



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

QUEZON CITY

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SEVENTH DIVISION

*Minutes of the proceedings held on February 21, 2024.*

*Present:*

*Justice Ma. Theresa Dolores C. Gomez-Estoesta ----- Chairperson*

*Justice Zaldy V. Trespeses ----- Member*

*Justice Georgina D. Hidalgo ----- Member*

The following resolution was adopted:

**SB-12-CRM-0164 to SB-12-CRM-0167--**

***People v. P/Dir. Jesus Ame Verzosa, et al.***

This resolves the following:

1. Accused Ma. Linda Padojinog's "**MANIFESTATION AND MOTION**" (seeking the dismissal of the criminal case) dated January 26, 2024;<sup>1</sup>

2. Accused Ma. Linda Padojinog's "**MANIFESTATION AND MOTION**" (praying that the resolution of her formal offer of evidence be deferred in the meantime) dated February 2, 2024;<sup>2</sup> and

3. Prosecution's "**COMMENT/OPPOSITION**" [Re: Accused Padojinog's Manifestation and Motion dated February 2, 2024 and Manifestation and Motion dated January 26, 2024] dated February 6, 2024.<sup>3</sup>

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**GOMEZ-ESTOESTA, J.:**

Pending the resolution of her formal offer of defense evidence in SB-12-CRM-0164, accused Ma. Linda Padojinog ["SPO4 Padojinog"] deviates from the track by asking for the dismissal of her case. The apparent catalyst is the Decision rendered by the Supreme Court in *Padojinog v. FIO- Office of the Ombudsman*<sup>4</sup> which cleared her from any administrative liability in the "chopper scam" and reinstated her to her former position without loss of

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<sup>1</sup> Received on February 1, 2024 at 10:41 a.m.; Records, Volume 37, pp. 292-343; Volume 38, 23-55 (by registered mail).

<sup>2</sup> Received on February 5, 2024 at 11:40 a.m. through courier service; Records, Volume 38, pp. 319-326.

<sup>3</sup> Received on February 7, 2024 at 9:08 a.m.; Records, Volume 38, pp. 372-380.

<sup>4</sup> G.R. No. 233892, October 13, 2021.

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seniority rights and payment of back salaries and all benefits accruing from the time she was dismissed from the service.

The Decision was rendered in October 13, 2021 but it is only at this time that SPO4 Padojinog laid it in the open to ask for the dismissal of the charge.

### **GROUND S RELIED ON**

In her plea for a dismissal, accused SPO4 Padojinog avers:

1. The acquittal of accused SPO4 Padojinog in the administrative case proves that the evidence presented by the prosecution is insufficient to sustain a conviction based on proof beyond reasonable doubt. SPO4 Padojinog insists that her case should be treated as an exception to the general rule that administrative liability is separate and distinct from penal and civil liability, citing *Lukban v. Sandiganbayan*<sup>5</sup> which formulated the requisites in testing the dismissal of the criminal case because of the prior dismissal of the related administrative case, to wit:

1. The existence of a criminal case and an administrative case against a public officer based on the same facts;
2. The administrative case has been dismissed with finality;
3. The administrative case was dismissed on the grounds that the acts complained of did not exist, or that there is nothing unlawful or irregular in the acts or omissions of the public officer; and
4. The criminal case is based on the same facts and evidence passed upon in the administrative case, and no additional evidence was presented by the prosecution.

Accused SPO4 Padojinog tests such requisites to her case, thus: *first*, the criminal case and the administrative case were filed on the same allegation that the accused conspired with the other accused individuals to defraud the government in the "chopper scam"; *second*, the administrative case was dismissed with finality by the Supreme Court; *third*, the accused was absolved of administrative liability because there was nothing unlawful or irregular in the accused's acts or omissions because she only stated the truth in WTCD Report No. T2009-04A and it was the truthfulness of these contents in the report that actually aided the Supreme Court in making a definite pronouncement in whose hands administrative liability lies; and *fourth*, the prosecution has not presented any other additional compelling evidence to prove her culpability other than those presented in the administrative case.

SPO4 Padojinog elucidates that her participation in the procurement process was limited to being a member of the NHQ-BAC TWG who had no power to decide on the procurement and that her initial inspection of the

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<sup>5</sup> G.R. Nos. 254312-15, March 2, 2022. *Lukban v. Sandiganbayan* cited *Nicolas v Sandiganbayan*, G.R. Nos. 175930-31, February 11, 2008 and *People v. Sandiganbayan*, G.R. No. 164577, July 5, 2010.

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helicopters and the execution of the WTCD Report No. T2009-04A were not tantamount to conspiring to defraud the government.

SPO4 Padojinog thus adduces that the factual findings and conclusions of law in *Padojinog v. FIO* case are binding upon this court pursuant to the doctrine of *res judicata*. The administrative case declared SPO4 Padojinog innocent from any administrative liability when she was merely performing her duties and functions required by the office. With this final judgment, this should be conclusive of her rights in all later suits on every point and matter determined in the administrative case.

### **PROSECUTION'S COMMENT/OPPOSITION**

The prosecution countered by arguing that in *Lukban v. Sandiganbayan*, the Court did not abandon the general rule that administrative and criminal liabilities are distinct and separate from each another, and that the dismissal of a criminal case does not *ipso facto* result in the dismissal of the related administrative case and vice versa. Instead, the recent ruling in *Montero v. Ombudsman and Cloribel*<sup>6</sup> was highlighted, stating:

Settled is the rule that administrative cases are independent from criminal actions for the same act or omission. The dismissal of a criminal charge does not prohibit the continuation of the administrative prosecution.

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However, *Nicolas v. Sandiganbayan* clarified that the prior dismissal of an administrative case involving the same acts subject of the criminal action may be pleaded to abate criminal liability if there is a finding in the administrative case that the elements of the crime are not present.

The prosecution maintains that in *Padojinog v. FIO – Office of the Ombudsman*, there was no definite finding in the administrative case that the elements of Section 3 (e) of R.A. 3019 were not present. To differ from the administrative case which only relied on documentary evidence, several witnesses with their identification of documentary evidence came to court to testify in the criminal case, which alone should sustain the present charge.

Further, the prosecution refutes the application of *res judicata* to the present case in view of the absence of the fourth element;<sup>7</sup> that is, the identity of the parties and the identity of the cause of action remain different.

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<sup>6</sup> G.R. No. 239827, July 27, 2022.

<sup>7</sup> The elements of *res judicata* are: (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action.

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**THE COURT’S RULING**

*The general rule stands: administrative liability is separate and distinct from criminal liability in this case.*

SPO4 Padojinog relied heavily on the dismissal of her administrative case in *Padojinog v. FIO-Ombudsman*<sup>8</sup> where the Supreme Court reversed the initial ruling of the Ombudsman finding her guilty of *Serious Dishonesty and Conduct Prejudicial to the Best Interest of the Service*.

The evidence presented in the administrative case, while rooted from the same factual milieu, can only be passed upon by this court in a different light as it would in a criminal case. The evidence presented in the present case is heightened by the special audit investigation made on the direct negotiation of the subject helicopters, followed by the perceived anomaly in the inspection and acceptance thereafter. The appreciation of such special audit report, which has not been presented in the administrative case, cannot be effaced at this time without affecting its significance in the ultimate disposition of the charge.

Palpably, the evidence presented in the administrative case are starkly shifted in the evidence presentation of the criminal case, *among others*:

	Evidence appreciated in the Administrative Case as summarized in G.R. No. 233892	Evidence presented in the Criminal Cases (SB-12-CRM-0164 to 0167)	Evidence presented in the criminal case not found in the administrative case
1	Procurement of 3 helicopter units from Manila Aerospace Products Trading (MAPTRA), two of which were	MAPTRA delivered two standard LPOH on September 24, 2009 and one fully-equipped LPOH on February 12, 2010. <sup>9</sup>	Exhibit “MM-314” disclosed that the 2 R44 1 standard LPOH were:  RP 4357 SN: 1374 RP 4250 SN: 1372  Exhibit “MM-335” disclosed that the Fully equipped LPOH that was delivered was:  RP 2045 SN: 12471

<sup>8</sup> G.R. No. 233892, Oct. 13, 2021.  
<sup>9</sup> Exhibits “MM-314” and “MM-335”.

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	discovered to be pre-owned by former First Gentleman Jose Miguel T. Arroyo.		The offer of MAPTRA, which came <i>both in a written and verbal offer</i> , was to deliver one (1) fully equipped and two (2) standard helicopters, all brand new, in accordance with NAPOLCOM specifications for the price of ₱104,985,000.00, inclusive of taxes and duties. <sup>10</sup>
2	Technical specifications of the Light Police Operational Helicopter (LPOH) are prescribed in NAPOLCOM Resolution No. 2008-260.	NAPOLCOM Resolution No. 2008-260 dated May 5, 2008 is entitled "Prescribing the Standard Specifications for Light Police Operational Helicopter" <sup>11</sup>	NAPOLCOM Resolution No. 2008-260 was attached as Annex A to the Inspection Report <sup>12</sup> reflected the specifications used during the inspection. <sup>13</sup>
3	On January 5, 2009, then SPO3 Padojinog was designated as member of the PNP National Headquarters - Bids and Awards Committee Technical Working Group (NHQ-BAC TWG) on Transportation.	P/Dir. Ronald D. Roderos, former BAC member and Director of the DRD, confirmed that the TWG members who assisted during procurement were also his subordinates including P/CInsp. Recometa, SPO3 Padojinog, NUP Gongona, P/SSupt. Garcia and SPO3 Gabiana. <sup>14</sup>	P/CInsp. Recometa and SPO3 Padojinog were both TWG members who assessed the eligibility documents of the proponents as they were flashed through the document reader. <sup>15</sup>
4	Following the procurement process conducted by	Minutes of Negotiation for Helicopters held	The Audit Report detailed that the PNP prematurely resorted to negotiated

<sup>10</sup> Judicial Affidavit of Lurimer B. Detran, Q&A 65-66; TSN, January 18, 2021, pp. 26-27.

<sup>11</sup> Exhibits "C" to "C-1" / "MM-81" to "MM-82" / "K-60" and "K-61" / "K-175" and "K-176".

<sup>12</sup> Exhibit "MM-367" to MM-369".

<sup>13</sup> TSN, August 20, 2018, p. 50; See Testimony of Engr. Carlos I. Odfina, Jr., Special Investigator IV of the Commission on Audit.

<sup>14</sup> TSN, May 15, 2023, pp. 23-24.

<sup>15</sup> TSN, April 17, 2023, pp. 51-53; See Testimony of P/Dir. Ronald D. Roderos, former BAC member and Director of the DRD.

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	<p>the leadership of the PNP, a Negotiation Committee (NC) was formed for the purpose of buying 3 LPOH units from either MAPTRA or Beeline Helicopters, Inc. (Beeline). The NC included SPO4 Padojinog as a member. Formal negotiations were conducted on June 15, 2009.</p>	<p>on June 15, 2009.<sup>16</sup></p>	<p>procurement and failed to properly advertise the public biddings.<sup>17</sup></p>
5	<p>On July 9, 2009, NC Resolution No. 2009-04 was issued formally recommending the awarding of the contract to MAPTRA.</p>	<p>NHQ-BAC Resolution No. 2009-22, dated 29 May 2009, entitled "Authorizing the Negotiation Committee to Negotiate the Procurement of Police Light Operational Helicopter Pursuant to Section 53 (b) of the IRR-A of R.A. 9184 to Address the SAP Requirements" marked as "Q-4" to "Q-5" identified by prosecution witness Atty. John Zernan, T. Sambajon, Graft</p>	<p>The PNP had awarded the contract to MAPTRA Corporation even if it was <b>MAPTRA, as a sole proprietorship</b>, which had been participating in the bidding and negotiation process as narrated in the Audit Report.<sup>19</sup> The PNP proceeded with the negotiation with the downgraded requirements of the SAF. The Negotiation Committee (NC) announced that proposals would be accepted until June 15, 2009.<sup>20</sup></p> <p>The SAT found that both MAPTRA Trading (sole proprietorship) and MAPTRA Corporation did not have legal, technical, and financial capabilities to participate as a supplier.<sup>21</sup></p> <p>The NC had been transacting with MAPTRA Trading up to the negotiation on June 15,</p>

<sup>16</sup> "G", "G-1" to "G-2" / "MM-144" to MM-146"

<sup>17</sup> Exhibit "MM-22; See Audit Report prepared by Special Audit Team (Exhibits "MM-18" to "MM-64").

<sup>19</sup> Exhibit "MM-29".

<sup>20</sup> Exhibit "MM-142".

<sup>21</sup> Exhibit "MM-31".

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		Investigation and Prosecution Officer, Field Investigation Office.  NHQ NC Resolution No. 2009-04, dated 09 July 2009, entitled "Recommending the Award of Contract and Purchase Order to MAPTRA" <sup>18</sup>	2009. However, the NC recommended the award to MAPTRA Corporation in NC Resolution No. 2009-04 dated July 09, 2009. <sup>22</sup> On the same date, the NHQ-BAC adopted the recommendation of the NC in BAC Resolution No. 2009-36. <sup>23</sup>
6	On even date, the NHQ-BAC, through Resolution No. 2009-36, affirmed the said recommendati on.	NHQ-BAC Resolution No. 2009-36, dated 09 July 2009 entitled "Affirming the Recommendation of the Negotiation Committee to Award the Supply Contract and Purchase Order to MAPTRA for the Delivery of One (1) Fully Equipped and Two (2) Standard Police Light Operational Helicopters All Brand New Worth P104,985,000.00 Inclusive of Taxes, Import Duties and Charges." <sup>24</sup>	
7	On September 24, 2009, MAPTRA delivered to the PNP 2 Robinson R44	MAPTRA delivered two standard LPOH on September 24, 2009 and one fully-equipped	For the first delivery, the PNP Officials from the Directorate for Research and Development ("DRD"), Logistic Support Service ("LSS"), Office of the Directorate for Logistics ("ODL"), and Air Unit of the Special Action Forces ("SAF") conducted an

<sup>18</sup> Exhibits "Q-8" to "Q-9".

<sup>22</sup> Exhibits "MM-150" and "MM-151" / "4" (Recometa) / "58" and "58-a" (Verzosa) / "9", "9-A", "9-A-1" (Villafuerte) / "4", "4-a" to "4-c" (Ticman and Soriano) / "16" and "16-a" (Roderos) / "10", "10-A", "10-A-1" (Hilomen).

<sup>23</sup> Exhibits "MM-153" and "MM-154" / "51", "51-a" and "51-b" (Verzosa) / "5", "5-a" to "5-f" (Ticman and Soriano) / "11" to "11-A" (Hilomen) / "10" to "10-a-1" (Villafuerte) / "17" to "17-A" (Roderos).

<sup>24</sup> Exhibit "Q-10" to "Q-11" / "MM-153" to "MM-154".

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	Raven 1 LPOH units.	LPOH on February 12, 2010. <sup>25</sup>	inspection on the two helicopters on September 24, 2009. <sup>26</sup>
8	SPO4 Padojinog was part of the Inspecting Team and Inspection and Acceptance Committee (IAC) which conducted an ocular inspection of the same.		<p>The Special Audit Team found that the PNP officials failed to inspect the aircraft records before accepting the helicopters. As stated by SAT, had they bothered to glance at the aircraft records, they would have easily discovered that the helicopters were not brand-new.<sup>27</sup></p> <p>These records were readily accessible to the PNP officials since the logbooks were given at the same time that the helicopters were delivered.<sup>28</sup></p> <p>P/Dir. Roderos acknowledged that the said DRD personnel were not technically capable of helicopters, but they were assisted by the SAF pilots including Balmaceda and P/Supt. Gaspar.<sup>29</sup></p> <p>The DRD inspection only covered compliance with the NAPOLCOM specifications, which was the basis of their WTCD Report.<sup>30</sup> The NAPOLCOM Specifications, however, did not contain a criterion that the helicopters should be brand new.<sup>31</sup> She also clarified that the entire NAPOLCOM specifications only strictly applied to the “fully-equipped” helicopters, and not the first two “standard helicopters”.<sup>32</sup></p> <p>P/CInsp. Recometa had to rely on the assessment of NUP Gongona and SPO3 Padojinog as she was not able to enter the hangar.<sup>33</sup> She merely validated the information through the internet.<sup>34</sup></p>

<sup>25</sup> Exhibits “MM-314” and “MM-335”.

<sup>26</sup> Exhibit “MM-44”.

<sup>27</sup> Exhibits “MM-47” to “MM-49”; See Audit Report prepared by Special Audit Team (Exhibits “MM-18” to “MM-64”).

<sup>28</sup> Exhibit “MM-370”; See Audit Report prepared by Special Audit Team (Exhibits “MM-18” to “MM-64”).

<sup>29</sup> TSN, March 20, 2023, pp. 73-74; TSN, April 17, 2023, pp. 33, 68-69.

<sup>30</sup> TSN, June 7, 2021, pp. 91, 93, 95, 100; TSN, June 21, 2021, p. 39.

<sup>31</sup> TSN, June 7, 2021, p. 93.

<sup>32</sup> TSN, June 7, 2021, p. 97.

<sup>33</sup> TSN, June 21, 2021, pp. 41-44.

<sup>34</sup> TSN, June 21, 2021, p. 42.

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9	<p>On October 14, 2009, WTCD Report No. T-2009-094-A was issued and signed by SPO4 Padojinog, among others. The report was recommended for approval by P/CSupt. Luis L. Saligumba and noted by P/Dir. Ronald D. Roderos.</p>	<p>As a result of the inspection, the DRD issued <b>Weapons Tactics and Communications Division (“WTCD”)</b> Report Number: T2009-04A<sup>35</sup> dated October 14, 2009 which summarized that the two LPOHs conform to the NAPOLCOM specifications except for the air-conditioning and the lack of data on the endurance of the two helicopters.</p>	<p>As a result of their audit inspection,<sup>36</sup> Engr. Odfina and Engr. Magalad prepared an Inspection Report dated February 10, 2012 finding that the LPOHs had deficiencies as summarized below:</p> <p>a. Most of the standard police equipment are not available in the two (2) units of Robinson R44 Raven I. Inspection conducted found the following standard equipment deficiencies of Robinson R44 Raven I Helicopters (RP-4257 and RP-4250):</p> <ul style="list-style-type: none"><li>a1. Fold-Down Monitor Mount</li><li>a2. Digital Recorder</li><li>a3. Searchlight</li><li>a4. Dual Audio Controller</li><li>a5. GPS</li><li>a6. Infrared</li><li>a7. Extended Landing Gear</li><li>a8. Bubble Window</li><li>a9. Observer Overhead Light, Foot Activated</li><li>a10. Slave System, Searchlight to Nose Gimbal</li></ul> <p>In addition, Raven I Helicopter model is not actually manufactured with an air conditioning unit. Instead, ventilation is through outside air (ram air) entering the cabin via air vents located in each door. x x x</p> <p>b. Robinson R44 Raven II (RP-2045) is not provided with Digital Recorder x x x The Inspection Report also exposed that the two R44 Raven I were not brand-new as reflected in the flying time reflected in the log reports of the helicopters:</p> <p>x x x records showed that the two (2) units of Robinson R44 Raven I delivered x x x on September 24, 2009 were no longer brand new based on their respective Aircraft Log and Flight Log Report and Engine Log as shown below:</p>
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<sup>35</sup> Exhibits “MM-344” to “MM-345” / “K-134” to “K-136” / “2” and “2-b” (Recometa) / “22” and “22-a” (Gongona) / “34” and “34-a” (Verzosa) / “9” to “9-1” (Padojinog) / “4-Saligumba”; see Carolyn Carranza testimony

<sup>36</sup> See testimony of Engr. Carlos I. Odfina, Jr., Special Investigator IV of the Commission on Audit (COA); TSN dated August 6, 2018.

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			<table><tr><th>Helicopter Unit</th><th>Flight Log Report (Sept. 24, 2009)</th><th>Aircraft Log</th><th>Engine Log</th></tr><tr><td>R44 Raven I (RP-4357)</td><td>536.3 hours</td><td>535.5 hours</td><td>519.1 hours</td></tr><tr><td>R44 Raven I (RP-4250)</td><td>498.9 hours</td><td>498.6 hours</td><td>498.6 hours</td></tr></table> <p>In addition to the Inspection Report, Engr. Odfina prepared an Appraisal Report for the helicopters which presented the computed appraised value on the date acquired by the PNP as summarized herein:</p> <p>Model Appraised Value on the date of acquisition</p> <p>R44 Raven I ₱11,377,153.23 per unit</p> <p>R44 Raven II ₱33,219,001.00 per unit</p>	Helicopter Unit	Flight Log Report (Sept. 24, 2009)	Aircraft Log	Engine Log	R44 Raven I (RP-4357)	536.3 hours	535.5 hours	519.1 hours	R44 Raven I (RP-4250)	498.9 hours	498.6 hours	498.6 hours
Helicopter Unit	Flight Log Report (Sept. 24, 2009)	Aircraft Log	Engine Log												
R44 Raven I (RP-4357)	536.3 hours	535.5 hours	519.1 hours												
R44 Raven I (RP-4250)	498.9 hours	498.6 hours	498.6 hours												
10	On November 11, 2009, IAC issued Resolution No. IAC-09-045 having found “the said items to be conforming to the approved NAPOLCOM specifications and passed the acceptance criteria as submitted by DRD on WTCD Report No. T2009-04A.	The PNP officially accepted the two helicopters through the <b>Inspection and Acceptance Committee (“IAC”)</b> on November 11, 2009. The IAC found the two LPOHs conforming to the NAPOLCOM Specifications in IAC Resolution No. IAC-09-045 signed by P/Dir. Piano, P/SSupt. Saligumba, P/SSupt. Antonio, and P/SSupt. Paatan. <sup>37</sup>	The PNP accepted the two helicopters even if they were not brand-new. The importation and registration documents from the CAAP showed that the two helicopters were registered to a previous owner before it was transferred to the PNP in 2009. <sup>38</sup> The Audit Report and its annexes detailed the importation and transfers of ownership related to the two helicopters with Serial Numbers 1372 and 1374. <sup>39</sup>												

<sup>37</sup> Exhibits “MM-45” and “MM-347”.  
<sup>38</sup> Exhibit “MM-52”.  
<sup>39</sup> See Testimony of Carolyn Carranza; TSN, November 06, 2017, pp. 65-66.

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11	On the basis of IAC Resolution No. IAC-09-045, the procurement of the helicopters was consummated.	Resolution No. IAC-09-045, dated November 11, 2009, issued by PNP NHQ Inspection and Acceptance Committee, signed by Police Chief Superintendent George Q. Piano, Chairperson, by Police Senior Superintendents Luis L. Saligumba, Job Nolan Antonio and Edgar B. Paatan. <sup>40</sup>	
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It cannot be said, therefore, that it is the **same evidence** that was presented in both administrative and criminal cases. Certainly, there were factual aberrations presented in the criminal case that would need a more concise and in depth analysis in the determination of the charge.

In the administrative case, the discussion is focused on what constitutes “*Serious Dishonesty*” and “*Conduct Prejudicial to the Best Interest of the Service,*” as follows:

As an administrative offense, dishonesty is defined as the concealment or distortion of truth in a matter of fact relevant to one's office or connected with the performance of his or her duty. It is the disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of honesty, probity, or integrity in principle; lack of fairness and straightforwardness and disposition betray. It is a malevolent act that puts serious doubt upon one's ability to perform duties with the integrity demanded of a public officer or employee because it reflects on the person's character and exposes the moral decay which virtually destroys his or her honor, virtue, and integrity.

Dishonesty is classified in three gradations: serious, less serious, and simple.

Serious dishonesty, which is punishable by dismissal from the service, entails the presence of any of the following circumstances:

- (a) [T]he dishonest act caused serious damage and grave prejudice to the Government;
- (b) [T]he respondent gravely abused his/her authority in order to commit the dishonest act;

<sup>40</sup> Exhibit “Y” / MM-347” / “J-448” / “K-138”.

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- (c) [W]here the respondent is an accountable officer, the dishonest act directly involves property, accountable forms or money for which he/she is directly accountable and the respondent shows an intent to commit material gain, graft and corruption;
- (d) [T]he dishonest act exhibits moral depravity on the part of respondent;
- (e) [T]he respondent employed fraud and/or falsification of official documents in the commission of the dishonest act related to his/her employment;
- (f) [T]he dishonest act was committed several times or in various occasions;
- (g) [T]he dishonest act involves a Civil Service examination irregularity or fake Civil Service eligibility such as, but not limited to impersonation, cheating and use of crib sheets; and
- (h) [O]ther analogous circumstances.

A dishonest act without the attendance of any of these circumstances can only be characterized as simple dishonesty. In between the aforesaid two forms of dishonesty is less serious dishonesty which obtains when: (a) the dishonest act caused damage and prejudice to the government which is not so serious as to qualify as serious dishonesty; (b) the respondent did not take advantage of his/her position in committing the dishonest act; and (c) other analogous circumstances.

On the other hand, Conduct Prejudicial to the Best Interest of the Service, an administrative offense which need not be connected with or related to a person's official functions, is not defined by the Civil Service Law and its rules, but is so inclusive as to put within its ambit any conduct of a public officer that tarnishes the image and integrity of his/her public office.

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The truthfulness of the contents of WTCD Report No. T2009-04A actually aided the Court in making a definite pronouncement that administrative liability lies with the officials who conveniently ignored the red flags indicated in the said document and proceeded to sign IAC Resolution No. IAC-09-045.

This standard, however, is not in line with how the criminal case should be assessed. The accused was charged<sup>41</sup> with violation of Section 3(e) of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act.

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<sup>41</sup> Information dated May 30, 2012.

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In every prosecution for Violation of Section 3(e) of R.A. No. 3019, the State must prove the following essential elements, as provided in *Estrada v. Ombudsman*<sup>42</sup>, namely:

- a) The accused must be a public officer discharging administrative, judicial or official functions (or private individuals acting in conspiracy with such public officers);
- b) He acted with manifest partiality, evident bad faith or inexcusable negligence; and
- c) His action caused undue injury to any party including the Government, or gave any party unwarranted benefits, advantage or preference in the discharge of his functions. [*emphasis supplied*]

Clearly, an appreciation of the existence of these elements, while yet to be made, cannot at this time be overshadowed by the prior dismissal of the administrative charge. Had this been so, SPO4 Padojinog would have raised the Decision at the outset before she could even complete the presentation of her defense evidence.

Accused Padojinog nonetheless cited *Nicolas v. Sandiganbayan* in an attempt to prove that her case is an exception to the general rule that administrative liability is separate and distinct from penal and civil liability.

The same cannot be considered.

One of the elements provided for in *Nicolas* is that the criminal case is based on the same facts and evidence passed upon in the administrative case, and no additional evidence was presented by the prosecution.

As detailed above, the evidence presented in the criminal case stretched a more comprehensive picture of the factual narratives which are to be weighed against the elements of the crime. While the evidence has to be sifted through the crucible of “proof beyond reasonable doubt,” it is not the dismissal of an administrative case that will weigh heavily against the elements; rather, it is the entirety of the evidence presented in the criminal case.

As correctly cited by the prosecution, it would be best that for a dismissal to be made, there should be a finding in the administrative case that the elements of the crime are not present, citing *Montero v. Ombudsman*.<sup>43</sup> SPO4 Padojinog has not justified this angle; hence, a sweeping plea to abate the criminal charge only becomes equivocal.

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<sup>42</sup> G.R. No. 212761, July 31, 2018.

<sup>43</sup> G.R. No. 239827, July 27, 2022.

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This is not to discount the fact that SPO4 Padojinog is charged under a conspiracy theory which no longer focuses on her criminal liability alone. Conspiracy, as a rule, is a question involving appreciation of facts, an undertaking that is generally within the realm of the trial court.<sup>44</sup> Necessarily, the appreciation of facts cannot be overtaken by the administrative case where trial, following the rules on evidence, is not conducted.

The plea to apply the exception to the general rule, therefore, should only be struck down.

In *Philippine National Police-Criminal Investigation and Detection Group v. Villafuerte*,<sup>45</sup> the Court *en banc* elucidated:

In the first place, conspiracy as a means of incurring liability is strictly confined to criminal cases; even assuming that the records indicate the existence of a felonious scheme, the administrative liability of a person allegedly involved in such scheme cannot be established through conspiracy, considering that one's administrative liability is separate and distinct from penal liability. Thus, in administrative cases, the only inquiry in determining liability is simply whether the respondent, through his individual actions, committed the charges against him that render him administratively liable.

The administrative liability of SPO4 Padojinog in no way determines her culpability as a conspirator in her criminal case. Again, this spells a difference in the nature of the criminal case filed against her, proving that one case cannot be dependent on the resolution of the other.

In all, since the administrative case and the criminal case are separate and distinct from the another, the dismissal of one does not warrant the dismissal of the other.

The court must now only resolve the respective Formal Offers of Evidence of the defense, including that of SPO4 Padojinog.

**WHEREFORE**, the *Manifestation and Motion*, dated January 26, 2024 filed by accused Ma. Linda Padojinog which seeks the dismissal of SB-12-CRM-0164 in view of the prior dismissal of her administrative charge, is **DENIED**.

Despite prosecution's opposition, the *Manifestation and Motion* dated February 2, 2024 of SPO4 Padojinog praying for the deferment of the resolution of her *Formal Offer of Evidence*<sup>46</sup> meantime that the foregoing incident is being resolved, is granted. With its resolution, the *Formal Offer*

<sup>44</sup> *Bagasao v. Sandiganbayan*, G.R. Nos. L-53813 to 53818, October 28, 1987.


<sup>45</sup> G.R. Nos. 219771 & 219773, September 18, 2018.

<sup>46</sup> Filed on January 29, 2024; Records, Volume 37, pp. 344-417.

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*of Evidence* may be deemed submitted for resolution as soon as the prosecution submits its consolidated comment on all pending formal offers of evidence by the defense.

**SO ORDERED.**

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

**WE CONCUR:**

  
**ZALDY V. TRESPES**  
*Associate Justice*

  
**GEORGINA D. HIDALGO**  
*Associate Justice*