



Republic of the Philippines

Sandiganbayan

Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-10-CRM-0220

For: Violation of Section 3(e) of
Republic Act No. 3019, as
amended

- versus -

Present

FERNANDEZ, SJ, J.

Chairperson

MIRANDA, J. and

VIVERO, J.

**GERRY JOVILLA MORALES,
ROSELLER NAZARENO
MACAYRA, EMERITOS
MORALES JOVILLA,
FRANCISCO SERRA JIMENEZ, JR.,
REYMUNDO MANDAWA ESCAMILLAN,
and DONALD BANIEL VILLADEMOSA.**

Accused.

Promulgated:

August 26, 2020 /mj

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DECISION

VIVERO, J.:

The Court's verdict herein is, foremost, confined to the determination of the criminal liability, if any, of accused **Reymundo Mandawe Escamillan**, Officer-in-Charge, General Services Officer of the Municipality of Bangaga, Davao Oriental, and **Donald Baniel Villademosa**, a private party who owns and operates Villtrade Marketing. This comes on the heels of the Supreme Court's affirmation of the Court's conviction of their alleged co-conspirators.

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On November 12, 2014, this Court¹ handed down its judgment of conviction against four (4) of their co-accused, namely:

1. Gerry Jovilla Morales;
2. Roseller Nazareno Macayra;
3. Emeritos Morales Jovilla; and
4. Francisco Serra Jimenez, Jr..

The *fallo* of the Court's Decision² reads:

“WHEREFORE, premises considered, the Court finds accused GERRY JOVILLA MORALES, ROSELLER NAZARENO MACAYRA, EMERITOS MORALES JOVILLA and FRANCISCO SERRA JIMENEZ, JR. **GUILTY** beyond reasonable doubt of violation of Section 3(e) of R.A. 3019, as amended, and sentences each of them to suffer an indeterminate penalty of imprisonment for six (6) years, one (1) month, as minimum, to ten (10) years, as maximum, with perpetual disqualification from holding public office. They are likewise ordered to jointly and severally indemnify the government the amount of ₱101,086.37 as actual damage[s].

“Insofar as REYMUNDO MANDAWA ESCAMILLAN and RONALD B. VILLADEMOSA are concerned, since they are still at large up to the present, let the case be ARCHIVED and let an alias warrant of arrest issue against them.

“SO ORDERED.”³ (Emphasis and Underscoring Supplied.)

On December 1, 2014, accused Morales filed his Motion for Reconsideration.⁴ On December 4, 2014, accused Jovilla and Macayra filed theirs,⁵ and, later, accused Jimenez, Jr. followed suit.⁶

¹ Fifth Division composed of Justice Roland B. Jurado, chairperson; Justice Alexander G. Gesmundo (now Associate Justice of the Supreme Court), *ponente*; and Justice Ma. Theresa Dolores C. Gomez-Estoesta, member.

² Decision dated November 12, 2014, pp. 1 – 24 (Records, Vol. 2, pp. 354 – 377).

³ Id. at p. 22 – 23 (Records, Vol. 2, pp. 375 – 376).

⁴ Motion for Reconsideration dated November 28, 2014, of Gerry J. Morales, pp. 1 – 9 (Records, Vol. 3, pp. 14 – 22).

⁵ Motion for Reconsideration dated December 4, 2014, of Emeritos M. Jovilla and Roseller N. Macayra, pp. 1 - 10 (Records, Vol. 3, pp. 49 – 58).

⁶ Urgent Motion for Reconsideration dated December 8, 2014, of Francisco S. Jimenez, Jr., pp. 1 – 9 (Records, Vol. 3, pp. 37 – 45; Records, Vol. 4, pp. 291 - 300).

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Contrarily, the Prosecution filed its separate Comment/Opposition thereto.⁷

On March 30, 2015, the Court resolved to **deny** the motions for reconsideration of the four (4) accused.⁸

Aggrieved, Morales lodged an appeal by certiorari under Rule 45 before the Supreme Court.⁹ Likewise, his three co-accused availed of the same remedial action. Thence, the Court consolidated **G.R. No. 218468 (*Emeritos M. Jovilla and Francisco S. Jimenez, Jr. v. Sandiganbayan and People of the Philippines*)**, with **G.R. No. 218469 (*Engr. Roseller N. Macayra v. People of the Philippines*)** and **G.R. No. 218264 (*Gerry J. Morales v. People of the Philippines*)**, in order to avoid conflicting decisions on related cases and to save the time and resources of the Court.¹⁰

Meanwhile, the archived case against accused Villademoso was **revived**¹¹ after he gave himself up and posted the requisite cash bond for his provisional liberty.¹² Likewise, accused Escamillan took after him.¹³ Thenceforth, trial on the merits ensued.

On September 21, 2015, the High Tribunal resolved to **deny** Morales' petition for review on certiorari in **G.R. No. 218264** because of failure to sufficiently show any reversible error in the assailed judgment to warrant the exercise by said Court of its discretionary appellate jurisdiction in said case.¹⁴ The petition for review on certiorari of accused Jovilla and Jimenez, Jr. in **G.R. No. 218468**, as well as Macayra's petition in **G.R. No. 218469** suffered the same fate.¹⁵ Notably, the petitions failed to strictly comply with the

⁷ Records, Vol. 3, pp. 61 – 67; 69 – 76; 85 – 91.

⁸ Resolution dated March 30, 2015, pp. 1 - 9 (Records, Vol. 3, pp. 131 – 139).

⁹ Petition dated July 3, 2015, of G. J. Morales, pp. 1 - 25 (Records, Vol. 3 , pp. 319 – 344).

¹⁰ Notice of Resolution dated July 13, 2015, pp. 1 – 2 (Records, Vol. 5, pp. 35 – 36).

¹¹ Minute Resolution dated July 6, 2015, of the Sandiganbayan, Fifth Division, p. 1 (Records, Vol. 5, p. 22).

¹² Order dated July 2, 2015, of the Regional Trial Court, Branch 7, Baganga, Davao Oriental, p. 1 (Records, Vol. 5, p. 28).

¹³ Records, Vol. 5, pp. 37 – 41.

¹⁴ Notice of Resolution dated September 21, 2015, of the Supreme Court, Second Division, pp. 1 – 2 (Records, Vol. 5, pp. 87, 128 - 129).

¹⁵ Notice of Resolution dated February 1, 2016, of the Supreme Court, Second Division, pp. 1 - 2 (Records, Vol. 5, p. 170 – 171).

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requirements specified in Rule 45 and other related provisions of the 1997 Rules of Civil Procedure, as amended.¹⁶

Accused moved for reconsideration,¹⁷ but to no avail. On August 17, 2016, the Supreme Court wrote *finis* to the three (3) consolidated cases and resolved to:

“1. **NOTE** counsel for petitioner Gerry J. Morales’ manifestation regarding the arraignment of petitioner’s co-accused, Rey Escamillan and Donald Villademoso;

“2. **NOTE** the manifestation regarding the arraignment of Rey Escamillan and Donald Villademoso filed by Atty. Napoleon F. Sango as special counsel for petitioners Engr. Roseller N. Macayra (G.R. No. 218469) and Emeritos M. Jovilla and Francisco S. Jimenez (G.R. No. 218468), relative to Resolution dated 21 September 2015;

“3. **CALL THE ATTENTION** of petitioners Jovilla, Jimenez and Macayra to this Court’s Resolution dated 1 February 2016, which denied the petitions in G.R. No. 218468 and G.R. No. 218469, to clarify their query as to the application of the Resolution dated 21 September 2015 to their respective cases; and

“4. **DENY** the motions of petitioners in G.R. No. 218264, G.R. No. 218469, and G.R. No. 218468 with FINALITY, no substantial argument having been adduced to warrant the reconsideration sought.

“No further pleadings or motions shall be entertained in this case. Let entry of final judgment be made in due course.”¹⁸

In view of the denial of the petitions filed before the Supreme Court by accused Morales, Jovilla, Jimenez, Jr., and Macayra, which denial had become final and executory on April 6, 2017, this Court ordered the issuance of a warrant of arrest against them to commence the service of sentence imposed upon them.¹⁹

¹⁶ *Ibid.*

¹⁷ Motion for Reconsideration (With Clarification and Manifestation) dated February 23, 2016, of E. M. Jovilla, F. S. Jimenez, Jr. and R. N. Macayra, pp. 1 - 18 (Records, Vol. 5, pp. 197 - 214).

¹⁸ Records, Vol. 5, pp. 289 - 290.

¹⁹ Minute Resolution dated June 1, 2017, p. 1 (Records, Vol. 5, p. 464; 481).

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The four (4) accused remained intransigent, but the Supreme Court cannot be swayed. In its Resolution²⁰ dated January 30, 2017, the Court paid scant regard to their last-ditch effort, viz:

“x x x, [T]he Court NOTES WITHOUT ACTION:

“1. the letter dated 30 September 2016 of accused-appellant Gerry J. Morales, praying for reconsideration of the Resolution dated 17 August 2016;

“2. the letter dated 7 October 2016 of accused-appellants Emeritos M. Jovilla and Francisco S. Jimenez, Jr., begging this Court to reconsider the denial of the petition for review on certiorari and the subsequent motion for reconsideration filed by them on the Sandiganbayan’s Resolution dated 30 March 2015 in Crim. Case No. SB-10-CRM-0220 which denied their motion for reconsideration of the Decision dated 12 November 2014 finding accused Gerry Jovilla Morales, Roseller Nazareno Macayra, Emeritos Morales Jovilla and Francisco Serra Jimenez, Jr. guilty beyond reasonable doubt of violation of Sec. 3(e), RA 3019;

“3. the request to admit letter-appeal of the accused dated 10 October 2016, filed by petitioners Emeritos M. Jovilla and Francisco S. Jimenez, Jr.;

“4. letter dated 7 October 2016 of petitioner Roseller N. Macayra of Baganga, Davao Oriental, stating that he was represented by the Public Attorney’s Office in the Sandiganbayan case; and that he was not effectively represented since he was not placed in the witness stand to tell the truth, and appealing to the Justices of the Second Division to provide him the opportunity to defend himself or take a second look at the petition for review on certiorari and motion for reconsideration filed before this Court; and

“5. the motion for reconsideration of the Resolution dated 17 August 2016 by petitioner Roseller N. Macayra, dated 10 October 2016.”²¹

By the same token, the submissions of Macayra before the Supreme Court were merely “*note[d] without action*”²²

²⁰ Records, Vol. 5, pp. 408 – 409.

²¹ *Ibid.*

²² Resolution dated July 3, 2017, of the Supreme Court, Second Division, p. 1 (Records, Vol. 5, p. 511); Resolution dated August 1, 2018, of the Supreme Court, Third Division, p. 1 (Records, Vol. 6, p. 264); Resolution dated June 19, 2019, of the Supreme Court, Third Division, p. 1 (Records, Vo. 6, p. 313).

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On June 1, 2017, this Court issued a Resolution,²³ the decretal portion of which reads:

“WHEREFORE, let warrant of arrest issue against Gerry J. Morales, Emeritus M. Jovilla, Francisco S. Jimenez, [Jr.], and Roseller N. Macayra, for them to commence the service of sentence imposed upon them.

“SO ORDERED.”²⁴

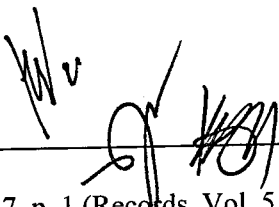
The obdurate persons deprived of liberty²⁵ (PDL) persisted nonetheless. On March 23, 2018, Morales, Jovilla and Jimenez, Jr. filed jointly before this Court an *Ex Parte Motion to Reopen and Modification of Sentence*.²⁶ They prayed that –

- 1) their sentence term be adjusted pursuant to Republic Act No. 10951;
- 2) they be released after serving the minimum sentence term imposable under said law;
- 3) they be allowed to apply for probation if qualified under the Probation Law; and
- 4) their respective cash bonds be released.²⁷

After a careful study of said motion *vis a vis* the Prosecution’s *Comment/Opposition*,²⁸ the Court ruled in this wise:

“WHEREFORE, the Motion of accused Morales, Jovilla and Jimenez is hereby PARTIALLY GRANTED. As prayed for, let their respective bonds be RELEASED, subject to the usual accounting and auditing procedure. Their prayer for other reliefs are DENIED for lack of merit.

“SO ORDERED.”²⁹



²³ Minute Resolution dated June 1, 2017, p. 1 (Records, Vol. 5, p. 464).

²⁴ *Ibid*; Warrant of Arrest dated June 2, 2017, p. 1 (Records, Vol. 5, p. 481)..

²⁵ See Revised Implementing Rules and Regulations (IRR) of Republic Act No. 10575 (The Bureau of Corrections Act of 2013), Rule III, Section 3(u), which was promulgated on May 23, 2016.

²⁶ Dated March 18, 2018, pp. 1 – 2 (Records, Vol. 6, pp. 117 – 118).

²⁷ *Ibid*.

²⁸ Dated April 20, 2018, pp. 1 – 7 (Records, Vol. 6, pp. 137 – 143).

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Prescinding from the foregoing, all that remains is the determination of the guilt or innocence of accused Escamillan, a public officer at the time material to the case, and Villademoso, a private party. Hence, this *ponencia*.

THE FORMAL CHARGE

Accused were charged before this Court with violation of Section 3(e) of Republic Act No. 3019,³⁰ as amended. The delictual allegations of the Amended Information³¹ are couched in the following language:

“That in the month of October 2002, or sometime prior or subsequent thereto, in the Municipality of Baganga, Davao Oriental, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused **GERRY MORALES y JOVILLA**, a high-ranking official, being the Municipal Mayor; **ROSELLER MACAYRA y NAZARENO**, as Municipal Engineer; **EMERITOS JOVILLA y MORALES**, as Municipal Accountant; **FRANCISCO JIMENEZ y SERRA JR.**, as Municipal Treasurer; and **REYMUENDO ESCAMILLAN y MANDAWA**, as Canvasser and OIC-General Services Officer, all public officers of the Municipality of Baganga, Davao Oriental, conspiring and confederating with one another and with accused private citizen **DONALD B. VILLADEMOSA**, owner and proprietor of VILLTRADE MARKETING, Davao City, committing the crime herein charged in relation to and taking advantage of, their official functions, acting with manifest partiality, evident bad faith and gross inexcusable negligence, did then and there willfully, unlawfully and criminally cause undue injury to the government and confer unwarranted benefits on DONALD B. VILLADEMOSA by causing the release of the amount of ₱ 101,086.37, in public funds, as contained in Check No. 52903 dated January 15, 2003, to accused DONALD B. VILLADEMOSA of VILLTRADE MARKETING as consideration for the purchase of ten (10) pieces of exterior tire with flap for the use of the Isuzu, V-10 Dt-04 despite the following facts known to the accused: first, that the disbursement was without the duly approved Purchase Order and the respective certifications as to the existence and validity of appropriation and availability of funds; second, that public bidding was not the mode of procurement; third, the Purchase Order was not signed by both

²⁹ Resolution dated April 27, 2018, pp. 1 - 5 (Records, Vol. 6, pp. 147 - 151); http://sb.judiciary.gov.ph/RESOLUTIONS/2018/D_Crim_SB-10-CRM-0220_People%20vs%20Morales,%20et%20al_04_27_2018.pdf

³⁰ Otherwise known as the Anti-Graft and Corrupt Practices Act.

³¹ Amended Information dated March 7, 2011, pp. 1 - 3 (Records, Vol. 1, pp. 286 - 288).

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accused Municipal Mayor GERRY MORALES y JOVILLA, in representation of the Municipality of Baganga, Davao Oriental and private accused DONALD B. VILADEMOSA, representative of VILLTRADE MARKETING; and fourth, the supplied requisitioned and paid for by the Municipality of Baganga from private accused DONALD B. VILADEMOSA were not delivered to the Municipality of Baganga, thereby giving unwarranted benefits to said DONALD B. VILADEMOSA and causing undue injury to the government in the aforestated amount of ₱ 101,086.37.

“CONTRARY TO LAW.

“Quezon City for Davao City, Philippines, March 7, 2011.”³²

THE CASE

This case stemmed from an affidavit-complaint³³ filed by Roseller N. Macayra, then-Municipal Engineer of Baganga, Davao Oriental, against Gerry Jovilla Morales, former Mayor of said first class municipality,³⁴ before the Office of the Ombudsman-Mindanao. Macayra, the “whistleblower,”³⁵ alleged that the local chief executive misappropriated funds earmarked for the fuel and lubricants, repair and maintenance of motor vehicles at the Motorpool, Municipal Engineering Office, Baganga.³⁶

On April 24, 2006, the Office of the Ombudsman-Mindanao referred the matter to the Commission on Audit (COA), Regional XI, Davao City to ascertain the veracity of the alleged irregularities. The audit team’s Fact-Finding Investigation Report³⁷ disclosed deficiencies, such as but not limited to lack of signatures and supporting papers on the disbursement voucher (DV), Allotment and Obligation Slip (ALOPS), Purchase Order (PO), Inspection and Acceptance Report, Purchase Request and Abstract of Canvass.³⁸

³² *Ibid*; See TSN, February 7, 2017, p. 79.

³³ Affidavit-Complaint dated March 13, 2006, of Roseller N. Macayra, pp. 1 – 3 (Records, Vol. 1, pp. 137 - 139).

³⁴ https://en.wikipedia.org/wiki/Baganga,_Davao_Oriental

³⁵ Motion for Re-examination with Prayer for Discharge and/or Exclusion as Respondent dated Feb. 14, 2011, filed by R. N. Macayra before the Office of the Ombudsman, pp. 1, 6 (Records, Vol. 4, pp. 118, 123).

³⁶ *Supra*, Note 3.

³⁷ Fact-Finding Investigation Report dated September 19, 2007, of the Commission on Audit, Regional Office No. XI, Davao City, pp. 1 – 24 (Records, Vol. 1, pp. 53 - 76).

³⁸ *Ibid*.

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After a thorough investigation, the Office of the Ombudsman-Mindanao found probable cause to indict Gerry J. Morales, Roseller N. Macayra, Emeritos M. Jovilla, Reymundo M. Escamillan, Francisco S. Jimenez, Jr. and Donald B. Villademoso for violation of Section 3(e) of Republic Act No. 3019, amended, otherwise known as the Anti-Graft and Corrupt Practices Act.³⁹ On October 7, 2010, the corresponding Information was filed against the five (5) local officials of the Municipality of Baganga, Davao Oriental, and one (1) private individual, Donald B. Villademoso, before the Anti-Graft Court.⁴⁰

On November 30, 2010, the Court ordered the issuance of warrants of arrest against the six (6) accused.⁴¹ In addition, a Hold Departure Order was issued against them.⁴²

On December 17, 2010, accused Jimenez, Jr. posted his cash bail bond,⁴³ which were approved by the Court. Accused Morales did likewise,⁴⁴ and he executed an Undertaking⁴⁵ to faithfully comply with the conditions appurtenant to his bail. The others failed to follow suit.

On February 9, 2011, the Court got word that accused Morales, Macayra, Jovilla and Escamillan were nowhere to be found in the barangays where they reside.⁴⁶ Be that as it may, the arraignment of accused Morales and Jimenez, Jr. was set on March 3, 2011.

On February 21, 2011, accused Jimenez, Jr. filed an *Urgent Motion to Postpone*⁴⁷ the arraignment. The Court granted the same, thereby resetting it to March 28, 2011.⁴⁸

³⁹ Resolution dated November 11, 2009, pp. 1 – 40 (Records, Vol. 1, pp. 180 – 219).

⁴⁰ Information dated November 11, 2009, pp. 1 – 3 (Records, Vol. 1, pp. 249 – 252).

⁴¹ Minute Resolution dated November 30, 2010, p. 1 (Records, Vol. 1, p. 221); Warrant of Arrest dated December 7, 2010, p. 1 (Records, Vol. 1, p. 232).

⁴² Hold Departure Order dated December 7, 2010, p. 1 (Records, Vol. 1, p. 228).

⁴³ Order dated December 17, 2010, p. 1 (Records, Vol. 1, p. 235).

⁴⁴ Minute Resolution dated February 16, 2011, p. 1 (Records, Vol. 1, p. 263); Order dated January 4, 2011, of the Executive Judge of the Regional Trial Court of Davao City, p. 1 (Records, Vol. 1, p. 246).

⁴⁵ Undertaking dated January 4, 2011, p. 1 (Records, Vol. 1, p. 247).

⁴⁶ Records, Vol. 1, pp. 254 – 257.

⁴⁷ Dated February 18, 2011, pp. 1 - 2 (Records, Vol. 1, pp. 264 - 265).

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On March 23, 2011, the Prosecution filed a *Motion to Admit Amended Information*⁴⁹ to make the allegations therein conform to the evidence. This matter was heard on March 28, 2011. Since the filing of an **amended information** prior to arraignment was a matter of right, the Court admitted it.⁵⁰ Immediately thereafter, accused Francisco S. Jimenez, Jr., while assisted by counsel *de parte*, was arraigned and after being apprised of the nature and consequences of his plea, he pleaded **"NOT GUILTY"** to the crime charged in the Amended Information.⁵¹ In the long run, accused Morales,⁵² Jovilla,⁵³ and Macayra,⁵⁴ while assisted by their respective counsel, were arraigned on separate occasions, and they pleaded **"NOT GUILTY"** too.

Preliminary conferences were subsequently conducted. In due course, the Court issued Pre-trial Orders dated May 12, 2011,⁵⁵ October 25, 2011,⁵⁶ and February 27, 2012⁵⁷ outlining the facts stipulated upon by the parties and the issues to be threshed out during the trial.

In due course, the Prosecution concluded the presentation of its evidence on February 29, 2012.⁵⁸ Thence, the Court directed the Prosecution to file its formal offer of evidence, and for defense counsel to file their comment/opposition thereto.⁵⁹ The Prosecution complied therewith.⁶⁰ On May 8, 2012, the Court resolved to admit all the exhibits formally offered by the Prosecution.⁶¹

⁴⁸ Order dated February 25, 2011, p. 1 (Records, Vol. 1, p. 274).

⁴⁹ Dated March 23, 2011 (Records, Vol. 1, pp. 282 – 285).

⁵⁰ Order dated March 28, 2011, p. 1 (Records, Vol. 1, p. 298).

⁵¹ Order dated March 28, 2011, p. 1 (Records, Vol. 1, p. 297).

⁵² G. J. Morales was arraigned on April 27, 2011 (Records, Vol. 1, pp. 327, 330).

⁵³ E. M. Jovilla was arraigned on October 24, 2011 ((Records, Vol. 1, pp. 474, 477).

⁵⁴ R. N. Macayra was arraigned on February 23, 2012 (Records, Vol. 2, p. 4).

⁵⁵ Records, Vol. 1, pp. 361 – 372); See also Minute Resolution dated August 3, 2011, p. 1 (Records, Vol. 1, p. 396).

⁵⁶ Records, Vol. 1, p. 483.

⁵⁷ Records, Vol. 2, pp. 26 – 31.

⁵⁸ Records, Vol. 2, pp. 33 – 34.

⁵⁹ Order dated February 29, 2012, p. 1.

⁶⁰ Formal Offer of Documentary Evidence dated March 1, 2012, of the Office of the Special Prosecutor, pp. 1 – 16 (Records, Vol. 2, pp. 35 – 50).

⁶¹ Minute Resolution dated May 8, 2012, p. 1 (Records, Vol. 2, p. 68).

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In the interim, accused Jovilla and Jimenez, Jr. filed a *Motion to Admit Motion for Leave to File Demurrer to Evidence*,⁶² but the Court denied the same for being filed out of time.⁶³ Aggrieved, accused filed a *Motion for Reconsideration*⁶⁴ but to no avail.⁶⁵ The Court held:

“In view of the fact that accused-movants failed to file their Motion for Leave to File Demurrer to Evidence in accordance with the provisions of Section 23 of Rule 119 of the Revised Rules of Criminal Procedure, the instant motions are hereby DENIED.

“x x x.”⁶⁶

Accused began to present their witnesses on March 20, 2013.⁶⁷ On April 10, 2014, the defense rested.⁶⁸ The Prosecution chose to forego the presentation of rebuttal evidence. Thence, the Court directed the parties to file their simultaneous memoranda. Thereafter, the case was submitted for decision.

On November 12, 2014, the Court rendered its judgment.⁶⁹ Accused Morales, Jimenez, Jr., Jovilla and Macayra were found guilty beyond reasonable doubt of violation of Section 3(e) of Republic Act No. 3019, as amended.⁷⁰

Aggrieved, accused moved for reconsideration of the Court's verdict.⁷¹ On March 30, 2015, the Court issued its Resolution,⁷² the decretal portion of which is quoted below, viz:

“**WHEREFORE**, premises considered, accused-movant Gerry J. Morales’ ‘MOTION FOR RECONSIDERATION’ dated 28 November

⁶² Dated October 5, 2012, pp. 1 – 8 (Records, Vol. 2, pp. 139 – 148).

⁶³ Order dated October 8, 2012, p. 1 (Records, Vol. 2, p. 151).

⁶⁴ Records, Vol. 2, pp. 164 – 168.

⁶⁵ Minute Resolution dated February 13, 2013, pp. 1 – 3 (Records, Vol. 2, pp. 199 – 201).

⁶⁶ Id. at p. 3 (Records, Vol. 2, p. 201).

⁶⁷ Order dated March 20, 2013, p. 1 (Records, Vol. 2, p. 208).

⁶⁸ Order dated April 10, 2014, pp. 1 – 2 (Records, Vol. 2, pp. 279 – 280).

⁶⁹ Decision dated November 12, 2014, of the Sandiganbayan, Fifth Division, pp. 1 – 24 (Records, Vol. 2, pp. 354 – 376).

⁷⁰ Id. at p. 22 (Records, Vol. 2, p. 375).

⁷¹ Records, Vol. 3, pp. 14 – 22, 37 – 45, 47 – 58.

⁷² Resolution dated March 30, 2015, of the Sandiganbayan, Fifth Division, pp. 1 – 9 (Records, Vol. 3, pp. 131 – 139).

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2014, accused-movant Francisco S. Jimenez, Jr.'s 'URGENT MOTION FOR RECONSIDERATION' dated 8 December 2014 and accused-movants Emeritos M. Jovilla and Roseller N. Macayra's 'MOTION FOR RECONSIDERATION' dated 4 December 2014 are hereby **DENIED**.

"SO ORDERED." ⁷³

Meanwhile, after years of being fugitives from justice, the long arm of the law finally caught up with accused Escamillan and Villademoso.⁷⁴ Inevitably, the case, which had been archived,⁷⁵ was ordered revived⁷⁶ following the voluntary surrender of accused Villademoso in the Regional Trial Court⁷⁷ of Davao Oriental. He posted the cash bail bond therefor.⁷⁸ Similarly, accused Escamillan undertook the same steps.⁷⁹

On October 5, 2015, accused Escamillan and Villademoso, while assisted by counsel *de parte*, were arraigned.⁸⁰ Both pleaded **"NOT GUILTY"** to the offense charged.⁸¹

On October 6, 2015, the preliminary conference was conducted and eventually terminated.⁸² Accordingly, the Court issued its Pre-trial Order.⁸³ After several postponements,⁸⁴ trial got underway on February 7, 2017.⁸⁵

⁷³ *Id.* at p. 8 of 9 (Records, Vol. 3, p. 138).

⁷⁴ Alias Order of Arrest was issued by the Sandiganbayan on January 27, 2015 (Records, Vol. 3, p. 102).

⁷⁵ Decision dated November 12, 2014, pp. 1 – 24 (Records, Vol. 2, pp. 354 – 377).

⁷⁶ Minute Resolution dated July 13, 2015 (Records, Vol. 5, p. 22).

⁷⁷ RTC, Branch 7, Baganga, Davao Oriental; Niño A. Batingana, Acting Presiding Judge.

⁷⁸ Records, Vol. 3, pp. 310 – 315.

⁷⁹ Order dated August 6, 2015, of the Regional Trial Court, Branch 7, Baganga, Davao Oriental, p. 1 (Records, Vol. 5 p. 41).

⁸⁰ Certificates of Arraignment dated October 5, 2015, of R. M. Escamillan and D. B. Villademoso, pp. 1 – 2 (Records, Vol. 5, pp. 64 – 65).

⁸¹ Order dated October 5, 2015, pp. 1 – 2 (Records, Vol. 5, pp. 68 – 69).

⁸² Minutes of the Preliminary Conference dated October 6, 2015, pp. 1 – 7 (Records, Vol. 5, pp. 70 – 76).

⁸³ Records, Vol 5, pp. 80 – 86.

⁸⁴ Records, Vol. 5, pp. 298 – 299; 398.

⁸⁵ Order dated February 7, 2017, p. 1 (Records, Vol. 5, p. 404); TSN, February 7, 2017, pp. 1-137.

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The Prosecution presented two (2) witnesses. Conformably with the Court's Order,⁸⁶ the prosecution filed its *Formal Offer of Documentary Evidence*⁸⁷ on March 5, 2018.

On April 4, 2018, accused Villademoso filed a *Motion for Leave of Court to File Demurrer to Evidence*.⁸⁸ Considering, however, that said motion was filed prior to the Court's issuance of the Resolution⁸⁹ dated April 5, 2018, admitting the exhibits formally offered by the prosecution, said motion was "**DENIED**, for being premature."⁹⁰

Undaunted, accused Villademoso filed his *Demurrer to Evidence*⁹¹ on May 24, 2018. Still, the Court gave him leeway. In its Resolution⁹² dated June 22, 2018, the Court explained:

"... [T]o ensure that the accused has been properly apprised of the legal consequences of filing a *Demurrer to Evidence* without prior leave of court, that is, waiver of accused'[s] right to present evidence and submission of the case for judgment on the basis of the evidence adduced by the prosecution, and in view of the seriousness of said legal consequence, **THE COURT WILL TREAT ACCUSED'[S] DEMURRER TO EVIDENCE AS A MOTION FOR LEAVE OF COURT TO FILE DEMURRER TO EVIDENCE.**"⁹³ (Capitalization Supplied.)

Following a judicious scrutiny of the accused's motion *vis a vis* the opposing argument, the Court ruled:

"After a careful study of the documentary and testimonial evidence submitted by the prosecution, the Court finds that, if unrebutted, the same is sufficient to convict the accused. The Court hereby DENIES the Motion for Leave of Court to File Demurrer to Evidence filed by accused Villademoso.

⁸⁶ Order dated February 21, 2018, p. 1 (Records, Vol. 6, p. 11).

⁸⁷ Dated March 2, 2018, pp. 1 – 16 (Records, Vol. 6, pp. 19 - 34).

⁸⁸ Dated March 20, 2018, pp. 1 – 3 (Records, Vol. 6, pp. 121 – 123).

⁸⁹ Records, Vol. 6, pp. 129 – 130.

⁹⁰ Minute Resolution dated April 30, 2018, p. 1 (Records, Vol. 6, p. 153); http://sb.judiciary.gov.ph/RESOLUTIONS/2018/D_Crim_SB-10-CRM-0220_People%20vs%20Morales,%20et%20al_04_30_2018.pdf;

⁹¹ Dated May 8, 2018, pp. 1 – 3 (Records, Vol. 6, pp. 169 – 171).

⁹² Records, Vol. 6, pp. 180 – 185.

⁹³ Id. at p. 181.

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“The accused is given five (5) days from receipt of this Resolution within which to file his Manifestation . . . to inform this Court whether he is adopting his *Demurrer to Evidence* dated May 8, 2018, and is submitting the same, without leave of court.

“The hearings for the accused to present their evidence . . . are maintained. The said scheduled dates will be considered automatically cancelled, as to accused Villademoso, upon receipt by the Court of accused’[s] manifestation that he intends to pursue his *Demurrer to Evidence*, without leave of court.

“SO ORDERED.”⁹⁴ (Emphasis and Underscoring Supplied.)

Accused Villademoso elected to adopt the *Demurrer to Evidence* (without leave of court) dated May 8, 2018, and to submit the case for decision based thereon.⁹⁵ On September 6, 2019, the Court resolved that:

“x x x The resolution of accused Villademoso’s *Demurrer to Evidence* will be included in the Court’s Decision in the present case as to accused Reymundo M. Escamillan.

“SO ORDERED.”⁹⁶

Unlike accused Villademoso, accused Escamillan, a detention prisoner since January 6, 2017,⁹⁷ opted to face the charges head-on.⁹⁸ On August 23, 2019, accused Escamillan took the witness stand⁹⁹ and completed his testimony before the Court at the New Bilibid Prisons (NBP).¹⁰⁰

Accused Escamillan, thru the Public Attorney’s Office (PAO), manifested that no other witness would be presented. Accordingly, the Court directed him to file his formal offer of evidence, and for the

⁹⁴ Id. at p. 184.

⁹⁵ Compliance and Manifestation (on the Order dated June 22, 2018) dated July 9, 2018, pp. 1 – 2 (Records, Vol. 6, pp. 190 – 191).

⁹⁶ Minute Resolution dated September 6, 2019, p. 1 (Records, Vol. 6, p. 318-A).

⁹⁷ Records, Vol. 6, pp. 199 – 200.

⁹⁸ Manifestation dated May 30, 2018, of R. M. Escamillan, pp. 1-2 (Records, Vol. 6, p. 197-198).

⁹⁹ Order dated August 23, 2019, p. 1 (Records, Vol. 6, p. 309).

¹⁰⁰ *Ibid*; Minute Resolution dated September 2, 2019, p. 1 (Records, Vol. 6, p. 315).

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Prosecution to comment thereon.¹⁰¹ Also, accused's counsel manifested that he would no longer file a memorandum.¹⁰²

Conformably, accused Escamillan filed his *Motion to Admit Attached Formal Offer of Documentary Exhibits*¹⁰³ on September 18, 2019. Later, he filed his *Formal Offer of Documentary Exhibits*.¹⁰⁴ On the other hand, the Prosecution submitted seasonably its *Comments/Opposition* thereto.¹⁰⁵

The Court granted accused Escamillan's *Motion to Admit Attached Formal Offer of Documentary Exhibits*. Concomitantly, the Court admitted his *Formal Offer of Documentary Exhibits*.¹⁰⁶ For its part, the Prosecution manifested that no rebuttal evidence would be presented. Therewithal, with or without memoranda, this case was submitted for decision.¹⁰⁷

ISSUES

The parties have adopted the issues stated in the Court's Pre-trial Order dated May 12, 2011.¹⁰⁸ The issues, as succinctly stated in said Order,¹⁰⁹ are as follows:

"For the Prosecution:

"The Prosecution would like to submit the following issues:

"1) Whether the accused committed a violation of Section 3(e) of R.A. 3019, as alleged in the present information;

¹⁰¹ Supra, See Note 73.

¹⁰² *Ibid.*

¹⁰³ Dated September 12, 2019, pp. 1 – 3 (Records, Vol. 6, pp. 320 – 322).

¹⁰⁴ Formal Offer of Documentary Exhibits dated September 12, 2019, pp. 1 – 4 (Records, Vol. 6, pp. 323 – 326).

¹⁰⁵ Comments/ Opposition (To Accused Reymundo M. Escamillan's Formal Offer of Documentary Exhibits) dated September 25, 2019, pp. 1 – 3 (Records, Vol. 6, pp. 331 – 333).

¹⁰⁶ Minute Resolution dated October 14, 2019, pp. 1- 2 (Records, Vol. 6, pp. 338 – 339).

¹⁰⁷ *Ibid.*

¹⁰⁸ Pre-Trial Order dated October 8, 2015, p. 6 of 7 (Records, Vol. 5, pp. 80 - 86).

¹⁰⁹ Pre-trial Order dated May 12, 2011, pp. 1- 12 (Records, Vol. 1, pp. 361– 372).

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“2) And as a correlated issue, whether the ten (10) pieces of exterior tire with flap which were requisitioned and paid for by the Municipality of Baganga from Villtrade Marketing were actually delivered to the said municipality.

“For the Defense:

“The defense adopts the same proposed issues of the prosecution.”¹¹⁰

JUDICIAL ADMISSIONS

The judicial admissions, as stated in the Court’s Pre-trial Order dated October 8, 2015,¹¹¹ are quoted below, viz:

“PROPOSALS BY THE PROSECUTION :

“1. The identity of accused Reymundo Escamillan and Donald Villademoso as the same persons charged in the Information -

“**ADMITTED** for accused Escamillan

“**NOT ADMITTED** by accused Villademoso because the witness for the prosecution would not have met the accused

“2. That at the time of the alleged commission of the offense, accused Escamillan was the incumbent Officer-in-Charge, General Services Officer of the Municipality of Baganga, Davao Oriental -

“**NOT ADMITTED** - by accused Escamillan

“**ADMITTED** - by accused Villademoso

“3. That at the time of the alleged commission of the offense, accused Villademoso, a private individual, was the owner and proprietor of Villtrade Marketing -

“**ADMITTED** - by accused Villademoso

¹¹⁰ Pre-trial Order dated May 12, 2011, pp. 10 - 11 of 12 (Records, Vol. 1, pp. 369 - 370).

¹¹¹ Records, Vol. 5, pp. 80 - 86.

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“4. That at the time of the commission of the offense, accused Escamillan was a public officer -

“ADMITTED - by accused Escamillan

“ADMITTED - by accused Villademoso

“5. The genuineness, due execution and authenticity of Exhibits “U” and “T” which refers to a Certification dated July 4, 2006, which was issued by Atty. Jhopee Agustin, OIC of the Business Bureau of the Office of the City Mayor -

“ADMITTED as to the genuineness and authenticity by accused Villademoso

“ADMITTED by accused Escamillan

“6. The genuineness, due execution and authenticity of Exhibits “U”, the Certification issued by Merly Cruz, DTI Regional Director, that Villtrade Marketing is registered in the name of accused Villademoso -

“ADMITTED by accused Villademoso

“PROPOSALS BY THE DEFENSE :

“A. By Accused Villademoso

“1. x x x

“2. That prior to the investigation by the COA and the Office of the Ombudsman, the original complainant here was the accused Macayra

“ADMITTED by the prosecution

“x x x

“B. By Accused Escamillan

“Atty. Annogui has no proposals for stipulation.” ¹¹²

¹¹² Pre-Trial Order dated October 8, 2015, pp. 4 – 5 (Records, Vol. 5, pp. 83 – 84).

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EVIDENCE FOR THE PROSECUTION

A. Testimonial evidence

A.1 The Prosecution presented two (2) witnesses, namely:

1. Angelina Quiamco Patlingrao;¹¹³ and
2. Angelo Aguilon.¹¹⁴

A.2 The direct testimony of the witnesses for the Prosecution is summarized below, viz:

1. ANGELINA Q. PATLINGRAO

State Auditor III Angelina Q. Patlingrao, was a member of the Special Audit Team,¹¹⁵ Commission on Audit, that scoured public records relating to alleged irregularities germane to the purchase by the municipality of Bangaga of ten (10) exterior tires with flap for an ISUZU truck. She affirmed that accused Escamillan, the Officer-in-Charge of the General Services Office,¹¹⁶ never signed the Inspection and Acceptance Report for the subject tires.¹¹⁷ Thence, no actual delivery of the subject tires ever transpired.¹¹⁸

The direct testimony of Patlingrao shows that although the Abstract of Canvass bears the typewritten name: "Reymundo Escamillan," no signature is affixed over it.¹¹⁹ Likewise, no signature of accused Escamillan appears in any of the Advertisement for Bids.¹²⁰

¹¹³ TSN, September 27, 2016, p. 9; TSN, February 7, 2017, pp. 7-8; Order dated June 28, 2017, p. 1 (Records, Vol. 5, p. 488).

¹¹⁴ Order dated June 28, 2017 (Records, Vol. 5, p. 487).

¹¹⁵ TSN, September 27, 2016, p. 9; TSN, February 7, 2017, p. 8.

¹¹⁶ TSN, April 17, 2017, p. 10.

¹¹⁷ Id. at p. 9.

¹¹⁸ Id. at p. 10.

¹¹⁹ Id. at pp. 10 – 11.

¹²⁰ Id. at pp. 11 – 13.

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State Auditor III Patlingrao stresses the missteps during the procurement process. Her testimony in this regard runs thus:

“Q: Now, what is the date of this advertisement for bids for ...

“A: October 4 of 2002.

“Q: What is the significance of that date according to this advertisement of bids?

“A: It was the date when this advertisement for bids was prepared.

“Q: According to this document, there is another date stated, October 21, 2002 at 9:00 a.m..

“A: Yes.

“Q: What is the significance of that?

“A: It is stated there that the canvass or the advertisement for bids or the canvass forms will be opened at the Office of the Municipal Mayor on October 21, 2002, sir, at 9:00 a.m..

“Q: So, with this document, you can at least safely conclude that there was a bidding ... ?

“A: ... [N]ot yet, sir. It is just stated in the advertisement for bids only.

“Q: That there will be a canvassing that will happen on October 21?

“A: Yes, sir.

“Q: x x x Now, all of the other documents that you identified is the abstract of canvass.

“x x x

“ATTY. DABI:

“Q: May be witness be shown these two documents marked as Exh. “M” and “M-3”. x x x

“x x x

“There are signatures below, am I correct?

“A: Yes, sir.

“Q: And these are the signatures of accused Macayra, Jovilla and Gerry Morales?

“A: Yes, sir.

