



SUPREME COURT OF THE PHILIPPINES
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Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

PEOPLE OF THE PHILIPPINES, G.R. No. 247563
Plaintiff-Appellee,

-versus-

FRANCISCO C. REYES, et. al.,
Accused;

DANTE VILLORIA,
Accused-Appellant.

X-----X

PEOPLE OF THE PHILIPPINES, G.R. No. 250517
Plaintiff-Appellee,

Present:

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

-versus-

FRANCISCO C. REYES, et. al.,
Accused;

Promulgated:

ALFREDO N. MACAPUGAY,
MARGARITO CHAN, DICKSON
LIM, and RAMON MATEO,
Accused-Appellants.

FEB 08 2023

X-----X

DECISION

LOPEZ, J., J.:

This Court resolves the consolidated Appeals¹ from the Decision² and the Resolution³ of the Sandiganbayan, finding Francisco Reyes y Calixto (*Reyes*), Robert Nacianceno y Cabrera (*Nacianceno*), Alfredo Macapugay y Natividad (*Macapugay*), Ramon Mateo y Benavides (*Mateo*), Dante Villoria y Mendoza (*Villoria*), Octavio Cababa y Pascual (*Cababa*), Atty. Margarito Chan y Chu (*Chan*), and Dickson Lim (*Dickson*) guilty of violation of Section 3(e) of Republic Act No. 3019⁴ in Criminal Case No. 26352.

The Antecedents

The following individuals were charged with violation of Section 3(e) of Republic Act No. 3019: (1) Reyes, Project Manager of the Department of Public Works and Highways (*DPWH*); (2) Jose M. Garcia (*Garcia*), DPWH representative and member of the Quezon City Appraisal Committee; (3) Nacianceno, Chairman of the Quezon City Appraisal Committee and General Manager of the Metro Manila Development Authority (*MMDA*); (4) Macapugay, City Engineer of Quezon City; (5) Mateo, Director III of the Real Property Assessment Service of MMDA; (6) Villoria, Assistant City Assessor of Quezon City; (7) Benjamin Malinao (*Malinao*), Assistant City Engineer of Quezon City; (8) Constantino P. Rosas (*Rosas*), City Assessor of Quezon City; (9) Cababa, Resident Engineer of DPWH; (10) Dickson Lim (*Dickson*), Incorporator of Servy Realty Corporation (*Servy Realty*); (11) Teodoro C. Lim (*Teodoro*), Incorporator of Servy Realty; (12) Florence Co Lim (*Florence*), Incorporator of Servy Realty; (13) Chan, legal counsel of Servy Realty. The Information against them states:

¹ *Rollo* (G.R. No. 247563), p. 93; *Rollo* (G.R. No. 250517), pp. 88–95.

² *Rollo* (G.R. No. 247563), pp. 8–92. The April 12, 2019 Decision in Criminal Case Nos. 26352 and 26353 was penned by Associate Justice Zaldy V. Trespases, and concurred in by Associate Justices Ma. Theresa Dolores C. Gomez-Estoesta and Georgina D. Hidalgo of the Seventh Division, Sandiganbayan.

³ *Id.* at 226–241. The August 27, 2019 Resolution in Criminal Case No. 26352 was penned by Associate Justice Zaldy V. Trespases, and concurred in by Associate Justices Ma. Theresa Dolores C. Gomez-Estoesta and Georgina D. Hidalgo of the Seventh Division, Sandiganbayan.

⁴ Entitled “ANTI-GRAFT AND CORRUPT PRACTICES ACT.”

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.

**Amended Information for
Criminal Case No. 26352**
(Violation of Sec. 3(e) of R.A. No. 3019)

That on or about November 10, 1993, or for sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused: Project Manager Francisco C. Reyes, Resident Engineers Octavio P. Cababa and Jose M. Garcia, all of the Department of Public Works and Highways (DPWH), Metro Manila Commission General Manager and Chairman of the Quezon City Appraisal Committee (QCAC) Robert Nacianceno, City Engineer Alfredo N. Macapugay, Director III Real Property Assessment Service (RPAS) Ramon B. Mateo, City Asst. Engineer Benjamin Malinao, Assistant City Assessor Dante Villoria and City Assessor Constantino P. Rosas, all of the Local Government of Quezon City, all public officials, who while engaged in the performance of their official functions as such, and in conspiracy with one another, and with private persons Dickson C. Lim, Teodoro C. Lim, Florence Co Lim[,] and Atty. Margarito Chan, did then and there willfully, unlawfully and criminally, and acting with evident bad faith and manifest partiality cause damage to the Government by making it appear that a certain warehouse owned by Servy Realty situated at Sgt. Rivera St., Barangay Manresa, San Jose, Quezon City, exists and shall be affected by the DPWH Circumferential (C3) Road Project at Quezon City, and recommend the expropriation of the same resulting to the payment of compensation to Servy Realty in the total sum of THREE MILLION TWO HUNDRED NINETY ONE THOUSAND EIGHT HUNDRED FORTY PESOS ([PHP] 3,291,840.00), Philippine Currency, despite full knowledge that the said warehouse did not exist, thereby causing undue injury to the Government in the aforesated sum.

CONTRARY TO LAW.⁵ (Emphasis in the original)

A separate information for falsification of public documents punished under Article 171 of the Revised Penal Code docketed as Criminal Case No. 26353 was filed against Rosas.⁶

According to the prosecution, on April 3, 1989, Servy Realty Corporation (*Servy Realty*) acquired a parcel of land covered by Transfer Certificate of Title (TCT) No. 49815 located at the corner of Sto. Domingo and Sgt. Rivera Streets, Quezon City, through a Joint Deed of Assignment from Servillano Lim (*Servillano*).⁷

In the construction of the Circumferential Road (C-3) Project, among the properties to be affected is the lot covered by TCT No. 49815 with improvement consisting of a warehouse. Thus, in 1990, the Republic of the Philippines filed a complaint for eminent domain.⁸

⁵ *Id.* at 9–10.

⁶ *Id.* at 10.

⁷ *Id.* at 65–67.

⁸ *Id.* at 66.

As a consequence of the expropriation proceedings, TCT No. 49815 was cancelled and two TCTs were issued: TCT No. 93235 measuring 501 square meters was issued in favor of Servy Realty, while TCT No. 93245 measuring 466.80 square meters was issued in favor of the government. By way of just compensation for the lot, Servy Realty was paid PHP 1,899,876.00.⁹

According to the Urban Road Projects Office of the DPWH, a warehouse of Servy Realty was allegedly standing on the lot originally expropriated and was not included in the expropriation proceedings.¹⁰ The warehouse was covered by Tax Declaration No. 02187. As it was an obstruction to the proposed construction, the Urban Road Projects Office recommended that the warehouse be removed. The Quezon City Appraisal Committee received a request from the Urban Road Projects Office to determine the just compensation for the warehouse.¹¹

The Quezon City Appraisal Committee is composed of: (1) Nacianceno; (2) Rosas; (3) Macapugay; (4) City Treasurer Alfredo Mercado (*Mercado*), and (5) Garcia.¹² The Quezon City Appraisal Committee created a technical working group tasked to conduct an ocular inspection of the warehouse of Servy Realty and to prepare the necessary preliminary appraisal report for deliberation.¹³

On November 13, 1993, the Quezon City Appraisal Committee issued Resolution No. 93-23, recommending the re-appraisal of the subject warehouse, the pertinent provision of which states:

WHEREAS, the Director, Urban Road Projects Office Department of Public Works and Highways, Manila, requested the City Appraisal Committee of Quezon City to determine the just compensation to be paid for the improvement owned by the Servy Realty Corporation to be affected by the construction of the Circumferential Road 3 (C-3) along Sgt. Rivera Street from corner G. Araneta to Cabatuan Street, boundary with Kalookan City;

WHEREAS, the subject improvement is located along Sgt. Rivera Street, Lot 5, Block 424, and described as a warehouse measuring an area of Four Hundred Fifty-Seven Square Meters and Twenty Square Decimeters (457.20 square meters), Type I-A;

WHEREAS, the City Appraisal Committee of Quezon City shall apply the Cost Approach Method to arrive at the fair market value of the subject improvement;

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.* at 14 & 55.

¹² *Id.* at 54.

¹³ *Id.* at 55 & 58.

WHEREAS, this method is the process of determining the replacement cost (new) or reproduction cost (new) of the subject improvements with the use of current or prevailing market prices of construction materials, labor, profit, overhead and other charges less allowances for physical depreciation and obsolescence;

WHEREAS, the City Appraisal Committee of Quezon City tasked the City Assessor thereat to coordinate with the City Engineer and the DPWH project office to conduct an ocular inspection and physical investigation regarding the subject improvement and prepare a preliminary appraisal thereon which may serve as a basis for the Committee's recommendations regarding the matter;

WHEREAS, the City Appraisal Committee of Quezon City made an ocular inspection regarding the subject warehouse and has determined that the depreciated cost thereat would amount to Three Million Two Hundred Ninety-one Thousand Forty Pesos ([PHP] 3,291,840.00)[.]¹⁴

After the technical working group conducted its ocular inspection, the Quezon City Appraisal Committee assessed the value of the subject warehouse and recommended just compensation in the amount of PHP 3,291,840.00.¹⁵

Subsequently, the City Assessor's Office issued Tax Declaration No. 02947 covering the subject warehouse.¹⁶

On December 27, 1993, an Agreement to Demolish and Remove Improvements (*Agreement*) was executed between Servy Realty, represented by Chan, and the DPWH, represented by Reyes. Attached to the Agreement were Tax Declaration No. 02947 and Resolution No. 93-23. Thereafter, the subject warehouse of Servy Realty was demolished and just compensation in the amount of PHP 3,291,840.00 was paid.¹⁷

According to the prosecution, there was only one improvement on the lot of Servy Realty and it measured only 240 square meters.¹⁸ The Commission on Audit organized a special audit team comprising of State Auditors Teresa Ty Santiago (*Santiago*), Corazon Tenorio (*Tenorio*), and Mary Adelino (*Adelino*) to conduct a special audit on the right of way acquisition of the DPWH.¹⁹

On June 5, 1995, the special audit team went to the subject property to inspect the demolished warehouse with an area of approximately 457.2 square

¹⁴ Commission on Audit records (Crim. Case Nos. 26352 & 26353), Exh. A-8, p. 1.

¹⁵ *Rollo* (G.R. No. 247563), pp. 66-67.

¹⁶ *Id.* at 67.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at 15.

meters. They were allegedly denied access to the building. Santiago measured the property based on the sketch, TCT, and subdivided plan as guide. They saw remnants of an old building. From the outside of the wall, she took the measurement of two columns with a length of about 240 square meters. Thus, they used this measurement instead of 457.2 square meters in assessing the unit cost.²⁰

The special audit team computed the value of the building using the Schedule of Unit Values Revision from 1981 to 1982 to determine the cost per square meter. Based on this, the value of the building was determined to be PHP 1,398,000.00.²¹

Subsequently, on July 18, 1995, Tax Declaration No. 02947 was cancelled by virtue of Notice of Cancellation No. 95-0416 on the ground that the property was non-existent.²²

In July 1997, the special audit team conducted an exit conference and re-inspected the property. They were allegedly denied access again to the property and their evaluation yielded the same findings.²³

On August 10, 2005, another ocular inspection was conducted. They were able to enter the property and measured the remnants of the structure. In the report of the special audit team, they computed the different areas of the subject warehouse including the floor area and came up with a measurement of 390 square meters.²⁴ They also went to the City Assessor's Office to check the index card of the warehouse but did not find any. Instead, they found the index card and tax declaration for a declared building with an area of 240 square meters.²⁵

The special audit team recomputed the appraised value of the building, taking into consideration their 390-square meter measurement of the structure in 2005. The special audit team arrived at the amount of PHP 2,476,294.74. Deducting the value of the undemolished portion valued at PHP 1,062,459.09, the special audit team concluded that the government should have only paid PHP 1,413,835.65 for the improvement. The undemolished portion of the building was computed based on the value per square meter.²⁶ Hence, the prosecution filed an Information for violation of Section 3(e) of Republic Act No. 3019 against Reyes, Garcia, Nacianceno, Macapugay, Mateo, Villoria, Malinao, Rosas, Cababa, Dickson, Teodoro, Florence, and Chan docketed as

²⁰ *Id.*

²¹ *Id.* at 16.

²² *Id.* at 74 & 235.

²³ *Id.* at 16.

²⁴ *Id.*

²⁵ *Id.* at 17.

²⁶ *Id.*

Criminal Case No. 26352.²⁷ Rosas was separately charged for falsification of public documents in Criminal Case No. 26353.

On May 31, 2016, Atty. Marlo A. Benzon filed, on behalf of Rosas, a manifestation and motion alleging that the latter passed away on February 9, 2016. Hence, on June 10, 2016, the Sandiganbayan issued its order dismissing Criminal Case Nos. 26353 and 26352 only with respect to Rosas.²⁸

Then, the Sandiganbayan issued its Decision,²⁹ the dispositive portion of which states:

WHEREFORE, premises considered, judgment is hereby rendered in Criminal Case No. 26352 finding accused Francisco Reyes y Calixto, Robert Nacianceno y Cabrera, Alfredo Macapugay y Natividad, Ramon Mateo y Benavides, Dante Villoria y Mendoza, Octavio Cababa y Pascual, Margarito Chan y Chu, and Dickson Lim, acting in conspiracy with one another, GUILTY beyond reasonable doubt of the offense of Violation of Sec. 3(e) of Republic Act No. 3019 and sentencing each of them to suffer the indeterminate penalty of *imprisonment ranging from six years (6) and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from public office.*

Accused are liable to indemnify jointly and severally the Government of the Republic of the Philippines in the amount of Three Million, Two Hundred Ninety-One Thousand, Eight Hundred Forty Pesos ([PHP] 3,291,840.00).

As against accused Benjamin Malinao, Teodoro Lim[,] and Florence Co Lim, over whom the Court has not yet acquired jurisdiction as they remain at large, let the case against them be ARCHIVED, until such time that they are apprehended and the Court acquires jurisdiction over their persons.

Meanwhile, let alias warrant of arrest be issued for the arrest of accused Benjamin Malinao, Teodoro Lim[,] and Florence Co Lim.

SO ORDERED.³⁰ (Emphasis in the original)

The Sandiganbayan found that the warehouse of Servy Realty that the government acquired in exchange for just compensation in the amount of PHP 3,291,840.00 does not exist.³¹ The Sandiganbayan held that the accused public officers acted in bad faith in appraising a non-existent structure and in paying just compensation based on unsupported recommendations of the Quezon City Appraisal Committee.³² For the Sandiganbayan, they also acted with

²⁷ *Id.* at 9–10.

²⁸ *Id.* at 60.

²⁹ *Id.* at. 8–92. Dated April 12, 2019.

³⁰ *Id.* at 91.

³¹ *Id.* at 67–71 & 74.

³² *Id.* at 75–79 & 82–83.

manifest partiality in favor of Servy Realty when they made it appear that the warehouse existed, defrauding and causing undue injury to the government.³³

In finding Chan and Dickson also criminally liable, the Sandiganbayan observed that Servy Realty paid real property tax for a non-existing improvement that is hugely disproportionate from its previous payments, without any protest, to justify the claim for compensation.³⁴

The Sandiganbayan concluded that through the concerted acts of the accused public officers responsible for appraising, inspecting, and recommending compensation for the non-existing warehouse, and the accused private individuals, they violated Section 3(e) of Republic Act No. 3019.³⁵

In a Resolution,³⁶ the Sandiganbayan denied the motions for reconsideration separately filed by Macapugay, Mateo, Chan, and Dickson for lack of merit.³⁷

Hence, Villoria, Macapugay, Mateo, Chan, and Dickson filed their respective Notices of Appeal.

The Appeal filed by Villoria was docketed as G.R. No. 247563, while the Appeal filed by Macapugay et al. was docketed as G.R. No. 250517.

In a Resolution,³⁸ this Court ordered the consolidation of G.R. No. 247563 with G.R. No. 250517, in view of the fact that both cases originated from the same information and assail the same decision of the Sandiganbayan.³⁹

In the Notification of Death,⁴⁰ the counsel of Villoria informed this Court of the latter's death on March 21, 2020, as evidenced by Certificate of Death No. 2020-10123.⁴¹

For his part, Macapugay asserted in his Brief⁴² that the Sandiganbayan misappreciated and/or overlooked exculpatory facts, and failed to apply relevant laws and jurisprudence.⁴³

³³ *Id.* at 79–80 & 84–86.

³⁴ *Id.* at 84.

³⁵ *Id.* at 86–90.

³⁶ *Id.* at 226–241. Dated August 27, 2019.

³⁷ *Id.* at 240.

³⁸ *Id.* at 299–300. Dated August 26, 2020.

³⁹ *Id.* at 299.

⁴⁰ *Id.* at 111. Dated July 1, 2020.

⁴¹ *Id.* at 112.

⁴² *Id.* at 131–140.

⁴³ *Id.* at 137–138.

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Meanwhile, in the Brief⁴⁴ filed by Chan, he argued *inter alia* that: (1) the warehouse described in Tax Declaration No. 02947 refers to the same old warehouse described in Tax Declaration No. 02187;⁴⁵ (2) it was the City Assessor's Office that created the confusion by issuing Tax Declaration No. 02947 without cancelling Tax Declaration No. 02187 and in declaring the warehouse of Servy Realty as "new;"⁴⁶ (3) the area of the warehouse as stated in the different tax declarations was arrived at after ocular inspections conducted therein, and that the findings as to its area varied as a result of the different ocular inspections conducted;⁴⁷ (4) there is evidence to prove that a warehouse measuring 457 square meters on the lot of Servy Realty;⁴⁸ (5) he did not conspire with the Quezon City Appraisal Committee, technical working group, City Assessor's Office, DPWH, and any other government official to defraud the government;⁴⁹ and (6) the order of the Sandiganbayan to return the just compensation received would constitute the taking of property without just compensation.⁵⁰

In his Brief,⁵¹ Dickson maintained *inter alia* that: (1) he had no participation in the deliberations for the expropriation and payment of just compensation, issuance of Tax Declaration No. 02947, and the tax payment of Tax Declaration No. 02947 on December 17, 1993;⁵² (2) he took over the management of Servy Realty after the death of his father and his act of paying taxes of Servy Realty's other properties beginning 1997 does not mean that he was the one who also paid taxes for the allegedly non-existent warehouse;⁵³ (3) he was merely a director and not the owner of Servy Realty;⁵⁴ and (4) there was no evidence to show that he was personally involved in the negotiation for the expropriation of the warehouse.⁵⁵

For Mateo's part, he insisted in his Brief⁵⁶ that: (1) his function in the Quezon City Appraisal Committee was only ministerial and limited only to taking down notes; (2) he merely acted as secretariat in the proceedings and deliberations with no power to review, approve, or recommend in the conduct of the Quezon City Appraisal Committee;⁵⁷ (3) it was the technical working group which conducted the ocular inspection and physical investigation of the subject warehouse;⁵⁸ and (4) he was not a co-conspirator in the alleged

⁴⁴ *Rollo* (G.R. No. 250517), pp. 138-225.

⁴⁵ *Id.* at 156-157.

⁴⁶ *Id.* at 157-165 & 167-169.

⁴⁷ *Id.* at 165-167 & 169-171.

⁴⁸ *Id.* at 171-172.

⁴⁹ *Id.* at 197-203.

⁵⁰ *Id.* at 220-221.

⁵¹ *Id.* at 233-267.

⁵² *Id.* at 246 & 252-253.

⁵³ *Id.* at 255-257.

⁵⁴ *Id.* at 258-259.

⁵⁵ *Id.* at 260-264.

⁵⁶ *Id.* at 107-137.

⁵⁷ *Id.* at 116-123.

⁵⁸ *Id.* at 120-129.

commission of the crime.⁵⁹

On the other hand, the Office of the Special Prosecutor (*OSP*) averred in the Appellee's Brief⁶⁰ that: (1) a corporation's separate personality might be disregarded when it is used to conceal a dishonest or fraudulent act, justify a wrong, or defend a crime;⁶¹ and (2) the public officers and private individuals conspired with each other in making it appear that Servy Realty is entitled to compensation for the 457.2-square meter warehouse it allegedly owns.⁶²

Issues

I.

Whether the death of accused-appellant Dante Villoria, while his appeal is pending before this Court, warrants the dismissal of the criminal action against him; and

II.

Whether the prosecution was able to prove beyond reasonable doubt all the elements of Section 3(e) of Republic Act No. 3019 to justify the conviction of accused-appellants Alfredo N. Macapugay, Margarito Chan, Dickson Lim, and Ramon Mateo.

This Court's Ruling

The consolidated Appeals are meritorious.

Due to the death of accused-appellant Villoria while his appeal is pending, this Court must dismiss the criminal action against him

At the outset, this Court must address the criminal action against Villoria who passed away on March 21, 2020.

In view of the supervening death of accused-appellant Villoria, the criminal case against him must be dismissed.

⁵⁹ *Id.* at 129–133.

⁶⁰ *Id.* at 358–412.

⁶¹ *Id.* at 392–393.

⁶² *Id.* at 395–408.

Article 89(1) of the Revised Penal Code states:

Article 89. *How criminal liability is totally extinguished.* – Criminal liability is totally extinguished:

1. By the death of the convict, as to the personal penalties; and as to pecuniary penalties, liability therefor is extinguished only when the death of the offender occurs before final judgment[.] (Emphasis in the original)

In *People v. Monroyo*,⁶³ this Court stressed that the “death of the accused pending appeal of the conviction extinguishes his or her criminal liability, as well as the civil liability, based solely thereon.”⁶⁴ Hence, upon Villoria’s death, the criminal action against him is extinguished.

Having settled the consequence of Villoria’s death on his pending appeal, this Court shall now discuss the criminal liability of Macapugay, Margarito, Dickson, and Mateo (*Macapugay et al.*).

The prosecution failed to prove the averment in the information that the subject 457.2-square meter warehouse did not exist. Thus, Macapugay et al. cannot be convicted of violation of Section 3(e) of Republic Act No. 3019

As a rule, the trial court’s findings of fact are entitled to great weight and will not be disturbed on appeal. However, this rule is not applicable where facts of weight and substance have been overlooked, misapprehended, or misapplied in a case under appeal.⁶⁵

After a judicious review of the case, this Court found material facts and circumstances that the Sandiganbayan may have overlooked or misappreciated, which, if properly considered, would justify a different conclusion.

⁶³ G.R. No. 223708, October 9, 2019 [Per J. Perlas-Bernabe, Special First Division].

⁶⁴ *Id.*, citing *People v. Culas*, 810 Phil. 205 (2017) [Per J. Perlas-Bernabe, First Division]. This pinpoint citation refers to the copy of this Resolution uploaded to the Supreme Court website.

⁶⁵ *People v. Credo*, G.R. No. 230778, July 22, 2019 [Per J. Carandang, First Division] at 9. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website. (Citation omitted)

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

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.

To be convicted for violation of Section 3(e) of Republic Act No. 3019, the following elements must be proven beyond reasonable doubt: (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's action caused any undue injury to any party, including the government, or gave any unwarranted benefits, advantage, or preference.⁶⁶

The presence of the first and second elements are not disputed as Macapugay and Mateo were public officers at the time the procurement was made and the acts complained against them were done while carrying out their official duties.

With regard to Chan and Dickson who are both private individuals, they may also be held liable for offenses under Section 3 of Republic Act No. 3019 when acting in conspiracy with public officers. This is consistent with the ruling of this Court in *People v. Go*,⁶⁷ where it was clarified that private individuals may be convicted of violation of offenses under Section 3 of Republic Act No. 3019 when accused of conspiring with public officers. It is settled that:

[P]rivate persons, when acting in conspiracy with public officers, may be indicted and, if found guilty, held liable for the pertinent offenses under Section 3 of R.A. 3019, in consonance with the avowed policy of the anti-graft law to repress certain acts of public officers and private persons alike

⁶⁶ See *Fuentes v. People*, 808 Phil. 586, 593 (2017) [Per J. Perlas-Bernabe, First Division], citing *Cambe v. Ombudsman, et al.*, 802 Phil. 190, 216–217 (2016) [Per J. Perlas-Bernabe, *En Banc*], and *Presidential Commission on Good Government v. Navarro-Gutierrez*, 772 Phil. 91, 102 (2015) [Per J. Perlas-Bernabe, First Division].

⁶⁷ 730 Phil. 362 (2014) [Per J. Peralta, *En Banc*].

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constituting graft or corrupt practices act or which may lead thereto.⁶⁸
(Citation omitted)

In resolving whether the prosecution was able to prove beyond reasonable doubt the third and fourth elements of Section 3(e) of Republic Act No. 3019 to justify the conviction of the accused-appellants Macapugay et al., this Court must first necessarily determine whether the subject of the expropriation, a 457.2-square meter warehouse standing on the lot owned by Servy Realty, actually existed.

To recall, the prosecution's charge against Macapugay et al. is primarily anchored on the argument that the improvement did not exist at all. For emphasis, the accusatory portion of the Information is quoted below:

**Amended Information for
Criminal Case No. 26352**
(Violation of Sec. 3(e) of R.A. No. 3019)

That on or about November 10, 1993, or for sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the abovenamed accused: Project Manager Francisco C. Reyes, Resident Engineers Octavio P. Cababa[,] and Jose M. Garcia, all of the Department of Public Works and Highways (DPWH), Metro Manila Commission General Manager and Chairman of the Quezon City Appraisal Committee (QCAC) Robert Nacianceno, City Engineer Alfredo N. Macapugay, Director III Real Property Assessment Service (RPAS) Ramon B. Mateo, City Asst. Engineer Benjamin Malinao, Assistant City Assessor Dante Villoria and City Assessor Constantino P. Rosas, all of the Local Government of Quezon City, all public officials, who[,] while engaged in the performance of their official functions as such, and in conspiracy with one another, and with private persons Dickson C. Lim, Teodoro C. Lim, Florence Co Lim and Atty. Margarito Chan, did then and there willfully, unlawfully and criminally, and acting with evident bad faith and manifest partiality cause damage to the Government by making it appear that a certain warehouse owned by Servy Realty situated at Sgt. Rivera St. Barangay Manresa, San Jose, Quezon City, exists and shall be affected by the DPWH Circumferential (C3) Road Project at Quezon City, and recommend the expropriation of the same resulting to the payment of compensation to Servy Realty in the total sum of THREE MILLION TWO HUNDRED NINETY ONE THOUSAND EIGHT HUNDRED FORTY PESOS ([PHP] 3,291,840.00), Philippine Currency, despite full knowledge that the said warehouse did not exist, thereby causing undue injury to the Government in the aforestated sum.

CONTRARY TO LAW.⁶⁹ (Emphasis in the original)

The crime to be proven beyond reasonable doubt is determined by the recital of the ultimate facts and circumstances in the complaint or

⁶⁸ *Id.* at 369.

⁶⁹ *Rollo* (G.R. No. 247563), pp. 9-10.

information.⁷⁰ Sections 8 and 9, Rule 110 of the Rules of Court govern the manner by which the acts or omissions complained of must be stated. These provisions state:

Section 8. Designation of the offense. — The complaint or information shall state the designation of the offense give by the statute, aver the acts or omissions constituting the offense, and specify the qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

Section 9. Cause of the accusation. — The acts or omissions complained of or constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances and for the court to pronounce judgment. (Emphasis in the original)

In prosecuting the individuals charged of violation of Section 3(e) of Republic Act No. 3019, it must be proven beyond reasonable doubt that they conspired to make “it appear that a certain warehouse owned by Servy Realty existed despite full knowledge that the said warehouse did not exist.”⁷¹ The prosecution relied on Tax Declaration No. 02947 that was cancelled in 1995 and maintained that it was issued through manifest partiality and evident bad faith. However, in later pleadings, the prosecution introduced the theory that a warehouse may have existed but the portion that may have been demolished was less than 457.2 square meters based on the measurement the state auditors arrived at after evaluating remnants of the property long after the warehouse was demolished. For the prosecution, the government suffered injury as it paid just compensation for more than what was actually demolished.

It is worth highlighting that there is a noticeable incompatibility between the two arguments of the prosecution.

Originally, it was alleged in the Information that the property did not exist at all and this claim was allegedly supported by Tax Declaration No. 02947 that was cancelled. If it is proven that prior to the expropriation, the subject 457.2-square meter warehouse existed, then there is no irregularity committed, characterized by manifest partiality and evident bad faith that could be made as the basis for holding Macapugay et al. criminally liable. In such a scenario, the information against Macapugay et al. will have no legal basis and the case against them must be dismissed because the third and fourth elements cannot be established with moral certainty.

⁷⁰ *Briones v. People*, 606 Phil. 354, 367 (2009) [Per J. Brion, Second Division].

⁷¹ *Rollo* (G.R. No. 247563), p. 10.

However, in subsequently presenting the purported measurement made by the state auditors based on the remnants of the warehouse long after the demolition, the prosecution veered away from the original act constituting the offense charged in the Information. It now offers a theory that contradicts its original claim. The prosecution now admits that there may have been a warehouse that existed though its size may have been less than 457.2 square meters. This militates against a finding of guilt beyond reasonable doubt.

The sudden shift from the original accusation in the Information against Macapugay et al. that the warehouse did not exist at all to the theory that the warehouse may have existed, albeit less than 457.2 square meters, violates their constitutional right to be informed of the nature and cause of action against them⁷² which is also found in Section 1(b), Rule 115 of the Rules of Court.⁷³ It is settled that an accused cannot be convicted of a crime, even if duly proven, unless it is alleged or necessarily included in the information filed against him or her.⁷⁴ Here, Macapugay et al. were charged with conniving to make it appear that a non-existent warehouse is existing which is totally different from an accusation that they conspired to make it appear that a warehouse is larger in size than it originally is. It cannot be said that the latter's accusation is deemed included in the former charge.

Even if this Court disregards the infirmity in the Information, this Court is still convinced that Macapugay et al.'s respective guilt was not proven beyond reasonable doubt. Assuming *arguendo* that the new theory of the prosecution is deemed included in its original claim that the warehouse did not exist at all, Macapugay et al. should still be acquitted.

Admittedly, direct evidence of the commission of a crime is not the only means of establishing the guilt of an accused.⁷⁵ The court may take into consideration circumstantial evidence to establish the commission of a crime, the identity of the perpetrator, and the finding of guilt.⁷⁶ Nevertheless, this does not mean that the quantum of evidence required for a conviction—proof beyond reasonable doubt—is diminished nor reduced.

⁷² CONSTITUTION, art. III, sec. 14(2) provides:

....

(2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf[.]

⁷³ RULES OF COURT, Rule 115, sec. 1(b) states:

SECTION 1. Rights of accused at the trial. — In all criminal prosecutions, the accused shall be entitled to the following rights:

....

(b) To be informed of the nature and cause of the accusation against him.

⁷⁴ *People v. Delector*, 819 Phil. 310, 323 (2017) [Per J. Bersamin, Third Division], citing *People v. Manalili*, 355 Phil. 652 (1998) [Per J. Panganiban, First Division].

⁷⁵ *People v. Pentecostes*, 820 Phil. 823, 833 (2017) [Per J. Caguioa, Second Division].

⁷⁶ *Bacerra v. People*, 812 Phil. 25, 36 (2017) [Per J. Leonen, Second Division].

Circumstantial evidence will only be considered sufficient to justify a conviction if the following requisites concur: (1) there is more than one circumstance; (2) the facts from which the inferences are derived are proven; and (3) the combination of all circumstances is such as to produce a conviction beyond reasonable doubt.⁷⁷

In the present case, the requisites for a conviction based on circumstantial evidence are not present. While there is no direct evidence to prove the charge against Macapugay et al., the inferences drawn by the prosecution based on the findings of the Commission on Audit are hardly sufficient to even sustain a conviction based on circumstantial evidence.

Chan stressed that when the City Assessor's Office issued Tax Declaration No. 02947, it was a result of the re-appraisal of the same warehouse described in Tax Declaration No. 02187.⁷⁸ The recommendation of the Quezon City Appraisal Committee to re-assess the subject warehouse was also confirmed by the findings of the Sandiganbayan, the pertinent portion of the assailed Decision reads:

As shown in the minutes of the meeting of the QCAC dated 14 October 1993, accused Garcia presented the appraisal of the improvements owned by Servy Realty. Accused Garcia also requested that the tax declaration be revised by the City Assessor's Office, while accused Villoria suggested that the assessment be made effective 1992. This shows that the amount of [PHP] 3,291,840 was already arrived at by the appraisal committee during their meeting. This is the reason why the appraisal committee recommended that the tax declaration be revised and consequently, Tax Dec. No. 02947 was issued.⁷⁹ (Citations omitted)

The ends of justice will be subverted if this Court will uphold the inference of the Commission on Audit that there is an anomaly in the instruction of the Quezon City Appraisal Committee in ordering the re-appraisal of the subject warehouse that eventually led to the issuance of Tax Declaration No. 02947. This is a prudent course of action considering that public money will be spent to compensate Servy Realty. This is also consistent with the prevailing doctrine in expropriation proceedings aptly discussed in the recent case of *Republic v. Spouses Nocom*,⁸⁰ wherein it was explained that:

⁷⁷ RULES OF COURT, Rule 133, sec. 4 provides:

Section 4. *Circumstantial evidence, when sufficient.* — Circumstantial evidence is sufficient for conviction if:

(1) There is more than one circumstance;
(2) The facts from which the inferences are derived are proven; and
(3) The combination of all the circumstances is such as to produce a conviction beyond a reasonable doubt.

⁷⁸ *Rollo* (G.R. No. 250517), p. 159.

⁷⁹ *Rollo* (G.R. No. 247563), p. 26.

⁸⁰ G.R. No. 233988, November 15, 2021 [Per J. Leonen, Third Division].

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[T]he controlling doctrine is that when there is actual taking by the government without expropriation proceedings, the owner of the property is entitled to just compensation which is pegged at the value of the property at the time of taking.

The logic behind the rule is to compensate the property owner for the actual value of the lot when the government occupied it. It covers the possibility that the entrance of the government may bring economic effect to the area, either increasing or decreasing its value. If the compensation is pegged at another time, the private owner risks gaining more than what is taken from him or may receive less than what he rightly deserves. This Court explained in *Republic v. Lara*:

[W]here property is taken ahead of the filing of the condemnation proceedings, the value thereof may be enhanced by the public purpose for which it is taken; the entry by the plaintiff upon the property may have depreciated its value thereby; or, there may have been a natural increase in the value of the property from the time the complaint is filed, due to general economic conditions. The owner of private property should be compensated only for what he actually loses; it is not intended that his compensation shall extend beyond his loss or injury. And what he loses is only the actual value of his property at the time it is taken. This is the only way that compensation to be paid can be truly just; *i.e.*, “just not only to the individual whose property is taken,” “but to the public, which is to pay for it.”

The doctrine is embodied in Rule 67 of the Rules of Court which provides, among others, that just compensation is “to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first.”⁸¹ (Citations omitted)

To emphasize, considering that approximately 19 years had lapsed from the time Tax Declaration No. 02187 was issued in 1973 until the warehouse was re-appraised and Tax Declaration No. 02947 was issued in 1992, there is nothing irregular with the updated appraised value that substantially increased from PHP 44,050.00 to PHP 3,291,840.00 as this is the assessed value of the property at the time the government acquired it.

The Quezon City Appraisal Committee cannot be faulted for requesting the City Assessor’s Office to conduct a re-assessment of the subject improvement given the possibility that Tax Declaration No. 02187 may no longer accurately reflect the lot area occupied by the warehouse and its corresponding value due to the passage of time, as in this case. Thus, it was erroneous for the Sandiganbayan to recognize the existence of the old warehouse covered by Tax Declaration No. 02187, yet conclude that the warehouse described in Tax Declaration No. 02947 issued in 1992 does not

⁸¹ *Id.* at 17–18. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.



exist. This conclusion is also consistent with Resolution No. 93-23 which recommended the re-appraisal of the warehouse so that the current replacement value will be reflected for purposes of computing just compensation.⁸²

It is also worth pointing out that the assessment of the Commission on Audit in 2005 that the warehouse of Servy Realty measured 390 square meters with a fence of 260 square meters was determined long after the warehouse was already partially demolished. On the other hand, the measurements of the technical working group were determined when the warehouse was still intact and had not yet been demolished. Hence, the findings of the technical working group, which was also corroborated by the prosecution's own witness, Local Assessment Operating Officer II Rodolfo B. Angeles (*Angeles*), should be given more weight than the findings of the Commission on Audit that was based on an inspection conducted approximately more than 10 years after the structure was demolished.

Furthermore, when Angeles recommended the cancellation of Tax Declaration No. 02947, he concluded that there are two warehouses on the lot of Servy Realty only on the basis of the two tax declarations, one of which is claimed by Chan to have been erroneously issued as "new." This is revealed in the following exchange:

PROS. RAMOS

Q: Now you mentioned that based on the records you determined that there were two (2) buildings constructed on the same property?

A: Two (2) declared buildings.

Q: And what is your basis for saying that there were (2) buildings declared on the same property?

A: There are two (2) tax declarations.

Q: And where did you get the tax declaration of these two (2) buildings?

WITNESS

A: From our records.

.....

A: Based on the tax declaration, ma'am, this is the second building which is also declared under 2947 which is also a description of a warehouse with floor area of 457 square meters, and with a market value of 4,114,800[,] and with corresponding assessed value of 3,291,840. Based on this Declaration, it states that the building is new, assessed with a taxable year 1992.⁸³

⁸² *Rollo* (G.R. No. 250517), p. 169.

⁸³ TSN, May 5, 2009, pp. 20-21.

When Angeles recommended in 1995 that Tax Declaration No. 02947 be cancelled, he confirmed that the particular improvement it covers is no longer existing. This is evident in the direct examination of Angeles, the relevant portion of which is reproduced below:

PROS. RAMOS

Q: What about the new building that you were supposed to inspect, what was the result of your inspection?

....

WITNESS

A: Just like I said, when I went there, there was only one (1) existing building which was the old one.

....

PROS. RAMOS

Q: After going to the site and seeing that only the old building exists, what did you do next, if any?

A: I went back to the office, ma'am, and prepared my report.

Q: And how did you prepare that report?

A: *Yung pinaggawan ko non, ma'am, yung assessment card, nalagay ko dun sa assessment card, this particular building is no longer existing as verified through ocular inspection on this particular building. That's my report.*

....

Q: And after preparing that report, what did you do next?

A: I submitted it to my Chief and they prepared the corresponding cancellation.

....

Q: If shown to you that cancellation, will you be able to identify it?

A: Yes, ma'am.

Q: I am showing you this document, a certified true photocopy of a document already marked as Exhibit "E-2", what is the relation of this document to the cancellation which you mentioned?

A: It is stated here, "Please be advised that Tax Declaration No. C-060-02947 with Property No. 5-3146-A in the name of Servy Realty Corporation situated on Lot No. 3 Blk. N424, Barangay Manreza, District San Jose with an assessed value of 3,291,840. Then it states, CANCELLED for non-existent. Ocular inspection conducted." What is meant here, ma'am, is that it has been cancelled because the building is no longer existing.⁸⁴ (Emphasis supplied)

⁸⁴ *Id.* at 26-29.

It can be gleaned from the quoted exchange that the cancellation of Tax Declaration No. 02947 was not because the property never existed but because the improvement no longer existed at the time Angeles conducted an ocular inspection in 1995. On this score, it is worth clarifying that the statement of Angeles that the improvement “no longer exists” presupposes that it previously existed. It should not be construed to mean that the warehouse did not exist at all. This is not inconsistent with the claim of Chan that Tax Declaration No. 02187 was replaced with Tax Declaration No. 02947 to reflect the increase in the lot area of the warehouse to 457.2 square meters.

The claim of Chan that there was only one improvement on the lot of Servy Realty and that, over time, it had expanded to 457.2 square meters is consistent with the course of action undertaken by the Quezon City Appraisal Committee to request for the re-appraisal of the improvement. This was revealed in the cross-examination of State Auditor Adelino, as shown in the following exchange:

ATTY. CATUBAY

Q: In other words, madam witness, the amount of three million two hundred ninety[-]one thousand eight hundred forty pesos ([PHP] 3,291,840.00) was already arrived at by the Technical Committee of the Quezon City Appraisal Committee before this Tax Declaration No. B-060-02947, marked in evidence as Exhibit “E” was issued? Do you agree with me?

....

WITNESS

A: Yes. In fact[,] they are saying here that the amount shall be effective, made effective[.]

....

Q: ... So that’s the reason why madam witness[ed] that Tax Declaration No. B-060-2187 marked in evidence as Exhibit “C-8” was revised, as recommended by the Technical Committee of the Quezon City Appraisal Committee?

....

A: Yes.⁸⁵ (Emphasis supplied)

Based on the quoted exchange, the state auditor impliedly admitted that the Quezon City Appraisal Committee recommended the re-appraisal of the subject warehouse precisely to confirm that the value of the property is accurate and reflective of the proper just compensation that should be paid to

⁸⁵ TSN, April 30, 2008, pp. 28–30.



Servy Realty. The Quezon City Appraisal Committee already had a preliminary computation of the value of the warehouse to be demolished even before Tax Declaration No. 02947 was issued.

In addition, another prosecution witness, Engineer Fernando M. Valdez (*Engr. Valdez*) admitted during the cross-examination the existence of the improvement of Servy Realty that was demolished to make way for the C-3 Road Project. This is revealed in the following exchange:

Q: Sir, what happened, if you know?

A: It took months, sir, before the demolition was conducted.

Q: So, you would confirm that there was a delay, only a delay on the removal of the building of the warehouse but the owner actually demolished the building in accordance with this agreement, is that correct?

A: Yes, sir.

Q: Now, Mr. Witness, and because of that, because of the demolition of the warehouse, you issued a Certificate of Demolition. Is that correct?

A: Yes, sir.

Q: And you have personal knowledge that the warehouse subject matter of this Agreement to Demolish was in fact and indeed demolished because of your signature.

A: Yes, sir.

Q: Mr. Witness, this Certificate of Demolition you executed this after the demolition of the warehouse and not before the demolition of the warehouse.

A: Yes, sir.

Q: And in fact, this Certificate of Demolition was your basis in recommending the payment for just compensation for the warehouse that was already demolished.

A: Yes, sir.⁸⁶ (Emphasis supplied)

Before Engr. Valdez signed the Agreement to Demolish and the Certificate of Demolition as the representative of the DPWH, he verified that the warehouse was actually demolished, as shown in his testimony below:

AJ MARTIRES

Q: Did you conduct an inspection?

A: Yes, Your Honor, because I am the one at the field.

Q: So, you saw for a fact that there was a warehouse when you had this Agreement to Demolish initialed here?

⁸⁶ TSN, October 8, 2008, pp. 41-43.

A: Yes, sir.

Q: And there was a demolition of this warehouse, isn't it? *Nagkaroon ng demolition, pursuant to that Agreement to Demolish.*

A: Yes, sir.⁸⁷

As the project manager, Engr. Valdez is presumed to be knowledgeable of the intricacies of the C-3 Road Project, including the location and size of the properties that will be affected by its implementation. He is familiar with the improvement in dispute and acknowledged that only one warehouse existed on the lot of Servy Realty although it was re-assessed and issued a new tax declaration. It is worth pointing out Engr. Valdez's Letter⁸⁸ dated August 1, 1996, the pertinent portion of which states:

1. Admittedly, the warehouse affected by the construction of C-3 Road Project located at the corner of Sgt. Rivera St. and Sto. Domingo St. (Lot 3 Blk. 424) owned by Servy Realty Corporation is actually an old warehouse. However, the fact that it was re-assessed and issued a new Tax Declaration No. B-060-2947 by the City Assessors Quezon City, declaring it as a new improvement is absolutely beyond the jurisdiction of this office.⁸⁹

Angeles confirmed that there was only one warehouse erected on Lot 3, Block 424. The pertinent portion of his cross-examination states:

Q: The question is did you conduct an ocular inspection on the property of Servy Realty Corporation?

A: Yes.

Q: And how many times did you conduct that ocular inspection on the property of Servy Realty Corporation?

A: Only one time.

Q: One time. And during that time when you conducted the ocular inspection, did you see any building on the property or warehouse building on the property of Servy Realty?

A: Yes.

Q: And how many buildings did you see?

A: On Lot 3, only one.⁹⁰

In a letter,⁹¹ Angeles likewise confirmed the following:

As per verification of the undersigned thru ocular inspection, it was found out that there is only one warehouse erected on lot 3, Blk. 424. Said

⁸⁷ TSN, February 2, 2009, pp. 20-21.

⁸⁸ *Id.*

⁸⁹ *Id.*

⁹⁰ TSN, June 4, 2009, pp. 10-11.

⁹¹ Commission on Audit records (Crim. Case Nos. 26352 & 26353), Exh A-14, p. 327. Dated May 12, 1995.

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warehouse was an old structure which was formerly owned by Servillano Lim which was subsequently transferred to Servy Realty Corp. in 1989 under tax number B-060-02187 with an assessed value of [PHP] 44,050.00.

A re-appraisal of the warehouse was requested by the Quezon City Appraisal Committee to the City Assessor's Office, since the subject property together with a portion of the lot is being purchased by the national government for its road widening project.

However, the City Assessor's Office, instead of re-assessing the old warehouse and cancelling tax number B-060-02187 issued tax number B-060-02947 as new improvement with an assessed value of [PHP] 3,291,840 effective 1992. At present, subject warehouse has already been demolished.⁹²

When the technical working group went to the site of the warehouse, its members appraised the same warehouse that Angeles confirmed to have been demolished when he conducted his ocular inspection in 1995, and it was the same improvement that was acquired by the government to give way for its infrastructure project. As aptly clarified by Chan, the result of the appraisal of the technical working group finding the area of the warehouse to be 457.2 square meters does not mean that it appraised a second warehouse or a non-existent warehouse.⁹³ There is merit in the contention of Chan that the lot area of 240 square meters indicated in Tax Declaration No. 02187 issued in 1973 was no longer accurate, and through the passage of time, the warehouse substantially increased in size.⁹⁴

Therefore, it is clear that the City Assessor's Office made two crucial inadvertences that created the wrong impression that the subject warehouse did not exist. *First*, it issued Tax Declaration No. 02947 without cancelling Tax Declaration No. 02187. *Second*, it placed the word "New" on Tax Declaration No. 02947 despite the fact that it is the same warehouse covered by Tax Declaration No. 02187.⁹⁵

Notwithstanding the glaring inadvertences committed by the City Assessor's Office, these should not automatically give rise to the imposition of criminal liability on the part of Macapugay et al. The prosecution must still prove that the inadvertences identified above were done through manifest partiality, and/ or evident bad faith; and that these acts caused undue injury to the government, which are the elements alleged in the Information in Criminal Case No. 26352.

⁹² *Id.*

⁹³ *Rollo* (G.R. No. 250517), pp. 166-167.

⁹⁴ *Id.* at 167.

⁹⁵ *Id.* at 168.

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In *Uriarte v. People*,⁹⁶ this Court explained the “manifest partiality,” and “evident bad faith” contemplated by Republic Act No. 3019 as follows:

There is “**manifest partiality**” when there is a clear, notorious[,] or plain inclination or predilection to favor one side or person rather than another. “**Evident bad faith**” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes.⁹⁷ (Emphasis in the original; citations omitted)

The Information charged Macapugay et al. with manifest partiality and evident bad faith as the mode of violating Republic Act No. 3019. It has been held that both these modes are in the nature of *dolo*.⁹⁸ Indeed, in determining whether Macapugay et al. are guilty of violating Section 3(e) of Republic Act No. 3019, this Court is guided by the pronouncement in *People v. Pallasigue*,⁹⁹ to wit:

[A]s a rule, the alleged irregular or anomalous act or conduct complained of under R.A. No. 3019 must not only be intimately connected with the discharge of the official functions of accused. It must also be accompanied by some benefit, material or otherwise, and it must have been deliberately committed for a dishonest and fraudulent purpose and in disregard of public trust[.]¹⁰⁰

Thus, this necessitates a look into the intention of Macapugay et al. as to whether they deliberately caused the issuance of Tax Declaration No. 02947 with a corrupt and dishonest purpose.

Here, it is clear that the purpose of the re-assessment of the warehouse and the subsequent issuance of Tax Declaration No. 02947 is to determine the warehouse’s replacement cost based on the current market value and to reflect the same in the revised tax declaration to serve as the basis for computing the payment of just compensation.¹⁰¹ This does not constitute a dishonest and fraudulent purpose and disregard of public trust. It should not be taken against the members of the Quezon City Appraisal Committee, including Macapugay, as this is consistent with the objective of compensating the property owner

⁹⁶ 540 Phil. 477 (2006) [Per J. Callejo, Sr., First Division].

⁹⁷ *Id.* at 494–495.

⁹⁸ *Martel, et al., v. People*, G.R. Nos. 224720–23 & 224765–68, February 2, 2021 [Per J. Caguioa, *En Banc*] at 25. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

⁹⁹ G.R. Nos. 248653–54, July 14, 2021 [Per J. Carandang, First Division].

¹⁰⁰ *Id.* at 25. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

¹⁰¹ *Id.* at 18.

“the full and fair equivalent of the loss of the property”¹⁰² because of expropriation.

Chan and Dickson should not also be held criminally responsible for the issuance of the allegedly erroneous Tax Declaration No. 02947 and the valuation of the property that the Quezon City Appraisal Committee recommended for payment. This Court cannot conclude that they conspired with public officers to cause the issuance of the allegedly false and erroneous Tax Declaration No. 02947. The responsible officer for issuing this is former City Assessor Rosas, who was one of the accused in Criminal Case No. 26352 for violation of Section 3(e) of Republic Act No. 3019, and was solely charged in Criminal Case No. 26353 for falsification of public documents punished under Article 171 of the Revised Penal Code. During the pendency of the trial in the Sandiganbayan, Rosas passed away. Thus, the cases against him were dismissed.

Moreover, even State Auditor Adelino recognized the absence of participation of Chan and Dickson, as revealed in the following exchange:

- Q: And since Margarito Chan and Dixon Lim were not members of the Appraisal Committee, therefore, they had no participation whatsoever in any deliberation made by the Appraisal Committee in arriving at the valuation of the subject warehouse, is that correct?
- A: Yes, sir.¹⁰³

Therefore, no evident bad faith or manifest partiality can be attributed to Macapugay et al.

With respect to the fourth element, this requires that the act that gives rise to the offense consist of either (1) causing undue injury to any party, including the government, or (2) giving any private party any unwarranted benefit, advantage, or preference in the discharge by the accused of his official, administrative, or judicial functions.¹⁰⁴

In *Llorente, Jr. v. Sandiganbayan*,¹⁰⁵ this Court underscored that the concept of undue injury contemplated in Section 3(e) of Republic Act No. 3019 refers to actual damage as understood under the Civil Code. This Court explained that:

Unlike in actions for torts, undue injury in Sec. 3[e] cannot be presumed even after a wrong or a violation of a right has been established. Its existence

¹⁰² *Evergreen Manufacturing Corporation v. Republic*, 817 Phil. 1048, 1058–1059 (2017) [Per Acting C.J. Carpio, Second Division].

¹⁰³ TSN, January 17, 2008, p. 10.

¹⁰⁴ *Villarosa v. People*, G.R. No. 233155–63, June 23, 2020 [Per C.J. Peralta, *En Banc*].

¹⁰⁵ 350 Phil. 820 (1998) [Per J. Panganiban, First Division].

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must be proven as one of the elements of the crime. In fact, the causing of undue injury or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." *Undue* has been defined as "more than necessary, not proper, or illegal;" and *injury* as "any wrong or damage done to another, either in his person, rights, reputation[,] or property; that is, the invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

"Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by [them] as [they have] duly proved. Such compensation is referred to as actual or compensatory damages."

Fundamental in the law on damages is that one injured by a breach of a contract, or by a *wrongful or negligent act or omission* shall have a fair and just compensation commensurate to the loss sustained as a consequence of the defendant's act. Actual pecuniary compensation is awarded as a general rule, except where the circumstances warrant the allowance of other kinds of damages. Actual damages are primarily intended to simply make good or replace the loss caused by the wrong.

Furthermore, damages must not only be capable of proof, but must be actually proven with a reasonable degree of certainty. They cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture or guesswork. They cannot include speculative damages which are too remote to be included in an accurate estimate of the loss or injury.¹⁰⁶ (Emphasis in the original; citations omitted)

The foregoing discussion is critical in determining whether there is sufficient basis to conclude that the inadvertences that led to the issuance of Tax Declaration No. 02947 caused undue injury to the government. Here, the alleged undue injury to the government arose from the purported overstatement of appraisal in the alleged erroneously issued Tax Declaration No. 02947 that was made as the basis for the payment of just compensation to Servy Realty. However, this was not proven with moral certainty as the measurement of the warehouse made by the state auditors is questionable.

As already been pointed out above, the assessment of the Commission on Audit that the warehouse of Servy Realty in 2005 measured 390 square meters with a fence of 260 square meters was determined long after the warehouse was already partially demolished. Meanwhile, the measurements

¹⁰⁶ *Id.* at 838-839.

of the technical working group were determined when the warehouse was still intact and had not yet been demolished. This Court accords greater weight to the findings of the technical working group, which were also supported by the prosecution's own witnesses, as opposed to the measurement the Commission on Audit arrived at based on an inspection conducted approximately more than 10 years after the structure was demolished.

Though there remained parts of the warehouse after the demolition that the state auditors used in computing the probable total lot area of the warehouse prior to its demolition, it is improper to argue that the government should compensate only the portion actually demolished. In Engr. Valdez's cross-examination, he recognized that after the demolition, the remaining portion will serve no useful value to Servy Realty. This was made evident in the quoted exchange below:

Q: So, what do you mean by this, Mr. Witness, that the owner had requested to consider the warehouse as totally affected, and you consider the request as rationale, considering the substantial damage that the project cost to the company.

A: After the portion of the warehouse [was] demolished, *hindi na mapapakinabangan*. (If the portion of the warehouse [was] demolished, it will not have any importance.)

AJ MARTIRES

Hindi na mapapakinabangan is the answer of the witness.¹⁰⁷

....

CHAIRMAN

Q: *Bale wala na, wala nang halaga. Na-demolish na.*

A: Yes, sir.¹⁰⁸

Hence, the fact that remnants of the demolished warehouse were found in the property after it had been demolished should not be made as the basis of the state auditors in concluding that there were two warehouses declared—one measuring 240 square meters, and the other, non-existent or less than 457.2 square meters. To reiterate, the claim of the Commission on Audit that the warehouse did not exist at all is inconsistent and incompatible with the claim that the government should have only paid for a demolished warehouse with an area of 340 square meters. It must be emphasized that they came up with this measurement years after Engr. Valdez certified that the area affected had already been demolished by Servy Realty. Whatever improvement that was left in Servy Realty's lot was rendered useless by the demolition.

¹⁰⁷ TSN, February 2, 2009, p. 23.

¹⁰⁸ *Id.* at 48.

In any case, even State Auditor Adelino recognized that Chan and Dickson had no participation in the deliberation of the Quezon City Appraisal Committee in arriving at the valuation of the subject warehouse. This was made clear in the following exchange:

- Q And since Margarito Chan and Dixon Lim were not members of the Appraisal Committee, therefore they had no participation whatsoever in any deliberation made by the Appraisal Committee in arriving at the valuation of the subject warehouse, is that correct?
- A Yes, sir.¹⁰⁹

More importantly, it must be underscored that at the time the government acquired the warehouse, it was being leased to Sycwin. When Servy Realty asked Sycwin to vacate the property, the latter could not immediately comply due to a labor strike staged by its workers. The fact that the Office of the Solicitor General had to seek the court's intervention by filing a "Manifestation and Motion for Issuance of Writ of Possession" before Branch 96, Regional Trial Court, Quezon City to secure possession of the property¹¹⁰ bolsters the view that the warehouse existed. It is difficult to believe that the government, through the Office of the Solicitor General, would undertake such measure if the warehouse did not exist at that time.

It is a cardinal principle in criminal law that the prosecution has the burden of proving the elements of the offense charged.¹¹¹ Taking into consideration the fact that the prosecution's graft and corruption charge against Macapugay et al. is primarily anchored on the allegation that the warehouse subject of the expropriation proceedings does not exist, the finding of this Court that a 457.2-square meter warehouse once stood on Servy Realty's lot warrants the dismissal of the case against them. As the existence of the 457.2-square meter warehouse was duly proven and explained, the third and fourth elements of Section 3(e) of Republic Act No. 3019 were not established. The just and logical consequence is for this Court to declare that there is no irregularity in the payment of just compensation and that no crime was committed by Macapugay et al. The prosecution failed to prove beyond reasonable doubt the non-existence of the subject warehouse from which criminal liability may arise. Therefore, Macapugay et al. are acquitted.

ACCORDINGLY, the Appeal is **GRANTED**. The Decision dated April 12, 2019 and the Resolution dated August 27, 2019 of the Sandiganbayan are **REVERSED** and **SET ASIDE**.

¹⁰⁹ TSN, January 17, 2008, p. 10.

¹¹⁰ *Rollo* (G.R. No. 250517), pp. 195–196.

¹¹¹ *People v. Pallasigue*, *supra* note 98, at 19. This pinpoint citation refers to the copy of this Decision uploaded to the Supreme Court website.

Criminal Case No. 26352 is **DISMISSED** insofar as accused-appellant Dante Villoria by reason of his death.

Accused-appellants Alfredo N. Macapugay, Margarito Chan, Dickson Lim, and Ramon Mateo are **ACQUITTED** in Criminal Case No. 26352 due to insufficiency of evidence.

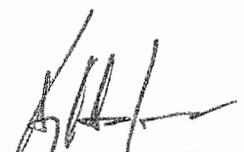
Let entry of judgment be issued immediately.

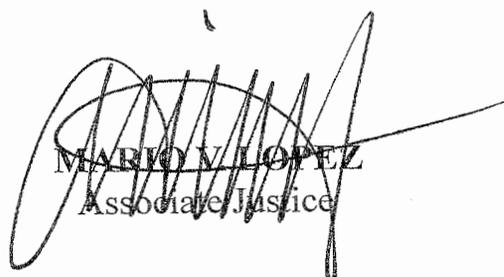
SO ORDERED.


JHOSEP Y. LOPEZ
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice

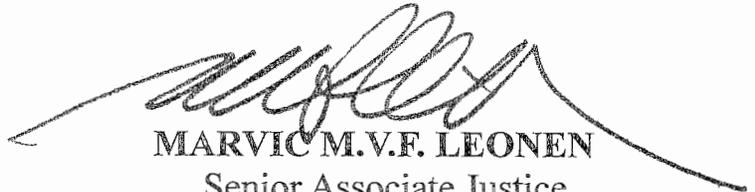

AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


ANTONIO T. KHO, JR.
Associate Justice

ATTESTATION

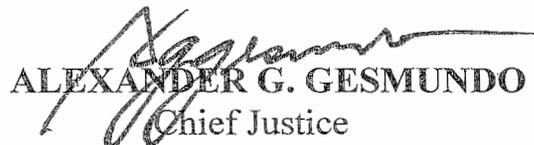
I attest that the conclusions in the above Decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



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



ALEXANDER G. GESMUNDO
Chief Justice