



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
 Quezon City

**SIXTH DIVISION**

**PEOPLE OF THE PHILIPPINES,**  
 Plaintiff,

**SB-17-CRM-0030**  
 For: Violation of Section 3(e) of  
 R.A. No. 3019

**- versus -**

**GERARDO PAAT VERZOSA,**  
 Accused.

*Present:*

**FERNANDEZ, SJ, J.**  
*Chairperson*  
**FERNANDEZ, B, J.,\*** and  
**JACINTO, J.\*\***

*Promulgated:*

**NOV 17 2017**

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**RESOLUTION**

***FERNANDEZ, SJ, J.***

For resolution is the prosecution's *Motion to Admit Amended Information*.<sup>1</sup>

The prosecution prays<sup>2</sup> that this Court admit the *Amended Information* dated October 9, 2017 which amended the *Information* dated September 7, 2016 by: (a) deleting the phrase, "*without authority from the Sangguniang Bayan of Balbalan, and in the absence of a memorandum of agreement*" and, (b) deleting the phrase "by directly contracting with the same," and substituting it with the words "by awarding the contract to BENECO,"<sup>3</sup> viz:

\* Per Administrative Order No. 023-2017 dated January 31, 2017, Special Member in view of the inhibition of Justice Karl B. Miranda.

\*\* Per Administrative Order No. 380-2017 dated November 16, 2017, Special Member of the Sixth Division in order to complete the membership thereof, in view of the vacancy therein. Justice B. Fernandez, the permanent Special Member of this Division was previously designated a Special Member in A.O. 023-2017 dated January 31, 2017.

<sup>1</sup> Dated October 20, 2017; Record, pp. 394-401.

<sup>2</sup> p. 4; Record, p. 397.

<sup>3</sup> p. 2; Record, p. 395.

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Information dated September 7, 2016 with amendments	Amended Information dated October 9, 2017
<p>That on or about 2012, or sometime prior or subsequent thereto, in the Municipality of Balbalan, Kalinga Province, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, <b>GERARDO PAAT VERZOSA</b> (Verzosa), a private individual, General Manager of Benguet Electric Cooperative (BENECO), <i>in conspiracy</i> with his brother-in-law, <b>KENNETH DALE C. MANGAOANG</b> (deceased), a public officer, <i>being then the Municipal Mayor of Balbalan, Kalinga Province</i>, who, while in the performance of his official administrative function and by taking advantage of the same, <del>without authority from the Sangguniang Bayan of Balbalan, and in the absence of a memorandum of agreement,</del> did then and there willfully, unlawfully and criminally, through manifest partiality, and evident bad faith, give unwarranted benefit, advantage or preference to BENECO and/or Verzosa <del>by directly contracting with the same</del> <u>by awarding the contract to BENECO</u>, without the benefit of public bidding under Republic Act No. 9184, the Government Procurement Reform Act, and its implementing rules and regulations, the purchase of equipment/materials for the Municipality of Balbalan's electrification project, and despite the fact that BENECO's line of business does not involve the supply and/or delivery of electrical equipment/materials, to the damage and prejudice of the government.</p> <p><b>CONTRARY TO LAW.</b></p>	<p>That on or about 2012, or sometime prior or subsequent thereto, in the Municipality of Balbalan, Kalinga Province, Philippines, and within the jurisdiction of the Honorable Court, the above-named accused, <b>GERARDO PAAT VERZOSA</b> (Verzosa), a private individual, General Manager of Benguet Electric Cooperative (BENECO), <i>in conspiracy</i> with his brother-in-law, <b>KENNETH DALE C. MANGAOANG</b> (deceased), a public officer, <i>being then the Municipal Mayor of Balbalan, Kalinga Province</i>, who, while in the performance of his official administrative function and by taking advantage of the same, did then and there willfully, unlawfully and criminally, through manifest partiality, and evident bad faith, give unwarranted benefit, advantage or preference to BENECO and/or Verzosa <u>by awarding the contract to BENECO</u>, without the benefit of public bidding under Republic Act No. 9184, the Government Procurement Reform Act, and its implementing rules and regulations, the purchase of equipment/materials for the Municipality of Balbalan's electrification project, and despite the fact that BENECO's line of business does not involve the supply and/or delivery of electrical equipment/materials, to the damage and prejudice of the government.</p> <p><b>CONTRARY TO LAW.</b></p>

In his *Comment*,<sup>4</sup> accused Verzosa manifested that he is not waiving the jurisdictional issues he had elevated to the Supreme Court and contends that:

- a) The Amended Information still suffers from jurisdictional flaws, *i.e.*, (i) the Sandiganbayan has no jurisdiction over the case and the person of the accused; and, (ii) the Information is null and void because the OMB violated the right of the accused to equal protection.<sup>5</sup>

<sup>4</sup> Comment on the Motion to Admit Amended Information dated November 2, 2017

<sup>5</sup> p. 1.

Handwritten signatures and initials are present at the bottom of the page, including a signature that appears to be 'MB' and other initials.

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- b) The amendment is an admission by the prosecution that the Mayor of Balbalan was authorized by the Sangguniang Bayan of Balbalan to enter into the transaction with BENECO and such makes the said Sangguniang Bayan members co-conspirators of accused Verzosa and the Mayor in the act charged.<sup>6</sup>
- c) The allegation that there was no authorization from the Sangguniang Bayan is negated by the present Motion. On the other hand, the Resolution of the Ombudsman which shows that a public bidding was conducted, negates the allegation that the transaction was without the benefit of a public bidding.
- d) The allegation that the General Manager of BENECO, accused Verzosa, is a brother-in-law of the mayor, is not sufficient to sustain a charge of manifest partiality and evident bad faith; and,
- e) There is nothing in the records of the accused to support the other allegations in the Information; but he does not question that the Sangguniang Bayan of Balbalan authorized the Mayor to enter into the subject transaction.<sup>7</sup>

### RULING

The *Motion to Admit Amended Information* is granted.

First, in his *Comment* dated November 2, 2017, accused Verzosa did not interpose any objection to the admission of the *Amended Information* nor did he pray for the denial of admission of the *Amended Information*.

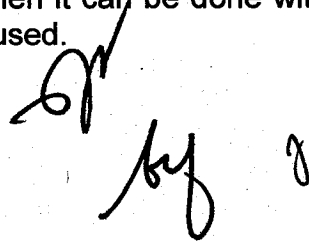
Second, since the accused has not been arraigned and the amendment did not change the nature of the offense charged, the Information may be amended without leave of court.

Section 14, Rule 110 of the Revised Rules of Criminal Procedure provides:

**Section 14. Amendment or substitution.** — A complaint or information may be amended, in form or in substance, without leave of court, at any time before the accused enters his plea. After the plea and during the trial, a formal amendment may only be made with leave of court and when it can be done without causing prejudice to the rights of the accused.

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<sup>6</sup> p. 2.  
<sup>7</sup> p. 3.



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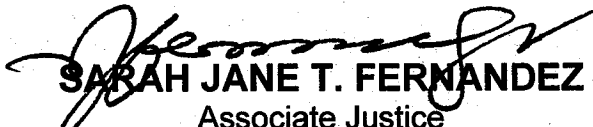
However, any amendment before plea, which downgrades the nature of the offense charged in or excludes any accused from the complaint or information, can be made only upon motion by the prosecutor, with notice to the offended party and with leave of court. The court shall state its reasons in resolving the motion and copies of its order shall be furnished all parties, especially the offended party.

If it appears at any time before judgment that a mistake has been made in charging the proper offense, the court shall dismiss the original complaint or information upon the filing of a new one charging the proper offense in accordance with section 19, Rule 119, provided the accused shall not be placed in double jeopardy. The court may require the witnesses to give bail for their appearance at the trial.<sup>8</sup>

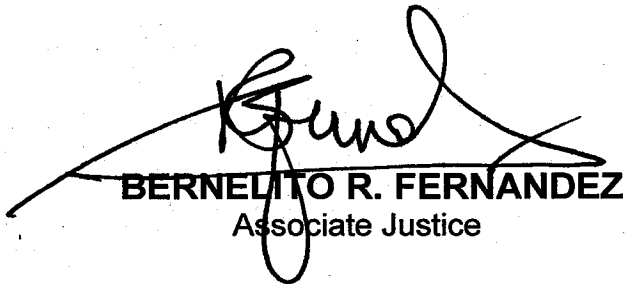
Finally, the arguments raised by accused Verzosa are merely noted considering that they are not relevant to the subject *Motion*. They are matters of defense that are best threshed out during the trial of the case.

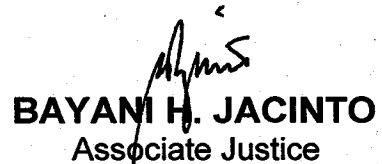
**WHEREFORE**, the *Motion to Amend Information* dated October 20, 2017 filed by the prosecution is **GRANTED**. The *Amended Information* dated October 9, 2017 is **ADMITTED**.

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**WE CONCUR:**

  
**BERNEDITO R. FERNANDEZ**  
Associate Justice

  
**BAYANI H. JACINTO**  
Associate Justice

<sup>8</sup> Underscoring supplied.