



REPUBLIC OF THE PHILIPPINES

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, SB-19-A/R-0005
Plaintiff-Appellee,

- versus -

ERLINDA L. TALUA,
Accused-Appellant.

Present

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

Promulgated:

AUG 24 2020

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DECISION

FERNANDEZ, SJ, J.

This appeal seeks to reverse the Decision dated November 16, 2018 of the Regional Trial Court (RTC), Eleventh Judicial Region, Branch 10, Davao City, finding accused-appellant Erlinda L. Talua guilty beyond reasonable doubt of Violation of Sec. 3(e) of Republic Act No. 3019 (R.A. No. 3019).

RELEVANT ANTECEDENTS

In Crim. Case No. 75,264-13, accused-appellant, then the Principal IV of Sta. Ana National High School (SANHS), was charged with Violation of Sec. 3(e) of Republic Act No. 3019 for allegedly unlawfully collecting various fees from the students and parents of Sta. Ana National High School. The accusatory portion of the Information reads:

That in or about the school year 2007 or immediately prior or subsequent thereto in Davao City and within the jurisdiction of this Honorable Court, accused **ERLINDA LOGARTA TALUA**, a low

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ranking public official, being the Principal (SG 24) of Sta. Ana National High School, D. Suazo Street, Davao City, while in the performance of her official functions and committing the offense in relation to office, and taking advantage of her official position, did then and there willfully, intentionally and criminally with evident bad faith, unlawfully collect various fees consisting of Legal Fees, Project, Authorized Fees, Homeroom, and Parents and Guardians Association Fees from the students and parents of Sta. Ana National High School, D. Suazo Street, Davao City amounting to Nineteen Thousand Eight Hundred Twenty-Six Pesos (P19,826.00) thereby causing undue injury to the students and parents in the aforesaid amount.

CONTRARY TO LAW.

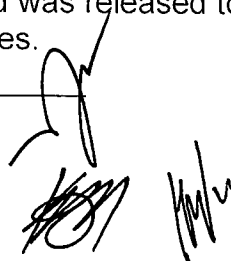
During her arraignment on July 19, 2013, accused-appellant entered her plea of "Not Guilty."¹

The RTC summarized the evidence of the parties, thus:

Witness Romulo C. Mamalias testified that accused Talua imposed the collection of fees and compelled the students to pay several fees which is contrary to DepEd Order No. 22 and 23. In fact, he was able to take pictures of students falling in line to pay the said fees through the help of his friend. He further testified that under the same Order, only the PTA is authorized to collect the fees. During the cross-examination, he testified that accused Talua suspended the PTA and that there were parents who willingly made voluntary contributions. However, he reiterated that the students were forced as depicted from the pictures taken and that there was no sign posted in the door or any part of the school pertaining to the no payment policy during the enrolment.

Meanwhile, Christine Mamalias testified that she was a student of Sta. Ana National High School where she graduated high school and their principal during that time was accused Erlinda Talua. She identified O.R. No. 7581962 as her proof that she paid the compulsory fees since it is a requirement in order to get a card and secure the clearance. She also testified that they made the payments to the cashier. During cross-examination, witness Christine Mamalias reiterated that the payment were [sic] compulsory because it was required in order for them to get clearance and eventually graduate. Moreover, their teacher announced to the class that the same has to be paid. However, the witness testified that she did know [sic] any particular instance wherein a card was released to the student even without paying the compulsory fees.

¹ Rollo 2, pp. 339-340



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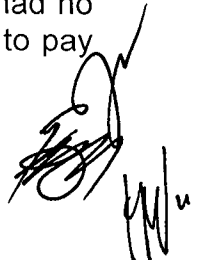
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Lastly, witness Virginia Nucus testified that she was designated as the Education Program Supervisor and at the same time the PTA Division Coordinator. She identified some of the receipts presented and testified that the Sta. Ana High School Interim was not allowed to use the government official receipts since the same was not organized in accordance with DepEd Order No. 23 and DepEd Order No. 53 series of 2009 [sic]. During the cross-examination, she testified that she does not have any idea why the PTCA was terminated and reiterated that nonetheless, the accused Talua has no authority to organize an interim [sic].

In addition, the prosecution presented documentary exhibits, particularly the various receipts issued in collecting the said fees.

For her part, accused Talua testified that during her tenure as principal, she temporarily suspended the scheduled election of the PTCA for the election of new officers since there was a conflict between the teachers and the parents itself. She also testified that there was no money collected during her time because she herself publicly announced to the teachers and parents about DepEd Order No. 23 during an orientation which she called for that purpose. During her tenure, parents voluntarily went to the office of the disbursing officer at the Auditor's Office to pay which was sanctioned under DepEd Order No. 22. She also reiterated the fact that she was given a clearance and an endorsement from the Ombudsman upon her retirement. During the cross-examination, she testified that she prepared the clearance to inform the authority of her retirement and that subsequently, she was issued an Ombudsman clearance. Anent the collections she made, she clarified that she relied on DepEd No. 22. During the clarificatory questions raised by the Court, she clarified that she did not require the teachers to sign the clearance [sic] if there is no payment. In fact, there were diplomas which were released even without the corresponding payment. However, she can no longer identify exactly how many of them received the same.

Lastly, Manuel P. Vallejo took the witness stand as the last witness of the defense. He testified that he was a teacher and designated as the Acting Administrative Officer when he was in Sta. Ana High School way back then. As an Acting Administrative Officer, his work was to assist the principal in making the memorandum and in whatever programs or projects of the school. He testified that during that time, DepEd Orders 22 and 23 were strictly implemented by accused Talua. In fact, as he recalled, the accused called a meeting of the parents and teachers for the discussion of the two DepEd Orders. He also clarified that accused did not require any payment for the enrolment since in the first place, accused had no custody of the cards. There were parents who were willing to pay



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especially the officials of the neighboring barangays since there were barangay scholars who were enrolled in said school.

The RTC found that accused-appellant acted with evident bad faith when she required the payment of the subject fees for the student clearance and graduation, in violation of DepEd Order 23 s. 2003, and caused undue injury to the students and parents who were mandated to pay said fees, when payment of the same should have been voluntary. The dispositive portion of the Decision dated November 16, 2018 reads:

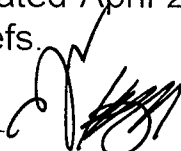
WHEREFORE, IN VIEW OF ALL THE FOREGOING, the Court finds the accused Erlinda Logarta Talua GUILTY beyond reasonable doubt of the offense under Section 3(e) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act and hereby sentences her to suffer the indeterminate penalty of six (6) years and one (1) month as minimum, to Seven (7) years as maximum and perpetual disqualification from holding public office.

SO ORDERED.

In her Notice of Appeal,² accused-appellant signified her intention to appeal said RTC's Decision to the Court of Appeals (CA). Thereafter, before the RTC transmitted the records of the case to the CA, accused-appellant filed her *Motion to Correct Notice of Appeal with Issuance of Order to Forward Record to Sandiganbayan*.³ Acting on said Motion, the RTC, in the Order dated February 18, 2019, ordered that the records of the case be forwarded to the Sandiganbayan.

In the Resolution dated April 25, 2019,⁴ this Court, citing *Torres v. People*,⁵ held that the designation of the proper court should have been made within the 15-day period to appeal, and dismissed the instant appeal for having been improperly filed.

Subsequently, this Court, in the Resolution dated September 5, 2019,⁶ granted accused-appellant's *Motion for Reconsideration*,⁷ set aside the Resolution dated April 25, 2019, and directed the parties to file their respective briefs.


² Dated December 20, 2018 and filed on December 21, 2018


³ Dated and filed on February 4, 2019

⁴ Record, pp. 45-46

⁵ G.R. No. 175074, August 31, 2011

⁶ Record, pp. 72-77

⁷ Dated June 7, 2019; Record, pp. 50-56



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In her brief,⁸ accused-appellant makes the following assignment of error:

THE REGIONAL TRIAL COURT ERRED IN FINDING THAT THE SECOND AND THIRD ELEMENTS OF VIOLATION OF SECTION 3(e) OF RA 3019 ARE ESTABLISHED BY THE PROSECUTION BEYOND REASONABLE DOUBT.

On the other hand, in its Brief,⁹ plaintiff-appellee argues that the RTC correctly found accused-appellant guilty beyond reasonable doubt of Violation of Sec. 3(e) of R.A. No. 3019.

THE COURT'S RULING

In criminal cases, an appeal throws the entire case wide open for review and the reviewing tribunal can correct errors, though unassigned in the appealed judgment, or even reverse the trial court's decision based on grounds other than those that the parties raised as errors. The appeal confers the appellate court full jurisdiction over the case and renders such court competent to examine records, revise the judgment appealed from, increase the penalty, and cite the proper provision of the penal law.¹⁰

After a review of the records, this Court finds that the RTC's Decision should be reversed, and accused-appellant must be acquitted.

Sec. 3(e) of R.A. No. 3019 provides:

Sec. 3. *Corrupt practices of public officers.* – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

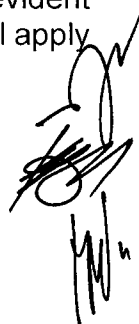
x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply

⁸ Dated October 28, 2019; Record, pp. 82-140

⁹ *Plaintiff-Appellee's Brief* dated January 21, 2020; Record, pp. 154-174

¹⁰ *Ramos v. People*, G.R. Nos. 218466 and 221425, January 23, 2017



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to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

The essential elements of the offense are as follows:¹¹

1. The accused must be a public officer discharging administrative, judicial, or official functions;
2. The accused must have acted with manifest partiality, or evident bad faith, or gross inexcusable negligence; and,
3. The accused' action caused undue injury to any party, including the Government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his or her functions.

First element

The first element is present. The accused was Principal IV at the Sta. Ana National High School (SANHS) at the time material to the present case. Her act of collecting, or causing the collection of, the subject fees from the parents and students were done in the performance of her administrative and official functions.

Under Republic Act No. 9155¹² (R.A. No. 9155), the duties and responsibilities of the school head are as follows:

Sec. 7. Powers, Duties and Functions. – x x x

x x x

E. School Level

There shall be a school head for all public elementary schools and public high schools or a cluster thereof. The establishment of integrated schools from existing public elementary and public high schools shall be encouraged.

The school head, who may be assisted by an assistant school head, shall be both an instructional leader and administrative manager. The school head shall form a team with the school teachers/learning facilitators for delivery of quality educational programs, projects and services. A core of non-teaching staff shall handle the school's administrative, fiscal and auxiliary services.

¹¹ Please see *Rivera v. People*, G.R. No. 228154, October 16, 2019

¹² Governance of Basic Education Act of 2001

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Consistent with the national educational policies, plans and standards, the school heads shall have authority, accountability and responsibility for the following:

x x x

(7) Administering and managing all personnel, physical and fiscal resources of the school;

x x x

Second element

In *Cruz v. People*,¹³ citing *Uriarte v. People*,¹⁴ the modes by which Violation of Sec. 3(e) of R.A. No. 3019 may be committed were defined as follows:

Manifest partiality, evident bad faith and gross inexcusable negligence are defined as follows:

x x x There is “**manifest partiality**” when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. “**Evident bad faith**” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. “**Gross inexcusable negligence**” refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

This Court partly agrees with the RTC’s findings that accused-appellant required the payment of certain fees for the student clearance and graduation, and that the collection of such fees was unlawful.

The various receipts show that on different dates from 2006 to 2007, collections were made for “authorized fees” for which official receipts were issued by the school’s Collecting Officer.¹⁵ The official receipts invariably indicate “AUTHORIZED FEES” under the column “Nature of Collection.” Aside from the “authorized fees,” other amounts

¹³ G.R. Nos. 197142 and 197153, October 9, 2019

¹⁴ G.R. No. 169251, December 20, 2006

¹⁵ Exhibits K, L, N, P, R, T, V, X, Z, BB, DD, FF, HH, JJ, KK, LL, PP, TT, UU, WW, XX, YY, ZZ, CCC, FFF, JJJ, MMM, NNN, OOO, RRR, UUU, XXX, AAAA, CCCC, GGGG, IIII, MMMM, QQQQ, SSSS, UUUU, YYYY, ZZZZ, CCCCC, HHHHH, SSSSS, UUUUU

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collected from the students and/or their parents from 2006 to 2007 were Homeroom Fees, PGA Fees, I.D., Year Book, Graduation Fees, and Janitor/Proj. for which receipts from "SANHS – Homeroom Interim Officer" and "Parents Task Force Sta. Ana National high School Graduation '07 [sic]" were issued.¹⁶

Plaintiff-appellee presented as witnesses Romulo C. Mamalias and Christine Mamalias, to prove that the collection of the fees was compulsory. Romulo C. Mamalias testified that accused-appellant issued a memorandum to the department heads to implement the collection.¹⁷ Christine Mamalias, a student at the time material to the present case, testified that she paid the "authorized fees," as evidenced by Official Receipt No. 7581962,¹⁸ and that the collection of the fees was compulsory because it was announced during class that it would be a requirement for getting the card and for securing clearance.¹⁹

Romulo C. Mamalias' testimony that the department heads were instructed to implement the collection is supported by the fact that official receipts were issued by the school's Collecting Officer for the payment of the "authorized fees." On the other hand, the Student Clearance forms,²⁰ wherein the items "PGA" and "School Collector (Legal Fees)" are indicated, corroborates Christine Mamalias' testimony.

Although the official receipts issued by the school's Collecting Officer invariably indicate only "authorized fees," and the Student Clearance forms indicate only "legal fees," it appears that the two (2) fees are one and the same. Of the official receipts presented by plaintiff-appellee, only Official Receipt No. 7582816 dated May 24, 2007²¹ shows the composition of such "authorized fees." This Court notes that the composition of, and the amounts for, the "authorized fees" are similar to those of the "legal fees," as seen in one of the photographs²² taken by a certain Fernando, the friend of prosecution

¹⁶ Exhibits M, O, Q, S, U, W, Y, AA, CC, EE, GG, II, MM, NN, OO, QQ, RR, SS, VV, AAA, BBB, DDD, EEE, GGG, HHH, III, KKK, LLL, PPP, QQQ, SSS, TTT, VVV, WWW, YYY, ZZZ, DDDD, EEEE, FFFF, HHHH, JJJJ, KKKK, LLLL, NNNN, OOOO, PPPP, RRRR, TTTT, VVVV, WWWW, XXXX, AAAAA/LLLLL, BBBB/MMMMM, DDDDD, EEEEE, FFFFF, GGGGG, IIIII, JJJJJ, KKKKK, NNNNN, OOOOO, PPPPP, QQQQQ, RRRRR, TTTTT, VVVVV AND WWWWW

¹⁷ TSN, January 30, 2018, p. 9

¹⁸ Exhibit K

¹⁹ TSN, February 27, 2018, pp. 4-5

²⁰ Exhibits/D, E, F, G and H

²¹ Exhibit T

²² Exhibit HHHHHH-6

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witness Romulo C. Mamalias.²³ The details found in said official receipt and in said photograph are as follows:

Official Receipt No. 7582816 dated May 24, 2007 (Exhibit T)		Photograph taken by Fernando (Exhibit HHHHHH-6)	
SCHOOL ORGAN	₱ 80	USSG	₱55.00
STEP	30	SCHOOL PAPER	₱80.00
STUDENT GOV'T.	55	STEP	₱35.00
Total	₱165	Total	₱170.00

Sec. 2, Art. XIV²⁴ of the Constitution provides that the State shall establish and maintain a system of free public education in the elementary and high school levels. Consistent with the aforementioned constitutional provision, Sec. 4 of Republic Act No. 6655²⁵ (R.A. No. 6655) provides:

Sec. 4. Implementation of Free Public Secondary Education.

– The system of free public secondary education as provided in this Act shall commence in School Year 1988-1989, and that the students enrolled in secondary course offerings in national and general comprehensive high schools, state colleges and universities, specialized schools, trade, technical, vocational, fishery and agricultural schools and in schools which may be established by law, shall be free from payment of tuition and other school fees, except fees related to membership in the school community such as identification cards, student organizations and publication which may be collected; provided, that nothing in this Act shall cause or authorize the reduction or removal of any benefit which the national or local government may have granted to the students, teachers and other school personnel of these public high schools prior to the enactment of this Act.

(underscoring supplied)

To implement the aforesaid provisions, the Department of Education (DepEd) issued Orders specifying the conditions for the collection of certain voluntary contributions. Pertinent to the fees subject of the present case is DepEd Order 20, s. 2006 dated May 18, 2006, which is a substantial reiteration of DepEd Order No. 22, s.

²³ TSN, January 30, 2018, pp. 8-9

²⁴ **Section 2.** The State shall: x x x (2) Establish and maintain a system of free public education in the elementary and high school levels. Without limiting the natural right of parents to rear their children, elementary education is compulsory for all children of school age; x x x

²⁵ Free Public Secondary Education Act of 1988

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2005²⁶ dated May 20, 2005, cited by the parties. The relevant provisions of DepEd Order 20, s. 2006 read:

- 2. Contributions for the following organizations and fund raising activities may be collected at any time during the year including the enrolment period provided that a (1) student has already enrolled and (2) these contributions are voluntary.
 - a. Boy Scouts of the Philippines
 - b. Girl Scouts of the Philippines
 - c. Philippine National Red Cross
 - d. Anti-TB Education and Fund Drive

THE PAYMENT OF SUCH CONTRIBUTIONS SHALL NOT BE MADE A REQUIREMENT FOR ADMISSION OR FOR THE RELEASE OF REPORT CARDS, AND TEST RESULTS, OR FOR CLEARANCE PURPOSES IN CASE OF TRANSFER OF STUDENTS TO OTHER SCHOOLS.

3. In order to assure that contributions are made solely on a voluntary basis, the following practices are prohibited in schools:

- Requiring payment of contributions before admission, release of report cards or test results, or for clearance for transfer of students
- Requiring parents to sign promissory notes for contributions they are unable to pay
- Setting up variations in enrollment procedures that discriminate between those who contribute and those who do not
- Using the moral suasion and authority of the school head/teacher to shame or criticize those who do not contribute.

4. Teachers and other school personnel are hereby prohibited from collecting said contributions for these organizations. These organizations shall assign their own personnel to collect contributions/membership fees at the school level. In cases where they do not have such personnel, it is suggested that these organizations initiate arrangements with the school's PTA/PTCA to authorize the PTA/PTCA Treasurer to collect contributions in their behalf.

x x x

6. For schools that publish school papers, the collection of school publication fee, which shall be voluntary and set by the individual elementary and secondary school, but which shall not exceed

²⁶ Guidelines on the Voluntary Collection of Fees From Students of Public Elementary and Secondary Schools

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P55.00 per elementary school pupil and P80.00 per secondary school student shall also be undertaken by the PTCA.

7. Likewise, for schools with active student organizations recognized by the DepEd, the PTCA may undertake the collection of a student organization fee which shall be voluntary and shall not exceed P55.00 per student. Fifty percent of the proceeds of the collection will go to the student government, while the remaining fifty percent will be shared with other co-curricular clubs and organizations in the school.

Of the fees covered by the various receipts, only the fees for the school publication and that for student organizations are explicitly included in the collections that are allowed, subject to certain conditions, under DepEd Order No. 20, s. 2006. The rest are covered by other DepEd Orders.

DepEd Order No. 23 s. 2003 and the enclosed *Revised Guidelines Governing PTAs/PTCAs at the School Level* provide for the collection of PTA/PTCA fees, and the conditions for the collection thereof. To wit:

VI. Financial Matters

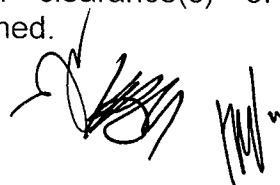
1. Collection of Funds.

As a rule no collection shall be imposed upon students/pupils/parents in the schools, except those enumerated by law, namely: Boy Scout, Girl Scout and Red Cross contributions.

However, cognizant of the need of an organization for adequate funds to sustain its operations, duly accredited/recognized PTAs/PTCAs may be authorized to collect financial contribution from its members to enable it to fund and sustain its operation and for the implementation of its programs and projects for the benefit of the school in which it operates.

Such collection shall be made by the PTAs/PTCA subject to the following conditions:

- a. The membership and other dues of its members should be of a reasonable amount as determined by the Board of Directors.
- b. Such amount and the system of payment shall be approved by the members in a General Assembly called for the purpose.
- c. It shall be made on a voluntary basis. Non-payment of such contribution by the parent-member shall not be a basis for non-admission and non-issuance of clearance(s) of his/her child/children by the school concerned.



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- d. It shall be collected only once every school year by the PTA/PTCA treasurer from parent-member regardless of the number of children he/she has in the school.
- e. No teacher or any school personnel shall be involved in such collection activities.
- f. The coercive power of the school shall not be used by the school officials/personnel as a tool to effect collection of such contribution(s).

Non-compliance or any violation of the aforementioned conditions shall cause the cancellation of the PTA's/PTCA's accreditation and/or the filing of appropriate charges, as the case may be.

On the other hand, graduation fees and contributions for the yearbook may be collected subject to the conditions set forth in DepEd Order No. 16 s. 2007²⁷ dated March 6, 2007, which reiterates DepEd Order No. 8, s. 2005 dated February 28, 2005. The pertinent portion of DepEd Order No. 16, s. 2007 reads:

2. In line with the government's austerity program, this Office reiterates the Department's policy on the conduct and collection of fees for graduation rites as contained in DepED Order No. 8, s. 2005, to wit:

- a. Public schools are not allowed to collect any graduation fees or any kind of contribution for graduation rites;
- b. PTA/PTCAs may solicit voluntary contributions from their members for graduation ceremonies and celebrations, however, teachers and principals should not be involved in the collection of said contributions. Use of such contributions for graduation shall be coordinated with and properly reported to the PTA/PTCA members;
- c. No non-academic project shall be imposed as a requirement for graduation;
- d. No extravagant special attire or extraordinary venue for the ceremonies should be required; and
- e. Contributions for the annual yearbook shall likewise be on a voluntary basis.

The collection of each kind of fee is subject to different conditions. However, one condition is uniform for all of them—the contributions must be voluntary on the part of the students and/or their parents

²⁷ 2007 Graduation Rites



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Accused-appellant never denied that she imposed the collection of various fees, but she vehemently insisted that the payment of the same was voluntary on the part of the students and/or their parents, and that she strictly implemented the pertinent DepEd orders.²⁸ However, she did not present evidence that would refute plaintiff-appellee's evidence showing that the imposition of the PGA and "authorized fees" was compulsory. She could have presented the memorandum that she issued, or the teacher in charge of Christine Mamalias' class to prove her actual instructions, or to show that her instructions were misinterpreted or misunderstood, but she did not do so. Clearly, accused-appellant unlawfully collected, or caused the collection of, the PGA fees and "authorized fees," despite being fully aware of pertinent DepEd orders.

As for the collection of the other fees, *i.e.*, Graduation Fees, Yearbook fees, etc., the Court finds nothing in the evidence on record that would show that accused-appellant also imposed the compulsory collection of the same.

To be sure, accused-appellant imposed the compulsory collection of the PGA and "authorized fees," in violation of the pertinent DepEd orders, but this Court disagrees with the RTC's conclusion that accused-appellant acted with evident bad faith. This Court is hard-pressed to find even a hint of bad faith, much less evident bad faith, in accused-appellant's imposition of the compulsory collection of the PGA and "authorized fees." There is nothing in the evidence on record that would indicate that accused-appellant used the amounts collected for her personal use, or that they were used for purposes other than those for which they were collected, or that accused-appellant acted for her self-interest, or otherwise, any dishonest or ulterior purpose on accused-appellant's part.

That said, the second element of Violation of Sec. 3(e) of R.A. No. 3019 is nonetheless present because accused-appellant acted with gross inexcusable negligence, or with conscious indifference insofar as other persons may be concerned. As the school head of SANHS, she was in charge of managing the school's personnel and resources. Her responsibility extended to ensuring that the pertinent laws and regulations were complied with. Instead, she willfully disregarded the prohibition against unauthorized or compulsory

²⁸ TSN, June 5, 2018, pp. 3-7

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collections under R.A. No. 6655 and the pertinent DepEd orders, even instructing school personnel to facilitate said collections.

Third element

The RTC found that accused-appellant's act caused undue injury to the students and their parents who were forced to pay the subject amounts, when such contributions should have been voluntarily paid. The pertinent portion²⁹ of the RTC's Decision reads:

In the instant case, the undue injury caused to the private party, specifically to the parents and students is evident. By making the payments compulsory, the students and parents were mandated to pay such fees which under the law the same should only be deemed voluntary. What bears emphasis was the fact that the same were required in the issuance of the student clearance. The compulsory nature of the payments was further bolstered by the fact that there was a verification slip issued. The students and parents had no choice but to shell out some money.

This Court disagrees with the court *a quo*'s conclusion.

The Supreme Court's ruling in *Llorente v. Sandiganbayan*³⁰ is instructive. There, the Supreme Court defined "undue injury," and explained that being an element of the crime, it cannot be presumed, but must be specified, quantified and proven to the point of moral certainty. *Viz.:*

This point is well-taken. Unlike in actions for torts, undue injury in Sec. 3[e] cannot be presumed even after a wrong or a violation of a right has been established. Its existence must be proven as one of the elements of the crime. In fact, the causing of undue injury or the giving of any unwarranted benefits, advantage or preference through manifest partiality, evident bad faith or gross inexcusable negligence constitutes the very act punished under this section. Thus, it is required that the undue injury be specified, quantified and proven to the point of moral certainty.

In jurisprudence, "undue injury" is consistently interpreted as "actual damage." Undue has been defined as "more than necessary, not proper, [or] illegal;" and injury as "any wrong or damage done to another, either in his person, rights, reputation or property[; that is, the] invasion of any legally protected interest of another." Actual damage, in the context of these definitions, is akin to that in civil law.

²⁹ Decision dated November 16, 2018, p. 16

³⁰ G.R. No. 122166, March 11, 1998

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In turn, actual or compensatory damages is defined by Article 2199 of the Civil Code as follows:

Art. 2199. Except as provided by law or by stipulation, one is entitled to an adequate compensation only for such pecuniary loss suffered by him as he has duly proved. Such compensation is referred to as actual or compensatory damages."

Fundamental in the law on damages is that one injured by a breach of contract, or by a *wrongful or negligent act or omission* shall have a fair and just compensation commensurate to the loss sustained as a consequence of the defendant's act. Actual pecuniary compensation is awarded as a general rule, except where the circumstances warrant the allowance of other kinds of damages. Actual damages are primarily intended to simply make good or replace the loss caused by the wrong.

Furthermore, damages must not only be capable of proof, but must be actually proven with a reasonable degree of certainty. They cannot be based on flimsy and non-substantial evidence or upon speculation, conjecture or guesswork. They cannot include speculative damages which are too remote to be included in an accurate estimate of the loss or injury.

(underscoring supplied)

In the present case, there is no question that accused-appellant's imposition of the compulsory collection of the PGA and "authorize fees" violated the pertinent DepEd orders. However, plaintiff-appellee failed to prove the undue injury suffered by the students and/or parents who made the payments because damage will not necessarily result from the imposition of compulsory collection.

First, as discussed earlier, the pertinent DepEd orders do not proscribe the collection of PTA/PTCA fees, and the fees composing the "authorized fees" *per se*. What said DepEd orders prohibit is making the payment of said fees compulsory. If the conditions are met, then collection of the fees is authorized, and the students and/or their parents presumably derive some form of benefit from paying said fees. It not appearing that the PGA and "authorized fees" paid by the students and/or their parents were misused, it can be reasonably presumed that the payment of the subject amounts redounded to the benefit of the school, and ultimately, to the benefit of the students.

Second, plaintiff-appellee failed to prove beyond reasonable doubt the actual damage suffered by the students and/or their parents

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In *Llorente*, the Sandiganbayan found therein petitioner guilty of Violation of Sec. 3(e) of R.A. No. 3019 for unreasonably delaying or withholding therein complainant’s salaries and emoluments, thereby causing undue injury in the form of difficulties in meeting therein complainant’s financial obligations such as paying for the tuition fees of her four children. Subsequently, the Supreme Court held that the prosecution failed to establish the elements of the crime charged. It was held that therein complainant’s mere claim of financial stress, without giving the specific details, is not sufficient to constitute undue injury, as contemplated in Sec. 3(e) of R.A. No. 3019. *Viz.:*

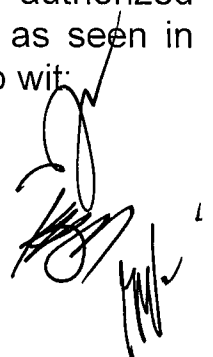
Complainant’s testimony regarding her family’s financial stress was inadequate and largely speculative. Without giving specific details, she made only vague references to the fact that her four children were all going to school and that she was the breadwinner in her family. She, however, did not say that she was unable to pay their tuition fees and the specific damage brought by such nonpayment. The fact that the “injury” to her family was unspecified or unquantified does not satisfy the element of undue injury, as akin to actual damages. As in civil cases, actual damages, if not supported by evidence on record, cannot be considered.

Here, plaintiff-appellee failed to specify the details of the undue injury supposedly suffered by the students and/or their parents. Worse, plaintiff-appellee did not even spell out the nature of the injury that was supposedly suffered.

Plaintiff-appellee presented receipts pertaining to fifty-one (51) students, but it presented as witness only one (1) former student who actually paid the “authorized fees”—Christine Mamalias. However, her testimony only proved that she paid the “authorized fees,” and that the payment of the “authorized fees” was compulsory, because it was required for clearance and graduation. Nowhere did she even claim that she suffered injury or damage as a result of accused-appellant’s imposition.

Further introducing doubt as to the supposed undue injury suffered by the students and/or their parents is the fact that despite the imposition of the compulsory collection of the PGA and “authorized fees,” some parents opted to voluntarily pay the same, as seen in prosecution witness Romulo C. Mamalias’ testimony.³¹ To wit:

³¹ TSN, January 30, 2018, p. 7



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ATTY. OLARTE:

Would you agree with me that despite Dep Ed Order No. 22 and 23, there are still parents who opt to pay voluntarily, would you agree with me?

A : Yes, but only a little amount.

Q : So there are still parents who opt to pay despite the Dep Ed orders?

A : Yes.

This Court cannot speculate as to who among the students and/or their parents voluntarily paid the fees and who did not, and of those who did not voluntarily pay, who among them suffered actual damage, and what kind of damage, as a result of accused-appellant's imposition of compulsory collection of said fees. It has long been held that conclusions based entirely on conjecture and speculations cannot serve as a basis for conviction.³²

In fine, the RTC's conclusion that plaintiff-appellee proved the third element of Violation of Sec. 3(e) of R.A. No. 3019 beyond reasonable doubt is erroneous.

Accused-appellant is entitled to an acquittal for plaintiff-appellee's failure to discharge its burden of proving each and every element of the offense beyond reasonable doubt. As held by the Supreme Court in *People v. Claro*:³³

Without the proof of his guilt beyond reasonable doubt, therefore, the presumption of innocence in favor of the accused herein was not overcome. His acquittal should follow, for, as we have emphatically reminded in *Patula v. People*:³⁴

x x x in all criminal prosecutions, the Prosecution bears the burden to establish the guilt of the accused beyond reasonable doubt. In discharging this burden, the Prosecution's duty is to prove each and every element of the crime charged in the information to warrant a finding of guilt for that crime or for any other crime necessarily included therein. The Prosecution must further prove the participation of the accused in the commission of the offense. In doing all these, the Prosecution must rely on the strength of its

³² Please see *People v. Sujetado*, G.R. No. 103967, April 7, 1993

³³ G.R. No. 199894, April 5, 2017

³⁴ G.R. No. 164457, April 11, 2012

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own evidence, and not anchor its success upon the weakness of the evidence of the accused. The burden of proof placed on the Prosecution arises from the presumption of innocence in favor of the accused that no less than the Constitution has guaranteed. Conversely, as to his innocence, the accused has no burden of proof, that he must then be acquitted and set free should the Prosecution not overcome the presumption of innocence in his favor. In other words, the weakness of the defense put up by the accused is inconsequential in the proceedings for as long as the Prosecution has not discharged its burden of proof in establishing the commission of the crime charged and in identifying the accused as the malefactor responsible for it.

(underscoring supplied)

CONCLUSION

The RTC erroneously ruled that the third element of Violation of Sec. 3(e) of R.A. No. 3019 was proved beyond reasonable doubt.

WHEREFORE, the Decision dated November 16, 2018 of the RTC in Criminal Case No. 75, 264-13 is hereby REVERSED and SET ASIDE. Accused-appellant Erlinda L. Talua is hereby ACQUITTED for failure of the prosecution to prove her guilt beyond reasonable doubt.

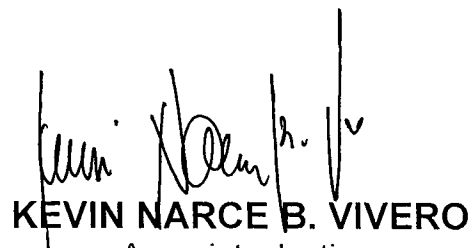
There being no basis to find accused-appellant to be civilly liable, the Court will not impose any civil liability.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

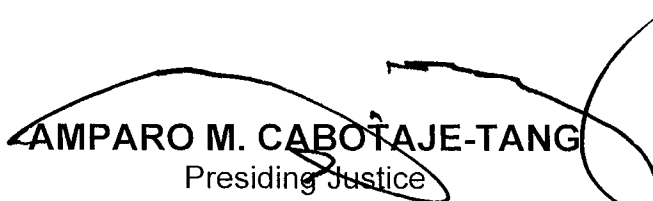
ATTESTATION

I attest that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13, of the Constitution, and the Division Chairperson's Attestation, it is hereby certified that the conclusions in the above decision were reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.


AMPARO M. CABOTAJE-TANG
Presiding Justice

