



REPUBLIC OF THE PHILIPPINES  
SANDIGANBAYAN  
Quezon City

Fifth Division

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

**SB-18-CRM-0153 to 0159**

For: Section 3 (e) of Republic Act No.  
3019

- versus -

**SB-18-CRM-0160 to 0165**

For: Article 171 of the Revised Penal  
Code or Falsification of Public  
Documents

**HON. JEJOMAR C. BINAY, SR.**  
**ET AL.,**

Present:

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

*Accused.*

Promulgated:

June 18, 2018 *Jal*

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**RESOLUTION**

**LAGOS, J.:**

For resolution of this Court is accused Marjorie De Veyra and Pio Kenneth Dasal's Consolidated Motion to Quash<sup>1</sup>, and the prosecution's Opposition<sup>2</sup>.

The accused submit that, except for the fact that they are both public officers and that they signed some of the documents pertinent to the transaction in question by reason of the duties of their office, all of the other essential elements of Section 3 (e) of Republic Act No. 3019 are not present. They specify that they did not cause undue injury to the City Government of Makati nor gave unwarranted benefits, advantage or preference to any party, much less to Infiniti or Hilmarc's. Nor did they, allegedly, act with

<sup>1</sup> Records, Vol. I, pp. 438-478.

<sup>2</sup> Records, Vol. II, pp. 70-81.

*M/J*

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manifest partiality, evident bad faith or gross inexcusable negligence when they affixed their signatures to the documents in question.

The accused posits that the prosecution's theory is that, by awarding the contracts to Infiniti Architectural Works (Infiniti) and Hilmarc's Construction Corporation (Hilmarc's) without public bidding, the accused caused undue injury to the government. The accused argues, however, that lack of public bidding alone is not sufficient to indict a person for violation of Section 3 (e). The accused cite ***Nava v. The Honorable Justices Rodolfo G. Palattao, et al.*** (G.R. No. 160211, August 28, 2006).

The accused also alleged that, while the Informations charged the accused of "causing undue injury to the government", they did not indicate the amount of injury suffered by the government, if any, except to mention therein the amount of the contract. The accused submit that the amount of injury supposedly suffered by the government could not be the amount of consideration provided for in the contracts for the obvious reason that the construction of the Makati Science Highschool Building was completed and the said building is being used by the City Government of Makati.

Accused add that the award of the architectural and services contract in question to Infiniti was made only after a limited source bidding was held, as allowed by R.A. No. 9184. Nonetheless, allegedly, assuming that certain procedural requirements were not complied with in the award of the subject contracts, the accused submit that the non-compliance or non-adherence did not amount to a criminal offense as no damage or injury was suffered by the government.

Mainly, accused allege that apart from saying that they signed certain documents, the prosecution failed to state the ultimate facts that would support the claim of conspiracy. Accused claim that, instead of ultimate facts, the allegations made by the prosecution in the Informations were purely conclusions of law and based on hearsay, conjectures, surmises, speculations and assumptions. To illustrate, the accused point out paragraphs (a) and (b) of the Information in SB-18-CRM-0153. Referring to paragraph (a) they submit that the conclusion made therein is *non sequitur*, speculative and based on surmises or assumption. They argue that non-publication of the contract in the official website and conspicuous places of Makati City does not *ipso facto* mean giving unwarranted benefits to Infiniti especially where, as in this case, other architectural firms were invited to participate in the limited source bidding that was held for the architectural and engineering services needed for the building- a fact that has been admitted by the Ombudsman. The accused add that publication in the official website or

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posting in conspicuous places may be dispensed with in limited source bidding or negotiation as allowed by R.A. No. 9184.

As regards paragraph (b), “[f]alsification by Flores, as instructed by Binay, Sr. and accused BAC members”, the prosecution knows there is no admissible evidence on records that would show such instructions.

Again, the prosecution, allegedly, illogically concluded that, since one or two of those who were invited to participate in the limited source bidding for the architectural and engineering services denied having submitted any offer or participation therein, then there was no such limited source bidding or meeting of the other parties who did submit their respective offers.

With regard to the charge of falsification of the Invitations to Apply for Eligibility and to Bid (IAETB), the accused allege that, as members of the BAC, they had no participation in the preparation thereof nor in their publication as these are not among their duties and responsibilities. As BAC members, they had no choice but to rely on the Affidavit of Publication executed by the official or employee tasked to cause such a publication attesting to the fact of publication of such IAETB’s. The Informations filed against the accused are, allegedly, silent on how they committed the supposed act of falsification of the said IAETB’s except to state that they conspired with the other accused in committing the crime.

The prosecution counters and states that a reading of the Informations will readily show that the same were compliant with the requirements provided in Section 6, Rule 110 of the Rules of Court. Specifically, the name, offense, offended party, date, place and, more importantly, the acts of the accused were stated in the challenged Informations.

The prosecution claims that the facts in the Informations, if hypothetically admitted, will establish their culpability for the offenses charged. To illustrate, the prosecution also cites SB-18-CRM-0153 and asserts that if the facts in the said Information were to be hypothetically admitted then accused-movants will be held liable for violation of Section 3 (e) of R.A. No. 3019. First, accused De Veyra and Dasal were public officers, being then the City Administrator/Chairperson of the Bids and Awards Committee (BAC) and City Legal Officer/BAC Member, respectively, performing their official functions and committing the offense in relation to their office. Second, along with the other accused, they acted with manifest partiality, evident bad faith and/or gross inexcusable negligence and caused undue injury to the government and gave unwarranted benefits, advantage and preference to Infiniti Architectural Works (Infiniti) in the amount of

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P17,372,062.00 by awarding the Architectural and Engineering Services Contract for the Ten-Storey Makati Science High School with Four-Storey Dormitory to Infiniti, in violation of the Government Procurement Reform Act and its implementing rules and regulations and causing payment of said amount to Infiniti by:

- (a) Ensuring that the Contract was awarded to Infiniti through the resort to negotiated procurement or limited source bidding by the BAC composed of De Veyra, Dasal, and Amores, without complying with the conditions for such under R.A. No. 9184 and its IRR, and without the required posting of the Invitation to Apply for Eligibility and to Bid (IAETB) in the official website and in conspicuous places of Makati City and in the Philippine Government Electronic Procurement System, among other things;
- (b) Falsification by Flores, as instructed by Binay, Sr. and accused BAC members, of bid proposals for the Contract to make it appear that Infiniti was the most qualified proponent;
- (c) Entering through Binay, Sr. into the said Contract with Garcia, as representative of Infiniti, despite the glaring flaws in the procurement process;
- (d) Processing and releasing of payments to Infiniti by Querijero and Lim, acting as City Accountant on different occasions, De Veyra, as City Administrator, Amores as City Budget Officer, Barlis as City Treasurer, which release of payments were approved by Binay, Sr. (in 2008) and Binay, Jr. (in 2012), and accepted by Garcia, on behalf of Infiniti in the aforesaid sum, despite the lack of required documents and non-compliance with the requirements under R.A. No. 9184 and its IRR.

The prosecution adds that the same could be said in Criminal Case No. SB-18-CRM-0154. In that case, accused-movants were charged with violation for 3 (e) of R.A. No. 3019 by awarding Hilmarc's Construction Corporation the Contract in the amount of P99,631,205.15 for Phase I construction of the Ten-Storey Makati Science High School Building through a simulated public bidding, in violation of R.A. 9184 and its IRR, as follows:

- (a) Circumvention of the provisions of R.A. 9184 by Binay, Sr., De Veyra, Dasal, Amores, Condes and Nayve by, among other things:
  - (1) Falsifying the publication of the Invitation to Apply for Eligibility and to Bid (IAETB) in the official website of Makati City;
  - (2) Not posting the IAETB in the official website of Makati City;
  - (3) Not complying with the required number of days of the posting of the IAETB in the City's conspicuous places;

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- (4) Not including in the IAETB the relevant eligibility criteria by which the bids shall be compared; and
  - (5) Preparing and signing the Abstract of Bids and Post-Qualification Report despite knowing the absence of public bidding;
- (b) Binay, Sr., De Veyra, Dasal, Amores, Condes, Nayve, Flores, Liberato and Ramos collectively making it appear in the BAC Resolution and the Abstract of Bids that Hilmarc's, through Canlas, became the bidder with the Lowest Calculated and Responsive Bid (LCRB), as against JBros Construction and ITP Construction, which documents were signed and approved by Binay, Sr. despite knowing the absence of public bidding;
  - (c) Entering, through Binay, Sr., into the Contract for the Phase I Construction of the Science Building with Canlas, on behalf of Hilmarc's, and proceeding with the said project despite the absence of the project's architectural design and detailed engineering plans; and
  - (d) Processing and releasing of the payments amounting to P93,404,254.82, more or less, to Hilmarc's by De Veyra, Amores, Querijero, Barlis, which payments were approved by Binay, Sr. and received by Canlas, despite deficiencies in the required supporting documents.

As per the prosecution, the abovementioned arguments can be applied with respect to SB-18-CRM-0155 to 0159 representing the rest of the charges for violation of Section 3 (e) of R.A. 3019 against the accused. The allegations therein contain, more or less, similar imputations with differing amounts and covering Phases II to VI of the construction of the Makati Science High School Building (Science Building).

With respect to the charges of falsification, SB-18-CRM-0160 to 0165, the prosecution asserts that accused were clearly apprised of the crimes committed therein. Allegedly, the Informations, contrary to the claims of the accused, are complete and pass the test of sufficiency as each Information state in particular detail the document falsified and the manner in which they were falsified as follows:

- (1) In SB-18-CRM-0160

The accused falsified the September 19, 2007 BAC Resolution (Award), an official document, and its supporting documents, declaring Infiniti as the

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most qualified firm with recommendation to award it the architectural and engineering services contract for the Science Building.

(2) In SB-18-CRM-0161

The accused falsified the January 11, 2008 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase I Construction of the Science Building.

(3) In SB-18-CRM-0162

The accused falsified the January 05, 2009 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase II Construction of the Science Building.

(4) In SB-18-CRM-0163

The accused falsified the August 08, 2011 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase IV Construction of the Science Building.

(5) In SB-18-CRM-0164

The accused falsified the September 03, 2012 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase V Construction of the Science Building.

(6) In SB-18-CRM-0165

The accused falsified the July 19, 2013 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase VI Construction of the Science Building.



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According to the prosecution, the accused raise matters of defense, such as the matter regarding undue injury and lack of public bidding, which are better threshed out during the trial.

As to the issue of conspiracy, the prosecution alleges that, in alleging conspiracy, the allegation need not aver all of its component or state all the details thereof. Allegedly, it is enough that the indictment contains a statement of facts relied upon to be constitutive of the offense in ordinary and concise language.

### DISCUSSION AND RULING

The sufficiency of the allegations of the facts and circumstances constituting the elements of the crime charged is crucial in every criminal prosecution because of the ever-present obligation of the State to duly inform the accused of the nature and cause of the accusation.<sup>3</sup>

Accused De Veyra and Dasal allege that the Informations in these subject consolidated cases are defective because the same failed to specifically allege the acts they purportedly committed in perpetrating the crime of violation of Section 3 (e) of the Anti-Graft and Corrupt Practices Act and Article 171 of the Revised Penal Code, also known as falsification by a public officer.

Sections 3 of Rule 117 of the Rules of Court states that:

**Section 3. Grounds.** — The accused may move to quash the complaint or information on any of the following grounds:

- (a) **That the facts charged do not constitute an offense;**
- (b) That the court trying the case has no jurisdiction over the offense charged;
- (c) That the court trying the case has no jurisdiction over the person of the accused;
- (d) That the officer who filed the information had no authority to do so;
- (e) That it does not conform substantially to the prescribed form;

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<sup>3</sup> People of the Philippines v. PO2 Eduardo Valdez and Edwin Valdez (G.R. No. 175602, January 18, 2012).

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- (f) That more than one offense is charged except when a single punishment for various offenses is prescribed by law;
- (g) That the criminal action or liability has been extinguished;
- (h) That it contains averments which, if true, would constitute a legal excuse or justification; and
- (i) That the accused has been previously convicted or acquitted of the offense charged, or the case against him was dismissed or otherwise terminated without his express consent. (3a)

On the other hand, Section 6 of Rule 110 of the same rules states that:

Sec. 6 Sufficiency of the complaint or information. –  
A complaint or information is sufficient if it states the name of the accused; the designation of the offense given by the statute; the acts or omissions complained of as constituting the offense; the name of the offended party; the approximate date of the commission of the offense; and the place where the offense was committed.

An Information only needs to state the ultimate facts constituting the offense; the evidentiary and other details (*i.e.*, the facts supporting the ultimate facts) can be provided during the trial. Ultimate facts are defined as “those facts which the expected evidence will support. The term does not refer to the details of probative matter or particulars of evidence by which these material elements are to be established.” It refers to the facts that the evidence will prove at the trial. Ultimate facts have also been defined as the principal, determinative, and constitutive facts on whose existence the cause of action rests; they are also the essential and determining facts on which the court's conclusion rests and without which the judgment would lack support in essential particulars. Evidentiary facts, on the other hand, are the facts necessary to establish the ultimate facts; they are the premises that lead to the ultimate facts as conclusion. They are facts supporting the existence of some other alleged and unproven fact. While it is fundamental that every element of the offense must be alleged in the Information, matters of evidence – as distinguished from the facts essential to the nature of the offense – do not need to be alleged. Whatever facts and circumstances



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must necessarily be alleged are to be determined based on the definition and the essential elements of the specific crimes.<sup>4</sup>

The Informations at bar then need only allege ultimate facts, those essential to the nature of the offense of violation of Section 3 (e) of Republic Act No. 3019 and Article 171 of the Revised Penal Code, to be sufficient in form.

Examining the Informations at bar, this Court finds that the same are sufficient. The Informations, while not necessarily exhaustive, allege the ultimate facts comprising the essential requisites of Section 3 (e) and Article 171. The charges in the Informations, if hypothetically admitted, will establish the accused's culpability for the offenses charged.

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Section 3 (e) of Republic Act No. 3019 provides:

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

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(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 impartiality, evident bad faith or gross inexcusable negligence.

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The requisites of Section 3 (e) are as follows:

1. The accused must be a public officer discharging administrative, judicial or official functions;
2. The accused must have acted with manifest partiality, evident bad faith or gross inexcusable negligence; and

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<sup>4</sup> Juan Ponce Enrile v. People of the Philippines, Hon. Amparo M. Cabotaje-Tang, Hon. Samuel R. Martires, And Hon. Alex L. Quiroz of the Third Division of the Sandiganbayan (G.R. No. 213455, August 11, 2015).

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3. The action of the accused caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference in the discharge of the functions of the accused.<sup>5</sup>

In SB-18-CRM-0153, if the facts in the said Information were to be hypothetically admitted then the accused will be held liable for violation of Section 3 (e) of R.A. No. 3019.

The first element is present as accused De Veyra and Dasal are charged as public officers, being then the City Administrator/Chairperson of the Bids and Awards Committee (BAC) and City Legal Officer/BAC Member, respectively, performing their official functions and committing the offense in relation to their office.

The second element is also present as De Veyra and Dasal, along with the other accused, are purported to have acted with manifest partiality, evident bad faith and/or gross inexcusable negligence and caused undue injury to the government and gave unwarranted benefits, advantage and preference to Infiniti Architectural Works (Infiniti) in the amount of P17,372,062.00 by awarding the Architectural and Engineering Services Contract for the Ten-Storey Makati Science High School with Four-Storey Dormitory to Infiniti, in violation of the Government Procurement Reform Act and its implementing rules and regulations and caused payment of said amount to Infiniti, specifically, by:

- (a) Ensuring that the Contract was awarded to Infiniti through the resort to negotiated procurement or limited source bidding without complying with the conditions for such under R.A. No. 9184 and its IRR, and without the required posting of the Invitation to Apply for Eligibility and to Bid (IAETB) in the official website and in conspicuous places of Makati City and in the Philippine Government Electronic Procurement System, among other things;
- (b) Falsifying of bid proposals for the Contract to make it appear that Infiniti was the most qualified proponent;
- (c) Processing and releasing of payments to Infiniti despite the lack of required documents and non-compliance with the requirements under R.A. No. 9184 and its IRR.

Lastly, the third element is present as accused De Veyra and Dasal, with the other accused, are charged with causing undue injury to the government of the City of Makati in the amount of P17,372,062.00 and giving

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<sup>5</sup> Alejandro C. Rivera V. People Of The Philippines (G.R. No. 156577, December 03, 2014).

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unwarranted benefits, advantage and preference to Infiniti by awarding the Architectural and Engineering Services Contract for the Ten-Storey Makati Science High School with Four-Storey Dormitory to Infiniti, in violation of the Government Procurement Reform Act and its implementing rules and regulations.

As to Criminal Case No. SB-18-CRM-0154, similarly, if the facts in the said Information were to be hypothetically admitted then accused will be held liable for violation of Section 3 (e) of R.A. No. 3019.

The first element of the offense is present as accused De Veyra and Dasal are charged as public officers, being then the City Administrator/Chairperson of the Bids and Awards Committee (BAC) and City Legal Officer/BAC Member, respectively, performing their official functions and committing the offense in relation to their office.

The second and third elements are present as well as accused are charged with giving unwarranted benefits, advantage and preference to Hilmarc's and causing undue injury to the government by awarding Hilmarc's Construction Corporation the Contract in the amount of P99,631,205.15 for Phase I construction of the Ten-Storey Makati Science High School Building through a simulated public bidding, in violation of R.A. 9184 and its IRR, as follows:

- (a) Circumvention of the provisions of R.A. 9184 by, among other things:
  - (1) Falsifying the publication of the Invitation to Apply for Eligibility and to Bid (IAETB) in the official website of Makati City;
  - (2) Not posting the IAETB in the official website of Makati City;
  - (3) Not complying with the required number of days of the posting of the IAETB in the City's conspicuous places;
  - (4) Not including in the IAETB the relevant eligibility criteria by which the bids shall be compared; and
  - (5) Preparing and signing the Abstract of Bids and Post-Qualification Report despite knowing the absence of public bidding;
- (b) Making it appear in the BAC Resolution and the Abstract of Bids that Hilmarc's, through Canlas, became the bidder with the Lowest Calculated and Responsive Bid (LCRB), as against JBros Construction and ITP Construction, despite knowing the absence of public bidding;

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- (c) Processing and releasing of the payments amounting to P93,404,254.82, more or less, to Hilmarc's despite deficiencies in the required supporting documents.

The same ruling largely applies to the other Informations charging violation of Section 3 (e) with the exception of SB-18-CRM-0159. In the Information for the said case, accused De Veyra is charged with "making it appear in the BAC Resolution and the Abstract of Bids that Hilmarc's, through Canlas, was the bidder with the Lowest Calculated and Responsive Bid which documents were signed and approved by Binay, Jr. despite knowing the absence of public bidding;". However, she is not named as one of the public officers charged under the Information nor is it alleged that she was in the performance of her official functions and committed the offense in relation to her office. Hence, as to accused De Veyra, the first element of Section 3 (e) is lacking and the Information in SB-18-CRM-0159 is defective.

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Article 171 of the Revised Penal Code states that:

Art. 171. Falsification by public officer, employee or notary or ecclesiastic minister.- The penalty of prision mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

1. Counterfeiting or imitating any handwriting, signature or rubric;
2. Causing it to appear that persons have participated in an act of proceeding statements other than those in fact made by them;
3. Attributing to persons who have participated in an act or proceeding statement other than those in fact made by them;
4. Making untruthful statements in a narration of facts;
5. Altering true dates;
6. Making any alteration or intercalation in a genuine document which changes its meaning;
7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; or
8. Intercalating any instrument or not relative to the issuance thereof in a protocol, registry, or official book.

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The requisites of Articles 171 of the Revised Penal Code are as follows:

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1. The offender is a public officer;
2. He takes advantage of his official position; and
3. He falsifies the document by committing any of the acts enumerated in Article 171 of the Revised Penal Code.<sup>6</sup>

If the facts in the Informations in SB-18-CRM-0160 to 0165 were to be hypothetically admitted then accused will be held liable for violation of Articles 171 of the Revised Penal Code.

Firstly, the Informations clearly charge accused De Veyra as City Administrator and Chairperson of the Bids and Awards Committee (BAC) while accused Dasal is charged as BAC Member.

Secondly, both accused are charged with taking advantage of their official positions in order to falsify:

- (1) The September 19, 2007 BAC Resolution (Award), an official document, and its supporting documents, declaring Infiniti as the most qualified firm with recommendation to award it the architectural and engineering services contract for the Science Building in SB-18-CRM-0160.
- (2) The January 11, 2008 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase I Construction of the Science Building in SB-18-CRM-0161.
- (3) The January 05, 2009 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase II Construction of the Science Building in SB-18-CRM-0162.
- (4) The August 08, 2011 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase IV Construction of the Science Building in SB-18-CRM-0163.
- (5) The September 03, 2012 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the

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<sup>6</sup> Ltc. Roberto K. Guillergan v. People of the Philippines (G.R. No. 185493, February 2, 2011).

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recommendation to award it the contract for Phase V Construction of the Science Building in SB-18-CRM-0164.

Additionally, accused Dasal is charged with taking advantage of his official position to falsify the July 19, 2013 BAC Resolution, an official document, and its supporting documents, declaring Hilmarc's as the bidder who submitted the Lowest Calculated Responsive Bid, with the recommendation to award it the contract for Phase VI Construction of the Science Building in SB-18-CRM-0165.

As can be seen, similar to the previously discussed cases involving the violation of Section 3 (e) of R.A. No. 3019, all the elements of the offense of Article 171 of the RPC are present and, if hypothetically admitted, will result in the accused's conviction. Thus, accused's claim finds scant ground to stand on and must fail.

### **Undue Injury and Non-Compliance with Bidding Requirement**

All the matters raised by the accused in their motion pertaining to the question of whether undue injury was caused by failing to comply with the bidding requirement in R.A. 9184 and its IRR's are matters of evidence and defense which are best threshed out during trial on the merits.

### **Conspiracy**

Accused De Veyra and Dasal allege that, apart from saying that they signed certain documents, the prosecution failed to state the ultimate facts that would support the claim of conspiracy.

The Supreme Court has pronounced that it is enough to allege conspiracy as a mode in the commission of an offense either through the use of the word "conspire" or its derivatives or synonyms, such as confederate, connive, collude; or by allegations of basic facts constituting the conspiracy in a manner that a person of common understanding would know what is intended, and with such precision as the nature of the crime charged will admit, to enable the accused to completely enter a plea to a subsequent indictment based on the same facts.<sup>7</sup>

Upon perusal of the Informations in these consolidated cases, this Court holds that the prosecution has adequately alleged conspiracy through the use of the word "conspiring" as well as the enumeration of basic facts

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<sup>7</sup> Ponce Enrile, *Supra*.

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which constitute the conspiracy in the subject transactions. Hence, this argument of the accused must likewise fail.

With regard to the apparent defect in the Information in SB-18-CRM-0159, Section 4 of the Rules of Court is instructive. The said section states that:

**Section 4. Amendment of the complaint or information.**

— If the motion to quash is based on an alleged defect of the complaint or information which can be cured by amendment, the court shall order that an amendment be made. (4a)

**If it is based on the ground that the facts charged do not constitute an offense, the prosecution shall be given by the court an opportunity to correct the defect by amendment.** The motion shall be granted if the prosecution fails to make the amendment, or the complaint or information still suffers from the same defect despite the amendment. (n) (Emphasis Ours)

In view of the above-quoted rule, the apparent defect in the Information in SB-18-CRM-0159 as regards accused De Veyra, must be cured by the prosecution in the form of an amendment of the Information. Failure to do so will result in the quashal of the Information with respect to accused De Veyra.

**WHEREFORE**, premises considered, accused Marjorie De Veyra and Pio Kenneth Dasal's Motions to Quash Information in SB-18-CRM-0153, SB-18-CRM-0154, SB-18-CRM-0155, SB-18-CRM-0156, SB-18-CRM-0157, SB-18-CRM-0158, SB-18-CRM-0160, SB-18-CRM-0161, SB-18-CRM-0162, SB-18-CRM-0163, SB-18-CRM-0164 and SB-18-CRM-0165 are hereby DENIED for lack of merit. As to SB-18-CRM-0159, however, the motion is PARTIALLY GRANTED. The prosecution is hereby ordered to make the appropriate amendment to the Information in SB-18-CRM-0159 within Ten (10) Days from receipt of this resolution.

**SO ORDERED.**

  
**RAFAEL R. LAGOS**  
Chairperson  
Associate Justice



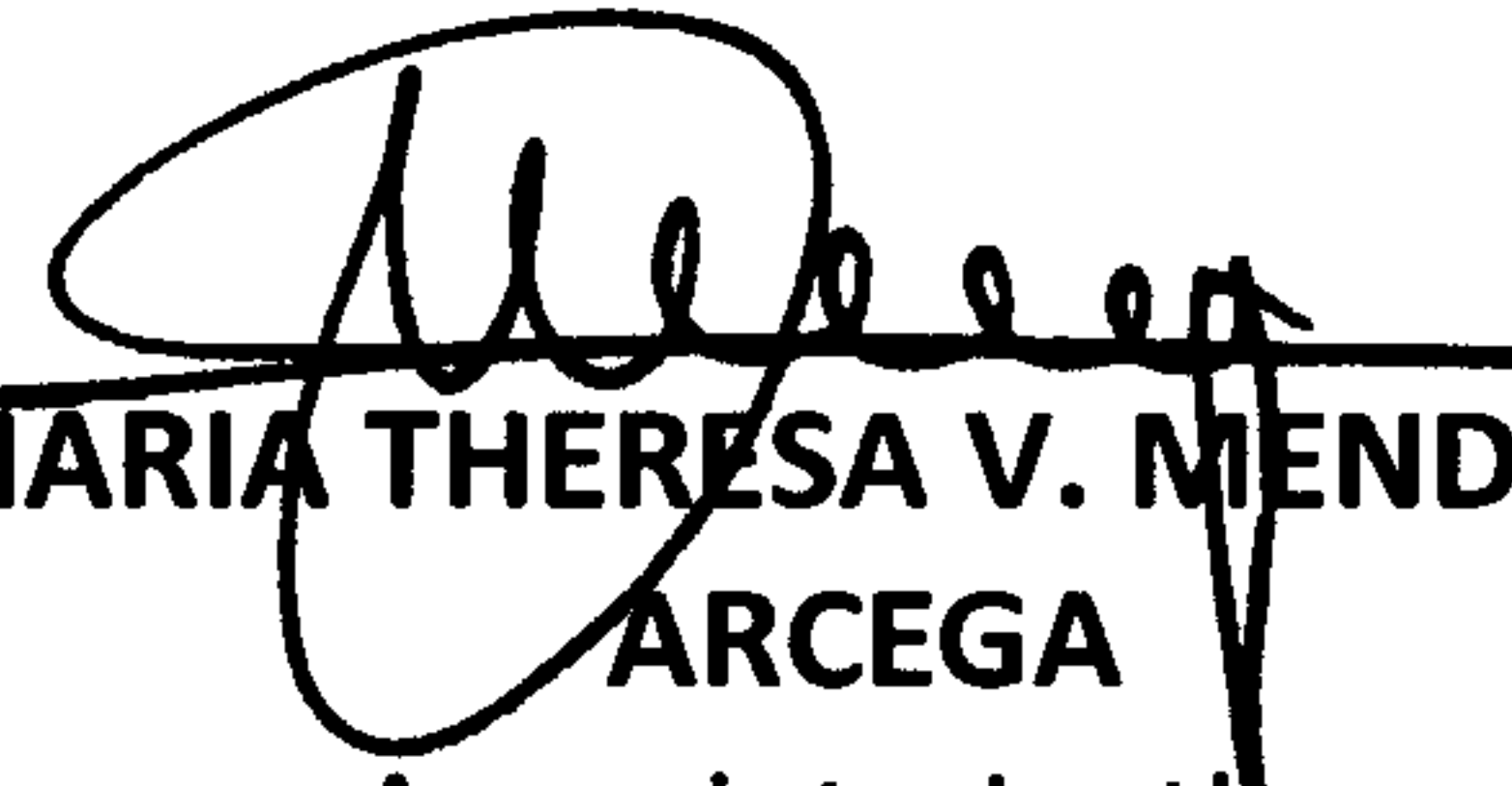
People v. Binay Sr., et al.

Criminal Case SB-18-CRM-0153 to 0159

Criminal Case SB-18-CRM-0160 to 0165

X-----X

**WE CONCUR:**

  
**MARIA THERESA V. MENDOZA-  
ARCEGA**  
Associate Justice

  
**MARYANN E. CORPUS-MAÑALAC**  
Associate Justice

*N*