



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

PEOPLE OF THE G.R. No. 246942  
PHILIPPINES,  
*Plaintiff-Appellee,*

- versus -

JOSEPHINE ANGSICO,  
VIRGILIO V. DACALOS,  
FELICISIMO F. LAZARTE, JR.,  
JOSEPHINE T. ESPINOSA, and  
NOEL A. LOBRIDO, *Accused;*  
JOSEPHINE CASENAS-  
HOTTLE (formerly ANGSICO),  
VIRGILIO V. DACALOS,  
FELICISIMO F. LAZARTE, JR.,  
and NOEL A. LOBRIDO,  
*Accused-Appellants.*

X-----X

PEOPLE OF THE G.R. No. 248916  
PHILIPPINES,  
*Plaintiff-Appellee,*

Present:

- versus -

JOSEPHINE ANGSICO,  
ROBERT BALAO, VIRGILIO  
V. DACALOS, FELICISIMO F.  
LAZARTE, JR., JOSEPHINE T.  
ESPINOSA, NOEL A.  
LGBRIDO, and JOSE M. CRUZ,  
*Accused;* JOSEPHINE T.  
ESPINOSA,  
*Accused-Appellant.*

LEONEN, S.A.J., Chairperson,  
LAZARO-JAVIER,  
LOPEZ, M.,  
LOPEZ, J., and  
KHO, JR., JJ.

Promulgated:

AUG 14 2023

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**DECISION****KHO, JR., J.:**

Before the Court are consolidated ordinary appeals<sup>1</sup> filed by accused-appellants Josephine Casenas-Hottle (formerly, Angsico [Angsico]), Virgilio V. Dacalos (Dacalos), Felicisimo F. Lazarte, Jr. (Lazarte), Noel A. Lobrido (Lobrido), and Josephine T. Espinosa (Espinosa; collectively, accused-appellants) assailing the Decision<sup>2</sup> dated December 7, 2018 and the Resolution<sup>3</sup> dated March 28, 2019 of the Sandiganbayan in **Crim. Case No. 26584** finding accused-appellants guilty beyond reasonable doubt of the crime of violation of Section 3(e) of Republic Act No. 3019, entitled the *Anti-Graft and Corrupt Practices Act*, as amended.

**The Facts**

This case stemmed from an Information filed before the Sandiganbayan charging accused-appellants, together with Robert P. Balao (Balao) and Jose M. Cruz (Cruz) with the aforesaid crime, the accusatory portion of which reads:<sup>4</sup>

That in or about the month of September 1992, at Bacolod City, Province of Negros Occidental, Philippines and within the jurisdiction of this Honorable Court, above-named accused ROBERT P. BALAO, JOSEPHINE ANGSICO, VIRGILIO V. DACALOS, FELICISIMO F. LAZARTE, JR., JOSEPHINE T. ESPINOSA[,] and NOEL A. LOBRIDO, public officers, being the General Manager, Visayas Mgt. Office Division Manager (Visayas), Manager, [Regional Project Development (RPD)], Proj. Mgt. Officer A[,] and Supervising Engineer, respectively of the National Housing Authority, Diliman, Quezon City, in such capacity and committing the offense in relation to office and while in the performance of their official functions, conniving, confederating[,] and mutually helping with each other and with accused Jose M. Cruz, a private individual and President of Triad Construction and Development Corporation, with address at Ben-lor Bldg., Quezon Ave., Quezon City, with deliberate intent, with manifest partiality and evident bad faith, did then and there willfully, unlawfully[,] and feloniously cause to be paid, to Triad Construction and Development Corporation public funds in the amounts of ONE MILLION TWO HUNDRED EIGHTY THOUSAND NINE HUNDRED SIXTY FOUR PESOS AND TWENTY CENTAVOS (P1,280,964.20) PHILIPPINE CURRENCY, supposedly for the final work accomplishment

<sup>1</sup> See Notice of Appeal dated April 30, 2019 (for Angsico, Dacalos, and Lazarte), *rollo* (G.R. No. 246942), p. 46; Notice of Appeal dated April 16, 2019 (for Lobrido), *id.* at 47-48; and Notice of Appeal dated September 2, 2019 (for Espinosa), *rollo* (G.R. No. 248916), pp. 47-48.

<sup>2</sup> *Rollo* (G.R. No. 246942), pp. 4-45. Penned by Associate Justice Lorifel L. Pahimna and concurred in by Chairperson Oscar C. Herrera, Jr. and Associate Justice Michael Frederick L. Musngi of the Second Division, Sandiganbayan, Quezon City.

<sup>3</sup> *Rollo* (G.R. No. 248916), pp. 163-165. Penned by Associate Justice Lorifel L. Pahimna and concurred in by Chairperson Oscar C. Herrera, Jr., and Associate Justices Georgina D. Hidalgo and Ronald B. Moreno; Associate Justice Michael Frederick L. Musngi, dissenting.

<sup>4</sup> *Rollo* (G.R. No. 246942), p. 5.

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of Triad construction on the Pahanocoy Sites and Services Project in Bacolod City despite the fact that the Final Quantification of the Actual Work Accomplishment on the said Project amounted to THREE HUNDRED THIRTY THOUSAND SEVENTY FIVE PESOS AND SEVENTY SIX CENTAVOS (P330,075.76) as revealed by the Special Audit conducted by the Commission on Audit, thus accused public officials in the performance of their official functions had given unwarranted benefits, advantage[,] and preference to Jose M. Cruz and Triad Construction and Development Corp and themselves, to the damage and prejudice of the Government.<sup>5</sup>

When arraigned, all accused pleaded not guilty. However, during the pendency of the case, Balao and Cruz died, and consequently, the Sandiganbayan dismissed the criminal cases against them.<sup>6</sup>

As culled from the records, in 1990, the National Housing Authority (NHA) originally awarded the contract for the construction of the Pahanocoy Sites and Services Project Phase I (Pahanocoy Project) to A.C. Cruz Construction (A.C. Cruz) for a contract price of PHP 7,686,507.55, which was subsequently increased to PHP 8,397,225.09. After A.C. Cruz had started construction work on the Pahanocoy Project and was able to receive a total of PHP 4,013,582.97 representing the advance payment and three progress billings, the contract was rescinded on May 20, 1991 due to various unreasonable delays. On August 12, 1991, an inventory was conducted by an Inventory and Acceptance Committee at the Pahanocoy Project, which determined that A.C. Cruz was able to finish 40% thereof quantified at PHP 3,433,713.10, and that the remaining works of 59.11% still amounted to PHP 4,963,511.99.<sup>7</sup>

On March 17, 1992, this unfinished portion was then awarded to Triad Construction and Development Corporation (Triad) at a contract price of PHP 9,554,837.32. After the completion of the project and final payment of NHA to Triad, NHA's former project engineer for the Pahanocoy Project, Engr. Candido M. Fajutag, Jr. (Engr. Fajutag), exposed alleged various irregularities in said Project. This prompted the Commission on Audit (COA) to create a Special Audit Team to conduct an inspection of the Pahanocoy Project as well as an audit investigation on the supporting documents relative to its implementation.<sup>8</sup>

The COA's Special Audit Team confirmed the presence of irregularities, which include:

*First*, pursuant to COA Circular No. 87-267-A dated March 26, 1987, the COA pegged the allowable price escalation rate (APER) to 52.50%

<sup>5</sup> *Id.*

<sup>6</sup> *Rollo* (G.R. No. 246942) pp. 5-8.

<sup>7</sup> *Id.* at 34-35.

<sup>8</sup> *Id.* at 35-36.

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multiplied by the remaining balance of the original contract price of PHP 4,963,511.99 for the unfinished portion. This APER, which then amounted to PHP 2,605,843.79, shall then be added to the remaining balance of the original contract price of PHP 4,963,511.99, which shall then yield the value of PHP 7,569,355.78—which in turn, should have been the Ceiling Contract Price with Price Escalation for the contract for the unfinished portion of the Pahanocoy Project awarded to Triad. However, by awarding a contract price to Triad valued at PHP 9,554,837.32—and thereafter, valuing Triad's total quantification of accomplishment at PHP 10,024,970.79 and paying it such amount—the total payment made to Triad *exceeded* the aforementioned Ceiling Contract Price with Price Escalation (i.e., PHP 7,569,355.78) by PHP 2,455,615.01.<sup>9</sup> Under the aforesaid COA Circular No. 87-267-A, such payment of excess should have been made with the prior approval of the President, but here, no such prior approval was obtained.<sup>10</sup>

*Second*, there appeared to be two prepared abstracts of physical accomplishment insofar as the Triad contract is concerned, to wit:<sup>11</sup>

	First Abstract of Physical Accomplishment (First Abstract)	Second Abstract of Physical Accomplishment (Second Abstract)
Original cost per contract	₱9,554,837.32	₱9,554,837.32
Quantity overrun/ underrun	₱541,449.98	₱470,133.47
Less previous payments	₱8,662,242.92	₱8,662,242.92
Total billing	₱351,144.42	₱1,362,727.87
Less 5% retention tax withheld	₱21,068.66	₱81,763.67
Net amount due	₱330,075.76	₱1,280,964.20
Submitted for payment by	Mr. Jose M. Cruz President[,] TRIAD	Mildred Cruz
Checked by	Noel Lobrido Supervising Engineer	Noel Lobrido Supervising Engineer
Certified by	Josephine Espinosa Project Management Officer-A	Josephine Espinosa Project Management Officer-A
Concurred by	Not signed by Virgilio Dacalos, Visayas Division Manager	Virgilio Dacalos[,] Visayas Division Manager
Recommended for approval	Not signed by Felicisimo Lazarte, Jr. [,] Manager, RPD	Josephine Angsico Team Head, Visayas [M]anagement Office
Period of Completion per Certificate of Completion	March 28, 1992 to May 1, 1992	March 28, 1992 to March 31, 1992

<sup>9</sup> Computed as follows: actual payment made to Triad (PHP 10,024,970.79) less the Ceiling Contract Price with Price Escalation (PHP 7,569,355.78).

<sup>10</sup> *Rollo* (G.R. No. 246942), pp. 35-36.

<sup>11</sup> *Id.* at 36-37.

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and Abstract of Physical Accomplishment		
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The second highlighted irregularity then became the basis of the criminal case subject of this case.

During trial, the prosecution presented the testimonies of Engr. Fajutag; Atty. Shiela U. Villa, the Regional Cluster Director assigned to Local Government Sector of COA Regional Office No. VI (COA-RO VI); and Engr. Rosalie Molo Sales, the Senior Technical Property Inspector stationed at COA-RO VI. Essentially, their collective testimonies tend to prove the following: (a) Engr. Fajutag was the Project Engineer of the Pahanocoy Project but was pulled out therefrom when he refused to sign the fourth billing in Triad's favor because it called for purported extra works amounting to PHP 700,000.00++ when in fact, and as observed in the project site, these extra works were non-existent; (b) the final billing for Triad (as seen in the First and Second Abstracts) had been altered without the required variation order; and (c) the contract awarded to Triad did not specify the items of civil works to be accomplished, only settling for general terms, such as road works, drainage works, water works, and sewerage.<sup>12</sup>

After the prosecution concluded its presentation of evidence, accused-appellants with Balao all filed their respective demurrers to evidence, all of which were denied by the Sandiganbayan through Resolutions dated January 29, 2008 and February 18, 2010. Aggrieved, they filed separate Rule 65 Petitions for *Certiorari* before the Court.<sup>13</sup> However, in a Decision<sup>14</sup> dated March 4, 2020, the Court, through Justice Marvic M.V.F. Leonen, denied said petitions and affirmed the Sandiganbayan's denial of the demurrers to evidence.

Meanwhile, trial continued, with accused-appellants presenting their respective defenses, all essentially maintaining that the additional payments to Triad were above board.

As for Espinosa, she admitted to being the project manager of the Pahanocoy Project who was tasked to oversee its implementation, including monitoring the engineers, collating reports, evaluating and reviewing recommendations of project engineers and other staff, signing documents, and overseeing the activities, targets, accomplishments, and other programs of the NHA. According to her, the amount of PHP 330,075.76 actually represents the unpaid balance of Triad's contract, but the First Abstract was not processed at the NHA Main Office, because it was determined that Triad took

<sup>12</sup> *Id.* at 8-17.

<sup>13</sup> *Id.* at 7-8.

<sup>14</sup> See *Espinosa v. Sandiganbayan*, G.R. No. 191834, March 4, 2020 [Third Division].

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on additional works which the previous contractor, A.C. Cruz, left behind, thereby justifying the increase of the unpaid balance to PHP 1,280,964.20.<sup>15</sup>

For his part, Lobrido, the contractual project engineer of the Pahanocoy Project, corroborated Espinosa's testimony by testifying that the amount stated in the Second Abstract best reflects the total works performed by Triad in the Pahanocoy Project, as it included additional works which should have been undertaken by the previous contractor. However, on re-cross examination, Lobrido admitted that whenever there are additional works to be undertaken in a project, there should first be a contract variation order that operates as the authority for the contractor to perform such additional works. However, there was no such contract variation order issued to Triad.<sup>16</sup>

In his testimony, Dacalos—the division manager of the Visayas Division, RPD, NHA Main Office who is tasked for the overall planning, development, monitoring, and directing all project operations in the Visayas region—admitted to the existence of the First and Second Abstracts, but claimed that the former did not include the additional works made by Triad, all of which were left behind by A.C. Cruz. Notably, Dacalos explained that ordinarily, there should have been a contract variation order in the form of an Extra Work Order to authorize Triad to perform said additional works. However, time was of the essence as the NHA was trying to beat the deadline imposed by the World Bank; otherwise the funding for the Pahanocoy Project would not be released by the latter, which would then result in the loss of 70% of the funding for such project. As such, they allowed Triad to proceed with the aforesaid additional works.<sup>17</sup>

For her part, Angsico testified that when she assumed the position of Visayas Management Office Division Manager of the NHA, the Pahanocoy Project had already been fully implemented, and that all that was left to do was to sign the final billing in favor of Triad. According to her, she was not aware of the existence of the First Abstract and that it was only the Second Abstract that she signed. She also pointed out that the Second Abstract had been prepared by the contractor, checked by the supervising engineer, confirmed by the project manager at the project office level, and then revised at the main office and concurred by the division manager before it reached her for her signature.<sup>18</sup>

Finally, Lazarte admitted that as then RPD manager of the NHA, he was in charge of the overall implementation and supervision of all regional projects within the Philippines except for those in the National Capital Region, and that included the Pahanocoy Project. He admitted that in such capacity, he was aware of the rescission of A.C. Cruz's contract and the award of the

<sup>15</sup> *Roilo* (G.R. No. 246942), pp. 17–20.

<sup>16</sup> *Id.* at 20–22.

<sup>17</sup> *Id.* at 22–28.

<sup>18</sup> *Id.* at 28–30.

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remaining works to Triad. However, he denied signing any of the Abstracts, contending that Dacalos, as the designated officer-in-charge for Visayas, was allowed to sign for and on his behalf.<sup>19</sup>

### The Sandiganbayan Ruling

In a Decision<sup>20</sup> dated December 7, 2018, the Sandiganbayan found accused-appellants guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019. Accordingly, it sentenced them to suffer the penalties of imprisonment for an indeterminate period of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, and perpetual disqualification from public office.<sup>21</sup>

The Sandiganbayan found that all the elements of the crime charged are present, considering that: *First*, accused-appellants were all public officers at the time relevant to this case, occupying various positions in the NHA, and the acts complained of relate to their official duties. *Second*, they exhibited manifest partiality and evident bad faith when they: (a) violated COA Circular No. 87-267-A when they awarded to Triad a contract for the remaining works in the Pahanocoy Project which exceeded the allowable escalation price by PHP 2,455,615.01 and such payment was made without prior approval of the President; and (b) they allowed Triad to proceed to take on the purported “back jobs” of A.C. Cruz without it being included in the contract of Triad, and without the required contract variation order. *Third*, the foregoing resulted in the payment of NHA to Triad a bloated amount of PHP 1,280,964.20, thereby giving unwarranted benefits to Triad and causing undue prejudice to the government. In this relation, the Sandiganbayan found the presence of conspiracy among accused-appellants in executing the Second Abstract which supposedly justified an increase in payment made to Triad when it was not clearly established that the latter indeed accomplished such additional works or if there was any such additional work to begin with. In light of the foregoing, the Sandiganbayan concluded that accused-appellants' acts in processing the Second Abstract without even verifying its veracity are clearly guilty of the crime charged.<sup>22</sup>

Dissatisfied, accused-appellants moved for reconsideration,<sup>23</sup> which was denied in a Resolution<sup>24</sup> dated March 28, 2019; hence, the instant consolidated appeals.<sup>25</sup>

<sup>19</sup> *Id.* at 30-32.

<sup>20</sup> *Id.* at 4-45.

<sup>21</sup> *Id.* at 45.

<sup>22</sup> *Id.* at 36-44.

<sup>23</sup> Not attached to the *rollo*.

<sup>24</sup> *Rollo* (G.R. No. 248916), pp. 163-165.

<sup>25</sup> *Supra* note 1

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### The Issue Before the Court

The core issue for the Court's resolution is whether accused-appellants are guilty beyond reasonable doubt of the crime of violation of Section 3(e) of Republic Act No. 3019.

### The Court's Ruling

The appeal is without merit as regards Angsico, Dacalos, Lobrido, and Espinosa, but meritorious with respect to Lazarte.

#### I.

Prefatorily, the Court notes the pronouncement in *Villarosa v. People*,<sup>26</sup> wherein the Court, through Chief Justice Diosdado M. Peralta, set a policy on resolving appeals involving convictions handed down by the Sandiganbayan, to wit:

On July 17, 2018, this Court issued a Resolution which reinstated the instant petition. In the said Resolution, this Court noted that if an accused in a case decided by the SB, which completely disposes of the case, whether in the exercise of its original or appellate jurisdiction, chooses to question such decision of the SB, the legal recourse he/she has is to file a petition for review on *certiorari* with this Court under Rule 45 of the Rules of Court. However, this Court has observed that, in a number of cases, petitions for review of decisions of the SB were adjudicated via minute resolutions. While the disposition of cases through minute resolutions is an exercise of judicial discretion and constitutes sound and valid judicial practice under the Constitution, settled jurisprudence and the prevailing rules, this Court found it a better policy to limit the issuance of minute resolutions denying due course to a Rule 45 petition, which assails a decision of the SB, to cases decided by the said court in the exercise of its appellate jurisdiction. **Thus, with respect to cases resolved by the SB in the exercise of its original jurisdiction, the mode of deciding the case is either through a decision or unsigned resolution. The reason behind this policy is because this Court is the first and last court which has the chance to review the factual findings and legal conclusions of the SB. Thus, by disposing of the case through a decision or unsigned resolution, this Court is required to take a "more than casual consideration" of the arguments raised by the appellant to support his cause as well as every circumstance which might prove his innocence.** Moreover, by virtue of the unique nature of an appeal in a criminal case, such appeal throws the whole case open for review in all its aspects. An examination of the entire records of the case may be made for the purpose of arriving at a correct conclusion. In doing so, the Court is always mindful of the precept that the evidence for the prosecution must stand or fall on its own weight and cannot be allowed to draw strength from the weakness of the defense.<sup>27</sup> (Emphasis and underscoring supplied)

<sup>26</sup> G.R. Nos. 233155-63, June 23, 2020 [*En Banc*].

<sup>27</sup> *Id.*

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Since what is assailed here is a conviction ruling of the Sandiganbayan issued in the exercise of its original jurisdiction, the Court now resolves the instant Petition through this Decision.

## II.

It must be stressed that in criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.<sup>28</sup>

Guided by this consideration, the Court affirms the conviction of Angsico, Dacalos, Lobrido, and Espinosa, but acquits Lazarte on reasonable doubt, as will be explained hereunder.

## III.

Section 3(e) of Republic Act No. 3019 reads:

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:

.....

(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.

The elements of violation of Section 3 (e) of Republic Act No. 3019 are as follows: (1) that the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers); (2) that he or she acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and (3) that his

<sup>28</sup> *People v. Bernardo*, G.R. No. 242696, November 11, 2020 [Per J. Perlas-Bernabe, Second Division], citing *Arambulo v. People*, 857 Phil. 828, 836 (2019) [Per J. Perlas-Bernabe, Second Division].

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or her action caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his or her functions.<sup>29</sup>

As to the first element, it is undisputed that at the time of the commission of the acts complained of, accused-appellants were occupying different positions in the NHA—i.e., Angsico as Visayas Management Office division manager; Dacalos as division manager of the Visayas Division, RPD; Espinosa as project manager; Lobrido as contractual project engineer; and Lazarte as RPD manager, respectively.

As to the second element, case law instructs that there are three means of committing the crime charged—i.e., through manifest partiality, evident bad faith, or gross inexcusable negligence—and proof of any of these in connection with the prohibited acts under Section 3(e) of Republic Act No. 3019 is enough to convict.<sup>30</sup> In *People v. Naciongayo*,<sup>31</sup> the Court, through Justice Estela M. Perlas-Bernabe, reiterated the definition of these means as follows:

“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 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.”<sup>32</sup>

In this case, the Sandiganbayan correctly ruled that there were acts of manifest partiality and evident bad faith in making it appear that the former contractor, A.C. Cruz, left some “back jobs” in the Pahanocoy Project, and that Triad needed to conduct additional works in order to finish the same, in addition to the works indicated in the contract awarded to it. Naturally, Triad’s performance of “additional works” would result in the NHA paying Triad an amount more than what is indicated in the latter’s contract.

However, and as the Sandiganbayan pointed out, “not even one single defense witness could provide real proof of discovered deficiencies and

<sup>29</sup> *People v. Naciongayo*, G.R. No. 243897, June 8, 2020 [Per J. Perlas-Bernabe, Second Division], citing *Cambe v. Ombudsman*, 802 Phil. 190, 216–217 (2016) [Per J. Perlas-Bernabe, *En Banc*].

<sup>30</sup> *People v. Naciongayo*, G.R. No. 243897, June 8, 2020 [Per J. Perlas-Bernabe, Second Division], citing *Coloma, Jr. v. Sandiganbayan*, 744 Phil. 214, 229 (2014) [Per J. Mendoza, Second Division].

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

additional work accomplished.”<sup>33</sup> In this relation, the Court deems it significant to point out that after the contract with A.C. Cruz was rescinded and before the award of the new contract to Triad was made, an Inventory and Acceptance Committee conducted an official inventory of the Pahaconoy Project, which determined that A.C. Cruz was able to finish 40% thereof quantified at PHP 3,433,713.10, and that the remaining works of 59.11% still amounted to PHP 4,963,511.99.<sup>34</sup> The Court is thus hard-pressed to believe that this official inventory conducted by no less than NHA officials and personnel inadvertently missed out on the “back jobs” that accused-appellants were pertaining to in their respective defenses, thereby leading to the reasonable deduction that these “back jobs” are of doubtful existence.

Assuming *arguendo* that such “back jobs” exist, there is still manifest partiality and evident bad faith in that Triad was allowed to perform the purported additional works even without a contract variation order that would have allowed it to do so. In this regard, no less than Dacalos testified during cross-examination as to the proper procedure before a contractor may perform additional works not stated in its contract, to wit:

Q: . . . So, I would like to be educated on the procedure. If the contractor finds a deficiency, or discovered a deficiency which is not actually part of his contract, that is going to meet an extra work. Is that correct, engineer?

A: Ordinarily, yes.

Q: Yes, and that deficiency should be documented. Do you agree with me?

A: Ordinarily, yes.

Q: Ordinarily, yes, and documented means it should be reported upon discovery. Do you agree, upon discovery, it should be reported to the Project Manager?

A: That's the procedure, ma'am.

Q: And the contractor should give notice to the project office that these items of work or deficiencies were discovered on this date. Ordinarily, that should be done, Engineer?

A: Yes ma'am.

Q: And then, the project office, after receiving the communication, the deficiencies were discovered, should communicate to NHA main about the discovered deficiencies. Correct?

A: That is based on normal condition. Ordinarily, yes.<sup>35</sup>

Verily, Dacalos—together with Espinosa and Lobrido as may be gleaned in their respective testimonies—essentially admit that a contract variation order is a basic requirement before additional works not indicated in

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<sup>33</sup> *Rollo* (G.R. No. 246942), p. 37.

<sup>34</sup> *Id.* at 35.

<sup>35</sup> *See id.* at 40.

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the contract may be performed by a contractor.<sup>36</sup> Here, no such contract variation order was issued.

Notably, in an attempt to justify the non-issuance of any contract variation order, Dacalos claimed that there was a “state of emergency,” particularly, that they had to move fast in order to meet the deadline imposed by the World Bank; otherwise, the funding for the Pahanocoy Project will not be released by the latter, which would then result in the loss of 70% of the funding for such project.<sup>37</sup> However, and as aptly pointed out by the Sandiganbayan, if there was indeed a “state of emergency” as accused-appellants wanted to make it appear, then they would have almost immediately made it a point to find a new contractor after the NHA rescinded its contract with A.C. Cruz. However, it took them almost 10 months—or from May 20, 1991 when the A.C. Cruz contract was rescinded, to March 17, 1992 when the Triad contract was awarded—for them to find a new contractor; worse, no public bidding was conducted before the new contract was awarded to Triad.<sup>38</sup>

Anent the third and last element, jurisprudence provides that “there are two ways by which a public official violates Section 3 (e) of [RA] 3019 in the performance of his functions, namely: (1) by causing undue injury to any party, including the Government; or (2) by giving any private party any unwarranted benefit, advantage or preference. The accused may be charged under either mode or both. The disjunctive term ‘or’ connotes that either act qualifies as a violation of Section 3 (e) of [RA] 3019. In other words, the presence of one would suffice for conviction.”<sup>39</sup> Here, suffice it to say that the foregoing acts not only gave unwarranted benefits to Triad in the form of the additional payments the NHA made to Triad, but they also caused the government undue injury in the form of such additional payments.

#### IV.

The existence of all the elements of Republic Act No. 3019 having been established, the Court now proceeds to determine the liabilities of each of the accused-appellants. In this regard, it bears reiterating that the acts subject of **Crim. Case No. 26584** involve the overpayment made to Triad which was brought about by the accomplishment of two Abstracts of Physical accomplishments: the First Abstract showing that the net amount due to Triad is only PHP 330,075.76; whereas the Second Abstract showing that such net amount should be PHP 1,280,964.20, with the increase being supposedly justified by the additional works that Triad undertook. It was then the Second Abstract which became the basis of the final payment made to Triad. As

<sup>36</sup> See *id.* at 59.

<sup>37</sup> See *id.* at 22–28.

<sup>38</sup> See *id.* at 42.

<sup>39</sup> *People v. Naciongayo*, G.R. No. 243897, June 8, 2020 [Per J. Perlas-Bernabe, Second Division], citing *Coloma, Jr. v. Sandiganbayan*, 744 Phil. 214, 231–232 (2014) [Per J. Mendoza, Second Division].

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stated, it behooves the Court to determine the complicity of each of the accused-appellants in these acts.

As regards Dacalos, Espinosa, and Lobrido, suffice it to say that they knew all along that a contract variation order was required before Triad may be allowed to undertake additional works. Despite such knowledge, they approved the Second Abstract as evinced by their signatures thereon. Hence, their complicity in the questioned act is established beyond reasonable doubt.

For Angsico, she attempts to absolve herself from liability by claiming, *inter alia*, that when the Second Abstract and its attachments were submitted to her for signature, these were already prepared by the contractor, checked by the supervising engineer, confirmed by the project manager at the project office level, and then revised at the main office and concurred in by the division manager before reaching her for her signature.<sup>40</sup> To the Court, she ostensibly appears to invoke the doctrine enunciated in *Arias v. Sandiganbayan*<sup>41</sup> which essentially instructs that heads of offices may, in good faith, rely to a certain extent on their subordinates, in recognition of the fact that such heads cannot be expected to examine every single document relative to government transactions (*Arias* doctrine).

However, the Court finds that the *Arias* doctrine cannot be applied insofar as Angsico is concerned. In a catena of cases, the Court had already clarified that the *Arias* doctrine cannot exonerate a government official from criminal liability if there are circumstances that should have prompted the concerned government official to make further inquiries on the transactions subject of the case.<sup>42</sup> Here, the prosecution aptly pointed out that: (a) attached to the Second Abstract that Angsico approved included tests, as-built plans, and pictures, but no details relating thereto; (b) before she signed the documents, she was able to have discussions with, among others, Dacalos about the Pahanocoy Project, and in that discussion, learned about the rescinded A.C. Cruz contract, the award of the Triad contract, the supposed overruns which are normal in construction practice, and the reason/s for variance; and (c) Angsico admitted that she did not see any contract variation order to justify the supposed variances which prompted Triad to purportedly perform additional works that necessitate additional payments. To the Court, these circumstances should have already put Angsico on guard as to any possible irregularities attending the Second Abstract. However, instead of making further inquiries to make sure that the documents submitted to her were all complete and above board, she merely relied on the signatures of her

<sup>40</sup> *Id.* at 28–30.

<sup>41</sup> 259 Phil. 194 (1985) [Per J. Gutierrez, Jr., *En Banc*].

<sup>42</sup> See *Abubakar v. People*, 834 Phil. 435 (2018) [Per J. Leonen, Third Division]; *Ombudsman v. Espina*, 840 Phil. 11 (2017) [*Per Curiam*]; *Ombudsman v. Delos Reyes*, 745 Phil. 366 (2014) [Per J. Leonen, Second Division]; *Cesà v. Ombudsman*, 576 Phil. 345 (2008) [Per J. Quisumbing, *En Banc*]; *Alfonso v. Office of the President*, 548 Phil. 615 (2007) [Per J. Carpio Morales, Second Division]; *Escara v. People*, 501 Phil. 532 (2005) [Per J. Ynares-Santiago, First Division].

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subordinates. Verily, the foregoing puts Angsico on an equal footing as Dacalos, Espinosa, and Lobrido.

On the other hand, with respect to Lazarte, while he admitted to being the then RPD Manager of the NHA who was in charge of the overall implementation and supervision of, *inter alia*, the Pahanocoy Project, the evidence on record does not establish beyond reasonable doubt his complicity in executing the Second Abstract that resulted in the overpayment to Triad. Verily, there is a dearth of evidence showing that Lazarte participated in the preparation and approval of the Second Abstract in the absence of his signature thereon. In fact, his participation and approval in the preparation of the First Abstract is doubtful as well, as evinced by the following: (a) while his name is included in the First Abstract as the one who supposedly “recommended [the same] for approval,” he never signed the same; and (b) his assertion that Dacalos, as the designated officer-in-charge for Visayas, was allowed to sign for and on his behalf, remained undisputed.

At this juncture, the Court stresses that in every criminal conviction, the prosecution is required to prove two things beyond reasonable doubt: *first*, the fact of the commission of the crime charged, or the presence of all the elements of the offense; and *second*, the fact that the accused was the perpetrator of the crime.<sup>43</sup>

Under Rule 133, Section 2 of the Rules on Evidence, “[p]roof beyond reasonable doubt does not mean such a degree of proof as, excluding possibility of error, produces absolute certainty. Moral certainty only is required, or that degree of proof which produces conviction in an unprejudiced mind.”

In *Macayan, Jr. v. People*,<sup>44</sup> the Court, through Justice Marvic M.V.F. Leonen, reiterated that the requirement of proving an accused’s guilt by proof beyond reasonable doubt in criminal cases is rooted in the presumption of innocence accorded to all by no less than the Constitution, to wit:

An accused has in his favor the presumption of innocence which the Bill of Rights guarantees. Unless his guilt is shown beyond reasonable doubt, he must be acquitted. This reasonable doubt standard is demanded by the due process clause of the Constitution which protects the accused from conviction except upon proof beyond reasonable doubt of every fact necessary to constitute the crime with which he is charged. The burden of proof is on the prosecution, and unless it discharges that burden the accused need not even offer evidence in his behalf, and he would be entitled to an acquittal. Proof beyond reasonable doubt does not, of course, mean such degree of proof as, excluding the possibility of error, produce absolute certainty. Moral certainty only is required, or that degree of proof which

<sup>43</sup> See *Franco v. People*, 780 Phil. 36, 43 (2016) [Per J. Reyes, Third Division], citing *People v. Santos*, 338 Phil. 993, 1004 (2000) [Per J. Gonzaga-Reyes, Third Division].

<sup>44</sup> 756 Phil. 202 (2015) [Second Division].

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produces conviction in an unprejudiced mind. The conscience must be satisfied that the accused is responsible for the offense charged.<sup>45</sup>

Relatedly, in *People v. Claro*,<sup>46</sup> the Court, through Justice Lucas P. Bersamin, elucidated on what constitutes “reasonable doubt,” as follows:

[Reasonable doubt] is not mere possible doubt; because everything relating to human affairs, and depending on moral evidence, is open to some possible or imaginary doubt. **It is that state of the case which, after the entire comparison and consideration of all the evidence, leaves the minds of jurors in such a condition that they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge.** The burden of proof is upon the prosecutor. All the presumptions of law independent of evidence are in favor of innocence, and every person is presumed to be innocent until he is proved guilty. **If upon such proof there is reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal.** For it is not sufficient to establish a probability, though a strong one arising from the doctrine of chances, that the fact charged is more likely to be true than the contrary; but the evidence must establish the truth of the fact to a reasonable and moral certainty; a certainty that convinces and directs the understanding and satisfies the reason and judgment of those who are bound to act conscientiously upon it. This we take to be proof beyond reasonable doubt; because if the law, which mostly depends upon considerations of a moral nature, should go further than this, and require absolute certainty, it would exclude circumstantial evidence altogether.<sup>47</sup> (Emphasis in the original)

In light of the foregoing discussions, the Court concludes that the criminal liability of Angsico, Dacalos, Lobrido, and Espinosa has been proven beyond reasonable doubt; hence, their conviction for violation of Section 3(e) of Republic Act No. 3019 must be sustained. On the other hand, Lazarte must be set aside for the prosecution’s failure to prove his criminal liability through the same evidentiary threshold.

## V.

The criminal liability of Angsico, Dacalos, Lobrido, and Espinosa having been established, the Court now goes to the impossible penalty against them. Section 9 of Republic Act 3019 states that a violation of Section 3 of the same law has the prescribed penalties of, *inter alia*, imprisonment ranging from six (6) years and one (1) day to fifteen (15) years, and perpetual disqualification from public office. Taking into consideration the provisions of the Indeterminate Sentence Law, the Court finds that the Sandiganbayan correctly sentenced them to suffer the penalties of imprisonment for an indeterminate period of six (6) years and one (1) month, as minimum, to ten

<sup>45</sup> *Id.* at 214, citing *Boac, et al. v. People*, 591 Phil. 508, 521–522 (2008) [Per J. Velasco, Jr., Second Division].

<sup>46</sup> 808 Phil. 455 (2017) [Third Division].

<sup>47</sup> *Id.* at 464–465, citations omitted.

(10) years, as maximum, and perpetual disqualification from holding public office.

**ACCORDINGLY**, the appeal is **PARTLY GRANTED**. The Decision dated December 7, 2018 and the Resolution dated March 28, 2019 of the Sandiganbayan in **Crim. Case No. 26584** are **MODIFIED** as follows:

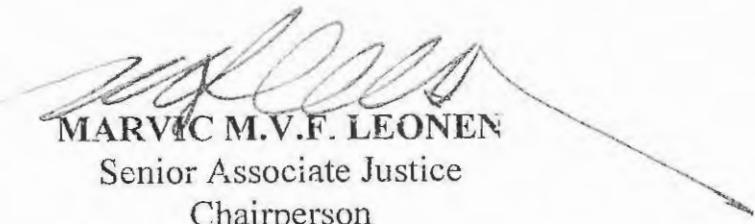
- (a) Accused-appellants Josephine Casenas-Hottle (formerly, Angsico), Virgilio V. Dacalos, Noel A. Lobrido, and Josephine T. Espinosa are found **GUILTY** beyond reasonable doubt of the crime of violation of Section 3(e) of Republic Act No. 3019, entitled the *Anti-Graft and Corrupt Practices Act*. Accused-appellants are each sentenced to suffer the penalties of imprisonment for an indeterminate period of six (6) years and one (1) month, as minimum, to ten (10) years, as maximum, and perpetual disqualification from holding public office; and
- (b) Accused-appellant Felicisimo F. Lazarte, Jr. is **ACQUITTED** of the same crime on the ground of reasonable doubt. Let entry of judgment insofar as accused-appellant Felicisimo F. Lazarte, Jr. be issued immediately.

**SO ORDERED.**

  
**ANTONIO T. KHO, JR.**

Associate Justice

**WE CONCUR:**

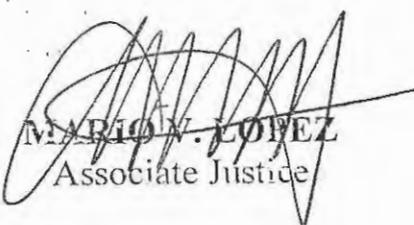
  
**MARVIC M.V.F. LEONEN**

Senior Associate Justice

Chairperson

  
**AMY C. LAZARO-JAVIER**

Associate Justice

  
**MARION N. LOPEZ**

Associate Justice

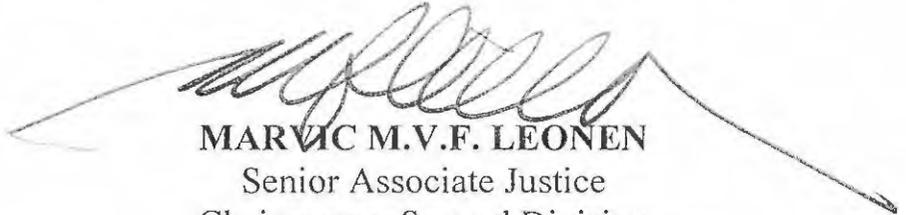
  
**JHOSEP V. LOPEZ**

Associate Justice

*Arce*

**ATTESTATION**

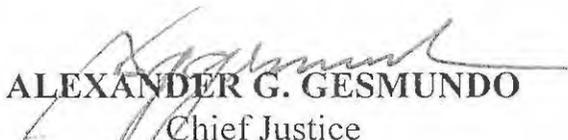
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



**MARVIC M.V.F. LEONEN**  
Senior Associate Justice  
Chairperson, Second Division

**CERTIFICATION**

Pursuant to Article VIII, Section 13 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.



**ALEXANDER G. GESMUNDO**  
Chief Justice

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