



Republic of the Philippines
SANDIGANBAYAN
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0332
For: Violation of Section 3(e),
R.A. No. 3019, as amended

- versus -

DIOSDADO G. PALLASIGUE,
Accused.

X ----- X

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-16-CRM-0333
For: Violation of Section 3(f),
R.A. No. 3019, as amended

- versus -

DIOSDADO G. PALLASIGUE,
Accused.

Present:

LAGOS, J., *Chairperson,*
MENDOZA-ARCEGA, and
CORPUS-MAÑALAC, JJ.

Promulgated:

April 12, 2019 ma

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DECISION

CORPUS-MAÑALAC, J.:

Before the Court are two separate *Informations* against accused Diosdado G. Pallasigue, Municipal Mayor of Isulan, Sultan Kudarat, for violation of Section 3(e) and (f) of Republic Act (R.A.) No. 3019, as amended, otherwise known as the *Anti-Graft and Corrupt Practices Act*, docketed as Criminal Case Nos. SB-16-CRM-0332 and SB-16-CRM-0333, respectively.

The accusatory portions of the *Informations* read:

Criminal Case No. SB-16-CRM-0332

That in the year 2007, or sometime prior or subsequent thereto, in Isulan, Sultan Kudarat, and within the jurisdiction of this Honorable Court, above-named accused, DIOSDADO GONZALES PALLASIGUE, a high ranking public official, being then the Municipal Mayor of Isulan, Sultan Kudarat, while in the performance of his official functions and committing the offense in relation to and while taking advantage of his official position, did then and there, willfully, unlawfully and criminally, with evident bad faith and manifest partiality, cause undue injury to Elias S. Segura, Jr. (Segura), Municipal Planning and Development Coordinator (MPDC), Isulan, Sultan Kudarat, in the amount equivalent to his Representation and Transportation Allowance and later his salaries, allowances, and other benefits by reason of his reassignment and eventual dropping from the roll of employees, both personnel actions having been found illegal by the Civil Service Commission (CSC), with the illegality of the former action having been affirmed by the Court of Appeals (CA), and despite the directives of the CSC and the CA to reinstate Segura to his position as MPDC, to his damage and prejudice.

CONTRARY TO LAW.

Criminal Case No. SB-16-CRM-0333

That from 2008 to 2014, or sometime prior or subsequent thereto, in Isulan, Sultan Kudarat, and within the jurisdiction of this Honorable Court, above-named accused, DIOSDADO GONZALES PALLASIGUE, a high ranking public official, being then the Municipal Mayor of Isulan, Sultan Kudarat, while in the performance of his official functions and committing the offense in relation to and while taking advantage of his official position, did then and there, willfully, unlawfully and criminally, without sufficient justification, refuse to act and implement within a reasonable time, the lawful Orders and Resolution of the Civil Service Commission, including the Decision of the Court of Appeals, recalling the reassignment of Elias S. Segura, Jr. (Segura) and reinstatement to his position as Municipal Planning and Development Coordinator (MPDC), Isulan, Sultan Kudarat, for the purpose of favoring his own interest or of discriminating against Segura.

CONTRARY TO LAW.

The Antecedents

Engr. Elias S. Segura, Jr. (Segura), Municipal Planning and Development Coordinator (MPDC) of the Municipality of Isulan, Sultan Kudarat, filed an Affidavit-Complaint¹ dated June 11, 2014 against the accused before the Office of the Ombudsman–Mindanao (OMB-MIN) for violation of Section 3(e) and (f) of R.A. No. 3019, docketed as OMB-M-C-14-010. Segura claimed that he was reassigned and thereafter deprived of his Representation and Travel Allowance (RATA) and eventually dropped from the roll of employees by the accused, who refused to reinstate him despite the rulings of the Civil Service Commission (CSC) and the Court of Appeals (CA) nullifying the personnel actions and directing his reinstatement to his position, depriving him of his salaries, allowances and benefits.

¹ Records, Vol. 1, pp. 18-25.

Accused filed his Counter-Affidavit² dated September 8, 2014 on even date. By Resolution³ of July 6, 2015, the OMB-MIN found probable cause against him and recommended the filing of the instant charges in Court. This was approved on September 22, 2015 by then Ombudsman Conchita Carpio Morales. In an Order⁴ dated November 12, 2015, the OMB-MIN denied the accused's motion for reconsideration, and the same was approved on January 26, 2016 also by Morales. On June 15, 2016, the Office of the Special Prosecutor (OSP) filed the foregoing *Informations*, both dated April 25, 2016, against the accused.

Proceedings before this Court

On June 20, 2016, this Court issued two separate Hold Departure Orders⁵ against the accused in these consolidated cases. In a Resolution⁶ dated June 27, 2016, this Court⁷ found probable cause against the accused but opted not to issue the arrest warrants because he already posted the bail bonds on June 24, 2016. The arraignment of the accused was set on July 26, 2016.⁸

Meanwhile, the accused, through counsel, filed an *Omnibus Motion to Quash and to Defer Arraignment*⁹ dated July 6, 2016 on the ground that the facts charged do not constitute an offense and that the *Informations* contain averments constituting a legal excuse or justification, alleging that Segura was reinstated to his position in 2015 and that his benefits have been restored and released to him. The motion was denied in a Resolution¹⁰ of October 3, 2016 while a motion for reconsideration thereof was denied in a Resolution¹¹ dated November 28, 2016.

The accused was eventually arraigned on January 19, 2017, and pleaded **not guilty** to the charges in these cases.¹²

The preliminary conference was conducted on March 15, 2017 and April 19, 2017¹³ and terminated on May 30, 2017.¹⁴ The parties admitted (1) that the accused was the Municipal Mayor of Isulan, Sultan Kudarat at the time material to these cases; (2) the identity of Diosdado G. Pallasigue as the

² *Id.* at 175-183.

³ *Id.* at 5-11.

⁴ *Id.* at 13-16.

⁵ *Id.* at 235-236.

⁶ *Id.* at 246.

⁷ The Court was then composed of Associate Justice Roland B. Jurado, Chairperson, and Associate Justices Rafael R. Lagos and Maria Theresa V. Mendoza-Arcega as members.

⁸ Records, Vol. 1, p. 244.

⁹ *Id.* at 256-260.

¹⁰ *Id.* at 284-290.

¹¹ *Id.* at 318-322.

¹² *Id.* at 330, 333.

¹³ *Id.* at 338, 344-347, 356-365, 369-373.

¹⁴ *Id.* at 339, 348, 376. The pre-trial hearing was originally scheduled on March 29, 2017, then reset to May 9, 2017 for the completion of the preliminary conference on April 19, 2017, and finally re-scheduled on May 30, 2017 upon the agreement of the parties.

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herein accused; and (3) the jurisdiction of this Court. The parties agreed to avail of the Judicial Affidavit Rule where the judicial affidavits of witnesses shall take the place of their direct testimonies.¹⁵

Trial on the merits then ensued.

The Evidence for the Prosecution

The prosecution presented as witnesses the following: (1) **Elias S. Segura, Jr.**, the complainant; (2) **Ma. Josefina Gepte-Buenbrazo**, Director II, Civil Service Commission Regional Office (CSCRO) No. XII, Field Office for Sultan Kudarat; and (3) **Francis Eric E. Recinto**, a former member of the *Sangguniang Panlalawigan* of Sultan Kudarat.

Segura testified on his in a Judicial Affidavit¹⁶ dated July 13, 2017 with attached documentary exhibits.¹⁷ He stated that he was appointed as the MPDC of the Municipality of Isulan by then Mayor Loney C. Publico on August 1, 1996.¹⁸ On July 11, 2007, the accused, as the newly elected mayor, issued a memorandum¹⁹ requesting the *Sangguniang Bayan* of Isulan to pass a resolution and an ordinance dissolving the Municipal Economic Enterprise and Development Office (MEEDO). The accused then issued Executive Order (E.O.) No. 16 dated August 23, 2007²⁰ designating Segura as Chairman of the Technical Working Group (TWG) tasked to re-evaluate the creation of the MEEDO. On September 3, 2007, the accused approved the *Sangguniang Bayan* Resolution No. 2007-071 passed on August 31, 2007²¹ dissolving the MEEDO. On September 14, 2007, the accused issued a memorandum²² reassigning Segura to the Office of the Municipal Mayor, supposedly to conduct a feasibility study on the re-establishment of MEEDO, and relieving him of his functions as MPDC. He was likewise directed therein to report to an office located at the Municipal Integrated Public Terminal, 1.5 kilometers away from the municipal hall. He complied therewith, only to find that the office lacks the necessary equipment (*e.g.*, tables, chairs, supplies) and personnel. Thereafter, the accused designated a certain Mr. Freddie G. Tiosing as Acting MPDC replacing Segura.

In a Decision dated February 26, 2008,²³ the CSCRO No. XII ruled in favor of Segura's appeal from the reassignment order, directing the accused to recall the reassignment and to restore Segura to his position as MPDC. The CSC denied the accused's appeal therefrom in its Resolution No. 09-0501

¹⁵ *Id.* at 376, 383.

¹⁶ *Id.* at 395-407.

¹⁷ *Id.* at 408-561.

¹⁸ *Id.* at 408.

¹⁹ *Id.* at 409.

²⁰ *Id.* at 410-411.

²¹ *Id.* at 412-415.

²² *Id.* at 416.

²³ *Id.* at 417-424.

dated March 31, 2009,²⁴ ordering the restoration of Segura to his position as MPDC with payment of monetary benefits due him from the time of his illegal reassignment up to his actual reinstatement, and denied the accused's motion for reconsideration in its Resolution No. 10-00470 dated December 7, 2010.²⁵

Meanwhile, on March 28, 2008, Segura's RATA in the amount of PhP8,640.00 was withheld and given to Mr. Tiosing. He filed a complaint against the accused, Mr. Tiosing, and other concerned officials of the municipality with the OMB-MIN for Grave Misconduct and Abuse of Authority, docketed as OMB-M-A-08-199-E. By Decision of October 13, 2009,²⁶ the OMB-MIN found the accused, Mr. Tiosing, and Municipal Budget Officer Lalyn B. Espinosa guilty of Simple Misconduct and meted out the penalty of suspension for one (1) month and one (1) day.

In a Memorandum dated September 10, 2008,²⁷ Segura informed the accused of his intention to assume the position of MPDC effective September 15, 2008, citing CSC Memorandum Circular No. 2, s. 2005 that a reassignment without consent shall be allowed only for not more than one (1) year. The accused issued E.O. No. 23 dated September 22, 2008,²⁸ however, dropping Segura from the rolls effective immediately, supposedly for incurring Absence Without Leave (AWOL) since July 31, 2008. In a Decision dated April 23, 2009,²⁹ the CSCRO No. XII granted Segura's appeal from the order dropping him from the rolls, ordering his immediate reinstatement to his position as MPDC, and in a Decision dated November 3, 2009³⁰ denied the accused's motion for reconsideration. On appeal by the accused, the CSC in its Decision No. 11-0466 dated August 18, 2011,³¹ affirmed the Decisions dated April 23, 2009 and November 3, 2009 of CSCRO No. XII. However, no actual reinstatement happened. In a Resolution No. 12-00703 dated May 4, 2012,³² the CSC denied the accused's motion for reconsideration. Segura wrote the accused a letter dated June 19, 2012,³³ citing the CSC rulings and requesting the accused to restore him to his position. Still, no actual reinstatement happened.

In a Decision dated March 27, 2014³⁴ in CA-G.R. SP No. 03988-MIN and CA-G.R. SP No. 04933-MIN, the CA dismissed both appeals of the accused from the reversal of his separate orders reassigning Segura and dropping him from the rolls.

²⁴ *Id.* at 425-429, 456-460.

²⁵ *Id.* at 461-465.

²⁶ *Id.* at 466-489.

²⁷ *Id.* at 490.

²⁸ *Id.* at 491.

²⁹ *Id.* at 492-503.

³⁰ *Id.* at 504-507.

³¹ *Id.* at 508-513.

³² *Id.* at 514-516.

³³ *Id.* at 517-518.

³⁴ *Id.* at 438-455.

Following the accused's inaction to his letter dated June 19, 2012, Segura filed a complaint against the accused before the *Sangguniang Panlalawigan* of Sultan Kudarat for Gross Neglect of Duty and Grave Abuse of Authority, docketed as SP-2013-01. In a Decision dated April 7, 2014,³⁵ the *Sangguniang Panlalawigan* found the accused guilty of the offenses charged and meted out the penalty of six-month suspension. On April 28, 2014, Provincial Governor Datu Suharno T. Mangudadatu issued AO. No. 2, s. 2014³⁶ ordering the accused to yield his office to the Municipal Vice Mayor as the Acting Mayor. By Decision of February 20, 2015,³⁷ the Office of the President (OP) denied the accused's appeal, docketed as O.P. DC Case No. 14-B-017.

In the meantime, Segura wrote the accused another letter dated April 15, 2014³⁸ stating his intention to be immediately reinstated, pursuant to the CSC Resolution No. 14-00455 dated March 24, 2014,³⁹ which directed the accused (1) to immediately effect the implementation of its Resolution No. 09-0501 dated March 31, 2009, Resolution No. 10-00470 dated December 7, 2010, Decision No. 11-0466 dated August 18, 2011 and Resolution No. 12-00703 dated May 2, 2012, and (2) to explain in writing why he should not be cited for indirect contempt for failure to implement the CSC's orders. All this to no avail.

Apart from mental, psychological and physical distress, Segura claimed he suffered from financial difficulties and economic dislocation. He could hardly sustain the needs of his family while his loans (*i.e.*, Pag-IBIG, GSIS, Ayala Life, and Employees Cooperative) were unpaid and the interests and penalties were accumulating. His PAG-IBIG housing loan was forfeited and awarded to other applicants. He was forced to transfer his children from an exclusive private school to a public school. However, the presentation of documents in support of his alleged financial difficulties in relation to his loans, on which he allegedly defaulted, was not allowed for not having been pre-marked during preliminary conference.⁴⁰

Gepte-Buenbrazo testified on her Judicial Affidavit dated September 7, 2017.⁴¹ She claimed that sometime in March 2011, she received a letter⁴² from L. Roberto W. Valderosa, Jr., Director III, CSC, directing her to monitor the implementation of the CSC Resolution No. 10-00470 dated December 7, 2010. In a Memorandum dated March 18, 2011,⁴³ she informed Grace R. Belgado-Saqueton, Director IV, CSCRO No. XII, that per verification with

³⁵ *Id.* at 519-550.

³⁶ *Id.* at 551.

³⁷ *Id.* at 557-561.

³⁸ *Id.* at 437.

³⁹ *Id.* at 430-436.

⁴⁰ TSN, August 7, 2017, pp. 20-21, 37-38.

⁴¹ Records, Vol. 2, pp. 23-27.

⁴² Records, Vol. 1, pp. 552.

⁴³ *Id.* at 553-554.

the Municipal Government of Isulan, Segura was not reinstated as MPDC, with the Municipal Legal Officer, Atty. Cyrus Torreña, informing her that the reason therefor was the lack of an explicit order for Segura's immediate reinstatement. In a letter-reply dated March 23, 2011,⁴⁴ Belgado-Saqueton stated that there was no need for the issuance of such an order because it was already embodied in the dispositive portion of Resolution No. 09-0501 dated March 31, 2009, which was affirmed in the Resolution No. 10-00470 dated December 7, 2010 denying the accused's motion for reconsideration. In a letter dated November 11, 2012,⁴⁵ Belgado-Saqueton informed CSC Chairman Francisco T. Duque III that the accused did not reinstate Segura, recommending that the accused be cited for indirect contempt.

Recinto, a former member of the *Sangguniang Panlalawigan* of Sultan Kudarat, testified on his Judicial Affidavit dated August 8, 2017.⁴⁶ That Segura filed before the *Sangguniang Panlalawigan* an administrative complaint against the accused for Gross Neglect of Duty and Grave Abuse of Authority for refusing to implement the Orders, Resolutions and Decisions of the CSC to restore him to his post. As Chair of the Committee on Justice, Legal Matters and Human Rights, he acted on the complaint and eventually the accused was found guilty meting out the penalty of six months suspension.⁴⁷ Governor Mangudatu issued a suspension order,⁴⁸ but it was not implemented because the accused appealed to the Office of the President. The appeal, however, was denied in the OP Decision dated February 20, 2015.⁴⁹

On January 8, 2018, the prosecution filed its *Formal Offer of Evidence*⁵⁰ dated January 5, 2018, with attached documentary exhibits⁵¹ from *Exhibits "A" to "Y"* and *Exhibit "II"* inclusive of *Exhibits "C"–"C-1"*, *"D"–"D-3"*, *"D"–"D-3"*, *"F"–"F-7"*, and *"II"–"II-4"*. On January 23, 2018, the defense filed its *Comment/Opposition*⁵² dated January 18, 2018. By Resolution of January 24, 2018,⁵³ the Court admitted all the documentary exhibits offered by the prosecution, as well as the testimonies of its witnesses, noting that no *Exhibits "Z" to "HH"* were offered.

On February 5, 2018, the accused, through counsel, filed a *Motion for Leave to File Demurrer to Evidence and to Admit Attached Demurrer to Evidence*⁵⁴ of even date. After the prosecution submitted its

⁴⁴ *Id.* at 555.
⁴⁵ *Id.* at 556.
⁴⁶ *Id.* at 37-41.
⁴⁷ *Id.* at 42-69
⁴⁸ *Id.*, at 74
⁴⁹ *Id.*, at 75-79
⁵⁰ Records, Vol. 2, pp. 110-118.
⁵¹ *Id.* at 119-275.
⁵² *Id.* at 281-286.
⁵³ *Id.* at 288-289.
⁵⁴ *Id.* at 293-305.



*Comment/Opposition*⁵⁵ on February 14, 2018, the motion for leave was denied in a Resolution⁵⁶ dated February 19, 2018.

The Evidence for the Defense

For the defense, **Lord Dean H. Castillo**, incumbent Municipal Vice Mayor of Isulan, was presented as witness along with the **accused** himself and **Mariblithe Cartujano-Garingo**, incumbent member of the *Sangguniang Bayan* of Isulan.

Castillo testified on his Judicial Affidavit dated July 2, 2018.⁵⁷ He stated that he was a member of the *Sangguniang Bayan* of Isulan from 2007 to 2016 and the Chairman of its Committee on Good Government in his first term. In July 2007, a letter from the accused requesting for the urgent passage of an ordinance nullifying the creation of MEEDO was referred to the *Sangguniang Bayan*. As confided to them by the accused, the reason behind the request was that the Commission on Audit (COA) issued letters and audit observation on the creation and utilization of the funds of MEEDO. After the pertinent committees of the *Sangguniang Bayan* conducted consultations with the different line agencies and secured the documents from the different government agencies, such as the COA which recommended the cessation of MEEDO's operation, the *Sangguniang Bayan* passed Resolution No. 2007-071 that included Municipal Ordinance No. 2007-0154. The common recommendation was to nullify the creation of MEEDO and establish an economic enterprise in accordance with budgetary rules and the Manual for Local Government Units.

Accused, in his Judicial Affidavit dated August 20, 2018⁵⁸ corroborated witness Castillo's testimony on the reason behind his request for the nullification of the creation of MEEDO, as well as the passage and approval of *Sangguniang Bayan* Resolution No. 2007-071. He confirmed the issuance of Memorandum dated September 14, 2007 reassigning Segura to the Office of the Municipal Mayor as Chairman of the TWG tasked to study the re-establishment of MEEDO, and that Segura complied therewith and assumed office as such but appealed the reassignment order. He chose Segura for the said position for being the most qualified among the employees, being the MPDC, but the latter did not submit the results of the assigned task. Segura was dropped from the rolls for failure to report for work for more than thirty (30) days without official leave from July 31, 2008 to September 22, 2008. He likewise confirmed (1) the rulings rendered by the CSCRO No. XII, the CSC and the CA nullifying his separate orders reassigning and dropping Segura from the rolls, as well as (2) the proceedings in OMB-M-A-08-199-E and OMB-M-C-14-0100 before the OMB-MIN and in SP-2013-01 before the

⁵⁵ *Id.* at 309-314.

⁵⁶ *Id.* at 316-317.

⁵⁷ *Id.* at 351-357.

⁵⁸ *Id.* at 373-382.

Sangguniang Panlalawigan of Sultan Kudarat. Regarding CA-G.R. SP No. 03988-MIN and CA-G.R. SP No. 04933-MIN before the CA, he filed a Motion for Reconsideration dated May 8, 2014 from its Decision dated March 27, 2014.

After the accused received the CSC Resolution No. 14-00455 dated March 24, 2014, he filed a Manifestation with Motion for Clarification dated April 21, 2014 insisting that the orders could not be implemented *sans* a writ of execution and in view of his appeal before the CA, and that Segura filed a Motion for Joint Execution⁵⁹ dated August 23, 2012. Segura also filed a Special Civil Action for *Mandamus* with Damages with the Regional Trial Court of Isulan, Branch 19, which issued an Order dated April 13, 2015 directing his reinstatement to his position as MPDC and inclusion in the payroll during the pendency of the case. In compliance therewith, the accused issued AO No. 07 dated April 20, 2015; Segura was actually reinstated and assumed his former position on even date, as well as having been included in the payroll. In support of his testimony, the accused identified documents marked as Exhibits "1" to "29" with sub-markings.⁶⁰

Cartujano-Garingo testified on her Judicial Affidavit dated September 21, 2018,⁶¹ that she was the Municipal Administrator of Isulan from November 2010 to October 2015. Being a lawyer herself, she also served as the accused's legal adviser. Being aware of the CSC's rulings, she advised the accused to appeal to the CA and await the action of the CSC on Segura's motion for joint execution because the rulings, despite being immediately executory under the civil service rules, were not self-executory *sans* a writ of execution. Upon her advice, Segura was reinstated to his former position in view of the Order of the Regional Trial Court dated April 13, 2015. For the Fiscal Year (FY) 2017, an amount of Php2.5 million was appropriated for Segura's back wages, and another Php2.5 million in FY 2018. Segura has

⁵⁹ Records, Vol. 1, pp. 213-218.

⁶⁰ (1) Counter-Affidavit dated September 5, 2014 in OMB-M-C-14-0100 (*Exhibit "1"*); (2) Motion for Reconsideration dated May 8, 2014 in CA-G.R. SP No. 03988-MIN and CA-G.R. SP No. 04933-MIN (*Exhibit "2"*); (3) Manifestation with Motion for Clarification dated April 21, 2014 (*Exhibit "3"*); (4) Dissenting Opinion of CSC Commissioner Cesar D. Buenaflor in the Commission Resolution No. 09-0501 dated March 31, 2009 (*Exhibit "4"*); (5) Certification dated September 19, 2008 of Fema L. Ortouste, Human Resource and Development Officer (*Exhibit "5"*); (6) Certification dated September 19, 2008 of Ricky C. Leonor, Civil Security Agent/Timekeeper, New Municipal Integrated Public Terminal (*Exhibit "6"*); (7) A.O. No. 07 dated April 20, 2015 (*Exhibit "7"*); (8) Notice of Salary Adjustment dated March 17, 2016 (*Exhibit "8"*), letter dated July 6, 2015 (*Exhibit "8-A"*) and Certification dated May 15, 2015 (*Exhibit "8-C"*) of Renante A. Zabala, HRMO III, Human Resources & Management Section, Memorandum dated June 16, 2015 of Atty. Mariblithe Cartujano-Garingo, Municipal Administrator (*Exhibit "8-B"*), and undated letter of Cherry D. Bepitel, Acting Municipal Accountant (*Exhibit "8-D"*); (9) General Payroll Reports for August 1-31, 2015, September 1-30, 2015, October 1-31, 2015, November 1-30, 2015, December 1-31, 2015, January 1-31, 2016, February 1-29, 2016, March 1-31, 2016, April 1-30, 2016, May 1-31, 2016, and June 1-30, 2016 (*Exhibits "9"–"9-A" to Exhibits "19"–"19-A"*); (10) two separate letters, both dated July 10, 2015, addressed to Land Bank of the Philippines (LBP) to effect payment of the salaries of Segura for May 2015 (*Exhibit "20"*) and June 2015 (*Exhibit "21"*); and (11) letter dated July 16, 2015 addressed to LBP to effect payment of the salary of Segura for July 2015 (*Exhibit "22"*).

⁶¹ Records, Vol. 2, pp. 467-471.

already claimed the back wages appropriated for him in FY 2017, but the amount appropriated in FY 2018 remained unclaimed.

On December 7, 2018, the defense filed its *Formal Offer of Evidence*⁶² dated November 27, 2018, with attached documentary exhibits⁶³ from *Exhibits "1" to "22"* inclusive of *Exhibits "1"–"1-H", "8"–"8-D", "9"–"9-A", "10"–"10-A", "11"–"11-A", "12"–"12-A", "13"–"13-A", "14"–"14-A", "15"–"15-A", "16"–"16-A", "17"–"17-A", "18"–"18-A", and "19"–"19-A"*. On December 10, 2018, the prosecution filed its *Comment/Objection*⁶⁴ of even date. In a Resolution⁶⁵ dated December 12, 2018, the Court resolved to admit all the documentary exhibits offered by the defense.

The Parties' Memoranda

On January 23 and 24, 2019, the accused, through counsel, and the prosecution filed a *Memorandum*⁶⁶ dated January 14, 2019 and a *Memorandum*⁶⁷ dated January 24, 2019, respectively, both in compliance with the Court's directive.

The Issues

Essentially, the issues in these cases are as follows:

1. In SB-16-CRM-0332, whether the accused is guilty of violation of Section 3(e) of R.A. No. 3019, as amended; and
2. In SB-16-CRM-0333, whether the accused is guilty of violation of Section 3(f) of R.A. No. 3019, as amended.

The Court's Ruling

At the outset, it bears to stress that the issue on the validity or invalidity of the reassignment and eventual dropping of Segura from the employee rolls is not the matter before this Court. The said issue concerning both personnel actions had already been passed upon by the CSCRO No. XII, the CSC and the CA. Rather, the present cases before this Court are criminal in nature and necessarily involve the determination of whether the accused is guilty of the offenses charged.

⁶² *Id.* at 480-485.

⁶³ *Id.* at 486-561.

⁶⁴ *Id.* at 562-566.

⁶⁵ *Id.* at 568-569.

⁶⁶ *Id.* at 574-584.

⁶⁷ *Id.* at 588-595.



SB-16-CRM-0332

Section 3(e) 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:

X X X X

(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.

*Cabrera v. Sandiganbayan*⁶⁸ enumerates the essential elements of this crime, viz.:

1. The accused must be a public officer discharging administrative, judicial or official functions;
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.

There are two different modes of committing the offense. As explained in a string of jurisprudence:

R.A. 3019, Section 3, paragraph (e), as amended, provides as one of its elements that the public officer should have acted by causing any undue injury to any party, including the Government, or by giving any private party unwarranted benefits, advantage or preference in the discharge of his functions. The use of the disjunctive term “or” connotes that either act qualifies as a violation of Section 3 paragraph (e), or as aptly held in *Santiago*, as two (2) different modes of committing the offense. This does not however indicate that each mode constitutes a distinct offense, but rather, that an accused may be charged under either mode or under both.⁶⁹

In SB-16-CRM-0332, the accused stands charged with a violation of Section 3(e) of R.A. No. 3019 under the first mode of “causing undue injury” to Segura, a private party, committed with evident bad faith and manifest partiality.

Of the three elements, the first one is not disputed. As the Municipal Mayor of Isulan, Sultan Kudarat for three consecutive terms from 2007 to 2016,⁷⁰ the accused was a public officer at the time material to the offense charged. The accused, being the Municipal Mayor, was discharging official

⁶⁸ G.R. Nos. 162314-17, 25 October 2004, citing *Jacinto v. Sandiganbayan*, G.R. No. 84571, 2 October 1989.

⁶⁹ *Saludaga v. Sandiganbayan*, G.R. No. 184537, 23 April 2010, citing *Santiago v. Garchitorena*, G.R. No. 109266, 2 December 1993; *Bautista v. Sandiganbayan*, G.R. No. 136082, 12 May 2000; *Evangelista v. People*, G.R. Nos. 108135-36, 14 August 2000; and *Cabrera v. Sandiganbayan*, *supra*.

⁷⁰ Records, Vol. 1, p. 381 (Pre-Trial Order, p. 5).

functions when he issued the Memorandum dated September 14, 2007 reassigning Segura to the Office of the Municipal Mayor and relieving him of his functions as MPDC, as well as the E.O. No. 23, s. 2008 dropping Segura from the rolls.

The accused contests the attendance of the second and third elements of the offense.

On the second element, “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.⁷¹ On the other hand, there is “manifest partiality” when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another.⁷²

The circumstances surrounding the questioned reassignment and dropping of Segura from the rolls evince accused’s conscious doing of a wrong to the latter that satisfies the second element. Basically, the reassignment of Segura stripped him immediately of his supervisory authority and powers as MPDC or head of a department or office (MPDO), and relegated him to a mere subordinate under the Office of the Municipal Mayor,⁷³ until shortly thereafter, Segura was suddenly dropped from the rolls. Whereas, another employee whose salary grade was nine grades lower than that of Segura was designated in an acting capacity as MPDC.

It takes a meritorious explanation from the accused to justify why he did so. In his Memorandum dated January 14, 2019, he interposes the defense of good faith and the exigency of public service. He ratiocinates, as follows:

Because of the economic viability of the MEEDO, [accused] created a TWG to conduct a study on the possibility of reviving MEEDO. He issued a Memorandum and re-assigned private complainant as Chairman of the TWG being the Municipal Planning and Development Coordinator (MPDC) who has the experience, knowledge and expertise in planning and re-organizing the MEEDO. However, instead of complying with the Memorandum, he appealed his re-assignment to the Civil Service Commission (CSC). Accused further testified that the private complainant did not conduct and submit a feasibility study or results of his assigned task.

Accused further attested that private complainant did not report for work pursuant to the re-assignment order. Thus, he was ordered dropped from the rolls, which he appealed to the CSC.

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⁷¹ *Uriarte v. People*, G.R. No. 169251, 20 December 2006.

⁷² *Id.*

⁷³ Memorandum dated September 14, 2007 (Exh. “E”), Records, Vol. 1, p. 416



The evidence on record show that the reassignment of the private complainant and the task assigned to him to conduct a feasibility study and re-evaluate whether the MEEDO could be revived was made by the operation of MEEDO. Further, [a]ccused's actions was [sic] made pursuant to SB Resolution No. 2007-071 ISB dated August 31, 2007 or a "Resolution Enacting an Ordinance Nullifying All Resolutions and Ordinances Passed Upon and Approved Relative to the Existence and Operation of MEEDO".

Instead of complying, however, as admitted by private complainant Segura, he did not make any single report, evaluation or study on his assigned task. What he did was to question the reassignment or task given to him by the [a]ccused.

Indeed, in several instances, the Supreme Court recognize [sic] the validity and indispensable necessity of the well-established rule that for the good of public service and whenever public interest demands, the Municipal Mayor may temporarily assign or detail to other duties an employee of the local government even over his objection without necessarily violating his fundamental and legal rights to security of tenure in the civil service.

Also, it is expressly provided under Administrative Code of 1987, under Book V, Title 1, Subtitle A, Chapter 5, Sec. 26 (7), thus:

"(7) Reassignment. An employee may be reassigned from one organizational unit to another in the same agency; Provided that such reassignment shall not involve a reduction in rank, status or salaries."

Having the authority to do as a public officer, manifest partiality, evident bad faith or gross inexcusable negligence could never be ascribed against the [a]ccused.

Furthermore, the [a]ccused [sic] act of reassigning the private complainant in the exigency of service is accorded by law with the presumption of regularity. Under CSC Resolution NO. [sic] 1701009, June 16, 2017 or the 2017 Omnibus Rules on Appointments and Other Human Resource Actions (OHAOHRA) [sic], it states:

"Reassignment is presumed to be regular and made in the interest or exigency of public service unless proven otherwise or if it constitutes constructive dismissal."

Indeed, the [a]ccused acted in good faith when he issued Memorandum Order dated September 14, 2007, ordering the reassignment of the private complainant.

The prosecution miserably failed to prove that the [a]ccused acted with manifest partiality, evident bad faith or gross inexcusable negligence when he reassigned the private complainant.⁷⁴ (Italics in the original)

However, relieving Segura as head of MPDC is not justified if only to assign him the task of conducting a feasibility study on the creation of MEEDO. As head of the Municipal Planning and Development Office (MPDO), the powers and duties of the MPDC are enumerated under Section 476(b) of R.A. No. 7160, to wit:

⁷⁴ Records, Vol. 2, pp. 576-577, 579-580 (Pallasigue's Memorandum, pp. 3-4, 6-7).

(b) The planning and development coordinator shall take charge of the planning and development office and shall:

- (1) **Formulate integrated economic, social, physical, and other development plans and policies** for consideration of the local government development council;
- (2) **Conduct continuing studies, researches, and training programs** necessary to evolve plans and programs for implementation;
- (3) Integrate and coordinate all sectoral plans and studies undertaken by the different functional groups or agencies;
- (4) Monitor and evaluate the implementation of the different development programs, projects, and activities in the local government unit concerned in accordance with the approved development plan;
- (5) Prepare comprehensive plans and other development planning documents for the consideration of the local development council;
- (6) Analyze the income and expenditure patterns, and formulate and recommend fiscal plans and policies for consideration of the finance committee of the local government unit concerned as provided under Title Five, Book II of this Code;

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(c) Exercise such other powers and perform such other functions and duties as may be prescribed by law or ordinance. (Emphasis and underscoring supplied)

Clearly, it is within the core functions of the MPDC to conduct such a feasibility study. Therefore, there was no need to remove Segura from MPDO and relieve him of his functions as MPDC for him to perform this task as part of TWG. This especially so as the accused himself admits that Segura was designated as TWG Chairman for his “experience, knowledge and expertise” being the MPDC. Accused states in his Judicial Affidavit:

Q9: Why did you choose private complainant instead of other employees to be reassigned as Chairman of the Technical Working Group (TWG) in the Office of the Mayor?

A9: I chose him because he is the most qualified among the employees as he has the experience, knowledge and expertise in most functions of management, planning and organizing being the Municipal Planning and Development Coordinator (MPDC) of the Municipality to review, re-evaluate and study whether the dissolved MEEDO be re-created or re-established as it could increase the prospective income of the local government of Isulan, Sultan Kudarat.⁷⁵

On the other hand, the preconceived plan of the accused to unduly relieve Segura as MPDC could be traced to his act of prematurely issuing EO No. 16 creating a TWG issued on August 23, 2007⁷⁶ to which Segura was reassigned as Chairman “for the [p]reparation of a new feasibility study for

⁷⁵ Records, Vol. 2, p. 375 (Pallasigue’s Judicial Affidavit, p. 3).

⁷⁶ *Id.* at 410-411 (Exhs. “C”-“C-1”).

the institution of the municipal economic enterprise.” Notably, at this time, the then existing MEEDO had not been abolished yet. The *Sangguniang Bayan* passed Resolution No. 2007-071 nullifying previous resolutions relative to the existing MEEDO only on August 31, 2007 which was approved by the accused only on September 3, 2007.⁷⁷ Prior to all this, it was the accused himself who requested the municipal vice mayor, via Memorandum⁷⁸ dated July 11, 2007, for “the urgent passing of a resolution enacting an ordinance nullifying Resolution and Ordinance providing for the creation of MEEDO and other pertinent issuances pertaining thereto, x x x” only to thereafter create a TWG to prepare a new feasibility study for MEEDO.

This convinces that the accused not only acted with evident bad faith right from the start in reassigning Segura, but he also took advantage of his office. The defenses of good faith and exigency of public service are unavailing. As affirmed by the CA in a Decision⁷⁹ dated March 27, 2014, the CSC essentially found in its Resolution No. 09-0501⁸⁰ dated March 31, 2009, viz:

After a careful analysis of the duties and responsibilities of Segura, Jr. as MPDC and those stated in the reassignment order, the Commission is of the view that no significance difference exists in his old and new duties. In other words, the new duties of Segura, Jr., as stated in the reassignment order, as still within the domain of his sworn duties as MPDC and, therefore, can be accomplished without the need of reassignment. With such observation, it is posited that Segura, Jr.’s reassignment is pregnant with malice.

Mayor Pallasigue’s justification for the reassignment of Segura, Jr. is in “*the interest of public service and in pursuit of the economic development program of the Municipality of Isulan.*” However, the records sorely evince if such personnel action works for the best interest of the local government unit. In the reassignment order dated September 14, 2007, Mayor Pallasigue wanted Segura, Jr. to “[r]eview, re-evaluate, and study the feasibility of the establishment of the *Municipal Economic Enterprise and Development Office (MEEDO).*” But on September 3, 2007, he approved a municipal ordinance abolishing the said Office. In resolution No. 2007-071 ISB of the Sangguniang Bayan, it was revealed that the abolition was the mayor’s initiative, viz:

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Putting it on another perspective, the Commission cannot see the *raison d’être* of Mayor Pallasigue’s act of requesting the abolition of the MEEDO and then reassigning Segura, Jr. to study the feasibility of resurrecting it in “*solitary concentration.*” Such actions are illogical and irreconcilable. Considering his limited term of office, if Mayor Pallasigue is bent on pursuing his plan to resurrect a dead economic enterprise office, then with more reason that Segura, Jr. should not have been relieved of his duties as MPDC only to be sent to a place of work in “*solitary concentration.*”

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⁷⁷ *Id.* at 412-415 (Exhs. “D”-“D-3”).

⁷⁸ *Id.* at 409 (Exh. “B”).

⁷⁹ Records, Vo. 1, p. 438-455 (Exh. “Y”).

⁸⁰ Exh. “G”.



