



REPUBLIC OF THE PHILIPPINES
Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No. **SB-16-CRM-0076**

-versus-

Present:

CARIDAD BAGUIO BALAOD,
GLORIA VICENTA NEMEÑO
BATION, ALEXANDER
FERNANDEZ REMOTO,
BIENVENIDO CAGAS SUCO,
ISIDRO MAGLAKI EBRADO, JR.,
AND ELVIE GEALON DOONG,
Accused.

Gomez-Estoesta, J., *Chairperson*
Trespeses, J., and
Hidalgo, J.

Promulgated:
September 4, 2019 *ija*

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RESOLUTION

GOMEZ-ESTOESTA, J.:

Before this Court is the *Motion for Reconsideration* filed by the members of the Bids and Awards Committee of Tambulig, Zamboanga del Sur, who have been convicted of violation of Sec. 3(e) of R.A. 3019, along with the Municipal Mayor, Caridad Balaod.

In their *Motion for Reconsideration*,¹ the accused invite this Court to “take a second look” at the evidence, which they claim may lead to a contrary finding. As testified by accused Bation and Manolo Baguio, the original Purchase Order indicated a generic 4x4 pickup truck, and the amended Purchase Order for Ranile’s pickup truck was issued only after the BAC issued Resolution No. 143-2012 on July 17, 2012, which only showed that said vehicle was not selected from the start. Their participation in the procurement of the subject vehicle was limited to the issuance of Resolution

¹ Records, Vol. 2, pp. 458-467

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No. 143-2012, whose phraseology was entirely attributable to BAC Secretary Myrna Samillano. The BAC should not be faulted for acting in good faith on the belief that the request for the procurement of the pickup truck was urgent, in view of the inclement weather. In fact, as a precautionary measure, they first sought the imprimatur of the Commission on Audit, which negated manifest partiality and evident bad faith on their part. Finally, conspiracy was not proven, as there was no evidence presented on what the BAC stood to gain from this transaction.

The Prosecution differed in its *Opposition*,² asserting that the alleged original Purchase Order for a generic 4x4 pickup truck was never presented. The lack of mention of an actual calamity in Resolution No. 143-2012 negated the existence of any such calamity. As BAC members, it was incumbent upon the accused to recommend the use of alternative modes of procurement when proper, but they failed in this respect. While they claim that the matter was referred to the COA, it was the municipal accountant and not any member of the BAC that conferred with the COA, which, in any case, had no written opinion presented in evidence. The unity of design of the accused-movants and accused Balaod was evident from the improper use of negotiated procurement.

The *Motion* is bereft of merit.

This Court has examined the evidence and discussed in depth the movants' criminal liability as members of the Bids and Awards Committee. The grounds raised do not show how this Court erred in appreciating the facts based on the evidence presented. The arguments in the *Motion* have already been considered by this Court in rendering the judgment sought to be reconsidered.

To reiterate, as members of the Bids and Awards Committee, the accused were tasked with the proper conduct of procurement. Even the sole act that the accused owned up to, *i.e.*, the issuance of Resolution No. 143, series of 2012,³ indicated that they authorized the Local Government to procure a second hand vehicle from Evelyn Ranile through negotiated procurement, *without the proper justification*. In this case where the vehicle and seller have been singled out in the guise of a negotiated purchase, which was consistent with accused Balaod's intent of procuring the subject vehicle and no other, conspiracy to violate Sec. 3(e) of R.A. 3019 was clear.

WHEREFORE, in view of the foregoing, the *Motion for Reconsideration* filed by accused Bation, Remoto, Suco, Ebrado, and Doong is **DENIED** for lack of merit.

SO ORDERED.

² *Id.*, pp. 473-483

³ Exhibit "C"

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MA. THERESA DOLORES C. GOMEZ-ESTOESTA
Associate Justice, Chairperson

WE CONCUR:


ZALDY V. TRESPESES
Associate Justice


GEORGINA D. HIDALGO
Associate Justice