



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
Quezon City

FOURTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. SB-07-CRM-0071

For: Violation of Sec. 3(b) of R.A.
No. 3019

- versus -

Present:

ROLANDO Z. TIGAS,
CLEMENCIO S. ABELLA JR.,
HERCULES O. LLANDA, and,
RAFAEL D. GUINTO,

Quiroz, J., *Chairman*
Cruz, J.
Jacinto, J.

Accused. Promulgated on:

May 25, 2018 /s/

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DECISION

JACINTO, J:

On 6 May 2005, the Municipality of Samal, Bataan purchased two parcels of land, covered by Transfer Certificates of Title (TCTs) No. T-6298 and T-6300 of the Bataan Registry, from the heirs of Anacleta Hacinas, Rogelio Oconer, and Soledad Oconer, represented by their Attorney-in-Fact, Mr. Publio M. Garcia (Mr. Garcia) for PhP 2,500,000.00.¹

Sometime in 2007, the National Bureau of Investigation (NBI) received an anonymous letter dated 27 March 2007, reporting that the said transaction was anomalous. The NBI investigated the matter and, on 2 May 2007, transmitted its findings to the Office of the Ombudsman (OMB), recommending that the following municipal officials of Samal, Bataan be prosecuted: Municipal Mayor Rolando R. Tigas, and *Sangguniang Bayan* (SB) members Clemenco S. Abella, Jr., Hercules O. Llada, and Rafael D. Guinto.

¹ Deed of Absolute Sale dated 6 May 2005, attachment to Exh. "A" (NBI Report dated 2 May 2007) for the prosecution.

After conducting the requisite preliminary investigation, the OMB issued a Resolution dated 21 August 2007,² finding probable cause to indict the said officials with Violation of Section 3(b) of Republic Act (R.A.) No. 3019, otherwise known as the “Anti-Graft and Corrupt Practices Act,” as amended, before this Court and Violation of Sec. 3(i) of the same law as against Abella, Llanda, and Guinto, before the Regional Trial Court (RTC) of Bataan.

On 25 October 2007, the accused were formally charged before this Court in an *Information*,³ alleging as follows:

That on or about May 6, 2005, or at sometime prior or subsequent thereto, in Samal, Bataan, and within the jurisdiction of this Honorable Court, Rolando Z. Tigas, a public officer, being then the Mayor of Samal, Bataan, occupying a position classified as Salary Grade 27, acting, confederating, and conspiring with Clemenco S. Abella, Jr., Hercules O. Llanda, and Rafael D. Guinto, also public officers, being then members of the Sangguniang Bayan of Samal, Bataan, occupying positions classified as Salary Grade 24, did then and there willfully, unlawfully and criminally request and receive for their own benefit the amount of five hundred thirteen thousand pesos (P513,000.00) in connection with the negotiations and eventual sale between the Municipality of Samal and Publio Garcia, attorney-in-fact of the registered owners, of two parcels of lot registered under TCT No. T-6298 and TCT No. T-6300, a contract where all said accused in their official capacity have to intervene under the law.

Accused Tigas thereafter filed a *Motion for Determination of Probable Cause* dated 6 November 2007,⁴ and moved for the suspension of his arraignment.⁵ Both were denied in separate *Resolutions* dated 26 November 2007⁶ and 28 November 2007,⁷ respectively.

Accused Tigas then filed a *Petition for Certiorari* before the Supreme Court assailing the 21 August 2007 and 10 October 2007 *Resolutions* of the OMB. He then moved that the proceedings before this Court be held in abeyance.⁸ Accused Guinto, Abella, and Llanda, on the other hand, filed a *Motion for Reinvestigation* dated 2 January 2008.⁹

² Approved by the Overall Deputy Ombudsman on 10 September 2007; *Records*, Vol. 1, pp. 4-24.

³ Dated 21 August 2007.

⁴ *Records*, pp. 81-142.

⁵ *Id.*, pp. 146-148.

⁶ *Id.*, pp. 149-150.

⁷ *Id.*, p. 162.

⁸ Per *Manifestation and Motion* dated 27 December 2007, *id.*, pp. 216-219.

⁹ *Id.*, pp. 474-481.

On 6 February 2008, the Court issued two *Resolutions*,¹⁰ denying accused Tigas's *motion* to hold the proceedings in abeyance, and accused Guinto, Abella, and Llanda's *Motion for Reinvestigation*.

On 10 April 2008, accused Guinto, Abella, and Llanda were arraigned and entered "Not Guilty" pleas.¹¹

Accused Tigas, for his part, filed a *Motion to Quash* dated 28 May 2008,¹² which was denied by the Court in its 14 July 2008 *Resolution*.¹³ His *Motion for Reconsideration* was also denied in a *Resolution* dated 2 September 2008.¹⁴ He was finally arraigned on 22 September 2008 and entered a plea of "Not Guilty."

Thereafter, trial ensued with the prosecution presenting ten witnesses: (1) **Publio Malinis Garcia**,¹⁵ Attorney-in-fact of the Heirs of Anacleta Hacinar, Rogelio Oconer, and Soledad Oconer; (2) **Victoria E. Jorge**,¹⁶ of the Philippine National Bank (PNB) - Orani, Bataan Branch; (3) **Atty. Clemente M. Clemente**,¹⁷ Assistant Clerk of Court, Office of the Clerk of Court & Ex-Officio Sheriff (OCC & EOS), Notarial Section, Regional Trial Court (RTC) Manila; (4) **Jerlyn Balbas Valencia**,¹⁸ Clerk IV, OCC & EOS, Notarial Section, RTC Manila; (5) **Josefina De Leon Litonjua**,¹⁹ Account Officer, Consumer Banking Sector, PNB; (6) **Johnny C. Caguiat**,²⁰ Special Investigator, NBI; (7) **Tito Sta. Maria Mate**,²¹ Secretary of the SB of Samal, Bataan; (8) **Josefina Espino Oconer Tolentino**,²² Officer-in-Charge Municipal Accountant of Samal, Bataan; (9) **Emilia Dela Rosa**,²³ Municipal Treasurer of Samal, Bataan; and, (10) **Aida Aranas Nesnia**,²⁴ Associate Graft Investigation Officer III, OMB. The prosecution's version of the events which led to the present complaint, stripped down to the essentials, may be summarized as follows:

Sometime in September 2004, Mr. Garcia was visited in his home in Manila by accused Abella, Llanda, and Guinto where they conveyed the

¹⁰ *Id.*, pp. 572-574.

¹¹ *Records*, Vol. II, pp. 116-120.

¹² *Id.*, pp. 269-282

¹³ *Id.*, pp. 322-327

¹⁴ *Id.*, pp. 335-384

¹⁵ TSN, 4 February 2009.

¹⁶ *Id.*

¹⁷ TSN, 9 March 2009.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ TSN, 10 March 2009.

²¹ TSN, 22 April 2009.

²² *Id.*

²³ *Id.*

²⁴ TSN, 13 July 2006.

interest of the Municipality of Samal to purchase the two lots owned by the heirs of Anacleta Hacinas, Rogelio Oconer, and Soledad Oconer, as represented by Mr. Garcia. Mr. Garcia's wife told the three accused that the lots were for sale at PhP 3,000,000.00.²⁵

A few days later, Mr. Garcia was informed by accused Abella through telephone that the Municipality could only afford to pay PhP 2,500,000.00 for the two lots.²⁶ Nevertheless, Mr. Garcia's principals approved the counter-offer, so he informed the three accused that his principals were willing to sell the properties for PhP 2,500,000.00.²⁷ Thereafter, and upon instructions relayed to him by accused Llanda, Mr. Garcia prepared an "Offer to Sell" dated 1 October 2004²⁸ and gave a copy thereof to accused Abella and Llanda.²⁹

Two to three days later, the three accused went to see Mr. Garcia again. They explained that the Municipality would be obtaining a loan from the PNB and that the bank might not grant a PhP 2,500,000.00 loan if the value of the lots to be purchased was also pegged at PhP 2,500,000.00. Hence, they suggested that the purchase price in the "Offer to Sell" be changed to PhP 3,500,000.00 instead.³⁰ Mr. Garcia was further told that whatever excess amount that may be obtained from the PNB loan would be used to pay for the right of way, transfer tax, Capital Gains Tax, and other expenses³¹ and that he would only receive the maximum amount of PhP 2,500,000.00.

Mr. Garcia then executed another "Offer to Sell," which – as per the advice of his lawyer – was likewise dated 1 October 2004, but indicating the purchase price as PhP 3,500,000.00 and gave a copy thereof to accused Abella and Llanda.

On 6 May 2005, Mr. Garcia and accused Tigas executed a Deed of Absolute Sale³² for PhP 2,923,000.00 for the two lots at the latter's Office. After he received the check for PhP 2,923,000.00,³³ he was told to pass by the PNB-Orani Branch to withdraw the excess of the PhP 2,500,000.00, which was the true purchase price agreed upon between him and accused Abella and Llanda. Mr. Garcia told the two accused that he would just give

²⁵ TSN, 4 February 2009, pp. 9-10.

²⁶ *Id.*, p. 12.

²⁷ TSN 4 February 2009, p. 12, 18-19.

²⁸ Prosecution's Formal Offer of Exhibits, Annex of Exhibit "A," pp. 25-27.

²⁹ TSN 4 February 2009, p. 23.

³⁰ TSN 4 February 2009, p. 24.

³¹ *Id.*, p. 26.

³² *Supra* at note 1.

³³ *Id.*, at pp 33-35;41; Prosecutions Formal Offer of Exhibits, Exhibit "E." ;

it to them in Manila after depositing the check with his bank, but said accused insisted that they instead go to PNB- Orani for the said transaction.

At the PNB-Orani Branch, Mr. Garcia withdrew PhP 550,000.00 and gave PhP 513,000.00 to accused Abella and Llanda, representing the following: (i) PhP 423,000.00 as the excess of the agreed purchase price of PhP 2,500,000.00 and the PhP 2,923,000.00 that was actually paid; and (ii) PhP 90,000.00 as Mr. Garcia's supposed share in the payment of Capital Gains Tax. Accused Abella and Llanda received the said amounts without issuing any acknowledgment receipt, whether official or otherwise.³⁴

Mr. Garcia would again meet accused Abella and Llanda in his house sometime in July 2005, where he was asked by the two accused to sign a document denominated as "Affidavit of Attestation," stating that the amount of PhP 2,500,000.00 indicated in the 1 October 2004 "Offer to Sell" was a mere typographical error and that the correct amount should have been PhP 3,500,000.00. Garcia told them that he does not want to be involved in the transaction any further, but the two accused told him that the document was only for records purposes; thus he obliged.³⁵

On 23 June 2009, the prosecution rested its case and filed its *Formal Offer of Evidence*,³⁶ all of which (documentary exhibits) were admitted by the Court in a *Resolution* dated 10 August 2009.³⁷

The accused thereafter filed motions for leave to file their *Demurrer to Evidence*,³⁸ which were duly opposed by the prosecution.³⁹ Their motions, however, were denied in a *Resolution* dated 7 October 2009.⁴⁰

Despite the Court's denial of his *Motion for Reconsideration*⁴¹ and regardless of the ample warning as to the consequences of submitting a demurrer to evidence without leave of court, accused Tigas proceeded to submit his *Demurrer to Evidence*,⁴² arguing in essence that the prosecution's evidence does not prove beyond reasonable doubt the charge that he requested or received money in connection with the negotiations and eventual purchase of the two lots by the Municipality.

³⁴ *Id.*, pp. 48-50.

³⁵ *Id.*, pp. 52-53.

³⁶ *Records*, Vol. III, pp. 231-244.

³⁷ *Id.*, p. 385.

³⁸ *Id.*, pp. 389-440.

³⁹ *Id.*, pp. 443-450.

⁴⁰ *Id.*, p. 482.

⁴¹ *Id.*, pp. 507-514.

⁴² *Id.*, pp. 527-539.

Per Resolution dated 23 April 2010, the resolution of accused Tigas's *Demurrer to Evidence* was held in abeyance until after the rest of the accused terminated the presentation of their evidence.

The three other accused - Abella,⁴³ Llanda,⁴⁴ and Guinto⁴⁵ - testified in their defense and, in addition, presented the testimonies of **Tito Sta. Maria Mate**,⁴⁶ Secretary of the SB of Samal, Bataan and **Raymundo Adraneda Langas**,⁴⁷ Vice-Chairman for the Committee on Finance of the SB of Samal, Bataan.

Accused SB members admit that they dealt with and negotiated with Mr. Garcia in connection with the Municipality's purchase of the two lots owned by Mr. Garcia's principals. Accused Abella and Llanda, in particular, admit having received the amount of PhP 513,000.00 from Mr. Garcia. However, they claim that from the said amount, PhP 110,000.00 was paid to Polly Mariano and Dennis Lazarte for road right of way and PhP 219,000.00 was paid to the Municipal Treasurer for Capital Gains Tax and the balance of PhP 184,000.00 was being held by councilor Langas.

Accused Abella, Jr. for his part claims that he and accused Llanda went to the Office of the Treasurer supposedly to pay the necessary taxes. However, the Municipal Treasurer was not there, thus accused Llanda turned over the money to then SB member Raymundo Langas, who was the vice-chair of the Committee on Finance.⁴⁸ After that, he no longer knew what happened to the said amount.

Accused Llanda also emphasizes that the three of them merely acted upon the instructions of accused Tigas.⁴⁹ He claims that it was accused Tigas who instructed them to accompany Mr. Garcia to PNB-Orani Branch, receive the PhP 513,000.00, and gave the same to councilor Langas.

Accused Guinto, on the other hand, testified that sometime in 2009, councilor Langas told him that if called to the witness stand, he (Langas)

⁴³ TSNs, 12 July 2010 and 13 July 2010.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ TSN, 13 July 2010.

⁴⁷ TSN, 6 October 2010.

⁴⁸ TSN, 12 July 2010, p. 48.

⁴⁹ TSN, 6 October 2010, pp. 53-69.



would say that he gave the money which he received from accused Llanda, to accused Tigas.⁵⁰

Former councilor Raymundo A. Langas, testifying for the defense, claims on direct examination that he received the amount of PhP 513,000.00 from accused Abella, Jr. and Llanda on 6 May 2005;⁵¹ that from said amount he paid PhP 110,000.00 to Polly Mariano and Dennis Lazarte for right of way on their lots;⁵² PhP 219,000.00 to the Treasurer's Office for Capital Gains Tax,⁵³ and the remaining PhP 184,000.00 has been in his possession since 6 May 2005 because the transaction for which said amount was to be used, did not push through.⁵⁴

On cross-examination, however, he testified that on 7 May 2005, accused Abella, Jr. and Llanda took the PhP 110,000.00 from him and they were the ones who paid Polly Mariano and Dennis Lazarte for the right of way on the latter's lots.⁵⁵

Thereafter, accused Abella, Llanda, and Guinto filed their *Formal Offer of Exhibits*.⁵⁶ All the documents thus offered were admitted except for Exhibits "80" and "88," since said documents were not attached to the *Formal Offer*.⁵⁷

On 21 January 2011, the prosecution moved to set the case for reception of rebuttal evidence.⁵⁸ However, this was denied by the Court in its 20 June 2014 *Resolution*.⁵⁹

On 24 August 2017, the Court ordered the parties to file their respective *Memoranda*,⁶⁰ which was complied with by the prosecution,⁶¹ accused Tigas,⁶² and Guinto.⁶³ Accused Abella and Llanda, on the other hand, failed to do so despite notice.  

⁵⁰ *Id.*, p. 48.

⁵¹ *Id.*, p. 9.

⁵² *Id.*, p. 10.

⁵³ *Id.*

⁵⁴ *Id.*, pp. 10-11.

⁵⁵ *Id.*, pp. 30-31.

⁵⁶ *Records*, Vol. IV, pp. 162-174.

⁵⁷ *Id.*, pp. 300-301.

⁵⁸ *Id.*, pp. 303-305.


⁵⁹ *Id.*, pp. 353-354.

⁶⁰ *Id.*, p. 401.

⁶¹ *Memorandum* dated 9 September 2014, *id.*, pp. 97-129.

⁶² *Memorandum* dated 15 February 2017, *id.*, pp. 315-346.

⁶³ *Memorandum* dated 30 October 2017, *id.*, pp. 418-427.



THE COURT'S RULING

The accused are charged with Violation of Sec. 3(b) of R.A. No. 3019, particularly for receiving a sum of money in connection with the purchase of two parcels of land by the Municipality of Samal, Bataan. They are accused of having acted in conspiracy with each other.

Sec. 3(b) of R.A. 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:

xxx

xxx

xxx

- (b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other part, wherein the public officer in his official capacity has to intervene under the law.

The essential elements of the said crime are as follows:

1. The offender is a public officer;
2. who requested or received a gift, a present, a share, a percentage, or benefit;
3. on behalf of the offender or any other person;
4. in connection with a contract or transaction with the government; and,
5. in which the public officer, in an official capacity under the law, has the right to intervene.⁶⁴

Conspiracy, on the other hand, is said to exist, when –

xxx two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy does not

⁶⁴ *Cadiao-Palacios v. People*, G.R. No. 168544, 31 March 2009.

need to be proven by direct evidence and may be inferred from the conduct – before, during, and after the commission of the crime – indicative of a joint purpose, concerted action and concurrence of sentiments. In conspiracy, the act of one is the act of all. Conspiracy is present when one concurs with the criminal design of another, as shown by an overt act leading to the crime committed. It may be deduced from the mode and manner of the commission of the crime.⁶⁵


Ladonga v. People,⁶⁶ instructs that conspiracy must be established by positive and conclusive evidence, and not by mere conjectures. Thus -

Conspiracy must be established, not by mere conjectures, but by positive and conclusive evidence. Conspiracy transcends mere companionship and mere presence at the scene of the crime does not in itself amount to conspiracy. Such knowledge, acquiescence in or agreement to cooperate, is not enough to constitute one as a party to a conspiracy, absent any active participation in the commission of the crime with a view to the furtherance of the common design and purpose.

The culpability of the accused will be determined based on the foregoing jurisprudential guidelines.


There is no issue as to the first and fifth elements. All the accused are public officers and their involvement in the underlying transaction was by reason of their public functions. Accused Tigas was at the time material to the charge, the Municipal Mayor, and in such capacity represented the Municipality in the transaction with Mr. Garcia. As to the rest of the accused, all of them were *SB* members of Samal, Bataan at the time material to the charge and were instrumental in passing the necessary legislation authorizing the purchase of the properties from Mr. Garcia. It was also in their capacities as *SB* members and as authorized representatives of the Mayor, accused Tigas, that they represented the Municipality in the negotiation stage of the transaction. It was because of their intervention that the purchase price for the two lots was lowered from PhP 3,000,000.00 to PhP 2,500,000.00. It was also through their representations that Mr. Garcia agreed to receive the amount of PhP 2,500,000.00 only, even if the Deed of Absolute Sale⁶⁷ indicated that the purchase price was PhP 2,923,000.00.

However, as to the second element – receipt of a gift, a present, a share, a percentage, or benefit – the prosecution's evidence only goes so far as accused Abella, Jr. and Llanda, who incidentally did not deny that they

⁶⁵ *People v. Pantaleon, Jr.*, G.R. Nos. 158694-96, 13 March 2009. 

⁶⁶ G.R. No. 141066, 17 February 2005.

⁶⁷ *Supra* at note 1.



received PhP 513,000.00, which was taken from the purchase price paid by the Municipality of Samal, from Mr. Garcia.

Although accused Abella, Jr. and Llanda claim that the PhP 513,000.00 was to answer for legitimate expenses, such as payment for right of way and Capital Gains Tax, they have not presented any form of documentation, such as receipts, to support their claim. In this connection, it is worthy to stress that if indeed these were legitimate expenses to be shouldered by the Municipality, they should have been supported, at the very least, by disbursement vouchers and official receipts. For this reason, the Court cannot take at face value their claim that the money received was used to pay for legitimate government expenses.

The Court cannot likewise give credence to councilor Langas's claim that PhP 219,000.00 was used to pay for Capital Gains Tax, since no receipt was submitted in evidence to substantiate such payment. Moreover, the Court notes that Capital Gains Tax is not a local tax to be paid to the Municipal Treasurer. The same is true with respect to their claim that PhP 110,000.00 was paid to Polly Mariano and Dennis Lazarte for the right of way through their properties.⁶⁸ Again such claim has no evidentiary support.

The prosecution's evidence clearly establishes that it was accused Llanda and Abella, Jr. who were present at all stages of the negotiations with Mr. Garcia. It was they who made it clear to Mr. Garcia that regardless of the amount mentioned in the Offer to Sell, he (Mr. Garcia) would only receive PhP 2,500,000.00. While they accordingly justified the withholding of the excess amount as payment for right of way and Capital Gains Tax, the evidence shows that this was just a mere subterfuge to hide their real intentions to defraud the Municipality right from the start.

Thus, having established that at the time material to this case accused Abella, Jr. and Llanda were public officers, and in such capacity participated or intervened in the negotiations and eventual transaction between the Municipality of Samal, Bataan and Mr. Garcia and, in the process, received the amount of PhP 513,000.00 in connection with said transaction, which remains to be unaccounted for, the prosecution has proven all the elements of the crime for which the two accused are being charged.

However, it is important to point out that the evidence only points to accused Abella, Jr. and Llanda as having demanded and received the PhP 513,000.00. As to accused Guinto, the evidence only points to his presence

⁶⁸ *Id.*, pp. 30-31.

at the initial negotiation stage between the accused SB members and Mr. Garcia. Accused Guinto, however, was not present at the PNB-Orani Branch where the said amount was turned over to accused Abella, Jr. and Llanda.



The same is also true with accused Tigas. As correctly pointed out in his *Demurrer to Evidence*, there is nothing on record to prove that he participated in the negotiations with Mr. Garcia, much less that he received any amount or share in the purchase price of the properties bought by the Municipality. While there is evidence to show his participation in obtaining the loan from PNB and in the consummation of the sale, the Court cannot supply any criminal context to these actions where the prosecution was unable to provide any. Simply stated, the prosecution's evidence failed to prove beyond reasonable doubt accused Tigas's participation in the crime charged and that he received any share from the excess of the purchase price paid by the Municipality. Absent further context to his actions, he could be considered to have merely exercised duties relative to his office.⁶⁹ The only witness that the prosecution presented who was personally knowledgeable about the sale of the properties is Garcia himself. Unfortunately, the extent of Garcia's testimony, as far as accused Tigas is concerned, is that he received the check from the former, while he dealt with the other accused during the other stages of the transaction.

Although accused Llanda also testified that accused Tigas directed them to ask Garcia to change the offer from PhP 2,500,000.00 to PhP 3,500,000.00, he was sparing as to the details or extent of Tigas's participation in the entire transaction. He likewise failed to state that Tigas received any part of the proceeds from the sale.

Thus, for lack of proof beyond reasonable doubt that accused Tigas and Guinto received any sum, item, interest, or benefit from the sale of the subject properties, the Court is constrained to dismiss the charge against them.

In any criminal case, it is the burden of the prosecution to prove beyond reasonable doubt the culpability of an accused to the crime as charged. Nothing less than this onerous task is required from the State.

⁶⁹ In *People v. Pasion*, G.R. No. 203026, 28 January 2016, the Supreme Court reiterated that presumption of regularity prevails and may only be overturned by clear and convincing evidence that the officers were not properly performing their duty or that they were inspired by improper motive.



In this regard, the Supreme Court's reminder in *People v. Wagas*⁷⁰ is *apropos*:

It is a fundamental rule in criminal procedure that the State carries the onus probandi in establishing the guilt of the accused beyond a reasonable doubt, as a consequence of the *tenet ei incumbit probatio, qui dicit, non qui negat*, which means that he who asserts, not he who denies, must prove, and as a means of respecting the presumption of innocence in favor of the man or woman on the dock for a crime. Accordingly, the State has the burden of proof to show: (1) the correct identification of the author of a crime, and (2) the actuality of the commission of the offense with the participation of the accused. All these facts must be proved by the State beyond reasonable doubt on the strength of its evidence and without solace from the weakness of the defense. That the defense the accused puts up may be weak is inconsequential if, in the first place, the State has failed to discharge the onus of his identity and culpability. The presumption of innocence dictates that it is for the Prosecution to demonstrate the guilt and not for the accused to establish innocence. Indeed, the accused, being presumed innocent, carries no burden of proof on his or her shoulders. For this reason, the first duty of the Prosecution is not to prove the crime but to prove the identity of the criminal. For even if the commission of the crime can be established, without competent proof of the identity of the accused beyond reasonable doubt, there can be no conviction.


In this case, the prosecution failed to discharge the burden of proving all the accused's guilt beyond reasonable doubt, either of the alleged crime as charged, or to their conspiracy to commit the same. While the prosecution has offered sufficient evidence to prove accused Abella and Llanda's culpability under Sec. 3(b) of R.A. No. 3019, it has been unable to submit proof beyond reasonable doubt as to the guilt of accused Tigas and Guinto.


Applicable Penalty

As per Sec. 1 of Act No. 4103,⁷¹ as amended, for offenses punishable outside of the Revised Penal Code, the maximum term to be imposed for the same shall not exceed the maximum fixed by the latter, while the minimum shall not be less than the minimum term prescribed under the same law.

Under Sec. 9 of R.A. No. 3019, the penalty imposable for violation of Sec. 3 of the same law would be punished with imprisonment of not less

⁷⁰ G.R. No. 157943, 4 September 2013.

⁷¹ Otherwise known as the "Indeterminate Sentence Law." 



than six years and one month, nor more than 15 years, with perpetual disqualification from office.

Considering the obtaining circumstances in this case, the Court finds it proper to mete the penalty of six years and one month. Thus, while Act No. 4103 mandates that a minimum be derived after the Court determines the maximum term to be imposed, since the said period is already the lowest allowable sentence, the accused herein found guilty shall thus serve a straight term. Such a construction is in line with the rule that the Indeterminate Sentence Law – specifically the requirement to indicate a maximum and minimum period – should not be applied if it would be unfavorable to the accused.



Specifically in *People v. Nang Kay*,⁷² the Supreme Court affirmed the imposition of a straight sentence rather than the application of the Indeterminate Sentence Law, given that the former would be more beneficial to the accused:

We are, therefore, of the opinion and hold that in cases where the application of the law on indeterminate sentence would be unfavorable to the accused, resulting in the lengthening of his prison sentence, said law on indeterminate sentence should not be applied. Under this opinion, it is obvious that the trial court did not err in sentencing the appellant to imprisonment for five (5) years and one (1) day.

WHEREFORE, in view of the foregoing, accused **CLEMENCO S. ABELLA, JR.** and **HERCULES O. LLANDA** are hereby found **GUILTY** beyond reasonable doubt of Violation of Sec. 3(b) of R.A. No. 3019, as amended, and are accordingly sentenced to suffer the penalty of imprisonment for six (6) years and one (1) month with perpetual disqualification from holding office.

For failure of the prosecution to prove the culpability of accused **ROLANDO Z. TIGAS**, his Demurrer to Evidence is **GRANTED** and he is hereby **ACQUITTED** of the crime charged. The bond posted by the accused for his provisional liberty is ordered **RELEASED**, subject to the usual accounting and auditing procedures, and the Hold Departure Order issued against him is **LIFTED**.

⁷² G.R. No. L-3565, 20 April 1951.



DECISION

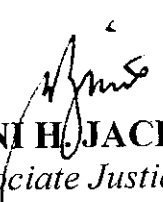
People of the Philippines v. Rolando Tigas, et al.

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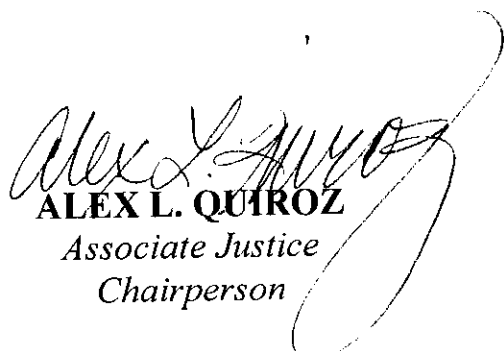
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For failure of the prosecution to prove the culpability of accused **RAFAEL D. GUINTO** beyond reasonable doubt, he is hereby **ACQUITTED** of the crime charged. The surety bond posted by the accused for his provisional liberty is **CANCELLED** and the Hold Departure Order issued against him is **LIFTED**.

SO ORDERED.


BAYANI H. JACINTO
Associate Justice

WE CONCUR:


ALEX L. QUIROZ
Associate Justice
Chairperson


REYNALDO P. CRUZ
Associate Justice

DECISION

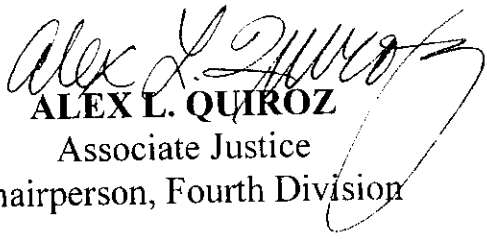
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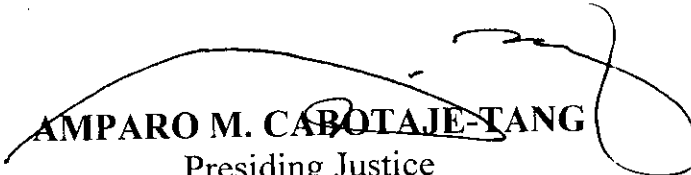
ATTESTATION

I attest that the conclusions in the above Decision had been reached in consultation with the Justices of the Court's Division.


ALEX L. QUIROZ
Associate Justice
Chairperson, Fourth 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.


AMPARO M. CABOTAJE-TANG
Presiding Justice

