



Republic of the Philippines
Sandiganbayan
Quezon City

FIFTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

**ROLEX T. SUPLICO, ANTONIO Y.
ORTIZ, and ALFREDO A.
RONQUILLO,**

Accused.

SB-18-CRM-0551

For: Violation of Section 3(e) of
Republic Act No. 3019 or the
Anti-Graft and Corrupt Practices
Act, as amended

Present:

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

Promulgated:

January 12, 2024 *Jail*
Gerardo L. Sison

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DECISION

CORPUS-MAÑALAC, J.:

Before the Court is the *Information* charging **Rolex T. Suplico**, former Iloilo 5th District Representative, **Antonio Y. Ortiz**, former Director General of the Technology Resource Center (TRC; formerly named Technology and Livelihood Resource Center),¹ and **Alfredo A. Ronquillo**, President of AARON Foundation Philippines, Inc. (AFPI), a non-governmental organization (NGO), with violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act² (the anti-graft law). The charge relates to the transfer and use of the Priority Development Assistance Fund (PDAF) allotted for livelihood support program in the 5th District of Iloilo in 2007.

¹ Executive Order No. 614, s. 2007 renamed Technology and Livelihood Resource Center (TLRC) to Technology Resource Center (TRC). TLRC and TRC refer to the same entity and were used interchangeably in the records and submissions in this case.

² Republic Act No. 3019, as amended.

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This decision concerns accused Suplico alone since accused Ortiz remains at large, while the case against accused Ronquillo was dismissed in view of his death before the trial of this case began.

ANTECEDENTS

In 2004, accused Suplico was elected Iloilo 5th District Representative. He was succeeded by Representative Niel C. Tupas, Jr. In January 2010, Representative Tupas, Jr. wrote the Office of the Ombudsman to request that accused Suplico be investigated and prosecuted for possible violation of the anti-graft law and “The Code of Conduct and Ethical Standards for Public Officials and Employees.”³ The request related to an alleged misuse of the fund sourced from the 2007 PDAF appropriation. According to the letter, that fund was released to AFPI on accused Suplico’s request. The letter also stated that the fund was allotted for a district-wide livelihood project in the 5th District of Iloilo, which did not materialize. It also cited the 2007 Annual Audit Report of the Commission on Audit (COA) on TRC’s financial transactions to point out that the fund was without liquidation report.

Acting on the letter-request, the Public Assistance and Corruption Prevention Office (PACPO), Office of the Ombudsman for the Visayas, Regional Office VI, investigated the matter and in 2014 lodged a complaint against accused Suplico, Ortiz, and Ronquillo for violation Section 3(e) of the anti-graft law. In its complaint, the PACPO averred that accused Suplico and Ortiz, in conspiracy with accused Ronquillo, “acted with evident bad faith ... by intentionally disregarding the provisions ... [of] COA Circular No. 2007-001, thereby giving unwarranted benefits, advantage or preference in favor of [AFPI] and/or causing undue injury to the government ... arising from the unliquidated PDAF.”⁴

In 2017, the Office of the Ombudsman found probable cause to charge accused Suplico, Ortiz, and Ronquillo.⁵ Accused Suplico moved for a reconsideration, but it was denied.⁶ As a result, the Office of the Ombudsman filed on October 23, 2018 the *Information* charging the three accused with one count of violation of Section 3(e) of the anti-graft law. The charge reads:

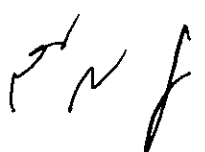
That from February to May 2007, or sometime prior or subsequent thereto, in San Juan City, Metro Manila, Philippines, and within the jurisdiction of this Honorable Court, accused **ROLEX T. SUPLICO** (Suplico) and **ANTONIO Y. ORTIZ** (Ortiz), both high-ranking public officers, being then the Representative of [the] 5th Congressional District of Iloilo, and the Director General of the Technology and Livelihood Resource Center (TLRC), respectively, while in the performance of their administrative and/or official functions and committing the crime in relation

³ Republic Act No. 6713.

⁴ Records, Vol. 1, pp. 24-25.

⁵ *Id.* at 14.

⁶ *Id.* at 16-17 (Ombudsman’s *Order* dated April 3, 2018; the first and last pages without assigned page numbers).



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to office, taking advantage of their official positions, conspiring and confederating with one another and with private individual **ALFREDO A. RONQUILLO** (Ronquillo), President of AARON Foundation Philippines, Inc. (AARON Foundation), a Non-Governmental Organization (NGO) endorsed by Suplico and Ortiz to implement the livelihood and development projects worth Php15,000,000.00 sourced from the Priority Development Assistance Fund (PDAF) for 2007 of the 5th Congressional District of Iloilo, acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, did then and there willfully, unlawfully and criminally give Ronquil[I]o and/or AARON Foundation unwarranted benefit, advantage or preference by transferring and/or causing the transfer or release of the amount of Php14,700,000.00 in favor of [AARON] Foundation *via* Check No. 399420 issued on 4 May 2007, for the latter to implement the livelihood and development projects of the 5th District of Iloilo funded from Suplico's PDAF, by mere endorsements of Suplico and Ortiz, and despite the following irregularities, among others: (1) ineligibility of AARON Foundation to undertake the projects due to its lack of current business permit and its dubious existence; (2) the implementing agency, the TLRC, through Ortiz, accepted the NGO and released the said funds based merely on the indorsement of Suplico and/or Ortiz, and not through a public bidding or a negotiated procurement under Republic Act No. 9184, and its implementing rules and regulations, and in violation of GPPB Resolution No. 12-2007 and COA Circular No. 2007-001; (3) Suplico's utter lack of effort to ensure the implementation of the projects and the liquidation of the public funds, thereby causing undue injury to the government in the amount of Php14,700,000.00.

CONTRARY TO LAW.

PROCEEDINGS BEFORE THE COURT

On October 26, 2018, the Court issued a hold departure order against the accused.⁷ On the same day, after perusing the records and finding probable cause, the Court ordered the issuance of a warrant of arrest against the accused⁸ and issued the corresponding warrant,⁹ except for accused Suplico who earlier posted cash bond for his provisional liberty.¹⁰

On November 13, 2018, accused Suplico moved to quash the *Information* on the ground of inordinate delay and forum shopping.¹¹ The prosecution opposed the motion.¹² Thereafter, accused Suplico moved for the admission of his reply to the prosecution's opposition,¹³ but that motion was denied for being a prohibited pleading under the Court's internal rules.¹⁴

⁷ *Id.* at 135 (*Hold Departure Order* dated October 26, 2018).

⁸ *Id.* at 136 (*Minutes* dated October 26, 2018).

⁹ *Id.* at 152.

¹⁰ *Id.* at 137-143.

¹¹ *Id.* at 155-211 (Accused Suplico's *Motion to Quash Information with Motion to Cancel the Arraignment* dated November 12, 2018).

¹² *Id.* at 243-255 (the prosecution's *Comment and/or Opposition* dated December 6, 2018).

¹³ *Id.* at 257-275.

¹⁴ *Id.* at 277 (*Minutes* dated December 14, 2018).

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By a resolution of January 15, 2019, the Court denied the motion to quash.¹⁵ The Court also denied accused Suplico's motion for reconsideration.¹⁶

In the meantime, the Court dismissed the case as against accused Ronquillo in view of his demise.¹⁷

On the date set for his arraignment, accused Suplico, assisted by his counsel, opted to waive the reading of the charge.¹⁸ Satisfied that the accused understood the nature of the charge against him, the Court entered a "not guilty" plea for him.¹⁹ Thereafter, the parties met at preliminary conference for marking of exhibits and possible stipulations.

Meanwhile, claiming that a number of his signatures were forged, accused Suplico moved that the prosecution be directed to submit the original copies of some of its intended exhibits for examination by the Questioned Documents Division of the National Bureau of Investigation (NBI).²⁰ By way of comment, the prosecution interposed that it does not have possession of the original copies of the documents requested for examination.²¹ After considering the arguments presented, the Court denied the motion.²² Accused Suplico then moved for a reconsideration of the resolution, but it was likewise denied.²³

On September 3, 2019, accused Suplico moved anew for the submission of the original copies of some of the prosecution's exhibits for examination by the NBI Questioned Documents Division.²⁴ The prosecution manifested that it would leave the matter to the Court's discretion.²⁵ And, by way of compliance to the Court's directive, the NBI manifested to abide by the Court's order.²⁶ In the resolution of October 14, 2019, the Court granted the motion.²⁷

On January 31, 2020, the prosecution filed its *Pre-trial Brief*,²⁸ while accused Suplico filed his *Pre-trial Brief* on February 13, 2020.²⁹

Meanwhile, on February 3, 2019, the Court received the *Questioned Documents Report No. 535-1119* from the NBI.³⁰

¹⁵ *Id.* at 295-311 (*Resolution* dated January 15, 2019).

¹⁶ *Id.* at 364-370 (*Resolution* dated February 12, 2019).

¹⁷ *Id.* at 283 (*Minutes* dated December 19, 2018; in compliance with the Court's order, the Philippine Statistics Authority submitted to the Court the *Certificate of Death* of accused Ronquillo).

¹⁸ *Id.* at 379 (*Order* dated February 22, 2019). *Id.* at 375 (signed *Waiver of Reading of Information*).

¹⁹ *Id.*

²⁰ *Id.* at 395-398.

²¹ *Id.* at 415-419.

²² *Id.* at 426-428 (*Minutes* dated May 14, 2019).

²³ *Id.* at 466-468.

²⁴ *Id.* at 485-489.

²⁵ *Id.* at 497-500.

²⁶ *Id.* at 517-518.

²⁷ Records, Vol. 2, pp. 5-9.

²⁸ *Id.* at 108-124.

²⁹ *Id.* at 139-141.

³⁰ *Id.* at 128-130.

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On February 14, 2020, the pre-trial conference was terminated.³¹

At the pre-trial conference,³² the parties stipulated: (1) that accused Suplico is the person named in the *Information* and was the person arraigned; (2) that accused Suplico was the Iloilo 5th District Representative at the time material to this case; (3) that Atty. Theodore P. Banderado filed the *Complaint Affidavit* dated March 4, 2014 on behalf of PACPO, Office of the Ombudsman for the Visayas; and (4) that the Filed Investigation Office (FIO), Office of the Ombudsman, conducted an investigation into the PDAF of accused Suplico per *Office Order No. 476, s. 2014*, *Office Order No. 46, s. 2014*, *Memorandum* to Ombudsman Conchita Carpio Morales dated 27 August 2015, and *Travel Order No. 15-189* dated 27 August 2015 (Exhibit B⁶ and series).

Thereafter, trial of the case ensued.

Evidence for the Prosecution

The witnesses for the prosecution were: (1) **Dindo B. Jacinto**,³³ Associate Graft Investigation Officer II, Field Investigation Office, Office of the Ombudsman; (2) **Marissa A. Santos**,³⁴ Chief Administrative Officer, Central Records Division of the Department of Budget and Management (DBM); (3) **Avelina H. Zumarraga**,³⁵ Chief Treasury Operations Officer II, Miscellaneous Accounts Accounting Division; (4) **Joan Agnes N. Alfafaras**,³⁶ State Auditor, COA Special Audits Office; (5) **Atty. RJ A. Bernal**,³⁷ Chief Counsel of the Securities and Exchange Commission (SEC) – Company Registration and Monitoring Department; (6) **Ruth E. Elmedorial**, Chairperson, Brgy. Manipulon, Estancia, Iloilo;³⁸ (7) **Arman D. Raven**, Chairperson, Brgy. Pob. Zone III, Estancia, Iloilo;³⁹ (8) **Erie C. Ramirez**, Chairperson, Brgy. Tabu-an, Estancia, Iloilo;⁴⁰ (9) **Jolly I. Dusan**, Municipal Agriculturist, Carles, Iloilo;⁴¹ (10) **Angelito O. Blancaver**, Agricultural Technologist, Office of the Municipal Agriculturist, Balasan, Iloilo;⁴² and (11) **Camilo M. Rivera**, Department Manager, Land Bank of the Philippines – Elliptical Road branch.

³¹ *Id.* at 258 (*Order* dated February 14, 2020).

³² *Id.* at 259-276 (*Pre-trial Order* dated February 14, 2020).

³³ Records, Vol. 4, p. 81 (*Order* dated November 18, 2021).

³⁴ *Id.* at 207 (*Order* dated April 6, 2022).

³⁵ *Id.*

³⁶ *Id.* at 301 (*Order* dated May 24, 2022).

³⁷ *Id.* at 366 (*Order* dated June 22, 2022).

³⁸ *Id.* at 178 (*Certification* signed by Ruth E. Elmedorial).

³⁹ *Id.* at 184 (*Certification* signed by Arman D. Ravena).

⁴⁰ *Id.* at 190 (*Certification* signed by Erie C. Ramirez).

⁴¹ *Id.* at 196 (*Certification* signed by Jolly I. Dusan).

⁴² *Id.* at 200 (*Certification* signed by Angelito O. Blancaver).

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Dindo B. Jacinto testified through his *Judicial Affidavit*,⁴³ which served as his direct testimony.⁴⁴ According to him, he was appointed Associate Graft Investigation Officer II (AGIO) of the FIO, Office of the Ombudsman, on March 31, 2011.⁴⁵ He was designated as the team leader of the Special PDAF Team 3 (the investigation team) which looked into the utilization of funds from the PDAF appropriation.⁴⁶ He identified the documents authorizing the investigation, specifically: (1) *Office Order No. 476* dated August 1, 2014, marked as Exhibits “B⁶-1” to “B⁶-7”, designating him as the team leader of the Special PDAF Team 3; (2) *Memorandum* dated August 27, 2015, marked as Exhibits “B⁶-8” to “B⁶-9”, requesting for an authority to travel to Iloilo to conduct an investigation into the use of accused Suplico’s PDAF; (3) *Travel Order No. 15-189* dated August 27, 2015, marked as Exhibit “B⁶-10”, authorizing Dindo B. Jacinto, Philip Daniel B. Matthews, and Romeo R. Igot, Jr. to travel to Iloilo to conduct a fact-finding investigation.⁴⁷

AGIO Jacinto attested that they investigated the PDAF of accused Suplico, particularly: (1) the P10-million PDAF covered by *Special Allotment Release Order (SARO) No. D-07-05540* and (2) the P15-million PDAF covered by *SARO No. ROCS-07-03548*.

Regarding the P15-million PDAF covered by *SARO No. ROCS-07-03548*, AGIO Jacinto stated that the investigation team sent out *subpoenas duces tecum* to several government agencies (such as COA, SEC, and Department of Trade and Industry). He then identified the documents that the investigation team gathered, marked as exhibits: “C⁶” and series (*FIO Investigation Reports and its Annexes*, specifically Annex Folders 1 to 4 and 2 of 4); “C⁶” to “C⁶-1” (*Transmittal Letter* dated May 16, 2019); “C⁶-2” to “C⁶-25” (*Investigation Report* dated December 4, 2015); “C⁶-26” (*Term of Office of members of the House of Representatives* (on-line printout)); “C⁶-27” (*DFA Passport Application Form of Rolex T. Suplico*); “C⁶-28” to “C⁶-34” (*201 File of Antonio Y. Ortiz*); “C⁶-35” to “C⁶-43” (*201 File of Dennis Cunanan*); “C⁶-44” to “C⁶-52” (*201 File of Marivic Jover*); “C⁶-53” to “C⁶-57” (*201 File of Maria Rosalinda Lacsamana*); “C⁶-58” to “C⁶-136” (*Compliance from SEC*); “C⁶-137” to “C⁶-138” (*SARO No. D-07-05540* dated March 22, 2007, amounting to 10 million pesos (allocated to accused Suplico)); “C⁶-139” to “C⁶-141” (*Project Proposal of AFPI for the 5th District of Iloilo ‘District Wide Livelihood and Entrepreneurial Promotions and Development Program’ and Work Financial Plan*); “C⁶-142” (*Endorsement Letter of accused Suplico* dated March 26, 2007); “C⁶-143” to “C⁶-147” (*Memorandum of Agreement* dated May 3, 2007); “C⁶-148” (*Letter of Ms. Rosalinda Lacsamana* dated April 23, 2007, addressed to accused

⁴³ Records, Vol. 3, pp. 4-469 and Vol. 3-a, pp. 643, inclusive of annexes.

⁴⁴ Records, Vol. 2, p. 361 (*Order* dated February 10, 2021). At the February 10, 2021 hearing, the parties stipulated that the witness can identify his *Judicial Affidavit* which will serve as his direct testimony, Transcript of Stenographic Notes (TSN) dated February 10, 2021.

⁴⁵ Records, Vol. 3, p. 5 (Dindo B. Jacinto’s *Judicial Affidavit*, p. 2).

⁴⁶ *Id.* at 6-7 (Dindo B. Jacinto’s *Judicial Affidavit*, pp. 3-4).

⁴⁷ *Id.*

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Ortiz); “C⁶-149” (*Disbursement Voucher No. 012007040792* for P9.8 million); “C⁶-150” (*LBP Check No. 0850487* dated April 30, 2007 for to P9.8 million); “C⁶-151” (*Official Receipt No. 0069* issued by AFPI dated April 30, 2007 for TRC); “C⁶-152” to “C⁶-153” (*SARO No. ROCS-07-03548* dated February 16, 2007 for P15 million; and *Advice of NCA*); “C⁶-154” to “C⁶-156” (*Project Proposal of AFPI for the 5th District of Iloilo ‘District Wide Livelihood and Entrepreneurial Promotions and Development Program’* for P15 million; and *Work Financial Plan*); “C⁶-157” (*Endorsement Letter of accused Suplico* dated March 28, 2007); “C⁶-158” to “C⁶-162” (*Memorandum of Agreement* dated May 7, 2007); “C⁶-163” (*Letter of Ms. Rosalinda Lacsamana* dated April 30, 2007 addressed to accused Ortiz); “C⁶-164” (*Disbursement Voucher No. 012007050823*); “C⁶-165” (*LBP Check No. 399420* dated May 4, 2007 for P14.7 million); “C⁶-166” (*Official Receipt No. 0075* issued by AFPI dated April 30, 2007, for TRC P14.7 million); “C⁶-167” to “C⁶-634” (*COA-SAO Report No. 2012-03*); “C⁶-635” to “C⁶-638” (*COA Notice of Disallowance No. TRC-2013-011-PDAF (07-09)*).

AGIO Jacinto further stated that the investigation team conducted a field validation to determine whether the project was implemented. According to him, between October 5 and 9, 2015, they went to nine municipalities of the 5th District of Iloilo,⁴⁸ where they interviewed municipal mayors, barangay chairpersons, and, in some instances, municipal agriculturists. The interviewees, he related, “denied receipt and/or implementation of the project in their respective barangays/municipalities” and executed affidavits or certifications to that effect. He identified those affidavits and certifications.⁴⁹

The investigation team also evaluated and reviewed all information and documents gathered, AGIO Jacinto testified. He further said that the investigation team determined that the P15-million PDAF covered by *SARO No. ROCS-07-03548* “was not utilized for the implementation of the project in the 5th District of Iloilo.”⁵⁰ When asked for basis, AGIO Jacinto explained that there was no “trace or records on file that the same was implemented. There was no liquidation report submitted to COA and it was verified

⁴⁸ TSN dated November 18, 2021, p. 5 (on additional direct examination, the witness clarified that they visited nine, not eleven, municipalities in the 5th District of the Province of Iloilo).

⁴⁹ The affidavits and certifications were marked as Exhibits “H²” to “H²-5”, “I²” to “I²-5”, “J²” to “J²-5”, “K²” to “K²-5”, “L²” to “L²-5”, “M²” to “M²-4”, “N²” to “N²-5”, “O”, “P²” to “P²-5”, “Q²” to “Q²-4”, “R²” to “R²-4”, “S²” to “S²-5”, “T²” to “T²-5”, “U²” to “U²-5”, “V²” to “V²-4”, “W²” to “W²-4”, “X²” to “X²-4”, “Y²” to “Y²-5”, “Z²” to “Z²-5”, “A³” to “A³-5”, “B³” to “B³-5”, “C³” to “C³-5”, “D³” “E³” to “E³-5”, “F³” to “F³-5”, “G³” to “G³-5”, “H³” to “H³-5”, “I³” to “I³-5”, “J³” to “J³-5”, “K³” to “K³-5”, “L³” to “L³-5”, “M³” to “M³-5”, “N³” to “N³-5”, “O³” to “O³-5”, “P³” to “P³-5”, “Q³” to “Q³-6”, “R³” to “R³-4”, “S³” to “S³-2”, “T³” to “T³-4”, “U³” to “U³-6”, “V³” to “V³-6”, “W³” to “W³-6”, “X³” to “X³-4”, “Y³” to “Y³-6”, “Z³” to “Z³-6”, “A⁴” to “A⁴-5”, “B⁴” to “B⁴-5”, “C⁴” to “C⁴-5”, “D⁴” to “D⁴-5”, “E⁴” to “E⁴-5”, “F⁴” to “F⁴-5”, “G⁴” to “G⁴-4”, “H⁴” to “H⁴-5”, “I⁴” to “I⁴-5”, “J⁴” to “J⁴-5”, “K⁴” to “K⁴-5”, “L⁴” to “L⁴-5”, “M⁴” to “M⁴-4”, “N⁴” to “N⁴-5”, “O⁴” to “O⁴-5”, “P⁴” to “P⁴-5”, “Q⁴” to “Q⁴-5”, “R⁴” to “R⁴-5”, “S⁴” to “S⁴-4”, “T⁴” to “T⁴-3”, “U⁴” to “U⁴-5”, “V⁴” to “V⁴-6”, “W⁴” to “W⁴-3”, “X⁴” to “X⁴-3”, “Y⁴” to “Y⁴-5”, “Z⁴” to “Z⁴-5”, “A⁵” to “A⁵-5”, “B⁵” to “B⁵-3”, “C⁵”, “D⁵”, “E⁵”, “F⁵”, “G⁵”, “H⁵”, “I⁵”, “J⁵”, “K⁵”, “L⁵”, “M⁵”, “N⁵”, “O⁵”, “P⁵” to “P⁵-4”, “Q⁵”, “R⁵”, “S⁵”, “T⁵”, “U⁵”, “V⁵”, “W⁵”, “X⁵”, “Y⁵”, “Z⁵”, and “A⁶”.

⁵⁰ Records, Vol. 3, p. 18 (Dindo B. Jacinto’s *Judicial Affidavit*, p. 15).

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substantially during field validation that no such project existed or that such were implemented.”⁵¹

AGIO Jacinto identified the *Investigation Report* dated December 4, 2015, marked as Exhibits “C⁶-2” to “C⁶-25”, which he said the investigation team prepared. He also identified the signatures affixed on pages 23-24 of the report.⁵²

On cross-examination, AGIO Jacinto stated that they relied on the documents submitted to them by virtue of *subpoenas duces tecum* sent to several government agencies.⁵³ He also stated that they did not verify the authenticity of the signatures on the documents because the government agencies certified them as true copies of the documents in their file.⁵⁴ He further stated that he does not know whether the documents from which the documents submitted to the investigation team were reproduced were photocopies or original.⁵⁵ He also averred that he did not try to find out the process involved in issuing SAROs.⁵⁶ Moreover, he testified that he did not see the original copy of the following: (1) *Project Proposal of AFPI* for the 5th District of Iloilo, marked as Exhibits “C⁶-154” to “C⁶-156”; (2) *Endorsement Letter* of accused Suplico to accused Ortiz, marked as Exhibit “C⁶-157”; and (3) MOA among accused Suplico, TRC, and AFPI, marked as Exhibits “C⁶-158” to “C⁶-162”.⁵⁷ When asked about the affidavits, included in the exhibits and marked as Exhibits “H²” up to “P⁵” to “P⁵-3”, he responded that those were prepared by a member of the investigation team.⁵⁸ With respect to the certifications, he stated that those were merely submitted to them.⁵⁹ He further stated that the fund was released to TRC, as evidenced by *Check No. 0000399420*, marked as Exhibit “C⁶-165”. He also agreed with accused Suplico’s counsel that the name of the accused does not appear on the said check and that the check did not bear accused Suplico’s signature.⁶⁰

Marissa A. Santos was the second prosecution witness to testify. The parties stipulated that she could identify her *Judicial Affidavit*,⁶¹ including the attachments thereto, which served as her direct testimony.⁶² At the time she testified, she was the Chief Administrative Officer, Central Records Division, DBM.⁶³ She was the custodian of official DBM records, such as: SAROs, Notice of Cash Allocations (NCAs), and Advice of Notices of Cash

⁵¹ *Id.*

⁵² *Id.* at 19 (Dindo B. Jacinto’s *Judicial Affidavit*, p. 16).

⁵³ TSN dated November 18, 2021, pp. 7-9.

⁵⁴ TSN dated November 18, 2021, pp. 7-9.

⁵⁵ TSN dated November 18, 2021, p. 13.

⁵⁶ TSN dated November 18, 2021, p. 12.

⁵⁷ TSN dated November 18, 2021, pp. 14-16.

⁵⁸ TSN dated November 18, 2021, pp. 18-19.

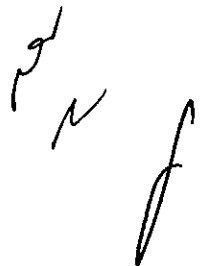
⁵⁹ TSN dated November 18, 2021, pp. 19-21.

⁶⁰ TSN dated November 18, 2021, p. 22-24.

⁶¹ *Id.* at 94-106, inclusive of attachments.

⁶² TSN dated April 6, 2022, pp. 9-13.

⁶³ Records, Vol.4, p. 96. (Marissa A. Santos’ *Judicial Affidavit*, p. 2).



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Allocation Issued (ANCAIs).⁶⁴ In connection with this case, she related, her office submitted clear and certified true copies of documents in compliance with the *subpoena duces tecum* of the Office of the Ombudsman, namely: (1) *SARO No. ROCS 07-03548* dated February 16, 2007 (DBM Regional Office Copy); (2) *SARO-ROCS-07-03548* dated February 16, 2007 (DBM Receiving Copy); (3) *NCA-336956-4* dated March 27, 2007; (4) *ANCAI* dated March 27, 2007; (5) *1st Endorsement* dated February 8, 2007, House of Representative with attached list of priority projects, signed by Hon. Joey S. Salceda, Chairperson, Committee on Appropriations, and Hon. Jose De Venecia, Jr., Speaker House of Representatives; and (6) *Letter* dated February 7, 2007 of accused Suplico to Hon. Joey S. Salceda.⁶⁵

Santos exhibited the duplicate original of *SARO No. ROCS 07-03548* dated February 16, 2007, the certified true copy of which was submitted to the Office of the Ombudsman and marked as Exhibits “L⁶-1” to “L⁶-2”.⁶⁶ She also presented DBM’s original receiving copies of *NCA No. 336956-4* dated March 27, 2007 and the *ANCAI*, the certified true copies of which had already been submitted to the Office of the Ombudsman and marked as Exhibits “L⁶-3” and “L⁶-4”.⁶⁷ According to her, the originals of the *NCA* and the *ANCAI* are kept by the Land Bank of the Philippines and the Bureau of Treasury.⁶⁸ Furthermore, she related that they only have a machine copy of *1st Endorsement* dated February 8, 2007, House of Representative with attached list of priority projects, signed by Hon. Joey S. Salceda, Chairperson, Committee on Appropriations, and Hon. Jose De Venecia, Jr., Speaker, House of Representatives, the certified true copy of which was marked as Exhibits “L⁶-10” to “L⁶-11”;⁶⁹ according to her, it was the copy turned over to them by the defunct Regional Operations and Coordination Service, the DBM bureau tasked to process PDAF related transactions.⁷⁰ She also exhibited the original of the *Letter* dated February 7, 2007 of accused Suplico to Hon. Joey S. Salceda, the certified true copy of which was marked as Exhibits “L⁶-12” and “L⁶-13”.⁷¹

On cross-examination, Santos basically reiterated her direct testimony.⁷² The original of the *Letter* dated February 7, 2007 of accused Suplico to Hon. Joey S. Salceda, marked as Exhibits “L⁶-12” and “L⁶-13”, was shown to and examined by accused Suplico’s counsel.

⁶⁴ *Id.* at 95 (Marissa A. Santos’ *Judicial Affidavit*, p. 2).

⁶⁵ *Id.* at 96 (Marissa A. Santos’ *Judicial Affidavit*, p. 3).

⁶⁶ *Id.*

⁶⁷ *Id.* at 97 (Marissa A. Santos’ *Judicial Affidavit*, p. 4).

⁶⁸ *Id.*

⁶⁹ *Id.* TSN dated April 6, 2022, p. 8. (on motion of the prosecution, the exhibits were remarked from “L⁶-9” and “L⁶-10” to “L⁶-10” and “L⁶-11”); see also Records, Vol. 4, p. 207 (*Order* dated April 6, 2022).

⁷⁰ Records, Vol. 4, p. 97 (Marissa A. Santos’ *Judicial Affidavit*, p. 4).

⁷¹ Records, Vol. 5, p. 98 (Marissa A. Santos’ *Judicial Affidavit*, p. 5). TSN dated April 6, 2022, p. 8. (on motion of the prosecution, the exhibits were remarked from “L⁶-11” and “L⁶-12” to “L⁶-12” and “L⁶-13”); see also Records, Vol. 4, p. 207 (*Order* dated April 6, 2022).

⁷² TSN dated April 6, 2022, pp. 14-22.

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Avelina H. Zumarraga was the third witness to testify for the prosecution. She testified through her *Judicial Affidavit*.⁷³ She was a chief treasury operations officer II, Miscellaneous Accounts Accounting Division, Bureau of Treasury at the time that she testified.⁷⁴ As chief treasury operations officer, she is charged with the duty to safe keep documents related to releases, such as SAROs and ANCAIs issued by the DBM, disbursement vouchers issued by the Bureau of Treasury, and other pertinent documents.⁷⁵ She related that she received a *subpoena duces tecum* directing her “to submit clear and certified true copies of all supporting documents for the issuance/release of *SARO No. ROCS 07-03548* dated February 16, 2007; and *Disbursement Voucher No. 104-07-04-0326* dated [April 2, 2007] relative to the PDAF of” accused Suplico.⁷⁶

Zumarraga exhibited *SARO No. ROCS 07-03548* dated February 16, 2007 (the certified true copy of which was marked as Exhibit “M⁶-1”), *ANCAI No. 336956-4* dated March 27, 2007 (the certified true copy of which was marked Exhibit “M⁶-2”), and *Disbursement Voucher No. 104-07-04-0326* (the certified true copy of which was marked as Exhibit “M⁶-3”). The *Landbank Check No. 0001783116* dated April 3, 2007 and *Official Receipt No. 5296806* dated April 4, 2007 forwarded to their office were photocopies, she said. According to her, the original of the check was given to TRC, as the payee, and the official receipt was issued by TRC.⁷⁷

On cross-examination, Zumarraga stated that she did not have any participation in the preparation of the check or the official receipt.⁷⁸ Those documents were merely forwarded to their office.⁷⁹ She attested that she, among other signatories, signed the disbursement voucher, after examining the corresponding SARO.⁸⁰ On re-direct examination, she said that the check and official receipt were forwarded to them as the custodian of the documents related to the release.⁸¹ On re-cross examination, she affirmed that what they received were photocopies of the check and the official receipt.⁸²

Joan Agnes N. Alfafaras was presented as the prosecution’s fourth witness. She testified through her *Judicial Affidavit*,⁸³ which served as her direct testimony.⁸⁴ In her judicial affidavit, she claimed that she has been

⁷³ Records, Vol. 4, pp. 114-125 (Avelina H. Zumarraga’s *Judicial Affidavit*, inclusive of attachments). TSN dated April 6, 2022, pp. 25-26 (the parties stipulated that witness Zumarraga can identify her judicial affidavit and her signature thereon, as well as the attachments thereto).

⁷⁴ *Id.* at 115 (Avelina H. Zumarraga’s *Judicial Affidavit*, p. 2).

⁷⁵ *Id.* at 116 (Avelina H. Zumarraga’s *Judicial Affidavit*, p. 3).

⁷⁶ *Id.*; de-emphasized “dated February 16, 2007, italicized “Disbursement Voucher No. 104-07-04-0326”, changed the format of April 2, 2007, and replaced “Congressman” with “Representative”.

⁷⁷ Records, Vol. 4, pp. 117-188 (Avelina H. Zumarraga’s *Judicial Affidavit*, pp. 4-5).

⁷⁸ TSN dated April 6, 2022, pp. 27-29.

⁷⁹ TSN dated April 6, 2022, pp. 27-29.

⁸⁰ TSN dated April 6, 2022, pp. 29-32.

⁸¹ TSN dated April 6, 2022, p. 33.

⁸² TSN dated April 6, 2022, p. 34.

⁸³ Records, Vol. 4, pp. 217-298.

⁸⁴ TSN dated May 24, 2022.

working as state auditor assigned at the COA Special Audits Office for over 23 years.⁸⁵ She was designated in 2009 as co-team leader of the audit team tasked to conduct a government-wide performance audit on the PDAF covering the fiscal years 2007 to 2009. That special audit, she further stated, included the examination of accused Suplico's PDAF.

In her judicial affidavit, State Auditor Alfafaras enumerated the audit procedures performed by the audit team, specifically: (1) identifying relevant rules and regulations affecting the allocation, releases, and utilization of PDAF, namely: the General Appropriations Act (GAA) for the years 2007, 2008, and 2009; DBM National Budget Circular No. 476; the Government Procurement Act (R.A. No. 9184); the Government Auditing Code (PD 1445); and COA Circular 96-03; (2) gathering the schedule of releases made by the DBM from 2007 to 2009 to the implementing agencies covered in the audit, securing copies of SAROs relative to the PDAF releases, ANCAIs, among others; (3) obtaining and reviewing disbursement vouchers charged against the PDAF allocations, together with the supporting documents and assessing whether the funds were used for their intended purposes; (4) confirming the authenticity of the documents from concerned parties such as beneficiaries, suppliers, legislators, NGOs, and regulatory offices to determine the validity of reported transactions; and (5) conducting ocular inspection of selected projects, business sites of NGOs and suppliers to determine their existence, condition, and status.⁸⁶

With respect to accused Suplico's PDAF, State Auditor Alfafaras testified that the audit team obtained several documents from TRC and from Government Accountancy Office of the COA, the office in charge of collating NCAs and ANCAIs.⁸⁷ She also claimed that the audit team prepared and issued reports and documents related to this case.⁸⁸ She then identified the following documents: (1) *Notice of Disallowance No. TRC-2013-010-PDAF (07-09)* dated December 20, 2013, marked as Exhibits "K" to "K-6" with sub-markings; (2) *Notice of Disallowance No. TRC-2013-010A-PDAF (07-09)* dated December 20, 2013, marked as Exhibits "L" to "L-3" with sub-markings; (3) *Letter* dated September 19, 2011 from Arcadio B. Cuenco, Jr., Asst. COA Commissioner, addressed to accused Suplico to verify and validate the latter's signature appearing on various documents, marked as Exhibit "M"; (4) *Letter* dated May 30, 2012 from Dir. Susan P. Garcia of COA-SAO addressed to the President of AFPI, marked as Exhibits "N" to "N-2" with a sub-marking; (5) *Certification* dated March 21, 2011 issued by Victoria Sto. Domingo, OIC-Admin. Services, Bureau of Permits, City of Manila, marked as Exhibit "O"; (6) *Picture* taken during the documentation of the ocular inspection conducted on February 4, 2011, marked as Exhibit "O-1"; (7) *SARO No. ROCS-07-03548* dated February 16, 2007 for P15 million, marked as Exhibit "P"; (8) Front side of *Landbank*

⁸⁵ Records, Vol. 4, p. 217-218 (Joan Agnes N. Alfafaras' *Judicial Affidavit*, pp. 1-2).

⁸⁶ *Id.* at 220 (Joan Agnes N. Alfafaras' *Judicial Affidavit*, p. 4).

⁸⁷ *Id.* at 221 (Joan Agnes N. Alfafaras' *Judicial Affidavit*, p. 5).

⁸⁸ *Id.*

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Check No. 399420 dated May 4, 2007 issued to AFPI for P14.7 million and back side of the check bearing a handwritten name “Aaron Foundation Philippines, Inc., Account No. 3212-1016-98,” marked as Exhibits “Q” to “Q-1”; (9) *Official Receipt No. 0075* dated May 4, 2007 issued by AFPI with business address at 2346 Juan Luna St., Tondo, Manila (TIN 226-511-473-000) in favor of TRC, marked as Exhibit “R”; (10) *Disbursement Voucher No. 012007050823* (undated) covering P14.7 million in financial grant to AFPI from the PDAF under SARO No. D-07-03548 dated February 16, 2007, marked as Exhibit “S” with a sub-marking; (11) *Memorandum* dated April 30, 2007 for Antonio Y. Ortiz from Ma. Rosalinda M. Lacsamana recommending the release of the fund, marked as Exhibit “T”; (12) *Letter* dated March 28, 2007 of accused Suplico to Mr. Antonio Y. Ortiz, endorsing AFPI as the NGO project partner, marked as Exhibit “U” with sub-marking; (13) *Project Proposal of AFPI* entitled: “District wide livelihood and entrepreneurial promotions and development program” for the 5th District of Iloilo, per SARO No. ROCS-07-03548 for P15 million, marked as Exhibits “V” to “V-1” with sub-markings; (14) *Work and Financial Plan* for the 2007 PDAF of accused Suplico for P15 million per SARO No. ROCS-07-03548, marked as Exhibit “W” with sub-markings; (15) *Official Receipt No. 5296809* (duplicate copy) dated April 4, 2007 for P15 million issued by the TRC to the Bureau of Treasury, marked as Exhibit “X”; (16) *Disbursement Voucher No. 104-07-04-0326* dated April 2, 2007 issued by the Bureau of the Treasury for P15 million per SARO No. ROCS-07-03548 dated February 16, 2007, marked as Exhibit “Y” with sub-marking; (17) *Memorandum of Agreement* of TRC, accused Suplico, and AFPI acknowledged before a notary public on May 7, 2007, in Quezon City, marked as Exhibit “Z” with sub-markings; (18) Excerpts from COA-SAO Report No. 2012-03, pages 46-52, marked as Exhibits “A²” to “A²-6”; (19) Excerpts from COA-SAO Report No. 2012-03, pages 132-135, marked as Exhibits “B²” to “B²-3”; (20) Excerpts from COA-SAO Report No. 2012-03, pages 136-148, marked as Exhibits “C²” to “C²-11”; (21) Excerpts from COA-SAO Report No. 2012-03, pages 149-153, marked as Exhibits “D²” to “D²-4”; (22) Excerpts from COA-SAO Report No. 2012-03, pages 206-209, marked as Exhibits “E²” to “E²-3”; (23) *COA-SAO Report No. 2012-03*, marked as Exhibits “D⁶” and series; (24) *NCA* dated March 27, 2007, marked as Exhibit “L⁶-3”; (25) *ANCAI* dated March 27, 2007, marked as Exhibit “L⁶-3”.⁸⁹

State Auditor Alfafaras stated that DBM released the P15-million PDAF covered by SARO No. ROCS-07-03548 to the Bureau of Treasury for TRC, as the implementing agency, through an NCA.⁹⁰ The ANCAI, she added, indicated that the amount released covered “the cash requirements of [TRC] for the implementation of livelihood programs authorized under SARO No. ROCS-07-03548,” “issued upon the initiative of” accused Suplico, “chargeable against his PDAF for [the fiscal year] 2007.”⁹¹ According to her, the fund should not have been released because “there was

⁸⁹ *Id.* at 221-224 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, pp. 5-8).

⁹⁰ *Id.* at 224-225 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, pp. 8-9).

⁹¹ *Id.* (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, pp. 8-9).

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no Project Profile and endorsement from [TRC] as required under DBM NBC No. 476.” The TRC itself, she further said, “should have implemented the project” because it was the one, among other agencies, named in the 2007 GAA as qualified to implement PDAF projects.⁹² TRC, however, transferred the fund to AFPI.⁹³ The transfer of fund from TRC to AFPI was, she averred, evident from: (1) the MOA among accused Suplico, Ortiz, and Ronquillo; (2) the disbursement voucher under the name “AARON Foundation Philippines, Inc.” for P14.7 million; (3) the check issued by TRC; and (4) the official receipt issued by AFPI to TRC to acknowledge receipt of the fund.⁹⁴ In the MOA, she explained, accused Suplico released P15 million of his PDAF to TRC for livelihood and development project to be implemented in the 5th District of Iloilo, TRC shall transfer the fund to AFPI, which accepted the responsibility to implement the livelihood project, and TRC shall retain 1% of the amount as service fee.⁹⁵

When asked about the audit team’s findings, State Auditor Alfafaras said that the transfer violated DBM NBC No. 476, pertinent provisions of the 2007 GAA, and COA Circular No. 96-03. She also averred that the transaction was illegal and irregular under COA Circular No. 85-55A, as amended by COA Circular No. 2012-003. According to her: (1) of the amount received by TRC, P14.7 million, was merely transferred to AFPI; (2) AFPI was not named in the 2007 GAA as one of the agencies qualified to implement PDAF projects; (3) TRC itself should have implemented the project; (4) TRC acted as a mere conduit of fund, the implementation of the project was transferred to AFPI, an NGO of questionable existence; and (5) the MOA did not specify the project name, intended beneficiaries, benefits to be derived, brief description and site/location, systems and procedures to implement the project, and time schedule for the periodic inspection/evaluation of the project.⁹⁶

State Auditor Alfafaras stated that TRC selected AFPI “based on the endorsement of” [accused Suplico] “without further validating its legal and physical existence.”⁹⁷ According to her, that manner of selection violated COA Circular No. 96-003.⁹⁸ The foundation’s “physical and legal existence,” she added, “turned out to be questionable.” She averred that the audit team found that AFPI’s “reported address was a vacant lot storing MWSI equipment and it was not issued business permit by the City of Manila.”⁹⁹ She also stated that the MOA between and among accused Suplico, TRC, and AFPI violated COA Circular No. 96-003.¹⁰⁰

⁹² *Id.* at 225 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, p. 9).

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ Records, Vol. 4, p. 226 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, p. 10).

⁹⁷ *Id.* at 226 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, p. 10).

⁹⁸ *Id.*

⁹⁹ *Id.*

¹⁰⁰ *Id.*

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Testifying on the audit team's findings regarding the transfer of P14.7 million PDAF from TRC to AFPI, State Auditor Alfafaras stated that: (1) "NGOs were not included among the [implementing agencies] of PDAF [projects] in the GAA"; (2) "Under Item 3.3.1 of COA Circular 96-03, the certificate of registration with [SEC] and/or either the Cooperative Development Authority or the Department of Labor and Employment, as the case may be, depending on the nature of the service required to be rendered, are being secured to ensure, among others, that the NGO/PO is based on the community where the project should be implemented. This NGO is reportedly based in Tondo, Manila while the project was intended for the implementation in the 5th District of Iloilo"; and (3) "Still, under the said COA Circular, [TRC] shall accredit the NGO after proper verification and validation of the required documents and statements which are apparently not undertaken in this case as the NGO's physical and legal existence turned out to be questionable."¹⁰¹ As regards the P300 thousand retained by TRC, she asserted that the utilization of that amount "was undocumented."¹⁰² Also, she stated that "[t]here were no documents to manifest the implementation of the project and utilization of the funds as there were no liquidation documents submitted."¹⁰³

State Auditor Alfafaras also testified on the participation of accused Suplico. According to her, accused Suplico "endorsed [AFPI] to implement" the project, "signed the MOA with [TRC] and [AFPI] [despite that] NGOs were not identified in the GAA for the year 2007 as among the implementing arms of PDAF-funded projects and the legal and physical existence of the endorsed NGO was questionable,"¹⁰⁴ and "signed the Project Proposal and Work Financial Plan."¹⁰⁵

When the audit was concluded, State Auditor Alfafaras said, the audit "team prepared [an] [a]udit [r]eport denominated as Special Audits Office (SAO) Report No. 2012-03 containing all the audit findings pertaining to livelihood projects, financial assistance[,] and various infrastructure [projects,] including local projects funded out of [the] PDAF of various legislators."¹⁰⁶ She stated that the report that she was referring to was the exhibits marked as "D⁶" and series, which she identified earlier.¹⁰⁷ She also identified her signature on the audit report as well as the signatures of the members and the other team leaders of the audit team.¹⁰⁸ The audit findings pertinent to accused Suplico's PDAF, she pointed out, are stated on various pages of the report, to wit: (1) pages 46-52, marked as Exhibits "A²" to "A²-6"; (2) pages 132-135, marked as Exhibits "B²" to "B²-3"; (3) pages 136-148, marked as Exhibits "C²" to "C²-11"; (4) pages 149-153, marked as

¹⁰¹ *Id.* at 227 (Joan Agnes N. Alfafaras' *Judicial Affidavit*, p. 11).

¹⁰² *Id.*

¹⁰³ *Id.*

¹⁰⁴ Records, Vol. 4, p. 228 (Joan Agnes N. Alfafaras' *Judicial Affidavit*, p. 12).

¹⁰⁵ TSN dated May 24, 2022, pp. 7-8.

¹⁰⁶ Records, Vol. 4, p. 228 (Joan Agnes N. Alfafaras' *Judicial Affidavit*, p. 12).

¹⁰⁷ *Id.*

¹⁰⁸ *Id.* at 228-229 (Joan Agnes N. Alfafaras' *Judicial Affidavit*, pp. 12-13).



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Exhibits “D²” to “D²-4”; and (5) pages 206-209, marked as Exhibits “E²” to “E²-3”.¹⁰⁹

Moreover, State Auditor Alfafaras averred that they issued a notice of disallowance denominated as SAO ND No. TRC-2013-010-PDAF (07-09) dated December 20, 2013 “because the transaction was considered irregular and illegal for being non-compliant with existing laws, rules and regulations and was supported by deficient documents.”¹¹⁰ The notice of disallowance she was referring to, she added, was the document she identified earlier and marked as Exhibits “K” to “K-6” and Exhibits “L” to “L-1”.¹¹¹ It was issued, she averred, to accused Suplico, Ortiz, and Ronquillo, who were among those identified as responsible for the disallowed disbursement.¹¹²

On cross-examination, State Auditor Alfafaras stated that one audit procedure the audit team performed was confirmation. She explained that the audit team asked the beneficiaries to confirm if they received the inputs that the NGOs supposedly distributed, the officers of the implementing agencies to confirm their signatures on several documents, the suppliers to confirm their signatures on issued invoices, legislators to confirm their signatures on pertinent documents, the NGOs to confirm the amount released by the implementing agencies to them and the receipt thereof, and the regulatory offices to determine whether the NGOs were issued business permits, SEC registration certificate, among others.¹¹³ She attested that they did not authenticate the signature of accused Suplico with the NBI.¹¹⁴ She agreed with accused Suplico’s counsel “that at the time the DBM release[d] [the fund] to [TRC],” accused Suplico had no participation therein.¹¹⁵ Moreover, she averred that AFPI was selected without the benefit of a public bidding. It was TRC’s duty, she said, to conduct public bidding.¹¹⁶ On the observation that accused Suplico was not included in the *Notice of Disallowance No. TRC-2013-010-PDAF* dated December 20, 2013 (Exhibits “L” to “L-3”), she explained that the notice of disallowance was merely supplemental to the *Notice of Disallowance No. TRC-2013-010-PDAF* (07-09) dated December 20, 2013 in which accused Suplico was included.¹¹⁷

When asked for evidence of accused Suplico’s exerting influence over DBM and TRC, she stated that TRC stated, in its comments to the audit team’s highlights, that “TRC ha[d] no hand in the selection of NGOs ... [the] endorsement ... by [accused] Suplico led to the actual transfer of funds to [AFPI].”¹¹⁸ That comment, she pointed out, was signed by Mr. Dennis

¹⁰⁹ *Id.* at 229 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, p. 13).

¹¹⁰ *Id.* at 230 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, p. 14).

¹¹¹ *Id.*

¹¹² *Id.*

¹¹³ TSN dated May 24, 2022, pp. 13-14.

¹¹⁴ TSN dated May 24, 2022, p. 13.

¹¹⁵ TSN dated May 24, 2022, p. 15.

¹¹⁶ TSN dated May 24, 2022, p. 16.

¹¹⁷ TSN dated May 24, 2022, p. 17.

¹¹⁸ TSN dated May 24, 2022, p. 24.

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Cunanan and could be found in page 278 of the audit report.¹¹⁹ She also testified that the endorsement letter of accused Suplico were identical, used the same wordings, as the endorsement letters of other legislators whose PDAF was also audited.¹²⁰

On redirect examination, State Auditor Alfafaras agreed with the statement that accused Suplico had no participation in the release of fund from DBM to TRC because “as [a matter of] practice of the House of Representative[s], the release of funds by DBM to the implementing agency [would be] initiated by the request of the legislators[,] which [would be] endorsed by the Appropriation Committee to DBM.” Based on that request and the Committee on Appropriation’s endorsement, she added, DBM would release the funds to the implementing agencies.¹²¹ That process, according to her, is apparent from the letter of accused Suplico requesting the Committee on Appropriation to endorse his project to DBM.¹²² Answering additional questions, she stated that the SARO, NCA, and ANCAI evidence the transfer of funds from DBM to TRC.¹²³ When asked to read the purpose stated in the ANCAI, she said that “to cover the cash requirement of [TRC] for the implementation of livelihood programs in the 5th District of Iloilo, authorized under SARO No. ROCS-07-03548 dated February 16, 2007 issued upon the initiative of [accused] Suplico, chargeable against the [PDAF] for the Fiscal Year 2007.”¹²⁴

On re-cross examination, State Auditor Alfafaras reiterated that TRC was the government office responsible for conducting bidding to select the NGO project partner and not accused Suplico. She also stated that she does not have a copy of the letter of the Committee on Appropriations to DBM.¹²⁵

When the testimony of State Auditor Alfafaras was concluded, the prosecution manifested that it would next present a representative of the Bureau of Permits and Licensing Office (BPLO) of Manila to identify the *Certification*, marked as Exhibit “O”, to the effect that the said office did not issue a business permit to AFPI at the time material to this case.¹²⁶ The testimony of the said witness was, however, dispensed with in view of the parties’ stipulation that AFPI had no business permit from the BPLO of Manila at the time material to this case.¹²⁷

Atty. RJ A. Bernal was the fifth witness that the prosecution would have presented. However, his open court testimony was dispensed with after the parties stipulated: that Atty. Bernal could identify his *Judicial*

¹¹⁹ TSN dated May 24, 2022, p. 24.

¹²⁰ TSN dated May 24, 2022, pp. 25-29.

¹²¹ TSN dated May 24, 2022, pp. 29-30.

¹²² TSN dated May 24, 2022, p. 30.

¹²³ TSN dated May 24, 2022, p. 31.

¹²⁴ TSN dated May 24, 2022, p. 32.

¹²⁵ TSN dated May 24, 2022, pp. 33-34.

¹²⁶ Records, Vol. 4, p. 301 (*Order* dated May 24, 2022); see also TSN dated May 24, 2022, p. 36.

¹²⁷ Records, Vol. 4, p. 301 (*Order* dated May 24, 2022); see also TSN dated May 24, 2022, p. 36.

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Affidavit,¹²⁸ and the existence, authenticity, and due execution of the documents attached thereto.¹²⁹ The documents subject of the stipulation are: (1) *Transmittal Letter* dated March 22, 2019, marked as Exhibit “F²”; (2) AFPI’s *Certificate of Filing of Amended Articles of Incorporation* dated June 2, 2008, marked as Exhibits “F²-1” to “F²-9”; (3) AFPI’s *General Information Sheet* for the year 2007, marked as Exhibits “F²-10” to “F²-13”; (4) AFPI’s *General Information Sheet* for the year 2008, marked as Exhibits “F²-14” to “F²-17”; (5) AFPI’s *Certificate of Incorporation* dated March 24, 1999, marked as Exhibits “F²-18” to “F²-23”; (6) AFPI’s *Certificate of Filing of Amended Articles of Incorporation* dated November 17, 2003, marked as Exhibits “F²-24” to “F²-37”.¹³⁰

The prosecution intended to preset **Ruth E. Elmedorial**, Chairperson, Brgy. Manipulon, Estancia, Iloilo;¹³¹ **Arman D. Raven**, Chairperson, Brgy. Pob. Zone III, Estancia, Iloilo;¹³² **Erie C. Ramirez**, Chairperson, Brgy. Tabu-an, Estancia, Iloilo;¹³³ **Jolly I. Dusan**, Municipal Agriculturist, Carles, Iloilo;¹³⁴ **Angelito O. Blancaver**, Agricultural Technologist, Office of the Municipal Agriculturist, Balasan, Iloilo.¹³⁵ However, their open court testimonies were dispensed with in view of the stipulations entered into by the parties, to wit: (1) the witnesses “will testify that they did not receive funding from the project called the District-Wide Livelihood and Entrepreneurial Promotions and Development Program” and (2) “the information regarding [the] project, as stated in their respective *Sinumpaang Salaysay*, was supplied by the Office of the Ombudsman.”¹³⁶

Camilo M. Rivera was the last witness for the prosecution. He testified through his *Judicial Affidavit*,¹³⁷ which served as his direct testimony. He claimed that he is the Department Manager of the Land Bank of the Philippines – Elliptical Road branch, a post he held since 2017.¹³⁸ According to him, he received a subpoena and, in compliance thereto, verified through the bank’s system that AFPI maintained an account with the bank.¹³⁹ On whether the check, marked as Exhibits “Q” to “Q-1”, was deposited to that account, he stated that “[b]ased on the endorsement at the back of the check, which [was] attached to the subpoena, it appears that the said check was deposited to the account of” AFPI.¹⁴⁰

¹²⁸ Records, Vol. 4, pp. 319-363, inclusive of attachments.

¹²⁹ Records, Vol. 5, p. 316 (Prosecution’s *Manifestation with Request for Stipulations*; offer to stipulate “that the witness can identify his *Judicial Affidavit* and his signature therein, and the existence, authenticity, and due execution of the exhibits attached thereto). See also TSN dated June 22, 2022, pp. 3-4 (counsel for accused Suplico agreed to stipulate on the testimony of the witness as well as the documents attached to his judicial affidavit).

¹³⁰ Records, Vol. 4, p. 321 (Atty. Bernal’s *Judicial Affidavit*, p. 3).

¹³¹ *Id.* at 178 (*Certification* signed by Ruth E. Elmedorial).

¹³² *Id.* at 184 (*Certification* signed by Arman D. Ravena).

¹³³ *Id.* at 190 (*Certification* signed by Erie C. Ramirez).

¹³⁴ *Id.* at 196 (*Certification* signed by Jolly I. Dusan).

¹³⁵ *Id.* at 200 (*Certification* signed by Angelito O. Blancaver).

¹³⁶ *Id.* at 441 (*Oder* dated August 10, 2022; internal quotation omitted).

¹³⁷ *Id.* at 487-490, attachment included.

¹³⁸ *Id.* at 487 (Camilo M. Rivera’s *Judicial Affidavit*, p. 1).

¹³⁹ *Id.* at 488 (Camilo M. Rivera’s *Judicial Affidavit*, p. 2).

¹⁴⁰ *Id.*

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On cross examination, Rivera stated that she was not yet the branch manager when AFPI opened an account with the bank.¹⁴¹ Answering questions from the Court whether he saw from the bank records any withdrawal of P14.7 million as stated in the check, he responded that he could “no longer refer to the transaction because it’s beyond” five years.¹⁴² He further stated that his basis in saying that AFPI opened an account with the bank were only the Know-Your-Customer documents.¹⁴³ He also testified that the account was opened in 2004.¹⁴⁴ He admitted, however, that he does not know “who closed the account.”¹⁴⁵ He clarified that when he said that the check was deposited to AFPI’s account, he relied on what appears on the check.¹⁴⁶ On redirect examination, he testified that he does not know if the subject account had a remaining balance when it was closed.¹⁴⁷ On recross examination, he answered that he does not know about any remaining balance in the subject account when it was closed because he had no knowledge about the transactions that ensued pertaining to the account.¹⁴⁸

On February 8, 2023, the prosecution formally offered its exhibits,¹⁴⁹ which accused Suplico opposed.¹⁵⁰ By a resolution¹⁵¹ of March 6, 2023, the Court resolved to admit into evidence the following exhibits: “A” to “A-10”, “B” to “B-1”, “E”, “F”, “G”, “I” to “I-4”, “J” to “J-3”, “C” to “C-1”, “D” to “D-2”, “K” to “K-6”, “L” to “L-2”, “M”, “N” to “N-2”, “O” to “O-1”, “P”, “Q” to “Q-1”, “R”, “S” to “S-1”, “T”, “U” to “U-1”, “V” to “V-1-B”, “W” to “W-2”, “X”, “Y” to “Y-1”, “Z” to “Z-3”, “A²” to “A²-6”, “B²” to “B²-3”, “C²” to “C²-12”, “D²” to “D²-4”, “E²” to “E²-3”, “F²” to “F²-37”, “G²”, “L⁴” to “L⁴-5”, “O⁴” to “O⁴-5”, “P⁴” to “P⁴-5”, “W⁴” to “W⁴-3”, “Z⁴” to “Z⁴-5”, “H²” to “Y²”, “A³” to “K⁴”, “M⁴” to “N⁴”, “Q⁴” to “Z⁴”, “A⁵” to “Z⁵”, and “A⁶” and submarkings, “B⁶” to “B⁶-10”, “C⁶” to “C⁶-638”, “D⁶” and submarkings, “E⁶” and submarkings, “I⁶” to “I⁶-1”, “J⁶” to “J⁶-1”, “K⁶”, “L⁶” to “L⁶-5”, “L⁶-7” to “L⁶-13”, “M⁶” to “M⁶-6”.

Evidence for Accused Suplico

The defense intended to present as its first witness Administrative Officer **Arcadio A. Pabello** of the Archives Section, Office of the Clerk of Court, Regional Trial Court - Quezon City, National Capital Judicial Region (RTC Quezon City). Pabello would have testified to the genuineness and due

¹⁴¹ TSN dated January 19, 2023, p. 8.

¹⁴² TSN dated January 19, 2023, p. 9-10.

¹⁴³ TSN dated January 19, 2023, p. 9-18.

¹⁴⁴ TSN dated January 19, 2023, p. 9-18.

¹⁴⁵ TSN dated January 19, 2023, p. 9-18.

¹⁴⁶ TSN dated January 19, 2023, p. 9-18.

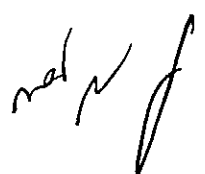
¹⁴⁷ TSN dated January 19, 2023, pp. 18-19.

¹⁴⁸ TSN dated January 19, 2023, pp. 20.

¹⁴⁹ Records, Vol. 5, pp. 4-39 (Prosecution’s *Formal Offer of Evidence*).

¹⁵⁰ Records, Vol. 6, pp. 4-9 (Accused Suplico’s *Comment to the Formal Offer of Evidence of the Prosecution*).

¹⁵¹ *Id.* at 11-23 (*Minutes* dated March 6, 2023).



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execution of the *Certification*, marked as Exhibit “2”, issued by the RTC - Quezon City. However, his open court testimony was dispensed with because the parties agreed to stipulate the genuineness and due execution of the certification, which essentially provides that the RTC - Quezon City does not have in its records “book number 96 submitted for the month of May 2007 by the notary,”¹⁵² (which appears on the MOA executed among TRC, AFPI, and accused Suplico).

Carolyn J. Moldez-Pitoy was the next and last witness the defense wanted to present. However, her testimony was also dispensed with because the parties agreed on her would-be testimony, to wit: (1) that she could identify the *NBI Questioned Documents Report No. 535-1119* dated January 23, 2020, marked as Exhibits “3” to “3-c”; and (2) the signatures attributed to accused Suplico, appearing on the questioned documents covered by the NBI report, are all “scanned” signatures.¹⁵³ (The questioned documents consisted of: (1) the *Letter* addressed to accused Ortiz, marked as Exhibit “U”; (2) the *Project Proposal*, marked as Exhibits “V” to “V-1”; (3) the *Work and Financial Plan*, marked as Exhibit “W”; (4) the MOA dated May 7, 2007, marked as Exhibits “Z” to “Z-3”.)¹⁵⁴

On July 25, 2023, accused Suplico made his formal offer of evidence.¹⁵⁵ In response, the prosecution filed its comment thereto with motion for leave that it be allowed to file a memorandum.¹⁵⁶ By a *Resolution* of August 1, 2023, the Court resolved to admit Exhibits “2” and “3” to “3-c” of accused Suplico.¹⁵⁷ In the same resolution, the Court gave each party twenty (20) days to file their respective memoranda. Subsequently, the parties filed their respective memoranda,¹⁵⁸ and the case was deemed submitted for decision.

ISSUE

Whether accused Suplico, in conspiracy with accused Ortiz and Ronquillo, violated Section 3(e) of the anti-graft law.

RULING

The records contain insufficient evidence that accused Suplico violated Section 3(e) of the anti-graft law.

¹⁵² Records, Vol. 6, p. 49 (*Order* dated May 3, 2023; the other witnesses, Clerk of Court Atty. Gregorio C. Tallud and Assistant Clerk of Court Mercedita C. Cariño, both of the RTC Quezon City, who would also testify on the genuineness and due execution of the certification, were also dispensed with).

¹⁵³ Records, Vol. 6, p. 92 (*Order* dated July 18, 2022); see also TSN dated July 18, 2023; see also Records, Vol. 6, pp. 95-103 (accused Suplico’s *Formal Offer of Evidence*, including attachments).

¹⁵⁴ See Records, Vol. 6, pp. 96-97 (accused Suplico’s *Formal Offer of Evidence* wherein the questioned documents are enumerated, pp. 2-3).

¹⁵⁵ Records, Vol. 6, pp. 95-103 (accused Suplico’s *Formal Offer of Evidence*).

¹⁵⁶ *Id.* at 107-110 (Prosecution’s *Comment with Motion* [to file memorandum]).

¹⁵⁷ *Id.* at 111 (*Minutes* dated August 1, 2023).

¹⁵⁸ *Id.* at 118-137 (Prosecution’s *Memorandum*) and records, Vol. 6, pp. 139-160 (accused Suplico’s *Memorandum*).



I

As a preliminary matter, it is necessary to consider first the nature of the post-enactment acts attributed to accused Suplico (*e.g.*, recommending TRC as the agency to implement the project and endorsing AFPI as the NGO project partner).

In *Philippine Constitution Association v. Enriquez*¹⁵⁹ (1994), the Supreme Court confronted the question regarding the validity of the powers given to lawmakers to propose and identify projects, even after the enactment of the 1994 GAA. Therein, the *Philconsa* Court upheld the validity of the lawmakers' post-enactment identification authority, stating that it did not encroach on the executive power as it was "merely recommendatory."¹⁶⁰ That ruling prevailed for over nearly two decades, including the time relevant to this case.¹⁶¹ It was only in 2013, in the landmark case of *Belgica v. Ochoa*,¹⁶² that the *Philconsa* ruling was abandoned. In overturning *Philconsa*, the *Belgica* Court reasoned that the treatment of a lawmaker's post-enactment identification authority "as merely recommendatory in nature does not alter its unconstitutional tenor since the prohibition" "covers any role in the implementation or enforcement of the law." The "post-enactment measures which govern the areas of project identification, fund release and fund realignment are," according to *Belgica*, "not related to functions of congressional oversight." Those measures fall within "the sphere of budget execution," a domain constitutionally reserved to the Executive department, and, accordingly, are impermissible under the separation of powers principle. But *Belgica* decreed that its ruling should be applied prospectively, observing the operative fact doctrine. Consequently, acts performed prior to the invalidity declaration are "entitled to obedience and respect and should be properly enforced and complied with."

In 2007, the government operated under a reenacted budget (R.A. No. 9336, as reenacted) up until Congress passed the 2007 GAA¹⁶³ in March of that year. The reenacted budget contained appropriation for "priority programs and projects under the Ten Point Legacy Agenda of the national government" titled "Priority Development Assistance Fund" (PDAF).¹⁶⁴ It featured a "program menu concept," or "a list of general programs and implementing agencies from which a particular PDAF project may be subsequently chosen."¹⁶⁵ The program menu included livelihood program as

¹⁵⁹ G.R. Nos. 113105, 113174, 113766 & 113888, August 19, 1994.

¹⁶⁰ *Belgica v. Ochoa*, G.R. Nos. 208566, 208493, 209251 & L-20768, November 19, 2013 (recognizing the ruling in *Philconsa* insofar as it validated the post-enactment identification authority of Members of Congress on the guise that the same was merely recommendatory).

¹⁶¹ The *Philconsa* ruling was still recognized in 2012 in *Lawyers Against Monopoly and Poverty v. Secretary of Budget and Management*, G.R. No. 164987, April 24, 2012.

¹⁶² G.R. Nos. 208566, 208493, 209251 & L-20768, November 19, 2013.

¹⁶³ Republic Act No. 9401, March 22, 2007.

¹⁶⁴ *Belgica v. Ochoa*, G.R. Nos. 208566, 208493, 209251 & L-20768, November 19, 2013; See also Republic Act No. 9336, as reenacted, Art. XLVI.

¹⁶⁵ *Belgica v. Ochoa*, G.R. Nos. 208566, 208493, 209251 & L-20768, November 19, 2013.

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one of the projects and the TRC as one of the implementing agencies.¹⁶⁶ Lawmakers were given “authority to identify the projects they desire to be funded” through the PDAF.¹⁶⁷ The PDAF provision was, however, “silent with respect to the specific amounts allocated for the individual legislators, as well as their participation in the proposal and identification of PDAF projects to be funded.”¹⁶⁸

Accused Suplico was elected Iloilo 5th District Representative for a three-year term that ended in 2007. A few months before his term expired, he submitted to the Committee on Appropriations of the House of Representatives a “PDAF listing,”¹⁶⁹ a document containing the project he identified for funding through the PDAF and its other particulars. Accused Suplico chose livelihood support program for his legislative district for P15 million and elected TRC as the implementing agency.¹⁷⁰ That project listing, together with those of the other lawmakers, was referred to the DBM for funding.¹⁷¹ On February 16, 2007, the DBM, through *SARO No. ROCS-07-03548*,¹⁷² authorized P15-million allotment to TRC as “[f]inancial assistance for the implementation of livelihood programs in the 5th District of Iloilo.” Consequently, P15 million was allocated “[t]o cover the cash requirements of” TRC, chargeable against the PDAF appropriation of the reenacted budget for 2007.¹⁷³ The fund was then credited to TRC’s account.¹⁷⁴ Subsequently, TRC transferred P14.7 million to AFPI to implement the project.¹⁷⁵ The amount that TRC transferred to AFPI pertained to the P15 million PDAF allocation less P300 thousand which the TRC had retained (P150 thousand as service fee and another P150 thousand for cost of materials). It is suggested that accused Suplico endorsed AFPI. During this period, accused Ortiz was the TRC Director General and accused Ronquillo headed AFPI.

From the backdrop stated above, the post-enactment acts attributed to accused Suplico (*e.g.*, recommending TRC as the agency to implement the project and endorsing AFPI as the NGO project partner) fall squarely under

¹⁶⁶ See Article XLVI, Republic Act No. 9336, as reenacted.

¹⁶⁷ *Belgica v. Ochoa*, G.R. Nos. 208566, 208493, 209251 & L-20768, November 19, 2013 (recognizing that at “its core, legislators — may it be through project lists, prior consultations or program menus — have been consistently accorded post-enactment authority to identify the projects they desire to be funded through various Congressional Pork Barrel allocations).

¹⁶⁸ *Id.* (stating that “[t]extually, the PDAF Articles from 2002 to 2010 were silent with respect to the specific amounts allocated for the individual legislators, as well as their participation in the proposal and identification of PDAF projects to be funded”).

¹⁶⁹ Letter dated February 7, 2007 of accused Suplico to the Committee on Appropriations, House of Representatives (Exhibit “L⁶-12”).

¹⁷⁰ PDAF Listing (Exhibit “L⁶-13”).

¹⁷¹ Endorsement Letter dated February 8, 2007, endorsing the list of priority projects identified by several representatives (Exhibit “L⁶-9”). See the list of priority projects, including that of accused Suplico (Exhibit “L⁶-10”).

¹⁷² Exhibit “M⁶-1”; also Exhibit “P”.

¹⁷³ Exhibit “M⁶-2”.

¹⁷⁴ Disbursement Voucher No. 104-07-04-0326 dated April 2, 2007 (Exhibit “M⁶-3”; also Exhibit “Y”); Landbank Check No. 0001783116 dated April 3, 2007 (Exhibit “M⁶-4”); TRC Official Receipt No. 5296809 dated April 4, 2007 (Exhibit “M⁶-5”).

¹⁷⁵ Disbursement Voucher No. 012007050823 (Exhibit “S”); Landbank Check No. 0000399420 dated May 4, 2007 (Exhibits “Q to Q-1”); AFPI Official Receipt No. 0075 dated May 4, 2007 (Exhibit “R”).



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what *Belgica* referred to as “informal practices, through which legislators have effectively intruded into the proper phases of budget execution.” Although declared unconstitutional, those acts cannot be considered criminal, absent sufficient evidence showing that they were done in furtherance of a criminal activity or scheme. This is especially true since the acts were committed in 2007, or before they were outlawed by *Belgica* in 2013. Those acts therefore, even if proved, are insufficient to hold accused Suplico criminally liable under the present charge.

Nevertheless, this does not preclude criminal prosecution. A lawmaker who committed pre-*Belgica* post-enactment acts for gain or with corrupt intentions could, just like any other government official, be prosecuted for and, if duly proved, convicted under the anti-graft law. This is precisely the import of the directive in *Belgica* to all prosecutorial organs of the government, to wit:

Finally, the Court hereby DIRECTS all prosecutorial organs of the government to, within the bounds of reasonable dispatch, investigate and accordingly prosecute all government officials and/or private individuals for possible criminal offenses related to the irregular, improper and/or unlawful disbursement/utilization of all funds under the Pork Barrel System

II

Accused Suplico, together with accused Ortiz and Ronquillo, is charged with violation Section 3(e) of the anti-graft law, which provides:

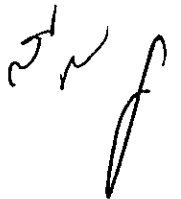
Section 3. Corrupt practices of public officers. In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

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.

x x x x

To warrant a Section 3(e) conviction, the prosecution must establish that: “(1) the accused is a public officer discharging administrative, judicial, or official functions; (2) he or she must have acted with manifest partiality, evident bad faith, or gross and inexcusable negligence; and (3) his or her action caused any undue injury to any party, including the government, or



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gave any private party unwarranted benefits, advantage, or preference in the discharge of his or her functions.”¹⁷⁶

Here, the prosecution established the first element, but not the second and third elements, of Section 3(e) of the anti-graft law.

A

**Accused Suplico was a public officer
charged in connection with his official functions.**

There is no controversy as to the first element.¹⁷⁷ Accused Suplico was, the parties stipulated, the Iloilo 5th District Representative—and therefore a public officer—at the time material to this case.¹⁷⁸ He was indicted in connection with the controversy involving the use of PDAF that was allocated upon his initiative for livelihood project in his legislative district.

B

**The totality of evidence is insufficient to hold
that accused Suplico acted with manifest partiality,
evident bad faith, or gross inexcusable negligence.**

The second element enumerates “the different modes by which the offense penalized in Section 3 (e) of” the anti-graft law may be committed¹⁷⁹—by “manifest partiality,” “evident bad faith,” and “gross inexcusable negligence.” Those modes can be alternatively alleged and proof of just one is enough to convict an accused.¹⁸⁰ *Uriarte v. People*¹⁸¹ defines the modes as follows:

There is “**manifest partiality**” when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. “**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. “**Gross inexcusable negligence**” refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.¹⁸²

¹⁷⁶ *Fainsan v. Field Investigation Office (Office of the Ombudsman)*, G.R. No. 233446, February 22, 2023, citing *Jaca v. People*, G.R. Nos. 166967, 166974 & 167167, January 28, 2013.

¹⁷⁷ Records, Vol. 2, pp. 259-276 (*Pre-trial Order*); see also Records, Vol. 6, p. 144 (Accused Suplico’s *Memorandum*, admitting that “the first element is present”).

¹⁷⁸ Records, Vol. 2, pp. 259-276.

¹⁷⁹ *Jaca v. People*, G.R. Nos. 166967, 166974 & 167167, January 28, 2013.

¹⁸⁰ *Id.*

¹⁸¹ G.R. No. 169251, December 20, 2006.

¹⁸² *Uriarte v. People*, G.R. No. 169251, December 20, 2006 (citations omitted; emphasis in the original).

Accused Suplico was indicted for allegedly transferring or causing the transfer and release to AFPI of the PDAF allocated for livelihood project in the 5th District of Iloilo. According to the indictment, the transfer was made “by mere endorsements of [accused] Suplico and Ortiz, and despite the following irregularities, among others: (1) ineligibility of [AFPI] to undertake the project due to its lack of current business permit and its dubious existence; (2) the implementing agency, the [TRC,] through [accused] Ortiz, accepted [AFPI] and released the said funds based merely on the endorsement of [accused] Suplico and/or Ortiz, and not through a public bidding or a negotiated procurement under Republic Act No. 9184 and its implementing rules and regulations, and in violation of GPPB Resolution No. 12-2007 and COA Circular No. 2007-001; (3) [accused] Suplico’s utter lack of effort to ensure the implementation of the project and the liquidation of the public funds....”¹⁸³

Of the foregoing alleged irregularities, only the *first* was proven. And that finding is, as will be discussed later, not enough to conclude that accused Suplico was manifestly partial, or was evidently in bad faith, or was grossly and inexcusably negligent.

Meanwhile, the Court shall consider first the *second* alleged irregularity (*i.e.*, violation of GPPB Resolution No. 12-2007 and COA Circular No. 2007-001, and lack of public bidding), then the *third* alleged irregularity (*i.e.*, accused Suplico’s lack of effort to ensure the implementation of the project and the liquidation of the public funds), and lastly the *first* alleged irregularity (*i.e.*, AFPI’s lack of business permit and dubious existence).

*GPPB Resolution No. 12-2007 and
COA Circular No. 2007-001 not
applicable*

It is alleged that the selection of AFPI as the NGO project partner violated GPPB Resolution No. 12-2007¹⁸⁴ as well as COA Circular No. 2007-001,¹⁸⁵ and that it should have gone through public bidding.

The Court is not persuaded.

*Jover v. Field Investigation Office*¹⁸⁶ provides a helpful guide in addressing the matter at issue. *Jover* involved, as here, the release of PDAF to TRC for livelihood programs, and from TRC to NGOs handpicked by lawmakers. Relying on COA Circular No. 2007-001 and GPPB Resolution No. 12-2007, the Office of the Ombudsman found the petitioner therein

¹⁸³ See the *Information*.

¹⁸⁴ AMENDMENT OF SECTION 53 OF THE IMPLEMENTING RULES AND REGULATIONS PART A OF REPUBLIC ACT 9184 AND PRESCRIBING GUIDELINES ON PARTICIPATION OF NON-GOVERNMENTAL ORGANIZATIONS IN PUBLIC PROCUREMENT.

¹⁸⁵ Revised guidelines in the granting, utilization, accounting and auditing of the funds released to Non-Governmental Organizations/People’s Organizations (NGOs/POs).

¹⁸⁶ G.R. No. 253519 (Notice), November 11, 2021.

administratively liable. The Court of Appeals affirmed. On appeal, the Supreme Court sustained the finding of administrative liability but on different grounds. The “issuances,” the Supreme Court observed, “were not yet in effect when the questioned transactions took place,” viz:

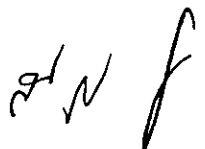
FIRST. The Court holds that the transactions involved are not required to go through the competitive bidding process. The Ombudsman, as affirmed by the Court of Appeals, subscribes to Commission on Audit (COA) Circular No. 2007-001 and Government Procurement Policy Board (GPPB) Resolution No. 12-2007 in holding that the transactions involved should have gone through public bidding. These issuances, however, were not yet in effect when the questioned transactions took place. COA Circular No. 2007-001 was approved on October 25, 2007 while GPPB Resolution No. 12-2007 was approved only on June 29, 2007. The livelihood projects here, however, covered the period January to May 2007.

Here, like *Jover*, the issuances were not yet existing when the transaction subject of this case took place. As pointed out above, GPPB Resolution No. 12-2007 and COA Circular No. 2007-001 were approved only on June 29, 2007, and October 25, 2007, respectively. The PDAF transfer, on the other hand, occurred sometime between February to May 2007. Apparently, neither of the issuances existed when the PDAF transfer was made. Accordingly, the propriety of the PDAF transfer or accused Suplico’s culpability under the present charge should not be determined based on those issuances.

What then was applicable? *Jover* also supplies the answer. Tracing the origin of COA Circular No. 96-003 and COA Circular No. 2007-001, *Jover* stated:

For context, it is a constitutionally-declared policy to encourage participation of non-governmental agencies, community-based, or sectoral organizations in the promotion of the welfare of the nation. In line with this constitutional provision, Section 34 of Republic Act No. 7160 (RA 7160), otherwise known as the Local Government Code, institutionalized the partnership of these organizations and the local government units (LGUs). In order to finance the developmental efforts of these non-government organizations (NGOs) or government organization (GOs), national government agencies (NGAs), LGUs and government-owned or controlled corporations (GOCCs) extended financial assistance to implement the projects of the NGOs/POs. To provide control and guidance in the granting, utilization, management, and recording of such funds, COA Circular Nos. 95-003 and 96-003 dated February 15, 1995 and February 27, 1996, respectively, were issued.

In view, however, of the adoption of the New Government Accounting System (NGAS) in 2002 and the marked increase in the number of NGOs and POs seeking funds, the COA found it imperative to revise the existing guidelines on the matter under COA Circular Nos. 95-003 and 96-003. The revision will ensure conformity to the prescribed NGAS financial accounting procedures for related transactions, put in place the necessary controls in the release and utilization of funds, promote transparency and accountability,



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including monitoring of the implementation of projects funded out of the funds granted. Hence, the COA issued COA Circular No. 2007-001.

Parenthetically, under Section 4.5 of COA Circular No. 2007-001, the government office shall accredit the NGO/PO partners through the Bids and Awards Committee (BAC), or a committee created for the purpose, which shall formulate the selection criteria. The Committee, upon proper evaluation, shall then award the project to the NGO/PO which meets the minimum qualification requirements and the specifications for the project, and which can satisfactorily undertake the project at terms most advantageous to the beneficiaries. **The provision is new as it was conspicuously absent in COA Circular Nos. 95-003 and 96-003 where all that was required was for the government office to accredit the NGO/PO under certain requirements.** (Citations omitted; emphasis supplied)

As may be deduced from the above-quoted discussion, COA Circular No. 96-003,¹⁸⁷ the precursor of COA Circular No. 2007-001, was applicable at the time material to this case.¹⁸⁸ This conclusion finds added support from another part of *Jover* in which the circular was applied to livelihood projects—that covered the period **January to May 2007**—to hold that Jover could not “be held liable for the lack of liquidation documents as” that requirement was “not required by COA Circular No. 96-003.”

Significantly, under COA Circular No. 96-003, as stated in *Jover*, “all that was required was for the government office to accredit the NGO/PO under certain requirements.”¹⁸⁹

Lack of effort to ensure project implementation and fund liquidation not attributable to accused Suplico

The prosecution asserts that accused Suplico did not exert effort “to ensure [the accomplishment of] the purpose of releasing the PDAF allocation”¹⁹⁰ and he did not act “to account” the fund.¹⁹¹ But those responsibilities fall on TRC, as the agency tasked to implement the project. Under COA Circular No. 96-003, it is the government office that shall “require monthly or quarterly financial and physical status reports as it

¹⁸⁷ Restatement with amendments of COA Circular No. 95-003 dated February 15, 1995 Prescribing Accounting and Auditing Guidelines on the release of Funds Assistance to Non-Governmental Organizations/People's Organizations.

¹⁸⁸ See *Jover*, wherein the Supreme Court referred to COA Circular No. 96-003 in holding that Jover “cannot be held liable for the lack of liquidation documents.” The funds to be liquidated pertained to PDAF allocations transferred to the TRC and then from the TRC to selected NGOs, for projects during the period January-May 2007.

¹⁸⁹ “Parenthetically, under Section 4.5 of COA Circular No. 2007-001, the government office shall accredit the NGO/PO partners through the Bids and Awards Committee (BAC), or a committee created for the purpose, which shall formulate the selection criteria. The Committee, upon proper evaluation, shall then award the project to the NGO/PO which meets the minimum qualification requirements and the specifications for the project, and which can satisfactorily undertake the project at terms most advantageous to the beneficiaries. The provision is new as it was conspicuously absent in COA Circular Nos. 95-003 and 96-003 where all that was required was for the government office to accredit the NGO/PO under certain requirements.”

¹⁹⁰ Records, Vol. 6, p. 132 (Prosecution's Memorandum, p. 15).

¹⁹¹ *Id.* at 133 (Prosecution's Memorandum, p. 16).

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deems necessary” from the NGO, and “monitor and inspect project implementation and verify financial records and reports of the NGO.”¹⁹² Moreover, ensuring to implement the project and to liquidate the fund are post-transfer activities. Hence, they could hardly be considered irregularities that attended the PDAF transfer.

AFPI's eligibility as NGO project partner questionable

The records contain evidence of AFPI's questionable eligibility as the NGO project partner. The COA reported that AFPI did not have a business permit for 2007 from the City Government of Manila¹⁹³ and that its “given address [was] a vacant lot storing various equipment.”¹⁹⁴ These findings were not disputed. The records also show that AFPI maintained its office in a place other than the community where the livelihood programs were supposed to be implemented, a violation of COA Circular No. 96-003. Under the circular, an NGO must submit its SEC certificate of registration to ensure, among others, that the NGO “is based in the community where the project shall be implemented.”¹⁹⁵ Here, AFPI's incorporation documents show that its address was at 2346 Juan Luna St., gag. Tondo, Manila.¹⁹⁶ Apparently, it was not located in the 5th District of Iloilo, where the livelihood support program was supposed to have been implemented.

The foregoing circumstances (*i.e.*, that its given address was a vacant lot storing various equipment, that it did not have business permit at the time material to this case, and that its address was in a place other than where the project was supposed to be implemented) cast doubt on AFPI's eligibility as the NGO project partner.

¹⁹² Paragraph 4 “DUTIES AND RESPONSIBILITIES OF THE GO”, subparagraphs 4.4 and 4.5.

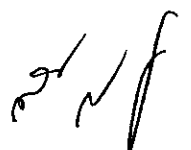
¹⁹³ *Id.*; see also Records, Vol. 4, p. 301 (*Order* dated May 24, 2022); see also TSN dated May 24, 2022, p. 36 (the parties stipulated that AFPI did not have a business permit at the time material to this case); see also Victoria Sto Domingo's *Certification* dated March 21, 2011 to the effect that the Bureau of Permits, City of Manila, certifying that it did not issue a business permit to AFPI from 2004 to 2011 (Exhibit “O”); see also Katrina Agpoon-Abad's *Certification* dated March 12, 2019 (Exhibit “G²”).

¹⁹⁴ *COA SAO No. 2012-003*, p. 51 (Exhibit “D⁶-60”).

¹⁹⁵ 3.3 The following shall be the requirements for the NGO/PO accreditation:

3.3.1 Certificate of registration with the Securities and Exchange Commission (SEC), and/or with either the Cooperatives Development Authority (DFA) of the Department of Labor and Employment (DOLE), as the case may be, depending on the nature of service required or to be rendered. This is to ensure that the NGO/PO has a legal personality, has officers who are responsible and accountable for its operations, and is based in the community where the project shall be implemented. (Emphasis supplied)

¹⁹⁶ See the following exhibits: (1) *Transmittal Letter* dated March 22, 2019 (Exhibit “F2”); (2) *Certificate of Filing of Amended Articles of Incorporation* dated June 2, 2008 (“F2-1” to “F2-9”); (3) *General Information Sheet* for the year 2007 (“F2-10” to “F2-13”); (4) *General Information Sheet* for the year 2008 (Exhibits “F2-14” to “F2-17”); (5) *Certificate of Incorporation of AFPI* dated March 24, 1999 (Exhibits “F2-18” to “F2-23”); (6) *Certificate of Filing of Amended Articles of Incorporation* dated November 17, 2003 (“F2-24” to “F2-37”); See also Records, Vol. 5, p. 316 (Prosecution's *Manifestation with Request for Stipulations*; offer to stipulate “that the witness can identify his *Judicial Affidavit* and his signature therein, and the existence, authenticity, and due execution of the exhibits attached thereto); See also TSN dated June 22, 2022, pp. 3-4 (counsel for accused Suplico agreed to stipulate on the testimony of the witness as well as the documents attached to the judicial affidavit of the witness).



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However, manifest partiality, evident bad faith, or gross inexcusable negligence was not proven

While there may have been questions regarding AFPI's eligibility as the NGO project partner, they do not automatically lead to a finding of manifest partiality, evident bad faith, or gross inexcusable negligence against accused Suplico. The three modes of violating Section 3(e) of the anti-graft law must be established independently from the violation of laws and rules.

*Martel v. People*¹⁹⁷ instructs that "violation of procurement laws does not *ipso facto* give rise to violation of" the anti-graft law. *Martel* emphasizes that "it is through the lens of the anti-graft and corruption law, and not the procurement laws, that the guilt of the accused for violation of Section 3 (e) of [the anti-graft law] must be determined." Accordingly, the accused must have "consciously and intentionally did so in order to commit fraud, to purposely commit a crime, or to gain profit for themselves so as to amount to fraud" to prove evident bad faith. To prove manifest partiality, it must be "proven beyond reasonable doubt that the subject procurements were pursued purposely and intently by petitioners to fraudulently benefit themselves and the said car dealers." Although *Martel* concerns violation of Section 3(e) of the anti-graft law in relation to violation of procurement law, the Court nevertheless finds *Martel* applicable here. The liability of accused Suplico under the present charge must be determined "through the lens of the anti-graft and corruption law."

The prosecution contends that accused Suplico acted with manifest partiality, evident bad faith, and gross inexcusable negligence in that "he repeatedly identified and endorsed" AFPI, "as the implementing NGO[.]" "despite lack of necessary qualification and accreditation, insisting that it has the expertise and capability to implement" the livelihood project.¹⁹⁸

Accused Suplico, on the other hand, argues that, belonging to the Legislative Department, he "had no power to influence the acts of the Executive Department," specifically TRC.¹⁹⁹ It was TRC's task, he points out, "to implement the project" and to take "all the necessary steps to ensure the qualification" of AFPI.²⁰⁰ Additionally, he states that the "witnesses for the prosecution merely alleged that the [TRC] acted on the recommendation of the accused" but there was no evidence that "the recommendation was so overwhelming that a denial thereof was a matter of life or death."²⁰¹ In other words, it was accused Suplico's position that his endorsement of AFPI was merely recommendatory which was apt for TRC to accept or reject.

¹⁹⁷ G.R. Nos. 224720-23 & 224765-68, February 2, 2021.

¹⁹⁸ Records, Vol. 6, p. 129 (Prosecution's *Memorandum*, p. 12).

¹⁹⁹ *Id.* at 145 (Accused Suplico's *Memorandum*).

²⁰⁰ *Id.*

²⁰¹ *Id.* at 145-146 (Accused Suplico's *Memorandum*).

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The Court agrees with accused Suplico and finds the totality of evidence insufficient to hold that said accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence.

As discussed above, there were questions regarding AFPI's eligibility as the NGO project partner. However, the duty to screen AFPI fell on TRC. COA Circular No. 96-003 assigns to the government office, in this case TRC, the duty to accredit an NGO seeking to be engaged as project partner.²⁰² That circular defines "accreditation" as "the acceptance by the government office of the NGO to implement the former's project after proper verification and validation of required documents." Hence, choosing AFPI as the NGO project partner despite its ineligibility could not be imputed to accused Suplico.

The Court notes that State Auditor Alfafaras testified (upon being ask on cross-examination for evidence of accused Suplico's exerting influence over DBM and TRC) that TRC stated, by way of comment to the audit team's highlights, that it had no hand in the selection of the NGO and that accused Suplico's endorsement led to the transfer of the PDAF to AFPI.²⁰³ That testimony, however, deserves little probative weight on the ground that State Auditor Alfafaras does not have personal knowledge regarding the truth or falsity of the statement.

On another note, the pieces of evidence also do not support the prosecution's claim that accused Suplico "repeatedly identified and endorsed" AFPI to be selected as the NGO project partner. Far from being repetitive, the only evidence presented to establish that accused Suplico endorsed AFPI was the *Letter*²⁰⁴ dated March 28, 2007. Neither is the prosecution's asseveration that accused "insisted" that AFPI had the expertise and capability to implement the livelihood project²⁰⁵ supported by evidence. There is no evidence that TRC found AFPI to be unqualified but accused Suplico "insisted" on a contrary finding. It should be noted also that the letter through which accused Suplico purportedly endorsed AFPI was signed using a "scanned" signature, which appears questionable. In any case, granting that accused Suplico did in fact endorsed AFPI, his endorsement

²⁰² COA Circular No. 96-003, paragraph 3.0 "GENERAL GUIDELINES", subparagraph 3.2.

3.0 GENERAL GUIDELINES

The following are the general guidelines in the extension of the fund assistance to the NGO/PO:

- 3.2 **The NGO/PO shall be accredited by the GO.** In the case of non-regularly-funded GOs which generate their funds out of donations and shares from other GOs like the Presidential Management Staff with respect to the President's Social Fund, the implementing GOs shall set the minimum requirements/criteria for the selection of the NGO/PO project partners as stipulated in each program guideline. (Emphasis supplied)

²⁰³ TSN dated May 24, 2022, p. 24.

²⁰⁴ Exhibit "U".

²⁰⁵ Records, Vol. 6, p. 129 (Prosecution's *Memorandum*, p. 12).

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was not entirely baseless because the records show that AFPI was registered with the SEC and it was incorporated as early as March 24, 1999²⁰⁶ or 7 years before the PDAF transfer occurred.

Significantly, the records indicate no evidence that accused Suplico demanded or accepted bribe money or commission in exchange for his supposed endorsement of AFPI.

The foregoing facts and circumstances negate “a clear, notorious or plain inclination or predilection to favor” AFPI, or “fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive,” or “want of xxx slightest care xxx with conscious indifference to consequences.” The second element of Section 3(e) violation was, therefore, not established beyond a reasonable doubt.

C

**The government suffered undue injury and AFPI received
unwarranted benefits. However, neither
arise from accused Suplico’s acts.**

The third element enumerates “the modalities in which the crime may be committed, namely: (a) by causing undue injury to any party, including the Government; or (b) by giving any private party any unwarranted benefit, advantage or preference.”²⁰⁷ It is settled “that either act qualifies as a violation of” Section 3(e) of the anti-graft law.²⁰⁸ Elucidating on the third element, the Supreme Court in *Uriarte*²⁰⁹ stated that:

xxx “undue injury” is consistently interpreted as “actual damage.” *Undue* has been defined as more than necessary, not proper, or illegal; and *injury* as any wrong or damage done to another, either in his person, rights, reputation or property, that is, the invasion of any legally protected interest of another. xxx *unwarranted* means lacking adequate or official support; unjustified; unauthorized; or without justification or adequate reasons. *Advantage* means a more favorable or improved position or condition; benefit or gain of any kind; benefit from course of action. *Preference* signifies priority or higher evaluation or desirability; choice or estimation above another.²¹⁰

In *Cabrera v. People*,²¹¹ the Supreme Court explained that “[t]he first punishable act is that the accused is said to have caused undue injury to the government or any party when the latter sustains actual loss or damage, which must exist as a fact and cannot be based on speculations or conjectures. The loss or damage need not be proven with actual certainty. However, there must be some reasonable basis by which the court can

²⁰⁶ Exhibit “F2-18” (AFPI’s SEC Certificate of Registration).

²⁰⁷ *Uriarte v. People*, G.R. No. 169251, December 20, 2006.

²⁰⁸ *Id.*

²⁰⁹ G.R. No. 169251, December 20, 2006.

²¹⁰ *Id.* (citations omitted).

²¹¹ G.R. Nos. 191611-14, July 29, 2019; citations and internal quotations omitted.

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measure it. Aside from this, the loss or damage must be substantial. It must be “more than necessary, excessive, improper or illegal.” Anent the second punishable act, *People v. Sandiganbayan (Seventh Division)* clarified that “damage is not required”²¹² to establish that the accused gave unwarranted benefits, advantage, or preference to a private party. It is sufficient that the accused has given unjustified favor or benefit to another.²¹³

The prosecution contends that accused Suplico failed to ensure the implementation of the livelihood program and the funds remain unaccounted; thus, giving unwarranted benefit to AFPI “while causing undue injury to the government.”²¹⁴ The “illegal transfer of public funds” to AFPI for a project that did not exist, the prosecution adds, “caused pecuniary losses to the government.”²¹⁵

The prosecution’s contention is not totally correct. While the records indicate that the government was unduly injured and AFPI was unjustly benefited, the injury and the benefits did not stem from accused Suplico’s acts.

AFPI was chosen as the NGO project partner despite questions regarding its capability to implement the project. Allegedly, it did not have a permit to operate in 2007, its declared address was found to be a vacant lot in which various equipment were being stored, and it was in a place other than where the project was supposed to be implemented. Over these issues, AFPI was tapped as the NGO project partner to implement the livelihood project in the 5th District of Iloilo. As a result, P14.7 million in PDAF was released to AFPI. Relevantly, the COA reported that that amount was never liquidated.²¹⁶ According to State Auditor Alfafaras, “[t]here were no documents to manifest the implementation of the project and utilization of the funds as there were no liquidation documents submitted [for audit].”²¹⁷ Moreover, AGIO Jacinto testified that, as per the FIO’s field validation, the barangay chairpersons from nine municipalities of the 5th District of Iloilo “denied receipt and/or implementation of the project in their respective barangays/municipalities.” Those barangay officials, AGIO Jacinto added, executed affidavits or certifications to that effect.²¹⁸ It is worthy to point out

²¹² G.R. No. 240621, July 24, 2019.

²¹³ *Cabrera v. People*, G.R. Nos. 191611-14, July 29, 2019 (citation and internal quotations omitted).

²¹⁴ Records, Vol. 6, p. 134 (Prosecution’s Memorandum, p. 17).

²¹⁵ *Id.* at 134 (Prosecution’s Memorandum, p. 17).

²¹⁶ See *COA SAO Report No. 2012-003*, p. 137 (Exhibit “D⁶-146”; also “C-21”) in relation to p. 209 (Exhibit “D⁶-218”; also “E-23”).

²¹⁷ Records, Vol. 4, p. 227 (Joan Agnes N. Alfafaras’ *Judicial Affidavit*, p. 11).

²¹⁸ The affidavits and certifications were marked as Exhibits “H²” to “H²-5”, “I²” to “I²-5”, “J²” to “J²-5”, “K²” to “K²-5”, “L²” to “L²-5”, “M²” to “M²-4”, “N²” to “N²-5”, “O” to “O²”, “P²” to “P²-5”, “Q²” to “Q²-4”, “R²” to “R²-4”, “S²” to “S²-5”, “T²” to “T²-5”, “U²” to “U²-5”, “V²” to “V²-4”, “W²” to “W²-4”, “X²” to “X²-4”, “Y²” to “Y²-5”, “Z²” to “Z²-5”, “A³” to “A³-5”, “B³” to “B³-5”, “C³” to “C³-5”, “D³” to “D³-5”, “E³” to “E³-5”, “F³” to “F³-5”, “G³” to “G³-5”, “H³” to “H³-5”, “I³” to “I³-5”, “J³” to “J³-5”, “K³” to “K³-5”, “L³” to “L³-5”, “M³” to “M³-5”, “N³” to “N³-5”, “O³” to “O³-5”, “P³” to “P³-5”, “Q³” to “Q³-6”, “R³” to “R³-4”, “S³” to “S³-2”, “T³” to “T³-4”, “U³” to “U³-6”, “V³” to “V³-6”, “W³” to “W³-6”, “X³” to “X³-4”, “Y³” to “Y³-6”, “Z³” to “Z³-6”, “A⁴” to “A⁴-5”, “B⁴” to “B⁴-5”, “C⁴” to “C⁴-5”, “D⁴” to “D⁴-5”, “E⁴” to “E⁴-5”, “F⁴” to “F⁴-5”, “G⁴” to “G⁴-4”, “H⁴” to “H⁴-5”, “I⁴” to “I⁴-5”, “J⁴” to “J⁴-5”, “K⁴” to “K⁴-5”, “L⁴” to “L⁴-5”, “M⁴” to “M⁴-4”, “N⁴” to “N⁴-5”, “O⁴” to “O⁴-5”, “P⁴” to “P⁴-5”, “Q⁴” to “Q⁴-5”, “R⁴” to “R⁴-5”, “S⁴” to “S⁴-4”, “T⁴” to “T⁴-

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that neither the claim that AFPI did not liquidate the fund nor the testimonies that no project was implemented were rebutted. Based on the foregoing, the government clearly sustained undue injury, and AFPI received unwarranted benefits.

However, the fact that the government sustained undue injury or that AFPI received unwarranted benefits is not enough to establish the third element of violation of Section 3(e) insofar as accused Suplico is concerned. It must be proved further that it was accused Suplico's acts that caused undue injury to the government or that enabled AFPI to receive unwarranted benefits. This the records do not show. Apparently, it was not accused Suplico who, under the law, was vested with the authority to select the NGO project partner, and he had no participation in releasing the PDAF from TRC to AFPI. Hence, insofar as accused Suplico is concerned, the third element of violation of Section 3(e) of the anti-graft law was not sufficiently proven.

D

**Conspiracy was not established beyond a reasonable doubt.
Consequently, accused Suplico could only be held liable for his acts.**

"There is conspiracy when two or more persons come to an agreement concerning the commission of a felony and decide to commit it. Conspiracy is not presumed. Like the physical acts constituting the crime itself, the elements of conspiracy must be proven beyond reasonable doubt. While conspiracy need not be established by direct evidence, for it may be inferred from the conduct of the accused before, during and after the commission of the crime, all taken together, however, the evidence therefor must reasonably be strong enough to show a community of criminal design."²¹⁹

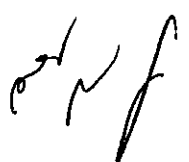
"It is necessary that a conspirator should have performed some overt act as a direct or indirect contribution to the execution of the crime committed. The overt act may consist of active participation in the actual commission of the crime itself, or it may consist of moral assistance to his co-conspirators by being present at the commission of the crime or by exerting moral ascendancy over the other co-conspirators. Hence, the mere presence of an accused at the discussion of a conspiracy, even approval of it, without any active participation in the same, is not enough for purposes of conviction."²²⁰

The prosecution sought to establish accused Suplico's complicity in the alleged corrupt act through several documents that, according to the prosecution, led to the transfer of the PDAF to the foundation, particularly: (1) the *Letter* dated February 7, 2007 of accused Suplico to the Committee

3", "U⁴" to "U⁴-5", "V⁴" to "V⁴-6", "W⁴" to "W⁴-3", "X⁴" to "X⁴-3", "Y⁴" to "Y⁴-5", "Z⁴" to "Z⁴-5", "A⁵" to "A⁵-5", "B⁵" to "B⁵-3", "C⁵", "D⁵", "E⁵", "F⁵", "G⁵", "H⁵", "I⁵", "J⁵", "K⁵", "L⁵", "M⁵", "N⁵", "O⁵", "P⁵" to "P⁵-4", "Q⁵", "R⁵", "S⁵", "T⁵", "U⁵", "V⁵", "W⁵", "X⁵", "Y⁵", "Z⁵", and "A⁶".

²¹⁹ *Magsuci v. Sandiganbayan*, G.R. No. 101545, January 3, 1995 (citations and internal quotations omitted).

²²⁰ *Bahilidad v. People*, G.R. No. 185195, March 17, 2010 (citations omitted).



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on Appropriations, House of Representatives, submitting his PDAF listing and electing TRC as the project implementor, marked as Exhibits “L⁶-12” to “L⁶-13”; (2) the *Letter* dated March 28, 2007 purportedly of accused Suplico informing accused Ortiz about the PDAF allocation for developmental project in the 5th District of Iloilo and endorsing AFPI as the NGO project partner, marked as Exhibit “U”; (3) the *Memorandum of Agreement* acknowledged before a notary public on May 7, 2007, marked as Exhibits “Z” to “Z-3”; (4) the *Project Proposal*, marked as Exhibits “V” to “V-1”; and (5) the *Work and Financial Plan*, marked as Exhibit “W”.²²¹ But those documents only indicate acts that in themselves are, as discussed above, not criminal.

Notably, the acts established by those exhibits were part of the process to authorize the use of the PDAF for the supposed livelihood project in the 5th District of Iloilo. The prosecution no less referred to those exhibits as “prerequisites to the transfer of funds” to AFPI.²²² In *Macairan v. People*,²²³ the Supreme Court cited its ruling in *Magsuci v. Sandiganbayan* that an “accused’s signature appearing on the check, accomplishment report and disbursement voucher in relation to a fictitious transaction” is insufficient to hold the accused a co-conspirator in a crime. The reason is, “conspiracy cannot solely be predicated on the very functions that a public officer had to discharge in the performance of his official duties, especially when there is no indication that he had foreknowledge of the irregularity committed by his co-accused.”²²⁴ The Court finds the *Magsuci* doctrine applicable in this case. Thus, the foregoing documents are insufficient to draw accused Suplico into the alleged conspiracy.

Moreover, the signatures (on Exhibits “U”, “V” to “V-1”, “W”, and “Z” to “Z-3”) attributed to accused Suplico appears questionable. The NBI determined, and the parties agreed, that those signatures “are not original handwritten signatures but are scanned signatures.”²²⁵ The Court finds no reason to depart from the NBI’s finding. It must be made clear, however, that such a finding does not establish nor foreclose the possibility of forgery; but it turns on the issue: whether the scanned signatures were affixed by accused Suplico himself or under his authority.

The Court doubts the authenticity of the scanned signatures. The suspicion stems primarily from the MOA²²⁶ purportedly executed among TRC, AFPI, and accused Suplico. First, accused Suplico’s purported signature on the MOA serves no purpose. By design, the MOA was intended to spell out the responsibilities of the parties to the agreement; however, only

²²¹ Records, Vol. 6, pp. 125-126 (Prosecution’s *Memorandum*, pp. 8-9).

²²² *Id.* at 128 (Prosecution’s *Memorandum*, p. 11).

²²³ G.R. Nos. 215104, 215120, 215147, 215212, 215354-55, 215377, 215923 & 215541, March 18, 2021, citing *Magsuci v. Sandiganbayan*, G.R. No. 101545, January 3, 1995.

²²⁴ *Id.*

²²⁵ Records, Vol. 6, p. 92 (*Order* dated July 18, 2022); see also TSN dated July 18, 2023, pp. 5-7; see also Records, Vol. 6, pp. 95-103 (accused Suplico’s *Formal Offer of Evidence*, including attachments).

²²⁶ Exhibits “Z” to “Z-3”.

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TRC and AFPI were assigned responsibilities. As such, accused Suplico's purported signature makes no sense for there would be nothing that could be enforced against him. This then raises the question: Why was it affixed thereon in the first place?

Second, the timing of the execution of the MOA is anomalous. The MOA was notarized (on May 7, 2007) after the check covering the financial assistance had been prepared and released to AFPI (on May 4, 2007).²²⁷ This should not be the case. The check should have been prepared and released only after the execution of the MOA because only then did TRC's obligation to make a fund transfer arise.

Finally, the MOA is at odds with the *Memorandum*²²⁸ dated April 30, 2007 of Ma. Rosalinda M. Lacsamana, Group Manager, Technology and Livelihood Information Dissemination Services Group, for accused Ortiz. In the memorandum, Lacsamana wrote:

In accordance to (sic) the Memorandum of Agreement **between TLRC and the AARON FOUNDATION PHILIPPINES INC.**, we are recommending the release of Congressman ROLEX T. SUPLICO's PDAF in the amount of P14,700,000.00 for the implementation of various livelihood projects in the 5th district of Iloilo. Following the MOA, we have retained the amount of P150,000.00 for service fee and P150,000.00 as cost of livelihood materials.

The above-mentioned amount was released by [DBM] ... to [TRC] under SARO No. ROCS-07-03548 dated February 16, 2007. (Emphasis supplied)

If the MOA were to be believed as authentic, Lacsamana's memorandum averted to a document (the MOA) that was not yet legally existing at the time. To state the obvious, Lacsamana issued the memorandum on April 30, 2007, or seven (7) days before the MOA was executed/notarized on May 7, 2007. Too, Lacsamana's memorandum described the MOA as an instrument between TRC and AFPI only.

The foregoing circumstances cast doubt on the assertion that the scanned signature on the MOA was made by accused Suplico himself or under his authority.

The discussion above coupled with the ease with which a scanned signature could be manufactured and reproduced using copy-and-paste technology give reason to suspect the other scanned signatures (on Exhibits "U", "V" to "V-1", and "W") attributed to accused Suplico. And the testimonies of the prosecution's key witnesses do not help assuage that suspicion. State Auditor Alfafaras admitted that the audit team did not authenticate the purported signature of accused Suplico with the NBI.²²⁹

²²⁷ Disbursement Voucher No. 012007050823 (Exhibit "S"); Landbank Check No. 0000399420 dated May 4, 2007 (Exhibits "Q to Q-1"); AFPI Official Receipt No. 0075 dated May 4, 2007 (Exhibit "R").

²²⁸ Exhibit "T"; also Exhibit "C⁶-148".

²²⁹ TSN dated May 24, 2022, p. 13.

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Too, AGIO Jacinto stated that they did not verify the authenticity of the scanned signatures on the documents as they relied on the fact that the documents were certified as true copies of the documents on file by the government agencies concerned.²³⁰

The prosecution contends that using scanned signatures was part of a “mechanism” devised to facilitate the irregular release of the subject PDAF.²³¹ It may be so, but there is no sufficient evidence to support that claim.

The prosecution also quotes *Estrada v. Office of the Ombudsman*²³² (*Estrada*) to argue that legislators with respect to the use of PDAF allocations would allow their signatures to be forged for plausible deniability, that “forging of signatures may serve as a security measure for legislators to disclaim their participation in the event of discovery.” *Estrada*, however, differs from this case in several material points: First, *Estrada* dealt with probable cause determination in which the technical rules of evidence are not strictly observed. Second, there was evidence in *Estrada*, which is absent here, suggesting that the lawmaker allowed his signature to be forged. Finally, there was evidence in *Estrada* hinting that significant sums of money were regularly remitted to the lawmaker as his “share” or “commission” in the scheme. Significantly, no such evidence was presented in this case.

In sum, the Court finds that the prosecution failed to establish conspiracy beyond a reasonable doubt. As a result, accused Suplico is liable only for the consequences of his own acts,²³³ which, as discussed above, are insufficient to establish the second and third elements of violation of Section 3(e) of the anti-graft law under the present charge.

Jurisprudence holds “that evidence adduced must be closely examined under the lens of judicial scrutiny and that conviction must flow only from the moral certainty that guilt has been established beyond reasonable doubt.”²³⁴ “No less than the highest quantum of proof is required in criminal cases, as the life and liberty of a person are at stake. ... the overriding consideration is not whether the court doubts the innocence of the accused, but whether it entertains a reasonable doubt as to their guilt. In so evaluating, courts must consider every circumstance in favor of the accused’s innocence. The accused bears no burden to prove his or her innocence; thus, the weakness of the defense is inconsequential. When the prosecution fails to establish by proof beyond reasonable doubt the commission of the crime

²³⁰ TSN dated November 18, 2021, pp. 7-9.

²³¹ Records, Vol. 6, p. 127 (Prosecution’s *Memorandum*, p. 10).

²³² G.R. Nos. 212761-62, 213473-74 & 213538-39, July 31, 2018.

²³³ *People v. Jesalva*, G.R. No. 227306, June 19, 2017, citing *Araneta, Jr. v. Court of Appeals*, G.R. Nos. 43527 & 43745, July 3, 1990 (In the absence of conspiracy, accused-appellant is responsible only for the consequences of his own acts).

²³⁴ *Suba v. Sandiganbayan First Division*, G.R. No. 235418, March 3, 2021; citation omitted.



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charged and in identifying the accused as the one responsible therefor ... acquittal must follow.”²³⁵

WHEREFORE, for failure of the prosecution to establish guilt beyond reasonable doubt, the Court finds accused **Rolox T. Suplico NOT GUILTY**.

The cash bond that accused Suplico posted is ordered **RELEASED**, subject to the usual accounting and auditing procedures. The Hold Departure Order issued against him in connection with this case is ordered **LIFTED**.


For lack of sufficient evidence, no civil liability is adjudged in this case.

Let the case against accused **Antonio Y. Ortiz** be archived. The same shall be reinstated as soon as the Court obtains jurisdiction over his person.

SO ORDERED.


MARYANN E. CORPUS-MAÑALAC
Associate Justice

WE CONCUR:


RAFAEL R. LAGOS
Associate Justice
Chairperson


MARIA THERESA V. MENDOZA-ARCEGA
Associate Justice

²³⁵ *Imperial v. People*, G.R. No. 230519, June 30, 2021.

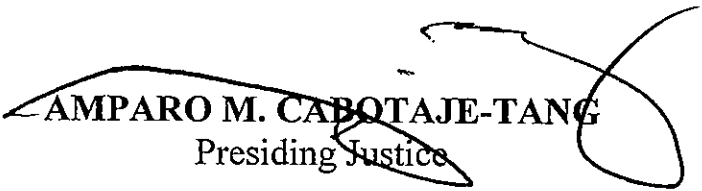
ATTESTATION

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


RAFAEL R. LAGOS
Chairperson

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above decision had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

