



Republic of the Philippines  
**SANDIGANBAYAN**  
Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE**  
**PHILIPPINES,**

Plaintiff,

-versus-

SB-16-CRM-0775 and 0776

For: Violation of Section 3 (e) of  
Republic Act (R.A.) No. 3019 and  
Direct Bribery under Article 210 of  
the Revised Penal Code (R.P.C.)

**CONCEPCION C. DAPLAS,**  
Accused,

PRESENT:

FERNANDEZ, SJ, *J. Chairperson*  
MIRANDA, &  
VIVERO, JJ.

Promulgated:

February 14, 2020 *[Signature]*

X-----X

**DECISION**

MIRANDA, J.:

Is a City Treasurer liable for failing to collect the right amount of real property tax from a taxpayer? Can a case for bribery prosper without the testimony of the witness who saw the money being received by the accused? These are the issues surrounding the incorrect payment of real property tax by Jung Kuang Realty to the Office of the City Treasurer of Pasay City allegedly in exchange for a sum of money received by the City Treasurer.

*[Handwritten signatures]*

Accused Concepcion C. Daplas (Daplas) was charged with violation of Section 3 (e) of R.A. No. 3019,<sup>1</sup> and Direct Bribery,<sup>2</sup> per two Informations dated November 29, 2014. The accusatory portions read:

***SB-16-CRM-0775 (for violation of Section 3 (e) of R.A. No. 3019)***

That on August 28, 2009 or sometime prior or subsequent thereto, in the City of Pasay and within the jurisdiction of this Honorable Court, accused **CONCEPCION CAJULIS DAPLAS**, a high ranking public officer being then the City Treasurer of Pasay City with Salary Grade 27 while in the performance of her official functions and committing the offense in relation to her office, taking advantage of her official position, acting with manifest partiality, evident bad faith or through gross inexcusable negligence, at the very least, did then and there willfully, unlawfully, and criminally gave unwarranted benefits, advantage, or preference to JUNG KUANG and/or JUNG KUANG REALTY INC. by allowing said Jung Kuang and/or Jung Kuang Realty Inc. to pay real property tax in the amount of EIGHT HUNDRED THIRTY-SIX THOUSAND AND SEVEN HUNDRED FIFTY-SIX pesos (Php836, 756.00) as indicated in the Official Receipt of the Republic of the Philippines No. 0209610 dated August 28, 2012, which amount is lesser by FOUR MILLION FIVE HUNDRED SEVENTY-SIX THOUSAND ONE HUNDRED FORTY-EIGHT PESOS AND FIFTY-THREE CENTAVOS (Php4,576,148.53) Philippine currency, disregarding the actual real property tax due of FIVE MILLION TWO HUNDRED TWELVE THOUSAND NINE HUNDRED FOUR PESOS AND FIFTY-THREE centavos (Php5,212,904.53) as indicated in the Real Property Tax Computation dated July 24, 2009 prepared and computed by Collection Clerk Evelyn Quion, thereby causing undue injury to the government in the amount of FOUR MILLION FIVE HUNDRED SEVENTY-SIX THOUSAND ONE HUNDRED FORTY-EIGHT PESOS AND FIFTY-THREE CENTAVOS (Php4,576,148.53), more or less, Philippine currency.

CONTRARY TO LAW.

***SB-16-CRM-0776 (for violation of Article 210 of the Revised Penal Code or Direct Bribery)***

That on August 28, 2009 or sometime prior or subsequent thereto, in the City of Pasay and within the jurisdiction of this Honorable Court, accused **CONCEPCION CAJULIS DAPLAS**, a high ranking public officer being then the City Treasurer of Pasay City with Salary Grade 27 while in the performance of her official functions and committing the offense in relation to her office, taking advantage of her official position, did then and there willfully, unlawfully, and feloniously solicit, demand and receive money from JUNG KUANG and/or JUNG KUANG REALTY INC. (JUNG KUANG) in consideration for the said accused refraining from performing her official duty of ensuring that proper realty taxes are paid to the government, by allowing or causing

<sup>1</sup> Otherwise known as Anti-Graft and Corrupt Practices Act, as amended.

<sup>2</sup> Violation of Article 210 of the R.P.C.



the reduction of the real property tax of JUNG KUANG from FIVE MILLION TWO HUNDRED TWELVE THOUSAND NINE HUNDRED FOUR PESOS AND FIFTY-THREE centavos (Php5,212,904.53) as indicated in the Real Property Tax Computation dated July 24, 2009 prepared and computed by Collection Clerk Evelyn Quion, to a lower amount of EIGHT HUNDRED THIRTY-SIX THOUSAND AND SEVEN HUNDRED FIFTY-SIX pesos (Php836,756.00), which reduction had no legal basis, and which lower amount said JUNG KUANG REALTY INC. paid under Official Receipt of the Republic of the Philippines No. 0209610 dated August 28, 2012, to the damage and prejudice of the government.

CONTRARY TO LAW.

On October 17, 2016, Daplas filed an Omnibus Motion for Judicial Determination of Probable Cause, To Suspend the Proceedings, To Hold in Abeyance the Issuance of Warrants of Arrest and/or their Implementation if these have been issued, and/or To Dismiss these Cases dated October 17, 2016.<sup>3</sup> On the same day, the Court found probable cause and issued a warrant of arrest and hold departure order against her.<sup>4</sup> On October 19, 2016, the Court approved the consolidated cash bail bond that she posted for her provisional liberty.<sup>5</sup> On October 20, 2016, the Court denied her omnibus motion.<sup>6</sup>

On October 24, 2016, Daplas filed a Motion to Dismiss dated October 24, 2016 claiming that her constitutional right to a speedy disposition of the case was violated by the Office of the Ombudsman.<sup>7</sup> On February 13, 2017, the Court denied her motion to dismiss.<sup>8</sup>

On February 22, 2017, Daplas was arraigned with the assistance of counsel *de parte*.<sup>9</sup> She pleaded "not guilty" to the offenses charged.<sup>10</sup>

On August 2, 2017, the Court issued its pre-trial order.<sup>11</sup>

In the joint stipulation of facts of the parties as contained in the Pre-trial Order dated August 2, 2017, Daplas, through counsel, admitted that: 1) she was the City Treasurer of Pasay City on August 28, 2009; 2) the Real Property Tax Computation dated July 24, 2009 indicated the total liability for

<sup>3</sup> Records, Vol. 1, pp. 33-43.

<sup>4</sup> Minutes of the Proceedings dated October 17, 2016, Records, Vol. 1, pp. 43 and 48.

<sup>5</sup> Minutes of the Proceedings dated October 19, 2016, Records, Vol. 1, p. 50.

<sup>6</sup> Order dated October 20, 2016, Records, Vol. 1, p. 59-A.

<sup>7</sup> Records, Vol. 1, pp. 61-186.

<sup>8</sup> Resolution dated February 13, 2017, Records, Vol. 1, pp. 263-273.

<sup>9</sup> Order dated February 22, 2017, Records, Vol. 1, pp. 280-281.

<sup>10</sup> *Id.*

<sup>11</sup> Pre-Trial Order dated August 2, 2017, Records, Vol. 1, pp. 485-493.

real property tax of Jung Kuang Realty Inc. (Jung Kuang Realty) in the amount of Five Million Two Hundred Twelve Thousand Nine Hundred Four Pesos and Fifty-Three Centavos (Php5,212,904.53); 3) Evelyn Quion (Quion) prepared the said real property tax computation; and 4) on August 28, 2009, Jung Kuang Realty paid Eight Hundred Thirty-Six Thousand Seven Hundred Fifty-Six Pesos (Php836,756.00) to the Office of the City Treasurer of Pasay as evidenced by Real Property Tax Official Receipt No. 0209610.<sup>12</sup>

Thereafter, joint trial of the cases ensued.

### EVIDENCE OF THE PROSECUTION

The Prosecution presented seven witnesses. Their testimonies are summarized as follows:

#### **Atty. Maverick S. Sevilla (Sevilla)**

His testimony was dispensed with after the parties stipulated that: 1) he is the Department Head of the Human Resource Management and Development Office of Pasay City; 2) he is the custodian of the original copies of the curriculum vitae<sup>13</sup> and Service Record<sup>14</sup> of Daplas; and 3) he issued a certified true copy of said documents.<sup>15</sup>

#### **Atty. Severo Cañete Madrona, Jr. (Madrona)**

His testimony was dispensed with after the parties stipulated that: 1) he is the City Legal Officer of Pasay City; 2) he is the custodian of the original copies of the Complaint-Affidavit dated March 4, 2010 of Quion<sup>16</sup>, Real Property Tax Computation dated July 24, 2009,<sup>17</sup> Real Property Tax Official Receipt No. 0209610,<sup>18</sup> payments record of Jung Kuang Realty<sup>19</sup> and the Affidavit dated March 4, 2010 of Dennis Arenas (Arenas)<sup>20</sup>; and 3) he issued a certified true copy of said documents.

#### **Ricardo Cañete (Cañete)<sup>21</sup>**

Cañete testified that: 1) he is the Officer-in-Charge of the Land Tax Division in the Office of the City Treasurer of Pasay City;<sup>22</sup> 2) he is the custodian of all records of the Land Tax Division, which includes real property tax official receipts, real property tax computations, and subsidiary ledger

<sup>12</sup> *Id.*

<sup>13</sup> Exhibit "A".

<sup>14</sup> Exhibit "A-1".

<sup>15</sup> Exhibit "A-1-a", Name and Signature of Atty. Sevilla.

<sup>16</sup> Exhibit "B".

<sup>17</sup> Exhibit "C".

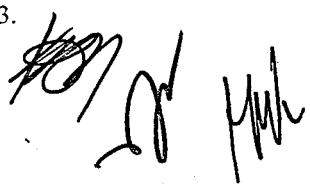
<sup>18</sup> Exhibit "D".

<sup>19</sup> Exhibit "E".

<sup>20</sup> Exhibit "F".

<sup>21</sup> Judicial Affidavit of Ricardo Cañete dated August 24, 2017, Records, Vol. 2, pp. 12-38.

<sup>22</sup> *Id.*, p. 13.



files;<sup>23</sup> 3) Real Property Tax Receipt No. 0114881 was issued to Lino Ed Lim and not to Jung Kuang Realty;<sup>24</sup> and 4) the alleged issuance of Real Property Tax Official Receipt No. 0114881 to Jung Kuang Realty did not appear in the payments record of Jung Kuang Realty in their computer system.<sup>25</sup>

Cañete also identified Real Property Tax Official Receipt No. 114881,<sup>26</sup> Real Property Tax Computation dated December 5, 2007,<sup>27</sup> Real Property Tax Official Receipt No. 0209610,<sup>28</sup> and the print-out of the subsidiary ledger file of the payment history of Jung Kuang Realty.<sup>29</sup>

On cross-examination, Cañete stated that: 1) a real property tax computation is required before payment of the real property tax;<sup>30</sup> 2) real property tax computations were generated by the billing section of the Land Tax Division in the Office of the City Treasurer;<sup>31</sup> 3) each personnel in the billing section was assigned a username and password to access the computer system in their office;<sup>32</sup> 4) since the Office of the City Treasurer operated on a computer system, the name and designation of the City Treasurer automatically appeared in the printing of the real property tax computations and real property tax official receipts;<sup>33</sup> 5) the preparation, printing and verification of real property tax computations as well as the receipt of payment and issuance of official receipts were delegated by the City Treasurer to the billing personnel, division chiefs and tellers.<sup>34</sup>

On re-direct examination, Cañete explained that: 1) the Real Property Tax Computation dated August 28, 2009 did not indicate the official receipt previously issued to Jung Kuang Realty as proof of its payment of real property tax for the past years;<sup>35</sup> 2) based on the Real Property Tax Computation dated July 24, 2009, the total real property tax liability of Jung Kuang Realty was Five Million Two Hundred Twelve Thousand Nine Hundred Four Pesos and Fifty-Three Centavos (Php5,212,904.53); and 3) on August 28, 2009, Jung Kuang Realty paid Eight Hundred Thirty-Six Thousand Seven Hundred Fifty-Six Pesos (Php836,756.00) only to the City Treasurer of Pasay City.<sup>36</sup>

On re-cross-examination, Cañete clarified that: 1) the total real property tax liability of Jung Kuang Realty from the third quarter of 2005 to the fourth

<sup>23</sup> *Id.*, pp. 13-14.

<sup>24</sup> *Id.*, pp. 15-16.

<sup>25</sup> *Id.*

<sup>26</sup> Exhibit "K".

<sup>27</sup> Exhibit "K-1".

<sup>28</sup> Exhibit "D".

<sup>29</sup> Exhibit "J".

<sup>30</sup> TSN dated September 27, 2017, pp. 10-11.

<sup>31</sup> *Id.*, p. 8.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*, pp. 19-21.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*, p. 22.

<sup>36</sup> *Id.*, pp. 26-27.

quarter of 2009 was Five Million Two Hundred Twelve Thousand Nine Hundred Four Pesos and Fifty-Three Centavos (Php5,212,904.53);<sup>37</sup> and 2) the payment of Eight Hundred Thirty-Six Thousand Seven Hundred Fifty-Six Pesos (Php836,756.00) pertained to the real property tax liability of Jung Kuang Realty for the first to fourth quarters of 2009 only.<sup>38</sup>

On questions asked by the Court, Cañete answered that when he countersigns real property tax computations, he would only check if it indicated the number of the official receipt previously issued to the taxpayer, and he would no longer check the payment records of the said taxpayer in their computer or manual ledger.<sup>39</sup>

**Edwin V. David (David)**<sup>40</sup>

David testified that: 1) he is the Department Head of the Information and Communications Technology Office of Pasay City;<sup>41</sup> 2) as head of said office, his duty included overseeing the computer system of the different offices in the City Government of Pasay;<sup>42</sup> 3) each office in the City Government of Pasay including the Office of the City Treasurer operated on a separate computer system;<sup>43</sup> 3) the heads of offices have full access to their respective computer systems;<sup>44</sup> 4) only the head of the office could open, view, add, edit, and/or delete entries found therein; 5) the items in the computer system of the Office of the City Treasurer included the records in the subsidiary ledger, and computation of taxes and penalties due;<sup>45</sup> and 6) during her term of office as City Treasurer, Daplas had full access to the computer system of their office.<sup>46</sup>

On cross-examination, David testified that the username of Daplas was not used in opening, viewing, adding, editing or deleting entries in their computer system based on their audit trail report pertaining to the account of Jung Kuang Realty.<sup>47</sup>

**Joel O. Reyes (Reyes)**<sup>48</sup>

His testimony was dispensed with after the parties stipulated that: 1) he is presently the Information Technology consultant assigned at the Office of the City Treasurer of Pasay City; and 2) he printed the subsidiary ledger file detailing the payment history of real property tax of Jung Kuang Realty.

<sup>37</sup> *Id.*, p. 30.

<sup>38</sup> *Id.*, p. 31.

<sup>39</sup> *Id.*, pp. 28-29.

<sup>40</sup> Judicial Affidavit of Edwin V. David dated September 19, 2017, Records, Vol. 2, pp. 55-60.

<sup>41</sup> *Id.*, p. 56.

<sup>42</sup> *Id.*, p. 57.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> TSN dated October 3, 2017, p. 8.

<sup>48</sup> Judicial Affidavit of Joel O. Reyes dated October 5, 2017, Records, Vol. 2, pp. 74-80.



**Jonathan A. Diza (Diza)<sup>49</sup>**

His testimony was dispensed with after the parties stipulated that: 1) he was assigned as a teller in the Land Tax Division of the Office of the City Treasurer at the time material to these cases; and 2) he issued the Real Property Tax Official Receipt Nos. 0209610 and 0114881 to Jung Kuang Realty and Lino Ed Lim, respectively.

In his Judicial Affidavit dated October 4, 2017, Diza stated that: 1) as land tax teller, his duty included the receipt of payments for real property tax and issuance of real property tax receipts;<sup>50</sup> 2) in paying real property tax, the taxpayer would first present the real property tax computation generated by the billing section of the Land Tax Division;<sup>51</sup> 3) thereafter, the land tax teller would encode the Appraised Real Property (ARP) Number<sup>52</sup> indicated in the real property tax computation to the "Point of Payment System"<sup>53</sup> used in their office;<sup>54</sup> and 4) the billing statement of the taxpayer would automatically appear on the computer screen, which includes the period covered, assessed value of the real property, basic real property tax due, penalty or discount, Special Education Fund (SEF) tax, and the total real property tax liability due from the taxpayer.<sup>55</sup>

**Quion<sup>56</sup>**

Quion testified that: 1) she was Revenue Collection Clerk II of the Real Property Tax Division of Office of the City Treasurer of Pasay City at the time material to these cases;<sup>57</sup> 2) her duty included the preparation and printing of real property tax computation of the taxpayers, preparation of the list of delinquent taxpayers and properties to be sold at public auction;<sup>58</sup> 3) she prepared and printed the Real Property Tax Computation dated July 24, 2009 of Jung Kuang Realty, which covered the taxable periods from the third quarter of 2005 to the fourth quarter of 2009 amounting to Five Million Two Hundred Twelve Thousand Nine Hundred Four Pesos and Fifty-Three Centavos (Php5,212,904.53);<sup>59</sup> 4) she also stamped a notation "FOR AUCTION" on the same real property tax computation because Jung Kuang Realty was delinquent in the payment of its real property tax for the said taxable periods.<sup>60</sup> 5) on August 28, 2009, Jung Kuang Realty paid Eight Hundred Thirty-Six Thousand Seven Hundred Fifty-Six Pesos (Php836,756.00) for the first to fourth quarters

<sup>49</sup> Judicial Affidavit of Jonathan A. Diza dated October 5, 2017, Records, Vol. 2, pp. 65-73.

<sup>50</sup> *Id.*, p. 67.

<sup>51</sup> *Id.*

<sup>52</sup> Here, the ARP involved is ARP. No. B3-037-00083 of Jung Kuang Realty.

<sup>53</sup> "Point of Payment System" refers to the program installed by the information technology office in the computers of the tellers in the Office of the City Treasurer (Judicial Affidavit of Jonathan A. Diza dated October 5, 2017, p. 67).

<sup>54</sup> Judicial Affidavit of Jonathan A. Diza dated October 5, 2017, p. 67.

<sup>55</sup> *Id.*, p. 68.

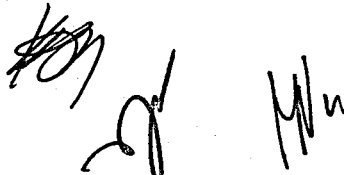
<sup>56</sup> Judicial Affidavit of Evelyn Quion dated January 16, 2018, Records, Vol. 2, pp. 111-128.

<sup>57</sup> *Id.*, p. 113.

<sup>58</sup> *Id.*

<sup>59</sup> *Id.*, p. 114

<sup>60</sup> *Id.*



of 2009 based on Real Property Tax Official Receipt No. 0209610;<sup>61</sup> 5) prior to August 28, 2009, the last payment made by Jung Kuang Realty was for 2004 and first to second quarters of 2005;<sup>62</sup> and 6) the total real property tax liability of Jung Kuang Realty from the third quarter of 2005 to the fourth quarter of 2008 remained unpaid.<sup>63</sup>

On cross-examination, Quion stated that: 1) she was assigned the username "equion" to access the computer system in their office;<sup>64</sup> 2) on August 28, 2009, her username accessed the account of Jung Kuang Realty four times based on the audit trail report;<sup>65</sup> and 3) she had no personal knowledge whether Daplas accessed the said computer system to generate or modify the real property tax assessment of Jung Kuang Realty.<sup>66</sup>

To questions asked by the Court, Quion answered that: 1) her access to the computer system in their office was limited only to the computation and printing of real property tax computation of taxpayers;<sup>67</sup> 2) Daplas was one of the three persons authorized by the Management Information and Technology Services (MITS) of Pasay City to have full access to their computer system;<sup>68</sup> 3) As such, Daplas could open, view, add, edit and delete entries from the same;<sup>69</sup> 4) in the Office of the City Treasurer, the other two persons authorized to have full access to their computer system was Ernesto Viscarra (Viscarra) and Generoso Baugbog (Baugbog);<sup>70</sup> 5) employees who do not have full access to the computer system had to seek the permission of authorized persons or they could go directly to MITS in case the taxpayer requests a correction of an entry in their computer system;<sup>71</sup> and 6) when she printed the Real Property Tax Computation dated July 24, 2009, Jung Kuang Realty did not request for a correction of an entry in its account.<sup>72</sup>

Prosecution offered the following documentary exhibits<sup>73</sup> which were admitted by the Court:<sup>74</sup>

Exhibit	Description
B and series	certified copy of Complaint-Affidavit dated March 4, 2010 of Quion

<sup>61</sup> *Id.*, p. 115.

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*, p. 116.

<sup>64</sup> TSN dated January 29, 2018, pp. 9-10.

<sup>65</sup> *Id.*, pp. 14-16.

<sup>66</sup> *Id.*, pp. 20-21.

<sup>67</sup> *Id.*, p. 23.

<sup>68</sup> *Id.*

<sup>69</sup> *Id.*, p. 24.

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*, pp. 25-26.

<sup>72</sup> *Id.*, p. 32.

<sup>73</sup> Records, Vol. 2, pp. 137-155.

<sup>74</sup> Minutes of the Proceedings dated February 19, 2018, Records, Vol. 2, p. 161.



C and series	certified copy of Real Property Tax Computation dated July 24, 2009 of Jung Kuang Realty
D and series	certified copy of Real Property Tax Official Receipt No. 0209610
E	certified copy of payments record of Jung Kuang Realty
F and series	certified copy of Affidavit dated March 4, 2010 of Arenas
J and series	original copy of print-out of the subsidiary ledger file of the payment history of Jung Kuang Realty
K and series	certified copy of Real Property Tax Official Receipt No. 114881

On March 26, 2018, Daplas sought leave of court to file demurrer to evidence.<sup>75</sup> On April 18, 2018, the Court denied her motion for leave to file demurrer to evidence.<sup>76</sup> On April 23, 2018, Daplas manifested that she was no longer filing a demurrer to evidence.<sup>77</sup>

### EVIDENCE OF THE DEFENSE

Daplas, thereafter, presented two witnesses. Their testimonies are summarized as follows:

#### David<sup>78</sup>

David testified that: 1) as Department Head of Information and Communications Technology of Pasay City, his duty included the generation of audit trail reports on real properties as requested by the head of office;<sup>79</sup> 2) an audit trail report is a record of any activity on a certain property made by a system-user in a department or office from the time the user logs in the computer system until said user logs out;<sup>80</sup> 3) sometime 2009, Daplas requested a copy of the audit trail report on the account of Jung Kuang Realty;<sup>81</sup> 4) Daplas requested the said audit trail report for the investigation on certain anomalies allegedly committed by some employees in the Office of the City Treasurer;<sup>82</sup> and 5) the username of Daplas was not used to access the account of Jung Kuang Realty based on the said audit trail report.<sup>83</sup>

On cross-examination, David admitted that the audit trail report neither indicated nor contained any security feature to prove that it was generated by the MITS.<sup>84</sup>

<sup>75</sup> Order dated March 26, 2018, Records, Vol. 2, p. 164-A.

<sup>76</sup> Resolution dated April 18, 2018, Records, Vol. 2, pp. 178-179.

<sup>77</sup> Manifestation dated April 23, 2018, Records, Vol. 2, p. 185.

<sup>78</sup> Witness David also testified for the Prosecution on October 3, 2017.

<sup>79</sup> Judicial Affidavit of Edwin V. David dated April 26, 2018, Records, Vol. 2, pp. 191-192.

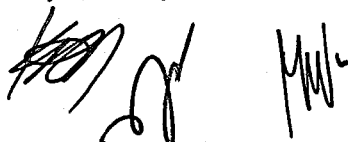
<sup>80</sup> *Id.*

<sup>81</sup> *Id.*, pp. 191-199.

<sup>82</sup> *Id.*

<sup>83</sup> *Id.*, p. 193.

<sup>84</sup> TSN dated May 8, 2018, p.21.



On re-direct examination, David clarified that: 1) Daplas was assigned the username "cdaplas" and a password;<sup>85</sup> 2) the username "cdaplas", however, did not appear in the audit trail report on the account of Jung Kuang Realty;<sup>86</sup>

To a question asked by the Court, he answered that he compared and verified the contents of the audit trail report with his file copy in the office and he found the contents of the said audit trail report to be the same as those in his file copy.<sup>87</sup>

**Dennis Arenas (Arenas)<sup>88</sup>**

Arenas testified that: 1) he is Local Revenue Collection Officer at the Office of the City Veterinarian of Pasay City;<sup>89</sup> 2) he was assigned at the Administrative Division and took charge of the communication letters and correspondence of the Office of the City Treasurer of Pasay City at the time material to these cases;<sup>90</sup> 3) he did not execute the Affidavit dated March 4, 2010, which was presented and offered by the Prosecution in these cases;<sup>91</sup> and 3) the signature on top of his name in the said affidavit was not his.<sup>92</sup>

To questions asked by the Court, Arenas answered that: 1) he was angry when he saw and read the affidavit that he allegedly executed in support of the charges against Daplas;<sup>93</sup> 2) he learned about the said affidavit only during the hearing on January 10, 2018;<sup>94</sup> 3) although he was curious about the subpoena that he received from the court in these cases, he neither inquired from the court nor approached Daplas about his supposed testimony;<sup>95</sup> and 4) sometime April 2018, Daplas asked him to testify in her defense.<sup>96</sup>

Defense offered the following documentary exhibits which were admitted by the Court:<sup>97</sup>

Exhibit	Description
19 and series	certified copy of Real Property Tax Computation dated July 24, 2009 of Jung Kuang Realty <sup>98</sup>

<sup>85</sup> *Id.*, pp. 23-24.

<sup>86</sup> *Id.*, p. 24.

<sup>87</sup> *Id.*, pp. 26-29.

<sup>88</sup> Judicial Affidavit of Dennis Arenas dated April 26, 2018, Records, Vol. 2, pp. 203-206.

<sup>89</sup> *Id.*, p. 204.

<sup>90</sup> *Id.*

<sup>91</sup> *Id.*, pp. 204-205.

<sup>92</sup> *Id.*

<sup>93</sup> TSN dated June 4, 2018, pp. 19-20.

<sup>94</sup> *Id.*, p. 22.

<sup>95</sup> *Id.*, p. 21.

<sup>96</sup> *Id.*, pp. 21-22.

<sup>97</sup> Minutes of the Proceedings dated July 25, 2018, Records, Vol. 2, p. 251.

<sup>98</sup> Same as Exhibit "C".

21 and series	original copy of Real Property Tax Computation dated August 28, 2009 of Jung Kuang Realty
22 and series	original copy of Real Property Tax Official Receipt No. 0209610 <sup>99</sup>
25	original copy of audit trail report on the account of Jung Kuang Realty
38	certified copy of Affidavit dated March 4, 2010 of Arenas <sup>100</sup>

### FINDINGS OF FACTS

On the basis of the evidence on record, as well as the stipulations between the Prosecution and the Defense, the facts as found by the Court are as follows:

In 2009, all transactions with the Office of the City Treasurer of Pasay City were system-generated. These included the computation of real property tax and issuance of real property tax official receipts.<sup>101</sup> Real property tax computations were printed by personnel at the billing section, and countersigned by the Chief of the Land Tax Division.<sup>102</sup> Thereafter, the receipt of payment and issuance of real property tax official receipts were made by tellers through the "Point of Payment System" used in their office.<sup>103</sup> The performance of these tasks were already delegated by Daplas, as the City Treasurer, to her subordinates.<sup>104</sup> The computation of real property tax and issuance of real property tax official receipts were no longer checked by her office.<sup>105</sup>

Employees were assigned individual usernames and passwords to access the specific computer system of their office.<sup>106</sup> In the Office of the City Treasurer of Pasay City, only three persons were given full access to the computer system.<sup>107</sup> These were Daplas, Viscarra, and Baugbog.<sup>108</sup> By having full access to the computer system, they could open, view, add, edit, and/or delete items related to records in the subsidiary ledger, and computation of taxes and penalties due.<sup>109</sup>

<sup>99</sup> Same as Exhibit "D".

<sup>100</sup> Same as Exhibit "F".

<sup>101</sup> Judicial Affidavit of Edwin V. David dated September 19, 2017.

<sup>102</sup> TSN dated September 27, 2017, pp. 18-21.

<sup>103</sup> Judicial Affidavit of Jonathan A. Diza dated October 5, 2017, p. 67.

<sup>104</sup> Judicial Affidavit of Ricardo Cañete dated August 24, 2017, Records, Vol. 2, p. 26.

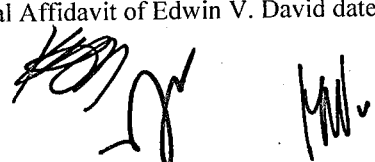
<sup>105</sup> *Id.*

<sup>106</sup> TSN dated May 8, 2018, pp. 23-24.

<sup>107</sup> TSN dated January 29, 2018, p. 24.

<sup>108</sup> *Id.*

<sup>109</sup> Judicial Affidavit of Edwin V. David dated September 19, 2017, p. 57.



On July 24, 2009, Quion, a Revenue Collection Clerk II in the Office of the City Treasurer of Pasay City, prepared and printed Real Property Tax Computation dated July 24, 2009 of Jung Kuang Realty upon the request of its representative, Loreto Teves, Jr.<sup>110</sup> She used her username (equion) and password to open, generate, and print the said real property computation.<sup>111</sup> Real Property Tax Computation dated July 24, 2009 covered the periods from the third quarter of 2005 to the fourth quarter of 2009, which amounted to Five Million Two Hundred Twelve Thousand Nine Hundred Four Pesos and Fifty-Three Centavos (Php5,212,904.53).<sup>112</sup>

On August 28, 2009, Jung Kuang Realty paid the amount of Eight Hundred Thirty-Six Thousand Seven Hundred Fifty-Six Pesos (Php836,756.00) for the period of first to fourth quarters of 2009 only as evidenced by Real Property Tax Official Receipt No. 0209610.<sup>113</sup>

Before the payment of real property tax is credited to the current taxable year, the taxpayer is required to first settle any outstanding real property tax liability.<sup>114</sup> In the Office of the City Treasurer of Pasay City, the number of the latest real property tax official receipt is printed on top of the present real property tax official receipt as proof that the taxpayer's payments are updated and not delinquent.<sup>115</sup>

Real Property Tax Official Receipt No. 0209610 dated August 28, 2009 showed that Real Property Tax Official Receipt No. 0114881 was issued to Jung Kuang Realty to prove that Jung Kuang Realty purportedly paid its real property tax liability for the previous taxable year.<sup>116</sup> Based on records, however, Real Property Tax Official Receipt No. 0114881 was not issued to Jung Kuang Realty. Instead, it was issued to another taxpayer in the person of Lino Ed Lim.<sup>117</sup> There is no proof that Jung Kuang Realty paid its real property tax liability for the previous taxable years. As a matter of fact, the records show that Jung Kuang Realty failed to pay its real property tax liability from the third quarter of 2005 to the fourth quarter of 2008.<sup>118</sup>

The audit trail report on the account of Jung Kuang Realty showed that the username (cdaplas) of Daplas was not used to open, delete or modify the entries in the computer system of the Office of the City Treasurer of Pasay.<sup>119</sup> Although Quion used her username (equion) to access the same account four

<sup>110</sup> Judicial Affidavit of Evelyn Quion dated January 16, 2018, Records, Vol. 2, p. 114.

<sup>111</sup> TSN dated January 29, 2018, pp. 9-10.

<sup>112</sup> Exhibit "C"; Exhibit "19-A".

<sup>113</sup> Exhibit "D-1"; Exhibit "22-E".

<sup>114</sup> TSN dated September 27, 2017, pp. 27-29.

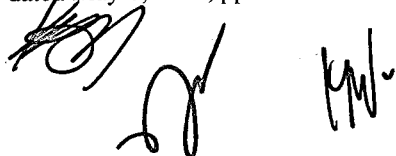
<sup>115</sup> *Id.*

<sup>116</sup> Exhibit "D-2".

<sup>117</sup> Judicial Affidavit of Ricardo Cañete dated August 24, 2017, Records, Vol. 2, pp. 15-16; Stipulated by the parties on November 23, 2017.

<sup>118</sup> Judicial Affidavit of Evelyn Quion dated January 16, 2018, Records, Vol. 2, p. 116.

<sup>119</sup> TSN dated May 8, 2018, pp. 23-24.



times on August 28, 2009,<sup>120</sup> her access to the computer system was limited to the preparation and printing of real property tax computations.<sup>121</sup>

### DISCUSSION AND RULING

After a thorough review of the documentary and testimonial evidence on record, as well as the stipulations between the Prosecution and the Defense, the Court finds that they are **insufficient** to prove the guilt of Daplas for violation of Section 3 (e) of the R.A. No. 3019 and Direct Bribery under Article 210 of the R.P.C.

The Prosecution's evidence failed to prove that Daplas committed the acts constituting manifest partiality and evident bad faith or that she acted with gross inexcusable negligence in the collection and payment of lesser real property tax by Jung Kuang Realty. Not enough proof was presented to hold Daplas accountable for the undue injury caused the City Government of Pasay City for the unpaid real property taxes of Jung Kuang Realty, and the unwarranted benefits, advantage and preference received by the said taxpayer for the lesser amount of real property taxes paid and collected by the Office of the City Treasurer of Pasay. The Prosecution similarly failed to prove that Daplas accepted an offer of money or received the same from Jung Kuang Realty in consideration of the collection and payment of lesser amount of real property tax by the said taxpayer. The witness who allegedly gave money to Daplas from Jung Kuang Realty even denied executing the affidavit containing the said allegation.

Every criminal conviction requires the prosecution to prove two things: 1) the fact of the crime, *i.e.*, the presence of all the elements of the crime for which the accused stands charged; and 2) the fact that the accused is the perpetrator of the crime.<sup>122</sup>

The burden of proof is on the Prosecution, as the accused enjoys a constitutionally enshrined disputable presumption of innocence.<sup>123</sup> The court, in ascertaining the guilt of the accused, must, after having marshalled the facts and circumstances, reach a moral certainty as to the guilt of the accused.<sup>124</sup> Moral certainty is that degree of proof which produces conviction in an

<sup>120</sup> TSN dated January 29, 2018, pp. 14-16.

<sup>121</sup> TSN dated January 29, 2018, p. 23.

<sup>122</sup> *People v. Urzais, et al.*, G.R. No. 207662, April 13, 2016.

<sup>123</sup> Section 1, Rule 131, in relation to Section 2, Rule 133 of the Rules of Court; Section 2 (a), Rule 115 of the Rules of Court; Section 14 (2), Article III of the 1987 Philippine Constitution.

<sup>124</sup> *Caunan v. Sandiganbayan*, G.R. Nos. 182001-01, *Marquez v. Sandiganbayan*, G.R. Nos. 182020-04, September 2, 2009.



unprejudiced mind.<sup>125</sup> Otherwise, where there is reasonable doubt, the accused must be acquitted.<sup>126</sup>

**Violation of Section 3 (e) of R.A. No. 3019**

Under the information in SB-16-CRM-0775, Daplas is charged with violation of Section 3 (e) of R.A. No. 3019, which states in part:

x x x with **manifest partiality, evident bad faith** or through **gross inexcusable negligence**, at the very least, did then and there willfully, unlawfully, and criminally gave unwarranted benefits, advantage, or preference to JUNG KUANG and/or JUNG KUANG REALTY INC. by **allowing said Jung Kuang and/or Jung Kuang Realty Inc. to pay real property tax in the amount of EIGHT HUNDRED THIRTY-SIX THOUSAND AND SEVEN HUNDRED FIFTY-SIX pesos (Php836,756.00) as indicated in the Official Receipt of the Republic of the Philippines No. 0209610 dated August 28, 2012, which amount is lesser by FOUR MILLION FIVE HUNDRED SEVENTY-SIX THOUSAND ONE HUNDRED FORTY-EIGHT PESOS AND FIFTY-THREE CENTAVOS (Php4,576,148.53) Philippine currency, disregarding the actual real property tax due of FIVE MILLION TWO HUNDRED TWELVE THOUSAND NINE HUNDRED FOUR PESOS AND FIFTY-THREE centavos (Php5,212,904.53) as indicated in the Real Property Tax Computation dated July 24, 2009 prepared and computed by Collection Clerk Evelyn Quion thereby causing undue injury to the government in the amount of FOUR MILLION FIVE HUNDRED SEVENTY-SIX THOUSAND ONE HUNDRED FORTY-EIGHT PESOS AND FIFTY-THREE CENTAVOS (Php4,576,148.53), more or less, Philippine currency.**<sup>127</sup>

Section 3 (e) of R.A. No. 3019 provides:

Sec. 3. Corrupt practices by public officers.—In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practice of any public officer and are hereby declared to be unlawful:

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 of government

<sup>125</sup> *Magsuci v. Sandiganbayan*, G.R. No. 101545, January 3, 1995.

<sup>126</sup> *Supra, Caunan v. Sandiganbayan & Marquez v. Sandiganbayan*.

<sup>127</sup> Emphasis supplied.

corporations charged with the grant of licenses or permits or other concessions.

The elements of this crime are:

1. accused must be a public officer discharging administrative, judicial, or official functions;
2. accused must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and
3. accused caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions.<sup>128</sup>

*First element: Daplas was a public officer discharging administrative and official functions at the time material to the case.*

As borne by the records of these cases, and as specifically stipulated by the parties per the Pre-Trial Order dated August 2, 2017, Daplas was the City Treasurer of Pasay at the time material to this case. She was a public officer discharging administrative and official functions in the commission of the alleged offense.

*Second element: Daplas neither committed the acts constituting manifest partiality and evident bad faith nor was she guilty of gross inexcusable negligence.*

A violation of Section 3 (e) of R.A. No. 3019 may be committed either by *dolo*, as when the accused acted with manifest partiality or evident bad faith, or by *culpa*, as when the accused committed gross inexcusable negligence.<sup>129</sup> Proof of **any** of these three in connection with the prohibited acts mentioned in the said provision is therefore enough to convict the accused.<sup>130</sup>

The law does not punish partiality, bad faith or negligence *per se*. The Prosecution must show that bad faith or partiality is evident or manifest, or that

<sup>128</sup> *Uriarte v. People*, G.R. No. 169251, December 20, 2006, citing *Santos v. People*, G.R. No. 161877, March 23, 2006, *Cabrera v. Sandiganbayan*, G.R. Nos. 162314-17, October 25, 2004, and *Jacinto v. Sandiganbayan*, G.R. No. 84571, October 2, 1989.

<sup>129</sup> *Supra*, *Uriarte v. Sandiganbayan*.

<sup>130</sup> *Fonacier v. Sandiganbayan*, G.R. No. 50691, December 5, 1994.