



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

Fifth Division

PEOPLE OF THE PHILIPPINES, SB-18-CRM-0154 to 0156
Plaintiff,

– versus –

JEJOMAR C. BINAY SR., et al.,
Accused.

X-----X

PEOPLE OF THE PHILIPPINES, SB-18-CRM-0157 to 0159
Plaintiff,

– versus –

JEJOMAR ERWIN S. BINAY
JR., et al.,
Accused.

Present:

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

Promulgated:

August 10, 2018 *lag*

X-----X

RESOLUTION

LAGOS, J.:

This resolves accused Canlas and Ramos's jointly-filed motion for reconsideration¹ of the Court's resolution dated 12 July 2018 denying their separate motions to quash. The prosecution filed its written opposition.²

¹ Dated 27 July 2018.

² Dated 31 July 2018.

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The accused-movants reiterate their argument that only public officers may be charged with violations of section 3(e) of Rep. Act No. 3019 and that they cannot be charged with the same as they are private individuals. They contend that private individuals may only be charged under section 4(b) of the law. They state additionally that the cases cited in the questioned resolution have not ruled that conspiracy is an element of the offense and that there is no case where a private individual was nonetheless held liable under section 4(b) of the law.

They claim that in the cases cited by the Court in the questioned resolution, the *ratio decidendi* involved the charge of section 3(g) and not 3(e) of Rep. Act No. 3019. According to them, these cases do not touch upon their argument that they do not become public officers by virtue of the allegation of conspiracy. These cases also do not deal with the constitutional issues they raised. For these reasons, they conclude that the Court is not bound by the principle of *stare decisis*.

To support their theory, they claim that constitutional guarantees to due process, equal protection of the law, and presumption of innocence must be considered in construing section 3(e) of Rep. Act No. 3019. They assert that the provision should not be expanded to cover acts of private individuals.

With regard to conspiracy, they argue that while such allegation renders the act of one the act of all, it does not make them or confer upon them the status of public officers. They again make a comparison to the prosecution of parricide and qualified theft, where the personal status of the accused is material to the crime.

They fault the Court for interpreting the law as a whole and then concluding that section 3(e) applies as well to private individuals. They stress that their interpretation of the law is the valid one as it harmonizes the entire law. They then urge for a *verba legis* reading of the law. Invoking the rule of lenity again, they claim that it is their interpretation that is correct, as it construes in favor of the accused and strictly against the State.

In its opposition, the prosecution invokes the ruling in *Meneses v. People*,³ where the Supreme Court said that private individuals may be prosecuted for violations of section 3(e) of Rep. Act No. 3019. It argues that section 4(b) of the law does not mean that private individuals are not liable when they act in conspiracy with public officers to commit a violation of section 3 of the law.

³ G.R. No. 71651, 27 August 1987.

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It cites records of the case and of the preliminary investigation thereof to show that the accused-movants are alleged to have acted in conspiracy with public officers.

It views the accused-movant's reliance on their constitutional rights to due process, equal protection, and presumption of innocence to be misplaced. They cannot claim violation of these rights simply because they are not being charged with violating section 4(b), 3(g) or 3(h) of the law.

DISCUSSION and RULING

The motion for reconsideration lacks merit.

The arguments raised by the accused-movants are rehashes of their previous arguments which have been passed upon by the Court in the questioned resolution. For this reason alone, the motion for reconsideration fails. But the Court shall discuss the arguments raised to clarify certain matters.

The accused-movants' claim – that the cases cited by the Court do not cover violations of section 3(e) of Rep. Act No. 3019 and do not constitute binding precedent – is misleading.

The Court had cited cases decided by the Supreme Court and discussed their applicability in resolving the arguments raised by the accused-movants.

In *Go v. Sandiganbayan*,⁴ which the accused-movants themselves cited but eventually misquoted,⁵ the Supreme Court relied on its earlier rulings that private individuals may be charged with violations of section 3(e) of Rep. Act No. 3019 and extended such ruling for violations of any provision of section 3 of the law. The Supreme Court's discussion covered the entirety of section 3 of the law. In the later case of *People v. Go*,⁶ this ruling was once again echoed.

In *Singian v. Sandiganbayan*,⁷ the Supreme Court identified the elements of the offense of violating section 3(e) of Rep. Act No. 3019, and included therein a specific element to address the situation where a private person is charged:

⁴ G.R. No. 172602, 13 April 2007.

⁵ They cited from a dissenting opinion to the case.

⁶ G.R. No. 168539, 25 March 2014.

⁷ G.R. Nos. 160577-94, 16 December 2005.

- 1) that the accused are public officers or **private persons charged in conspiracy with them**;
- 2) that the prohibited act/s were done in the discharge of the public officers official, administrative or judicial, functions;
- 3) that they cause undue injury to any party, whether Government or a private person;
- 4) that such injury is caused by giving any unwarranted benefits, advantage or preference to such party; and
- 5) that the public officers acted with manifest partiality, evident bad faith or gross inexcusable negligence.⁸

This echoes the ruling in the case cited by the prosecution, *Meneses v. People*.⁹

Clearly, the Supreme Court ruled that violations of section 3(e) of Rep. Act No. 3019 extends to private individual. Thus, there is no merit in the accused-movant's claim that this Court is not bound by *stare decisis*. That section 3(e) of the law covers private individuals is well-settled for several decades now.

The accused-movants decry that they have been given the status of public officers because they are charged as conspirators of named public officers.

This unfounded claim springs from an erroneous premise.

The allegation of conspiracy does not serve as a mode to convert their status from private individual to public officers. The Informations even specify them as private individuals. There is nothing in the Informations that suggest that they have themselves become public officers.

Conspiracy is alleged as a mode of commission of the offense charged. It is not an element of the offense of violating section 3(e) of Rep. Act No. 3019. It is quite evident that the accused-movants are being charged as private individuals who allegedly conspired with public officers.

This follows the Supreme Court's categorical ruling that private individuals who acted in conspiracy with public officers may be charged together with such public officers for violations of section 3(e) of Rep. Act No. 3019.

⁸ Emphases provided.

⁹ Supra.

The accused-movants then claim that a consideration of their constitutional rights would support their theory that private individuals are not covered by section 3(e) of the law.

This Court is not persuaded.

Their constitutional rights are not imperiled by the Court's observance of well-settled rulings by the Supreme Court.

A reading of the Supreme Court's rulings on the matter of section 3 of Rep. Act No. 3019 shows that it did not find any doubt in the coverage of this section to private individuals. In fact, the very same arguments raised by the accused-movants have been considered and rejected by the Supreme Court.¹⁰

The lack of any doubt as regards the coverage of section 3 of the law leaves no room for the accused-movants' proffered interpretation. The use of the *verba legis* rule to construe this section also does not support the interpretation of the accused-movants. A reading of the text of section 3 of the law shows no proscription on charging private individuals. Relatedly, the text of section 4(b) of the law does not discount the prosecution of private individuals for a violation of section 3 of the law.

Their right to due process is not transgressed as there is no denial or infringement of the same. In *Dy v. People*,¹¹ the Supreme Court explained due process:

"Section 1 of the Bill of Rights states that no person shall be deprived of property without due process of law. This provision protects a person's right to both substantive and procedural due process. Substantive due process looks into the validity of a law and protects against arbitrariness. Procedural due process, on the other hand, guarantees procedural fairness. It requires an ascertainment of 'what process is due, when it is due, and the degree of what is due.' xxx xxx xxx"¹²

The disquisition in jurisprudence anent section 3 of Rep. Act No. 3019 shows that it is valid and there is no arbitrariness in its inclusion or coverage of private individuals. The accused-movants have not been denied the opportunity to present their arguments. The Court notes that they have already raised the issue when they moved for the issuance of a bill of particulars.¹³ They then filed their motions to quash, which was denied in the questioned resolution. And now they were

¹⁰ See *Meneses v. People*, supra.; *Singian v. Sandiganbayan*, supra; *Go v. Sandiganbayan*, supra.

¹¹ G.R. No. 189081, 10 August 2016.

¹² Footnotes omitted.

¹³ This was denied in a resolution dated 29 May 2018.

able to seek reconsideration of this denial. Throughout these past incidents, the Court gave the accused-movants the full opportunity to ventilate their position.

There is also no showing that the accused-movants or private individuals as a class are being treated differently. Both public officers and private individuals are covered by Rep. Act No. 3019. They have not shown any impermissible classification. On the contrary, subscribing to the interpretation of the accused-movants might be the one that would present an issue inasmuch as it would only allow the prosecution of public officers for violations of section 3 of the law, even if private individuals may have had some participation in the commission of the offense.

There is also no reason to believe that the accused-movants' presumption of innocence is being trampled. There is nothing in the Court's resolution or reading of the law that discards the presumption of innocence. It bears stressing that at this point, the issue is the validity of the textual allegations in the Informations. There is neither a formal assessment of evidence nor a judgment on the merits.

The Supreme Court's categorical ruling that private individuals may be prosecuted for violations of section 3(e) of Rep. Act No. 3019 took into consideration the law's overarching policy. The Court's reference to interpreting the law as a whole is simply a mirror of what the Supreme Court actually did when it had the opportunity to construe the law. Questioning such ruling requires either a departure from the settled decisions of the Supreme Court or an inquiry into the policy considerations behind the law. Both cannot be done here as the Court is bound to implement rulings of the highest court of the land, and the Court's judicial power does not include the power to question the policies or wisdom behind legislations.

As pointed out above, that private individuals may be held criminally liable for violation of section 4(b) of Rep. Act No. 3019 does not mean that they cannot be prosecuted for violations of section 3 of the law. It is immaterial whether it is available as an alternative charge against private individuals. There is no reason to examine the text of the Informations for the elements of violating section 4(b) of the law inasmuch as the Informations do not involve such offense.

The ground relied upon by the accused-movants for quashal is that the facts alleged in the Informations do not constitute an offense. The fundamental test in determining the sufficiency of the material averments of the assailed information is whether the facts alleged therein, which are hypothetically admitted, would establish the essentials elements of the crime defined by law.

In the questioned resolution, the Court has examined the text of the Informations *vis-à-vis* the elements of the offense charged and found that a hypothetical admission of the facts alleged in the Informations would sustain a conviction for the offense charged. Thus, the motions to quash were denied. In their present motion, the accused-movants have not presented or raised any cogent reason to reconsider the denial of their motions to quash.

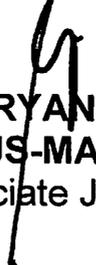
WHEREFORE, the accused Canlas and Ramos's motion for reconsideration is hereby **DENIED**.

SO ORDERED.


RAFAEL R. LAGOS
Chairperson
Associate Justice

WE CONCUR:


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


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