



REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
Manila

SECOND DIVISION

**NOTICE**

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated 17 February 2021 which reads as follows:*

**“G.R. Nos. 247842-43 (*People of the Philippines v. Myrna M. Torres and Manuel T. Tabalada, Jr.*). –**

We affirm the verdict of conviction and the penalties borne in the assailed Decision<sup>1</sup> dated April 5, 2019 and Resolution<sup>2</sup> dated June 10, 2019 of the Sandiganbayan in Criminal Case No. SB-12-CRM-0169 and Criminal Case No. SB-12-CRM-0170 against appellants Myrna M. Torres (Torres) and Manuel T. Tabalada, Jr. (Tabalada), both for violation of Section 3(e) of Republic Act No. 3019 (RA 3019) and malversation of public funds under Article 217 of the Revised Penal Code (RPC).

**Appellants are guilty of violation of Section 3(e) of RA 3019.**

The elements of violation of Section 3(e) of RA 3019 are: (a) the accused must be a public officer discharging administrative, judicial, or official functions (or a private individual acting in conspiracy with such public officers); (b) he or she acted with manifest partiality, evident bad

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<sup>1</sup> Penned by Associate Justice Oscar C. Herrera, Jr. and concurred in by Associate Justices Michael Frederick L. Musngi and Lorifel L. Pahimna, *rollo*, pp. 74 to 104.

<sup>2</sup> Penned by Associate Justice Oscar C. Herrera, Jr. and concurred in by Associate Justices Michael Frederick L. Musngi and Kevin Narce B. Vivero, *id.* at 107.

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faith, or inexcusable negligence; and (c) his 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 functions.<sup>3</sup>

The Sandiganbayan correctly held that all the elements of violation of Section 3(e) of RA 3019 are present. Appellants were undoubtedly public officers at the time of the commission of the offense, Torres was the Municipal Mayor while Tabalada, the Municipal Treasurer, both of the Municipality of Tigbauan and they acted with bad faith and/or manifest partiality in giving unwarranted benefits to themselves when they took the cash equivalent of the ₱250,000.00 check given by the Office of the President for their personal use and benefit.<sup>4</sup> Their concerted acts caused undue injury to the Municipality of Tigbauan which was deprived of the lawful custody and intended use of and benefit from the ₱250,000.00 financial assistance in question.<sup>5</sup> We quote with concurrence the disquisition of the Sandiganbayan, *viz.*:

In the instant case, the existence of the first element is undoubted, the parties having stipulated on the fact of public office as reflected in the *Pre-Trial Order* of February 4, 2013. Reiterating, therefore, all three accused held public positions at the Municipality of Tigbauan, Iloilo at the time material to these cases, to wit: Myrna M. Torres as Municipal Mayor; Manuel T. Tabalada, Jr. as Municipal Treasurer; and Joji Santillana as the Rural Health Nurse.

x x x x

After a careful evaluation of the records, the Court finds that the second and third elements of the violation of *Section 3 (e) of RA. 3019, as amended*, are present.

The prosecution attributes evident bad faith and/or manifest partiality to accused public officers in giving unwarranted benefits to themselves and causing damage and undue injury to the Municipality of Tigbauan, by taking cash in the total amount of Two Hundred Fifty Thousand Pesos (Php250,000.00) from public funds that were in the custody of Tigbauan's Municipal Treasurer for their personal use and benefit.

x x x x

The presence of evident bad faith is amply demonstrated by accused Tabalada's admission, as reflected in the *Pre-Trial Order*, that he had participated in the cashing of the subject check by giving the corresponding amount of Two Hundred Fifty Thousand Pesos (P250,000.00) to Torres

<sup>3</sup> *People v. Naciongayo*, G.R. No. 243897, June 8, 2020.

<sup>4</sup> *Rollo*, pp. 15-19.

<sup>5</sup> *Id.* at 20-23.

through the person of accused Santillana, albeit without issuing any receipt therefor. Such admission dovetails with the testimony of prosecution witness Lebrilla who, from her interview with accused Santillana, learned that Torres had instructed the Rural Health nurse to handcarry the check to Municipal Treasurer Tabalada so that it can be encashed. x x x (W)hat is clear is that when accused Torres received the check from the PMS, she readily knew that the P250,000.00 had been specifically given to fund the socio-economic projects of the Municipality of Tigbauan; thus, her failure to properly endorse the check for deposit to the proper account, coupled with her order to cash the check with the Municipal Treasurer so the proceeds thereof can be given to her by Santillana afterwards, is nothing less than a patent display of bad faith.

x x x x

Accused Torres and Tabalada ineluctably acted in evident bad faith when they did not follow the usual manner of remittance of the money to the local treasury. Tabalada's giving of the cash equivalent of the check from his collection, pursuant to the conveyed instruction of Torres, can only be seen as a conscious doing of a wrong. As treasurer, he knew fully well that the amount covered by the check was for a special purpose and should have been deposited accordingly in the municipality's account instead of being made available for the disposal of accused Torres. On the other hand, Torres' instructions, her receipt of the amount of the check and keeping of the same until the money was eventually turned over to the municipality's coffers in July, 2007 all meld to draw a picture of Torres' manifest bad faith.

x x x x

In the case at bar, the undue injury caused to the government is manifest from the fact that the Municipality of Tigbauan was not able to benefit from the P250,000.00 financial assistance intended for their socio-economic projects. x x x

So must it be.

### **Appellants are also guilty of malversation of public funds**

The prosecution had likewise established all the elements of malversation of public funds to wit:

- (1) The accused is a public officer;
- (2) He/she had custody and/or control of funds by reason of his/her office;
- (3) The funds involved were public funds for which he/she is accountable; and
- (4) He/she appropriated or consented, or through abandonment or through negligence, permitted another person to take said public funds.<sup>6</sup>

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<sup>6</sup> *Manuel v. Sandiganbayan*, 681 Phil. 273, 280 (2012).

Being the Municipal Mayor and Municipal Treasurer of Tigbauan, respectively, appellants were accountable public officers for the funds and property of the municipality.<sup>7</sup> As Municipal Mayor, Torres admittedly received the Presidential Social Fund (PSF) grant supposedly for the benefit of her municipality. On the other hand, as Municipal Treasurer, Tabalada was required to take custody and exercise proper management of the municipality's funds, including the PSF grant.

As shown, Torres submitted to the Presidential Management Staff (PMS) payrolls already used to liquidate another project. The official receipt supposedly covering the funds was issued five (5) years later after the turnover of the financial assistance in question to the municipality. Citing *Perez v. People*,<sup>8</sup> the Sandiganbayan declared that Torres failed to overturn the *prima facie* presumption that she had put such missing funds for her personal use when she could not properly explain how she utilized the grant. Tabalada was equally guilty of malversation when he willfully consented to the misappropriation by encashing the check and turning over the cash proceeds to Torres through the latter's subordinate, instead of depositing the same in the official bank account of the municipality. Once more, we fully concur in the following findings of the Sandiganbayan, thus:

Here, accused Torres, as the chief executive of the Municipality of Tigbauan, is an accountable public officer because of the nature of her function and because the facts of the case showed that she had received the subject funds by virtue of her position. She never denied that she received the P250,000.00 check from the PMS and, in fact attests to it in her self-issued Certification (Exhibit "I-4"). It is thus indubitable that she, as municipal mayor, received and had possession of (and consequently was accountable for) the check. With respect to Tabalada, liability attaches because his inherent function as municipal treasurer requires him to take custody, and to exercise proper management, of the local government's funds.

x x x x

The repeated demands for Torres to submit the Official Receipt supporting the fund's liquidation, and her repeated failure to comply, are succinctly established from the earlier-quoted testimony of Assistant Secretary Tamondong. x x x

The Official Receipt pertaining to the Presidential Social Fund was, in fact, only transmitted by then OIC Municipal Treasurer Edwin Pirote after almost five years had transpired from the time the funds had been handed over to Torres. Witness Lebrilla's testimony similarly highlights the fact that Torres failed to properly liquidate the funds when

<sup>7</sup> See *People v. Pantaleon, Jr.*, 600 Phil. 186, 207, 209-210 (2009).

<sup>8</sup> 568 Phil. 491, 505-506 (2008).

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the audit team found out that she submitted payrolls that were already paid using the budget of the municipality and utilized as documentation a project proposal that had also already been charged against the municipality's budget. All things considered, accused Torres miserably failed to debunk the *prima facie* presumption that she has put such missing funds to her personal use. x x x

### **Appellants conspired in committing the crimes charged**

The concerted acts of Torres and Tabalada before, during, and after the commission of the crimes showed that they each contributed to the realization of one common unlawful goal: to deprive the municipal government of the lawful custody and proper management, full utilization of, and benefit from subject public funds. This is the essence of conspiracy. In *Fact-Finding Investigation Bureau-OMB-MOLEO v. Miranda*,<sup>9</sup> the Court ruled that proving conspiracy does not always require direct evidence. It sufficient that the act of every conspirator be shown to have been done to contribute to the realization of a common unlawful goal, as in this case, thus:

To prove conspiracy, it is not always necessary that direct evidence be presented to establish its existence. That the conspirators came to an agreement to pursue a common evil design may be inferred from the overt acts of the conspirators themselves. The act of every conspirator must be shown to have been done to contribute to the realization of a common unlawful goal. In *Macapagal-Arroyo v. People*, the Court ordained:

x x x In terms of proving its existence, conspiracy takes two forms. The first is the express form, which requires proof of an actual agreement among all the co-conspirators to commit the crime. However, conspiracies are not always shown to have been expressly agreed upon. **Thus, we have the second form, the implied conspiracy. An implied conspiracy exists when two or more persons are shown to have aimed by their acts towards the accomplishment of the same unlawful object, each doing a part so that their combined acts, though apparently independent, were in fact connected and cooperative, indicating closeness of personal association and a concurrence of sentiment. Implied conspiracy is proved through the mode and manner of the commission of the offense, or from the acts of the accused before, during and after the commission of the crime indubitably pointing to a joint purpose, a concert of action and a community of interest.** x x x (Emphasis supplied)

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<sup>9</sup> G.R. No. 216574, July 10, 2019, citation omitted.

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## Computation of penalties

### ***Criminal Case No. SB-12-CRM-0169*** ***Violation of Section 3(e) of RA 3019***

Section 9 (a) of RA 3019, as amended, provides:

SECTION 9. *Penalties for violations.* — (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of this Act shall be punished with **imprisonment for not less than six years and one month nor more than fifteen years**, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income. (Emphasis supplied)

Applying the indeterminate sentence law, the Sandiganbayan correctly sentenced appellants to six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office.

### ***Criminal Case No. SB-12-CRM-0170*** ***Malversation***

Under Art. 217 of the RPC, as amended by Republic Act No. 10951 (RA 10951),<sup>10</sup> when the amount involved is more than forty thousand pesos (₱40,000.00) but does not exceed One Million Two Hundred Thousand Pesos (₱1,200,000.00), the appropriate penalty shall be *prision mayor* in its minimum and medium periods.

The Sandiganbayan here correctly credited appellants with the mitigating circumstances of voluntary surrender and restitution of the misappropriated amount. Pursuant to Art. 64 (5) of the RPC, the penalty next lower to that prescribed by law shall be imposed when there are two (2) or more mitigating circumstances and no aggravating circumstance is present, *i.e.*, *prision correccional* in its medium and maximum periods or two (2) years, four (4) months, and one (1) day to six (6) years.

Applying the indeterminate sentence law, the Sandiganbayan properly imposed two (2) years, two (2) months, and one (1) day of *prision correccional*, as minimum, to four (4) years, two (2) months, and one (1) day of *prision correccional*, as maximum, and a fine of Two Hundred Fifty

<sup>10</sup> An Act Adjusting the Amount or the Value of Property and Damage on which a Penalty is Based and the Fines Imposed Under the Revised Penal Code, Amending for the Purpose Act No. 3815, Otherwise Known as "The Revised Penal Code", as Amended.

Thousand Pesos (₱250,000.00) equivalent to the amount malversed pursuant to Art. 217 of the RPC, with perpetual special disqualification from holding public office.

**Ordinary appeal is the proper remedy to question a verdict of conviction rendered by the Sandiganbayan in the exercise of its exclusive original jurisdiction**

Section 1, Rule XI of the 2018 Revised Internal Rules of the Sandiganbayan ordains:

SECTION 1. *Methods of Review.* —

(a) *In General.* — The appeal to the Supreme Court in criminal cases decided by the Sandiganbayan in the exercise of its original jurisdiction shall be by notice of appeal filed with the Sandiganbayan and by serving a copy thereof upon the adverse party.

The appeal to the Supreme Court in criminal cases decided by the Sandiganbayan in the exercise of its appellate jurisdiction, and in civil cases shall be by petition for review on *certiorari* under Rule 45 of the 1997 Rules of Civil Procedure. x x x

In *Estipona, Jr. v. Lobrigo*,<sup>11</sup> the Court underscored that while the power to define, prescribe, and apportion the jurisdiction of the various courts is, by constitutional design, vested in Congress, the power to promulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts belongs exclusively to this Court.

**WHEREFORE**, the Decision dated April 5, 2019 and Resolution dated June 10, 2019 of the Sandiganbayan are **AFFIRMED**. Appellants **MYRNA M. TORRES** and **MANUEL T. TABALADA, JR.** are found guilty of violation of Section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, in Criminal Case No. SB-12-CRM-0169; and malversation of public funds under Article 217 of the Revised Penal Code, as amended, in Criminal Case No. SB-12-CRM-0170.

They are each sentenced to an indeterminate penalty of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office in **Criminal**

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<sup>11</sup> 816 Phil. 789, 803 (2017).

**Case No. SB-12-CRM-0169;** and two (2) years, two (2) months, and one (1) day of *prision correccional*, as minimum, to four (4) years, two (2) months, and one (1) day of *prision correccional*, as maximum, and a fine of Two Hundred Fifty Thousand Pesos (₱250,000.00), with perpetual special disqualification from holding public office in **Criminal Case SB-12-CRM-0170.**

**SO ORDERED.”**

By authority of the Court:

TERESITA AQUINO TUAZON  
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA  
Deputy Division Clerk of Court

11 MAY 2021

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