



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**SIXTH DIVISION**

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

**SB-15-CRM-0320 to 0340**  
For: Violation of Section 3(e) of  
R.A. No. 3019, as amended

- versus -

*Present*

**LORENZO MAYOGBA CEREZO**  
and **EDWIN GODINEZ CASTILLO,**  
*Accused.*

**FERNANDEZ, SJ J.**  
*Chairperson*  
**MIRANDA J. and**  
**VIVERO J.**

*Promulgated:*

*February 27, 2020*

**DECISION**

**VIVERO, J.:**

On November 27, 2005, the Office of the Ombudsman formally charged **Lorenzo M. Cerezo**, then-Mayor of Binmaley, Pangasian, and **Edwin G. Castillo**, a private party, with twenty-one (21) counts of violation of Section 3(e) of Republic Act No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act". The nature, scope and legal consequences of the inculpatory allegations in the initial Information is quoted below, viz:

**SB-15-CRM-0320**

"That on November 11, 2011, or sometime prior or subsequent thereto, in the Municipality of Binmaley, Pangasinan, Philippines and within the jurisdiction of this Honorable Court, above-named accused **LORENZO M. CEREZO**, a public officer, being then the Municipal Mayor of Binmaley, Pangasinan, **WHILE IN THE PERFORMANCE OF HIS OFFICIAL**

3  
DECISION

People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 2 of 70

X-----X

**FUNCTION, AND TAKING ADVANTAGE OF HIS POSITION, CONSPIRING AND CONFEDERATING WITH PRIVATE INDIVIDUAL** accused **EDWIN G. CASTILLO**, owner and proprietor of MTAC'S Merchandising, **ACTING WITH EVIDENT BAD FAITH, MANIFEST PARTIALITY, OR GROSS INEXCUSABLE NEGLIGENCE**, did then and there willfully, unlawfully, and criminally **GIVE UNWARRANTED BENEFIT, ADVANTAGE OR PREFERENCE TO THE AFORE-NAMED PRIVATE INDIVIDUAL BY ENTERING IN BEHALF OF THE MUNICIPALITY INTO A CONTRACT OF SERVICE** dated November 11, 2011 with MTAC'S Merchandising for the lease of Two (2) units of Dump Truck with rental rate of One Thousand Pesos (P1,000.00) per hour/unit or for a total amount of Eighty Thousand Pesos (P80,000.00) for the period November 7, 8, 9, 10 and 11, 2011, **WITHOUT THE BENEFIT OF PUBLIC BIDDING AND THE REQUIRED BIDS AND AWARDS COMMITTEE (BAC) RESOLUTION RECOMMENDING TO ACCUSED CEREZO TO RESORT TO ALTERNATIVE MODE[S] OF PROCUREMENT, TO THE PREJUDICE OF PUBLIC INTEREST.**

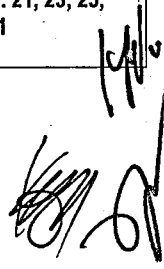
**"CONTRARY TO LAW."** <sup>1</sup> (Capitalization and Italics Supplied.)

The twenty (20) other Informations<sup>2</sup> corresponding to **Criminal Case Nos. SB-15-CRM-0321 to SB-15-CRM-0340** are couched in the same language, save for the particulars, which are summarized below, viz:

| CRIMINAL CASE No. | DATE OF CONTRACT | EQUIPMENT LEASED | RENTAL PER HOUR | SUM OF TRANSACTION | PERIOD COVERED BY CONTRACT   |
|-------------------|------------------|------------------|-----------------|--------------------|------------------------------|
| SB-15-CRM-0320    | Nov. 11, 2011    | 2 dump trucks    | P1,000.00/ unit | P 80,000.00        | Nov. 7 to 11, 2011           |
| SB-15-CRM-0321    | Nov. 11, 2011    | 1 payloader      | P1,500.00       | P 48,000.00        | Nov. 7, 8, 10, 11, 2011      |
| SB-15-CRM-0322    | Nov. 18, 2011    | 2 dump trucks    | P1,000.00/ unit | P 80,000.00        | Nov. 14 to 18, 2011          |
| SB-15-CRM-0323    | Nov. 18, 2011    | 1 payloader      | P1,500.00       | P 48,000.00        | Nov. 14, 15, 17 and 18, 2011 |
| SB-15-CRM-0324    | Nov. 25, 2011    | 1 dump truck     | P1,000.00       | P 40,000.00        | Nov. 21 to 25, 2011          |
| SB-15-CRM-0325    | Nov. 25, 2011    | 1 payloader      | P1,500.00       | P 36,000.00        | Nov. 21, 23, 25, 2011        |

<sup>1</sup> Information dated October 22, 2015 (Records, Vol. 1, pages 1 – 2).

<sup>2</sup> Records, Vol. 2, pages 4 – 63.



**DECISION****People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo**  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 3 of 70

X-----X

|                |                |                   |                  |              |                                      |
|----------------|----------------|-------------------|------------------|--------------|--------------------------------------|
| SB-15-CRM-0326 | May 29, 2012   | 2 concrete mixers | P1,200.00        | P 21,600.00  | May 21 to 29, 2012                   |
| SB-15-CRM-0327 | August 7, 2012 | 1 dump truck      | P1,000.00        | P 48,000.00  | July 30, 31; Aug. 1 to 4, 2012       |
| SB-15-CRM-0328 | August 7, 2012 | 1 back hoe        | P1,500.00        | P 72,000.00  | July 30, 31; Aug. 1 to 4, 2012       |
| SB-15-CRM-0329 | Jan. 21, 2013  | 2 dump trucks     | P1,000.00/ unit  | P 240,000.00 | Jan. 2 to 5, 7 to 12, 14 to 18, 2013 |
| SB-15-CRM-0330 | Jan. 21, 2013  | 1 back hoe        | P1,500.00        | P 180,000.00 | Jan. 2 to 5, 7 to 12, 14 to 18, 2013 |
| SB-15-CRM-0331 | Feb. 18, 2013  | 2 dump trucks     | P1,000.00/ unit  | P 224,000.00 | Feb. 1, 2, 4 to 9, 11 to 16, 2013    |
| SB-15-CRM-0332 | Feb. 18, 2013  | 1 back hoe        | P1,500.00        | P 168,000.00 | Feb. 1, 2, 4 to 9, 11 to 16, 2013    |
| SB-15-CRM-0333 | Feb. 28, 2013  | 2 dump trucks     | P1,000.00/ unit  | P 144,000.00 | Feb. 18 to 23, 25 to 27, 2013        |
| SB-15-CRM-0334 | Feb. 28, 2013  | 1 back hoe        | P1,500.00        | P 108,000.00 | Feb. 18 to 23, 25 to 27, 2013        |
| SB-15-CRM-0335 | March 2013     | 2 dump trucks     | P 1,000.00/ unit | P 80,000.00  | March 25 to 27, 30 - 31, 2013        |
| SB-15-CRM-0336 | March 2013     | 1 back hoe        | P1,500.00        | P 60,000.00  | March 25 to 27, 30 - 31, 2013        |
| SB-15-CRM-0337 | April 2013     | 1 back hoe        | P1,500.00        | P 72,000.00  | April 8 to 13, 2013                  |
| SB-15-CRM-0338 | April 2013     | 2 dump trucks     | P1,000.00/ unit  | P 96,000.00  | April 8 to 13, 2013                  |
| SB-15-CRM-0339 | April 8, 2013  | 2 dump trucks     | P1,000.00/ unit  | P 96,000.00  | April 1 to 6, 2013                   |
| SB-15-CRM-0340 | April 8, 2013  | 1 back hoe        | P1,500.00        | P 72,000.00  | April 1 to 6, 2013                   |

**THE CASE**

On November 27, 2013, Anita U. Urbano, a taxpayer and a resident of Binmaley, Pangasinan, filed an affidavit-complaint<sup>3</sup> against Lorenzo M. Cerezo and Gertrudes C. Reyes, former mayor and municipal accountant respectively of said local government unit (LGU), Edwin C. Castillo, the owner/proprietor of MTAC'S Merchandising. The allegations therein are as follows:

<sup>3</sup> Affidavit-Complaint dated November 27, 2013, of Anita U. Urbano, pp. 1 - 3 (Records, Vol. 1, pp. 28 - 30); TSN dated November 14, 2016, p. 9; TSN dated January 16, 2018, p. 20.

DECISION

People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 4 of 70

X-----X

"2. During his incumbency as mayor of the municipality of Binmaley, Pangasinan from July 1, 2010 to June 30, 2013, ex-mayor LORENZO CERESO, for financial gain and/or profit, **repeatedly entered** into several contracts with MTAC[S] Merchandizing (sic), owned and operated by EDWIN C. CASTILLO **without the requisite public bidding** in violation of the Government Procurement Act [**Rep. Act No. 9184**];

"X X X

"3. In facilitating payments of the aforesaid contracts, ex-mayor LORENZO CERESO conspired with and aided by GERTRUDES C. REYES, the municipal accountant who, as the internal control auditor of the municipality, maliciously and knowingly approved and signed the corresponding disbursement vouchers despite the non-compliance with the requirements of Republic Act No. 9184;

"4. The party with whom the ex-mayor transacted with in close conspiracy with the municipal accountant and in blatant disregard of the requirement of public bidding, all for their personal gains and/or profits, is EDWIN CASTILLO, the alleged owner/proprietor of MTAC[S] Merchandizing (sic) x x x;

"5. Further, ex-mayor Lorenzo Cerezo is a **3<sup>rd</sup> degree relative by affinity of Edwin Castillo** x x x

"x x x." <sup>4</sup> (Emphasis and Underscoring Supplied.)

On February 26, 2014, the Office of the Deputy Ombudsman for Luzon ordered former Mayor Lorenzo M. Cerezo, Municipal Accountant Gertrudes C. Reyes, Jesus A. Aquino, *Punong Barangay* of Biec East, Binmaley, Pangasinan, and Edwin C. Castillo, a private individual, to file their respective counter-affidavits.<sup>5</sup> On April 23, 2014, Lorenzo M. Cerezo filed his counter-affidavit<sup>6</sup> wherein he alleged that:

"4.5 The imputation . . . that the subject contracts were obtained and consummated for personal gains and/or profits of the Respondents is anchored solely on her bare allegations, which are purely gratuitous, speculative and bereft of factual basis;

<sup>4</sup> Id. at p. 1.

<sup>5</sup> Order dated February 26, 2014, of the Office of the Deputy Ombudsman for Luzon.

<sup>6</sup> *Counter-Affidavit* dated April 23, 2014, of Lorenzo M. Cerezo, pp. 1 – 13 (Records, Vol. 1, pp. 342 – 354).

DECISION

People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 5 of 70

X-----X

"4.6 I deny the allegation . . . that my acts . . . have inflicted undue injury upon the Municipal Government of Binmaley, for the reasons set forth hereunder:

"4.6.1 x x x

"4.6.2 . . . The Municipal Government of Binmaley was able to promptly deliver basic services to its constituents, i.e., the immediate clearing and hauling of debris left by the destructive typhoons, and the delivery of the need (sic) materials for the repair of buildings and other infrastructure in different barangays of the municipality;

"4.7 I deny the allegation . . . that my acts . . . have given MTAC Merchandizing (sic) or Edwin Castillo and his father-in-law, Jesus Aquino, unwarranted benefits and advantage, for the reasons set forth hereunder:

"4.7.1 x x x

"4.7.2 . . . [T]he BAC of Binmaley recommended the award of the contracts to MTAC Merchandizing (sic) . . . ;

"4.7.3 And I approved the award of the contracts to MTAC Merchandizing (sic), not because of the fact that Respondent Edwin G. Castillo is the husband of Marie Grace Bangsal Aquino, who is the niece of my wife, Marissa Bangsal Cerezo, but because of the favorable recommendation of the BAC x x x."<sup>7</sup>

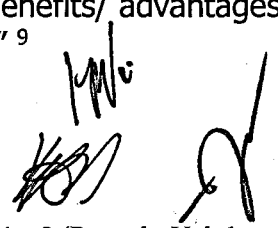
Respondent Reyes averred that the disbursement vouchers were complete and in order, and that the Commission on Audit found nothing irregular with the subject transactions. For his part, *Punong Barangay* Aquino declared that he was not privy to any of the contracts between the municipality and MTAC's Merchandising. Lastly, respondent Castillo, in his counter-affidavit,<sup>8</sup> stressed that:

"5. x x x [T]he contracts were not manifestly and grossly disadvantageous to the Municipality of Binmaley, Pangasinan nor had it caused unwarranted benefits/ advantages to MTAC'S MERCHANDISING. x x x;"<sup>9</sup>

<sup>7</sup> Id. at pp. 4 – 5 (Records, Vol. 1, pp. 345 – 346).

<sup>8</sup> Counter-Affidavit dated March 22, 2014, of Edwin G. Castillo, pp. 1 – 2 (Records, Vol. 1, pp. 368 – 369).

<sup>9</sup> Ibid.



DECISION

*People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 6 of 70

X-----X

The preliminary investigation showed that Reyes' duty was confined to the determination of the completeness of the supporting documents to the disbursement vouchers, and that she had nothing to do with the award of the contracts. Moreover, there was nary any evidence the she and respondent Aquino conspired with the contracting parties, Cerezo and Castillo. Accordingly, the Office of the Ombudsman resolved that:

“. . . [R]espondents **LORENZO M. CEREZO** and **EDWIN G. CASTILLO** be *indicted* for violation of Section 3(e) of Republic Act No. 3019 on twenty-one (21) counts.

“The criminal charges against respondents **GERTRUDES C. REYES** and **JESUS A. AQUINO** are *dismissed* for insufficiency of evidence.

“SO ORDERED.”<sup>10</sup>

Anita U. Urbano, the complainant, filed a *Motion for Partial Reconsideration*,<sup>11</sup> while respondent Cerezo filed a *Motion for Reconsideration*.<sup>12</sup> The Office of the Ombudsman denied both for lack of merit.<sup>13</sup>

On December 7, 2015, this Court resolved that probable cause exists and ordered the issuance of warrants of arrest against the accused.<sup>14</sup> Also, a Hold Departure Order<sup>15</sup> was issued against them.

On December 8, 2015, each accused filed separately his *Voluntary Surrender with Motion for Reduction of Bail*.<sup>16</sup> This Court granted their respective motions.<sup>17</sup> Thereupon, both posted the reduced cash bail bond for their provisional liberty.<sup>18</sup>

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<sup>10</sup> Resolution dated July 23, 2014, of the Office of the Ombudsman, p. 14 of 15 (Records, Vol. 1, p. 18).

<sup>11</sup> Dated December 9, 2014.

<sup>12</sup> Dated December 1, 2014.

<sup>13</sup> Order dated December 10, 2014, pp. 1 – 6 (Records, Vol. 1, pp. 21 – 26).

<sup>14</sup> Minute Resolution dated December 7, 2015 (Records, Vol. 1, p. 380).

<sup>15</sup> Hold Departure Order dated December 7, 2015 (Records, Vol. 1, p. 381).

<sup>16</sup> Records, Vol. 1, pp. 383 – 385, 395 - 397.

<sup>17</sup> Minute Resolution dated December 8, 2015 (Records, Vol. 1, p. 386); Minute Resolution dated December 9, 2015 (Records, Vol. 1, p. 398).

<sup>18</sup> Order dated December 8, 2015 (Records, Vol. 1, p. 392); Order dated December 9, 2015 (Records, Vol. 1, p. 405).

DECISION

*People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 7 of 70

X-----X

On January 18, 2016, accused Cerezo filed a *Motion to Quash Informations* on the grounds that the facts charged do not constitute an offense.<sup>19</sup> Accused Castillo manifested to the Court that he was adopting the motion of his co-accused.<sup>20</sup> Contrarily, the prosecution asseverated that the recital of the ultimate facts in each of the subject informations encompasses the accused's acts which are constitutive of violation of Section 3(e) of the Anti-Graft and Corrupt Practices Act; hence, their motion deserves scant consideration.<sup>21</sup>

On April 12, 2016, the Court resolved to deny the accused's *Motion to Quash Informations* for lack of merit.<sup>22</sup>

On September 29, 2016, both accused were arraigned and after being apprised of the nature and consequences of the crime imputed against them, they pleaded not guilty to the offense charged.<sup>23</sup>

On November 14, 2016, the preliminary conference began wherein documentary evidence for the prosecution were pre-marked.<sup>24</sup> This continued on November 23, 2016, and the accused, thru counsel, had their documentary evidence marked too.<sup>25</sup>

Additional exhibits were marked on December 1, 2016<sup>26</sup> and January 16, 2017,<sup>27</sup> while the opposing parties compared variegated

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<sup>19</sup> *Motion to Quash Informations* dated January 8, 2016, of Lorenzo M. Cerezo, pp. 1 – 25 (Records, Vol. 2, pp. 74 – 98).

<sup>20</sup> *Ibid.*

<sup>21</sup> *Consolidated Comment-Opposition (Re: Motion to Quash Informations dated January 8, 2016)* dated January 27, 2016, of the Office of the Special Prosecutor, pp. 1 – 9 (Records, Vol. 2, pp. 108 – 116).

<sup>22</sup> Resolution dated April 12, 2016, pp. 1 – 7 [Per J. R. R. Lagos, Fifth Division] (Records, Vol. 2, pp. 130 – 136).

<sup>23</sup> Order dated September 29, 2016 (Records, Vol. 2, p. 193).

<sup>24</sup> Minutes of the Preliminary Conference on November 14, 2016, pp. 1 – 2 (Records, Vol. 2, pp. 196 – 197); TSN, November 14, 2016, pp. 1 – 22.

<sup>25</sup> Minutes of the Preliminary Conference on November 23, 2016, pp. 1 – 2 (Records, Vol. 2, pp. 206 – 207); TSN, November 23, 2016, pp. 1 – 24.

<sup>26</sup> Minutes of the Preliminary Conference on December 1, 2016, pp. 1 – 2 (Records, Vol. 2, pp. 209 – 210); TSN, December 1, 2016, pp. 1 – 35.

<sup>27</sup> Minutes of the Preliminary Conference on January 16, 2017, pp. 1 – 2 (Records, Vol. 2, pp. 219 – 220); TSN, January 16, 2017, pp. 1 – 11.

DECISION

People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 8 of 70

X-----X

documents on January 17, 2017,<sup>28</sup> March 31, 2017,<sup>29</sup> and May 12, 2017 to ascertain their authenticity.<sup>30</sup>

On July 19, 2017, the parties raised their proposed stipulation of facts,<sup>31</sup> and, in the course thereof, the following **express admissions** were made in open court:

**"A. As proposed by the prosecution, the following facts are admitted by the accused:**

- "1. Identity of accused Lorenzo M. Cerezo and Edwin G. Castillo as the same persons named in the twenty-one (21) informations; and
- "2. Accused Cerezo was the duly elected and sitting mayor from June 30, 2010 to June 30, 2013, of Binmaley, Pangasinan.

**"B. For accused Cerezo and Castillo:**

"x x x In addition to admitting the identities of the accused, accused Cerezo also admits the following proposed stipulations of accused Castillo:

- "1. The corresponding disbursement vouchers prepared by the Municipality of Binmaley as payments made to MTAC'S Merchandising were never disallowed by the Commission on Audit (COA);
- "2. There was no disallowance relative to the subject contracts in any COA report; and
- "3. Accused Castillo is the owner/ proprietor of MTAC'S Merchandising, a legitimate business entity."<sup>32</sup>

On October 12, 2017, the parties informed the Court that they had terminated the preliminary conference. Thence, the trial dates for the reception of evidence were set.<sup>33</sup>

<sup>28</sup> Records, Vol. 2, pp. 222 – 223; TSN, January 17, 2017, pp. 1 – 7.

<sup>29</sup> Records, Vol. 2, pp. 230 – 231; TSN, March 31, 2017, pp. 1 – 12.

<sup>30</sup> Records, Vol. 2, pp. 265 – 266; TSN, May 12, 2017 (9:25 A.M.), pp. 3 – 5; TSN, May 12, 2017 (2:30 P.M.), pp. 1 – 15.

<sup>31</sup> Minutes of the preliminary conference held on July 19, 2017 (Records, Vol. 2, p. 274); TSN, July 19, 2017, pp. 6 – 15.

<sup>32</sup> Pre-trial Order dated October 12, 2017, pp. 1 – 2 (Records, Vol. 2, pp. 285 – 286).

<sup>33</sup> Order dated October 12, 2017, p. 1 (Records, Vol. 2, p. 281).



DECISION

*People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 9 of 70

X-----X

Trial commenced on January 16, 2018.<sup>34</sup> The prosecution presented the direct testimonies, including the judicial affidavits, of nine (9) witnesses, namely:

1. Anita U. Urbano, Director of Binmaley Water District;<sup>35</sup>
2. Gertrudes C. Reyes, Municipal Accountant;<sup>36</sup>
3. Dr. Cecilio P. Terrado, Jr., Municipal Administrator;<sup>37</sup>
4. Jeffrey De los Angeles, Municipal Budget Officer;<sup>38</sup>
5. Erlinda C. Erguiza, Municipal Treasurer;<sup>39</sup>
6. Evangeline L. Payumo, Project Development Officer II (PDO II);<sup>40</sup>
7. Antonio S. Royeca, former Municipal Administrator;<sup>41</sup>
8. Josephine F. Anchiboy, former Assistant Municipal Treasurer from 2007 to 2015;<sup>42</sup> and
9. Lydia P. Baysic, State Auditor IV, LGS Audit Group D, Pangasinan I.<sup>43</sup>

The prosecution presented the direct testimonies of its witnesses from January 16 to March 6, 2018. Afterwards, the prosecution formally offered its documentary evidence.<sup>44</sup> Accused Castillo filed his Comment thereto,<sup>45</sup> while accused Cerezo filed his Comment/Opposition.<sup>46</sup>

<sup>34</sup> Order dated January 16, 2018, pp. 1 - 2 (Records, Vol. 4, pp. 6 - 7).

<sup>35</sup> *Ibid.*; TSN dated January 16, 2018, p. 4 - 11.

<sup>36</sup> Order dated January 17, 2018, p. 1 of 1 (Records, Vol. 4, p. 117).

<sup>37</sup> *Ibid.*

<sup>38</sup> Order dated January 23, 2018, p. 1 of 1 (Records, Vol. 4, p. 120-A).

<sup>39</sup> *Ibid.*

<sup>40</sup> Order dated February 12, 2018, pp. 1 - 2 (Records, Vol. 4, pp. 293 - 294); Judicial Affidavit dated February 1, 2018, of Evangeline L. Payumo, pp. 1 - 4 (Records, Vol. 4, pp. 131 - 134).

<sup>41</sup> *Ibid.*; Judicial Affidavit dated February 2, 2018, of Antonio S. Royeca, pp. 1 - 4 (Records, Vol. 4, pp. 135 - 138).

<sup>42</sup> Order dated February 13, 2018, p. 1 of 1 (Records, Vol. 4, p. 297); Judicial Affidavit dated February 2, 2018, of Josephine F. Anchiboy, pp. 1 - 6 (Records, Vol. 4, pp. 154 - 159).

<sup>43</sup> Order dated March 6, 2018, pp. 1 - 2 (Records, Vol. 4, pp. 301 - 302); Judicial Affidavit dated February 2, 2018, of Lydia P. Baysic, pp. 1 - 7 (Records, Vol. 4, pp. 188 - 194).

<sup>44</sup> *Prosecution's Formal Offer of Evidence* dated April 6, 2018, pp. 1 - 20 (Records, Vol. 4, pp. 316 - 335).

<sup>45</sup> *Comment to the Prosecution's Formal Offer of Evidence* dated April 20, 2018, pp. 1 - 6 (Records, Vol. 4, pp. 428 - 433).

<sup>46</sup> *Comment / Opposition to Prosecution's Formal Offer of Documentary Evidence* dated April 23, 2018, pp. 1 - 4 (Records, Vol. 4, pp. 454 - 457).

DECISION

People v. Lorenzo Mayogba Cerezo and Edwin Godínez Castillo  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 10 of 70

X-----X

The Court, thru its Resolution<sup>47</sup> dated May 7, 2018, ruled on the admissibility of the evidence that had been formally offered by the prosecution.

On May 21, 2018, accused Castillo filed a *Motion for Leave of Court to File Demurrer to Evidence*.<sup>48</sup> He claimed that there was nary any evidence that he was in cahoots with accused Cerezo.<sup>49</sup> The prosecution begged to differ.<sup>50</sup>

On June 4, 2018, the Court denied the motion of accused Castillo.<sup>51</sup> Yet, Castillo pushed ahead and filed his *Demurrer to Evidence (Without Leave of Court)*.<sup>52</sup> In doing so, he waived his right to present evidence, thereby submitting the case for judgment on the basis of the evidence adduced by the prosecution. Castillo's arguments run thus:

"x x x [I]n these cases of which herein accused is indicted, the prosecution failed to establish acts or circumstances that would prove that there was ever a conspiracy between him [Castillo] and accused Lorenzo M. Cerezo.

"Prosecution presented the testimonies of the following witnesses to prove collectively the allegations of each of the Information, to wit: Anita U. Urbano; Josephine Achiboy; Jeffrey De los Angeles; Dr. Cecilio Terrado; Erlinda Erguiza; Gertrudes Reyes; Evangeline Payumo; Antonio S. Royeca; and Lydia P. Baysic. Other than witness Anita U. Urbano, all the witnesses are government officers or employees.

"Each of the testimony of these witnesses were carefully perused and nothing therein ever showed that the Prosecution was able to establish acts of (sic) circumstances that would infer any conspiracy between herein accused and accused Lorenzo Cerezo. **Nothing in the testimonies of the witnesses ever mentioned any specific participation of herein accused in**

<sup>47</sup> Records, Vol. 4, pp. 471 – 474.

<sup>48</sup> *Motion for Leave of Court to File Demurrer to Evidence* dated May 18, 2018, pp. 1 - 3 (Records, Vol. 4, pp. 479 – 481).

<sup>49</sup> Id. at pp. 1 – 2.

<sup>50</sup> *Opposition (Re: Motion for Leave of Court to File Demurrer to Evidence dated 18 May 2018)* dated May 24, 2018, pp. 1 – 7 (Records, Vol. 4, pp. 484 – 490).

<sup>51</sup> Resolution dated June 4, 2018, pp. 1 – 2 (Records, Vol. 4, pp. 500 – 501).

<sup>52</sup> *Demurrer to Evidence (Without Leave of Court)* dated July 3, 2018, of Edwin G. Castillo; pp. 1 – 8, which was filed on July 5, 2018 (Records, Vol. 5, pages 13 - 20).

DECISION

People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 11 of 70

X-----X

**the planning and preparation of any conspiracy** and neither was there any testimony that herein accused ever induced or prodded his co-accused Lorenzo Cerezo to award such contracts of service for the lease of heavy equipment.”<sup>53</sup> (Emphasis and Underscoring Supplied.)

Further, Castillo alleged that the acts imputed against him did not warrant a finding of guilt for violation of Section 3 (e) of R.A. No. 3019, as amended. Being square deals, he alleged that –

“X X X [T]he contract of service happened in the aftermath of [a] certain calamity that caused the existence of debris in the Municipality of Binmaley.

“X X X

“Accused Castillo merely heed (sic) to the dire need of the Municipality of Binmaley to lease heavy equipment to collect and clear up the Municipality of debris. X X X [H]is rental rate was considered as very reasonable and no evidence was ever presented showing that his rate is unconscionable or excessive. Needless to state, accused Castillo gained [neither] unwarranted benefits nor unwarranted advantage. X X X

“There is likewise no evidence presented that tended to prove or insinuate that the public interest was prejudice (sic) by the acts of the accused. As can be gleaned from the contracts of Service, the same were intended for the clearing up of debris which accused Castillo believed was aimed to preserve community sanitation and prevent injuries or spread of diseases for the good of the people.”<sup>54</sup>

On June 4, 2018, it was accused Cerezo's turn to file his *Motion for Leave of Court to File Demurrer to Evidence*.<sup>55</sup> Cerezo contended that “the scarcity and insufficiency of the Prosecution's evidence are palpably apparent,”<sup>56</sup> and that “he, under the circumstances, need not present evidence in his behalf and that he is entitled as a matter of law to an acquittal at this stage.”<sup>57</sup> Contrarily, however, the prosecution avowed that the evidence for the

<sup>53</sup> Id. at pp. 2 – 3 (Records, Vol. 5, pp. 14 – 15).

<sup>54</sup> *Demurrer to Evidence (Without Leave of Court)* dated July 3, 2018, p. 6 (Records, Vol. 5, p. 18).

<sup>55</sup> *Motion for Leave of Court to File Demurrer to Evidence* dated June 2, 2018, pp. 1 – 4 (Records, Vol. 4, pp. 494 – 498).

<sup>56</sup> Id. at p. 2 (Id. at p. 495).

<sup>57</sup> Id. at p. 4 (Id. at p. 497).

DECISION

People v. Lorenzo Mayogba Cerezo and Edwin Godínez Castillo  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 12 of 70

X-----X

prosecution sufficiently established all the elements for violation of Section 3(e) of R.A. No. 3019.<sup>58</sup>

On June 20, 2018, the Court denied Cerezo's motion,<sup>59</sup> holding that the documentary and testimonial evidence, if unrebutted, were sufficient to convict the accused.<sup>60</sup>

Undaunted, accused Cerezo filed a *Motion for Reconsideration*.<sup>61</sup> He insisted that the Court erred in paying scant regard to the fact that the prosecution never offered to prove the contents of the following documents: a) the purported contracts of service; b) disbursement vouchers; c) obligation slips; and d) the checks.<sup>62</sup> The Court denied Cerezo's motion for lack of merit.<sup>63</sup> This Court ratiocinated that:

"A perusal of the Prosecution's *Formal Offer of Evidence*, judicial affidavits and transcript of stenographic notes, clearly show that the Contracts of Service, Disbursement Vouchers, Obligation Slips, and LandBank checks, were offered by the prosecution as documentary evidence, even when the words "offered as proof of their contents" were not expressly utilized by the prosecution in its *Formal Offer of Evidence*. The purposes for which the documents were offered call for an evaluation of the contents of the documents and, not the mere physical or sensory examination of the exhibits.

"Notably, the documentary exhibits presented by the prosecution were identified and authenticated by the prosecution witnesses.

"Finally, after a careful restudy of the documentary and testimonial evidence submitted by the prosecution, the Court finds that, if unrebutted, the same is sufficient to convict the accused.  
X X X." <sup>64</sup> (Citations Omitted.)

<sup>58</sup> *Opposition (Re: Motion for Leave of Court to file Demurrer to Evidence Dated 02 June 2018)* dated June 8, 2018, pp. 1 – 7 (Records, Vol. 4, pp. 511 – 517).

<sup>59</sup> Resolution dated June 20, 2018, pp. 1 – 2 (Records, Vol. 4, pp. 525 – 526).

<sup>60</sup> Id. at p. 2 (Id. p. 526).

<sup>61</sup> *Motion for Reconsideration [Re: Resolution dated 20 June 2018]* dated July 9, 2018, which was received thru mail by the Sandiganbayan on July 11, 2018 (Records, Vol. 5, pp. 23 – 26).

<sup>62</sup> Id. at pp. 1 – 2.

<sup>63</sup> Resolution dated September 10, 2018, pp. 1 – 5 (Records, Vol. 5, pp. 62 – 66).

<sup>64</sup> Id. at pp. 4 – 5 (Id. at pp. 65 – 66).

**DECISION**

*People v. Lorenzo Mayogba Cerezo and Edwin Godínez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 13 of 70

X-----X

Unlike accused Castillo, Cerezo elected to present evidence instead of filing a demurrer to evidence without leave of court. He presented eight (8) witnesses, including their judicial affidavits, before the Court from November 14, 2018<sup>65</sup> to February 11, 2019.<sup>66</sup> Thereafter, he formally offered<sup>67</sup> his documentary evidence. The Prosecution interposed its objections<sup>68</sup> thereto, and following judicious scrutiny, the Court resolved which exhibits were admissible and which ones were not.<sup>69</sup>

As narrated earlier, having opted to file a Demurrer to Evidence Without Leave of Court, accused Castillo was deemed to have waived his right to adduce evidence on his behalf. Pursuant to existing rules, the Court deemed it proper to defer resolution of the same until the main case shall have been resolved on the merits.

Absent any rebuttal evidence from the prosecution, the Court ordered the parties to file their respective memoranda within a non-extendible period of twenty (20) days from receipt of its Resolution dated April 18, 2019.<sup>70</sup> Conformably, the prosecution seasonably filed its memorandum.<sup>71</sup> On the other hand, neither of the accused filed anything.

Hence, this case is deemed submitted for decision.

**FACTUAL ANTECEDENTS**

Accused Lorenzo M. Cerezo was the Mayor of the municipality of Binmaley, Pangasinan from June 30, 2010 to June 30, 2013.<sup>72</sup>

<sup>65</sup> Order dated November 14, 2018, p. 1 (Records, Vol. 5, p. 89); Judicial Affidavit dated August 27, 2018, of Froilando V. Fernandez, pp. 1 – 4 (Records, Vol. 5, pp. 72 – 75).

<sup>66</sup> Judicial Affidavit dated February 6, 2019, pp. 1 – 5 (Records, Vol. 5, pp. 176 – 180); Order dated February 11, 2019, p. 1 (Records, Vol. 5, p. 203).

<sup>67</sup> *Formal Offer of Documentary Evidence for the Defense [For Accused Lorenzo M. Cerezo]* dated February 14, 2019, pp. 1 – 4 (Records, Vol. 5, pp. 205 – 208).

<sup>68</sup> *Comment/ Opposition (To Accused Lorenzo M. Cerezo's Formal Offer of Documentary Evidence for the Defense)* dated February 18, 2019, pp. 1 – 4 (Records, Vol. 5, pp. 236 – 239).

<sup>69</sup> Resolution dated April 18, 2019, p. 1 (Records, Vol. 5, p. 242).

<sup>70</sup> *Ibid.*

<sup>71</sup> *Prosecution's Memorandum* dated June 20, 2018 (sic), pp. 1 – 20 (Records, Vol. 5, pp. 245 – 264).

<sup>72</sup> TSN dated July 19, 2017, p. 7.

**DECISION**

*People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 14 of 70

X-----X

Co-accused Edwin G. Castillo was the owner and proprietor of MTAC'S Merchandising.

The municipality of Binmaley, thru Mayor Cerezo, leased heavy equipment from MTAC'S Merchandising, a business owned and managed by accused Castillo, on twenty-one (21) separate occasions.<sup>73</sup> The particulars appurtenant to these transactions are summarized in this wise:

| CRIMINAL CASE No. | DATE OF CONTRACT | EXHIBIT | EQUIPMENT LEASED  | RENTAL PER HOUR | AMOUNT STATED IN CONTRACT, D.V. & O.S. | PERIOD OF LEASE                      |
|-------------------|------------------|---------|-------------------|-----------------|----------------------------------------|--------------------------------------|
| SB-15-CRM-0320    | Nov. 11, 2011    | C-111-A | 2 dump trucks     | P1,000.00/ unit | Php 80,000.00                          | Nov. 7, 8, 9, 10 & 11, 2011          |
| SB-15-CRM-0321    | Nov. 11, 2011    | C-109   | 1 payloader       | P1,500.00/ unit | Php 48,000.00                          | Nov. 7, 8, 10 & 11, 2011             |
| SB-15-CRM-0322    | Nov. 18, 2011    | C-114   | 2 dump trucks     | P1,000.00/ unit | Php 80,000.00                          | Nov. 14 to 18, 2011                  |
| SB-15-CRM-0323    | Nov. 18, 2011    | C-117   | 1 payloader       | P1,500.00       | Php 48,000.00                          | Nov. 14, 15, 17 & 18, 2011           |
| SB-15-CRM-0324    | Nov. 25, 2011    | C-120   | 1 dump truck      | P1,000.00       | Php 40,000.00                          | Nov. 21 to 25, 2011                  |
| SB-15-CRM-0325    | Nov. 25, 2011    | C-123   | 1 payloader       | P1,500.00       | Php 36,000.00                          | Nov. 21, 23 & 25, 2011               |
| SB-15-CRM-0326    | May 29, 2012     | D-65-B  | 2 concrete mixers | P1,200.00       | Php 21,600.00                          | May 21 to 29, 2012                   |
| SB-15-CRM-0327    | Aug. 7, 2012     | D-78    | 1 dump truck      | P1,000.00       | Php 48,000.00                          | July 30, 31; Aug. 1 to 4, 2012       |
| SB-15-CRM-0328    | Aug. 7, 2012     | D-80    | 1 back hoe        | P1,500.00       | Php 72,000.00                          | July 30, 31; Aug. 1 to 4, 2012       |
| SB-15-CRM-0329    | Jan. 21, 2013    | E-4     | 2 dump trucks     | P1,000.00/ unit | Php 240,000.00                         | Jan. 2 to 5, 7 to 12, 14 to 18, 2013 |
| SB-15-CRM-0330    | Jan. 21, 2013    | E-6     | 1 back hoe        | P1,500.00       | Php 180,000.00 <sup>74</sup>           | Jan. 2 to 5, 7 to 12, 14 to 18, 2013 |
| SB-15-CRM-0331    | Feb. 18, 2013    | E-10-B  | 2 dump trucks     | P1,000.00/ unit | Php 224,000.00                         | Feb. 1, 2, 4 to 9, 11 to 16, 2013    |
| SB-15-CRM-0332    | Feb. 18, 2013    | E-9     | 1 back hoe        | P1,500.00       | Php 168,000.00                         | Feb. 1, 2, 4 to 9, 11 to 16, 2013    |

<sup>73</sup> TSN dated July 19, 2017, p. 8.

<sup>74</sup> No corresponding Obligation Slip (O.S.).

**DECISION**

**People v. Lorenzo Mayogba Cerezo and Edwin Godínez Castillo**  
**Criminal Case Nos. SB-15-CRM-0320 to 0340**

Page 15 of 70

X-----X

|                |               |                   |               |                  |                             |                               |
|----------------|---------------|-------------------|---------------|------------------|-----------------------------|-------------------------------|
| SB-15-CRM-0333 | Feb. 28, 2013 | E-16              | 2 dump trucks | P1,000.00/unit   | Php 144,000.00              | Feb. 18 to 23, 25 to 27, 2013 |
| SB-15-CRM-0334 | Feb. 28, 2013 | E-14              | 1 back hoe    | P1,500.00/ unit  | Php 108,000.00              | Feb. 18 to 23, 25 to 27, 2013 |
| SB-15-CRM-0335 | March 2013    | E-25              | 2 dump trucks | P 1,000.00/ unit | Php 80,000.00               | March 25 to 27, 30 - 31, 2013 |
| SB-15-CRM-0336 | March 2013    | E-27              | 1 back hoe    | P1,500.00        | Php 60,000.00               | March 25 to 27, 30 - 31, 2013 |
| SB-15-CRM-0337 | April 2013    | ... <sup>75</sup> | 1 back hoe    | P1,500.00        | Php 72,000.00               | April 8 to 13, 2013           |
| SB-15-CRM-0338 | April 2013    | E-37              | 2 dump trucks | P1,000.00/ unit  | Php 96,000.00               | April 8 to 13, 2013           |
| SB-15-CRM-0339 | April 8, 2013 | E-30              | 2 dump trucks | P1,000.00/ unit  | Php 96,000.00               | April 1 to 6, 2013            |
| SB-15-CRM-0340 | April 8, 2013 | E-32              | 1 back hoe    | P1,500.00        | Php 72,000.00 <sup>76</sup> | April 1 to 6, 2013            |

Mayor Cerezo approved the payments to MTAC'S Merchandising, as evidenced by his signatures on twenty-one (21) disbursement vouchers (DVs) and checks. Notably, however, twenty (20) contracts<sup>77</sup> of lease were formally offered and considered admissible by the Court. Therewithal, MTAC'S Merchandising received payments therefor, as evidenced by its seventeen (17) official receipts (O.R.). The details of said transactions are summarized below, viz:

| CRIMINAL CASE No. | CONTRACT (EXHIBIT) | AMOUNT STATED IN CONTRACT, D.V. and O.S. | PAYMENT, AS STATED IN MTAC'S OFFICIAL RECEIPT |
|-------------------|--------------------|------------------------------------------|-----------------------------------------------|
| SB-15-CRM-0320    | C-111-A            | P 80,000.00                              | P 75,000.00                                   |
| SB-15-CRM-0321    | C-109              | P 48,000.00                              | P 45,000.00                                   |
| SB-15-CRM-0322    | C-114              | P 80,000.00                              | P 75,000.00                                   |
| SB-15-CRM-0323    | C-117              | P 48,000.00                              | P 45,000.00                                   |
| SB-15-CRM-0324    | C-120              | P 40,000.00                              | P 37,000.00                                   |

<sup>75</sup> See Records, Vol. 1, p. 325.

<sup>76</sup> No corresponding Obligation Slip (O.S.).

<sup>77</sup> The formally offered documents (i.e. 20 contracts) which the Court considered admissible include: EXHIBITS "C-109", "C-111-A", "C-114", "C-117", "C-120", "C-123", "D-65-B", "D-78", "D-80", "E-4", "E-6", "E-9", "E-10-B", "E-14", "E-16", "E-25", "E-27", "E-30", "E-32", and "E-37".

**DECISION**

*People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 16 of 70

X-----X

|                |               |                            |                       |
|----------------|---------------|----------------------------|-----------------------|
| SB-15-CRM-0325 | C-123         | P 36,000.00                | P 33,750.00           |
| SB-15-CRM-0326 | D-65-B        | P 21,600.00                | P 20,250.00           |
| SB-15-CRM-0327 | D-78          | P 48,000.00                | P 45,000.00           |
| SB-15-CRM-0328 | D-80          | P 72,000.00                | P 67,000.00           |
| SB-15-CRM-0329 | E-4           | P 240,000.00               | P 225,000.00          |
| SB-15-CRM-0330 | E-6           | P 180,000.00 <sup>78</sup> | -----                 |
| SB-15-CRM-0331 | E-10-B        | P 224,000.00               | -----                 |
| SB-15-CRM-0332 | E-9           | P 168,000.00               | -----                 |
| SB-15-CRM-0333 | E-16          | P 144,000.00               | P 135,000.00          |
| SB-15-CRM-0334 | E-14          | P 108,000.00               | P 101,250.00          |
| SB-15-CRM-0335 | E-25          | P 80,000.00                | P 75,000.00           |
| SB-15-CRM-0336 | E-27          | P 60,000.00                | P 56,250.00           |
| SB-15-CRM-0337 | E-32          | P 72,000.00 <sup>79</sup>  | -----                 |
| SB-15-CRM-0338 | E-30          | P 96,000.00                | P 90,000.00           |
| SB-15-CRM-0339 | E-37          | P 96,000.00                | P 90,500.00           |
| SB-15-CRM-0340 | -----         | P 72,000.00                | P 67,500.00           |
|                | <b>TOTAL:</b> | <b>P 2,013,600.00</b>      | <b>P 1,283,500.00</b> |

**ADMISSIONS**

The record<sup>80</sup> shows that the parties made the following stipulations of facts and admissions, to wit:

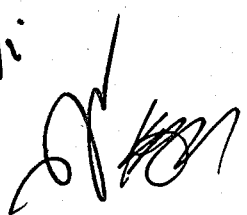
**A. Accused Cerezo and Castillo** admitted the following proposed stipulations of the prosecution:

1. Identity of Lorenzo M. Cerezo and Edwin G. Castillo as the same persons named in the twenty-one informations; and
2. Accused Cerezo was the duly elected and sitting mayor of Binmaley, Pangasinan from June 30, 2010 to June 30, 2013.

<sup>78</sup> No corresponding Obligation Slip (O.S.).

<sup>79</sup> No corresponding Obligation Slip (O.S.).

<sup>80</sup> Pre-trial Order dated October 12, 2017, pp. 1 – 41 (Records, Vol. 1, pp. 285 – 325).

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**DECISION**

*People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 17 of 70

X-----X

**B. Accused Cerezo admitted the following proposed stipulations of accused Castillo, to wit:**

1. The disbursement vouchers prepared by the Municipality of Binmaley as payments made to MTAC'S Merchandising were never disallowed by the Commission on Audit (COA);
2. There was no disallowance relative to the subject contracts in any COA Report;
3. Accused Castillo is the owner/ proprietor of MTAC'S Merchandising, a legitimate business entity.<sup>81</sup>

**EVIDENCE FOR THE PROSECUTION**

**A. TESTIMONIAL EVIDENCE:**

The prosecution presented nine (9) witnesses, namely:

- 1) Anita U. Urbano, Director of Binmaley Water District;<sup>82</sup>
- 2) Gertrudes C. Reyes, Municipal Accountant;<sup>83</sup>
- 3) Dr. Cecilio P. Terrado, Jr., Municipal Administrator;<sup>84</sup>
- 4) Jeffrey De los Angeles, Municipal Budget Officer;<sup>85</sup>
- 5) Erlinda C. Erguiza, Municipal Treasurer;<sup>86</sup>
- 6) Evangeline L. Payumo, Project Development Officer II (PDO II);<sup>87</sup>
- 7) Antonio S. Royeca, Disaster Risk Reduction Management Officer IV of the Municipality of Binmaley, Pangasinan;<sup>88</sup>

<sup>81</sup> Id. at pp. 1 – 2 (Records, Vol. 2, pp. 285 – 286).

<sup>82</sup> Records, Vol 1, pp. 5 – 31.

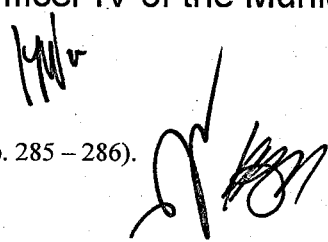
<sup>83</sup> Order dated January 17, 2018, p. 1 of 1 (Records, Vol. 4, p. 117).

<sup>84</sup> *Ibid.*

<sup>85</sup> Order dated January 23, 2018, p. 1 of 1 (Records, Vol. 4, p. 120-A).

<sup>86</sup> *Ibid.*

<sup>87</sup> Order dated February 12, 2018, pp. 1 – 2 (Records, Vol. 4, pp. 293 – 294); Judicial Affidavit dated February 1, 2018, of Evangeline L. Payumo, pp. 1 – 4 (Records, Vol. 4, pp. 131 – 134).



**DECISION**

**People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo**  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 18 of 70

X-----X

- 8) Josephine F. Anchiboy, former Assistant Municipal Treasurer from 2007 to 2015;<sup>89</sup> and
- 9) Lydia P. Baysic, State Auditor IV, LGS Audit Group D, Pangasinan I.<sup>90</sup>

The substance of the testimony of each witness presented by the prosecution follow:

**A-1. Anita U. Urbano**

Anita U. Urbano was the whistleblower who filed her complaint-affidavit<sup>91</sup> before the Office of the Ombudsman on November 27, 2013.<sup>92</sup> Among the allegations therein are as follows:

“2. During his incumbency as mayor of the municipality of Binmaley, Pangasinan from July 1, 2010 to June 30, 2013, ex-mayor LORENZO CERESO, for financial gain and/or profit, repeatedly entered into several contracts with MTAC[‘S] Merchandising, owned and operated by EDWIN C. CASTILLO without the requisite public bidding in violation of the Government Procurement Act [Rep. Act No. 9184];

“X X X

“4. The party with whom the ex-mayor transacted with in close conspiracy . . . and in blatant disregard of the requirement of public bidding, all for their personal gains and/or profits, is EDWIN CASTILLO, the alleged owner/proprietor of MTAC[‘S] Merchandising . . .

“X X X

“8. The anomalous and illegal contracts . . . are likewise in clear violation of the (sic) Section 3(e) of

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<sup>88</sup> *Ibid*; Judicial Affidavit dated February 2, 2018, of Antonio S. Royeca, pp. 1 – 4 (Records, Vol. 4, pp. 135 – 138).

<sup>89</sup> Order dated February 13, 2018, p. 1 of 1 (Records, Vol. 4, p. 297); Judicial Affidavit dated February 2, 2018, of Josephine F. Anchiboy, pp. 1 – 6 (Records, Vol. 4, pp. 154 – 159).

<sup>90</sup> Order dated March 6, 2018, pp. 1 – 2 (Records, Vol. 4, pp. 301 – 302); Judicial Affidavit dated February 2, 2018, of Lydia P. Baysic, pp. 1 – 7 (Records, Vol. 4, pp. 188 – 194).

<sup>91</sup> Records, Vol. 1, pp. 28 – 31.

<sup>92</sup> TSN dated January 16, 2018, p. 20.

**DECISION**

*People v. Lorenzo Mayogba Cerezo and Edwin Godinez Castillo*  
Criminal Case Nos. SB-15-CRM-0320 to 0340

Page 19 of 70

X-----X

the Anti-Graft and Corrupt Practices Act [Rep. Act No. 3019] x x x.”<sup>93</sup> (Emphasis Supplied.)

**A-2. Gertrudes C. Reyes**

Gertrudes C. Reyes was the Municipal Accountant of Binmaley Pangasinan from 1993 to August 2013.<sup>94</sup> Since August 2013, she was detailed at the Office of Mayor Cerezo,<sup>95</sup> her third degree relative by affinity.<sup>96</sup> She certified the disbursement vouchers (DVs) *vis a vis* the contract of lease of heavy equipment between the municipality of Binmaley and MTAC'S Merchandising.<sup>97</sup> Thence, “the expenses were lawful,”<sup>98</sup> and “there was actually a need for garbage collections.”<sup>99</sup> None of the DVs were disallowed by the Commission on Audit (COA).<sup>100</sup>

**A-3. Dr. Cecilio P. Terrado, Jr.**

Dr. Cecilio P. Terrado, Jr. was the Municipal Administrator of Binmaley, Pangasinan from July 2010 to June 30, 2013.<sup>101</sup> Besides overseeing the programs and projects of the municipality, he signed Obligations Slips (OS), thereby “certifying that there is an allotment for the obligation and that the same is necessary, lawful, and under [his] direct supervision.”<sup>102</sup> The contracts of lease for heavy equipment

<sup>93</sup> Records, Vol. 1, pp. 28 – 29.

<sup>94</sup> Id. at pp. 12, 16; Judicial Affidavit dated January 4, 2018, of Gertrudes C. Reyes, pp. 1 – 7 (Records, Vol. 3, pp. 468 – 473).

<sup>95</sup> TSN dated January 17, 2018, p. 6

<sup>96</sup> Records, Vol. 1, p. 28.

<sup>97</sup> TSN dated January 16, 2018, pp. 13, 17.

<sup>98</sup> TSN dated January 17, 2018, p. 7

<sup>99</sup> Id. at p. 8.

<sup>100</sup> Id. at pp. 10 – 11.

<sup>101</sup> TSN dated January 17, 2018, pp. 14, 23; Judicial Affidavit dated January 5, 2018, of Cecilio P. Terrado, Jr., pp. 1 – 6 (Records, Vol. 3, pp. 535 – 540).

<sup>102</sup> Id. at p. 19 - 20.

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[Handwritten signature]