



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
QUEZON CITY

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0687

FOR: Violation of Section 3(e) of R.A. 3019

-versus-

ANGELO ANG PALAÑA (SG 30),
Commissioner, National Labor
Relations Commission,

SB-16-CRM-0688

FOR: Violation of Section 7(d), R.A. 6713

Accused.

Present:

Lagos, Chairperson J.,
Mendoza-Arcega, J.,
Corpus-Mañalac, J.

Promulgated:

November 15, 2018 *lea*

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DECISION

MENDOZA-ARCEGA, J.:

Accused Angelo Ang Palaña (Palaña) is charged before this Court for Violation of Section 3(e) of Republic Act 3019¹ and for Violation of Section 7(d) under Republic Act 6713² as per Informations dated July 5, 2016. The accusatory portion of which reads as follows:

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“That on or about 21 December 2011, or sometime prior or subsequent thereto, in the City of Cagayan de Oro, Philippines,

¹ Otherwise known as Anti-Graft and Corrupt Practices Act, as amended

² Otherwise known as Code of Conduct and Ethical Standards for Public Officials and Employees.

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and within the jurisdiction of this Honorable Court, accused ANGELO ANG PALANA, a high-ranking public officer, being then a Commissioner of the Fourth Division of the National Labor Relations Commission (NLRC), committing the offense in relation to his office and taking advantage thereof, acting with evident bad faith, did then and there willfully, unlawfully and criminally cause undue injury to ATTY. REBENE C. CARRERA (ATTY. CARRERA), a practicing lawyer who was then handling cases before the Fourth Division of the NLRC where accused was a member, by soliciting and accepting a loan from said ATTY. CARRERA, in the amount of ₱100,000.00 but, thereafter, refused to pay it back claiming that the same was in the nature of a “good will money” for the cases which ATTY. CARRERA was then handling before his Division or for the cases which had been resolved in favour of ATTY. CARRERA’s clients.

CONTRARY TO LAW.”

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“That on or about 21 December 2011, or sometime prior or subsequent thereto, in Cagayan De Oro City, Philippines, and within the jurisdiction of this Honorable Court, accused ANGELO ANG PALANA, a high-ranking public officer, being then a Commissioner of the National Labor Relations Commission (NLRC), in the course of his official duties and committing the offense in relation thereto, did then and there willfully, unlawfully and criminally solicit and accept a loan in the amount of ₱100,000.00 from ATTY. REBENE C. CARRERA (ATTY. CARRERA), a practicing lawyer who was then handling cases before the Fourth Division of the NLRC where accused was a member, and that despite demand by ATTY. CARRERA, accused refused to pay the same claiming that it was in the nature of a “good will money” for the cases which ATTY. CARRERA was then handling before his Division or for those which were resolved in favour of ATTY. CARRERA’s clients.

CONTRARY TO LAW.”

On September 26, 2016 accused Palaña filed his Omnibus Motion for Judicial Determination of Probable Cause to Suspend the Proceedings, to Hold in Abeyance the Issuance of the Warrant of Arrest and/or its Implementation³ if one has been issued. On September 28, 2016, the Court

³ Record, Vol. I, pages 69 to 98.

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issued a Hold Departure Order⁴ against the accused. On December 21, 2016, the Court ordered⁵ the issuance of warrant of arrest against the accused upon finding of probable cause. Thereafter the warrants of arrest⁶ were issued by the Court on December 22, 2016.

Accused, with the assistance of his counsel, pleaded not guilty when arraigned⁷ on February 23, 2017.

After conclusion of the Pre-trial⁸ held on May 22, and June 21, 2017, the following stipulations between the parties were admitted:

1. That during the period material to these cases as alleged in the Informations, accused Angelo A. Palaña, was a public officer being a Commissioner of the National Labor Relations Commission (NLRC);
2. That whenever referred to orally or in writing by the Honorable Court and the Prosecution and/or its witnesses, he admits that he is the same Angelo A. Palaña, the accused in these cases.
3. That complainant Rebene C. Carrera was a Law Practitioner appearing before labor cases in the Office of the accused during the time material to these cases.
4. That accused and his wife Shirley S. Palaña jointly owns a BDO Savings Account No. 0027-7004-3524.

Thereafter, trial against accused ensued. The prosecution presented *Atty. Corinne Joie Miranda Garillo, Atty. Rebene C. Carrera, Joanna D. Vianzon, Atty. Ma. Roselette Puno-Gonzalo, and Amelia Lopez Celino* as witnesses. While the defense presented as witnesses *Commissioner Nieves de Castro and Shirley Sia Palaña*.

EVIDENCE FOR THE PROSECUTION

The open court testimony of Atty Ma. Rosellete Puno-Gonzalo was dispensed with in view of the defense' agreement to stipulate on the offer of testimony of this witness with counter stipulation that the Decisions rendered by the Fourth Division of the NLRC were made by a collegial body. While the testimony of Amelia Lopez Celino, the Head of the Human Resource Division of the NLRC, was also subject to stipulation since she was only made to identify documents as proof that the accused was a public officer and had been dismissed from service.

⁴ Record, Vol. I, pages 102-103.

⁵ Id, pages 131 to 139.

⁶ Id, pages 140 to 141.

⁷ Order dated February 23, 2017. Record, Vol. I, page190.

⁸ Pre-trial Order. Record, Vol. I, pages 258-262.

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Atty. Rebene C. Carrera

He is a practicing lawyer specializing in maritime and labor laws and with business address at Unit 8 Don Alex Building Del Monte Avenue corner West Avenue, Quezon City. During direct examination, he identified the Verified Complaint dated May 28, 2013⁹, which he filed before the Office of the Ombudsman.

In the said complaint, he admitted that the accused made insinuations that he has discretion, authority and influence regarding the outcome of his cases. According to him, they would meet at the lobby of the NLRC and sometimes the accused would invite him to his office for coffee, to which he would oblige. In the process, the accused informed him that some of his cases are before him and he could give favourable resolution to these pending cases.

He testified that the accused asked him for a loan through a telephone call, saying that there is an emergency for his immediate needs and asked if he could loan to him the amount of One Hundred Thousand Pesos (₱100,000.00), and it was a loan that he might pay back. At that time, he had no money to loan because he was out of the office when he received the call. Despite this, the accused kept on insisting. Considering that he was a Commissioner of the NLRC and there might have some legal effects if he will not comply with the request, he called his Secretary, Ms. Vianzon, to deposit the amount of ₱100,000.00 to the bank account given to him by the accused. So his secretary executed his instruction by giving the amount to their messenger. Then, the latter deposited the money to the said bank account. He admitted that the accused texted to him his BDO Account Number. After depositing the same, the accused acknowledged the same and said thank you.

He came to know the accused since his appointment to the NLRC and after serving for about two to three months, they had several meetings as he used to frequent the latter's office.

Attached to his verified complaint is a BDO Cash Deposit Slip in the amount of ₱100,000.00 with the date 12-21-11, which he identified before the Court.

Likewise attached to his verified complaint is a handwritten list of cases that the accused gave to him upon telling him that he had some pending obligation. This incident happened after he deposited the amount and when he tried to recover the amount of the loan from the accused. The incident happened long time ago, thus, he could not remember the status of these cases when the accused handed him this list. He can only recall that these cases were already resolved in his favour and some are still pending for resolution. In

⁹ Exhibit "E" to "E-5".

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explaining the figures in the second column of the list of cases, he admitted that accused asked him to deliver the amounts indicated therein.

He also identified a list of the cases coming from the Deputy Executive Clerk of Court of the Fourth Division, Atty. Maria Rosellete Gonzalo, as attached to his verified complaint. The list is a certification issued by the Clerk of Court confirming the cases assigned to the accused, which also tallies with the handwritten list given to him by the accused. The affidavit of his secretary, Joana Vianzon dated December 12, 2013, is likewise attached to his verified complaint.

During cross-examination, he admitted that he instructed his Secretary to deposit the amount but the latter gave the money to their messenger to deposit the same. He also admitted that he has no personal knowledge whether the messenger went to the bank, he only had this information from his Secretary, Ms. Vianzon.

Joanna D. Vianzon

She is the Secretary at Atty. Rebene C. Carrera's Law Office located at Unit 8 Don Alex Building, Del Monte Avenue corner West Avenue, Quezon City. As a secretary, she monitors all business and financial transactions of the Law Office. Sometime on December 11, 2011, Atty. Carrera instructed her to deposit to Mr. Angelo Palaña's BDO account (Quezon Avenue-Cordillera) the sum of ₱100,000.00. The instructions were given through a phone call made by Atty. Carrera who dictated the account name and account number.

She asked Atty. Carrera why he needed to deposit the said amount and Atty. Carrera just informed her that Mr. Palaña urgently requested for the money, since he needed it as he was in Cagayan de Oro at that time. And since she had many things to do in the office at that time, she instructed their janitress, Maria Johanna Andora, to deposit said sum of money in accordance with the instruction of Atty. Carrera. After an hour, their janitress arrived and handed to her the original deposit slip.

She later learned that the money is supposed to be a loan to Mr. Palaña, however the latter did not pay for it and considered the same as a goodwill money, as Mr. Palaña were holding some cases of Atty. Carrera. The said amount was apparently considered as advance goodwill money for the decisions he rendered in favour of the cases handled by Atty. Carrera.

During cross-examination, she reiterated that she did not personally deposit the amount, and she merely instructed Maria Johanna Andora, their messenger. Upon inquiry by the Court, the deposit form was filled-up by the messenger. It was the witness who gave the accused's account number, as

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instructed by Atty. Carrera. She wrote the account number on a piece of paper and handed it to their messenger. She admitted that it was only Maria Johanna Andora who was their messenger at the time relevant to this case.

*Atty. Corinne Joie Miranda Garillo*¹⁰

She is 35 years old, single, the Associate Graft Investigation Officer III of the Office of the Ombudsman and resides at Blk. 7 Lot 52 Nevada Street, Barcelona 3, Imus Cavite.

As stipulated, the witness is an Associate Graft Officer of the Office of the Ombudsman since 2009 to present. Her duties as an Associate Graft Investigation Officer include the conduct of Fact Finding Investigation; verify complaints received by the Office of the Ombudsman; gather and receive documents incident to their investigations; make investigation reports; and other duties as may be assigned by the Ombudsman.

Likewise, it was admitted, that as Associate Graft Investigation Officer, she conducted an investigation to verify the complaint of Atty. Rebene Carrera, pertaining to the request, receipt and deposit of the sum of ₱100,000.00, subject of these two (2) cases. During the Fact Finding Investigation, she received the following documents: (1) the verified complaint of Atty. Carrera¹¹ and its attachments (handwritten list of cases¹² and the cash deposit slip¹³); (2) the Letter Compliance from NLRC¹⁴; (3) the Affidavit of Ms. Joana Bianzon¹⁵; (4) the Personal Data Sheet of Commissioner Palaña¹⁶; (5) the Service Record of the accused¹⁷; (6) the Appointment Paper of the accused¹⁸; (7) and the accused's Oath of Office¹⁹.

The documents were submitted by Atty. Carrera, while the files consisting of the accused's Personal Data Sheet, Service Record, Appointment, and Oath of Office, as well as the Letter Compliance were gathered from the NLRC.

It is also admitted that during the investigation, Atty. Carrera personally appeared before her, affirming and confirming the veracity of his claims in his verified complaint. In the same way, Joana Bianzon, the Secretary of the Law

¹⁰ TSN dated

¹¹ Exhibit "A".

¹² Exhibit "G".

¹³ Exhibit "F".

¹⁴ Exhibit "H".

¹⁵ Exhibit "I".

¹⁶ Exhibit "A".

¹⁷ Exhibit "B".

¹⁸ Exhibit "C".

¹⁹ Exhibit "D".

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Office of Atty. Carrera, also personally appeared before her to submit her affidavit in support of the said complaint.

Finally, it was stipulated that she was able to verify the veracity of the BDO deposit slip.

Upon Formal Offer of Exhibits, the Court resolved²⁰ to admit all the prosecution's Exhibits over the objection of the accused, thus:

Exhibits	Description
"A"	Certified True Copy of the Personal data sheet of accused Angelo Palaña, consisting of four (4) pages
"B"	Original copy of the Service Record of Angelo Palaña dated July 2, 2013
"B-1"	Original Copy of Service Record of accused dated November 23, 2015
"C"	Certified True Copy of the Appointment Paper Angelo Palaña
"D"	Certified True Copy of the Oath of Office
"E" to "E-5"	Verified Complaint of Atty. Rebene consisting of 6 pages
"F"	Original copy of BDO Cash Deposit Slip in the amount of ₱100,000.00 dated December 21, 2011 for Savings Account No. 2770043524
"G"	Original copy of the handwritten list of cases
"H"	Original copy of Letter Compliance dated July 18, 2013 (list of cases), consisting of two (2) pages.
"I"	Affidavit of Joanna D. Vianzon dated December 12, 2013, consisting of two (2) pages including Annex A.
"J"	Decision in Obar vs. Bahia Shipping Services Inc.
"J-1"	Decision in Pupa vs. Magsaysay Maritime Corp.
"J-2"	Decision in Bata vs. Philippine Transmarine Carriers Inc.
"J-3"	Decision in Espiritu vs. BSM Crew Services Centre Phils.
"J-4"	Decision in Adocal vs. Southfield Agencies Inc.
"J-5"	Decision in Solacito vs. Pacific Ocean Manning Inc.
"J-6"	Decision in Payao vs. Philippine Transmarine Carriers Inc.
"J-7"	Decision in Dayrit vs. United Philippine Lines
"J-8"	Decision in Barañao vs. SEAMKO Shipmanagement Corpn.
"J-9"	Decision in Torremonia vs. Var Orient Shipping Company
"J-10"	Decision in Tragico vs. NOAH Global Maritime Inc.
"J-11"	Decision in Santos vs. Sealanes Marine Services Inc.
"J-12"	Decision in Ballon vs. Hanseatic Philippines Inc.
"J-13"	Decision in Gallano Jr. vs. Jebsens Maritime, Inc.
"J-14"	Decision in Dumaguing vs. MST Marine Services (Phils) Inc.
"J-15"	Decision in Dela Cruz vs. BSM Crew Service Centre Phils. Inc.
"J-16"	Entry of Judgment in Obar vs. Bahia Shipping Services Inc.
"J-17"	Entry of Judgment in Pupa vs. Magsaysay Maritime Corpn.
"J-18"	Entry of Judgment in Bata vs. Philippine Transmarine Carriers Inc.
"J-19"	Entry of Judgment in Espiritu vs. BSM Crew Services Centre Phils
"J-20"	Entry of Judgment in Adocal vs. Southfield Agencies Inc.
"J-21"	Entry of Judgment in Solacito vs. Pacific Ocean Manning Inc.
"J-22"	Entry of Judgment in Payao vs. Philippine Transmarine Carriers Inc.
"J-23"	Entry of Judgment in Dayrit vs. United Philippine Lines
"J-24"	Entry of Judgment in Barañao vs. SEAMKO Shipmanagement Corpn.
"J-25"	Entry of Judgment in Torremonia vs. Var Orient Shipping Company

²⁰ Record, Vol. 3, pages 5-6.

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“J-26”	Entry of Judgment in Tragico vs. Noah Global Maritime Inc.
“J-27”	Entry of Judgment in Santos vs. Sealanes Marine Services Inc.
“J-28”	Entry of Judgment in Ballon vs. Hanseatic Philippines Inc.
“J-29”	Entry of Judgment in Gallano Jr. vs. Jebsens Maritime, Inc.
“J-30”	Entry of Judgment in Dumaguing vs. MST Marine Services (Phils) Inc.
“J-31”	Entry of Judgment in Dela Cruz vs. BSM Crew Service Centre Phils. Inc.

EVIDENCE FOR THE ACCUSED

Nieves De Castro

She is 65 years old, married, retired Commissioner of the NLRC, Sixth Division and presently residing at 7 Dumandan Street, Santolan, Pasig City.

She knows the accused since the latter was introduced to her by the Chairman of the NLRC as a new Commissioner sometime in 2008 when he was newly appointed to the Commission.

She had interaction with the accused at the NLRC when they were called by the Chairman to discuss about some policies and administrative matters that need to be implemented in order to improve the day to day operation of the Commission.

She also knows the accused’s wife, Mrs. Shirley Palaña, who was introduced to her when they visited the office and the latter asked her if she was interested in seeing some pieces of jewellery that she was selling at that time. She obliged the invitation, sometime in 2010, and bought some from Mrs. Palaña. This incident happened several times.

She would normally pay for the downpayment and the balance will be covered by her issued post-dated checks. However, there are times that she would experience difficulty in paying, she requested Mrs. Palaña to allow her to pay whenever she had available funds. In fact, their arrangement went on smoothly. She would call Mrs. Palaña and ask her to collect her payment. Sometimes, she would just give the payment to the accused and let Mrs. Palaña acknowledge the payment made through her husband.

Recently, she was invited by the accused to have dinner with him and his wife. During their meeting, Mrs. Palaña blurted out that she remembered that she made a deposit on December 21, 2011. Upon hearing the same, she was able to recall that sometime in December 2011 she called Mrs. Palaña for the payment of her balance. As Mrs. Palaña was not in Manila, she remembered asking for her bank account and thereafter she deposited the amount of ₱100,000.00 in BDO Account No. 002770043524 on December 21, 2011.

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She confirmed the deposit and told Mrs. Palaña that she will give the deposit slip to her husband in January 2012, when they meet at the NLRC.

During cross-examination, she admitted that the mode of payment for the jewelry was usually through post-dated checks or in cash whenever she had available funds. The amount she would give in cash ranged from ₱50,000.00 to ₱100,000.00. She would usually give downpayment approximately in the amount of ₱20,000.00.

She admitted that the alleged bank deposit was the first and only time she made payment through a bank deposit. However, she cannot recall that she handed the said bank deposit slip to the accused. She was not also able to keep an original copy of the deposit slip. Likewise, she does not have a personal list or record of all the payments she made, the jewelry she purchased, the dates when she made payment, and the balance that she had. It was only Mrs. Palaña who had a list and she only confirmed the same.

Shirley Sia Palaña

She is 60 years old, married to herein accused Angelo Palaña. She is a businesswoman residing at Hotel Conchita, Guillermo Street, Cogon Market Site, 9000 Cagayan de Oro City.

As a businesswoman, she is presently connected with Easecox and in selling jewelry. She had been into jewelry business years ago, even before her husband's assumption in office at NLRC. But it was only in 2010 when her business had been regular in Metro Manila.

She was introduced to Commissioner Nieves de Castro by her husband in 2010, as she intended to sell some jewelry to her husband's colleagues. And upon several visits to the NLRC, she was able to sell jewelry to Commissioner Nieves De Castro, Commissioner Tess Lora, and a certain King, who was a staff member of Commissioner De Castro.

To encourage new clients in her venture in Easecox, she introduced the said products to her husband's colleagues sometime in 2017. So, the accused arranged a meet up with Commissioner De Castro. During the said meeting, Commissioner De Castro was very interested to know about the case filed against her husband. Thus, the accused mentioned about being accused by a certain Carrera for ₱100,000.00, and that Carrera allegedly deposited the same on December 21, 2011. Upon hearing such deposit, the witness recalled that Commissioner De Castro made that deposit on such date as her final payment for the jewelry that she bought. She recalled that this deposit was the only payment made by Commissioner De Castro through a bank deposit, since most of the time the latter's payment would be in cash and sometimes coursed through her husband.



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During cross examination, she admitted that the cash payment she received from Commissioner De Castro ranged from ₱50,000.00 to ₱200,000.00. And she claimed that the said bank deposit was the first and the last payment she made through a bank deposit. However, she has no original copy of the bank deposit slip.

As proof of her transaction with Commissioner De Castro, she presented a notebook²¹ containing the list of payments made by the Commissioner. On page 48 of the said notebook, she confirmed that the list indicated the month and the day of the payment, including the amount paid, and the balance. However, the list does not include the year of purchase and payment.

During re-direct, she reiterated that on page 48 of the same notebook, the writings Dec, 100,000, arrow, and then 100,000 12/21 mean that Commissioner De Castro was supposed to pay on December, as the due date. On the right side, she was able to pay ₱100,000.00 specifically on 12/21. She claimed that the said payment was made through the bank deposit.

After Formal Offer of Exhibits by the defense the Court resolved to admit the following Exhibits and considered that: **(1) Exhibit "2"** described as "BDO Cash Deposit Slip in the amount of ₱100,000.00 dated December 21,2011 for Account No. 2770043524" was admitted over the objection to the purpose for which the same is being offered on the ground that the original thereof was already identified by and in the possession of the prosecution witness; **(2) Exhibit "15" to "15-a"** described as "Blue Notebook of Shirley Palana noting on page 48 that the list of the pieces of jewelry bought by Nieves De Castro and the amount of each, as well as the balance of payments made" was admitted over the objection that the same are irrelevant and self-serving.

RULING

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Herein accused is charged for violation of Section 3(e) under RA 3019, the said provision specifically provides that:

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 undue injury to any party, including the Government, or giving any private party any unwarranted

²¹ Exhibit "15".

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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 under this provision, the prosecution must prove beyond reasonable doubt that the following elements are present:

1. The accused must be a public officer discharging administrative, judicial, or official function;
2. He must have acted with manifest partiality, evident bad faith or inexcusable negligence; and
3. That his action caused any undue injury to any party, including the government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.²²

There is no dispute as to the first element of the crime, the parties have stipulated that at the time material to this case, accused Palaña is a public officer and serving as a Commissioner of the NLRC.

The Supreme Court, in *Montilla vs. Hilario* has emphasized that “the offense committed in relation to the office” must be understood in this manner:

“the relation between the crime and the office contemplated by the Constitution is, in our opinion, direct and not accidental. To fall into the intent of the Constitution, the relation has to be such that, in the legal sense, the offense cannot exist without the office. In other words, the office must be a constituent element of the crime as defined in the statute, such as, for instance, the crimes defined and punished in Chapter Two to Six, Title Seven of the Revised Penal Code.”²³

Separate from the fact that the position of the accused at the time material to this case has been stipulated by the parties, the allegation of the complainant and the documentary evidence established the first element. The complainant, Atty. Rebene Carrera, alleged that the accused while discharging his judicial functions, insinuated to him that the money loaned by the latter is considered as good will money for the favourable resolution of the cases pending before his court. This allegation was corroborated by documentary evidence which proved that at the time material to this case, several cases

²² *Consigna vs. People*, G.R. No. 175750-51, April 2, 2014.

²³ *Montilla vs. Hilario*, G.R. No. L-4922, September 24, 1951.

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decided in favour of his clients. It is evident that the accused capitalized on his position as the Commissioner of the NLRC to commit the crime charged.

As regards the second element of alternative modes of causing undue injury, the Supreme Court defined “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. “Evident bad faith” contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes, which manifested in petitioner’s actuations and representation.²³ Here, the accused committed his scheme with evident bad faith by means of soliciting and requesting a loan from the complainant. This loan was evidenced by the original copy of the BDO Cash Deposit Slip²⁴ presented by the complainant. As a matter of fact, the BDO Account Number, printed on the face of the Cash Deposit Slip was admitted to be owned by the accused and his wife. The Court cannot fathom how such a personal information be accessible to another individual if not given by the owner. And how can an individual get hold of a Cash Deposit Slip, if he was not the depositor. To the mind of the Court, it would be very difficult for the complainant to devise a way to know the accused’s account number. More so, to obtain an original copy of the deposit slip if he did not make the deposit. As explained by the Court, “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. ‘Evident bad faith’ contemplates a state of mind affirmatively operating with furtive design or with some motive of self-interest or ill will or for ulterior purposes, which manifested in petitioner’s actuations and representation

The accused failed to convince the Court as to his defense. Commissioner de Castro’s testimony that she was the one who deposited the amount of ₱100,000.00 to the accused’s account cannot hold water since she did not present any proof of said transaction. It was only Mrs. Palaña who presented before this Court a photocopy of the BDO Cash Deposit Slip. Thus, the claim that the retired Commissioner, during the time material to this case bought jewelry from the accused’s wife and at that time coursed her payment through a bank deposit, is immaterial. For the Court, this defense is a mere afterthought. There was no sufficient proof to corroborate the same and the only document that the defense produced was a notebook²⁵ containing a list of figures that Mrs. Palaña claimed as Commissioner de Castro’s list of liabilities. The said notebook did not prove that Commissioner de Castro actually deposited the amount of ₱100,000.00 on December 21, 2011.

²³ Consigna vs. People, G.R. No. 175750-51, April 2, 2014.

²⁴ Exhibit “F”.

²⁵ Exhibit “15”.

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Finally, the consideration of the last element has been settled in the case of *Cabrera vs. Sandiganbayan*²⁷ where it has been said that there are two (2) ways by which a public official violates Section 3(e) of RA No. 3019; namely: (a) by causing undue injury to any party, including the Government; or (b) by giving any private party any unwarranted benefits, advantage or preference. Thus, one may be charged for either mode or both. It was further explained that the use of the disjunctive term “or” connotes that either act qualifies as a violation of this provision.²⁸ Here, it was flagrant that the accused caused injury to the private complainant, whether it be in a form of a loan which was not returned or in the form of solicitation, as goodwill money.

Having shown that the accused is guilty beyond reasonable doubt for violation of Section 3 (e) of RA No. 3019, the penalty to be imposed under the same law shall now be considered. Section 9 of RA No. 3019, 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.

Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the value of such thing.

(b) Any public officer violating any of the provisions of Section 7 of this Act shall be punished by a fine of not less than one hundred pesos nor more than one thousand pesos, or by imprisonment not exceeding one year, or by both such fine and imprisonment, at the discretion of the Court.

The violation of said section proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public officer, even if no criminal prosecution is instituted against him. (emphasis supplied)

²⁷ *Cabrera vs. Sandiganbayan*, 484 Phil. 350, 360 (2004), citing *Jacinto vs. Sandiganbayan*, 387 Phil. 872 (2002).

²⁸ *Quibal vs. Sandiganbayan*, G.R. No. 314 Phil. 66 (1995).

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The Indeterminate Sentence Law²⁸ is also applicable. Section 1 thereof specifically provides that if the offense is punished by any other law, the court shall sentence the accused to an indeterminate sentence, the maximum term of which shall not exceed the maximum fixed by said law and the minimum shall not be less than the minimum prescribed by the same.

In accordance with the foregoing provisions, the imposable penalty shall be imprisonment for a minimum period of six (6) years and one (1) month and a maximum period of eight (8) years with the corresponding accessory penalty of perpetual disqualification from public office.

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The accused is also charged for violation of Section 7(d) of RA No. 6713. To be convicted under this rule, the public official must have solicited or accepted, whether directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

The foregoing discussion has sufficiently established that the accused had accepted a loan from the complainant. And if he did not accept this as a loan, it was at the very least accepted for its monetary value in the course of his official duties. The loan was demonstrated through complainant's testimony when he claimed that he attempted to recover the payment. In fact he visited the accused in his office and during that time accused made insinuations that the money he extended as a loan was actually in the form of goodwill money. As to how the accused accepted the money, the complainant claims that he deposited the amount of ₱100,000.00 to the accused's BDO savings account. The prosecution presented the original cash BDO Cash Deposit Slip from the complainant, and We consider this wave of evidence adequate to convict the accused under Section 7(d) of RA No. 6713.

At this point, We cannot consider that the Information under SB-16-CRM-0688 as null and void for being contrary to Section 11 of RA No. 6713, which provides that if the violation is punishable by a heavier penalty under another law, then he shall be prosecuted under the said statute. For the Court, the accused must have raised this issue at the earliest possible opportunity and before he was arraigned. It is an honored principle in criminal procedure that:

“ x x x a person who does not move to quash a complaint or information until after he has pleaded is deemed to have waived all objections then available which are grounds of a

²⁸ Act No. 4103, as amended by Act No. 4225 and RA No. 4203.

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x-----x

motion to quash.³⁰ However, this is subject to exception. By express provision of Sec. 8 of the same rule, failure to assert certain grounds in a motion to quash filed prior to the plea does not operate as a waiver of the right to invoke them later. Even after arraignment, a motion to dismiss the information may be filed if it is based on the ground that: (a) the information charges no offense; (b) the trial court has no jurisdiction; (c) the penalty or the offense has been extinguished; and (d) that double jeopardy has attached. x x x³¹

Since the present circumstances do not fall under any of the foregoing exceptions, We cannot now at this late stage, quash this Information. Correspondingly, Section 11 of this law provides for that the penalty for violation under Section 7 shall be imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (₱5,000), or both, and in the discretion of the court, disqualification to hold public office.

WHEREFORE, in light of the foregoing, the Court hereby renders judgment as follows:

1. Accused Angelo Ang Palaña is found **GUILTY** beyond reasonable doubt of violating Section 3(e) of RA No. 3019 and pursuant Section 9 thereof he is hereby sentenced to suffer the indeterminate penalty of imprisonment of six (6) years and one (1) month, as minimum, to eight (8) years, as maximum, with perpetual disqualification from holding public office, and to pay herein complainant, Atty. Rebene Carrera, the amount of ₱100,000.00; and
2. Likewise, he is found **GUILTY** beyond reasonable doubt for violating Section 7(d) of RA No. 6713 and is therefore sentenced to suffer the penalty of imprisonment of three (3) years.

SO ORDERED.


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

³⁰ Cruz vs. CA, G.R. No. 83754, February 18, 1991; citing People v. Casiano, 1 SCRA 478; Palanca v. Querubin, 30 SCRA 738.


³¹ Id.

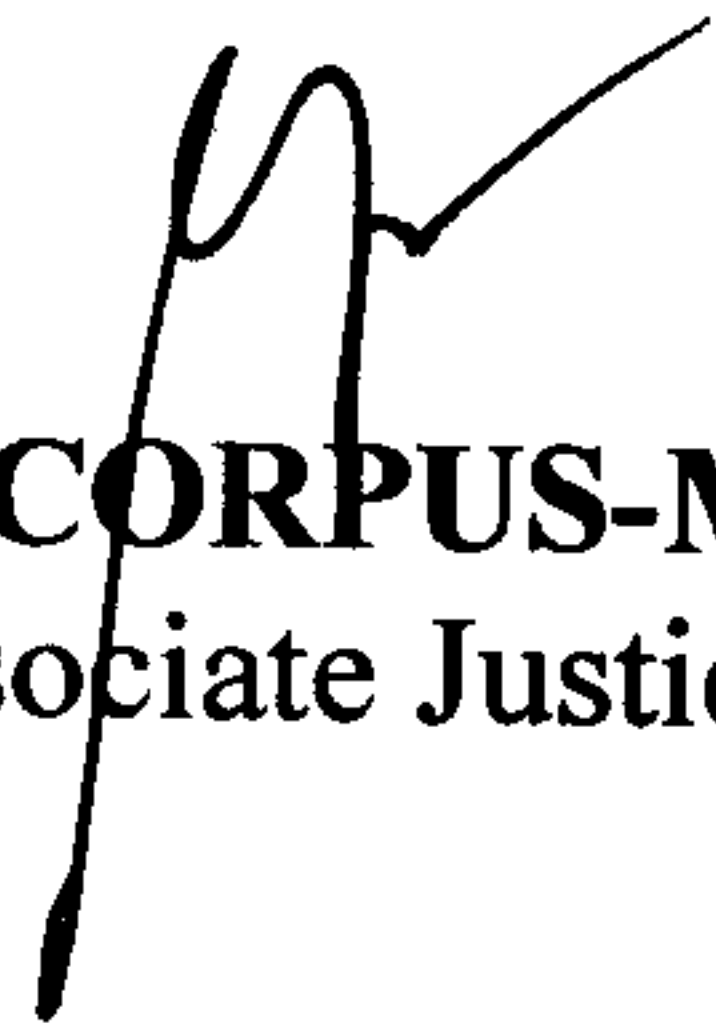
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X-----X

WE CONCUR:


RAFAEL R. LAGOS
Chairperson
Associate Justice


MARYANN E. CORPUS-MAÑALAC
Associate Justice

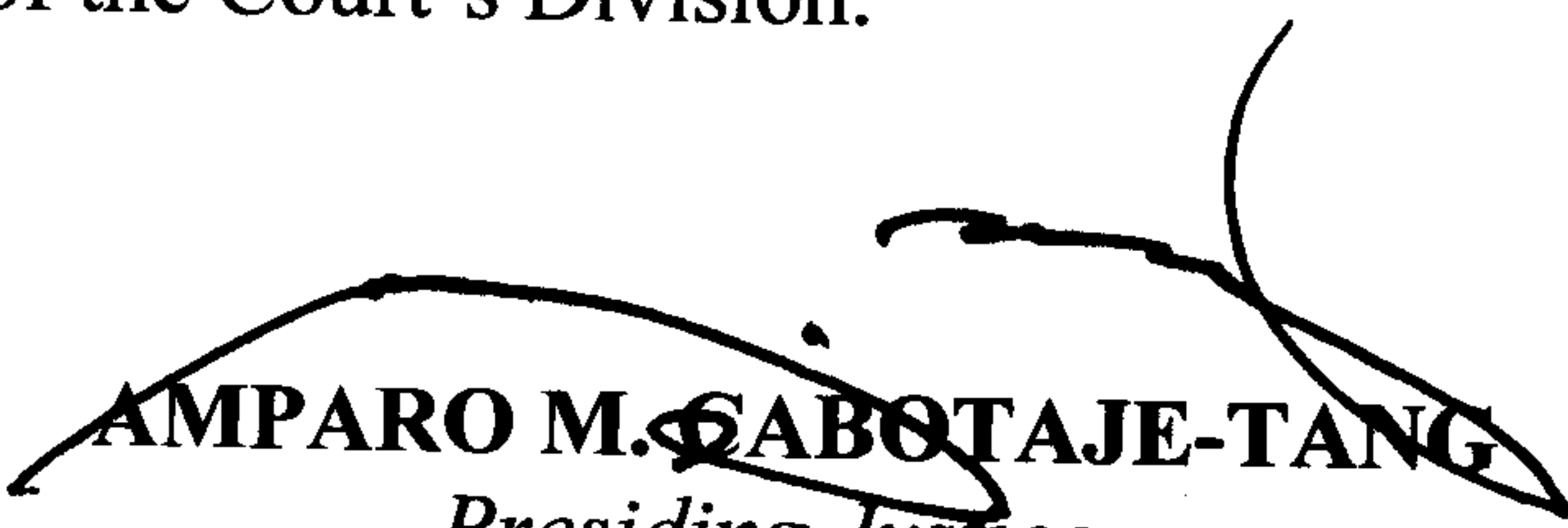
ATTESTATION

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


RAFAEL R. LAGOS
Associate Justice
Chairperson, Fifth Division

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above Decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. GABOTAJE-TANG
Presiding Justice