z), Official Receipt No. 11396020 issued by the Treasurer's Office, Sibonga, Cebu (Exhibit AA), Disbursement Voucher No. 150367 (Exhibit BB), and Official Receipt No. 10293273 (Exhibit CC); *id.* at 8-9.

¹⁶ *Id.* at 13.

¹⁷ *Id.* at 14.

The defense formally offered the following exhibits: the Committee Report Re: Administrative Complaint dated April 5, 2017 of Mary Jojie P. Chan docketed as Administrative Case No. SP CBU 2015-30 by the Complaints and Investigation Committee of the Sangguniang Panlalawigan of Cebu Province (Exhibit 1), Resolution No. 1225-2017 Adopting and Approving the Committee Report dated April 5, 2017 of the Committee on Complaints and Investigation of the Sangguniang Panlalawigan of Cebu Province (Exhibit 2), and Certification dated September 3, 2018 issued by the Municipal Accountant of the Municipality of Sibonga, Cebu (Exhibit 3).¹⁸

The Sandiganbayan's Ruling:

As borne by its Decision¹⁹ dated May 17, 2019, the Sandiganbayan Fourth Division rendered a verdict of conviction, thus:

WHEREFORE, premises considered, judgment is hereby rendered finding accused **Lionel Echavez Bacaltos GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. No. 3019 and is hereby sentenced to suffer an indeterminate penalty of imprisonment of six (6) years and one (1) day, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office. Accused **Lionel Echavez Bacaltos** is also **ORDERED** to indemnify the Municipality of Sibonga, Cebu, the amount of Seventeen Thousand Five Hundred Twelve Pesos and Fifty Centavos (PhP17,512.50).

SO ORDERED.²⁰

According to the Sandiganbayan, the prosecution had sufficiently established appellant's guilt for violation of Section 3(e) of RA 3019. Appellant was then Municipal Mayor of Sibonga, Cebu when he approved and received ₱17,512.50 as *honorarium* despite the fact that he was ineligible to receive it. The Sandiganbayan rejected appellant's defense of good faith and held that his receipt of the *honorarium* deprived other personnel of the Municipal Health Office of the benefit and caused undue injury to the government.

Appellant's Omnibus Motion for Reconsideration was denied by Resolution dated July 12, 2019.²¹

The Present Appeal

Appellant now seeks affirmative relief from the Court and prays anew for his acquittal. In his Supplemental Brief,²² appellant essentially argues:

¹⁸ *Id.* at 10; Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, pp. 262-263.

¹⁹ *Rollo*, pp. 5-19.

²⁰ *Id.* at 18.

²¹ *Id.* at 133.

²² *Id.* at 59-73.

First, the Sandiganbayan had no jurisdiction over the case. He allegedly caused undue injury to the government in the amount of ₱17,512.50 which is within jurisdictional threshold of the Regional Trial Court (RTC) under RA 10660.²³ Too, the summary payroll is unclear as to the date of actual payment which is crucial in determining whether RA 10660 would apply to the present case. At any rate, the assailed decision was based on pure speculation and conjectures.

Second, the Office of the Special Prosecutor failed to prove that he received ₱17,512.50 because it failed to indicate from which PFPR fund (2012, 2013, 2014 and 2015) appellant's *honorarium* was sourced. The Obligation Request merely stated that he approved the release of ₱280,187.00 while the summary payroll enumerated its recipients. Approval of the release of payment is not the same as receiving the amount of ₱17,512.50 in 2015. The Office of the Special Prosecutor likewise failed to prove that he received ₱17,512.50 in February 2015 since the corresponding disbursement voucher was dated March 2, 2015.

Third, he never admitted having received ₱17,512.50 from the PFPR as *honorarium*. In the Pre-Trial Order dated November 26, 2018, what he admitted on February 2015 he certified the Obligation Request for payment of the PhilHealth *honoraria*.

Fourth, he was deprived of his right to due process of law when the Sandiganbayan directed him to submit his memorandum after the termination of the pre-trial. This was clearly an involuntary waiver of his right to present evidence. The Sandiganbayan brushed aside his defense of good faith and decided in such a way that mere presentation of the pertinent documents was sufficient to declare him to have acted with manifest partiality and evident bad faith.

Lastly, he immediately refunded subject amount upon his receipt of the COA's notice of disallowance.

On the other hand, the People of the Philippines, through the Office of the Ombudsman-Office of the Special Prosecutor defends the Sandiganbayan's verdict of conviction. In its Supplemental Brief,²⁴ the People counters:

First. The Sandiganbayan had jurisdiction since the crime charged was committed before the effectivity of RA 10660. Contrary to appellant's claim that the prosecution failed to prove the exact time he received the *honorarium*, appellant himself admitted in his memorandum that he received ₱17,512.50 in February 2015.

²³AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR.

²⁴ *Rollo*, pp. 123-148.

Second. All the elements of the crime of violation of Sec 3(e) of RA 3019 were sufficiently established. Appellant was then Municipal Mayor of Sibonga, Cebu when he, with manifest partiality, evident bad faith or gross inexcusable negligence, accepted *honoraria* from the PhilHealth's Capitation Fund despite the fact that he was not qualified to receive it. His unwarranted receipt thereof caused undue injury to the government.

Third. Appellant was not deprived of his right to present evidence. The Sandiganbayan merely adhered to the Revised Guidelines for Continuous Trial of Criminal Cases when it narrowed down the issues based on the parties' stipulations during the pre-trial. Thereafter, the Sandiganbayan deemed it proper to simply require the parties to submit their respective memoranda, to which the parties did not object.

Lastly. Restitution or refund of the *honorarium* does not exonerate appellant from criminal liability.

Threshold Issues

1. Did the Sandiganbayan have jurisdiction over the case?
2. Was appellant's right to due process violated?
3. Is appellant guilty of violation of Sec 3(e) of RA 3019?

Ruling

The Sandiganbayan correctly assumed jurisdiction over the case

The jurisdiction of the Sandiganbayan is outlined in Section 4 of PD 1606, as amended by Section 2 of RA 10660,²⁵ viz.:

SEC. 4. Jurisdiction. — The Sandiganbayan shall exercise exclusive original jurisdiction in all cases involving:

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:

xxx

xxx

xxx

²⁵ AN ACT STRENGTHENING FURTHER THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, FURTHER AMENDING PRESIDENTIAL DECREE NO. 1606, AS AMENDED, AND APPROPRIATING FUNDS THEREFOR. (Amendment to P.D. No. 1606 (Functional and Structural Organization of the Sandiganbayan), Republic Act No. 10660, April 16, 2015).

(b) **City mayors**, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads;

xxx

xxx

xxx

Provided, That the Regional Trial Court shall have exclusive original jurisdiction where the information: (a) does not allege any damage to the government or any bribery; or (b) **alleges damage to the government** or bribery arising from the same or closely related transactions or acts **in an amount not exceeding One million pesos (P1,000,000.00)**. (*Emphases supplied*)

Prior to its amendment, Section 4 of PD 1606 did not set a threshold amount of damage or damages allegedly suffered by the government which would vest the Sandiganbayan with jurisdiction over the offense. The amendment was introduced in RA 10660 which took effect on May 5, 2015.

Generally, the jurisdiction of a court to try a criminal case is determined at the time it was filed.²⁶ By way of exception, however, Section 5 of RA 10660 ordains:

SECTION 5. Transitory Provision. — This Act shall apply to all cases pending in the Sandiganbayan over which trial has not begun: *Provided, That:* (a) **Section 2, amending Section 4 of Presidential Decree No. 1606, as amended, on “Jurisdiction”**; and (b) Section 3, amending Section 5 of Presidential Decree No. 1606, as amended, on “Proceedings, How Conducted; Decision by Majority Vote” **shall apply to cases arising from offenses committed after the effectivity of this Act.** (*Emphases added*)

Verily, the amended jurisdiction of the Sandiganbayan only covers offenses committed only after RA 10660 took effect on May 5, 2015. This has already been settled in *Ampongan v. Sandiganbayan*,²⁷ viz.:

It is clear from the transitory provision of R.A. No. 10660 that the amendment introduced regarding the jurisdiction of the Sandiganbayan shall apply to cases arising from offenses committed after the effectivity of the law. Consequently, the new paragraph added by R.A. No. 10660 to Section 4 of Presidential Decree (P.D.) No. 1606, as amended, transferring the exclusive original jurisdiction to the RTC of cases where the information: (a) does not allege any damage to the government or any bribery; or (b) alleges damage to the government or bribery arising from the same or closely related transactions or acts in an amount not exceeding One million pesos, applies to cases which arose from offenses committed after the effectivity of R.A. No. 10660.

²⁶ See *People v. Sandiganbayan*, 613 Phil. 407, 419 (2009).

²⁷ G.R. Nos. 234670-71, August 14, 2019.

Here, the Information charged appellant with violating Section 3(e) of RA 3019 around February 2015. Appellant himself categorically admitted in his memorandum²⁸ that he received *honoraria* of ₱17,512.50 in February 2015. Thus, when the alleged crime was committed, RA 10660 had yet to take effect, hence, the same is inapplicable here.

Appellant was afforded his right to due process of law.

Too, appellant was afforded his right to due process of law. The following circumstances negate appellant's claim of due process violation:

First, appellant waived his right to question the proceedings before the Sandiganbayan. He did not raise this issue before the court below. In fact, by his own deliberate act, appellant voluntarily waived his right to present evidence. Per the minutes²⁹ of the session held by the Sandiganbayan Fourth Division dated August 31, 2018, the parties manifested they were no longer presenting their respective evidence, thus:

The parties upon conferring on their joint stipulation of facts manifested that they are ready to submit their joint stipulation/narration of facts, thus the pre-trial was declared terminated without prejudice to the issuance of a Pre-Trial Order by the Court. ***Upon manifestation of the parties that they are no longer presenting their respective evidence***, the parties were given 15 days, 1) from date for the prosecution to file its offer of exhibits; 2) the defense, from receipt of its copy of the prosecution's offer, to file its comment/opposition thereto, and upon resolution of the prosecution's offer by the Court; 3) for the defense to file its offer of exhibits, and lastly, 4) from receipt of copy, for the prosecution to file its comment or opposition thereto. The parties upon receipt of the Court's resolution on the accused's offer of exhibits were given 30 days within which to file their respective Memorandum. Thereafter, the case will be submitted for decision. By agreement of the parties, the promulgation of judgment was set on FEBRUARY 22, 201[9] at 1:30 P.M. (*Emphases added*).

At any rate, appellant still was able to formally offer his documentary exhibits.³⁰

Second, appellant actively participated in the proceedings before the Sandiganbayan as in fact he entered a plea of not guilty, entered into joint stipulation of facts, filed his memorandum, and formally offered his documentary exhibits. ***SSK Parts Corporation v. Camas***³¹ held that active

²⁸ Sandiganbayan Crim. Case No. SB-18-CRM-0010, record, pp. 287-293.

²⁹ *Id.* at 137.

³⁰ *Id.* at 262-263.

³¹ 260 Phil. 730-734 (1990).

participation³² in the proceedings *a quo* are all part and parcel of right to due process. As appellant had all the opportunities to be heard, he may not complain that he was denied due process.

Finally, Section 4, Rule 118 decrees that trial shall be limited to matters not disposed of during the pre-trial:

SECTION 4. Pre-trial Order. — After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, ***limit the trial to matters not disposed of***, and control the course of the action during the trial, unless modified by the court to prevent manifest injustice.³³ (*Emphasis supplied*)

The Revised Guidelines for Continuous Trial of Criminal Cases³⁴ ordains that proposals for stipulations shall be done with the active participation of the court itself and shall not be left alone to the counsel. Thus, the Sandiganbayan here endeavored to facilitate a joint stipulation of facts between the prosecution and the defense. As a result, the only remaining question left to be resolved was one of law -- whether appellant was entitled to *honorarium* from the PhilHealth's Capitation Fund.

Appellant did not act with manifest partiality, evident bad faith, and or inexcusable negligence when he received the honorarium

Appellant was charged with violation of Sec. 3(e) of RA 3019 otherwise known as the *Anti-Graft and Corrupt Practices Act*, viz.:

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:

xxx xxx xxx

(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.

xxx xxx xxx

³² *i.e.* by filing its answer to the complaint, presenting a position paper to the Regional Director, submitting evidence in support of its claim, and appealing the decision of the Regional Director to the Secretary of Labor.

³³ Revised Rules of Criminal Procedure, A.M. No. 00-5-03-SC, October 3, 2000.

³⁴ A.M. No. 15-06-10-SC, April 25, 2017.

To sustain a conviction for violation of Sec. 3(e) of RA 3019, the prosecution must sufficiently establish the following elements: (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, evident 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.³⁵

Here, the first and second elements are undisputed. Appellant was then Municipal Mayor of Sibonga, Cebu. He was performing his official functions when he certified Obligation Request No. 0499-02-15-300 for the payment of the twenty percent (20%) PhilHealth *honoraria* in 2015.

We focus on the third element.

A violation of Section 3(e) of RA 3019 may be committed in three (3) ways, *i.e.*, through manifest partiality, evident bad faith or gross inexcusable negligence. Proof of any of these three (3) in connection with the prohibited acts mentioned in Section 3(e) is enough to convict.³⁶ *Fonacier v. Sandiganbayan*³⁷ expounded on the different modes of committing the offense penalized under Section 3(e), *viz.*:

“**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 wilfully 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.” These definitions prove all too well that the three modes are distinct and different from each other. Proof of the existence of *any* of these modes in connection with the prohibited acts under Section 3(e) should suffice to warrant conviction. (*Emphases supplied*).

Here, appellant allegedly violated Section 3(e) when he, with manifest partiality, evident bad faith, and/or gross inexcusable negligence, received ₱17,512.50 from the PhilHealth Capitation Fund as *honorarium* despite his alleged non-entitlement thereto.

Section V (G) of PhilHealth Circular No. 010 s. 2012 provides the disposition and allocation of the PhilHealth *honoraria* as follows:

³⁵ See *Sabio v. Sandiganbayan (First Division)*, G.R. Nos. 233853-54, July 15, 2019.

³⁶ See *Sison v. People*, 628 Phil. 573, 583 (2010).

³⁷ 308 Phil. 660, 693-694 (1994).

2. The remaining twenty percent (20%) shall be exclusively utilized as honoraria of the staff of the PCB facility and for the improvement of their capabilities as would enable them to provide better health services:

- a. Ten percent (10%) for the physician;
- b. Five percent (5%) for other health professional staff of the facility; and
- c. ***Five percent (5%) for non-health professionals/staff***, including volunteers and community members of health teams (e.g., Women's Health Team, Community Health Team). (*Emphases added*)

Hence, five percent (5%) of the total PhilHealth *honoraria* was allocated to the non - health professionals OR staff of the PCB Provider. As to who these non-health or professionals mentioned, they were not specifically identified. The rule does not expressly indicate whether they need be part of the official roll of employees of the Municipal Health Office.

Non-health professionals include the rank and file employees or administrative staff of the Municipal Health Office who are not among the front liners providing access to health care. It also covers volunteers and community members of health teams. This led appellant to honestly believed, albeit mistakenly, that the office of the municipal mayor which exercises control and supervision over the Municipal Health Office and its personnel, may likewise be covered by the term "non-health professional." Consequently, he acted in good faith when he received the ₱17,512.50 honorarium, anchored as it was on the honest belief that he was legally entitled to the benefit.³⁸ Otherwise stated, appellant did not act in bad faith when he mistakenly interpreted Section V (G) of PhilHealth Circular No. 010 s. 2012.

At any rate, bad faith *per se* is not enough for one to be held criminally liable for violation of Section 3(e) of RA 3019; bad faith must be evident. It must partake the nature of fraud. It contemplates a state of mind affirmatively operating with furtive design or some motive or ill will for ulterior purposes.³⁹ In short, it is a manifest deliberate intent on the part of the accused to do wrong or to cause damage⁴⁰ unlike here.

In *Ysidoro v. Leonardo-De Castro*,⁴¹ the Court decreed that an erroneous interpretation of a provision of law, absent any showing of some dishonest or wrongful purpose, does not constitute and does not necessarily amount to bad faith.

Neither could appellant's receipt of the *honorarium* amount to manifest partiality. There is manifest partiality when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another.⁴² Appellant could not have been predisposed to favor himself when his basis

³⁸ See *Silang v. Commission on Audit*, 769 Phil. 327, 348 (2015).

³⁹ See *Antonino v. Hon. Ombudsman Desierto, et al.*, 595 Phil. 18, 42 (2008).

⁴⁰ See *Republic of the Philippines v. Hon. Desierto*, 516 Phil. 509, 516 (2006).

⁴¹ See 681 Phil. 1, 19 (2012).

⁴² See *Albert v. Sandiganbayan*, 599 Phil. 439, 450 (2009).

for his receipt of the *honorarium* was his honest belief of his entitlement thereto.

Lastly, appellant did not act with gross inexcusable negligence. Gross inexcusable negligence 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.⁴³ Here, gross inexcusable negligence cannot be imputed on appellant for his erroneous interpretation of the provision of the law. He did not carve out from empty space his supposed entitlement thereto because he had legal basis, albeit, it was a mistaken interpretation of Section V (G) of PhilHealth Circular No. 010 s. 2012.

In *Ysidoro*,⁴⁴ the Court upheld Mayor Ysidoro's acquittal of violation of Section 3(e) of RA 3019 for the prosecution's failure to discharge its burden of proving that Ysidoro acted in bad faith and the presence of the exculpatory proof of good faith. There, Mayor Ysidoro ordered the deletion of private complainant's name in the payroll for RATA and productivity pay. In acquitting him, the Court held that the presence of badges⁴⁵ of good faith on the part of Mayor Ysidoro negated his alleged bad faith.

Lastly, appellant's subsequent restitution of the *honorarium* upon receipt of the COA notice of disallowance all the more bolsters his claim of good faith. In *Zamboanga City Water District v. Commission on Audit*,⁴⁶ the Court held that lack of knowledge of a similar ruling by this Court prohibiting a particular disbursement is a badge of good faith.

All told, appellant is acquitted for two (2) reasons, **one**, absence of the third element on the modes of committing the offense under Sec. 3(e) of RA 3019, and **two**, the exculpatory proof of good faith.

ACCORDINGLY, the appeal is **GRANTED** and the Decision⁴⁷ dated May 17, 2019 of the Sandiganbayan in SB-18-CRM-0010, **REVERSED** and **SET ASIDE**.

Appellant **Lionel Echavez Bacaltos** is **ACQUITTED** of violation of Sec. 3(e) of RA 3019. Let the corresponding entry of final judgment be immediately issued.

⁴³ *Id.*

⁴⁴ *Supra* note 41.

⁴⁵ First, the investigation of the alleged anomalies by Ysidoro was corroborated by the physical transfer of Doller and her subordinates to the Office of the Mayor and the prohibition against outside travel imposed on Doller. Second, the existence of the Ombudsman's cases against Doller. And third, Ysidoro's act of seeking an opinion from the COA Auditor on the proper interpretation of Section 317 of the Government Accounting and Auditing Manual before he withheld the RATA.

⁴⁶ 779 Phil. 225 (2016).

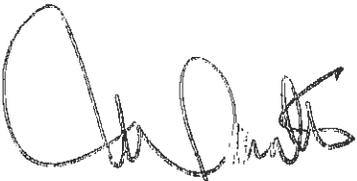
⁴⁷ *Rollo*, pp. 5-19.

SO ORDERED.



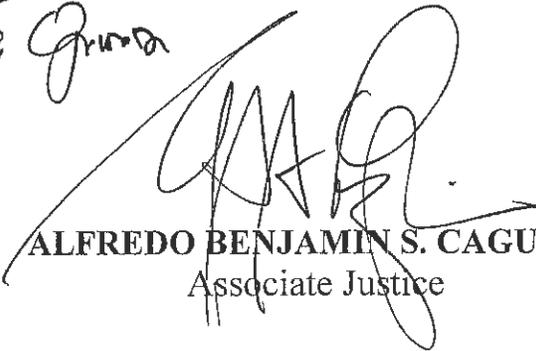
AMY C. LAZARO-JAVIER
Associate Justice

WE CONCUR:

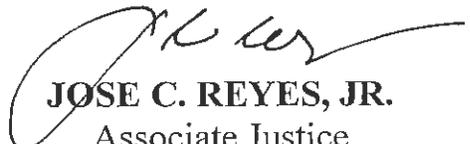


DIOSDADO M. PERALTA
Chief Justice
Chairperson

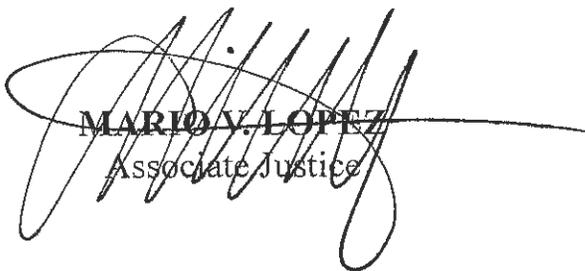
Please see concurring opinion



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



JOSE C. REYES, JR.
Associate Justice



MARIO V. LOPEZ
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.



DIOSDADO M. PERALTA
Chief Justice