



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

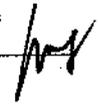
PEOPLE OF THE PHILIPPINES, **SB-10-CRM-0234**
Plaintiff, For: Violation of Section 3(e)
of R.A. 3019

Present

- versus -

FAUSTINO A. SILANG, ET AL. **FERNANDEZ, SJ, J.,**
Chairperson
MIRANDA, J. and
Accused. **FERNANDEZ, B,* J.**

Promulgated:

OCT 24 2018 

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RESOLUTION

FERNANDEZ, SJ, J.

This resolves the following:

1. *Motion for Reconsideration (Re: Decision promulgated 27 July 2018)*¹ filed by accused Faustino A. Silang, Maria Cielito Zeta-Addun, Estelito M. Querubin and Lyka Monika J. Oabel;
2. *Motion for Reconsideration*² filed by accused Venerando R. Rea; and
3. *Motion for Reconsideration*³ filed by accused Luzviminda V. Cuadra.

* J. Fernandez, B. participated in the assailed Decision (Per Administrative Order No. 338-2017 dated October 2, 2017; *Revised Internal Rules of the Sandiganbayan*, Rule IX, Sec. 2[a])

¹ Dated August 8, 2018; Record, Vol. 5, pp. 68-91

² Dated August 10, 2018; Record, Vol. 5, pp. 94-101

³ Dated August 9, 2018; Record, Vol. 5, pp. 103-117

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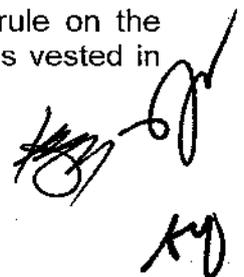
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In their *Motion for Reconsideration*, accused Silang, Addun, Querubin and Oabel pray that this Court reconsider the Decision dated July 27, 2018,⁴ and issue a new one exonerating them. They aver:

1. The prosecution failed to prove all the elements of Violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019).
2. There should have been no presumption that the accused were aware of the complicated details in the procedure for voting.
3. The Court erroneously concluded that there was no tie, and that accused Rea, then Vice Mayor, could not have voted.
4. There was a tie in the votes during the special session held on February 11, 2009. Those who were present voted in favor of approving the Ordinance No. 09-01, while those who were absent did not vote or abstained. Because there was a tie, accused Rea properly cast his vote.
5. The subject ordinance was never annulled or declared unconstitutional.
6. Their actions were not attended by gross inexcusable negligence because there are clear-cut rules on the procedure for voting in case of a tie, or in the absence of members.
7. Assuming there was negligence on their part, it was merely simple negligence.
8. Accused Silang's act as the approving authority cannot constitute gross inexcusable negligence or evident bad faith.
9. A mere signature does not result in liability if nothing in the document's face would indicate that a detailed examination of the same is necessary.
10. In *Arias v. Sandiganbayan*,⁵ it was held that the head of office or agency can rely to a reasonable extent on the good faith of their subordinates.
11. Accused Silang should not be held liable when he merely relied on his subordinates.
12. The Office of the Ombudsman has no power to rule on the validity or invalidity of an ordinance. Such power is vested in

⁴ Record, Vol. 5, pp. 24-56

⁵ G.R. Nos. 81563 and 82512, December 19, 1989



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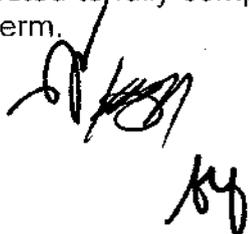
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the Supreme Court, Court of Appeals and the Regional Trial Courts.

13. The procedures and requirements for the passage of the subject ordinance, including the availability of funds, were all complied with. The Office of the Ombudsman not only had no jurisdiction to rule on the validity of the subject ordinance. It also had no basis for declaring the Ordinance invalid.
14. Collateral attack on the validity or constitutionality of a law or ordinance is not permissible.
15. The subject ordinance remains valid until declared otherwise by the proper authority.
16. The Court concluded that the subject ordinance is invalid.
17. Considering that the ordinance is presumed valid, there could have been no undue injury to the government. Likewise, there could have been no unwarranted benefits given to any party.

In his *Motion for Reconsideration*, accused Rea similarly prays that this Court reconsider the Decision dated July 27, 2018, and that he be acquitted of violation of Sec. 3(e) of R.A. No. 3019. He argues:

1. Conspiracy as a basis for conviction must rest on nothing less than moral certainty.
2. The prosecution's own witness, Wenda S. De Torres, testified that she had not seen accused Silang and the other councilors who approved the subject ordinance actually meet and agree to approve said ordinance.
3. The Court itself found that the prosecution failed to convincingly show that accused Silang ordered the members of the Sangguniang Bayan to enact the subject ordinance.
4. In the assailed Decision, the Court found that he participated by using the word "unanimous" in declaring the votes cast by the members of the Sangguniang Panlungsod who were present during the Special Session.
5. His use of the word "unanimous" should not be taken as tainted with bad faith. Despite being Vice Mayor at the time, he was not well-versed in the language of the law, and could not be expected to fully comprehend the strict and legal implication of the term.



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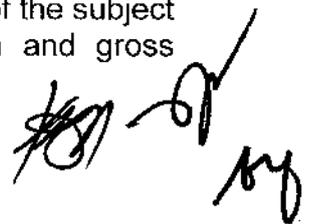
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6. He used the word "unanimous" because no one among those present in the Special Session opposed or voted against the passage of the subject ordinance.
7. He was duty-bound to perform the ministerial act of pronouncing that the subject ordinance as unanimously approved.
8. Although he may have become instrumental in the passage of the subject ordinance, his act of pronouncing the subject ordinance unanimously approved was done in good faith, of the belief that it was the proper action at the time.
9. The law requires moral certainty in convicting the accused. The Court's use of the phrase "it appears" to describe his actions shows that the finding of conspiracy was not sufficiently established, but was based mostly on presumption, speculation and suspicion.
10. Ordinance No. 09-01 is not an appropriations ordinance.
 - a. Black's Law Dictionary defines "payment" as "the performance of a duty, promise, or obligation, or discharge of a debt or liability, by the delivery of money or other value. Also the money or other thing so delivered."
 - b. The ordinance was enacted to give a cash incentive to local government employees. It was not a payment because it was not a duty, promise or obligation, or discharge of debt or liability.
11. Because Ordinance No. 09-01 is not an appropriation ordinance, the majority vote of all the members of the Sangguniang Panlungsod is not required for its enactment.

In her *Motion for Reconsideration*, accused Cuadra likewise prays for the reversal of the Decision dated July 27, 2018 and her acquittal of the crime charged. She avers:

1. The second element of Violation of Sec. 3(e) of R.A. No. 3019 is absent.
2. The Court correctly ruled that she and her co-accused had different and separate acts that caused the passage of the subject ordinance.
3. Her separate act of voting in favor of the passage of the subject ordinance was not done with evident bad faith and gross



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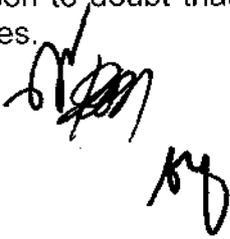
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inexcusable negligence, but was done in the performance of her duty as a member of the Sangguniang Panlungsod.

4. As a member of the Sangguniang Panlungsod, she had a duty to abstain or to vote, either for the approval or disapproval, of the proposed ordinance. Her act, by itself, could not have caused the passage of the subject ordinance.
5. The operative act that caused the passage of the subject ordinance was not her vote, but the declaration made by accused Rea. Without his unilateral declaration as presiding officer, the subject ordinance would not have been passed.
6. The evident bad faith and gross inexcusable negligence of each of the accused must be proven by evidence. Her act of voting is presumed to be regular.
7. No conspiracy was proved. Even witness Romero testified that he did not see the accused meet and agree on the approval of the subject ordinance.
8. Her failure to object to, or at least question, the insufficiency of the votes when accused Rea declared that the subject ordinance was approved by the Sangguniang Panlungsod is not proof of evident bad faith and gross inexcusable negligence.
9. As a member of the Sangguniang Panlungsod, she had the discretion as to which ordinance or resolution to sponsor, to support or to object to. To fault her for her failure to object or to question the sufficiency of votes is to require her to perform a discretionary political act.
10. Her intention was noble. The subject ordinance would grant CNA benefits to 151 employees of the City Government of Tayabas. In fact, the 151 employees received said benefits.
11. She honestly believed in good faith that six (6) votes were sufficient for the passage of the ordinance, and that the procedures for the approval of the ordinance were followed.
12. She cannot be expected to have known the requirements for the passage of the ordinance. The intricacies of the legislative processes, the applicability of the Local Government Code, Administrative Order 270, Internal Rules of Procedure, and other applicable rules and regulations are not simple. She was aware that the ordinance granting the CNA incentive for the previous year was passed following the same procedure. She had no reason to doubt that the subject ordinance lacked the required votes.



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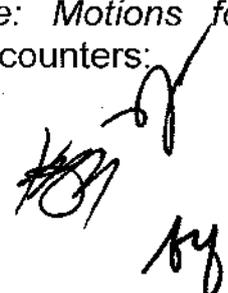
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13. Assuming that she was duty-bound to know the procedures, her ignorance thereof cannot be considered evident bad faith. If she had been negligent, such negligence was not gross and inexcusable.
14. In the regular session held on February 9, 2009, the proposed CNA was referred to the Committee on Budget and Appropriations where witness Romero was the vice chairperson. He even made a privilege speech defending and endorsing the approval of the CNA. These facts show that there was no collective intent to violate the rules of the Sanggunian on the part of the accused.
15. Witness Romero's allegation that the CNA was done solely to deprive rival councilors of their bonus from the local government was never proven.
16. Ordinance 09-01 was validly enacted by the Sanggunian with six (6) votes.
 - a. During the special session on February 11, 2009, the Sanggunian transacted business notwithstanding the absence of the opposition members because there was a quorum.
 - b. The members of the opposition's absence from the special session was deliberate. Assuming they were present, they were expected to have opposed the passage of the subject ordinance, resulting in a 5-5 tie. The Vice Mayor would have broken the tie and the result would have been a vote of 6-5 in favor of the passage of the subject ordinance.
 - c. The remedy of compelling the attendance of members who are absent without justifiable cause under AO 270 was not available at that time because there was already a quorum.
 - d. The opposition members reneged on their duty to perform their legislative functions by deliberately refraining from attending the special session. They knew that their collective votes could not prevail over the six (6) votes of the accused.

In its *Consolidated Comment/Opposition (Re: Motions for Reconsideration by all the Accused)*,⁶ the prosecution counters:

⁶ Dated August 22, 2018; Record, Vol. 5, pp. 121-128



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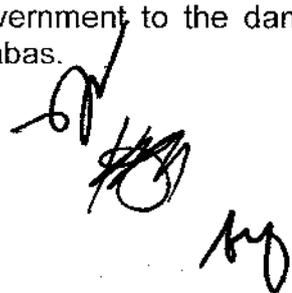
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1. The existence of a quorum during the special session on February 11, 2009 is not an issue. The issue in the present case is whether or not Ordinance No. 09-01 garnered the number of affirmative votes required for its passage.
2. The subject ordinance was unanimously approved by only five (5) members of the Sangguniang Panlungsod, namely, accused Zeta-Addun, Cuadra, Querubin, Oabel and state witness Dino Romero. The sixth (6th) vote came from accused Rea, then the Vice Mayor.
3. Not counting the appointees of then President Gloria Macapagal-Arroyo, the total number of members of the Sangguniang Panlungsod of Tayabas was only eleven (11), including accused Rea.
4. The Presiding Officer shall vote only in case of a tie. Accused Rea could not have voted because there was no tie, and hence, there were only five (5) affirmative votes. This number falls short of the required number of affirmative votes, *i.e.*, at least six (6) votes.
5. The parties stipulated that accused Rea did not cast his vote.⁷ This affirms the lack of the required number of affirmative votes.
6. It proved all the elements of violation of Sec. 3(e) of R.A. No. 3019.
 - a. The first element is present and duly admitted by all the accused.
 - b. The second element is present. The collective acts of all the accused led to the unlawful passage of Ordinance No. 09-01.
 - c. The third element is present. The amount of ₱19,933,510.00 was illegally released as CNA Incentive Bonus for 2009.
7. There was conspiracy among the accused.
 - a. Their acts, though seemingly independent, were connected and indispensable for the accomplishment of the same felonious objective, *i.e.*, the giving of unwarranted benefit, advantage or preference to employees of the local government to the damage or prejudice of the City of Tayabas.

⁷ TSN, April 17, 2017, p. 15



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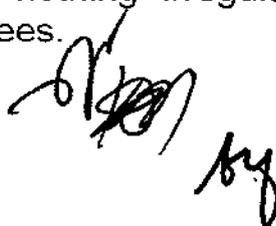
- b. State witness Romero testified that accused Silang gave an instruction to pass the subject ordinance "by hook or by crook," even in the absence of a quorum.
 - c. To be a conspirator, one need not participate in every detail of the execution, or even take part in every act. Each conspirator may be assigned to perform a separate task which may appear unrelated to one another, but which constitute the whole collective effort to achieve a common criminal objective. Once conspiracy is shown, the act of one is the act of all conspirators.
 - d. Direct proof is not essential to establish conspiracy because by its nature, conspiracy is planned in utmost secrecy.
8. The COA issued a Notice of Suspension covering the CNA incentive for the year 2008. The accused knew that the grant and release of the 2009 CNA incentive was in violation of the pertinent rules and regulations.
 9. In *Silang v. Commission on Audit*, the Supreme Court held that UNGKAT lacked the Civil Service Commission (CSC) accreditation at the time of execution of the 2009 CNA incentive. Thus, the disallowance was proper.

THE COURT'S RULING

The Court finds no valid reason to warrant the reversal of the assailed Decision, and thus, resolves to deny the respective Motions for Reconsideration of the accused.

I. Accused Silang, Zeta-Addun, Querubin and Oabel's *Motion for Reconsideration*

Accused Silang, Zeta-Addun, Querubin and Oabel argue that the prosecution failed to prove all the elements of Violation of Sec. 3(e) of R.A. No. 3019. According to them, there was no gross inexcusable negligence on their part because they cannot be presumed to know the complicated procedure for voting in connection with the enactment of an ordinance. They believed that accused Rea's vote should be counted since there was a tie. Accused Silang further argues that he cannot be faulted for his act of signing as final approving authority, considering that there was nothing irregular on the face of the document. This Court disagrees.



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No less than the Constitution declares that a public office is a public trust.⁸ As public officers, the accused are expected to be at all times accountable to the people, and to serve with utmost responsibility, integrity, loyalty, and efficiency. This mandate includes the duty of public officers to be acquainted with, and to comply with the pertinent laws, rules and regulations in the performance of their official functions. This is even more important in the present case, considering that the subject ordinance involved a substantial amount of public funds.

In *Silang v. Commission on Audit*,⁹ the Supreme Court held that therein petitioners—which include herein accused—who were responsible for the illegal disbursements cannot claim good faith because they are presumed to be acquainted with, and even duty bound to have full knowledge of, the requirements for the valid grant of CNA Incentives. viz.:

Similarly, such finding of good faith cannot be made to apply to Silang, who, as City Mayor, approved the allowances, as well as the local *Sanggunian* members, who enacted the ordinances authorizing the payment of the subject CNA Incentives. As City Mayor and members of the local *Sanggunian*, they are presumed to be acquainted with – and, in fact, even duty bound to have full knowledge of – the requirements under the applicable policies for the valid grant of CNA Incentives, i.e., the requisite accreditation of UNGKAT with the CSC at the time of the signing of the CNA as required under DBM Budget Circular No. 2006-01. Indeed, knowledge of basic procedure is part and parcel of their shared fiscal responsibility under Section 305 (I), Chapter I, Title V, Book II of the LGC, to wit:

x x x

(underscoring supplied)

Similarly, by reason of their positions as members of the Sangguniang Panlungsod, accused Zeta-Addun, Querubin and Oabel are duty bound to be acquainted with, and to comply with the requirements and the procedure for the enactment of ordinances, as provided by the applicable law, rules and regulations.

⁸ Art. XI, Sec. 1. Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

⁹ G.R. No. 213189, September 8, 2015



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This Court discussed in the assailed Decision why accused Rea could not have voted, and thus, the subject ordinance did not have the required number of affirmative votes for its enactment. The pertinent portion¹⁰ of the assailed Decision is hereunder quoted for convenience:

Article 107 of the *Rules and Regulations Implementing the Local Government Code of 1991* provides for the rules governing the enactment of ordinances and resolutions. Paragraph (g) thereof reads:

Article 107. Ordinances and Resolutions. – The following rules shall govern the enactment of ordinances and resolutions:

x x x

(g) No ordinance or resolution passed by the sanggunian in a regular or special session duly called for the purpose shall be valid unless approved by a majority of the members present, there being a quorum. Any ordinance or resolution authorizing or directing the payment of money or creating liability, shall require the affirmative vote of a majority of all the sanggunian members for its passage.

(emphasis and underscoring supplied)

Ordinance No. 09-01, being an appropriation ordinance, requires the affirmative vote of a **majority of all** the sanggunian members for its valid passage. Sec. 457 of R.A. No. 7160 provides for the composition of the Sangguniang Panlungsod. To wit:

Section 457. Composition.

(a) The sangguniang panlungsod, the legislative body of the city, shall be composed of the city vice-mayor as presiding officer, the regular sanggunian members, the president of the city chapter of the liga ng mga barangay, the president of the panlungsod na pederasyon ng mga sangguniang kabataan, and the sectoral representatives, as members.

It appears that at the time material to the present case, the Sangguniang Panlungsod of Tayabas was composed of eleven (11) members – accused Rea (Vice Mayor), accused Addun, Romero, Cuadra and the five (5) opposition councilors (regular members), accused Querubin (President of the Liga ng mga Barangay) and accused Oabel (President of the Pederasyon ng mga Sangguniang Kabataan). Being composed of eleven (11) members, Ordinance No. 09-01 required an affirmative vote of at least six (6) members for its valid passage. Here, accused Addun, Romero, Cuadra, Querubin and Oabel voted in favor of the passage of the subject ordinance. However, their votes – 5 in total – fall short of the required number for the valid passage thereof.

¹⁰ Decision dated July 27, 2018, pp. 27-28; Record, Vol. 5, pp. 50-51

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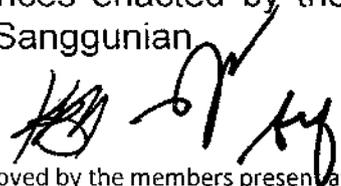
There would have been a tie in the votes during the special session if the five (5) members of the opposition were present during said special session, and all of them voted against the enactment of the subject ordinance, resulting in a 5-5 vote. This did not happen during the special session on February 11, 2009, and hence, there was no tie. The condition for allowing the Vice Mayor to vote not having been met, accused Rea's "vote"¹¹ should not be counted.

As for accused Silang, this Court held:¹²

Although the prosecution failed to convincingly show that accused Silang ordered the members of the Sangguniang [Panlungsod] to enact Ordinance No. 09-01, it established that he approved the same regardless of the fact that it was not duly passed by the Sangguniang Panlungsod, and on the basis thereof, caused the release of the amount of ₱19,933,510.00 as CNA incentive. As City Mayor, he is similarly presumed to know the laws and rules governing the passage of ordinances. By approving Ordinance No. 09-01 despite it not being duly passed, he acted with gross inexcusable negligence, at the very least.

Accused Silang's reliance on the *Arias* doctrine is misplaced. The doctrine applies when the infraction consists in the reliance in good faith, albeit misplaced, by a head of office on a subordinate upon whom the primary responsibility rests, absent a clear case of conspiracy.¹³

Here, however, it cannot be said that accused Silang, in approving the subject ordinance, merely relied on his subordinates. The Sangguniang Panlungsod,¹⁴ which has the power to enact ordinances, is no more a subordinate of the City Mayor than the City Mayor,¹⁵ who has the power to approve ordinances enacted by the Sanggunian, is a proverbial rubber stamp of the Sanggunian.



¹¹ Accused Rea declared that the subject ordinance was unanimously approved by the members present at the special session.

¹² Decision dated July 27, 2018, p. 29; Record, Vol. 5, p. 52

¹³ *Magsuci v. Sandiganbayan*, G.R. No. L-101545, January 3, 1995

¹⁴ *R.A. No. 7160. Sec. 48. Local Legislative Power.* – Local legislative power shall be exercised by the sangguniang panlalawigan for the province; the sangguniang panlungsod for the city; the sangguniang bayan for the municipality and the sangguniang barangay for the barangay.

¹⁵ *R.A. No. 7160. Sec. 54. Approval of Ordinances* – (a) Every ordinance enacted by the sangguniang panlalawigan, sangguniang panlungsod, or sangguniang bayan shall be presented to the provincial governor or city or municipal mayor as the case may be. If the local chief executive concerned approves the same, he shall affix his signature on each and every page thereof; otherwise, he shall veto it and return the same with his objections to the sanggunian, which may proceed to reconsider the same. x x x

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It is unnecessary to discuss the issue of the validity or invalidity of Ordinance No. 09-01. The issues in the assailed Decision pertained to the acts of the accused, and not to the validity of the subject ordinance. Although the Court, in the assailed Decision, found that the subject ordinance was not duly passed, it did not rule on, or make any declaration as to the validity or invalidity of the subject ordinance. Such finding was made only for the purpose of determining if the acts of the accused amounted to a violation of Sec. 3(e) of R.A. No. 3019.

II. Accused Rea's Motion for Reconsideration

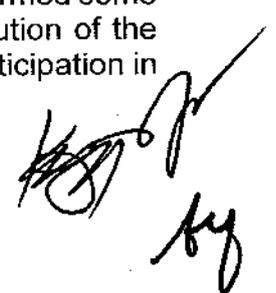
Accused Rea argues that the prosecution failed to prove beyond reasonable doubt that there was conspiracy among the accused. There is no evidence to show that the accused actually met and agreed to approve the subject ordinance. Furthermore, the Court's use of the phrase "it appears" in the assailed Decision shows that its finding of conspiracy was based on presumption, suspicion and speculation. These arguments do not persuade.

First, to prove the existence of a conspiracy, it is not necessary to show that the accused actually met and agreed to commit a crime. Conspiracy may be proved by showing that the separate acts of the accused, when taken together, were done pursuant to the accomplishment of a common objective, *i.e.*, the commission of the crime. The Supreme Court's discussion in *Bahilidad v. People*,¹⁶ is instructive. To wit:

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 must be strong enough to show the community of criminal design. For conspiracy to exist, it is essential that there must be a conscious design to commit an offense. Conspiracy is the product of intentionality on the part of the cohorts.

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

¹⁶ G.R. No. 185195, March 17, 2010



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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 participants in the same, is not enough for purposes of conviction.

In the assailed Decision, this Court found that the respective acts of the accused contributed to the attainment of a common objective, *i.e.*, the unlawful enactment of the subject ordinance. *viz.*:¹⁷

Accused Rea, as presiding officer of the Sangguniang Panlungsod at the time, was not entitled to vote, there being no tie. Although it does not appear that he voted for the passage of the subject ordinance, it appears that he declared that the ordinance was unanimously approved by the members present at the special session, in effect, declaring that the ordinance was passed.

The votes of accused Addun, Romero, Cuadra, Querubin and Oabel, and the declaration made by accused Rea, separately, could not have caused the passage of Ordinance No. 09-01. However, taken together, the actions of the accused caused the unlawful passage of the said ordinance.

The intent to pass Ordinance No. 09-01, on the part of accused members of the sanggunian, cannot be mistaken. Being members of the Sangguniang Panlungsod, accused Rea, Addun, Romero, Cuadra, Querubin and Oabel were presumed to know, and were duty-bound to know the applicable laws and rules governing the passage of ordinances. They should have known that their votes were not sufficient for the passage of Ordinance No. 09-01, yet none of them objected, or at the very least, raised the issue of the insufficient number of votes, when accused Rea, who was also presumed to know the minimum number of votes required, declared the ordinance unanimously approved. Their act of passing Ordinance No. 09-01 despite not having the required number of affirmative votes appears to have been done with evident bad faith, or at the very least, gross inexcusable negligence.

Second, the Court must disabuse accused Rea of his notion that its finding of the existence of a conspiracy among the accused was based on presumption, suspicion and speculation. This Court used the phrase "it appears," merely to recognize the limitation that its findings of fact were based only on the stipulations of the parties, and what was proved by the evidence adduced by the parties:

¹⁷ Decision dated July 27, 2018, pp. 28-29; Record, Vol. 5, pp. 51-52



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Finally, accused Rea contends that Ordinance No. 09-01 is not an appropriation ordinance, and therefore, the affirmative vote of the majority of the sanggunian members present in the special session suffices. This contention is untenable.

Section 107 (g) of Administrative Order No. 270¹⁸ requires the affirmative vote of a majority of all sanggunian members for the valid passage of an ordinance or resolution authorizing or directing the payment of money or creating liability. Such "ordinance or resolution authorizing or directing the payment of money or creating liability" falls within the definition of an "appropriation," which, under Sec. 306 (b) of Republic Act No. 7160, refers to an authorization made by ordinance, directing the payment of goods and services from local government funds under specified conditions or for specific purposes.

The title of City Ordinance No. 09-01 reads:

AN ORDINANCE APPROPRIATING THE SUM OF THIRTY NINE MILLION EIGHT HUNDRED SIXTY SEVEN THOUSAND ONE HUNDRED SIXTY ONE PESOS (P39,867,161.00) FOR THE IMPLEMENTATION OF THE ITEMS SPECIFIED UNDER THE PROPOSED FIRST SUPPLEMENTAL BUDGET FOR FISCAL YEAR 2009 OF THE CITY OF TAYABAS.

(underscoring supplied)

Among the items in the Statement of Supplemental Appropriation are the "**Personal Services:** Other Personnel Benefit (Collective Negotiation Agreement Incentive)" for various offices of the City Government of Tayabas. It is as clear as day that Ordinance No. 09-01 authorizes the payment of money for services rendered by employees of the City Government of Tayabas. In other words, it is an appropriation ordinance, the valid passage of which requires the affirmative vote of the majority of all the members of the sanggunian.

III. Accused Cuadra's Motion for Reconsideration

Accused Cuadra assails the Court's findings that there was a conspiracy among the accused, and that they acted in bad faith when they enacted Ordinance No. 09-01. In resolving the respective Motions for Reconsideration of the other accused, the Court discussed the matters of the existence of conspiracy, the absence of a tie, and the

¹⁸ Prescribing the Implementing Rules and Regulations of the Local Government Code of 1991

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presumption that the accused were familiar with the laws, rules and regulations for the enactment and approval of appropriation ordinances. There is no need to repeat what was already discussed.

Finally, in an attempt to justify the accused' act of proceeding with the enactment of Ordinance No. 09-01, the insufficient number of affirmative votes notwithstanding, accused Cuadra avers that the members of the opposition in the Sangguniang Panlungsod deliberately refrained from attending the special session because they knew that they would lose the vote if they attended.

However, accused Cuadra's averment does not justify the accused' acts. If anything, it bolsters this Court's finding of bad faith. Her averment is inconsistent with the accused', or at the very least, accused Cuadra's, claim of not being familiar with the intricacies in the applicable laws, rules and regulations for the enactment of ordinances. It would show that they, or at the very least, accused Cuadra, knew that they would not have the sufficient number of affirmative votes for the valid enactment of Ordinance No. 09-01, but they chose to make it appear that there were enough affirmative votes by considering accused Rea's declaration as an affirmative vote.

WHEREFORE, the Court rules as follows:

1. Accused Silang, Zeta-Addun, Querubin and Oabel's *Motion for Reconsideration* is hereby DENIED for lack of merit.
2. Accused Rea's *Motion for Reconsideration* is hereby DENIED for lack of merit.
3. Accused Cuadra's *Motion for Reconsideration* is hereby DENIED for lack of merit.

SO ORDERED



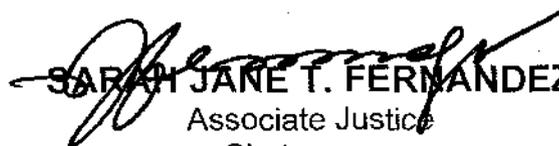
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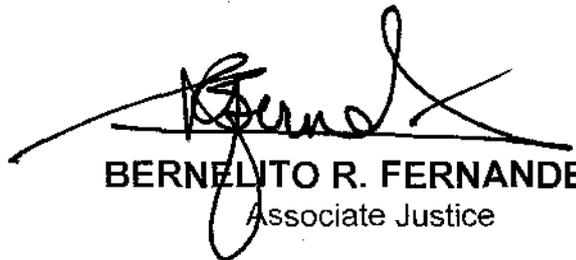
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SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


BERNELITO R. FERNANDEZ
Associate Justice