



Republic of the Philippines
SANDIGANBAYAN
Quezon City

SIXTH DIVISION

**PEOPLE OF THE
PHILIPPINES,**

Plaintiff,

SB-17-CRM-2169 to 2183
For: Violation of Section 3(e) of
Republic Act (R.A.) No. 3019

-versus-

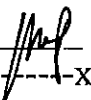
**MARIANO YAP BLANCO III,
OSCAR MERCADO PILAPIL,
THELMA RODRIGUEZ
LANDIZA, BRIGIDA
MENDEZ CABARON,
FRAULINE FAUNILLAN
REQUILME, and EVELINA
MORALES TAN,**

PRESENT:

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

Promulgated:

Accused.

February 23, 2022 

X-----X

DECISION

MIRANDA, J.:

The Philippine Government Electronic Procurement System (PhilGEPS) was envisioned to make public procurement as economical and efficient as possible.¹ Towards this end, the Procurement Service - Department of Budget and Management (PS-DBM) is mandated to provide public access terminals so that procuring entities without internet access may access the PhilGEPS.² The PS-DBM is required to provide excellent customer service responsive to the needs of its stakeholders and ensure stable, progressive, and sustainable operations.³

¹ Found in both L.O.I. No. 755 *Statement of Policy* and E.O. No. 359 *Section 1*. The National Government hereby adopts a policy of procuring supplies and materials in the most economical and efficient manner, by purchasing directly from reliable sources in economic lot sizes, by observing optimum specifications and by making payment.

² Revised Internal Rules and Regulations (RIRR) of R.A. No. 9184, Section 8.2.3. The Electronic Catalogue
x x x x

c) Procuring Entities without internet access may avail of the PhilGEPS Public Access Terminals which shall be installed at DBM-designated locations in the provinces and in Metro Manila: Provided, however, That they shall comply with Section 3.3 of this IRR.
x x x x

³ Mission and Vision of PS-DBM retrieved from: <https://ps-philgeps.gov.ph/home/index.php/about-ps/mandate>.

These cases involve a municipality's procurement projects from 2012 to 2013. A core issue is whether the non-posting of the Invitations to Bid (ITBs) on the PhilGEPS violates of Section 3(e) of R.A. No. 3019.

In fifteen (15) Informations all dated October 4, 2017, the Office of the Ombudsman charged accused Municipal Mayor Mariano Yap Blanco III (Blanco III), Municipal Engineer Oscar Mercado Pilapil (Pilapil), Municipal Budget Officer Thelma Rodriguez Landiza (Landiza), Municipal Assistant Treasurer-Designate Brigida Mendez Cabaron (Cabaron), Clerk II Frauline Faunillan Requilme (Requilme), and Utility Worker I Evelina Morales Tan (Tan) for violation of Section 3(e) of R.A. No. 3019, or the Anti-Graft and Corrupt Practices Act. In SB-17-CRM-2169,⁴ they were accused as follows:

That on or about 12 March 2012, in the Municipality of Ronda, Province of Cebu, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, all public officers discharging official and administrative functions, namely, Mariano Y. Blanco III, Municipal Mayor; Oscar M. Pilapil, Bids and Awards Committee (BAC) Chairman; Thelma R. Landiza, BAC Vice-Chairman; Brigida M. Cabaron, Frauline F. Requilme, and Evelina Tan, all BAC Members, committing the offense in relation to office and taking advantage of their office, acting with manifest partiality, evident bad faith or gross inexcusable negligence, conniving, confederating and mutually helping one another, did then and there, unlawfully and criminally, proceed with the public bidding for the supply of materials for the construction of 2CL school building at Madanglog Elementary School, Vive, Ronda, Cebu, despite that the Invitation to Bid (ITB) for said project was not posted on PhilGEPS (Philippine Government Electronic Procurement System) as otherwise mandatorily required under Sections 8 and 21 of R.A. 9184 (Government Procurement Reform Act) and its Implementing Rules and Regulations, thereby giving unwarranted benefit, advantage and preference to the winning private contractor to whom said contract was awarded, to the damage and injury of the Municipality of Ronda, Province of Cebu.

CONTRARY TO LAW.

The other fourteen (14) Informations differed only with respect to the dates and projects involved, as summarized below:

CASE NUMBER	DATE OF BIDDING	PROJECT
SB-17-CRM-2170 ⁵	March 26, 2012	Supply of materials for the construction of 2CL school building at Madanglog Elementary School, Vive, Ronda, Cebu (2 nd Posting)

⁴ Information dated October 4, 2017, Records, Vol. 1, pp. 1-3.

⁵ *Id.*, pp. 4-6.

CASE NUMBER	DATE OF BIDDING	PROJECT
SB-17-CRM-2171 ⁶	May 22, 2012	Procurement of materials for the maintenance of public buildings
SB-17-CRM-2172 ⁷	July 6, 2012	Procurement of medicines
SB-17-CRM-2173 ⁸		Procurement of materials for the maintenance of public buildings
SB-17-CRM-2174 ⁹		Supply of materials for the completion of Butong Health Center
SB-17-CRM-2175 ¹⁰		Procurement of materials for the maintenance of municipal water system
SB-17-CRM-2176 ¹¹		Construction of 2CL school building at Madanglog Elementary School, Vive, Ronda, Cebu
SB-17-CRM-2177 ¹²		Construction of Langin Barangay Hall Phase I at Langin, Ronda, Cebu
SB-17-CRM-2178 ¹³	December 28, 2012	Construction of emergency access road Phase II at Poblacion, Ronda, Cebu
SB-17-CRM-2179 ¹⁴		Procurement of electrical supplies
SB-17-CRM-2180 ¹⁵		Construction of Butong Day Care Center Phase I at Butong, Ronda, Cebu
SB-17-CRM-2181 ¹⁶	February 14, 2013	Construction of Legislative Building Phase IV, Poblacion, Ronda, Cebu
SB-17-CRM-2182 ¹⁷	March 20, 2013	Construction of Langin Barangay Hall Phase III at Langin, Ronda, Cebu
SB-17-CRM-2183 ¹⁸		Improvement of Palanas-Oval-Poblacion Roads Phase I

On December 15, 2017, the Court found probable cause for the issuance of a warrant of arrest and hold departure order against all of the accused.¹⁹

On April 3, 2018, the Court noted the approval of the cash bond of accused Blanco III and the surety bonds of accused Landiza, Cabaron, Pilapil, Tan, and Requilme.²⁰

On May 2, 2018, accused Blanco III filed a Motion to Quash Information/Judicial Determination of Probable Cause. He alleged that there should be a judicial determination of probable cause because the facts charged

⁶ Information dated October 4, 2017, Records, Vol. 1, pp. 7-9.

⁷ *Id.*, pp. 10-12.

⁸ *Id.*, pp. 13-15.

⁹ *Id.*, pp. 16-18.

¹⁰ *Id.*, pp. 19-21.

¹¹ *Id.*, pp. 22-24.

¹² *Id.*, pp. 25-27.

¹³ *Id.*, pp. 28-30.

¹⁴ *Id.*, pp. 31-33.

¹⁵ *Id.*, pp. 34-36.

¹⁶ *Id.*, pp. 37-39.

¹⁷ *Id.*, pp. 40-42.

¹⁸ *Id.*, pp. 43-45.

¹⁹ Minutes of the Proceedings dated December 15, 2017, Records, Vol. 1, pp. 148-149.

²⁰ Minutes of the Proceedings dated April 3, 2018, Records, Vol. 1, pp. 272-273.

in the Informations neither constitute an offense nor implicate him.²¹ The rest of the accused adopted accused Blanco III's motion through their own Motion to Quash Information (and Adopts the Motion to Quash of the Co-Accused Mariano Y. Blanco III) dated June 19, 2018.²²

On June 27, 2018, the Court denied accused Blanco III's motion. The Court ruled that a motion for judicial determination of probable cause is a prohibited motion under the Revised Guidelines for Continuous Trial of Criminal Cases. The Court also ruled that the Informations sufficiently allege all the elements of violation of Section 3(e) of R.A. No. 3019.²³

On July 26, 2018, the Court denied accused Pilapil, et al.'s Motion to Quash Information (and Adopts the Motion to Quash of the Co-Accused Mariano Y. Blanco III).²⁴

All the accused, assisted by counsel, pleaded "not guilty" to the 15 charges against them.²⁵

On November 6, 2018, the Prosecution submitted an original copy of the Certificate of Death of accused Blanco III issued and authenticated by the Philippine Statistics Authority (PSA).²⁶ Counsel of accused Blanco III submitted his Compliance on January 7, 2019.²⁷ The Court dismissed all the cases against accused Blanco III conformably with Article 89 of the Revised Penal Code.²⁸

In the Pre-Trial Order dated February 6, 2019, the parties stipulated on the following:

1. Identities of accused Pilapil, Landiza, Cabaron, Requilme, and Tan as the same persons charged in all 15 Informations;
2. The respective public positions of all the accused; and
3. Existence, due execution, and authenticity of the following common exhibits/documents:

²¹ Motion to Quash Information/Judicial Determination of Probable Cause dated May 2, 2018, Records, Vol. 1, pp. 280-291.

²² Motion to Quash Information (and Adopts the Motion to Quash of the Co-Accused Mariano Y. Blanco III) dated June 19, 2018, Records, Vol. 1, pp. 304-309.

²³ Resolution dated June 27, 2018, Records, Vol. 1, pp. 324-333.

²⁴ Resolution dated July 26, 2018, Records, Vol. 1, pp. 415-421.

²⁵ Order dated August 10, 2018, Records, Vol. 1, pp. 441A-B.

²⁶ Records, Vol. 1, pp. 516-518.

²⁷ Compliance with Explanation dated January 7, 2019, Records, Vol. 2, pp. 50-52.

²⁸ Order dated January 24, 2019, Records, Vol. 2, p. 53.

EXHIBITS		DESCRIPTION
Prosecution	Defense	
E	3	Invitation to Apply for Eligibility and to Bid for the Supply of Materials for the Construction of 2CL School Building at Madanglog Elementary School, Ronda, Cebu (Opening of bids on March 12, 2012)
F	9	Invitation to Apply for Eligibility and to Bid for the Supply of Materials for the Construction of 2CL School Building at Madanglog Elementary School, Ronda, Cebu (2 nd Posting)
R	17	ITB for the Procurement of Medicines (Supply of Materials)
Y	23	ITB for the Procurement of Materials for the Maintenance of Public Buildings (Supply of Materials)
Z-1	27	BAC Resolution No. 2012-09 dated July 10, 2012 (Recommending Award)
FF	30	ITB for the Completion of Butong Health Center (Supply of Materials)
GG-1	34	BAC Resolution No. 2012-09 dated July 10, 2012 (Declaring LCRB and Recommending Approval)
MM	37	ITB for the Procurement of Materials for the Maintenance of Municipal Water System (Supply of Materials)
TT	44	ITB for the Construction of 2CL School Building at Madanglog Elementary School, Vive, Ronda, Cebu (Supply of Labor & Materials)
UU	49	BAC Resolution No. 2012-05 dated July 10, 2012
AAA	52	ITB for the Construction of Langin Barangay Hall Phase I at Langin, Ronda, Cebu (Supply of Labor & Materials)
CCC	57	BAC Resolution No. 2012-06 dated July 10, 2012
JJJ	73	ITB for the Construction of Emergency Access Road Phase II at Poblacion, Ronda, Cebu (Supply of Labor & Materials)
QQQ	88	ITB for the Procurement of Electrical Supplies (Supply of Materials)
SSS	95	ITB for the Supply of Materials for the Construction of Butong Daycare Center Phase I at Butong, Ronda, Cebu
TTT	102	ITB for the Construction of Legislative Building Phase IV
ZZZ	109	ITB for the Construction of Legislative Building Phase IV
III	116	ITB for the Improvement of Palanas-Oval-Poblacion Roads Phase I
WWW	7	Certificate dated November 3, 2016 issued by Elvira D. Pascualado, Head, BAC-Secretariat

EVIDENCE FOR THE PROSECUTION

In support of its accusations against the accused for violation of Section 3(e) of R.A. No. 3019, the Prosecution presented seven (7) witnesses, namely: 1) Aida M. Silva (Silva); 2) Atty. Melissa Santiago-Yan (Atty. Santiago-Yan); 3) Director Rosa Maria Clemente (Dir. Clemente); 4) Genera M. Kasayan (Kasayan); 5) Atty. Dennis S. Santiago (Atty. Santiago); 6) Jonald B. Ungab (Ungab); and 7) Elvira D. Pasculado (Pasculado).

Silva's testimony was dispensed with after the parties stipulated that: 1) She has been a COA State Auditor and Audit Team Leader of the Local Government of Ronda, Cebu since February 2017; 2) She had custody of the transactional documents of the Municipality of Ronda, Cebu and she was authorized to certify said documents; 3) She received a subpoena from the Office of the Special Prosecutor (OSP) of the Office of the Ombudsman directing her to submit the original and certified true copies of pertinent documents relative to several procurements undertaken by the Municipality of Ronda, Cebu sometime in 2012; and 4) She issued the Certification dated February 1, 2019.²⁹

Atty. Santiago-Yan's testimony was dispensed with after the parties stipulated that: 1) She has been the Deputy Executive Director IV of the Government Procurement Policy Board Technical Support Office (GPPB-TSO) since 2014; 2) She has custody of the official documents of the GPPB and she is authorized to certify said documents; 3) She certified, issued, and submitted true copies of Exhibits JJJJ and YYYY; 4) She can identify and prove the existence of Exhibits JJJJ and YYYY; 5) She can identify the signature of Atty. Dennis S. Santiago, Executive Director V of the GPPB appearing in Exhibits JJJJ and YYYY; 6) She has no personal knowledge of the facts of these cases.³⁰

Before Dir. Clemente could testify, the parties stipulated that she can identify and affirm the veracity of her Amended Judicial Affidavit dated March 4, 2019.³¹ She then testified that:

- 1) She has been the Head of the Procurement Service PhilGEPS (PS-PhilGEPS) since 2003. Her duties include supervising operations, overseeing maintenance and management, preserving and having custody of official documents, furnishing certified true copies of said official documents, issuing

²⁹ Judicial Affidavit dated February 6, 2019, Records, Vol. 2, pp. 190-196; TSN dated February 20, 2019, pp. 3-8; Order dated February 20, 2019, Records, Vol. 2, p. 203A.

³⁰ Judicial Affidavit dated February 6, 2019, Records, Vol. 2, pp. 179-186; TSN dated February 21, 2019, pp. 3-10; Order dated February 21, 2019, Records, Vol. 2, pp. 205A-206A.

³¹ TSN dated March 13, 2019, pp. 6-7.



- certifications as to records and data, and performing other necessary tasks;³²
- 2) She received a subpoena from the OSP requiring her office to submit the original or certified true copies of Exhibits "C-1", "KKKK", "LLLL", "MMMM", "NNNN", "OOOO", "OOOO-1", and "PPPP";³³
 - 3) All procuring entities are mandated to use the PhilGEPS to advertise the ITB and post the Notice of Award regardless of internet connection;³⁴
 - 4) It is not part of their mandate to validate the internet connection of the procuring entities. It is the responsibility of the procuring entity to ensure their internet connection;³⁵
 - 5) She is not aware of any area in the country where internet service is not available;³⁶
 - 6) "Former Opportunities" refer to bid notices that are "Closed", which means that any of the following has taken place: (a) bid submission/opening; (b) evaluation and post-qualification of the bid; or (c) the procurement activities have been completed but the award has not yet been posted in the PhilGEPS website;³⁷
 - 7) The status of the procurement project appearing in the PhilGEPS website would be changed to "Awarded" once there is a notice of award;³⁸
 - 8) "Batch process" means a bid notice with "Pending" status is converted by the PhilGEPS system into "Active". This happens once the bid notice reaches the publish date as determined by the procuring entity;³⁹
 - 9) "In Preparation" status means that the bid notice is still a draft and is not yet published in the PhilGEPS website's Electronic Bulletin Board;⁴⁰
 - 10) It is the duty of the BAC of the procuring entity to post the notice of award of a certain project in the PhilGEPS;⁴¹
 - 11) The Municipality of Ronda, Cebu has been registered with the PhilGEPS as early as March 31, 2005;⁴²
 - 12) The PhilGEPS system immediately notifies the procuring entity that there is a pending task. Once the procuring entity logs in, the default page will be the pending task page showing the number of in-preparation status of bid notices;⁴³

³² Amended Judicial Affidavit dated March 4, 2019, Records, Vol. 2, pp. 258-259.

³³ *Id.*, pp. 260-266.

³⁴ TSN dated March 13, 2019, p. 15.

³⁵ *Id.*, p. 17.

³⁶ *Id.*, p. 26.

³⁷ Amended Judicial Affidavit dated March 4, 2019, Records, Vol. 2, p. 261.

³⁸ *Id.*

³⁹ *Id.*, p. 267.

⁴⁰ *Id.*

⁴¹ *Id.*, p. 261.

⁴² *Id.*, p. 263.

⁴³ *Id.*, p. 268.

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- 13) The system could not determine the reason for the failure to click the "Post" button;⁴⁴ and
- 14) Agencies that failed to register with the PhilGEPS are performing procurement activities without the benefit of the PhilGEPS.⁴⁵

Before Kasayan could testify, the parties stipulated that she can identify and affirm the veracity of the contents of her Judicial Affidavit dated January 7, 2019 and Supplemental Judicial Affidavit dated March 1, 2019, as well as her signatures therein.⁴⁶ She then testified that:

- 1) She has been the Municipal Accountant of Ronda, Cebu since June 2008. Her duties include supervising operations, preserving and having custody of transaction documents, issuing certified true copies of official documents, and performing other assignments given by her superiors;⁴⁷
- 2) She certified and submitted to the OSP the following Exhibits: "E", "E-1", "E-2", "F", "G", "H", "I", "J", "K", "L", "M", "N", "O", "P", "P-1", "Q", "S", "T", "U", "U-1", "V", "W", "X", "Z", "Z-1", "AA", "BB", "CC", "DD", "EE", "GG", "GG-1", "HH", "II", "JJ", "KK", "LL", "LL-1", "NN", "OO", "PP", "QQ", "RR", "SS", "SS-1", "TT", "UU", "VV", "VV-1", "WW", "XX", "YY", "ZZ", "AAA", "BBB", "CCC", "DDD", "DDD-1", "EEE", "EEE-1", "FFF", "GGG", "HHH", "III", "JJJ", "KKK", "LLL", "MMM", "NNN", "NNN-1", "OOO", "TTT", "UUU", "VVV", "VVV-1", "WWW", "XXX", "YYY", "YYY-1", "ZZZ", "AAAA", "BBBB", "CCCC", "DDDD", "DDDD-1", "EEEE", "FFFF", "GGGG", "HHHH", and "WWWW";⁴⁸
- 3) She issued the Certification dated May 18, 2019;⁴⁹
- 4) She is familiar with the signatures of accused Landiza, Cabaron, Tan, and Requilme because she personally saw them sign the documents. She is familiar with the signature of accused Pilapil because she saw official documents bearing his signature;⁵⁰ and
- 5) She did not receive any Notice of Disallowance regarding the projects involved in these cases.⁵¹

Atty. Santiago's testimony was dispensed with after the parties stipulated that: 1) He was the Executive Director of the GPPB-TSO and the Board Secretary to the GPPB in 2012; 2) The GPPB-TSO provides

⁴⁴ TSN dated March 13, 2019, p. 31.

⁴⁵ *Id.*, p. 34.

⁴⁶ TSN dated March 14, 2019, p. 5.

⁴⁷ Judicial Affidavit dated January 7, 2019, Records, Vol. 2, p. 64.

⁴⁸ *Id.*, pp. 65-69.

⁴⁹ Marked as exhibit "XXXX"; Supplemental Judicial Affidavit dated March 1, 2019, Records, Vol. 2, pp. 246-249.

⁵⁰ Supplemental Judicial Affidavit dated March 1, 2019, Records, Vol. 2, p. 250.

⁵¹ TSN dated March 14, 2019, p. 15.



administrative, technical, and research support to the GPPB, which includes letter-replies to requests by government agencies/procuring entities and private entities; 3) He received a letter from Jonald B. Ungab relative to the non-posting of the ITBs and other documents for several procurement activities of the Municipality of Ronda, Cebu; 4) He can identify and authenticate the Letter dated April 10, 2014⁵² which he issued; and 5) The Letter dated April 10, 2014 is neither a policy nor a non-policy opinion.⁵³

Ungab's testimony was dispensed with after the parties stipulated that: 1) He filed a complaint against the accused sometime in 2014 before the Office of the Ombudsman-Visayas relative to the procurements conducted by the Municipality of Ronda, Cebu; 2) He can identify and authenticate his Affidavit Complaint dated May 2, 2014, the ITBs,⁵⁴ and Exhibits "A", "B", "C", "C-1", and "D" as annexes to his Reply-Affidavit dated November 3, 2014; 3) He has no personal knowledge if there was criminal intent on the part of the accused when they failed to comply with the bidding and posting requirements of the PhilGEPS; 4) He has no personal knowledge of the bidding and posting requirements of the PhilGEPS; and 5) He is the brother of Atty. Jonnah John Ungab, the former Vice Mayor of Ronda, Cebu.⁵⁵

Before Pascualado could testify, the parties stipulated that she can identify and affirm the veracity of her Judicial Affidavit dated April 1, 2019, her signature therein, and the attachments thereto.⁵⁶ She then testified that:

- 1) She has been an Administrative Aide VI in the Municipality of Ronda, Cebu and head of the BAC Secretariat of said Municipality since 2012. Her duties include providing administrative support to the BAC, attending BAC meetings, taking custody of procurement documents, and performing other tasks given by her superiors;⁵⁷
- 2) She received a subpoena from the OSP requiring her to submit the original and/or certified true copies of the procurement documents pertaining to several procurements undertaken by the Municipality of Ronda, Cebu in 2012 and 2013. Some of the documents in her custody were original, while the others were mere photocopies;⁵⁸
- 3) She prepared the Certification dated March 29, 2019⁵⁹ on the procurement documents which they failed to locate or retrieve.

⁵² Marked as exhibit "JJJJ".

⁵³ Order dated April 1, 2019, Records, Vol. 2, p. 369-A.

⁵⁴ Marked as exhibits "E", "F", "R", "Y", "FF", "MM", "TT", "AAA", "JJJ", "PPP", "QQQ", "SSS", "TTT", "ZZZ", "IIII", "KKKK", "JJJ", "PPP".

⁵⁵ Order dated April 2, 2019, Records, Vol. 2, pp. 377 A-B.

⁵⁶ TSN dated April 10, 2019, pp. 5-6.

⁵⁷ Judicial Affidavit dated April 1, 2019, Records, Vol. 2, p. 380.

⁵⁸ *Id.*, pp. 380-381.

⁵⁹ Marked as exhibit "AAAAA".



- She issued and identified certified true copies of the documents which have original copies;⁶⁰
- 4) The accused invited observers during the bidding process which include representatives from the COA, Philippine Institute of Civil Engineers, and Senior Citizens Association of Ronda;⁶¹
 - 5) The subject procurement projects have been completely implemented;⁶² and
 - 6) She is not responsible for posting the ITBs in the PhilGEPS and she had no personal knowledge of their posting or non-posting at the time.⁶³

On April 30, 2019, the Prosecution formally offered the following documentary exhibits in evidence:⁶⁴

For all cases:

Exhibit	Description
"A" and sub-markings	Affidavit of Complaint dated May 2, 2014 of Ungab
"B" and sub-marking	Reply-Affidavit and Motion for Preventive Suspension dated November 3, 2014 of Ungab
"C" and sub-marking	Organization Profile of the Municipality of Ronda, Cebu as appearing in the PhilGEPS website dated April 22, 2014
"D"	Bid Notice Abstract
"JJJJ" and sub-markings	Letter dated April 10, 2014 of Atty. Santiago to Ungab
"KKKK" and sub-marking	Letter dated April 21, 2014 of Dir. Clemente to Ungab
"LLLL" and sub-marking	Organizational Profile of the Municipality of Ronda, Cebu as appearing in the PhilGEPS website as of May 11, 2018
"LLLL-2"	The entry "31/05/2005" as the date of registration of the Municipality of Ronda, Cebu at the PhilGEPS
"MMMM" and sub-marking	Certification dated May 15, 2018 of Dir. Clemente
"NNNN" and sub-marking	Letter dated May 15, 2018 of Dir. Clemente to Assistant Special Prosecutor I Maria Theresa Amylita B. Vargas (ASP Vargas)
"OOOO" and sub-marking	List of Bid Notices with <i>In-preparation</i> Status (2012) of the Municipality of Ronda, Cebu
"OOOO-1" and sub-marking	List of Bid Notices with <i>In-preparation</i> Status (2013) of the Municipality of Ronda, Cebu
"PPPP"	List containing the procurement projects conducted by the Municipality of Ronda, Cebu

⁶⁰ Marked as exhibits "II", "WWW", "DDDD", "WWW"; Judicial Affidavit dated April 1, 2019, Records, Vol. 2, pp. 381-383.

⁶¹ TSN dated April 10, 2019, p. 9.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Prosecution's Formal Offer of Evidence dated April 30, 2019, Records, Vol. 2, pp. 413-448.

Exhibit	Description
"WWWW" and sub-marking	Certification dated November 3, 2016 issued by Pasculado
"XXXX" and sub-marking	Certification dated May 18, 2018 issued by Kasayan
"XXXX-2"	Certification dated March 4, 2015 of Office of Civil Defense Region VII Regional Director Olive M. Luces (Dir. Luces)
"YYYY" and sub-marking	GPPB NPM No. 70-2012 dated June 7, 2012
"ZZZZ" and sub-marking	Letter dated February 1, 2019 of Silva to ASP Vargas
"AAAAA" and sub-marking	Certification dated March 29, 2019 issued by Pasculado

For SB-17-CRM-2169 to 2170:

Exhibit	Description
"E" and sub-markings	Invitation to Apply for Eligibility and to Bid (Supply of Materials for the Construction of 2CL School Building at Madanglog Elementary School, Ronda, Cebu)
"F"	Invitation to Apply for Eligibility and to Bid (Supply of Materials for the Construction of 2CL School Building at Madanglog Elementary School, Ronda, Cebu [2 nd Posting])
"G"	Minutes of the Opening of Bids dated March 26, 2012
"H" and sub-markings	BAC Resolution No. 2012-02 dated March 30, 2012 (Recommending Award in favor of Higtech Construction & Supply)
"I" and sub-markings	BAC Resolution No. 2012-03 dated March 30, 2012 (Declaring LCRB and Recommending Approval in favor of Higtech Construction & Supply)
"J"	Notice of Award dated March 30, 2012 issued to Higtech Construction & Supply (for the supply of materials for the construction of 2CL School Building at Madanglog Elementary School)
"K"	Purchase Order dated July 5, 2012 addressed to Higtech Construction & Supply amounting to PhP 723,752.27
"L" and sub-markings	Disbursement Voucher dated July 16, 2012 amounting to PhP 684,979.83 with Higtech Construction & Supply as payee
"M"	Disbursement Voucher dated October 17, 2012 amounting to PhP 283,029.46 with Higtech Construction & Supply as payee
"N" and sub-markings	Disbursement Voucher dated October 17, 2012 amounting to PhP 24,607.15 with Higtech Construction & Supply as payee
"O" and sub-markings	Undated Disbursement Voucher amounting to PhP 398,700.00 with Rogelio Q. Cortez (Cortez) as payee
"P"	Official Receipt No. 0079 dated October 17, 2012 issued by Higtech Construction Supply
"P-1"	Official Receipt No. 0080 dated October 17, 2012 issued by Higtech Construction Supply
"Q"	Reimbursement Expense Receipt dated October 17, 2012 with Cortez as payee

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For SB-17-CRM-2171:

Exhibit	Description
"PPP"	ITB (Procurement of Materials for the Maintenance of Public Buildings)
"XXXX" and sub-marking	Certification dated May 18, 2018 issued by Kasayan
"XXXX-2"	Certification dated March 4, 2015 of Dir. Luces
"ZZZZ" and sub-marking	Letter dated February 1, 2019 of Silva to ASP Vargas
"AAAAA" and sub-marking	Certification dated March 29, 2019 issued by Pasculado

For SB-17-CRM-2172:

Exhibit	Description
"R"	ITB (Procurement of Medicines)
"S" and sub-markings	BAC Resolution No. 2012-10 dated July 10, 2012 (Recommending Award in favor of Pharmatek Distributors)
"T"	Notice of Award dated July 12, 2012 issued to Pharmatek Distributors (for the supply of medicines for the LGU of Ronda, Cebu)
"U"	Undated Obligation Request No. B12-07-1280 amounting to PhP 227,675.00
"U-1"	Purchase Order dated July 13, 2012 addressed to Pharmatek Distributors amounting to PhP 227,675.00
"V" and sub-markings	Undated Disbursement Voucher No. 100201207433 amounting to PhP 215,478.13 with Pharmatek Distributors as payee
"W"	Check No. 0000243150 dated July 26, 2012 amounting to PhP 215,478.13 with Pharmatek Distributors as payee
"X"	Undated Official Receipt issued by Pharmatek Distributors
"BBB"	Minutes of Opening of Bids dated July 6, 2012

For SB-17-CRM-2173:

Exhibit	Description
"Y"	ITB (Procurement of Materials for the Maintenance of Public Buildings)
"Z" and sub-markings	BAC Resolution No. 2012-10 dated July 10, 2012 (Declaring LCRB and Recommending Approval in favor of QM Builders)
"Z-1" and sub-markings	BAC Resolution No. 2012-09 dated July 10, 2012 (Recommending Award in favor of QM Builders)
"AA"	Notice of Award dated July 12, 2012 issued to QM Builders (for the supply of materials for the maintenance of public buildings of Ronda)
"BB"	Purchase Order dated July 13, 2012 addressed to QM Builders amounting to PhP 75,860.00
"CC"	Undated Obligation Request No. B12-07-1219 amounting to PhP 75,860.00
"DD" and sub-markings	Disbursement Voucher No. 100-201207412 dated July 16, 2012 amounting to PhP 71,796.07 with QM Builders as payee
"EE" and sub-markings	Check No. 0000243115 dated July 16, 2012 amounting to PhP 71,756.07 issued to QM Builders
"BBB"	Minutes of Opening of Bids dated July 6, 2012

For SB-17-CRM-2174:

Exhibit	Description
"FF"	ITB (Completion of Butong Health Center [Supply of Materials])
"GG" and sub-markings	BAC Resolution No. 2012-08 dated July 10, 2012 (Recommending Award in favor of B.F. Sardalla Construction & Supply)
"GG-1" and sub-markings	BAC Resolution No. 2012-09 dated July 10, 2012 (Declaring LCRB and Recommending Approval in favor of B.F. Sardalla Construction & Supply)
"HH"	Notice of Award dated July 12, 2012 issued to B.F. Sardalla Construction and Supply (for the supply of materials for the completion of Butong Health Center)
"II"	Undated Purchase Order addressed to B.F. Sardalla Construction & Supply amounting to PhP 49,415.00
"JJ"	Undated Obligation Request No. B12-07-1292 amounting to PhP 49,415.00 with B.F. Sardalla Construction & Supply as payee
"KK" and sub-markings	Undated Disbursement Voucher No. 100-201207427 amounting to PhP 46,767.78 with B.F. Sardalla Construction & Supply as payee
"LL" and sub-markings	Check No. 0000243134 dated July 26, 2012
"LL-1"	Undated Official Receipt No. 0008 issued by B.F. Sardalla Construction and Supply
"BBB"	Minutes of Opening of Bids dated July 6, 2012

For SB-17-CRM-2175:

Exhibit	Description
"MM"	ITB (Procurement of Materials for the Maintenance of the Municipal Water System)
"NN" and sub-markings	BAC Resolution No. 2012-10 dated July 10, 2012 (Recommending Award in favor of QM Builders)
"OO"	Notice of Award dated July 12, 2012 issued to QM Builders (for the supply of materials for the maintenance of municipal water system)
"PP"	Purchase Order No. 027-2012 dated July 19, 2012 amounting to PhP 57,236.00 addressed to QM Builders
"QQ"	Undated Obligation Request No. B12-06-921 amounting to PhP 58,070.10
"RR" and sub-markings	Disbursement Voucher No. 100-20120728 dated July 23, 2012 amounting to PhP 54,169.80 with QM Builders as payee
"SS" and sub-markings	Check No. 243135 dated July 26, 2012 amounting to PhP 54,169.80
"SS-1"	Undated Official Receipt issued by QM Builders
"BBB"	Minutes of Opening of Bids dated July 6, 2012

For SB-17-CRM-2176:

Exhibit	Description
"TT"	ITB (Construction of 2CL School Building at Madanglog Elementary School, Vive, Ronda, Cebu)
"UU" and sub-markings	BAC Resolution No. 2012-05 dated July 10, 2012 (Recommending Award in favor of Higtech Construction)

Exhibit	Description
"VV"	Notice of Award dated July 12, 2012 issued to Higtech Construction & Supply (for the supply of labor and materials for the construction of 2CL School Building at Madanglong Elementary School)
"VV-1"	Notice to Proceed dated July 30, 2012 addressed to Higtech Construction & Supply (for the construction of 2CL School Building at Madanglong Elementary School)
"WW"	Undated Notarized Contract executed between the Municipal Government of Ronda and Higtech Construction & Supply
"XX"	Obligation Request No. B12-06-1027 dated June 20, 2012 amounting to PhP 1,451,003.58
"YY"	Official Receipt No. 0081 dated October 31, 2012 amounting to PhP 1,357,500.00 issued by Higtech Construction & Supply
"ZZ"	Purchase Request No. 011 dated May 15, 2012 amounting to PhP 387,782.33
"BBB"	Minutes of Opening of Bids dated July 6, 2012

For SB-17-CRM-2177:

Exhibit	Description
"AAA"	ITB (Construction of Langin Barangay Hall Phase I at Langin, Ronda, Cebu)
"BBB"	Minutes of Opening of Bids dated July 6, 2012
"CCC" and sub-markings	BAC Resolution No. 2012-06 dated July 10, 2012 (Recommending Award in favor of Higtech Construction)
"DDD"	Notice of Award dated July 12, 2012 issued to Higtech Construction & Supply (for the supply of labor and materials for the construction of Langin Barangay Hall Phase I)
"DDD-1"	Notice to Proceed dated July 30, 2012 addressed to Higtech Construction & Supply (for the construction of Langin Barangay Hall Phase I)
"EEE"	Undated Agreement executed between the Municipality of Ronda and Higtech Construction & Supply
"EEE-1"	Notarized Contract dated July 30, 2012 executed between the Municipality of Ronda and Higtech Construction & Supply
"FFF" and sub-markings	Undated Disbursement Voucher No. 100-201209526 amounting to PhP 466,028.91 with Higtech Construction & Supply as payee
"GGG"	Undated Obligation Request No. B12-08-1498 amounting to PhP 497,097.50 with Higtech Construction & Supply as payee
"HHH" and sub-markings	Landbank Check No. 0000243246 dated September 12, 2012 amounting to PhP 466,028.91
"III"	Official Receipt dated September 2012 amounting to PhP 466,028.91 issued by Higtech Construction & Supply

For SB-17-CRM-2178:

Exhibit	Description
"JJJ"	ITB (Construction of Emergency Access Road Phase II)
"KKK"	Minutes of the Opening of Bids dated December 28, 2012
"LLL"	Notice of Award dated January 9, 2013 issued to Higtech Construction & Supply (for the supply of labor and materials for the Construction of Emergency Access Road Phase II)

Exhibit	Description
"LLL-1"	Notice to Proceed dated January 28, 2013 addressed to Higtech Construction & Supply (for the supply of labor and materials for the Construction of Emergency Access Road Phase II)
"MMM"	Contract dated February 25, 2013 executed between the Municipality of Ronda and Higtech Construction & Supply
"NNN" and sub-markings	Check No. 0000243792 dated April 16, 2013 amounting to PhP 254,076.21
"NNN-1"	Undated Obligation Request No. B13-04-665 amounting to PhP 268,457.89 with Higtech Construction & Supply as payee
"OOO"	Official Receipt No. 0107 dated April 19, 2013 amounting to PhP 254,076.21 issued by Higtech Construction & Supply

For SB-17-CRM-2179:

Exhibit	Description
"KKK"	Minutes of the Opening of Bids dated December 28, 2012
"QQQ"	ITB (Procurement of Electrical Supplies)

For SB-17-CRM-2180:

Exhibit	Description
"KKK"	Minutes of the Opening of Bids dated December 28, 2012
"SSS"	ITB (Supply of Materials for the Construction of Butong Daycare Center Phase I)

For SB-17-CRM-2181:

Exhibit	Description
"TTT"	ITB (Construction of Legislative Building Phase IV)
"UUU"	Minutes of the Opening of Bids dated February 14, 2013
"VVV"	Notice of Award dated March 12, 2013 issued to Higtech Construction & Supply (for the supply of labor and materials for the construction of Legislative Building Phase IV)
"VVV-1"	Notice to Proceed dated March 20, 2013 addressed to Higtech Construction & Supply (for the supply of labor and materials for the construction of Legislative Building Phase IV)
"WWW"	Notarized Form of Contract Agreement dated March 15, 2013 executed between the Municipality of Ronda and Higtech Construction & Supply
"XXX" and sub-markings	Undated Disbursement Voucher amounting to PhP 959,675.41 with Higtech Construction & Supply as payee
"YYY"	Official Receipt No. 0114 dated April 30, amounting to PhP 959,675.41 issued by Higtech Construction & Supply
"YYY-1" and sub-markings	Check No. 0000122085 dated April 29, 2013 amounting to PhP 959,675.41

For SB-17-CRM-2182:

Exhibit	Description
"ZZZ"	ITB (Construction of Langin Barangay Hall Phase III)
"AAAA"	Minutes of the Opening of Bids dated March 20, 2013
"BBBB" and sub-markings	BAC Resolution No. 2013-13 dated March 25, 2013 (Declaring LCRB and Recommending Approval in favor of Antecristo Builders & Design)

Exhibit	Description
"CCCC"	Undated Obligation Request No. 1313-05-1028 amounting to PhP 639,713.00 with Antecristo Builders & Design as payee
"DDDD"	Notice of Award dated March 27, 2013 issued to Antecristo Builders & Design (for the supply of labor and materials for the construction of Langin Barangay Hall Phase III)
"DDDD-1"	Notice to Proceed dated April 1, 2013 addressed to Antecristo Builders & Design (for the supply of labor and materials for the construction of Langin Barangay Hall Phase III)
"EEEE"	Notarized Form of Contract Agreement dated April 2, 2013 executed between the Municipality of Ronda and Antecristo Builders & Design
"FFFF"	Undated Contract executed between the Municipality of Ronda and Antecristo Builders & Design
"GGGG" and sub-markings	Landbank of the Philippines Check No. 0000284691 dated July 4, 2013 amounting to PhP 588,730.93
"HHHH"	Official Receipt No. 0261 dated June 10, 2013 amounting to PhP 599,730.93 issued by Antecristo Builders & Design

For SB-17-CRM-2183:

Exhibit	Description
"AAAA"	Minutes of the Opening of Bids dated March 20, 2013
"IIII"	ITB (Improvement of Palanas-Oval-Poblacion Roads Phase I)
"XXXX" and sub-marking	Certification dated May 18, 2018 issued by Kasayan
"XXXX-2"	Certification dated March 4, 2015 of Dir. Luces
"ZZZZ" and sub-marking	Letter dated February 1, 2019 of Silva to ASP Vargas
"AAAAA" and sub-marking	Certification dated March 29, 2019 issued by Pascualado

On July 1 and July 31, 2019, the Court admitted all exhibits offered by the Prosecution.⁶⁵ Thereafter, the Defense presented its evidence.

EVIDENCE FOR THE DEFENSE

In support of their defense, the accused presented six (6) witnesses, namely: 1) Pilapil; 2) Requilme; 3) Landiza; 4) Cabaron; 5) Tan; and 6) Rhoda Morales (Morales).

Before Pilapil could testify, the parties stipulated that he can confirm and affirm the veracity of the statements in his Judicial Affidavit dated June 10, 2019, and that he can identify all documents listed therein except for Exhibits "13", "14", "15", "122", and "123".⁶⁶ He then testified that:

⁶⁵ Minutes of the Proceedings dated July 1, 2019 Records, Vol. 3, pp. 469-472; Minutes of the Proceedings dated July 31, 2019, Records, Vol. 3, p. 477.

⁶⁶ TSN dated November 20, 2019, p. 10.

- 1) He has been the Municipal Engineer of the Municipality of Ronda, Cebu since 1993. He was appointed BAC Chairman in 2011;⁶⁷
- 2) He attended a DBM seminar on how to register in the PhilGEPS sometime in 2005. In the few minutes that he used the computer, he was taught how to register in the PhilGEPS and to sign in and out of the account. He then successfully registered the Municipality of Ronda, Cebu in the PhilGEPS;⁶⁸
- 3) He attended a two-day seminar on the use of the PhilGEPS and posting of ITBs. He was only able to use the computer for a few minutes. He did not understand the seminar because he still did not know how to use a computer;⁶⁹
- 4) He performed all the steps required, as seen in his notes, to post an ITB for all the projects complained of. He believed that he posted the ITBs because there was a pop-up stating that *"Notices can no longer be edited once posted. Are you sure you want to post? YES / NO"*, to which he clicked "YES". He did not seek assistance from his co-accused because they were not computer literate;⁷⁰
- 5) After posting the ITBs, he sent letters to the COA, Senior Citizens Association of Ronda, and the Cebu Chapter of the Philippine Institute of Civil Engineers (PICE) informing them of the public biddings on certain dates as posted in the PhilGEPS;⁷¹
- 6) Exhibits "2" to "16", "18" to "22", "24" to "26", "28" to "29", "31" to "36", "38" to "47", "49" to "55", "57", "58", "72" to "77", "79", "80", "82" to "84", "86", "87", "89" to "91", "93", "94", "96" to "98", "100" to "105", "107" to "112", "114", "115", "117", "119", and "121" to "125" show that he posted the ITBs in the PhilGEPS;⁷²
- 7) As the only person with access to the PhilGEPS, he goes to the Mayor's office which has the only computer connected to the internet. The internet at said office was slow and, at times, none;⁷³
- 8) He has no written proof that the internet connection was unstable at the times material to the cases. However, the slow internet connection did not prevent him from completing the steps for posting the ITBs;⁷⁴

⁶⁷ Judicial Affidavit dated June 10, 2019, Records, Vol. 3, p. 219.

⁶⁸ *Id.*, pp. 219-221.

⁶⁹ *Id.*, pp. 221-223.

⁷⁰ Judicial Affidavit dated June 10, 2019, Records, Vol. 3, pp. 225, 249; TSN dated November 20, 2019, p. 18.

⁷¹ Judicial Affidavit dated June 10, 2019, Records, Vol. 3, p. 226.

⁷² *Id.*, pp. 227-249.

⁷³ *Id.*, pp. 226 and 250.

⁷⁴ TSN dated November 20, 2019, p. 19; TSN dated January 23, 2020 (afternoon), p. 7.

- 9) In making the Bid Notice Abstract in the PhilGEPS, he and his co-accused did not check if all the required details were filled as the internet connection was not stable;⁷⁵
- 10) He thought it was the PhilGEPS that would change the status of the Bid Notice Abstract from 'In Preparation' to 'Active';⁷⁶
- 11) All their postings in the PhilGEPS prior to 2016 did not change to 'Active' status. It was only in 2016 that he learned in training that the status had to change to 'Active' for a posting to be successful;⁷⁷
- 12) He did not post the projects on the website of the Municipality of Ronda, Cebu because it had no website. He did not publish the projects in the newspaper because their budgets are less than Five Million Pesos;⁷⁸ and
- 13) The COA reports show that the projects were not anomalous.⁷⁹

Requilme testified that:

- 1) She was a Clerk II at the Municipality of Ronda, Cebu at the times material to the cases and BAC member from 2011 to 2015. As BAC member, she reviewed bidding documents, evaluated bids, conducted pre-procurement and pre-bid conferences, and recommended award of contracts to the head of the Procuring Entity;⁸⁰
- 2) She neither attended any PhilGEPS training/seminar nor did accused Pilapil teach her or the other co-accused how to post in the PhilGEPS. All matters related to the PhilGEPS, including the posting of bids, were handled by accused Pilapil;⁸¹
- 3) The posting of the bids in the PhilGEPS was required to complete the bidding process;⁸²
- 4) She would normally hear accused Pilapil complain about the slow connection in the Municipality of Ronda in 2011;⁸³
- 5) There was nothing irregular with the bidding processes they conducted;⁸⁴
- 6) She is required to exercise extraordinary diligence as a BAC member in the conduct of procurement activities of the municipality;⁸⁵

⁷⁵ TSN dated January 23, 2020 (morning), p. 25.

⁷⁶ *Id.*, pp. 28-30.

⁷⁷ *Id.*, pp. 45-46.

⁷⁸ TSN dated January 23, 2020 (afternoon), p. 7.

⁷⁹ Judicial Affidavit dated June 10, 2019, Records, Vol. 3, p. 251.

⁸⁰ Judicial Affidavit dated January 23, 2020, Records, Vol. 4, pp. 180-182; TSN dated January 29, 2020, p. 15.

⁸¹ Judicial Affidavit dated January 23, 2020, Records, Vol. 4, pp. 180-181; TSN dated January 29, 2020, p. 19.

⁸² Judicial Affidavit dated January 23, 2020, Records, Vol. 4, p. 181.

⁸³ *Id.*, p. 181.

⁸⁴ *Id.*, p. 182.

⁸⁵ TSN dated January 29, 2020, pp. 13-14.



- 7) Only the Mayor's office and the Treasurer's office have computers at the times relevant to the cases which were maintained by the secretary of the Mayor and Municipal Treasurer, respectively;⁸⁶
- 8) She does not know whether accused Pilapil posted the ITBs in the PhilGEPS or if he went to other government offices or nearby municipalities to secure a stable internet connection;⁸⁷ and
- 9) The ITBs were posted in three (3) conspicuous places in their Municipality – in front of the municipal hall, public market, and along the road beside the church.⁸⁸

Landiza, Cabaron, and Tan's testimonies were dispensed with after the parties stipulated that they would merely corroborate Requilme's testimony.⁸⁹

Morales' testimony was dispensed with after the parties stipulated that: 1) She is the custodian of the original Audit Reports; 2) The Audit reports are faithful reproductions of the originals; 3) She neither participated nor has personal knowledge in the preparation of the Audit Reports; and 4) She has no personal knowledge of the transactions subject of the present cases.⁹⁰

On March 10, 2020, Pilapil, Requilme, Landiza, Cabaron, and Tan formally offered the following exhibits in evidence:⁹¹

For all cases:

Exhibit	Description
"7"	Certification dated November 3, 2016 issued by Pasculado

For SB-17-CRM-2169 to 2170:

Exhibit	Description
"1"	Joint Counter-Affidavit dated October 17, 2004 of Blanco III, Pilapil, Landiza, Cabaron, Requilme, and Tan
"2"	PhilGEPS Bid Notice Abstract with reference no. 1747740
"3"	Invitation to Apply for Eligibility and to Bid (Supply of Materials for the Construction of 2CL School Building at Madanglog Elementary School, Ronda, Cebu)
"4"	Letter dated March 2, 2012 of Pilapil to COA Regional Office VII Director IV Delfin P. Aguilar (Dir. Aguilar)
"5"	Letter dated March 7, 2012 of Pilapil to Senior Citizen Association of Ronda, Cebu President Leocadio Jerusalem (Jerusalem)
"6"	BAC Resolution 2012-01 dated March 12, 2012 (Declaring Failure of Bidding)
"8"	PhilGEPS Bid Notice Abstract with reference no. 1762011

⁸⁶ TSN dated January 29, 2020, pp. 14-15.

⁸⁷ *Id.*, pp. 16-17.

⁸⁸ *Id.*, pp. 18-19.

⁸⁹ Order dated January 29, 2020, Records, Vol. 4, p. 205.

⁹⁰ Order dated February 19, 2020, Records, Vol. 4, p. 251.

⁹¹ Formal Offer of Evidence of the Accused, Records, Vol. 4, pp. 277-304.

Exhibit	Description
"9"	Invitation to Apply for Eligibility and to Bid (Supply of Materials for the Construction of 2CL School Building at Madanglog Elementary School, Ronda, Cebu [2 nd Posting])
"10"	Letter dated March 13, 2012 of Pilapil to Dir. Aguilar
"11"	Letter dated March 13, 2012 of Pilapil to the President of PICE Cebu Chapter
"12"	Attendance sheet of bidding proceedings dated March 26, 2012
"13"	Certification dated January 18, 2018 of Barangay Captain Canuto T. Sabio
"14"	Report of Disbursements for the year 2012 verified by State Auditor III Gudelia Fontelo
"15"	Notice to Proceed dated May 10, 2012 from the Department of Public Works and Highways (DPWH)

For SB-17-CRM-2171:

Exhibit	Description
"16"	PhilGEPS Bid Notice Abstract with reference no. 1859024
"18"	Letter dated June 19, 2012 of Pilapil to Dir. Aguilar
"19"	Letter dated May 7, 2012 of Pilapil to Jerusalem
"20"	Attendance sheet of bidding proceedings dated July 6, 2012
"21"	BAC Resolution 2012-08 dated July 10, 2012 (Declaring LCRB and Recommending Approval)

For SB-17-CRM-2172:

Exhibit	Description
"17"	ITB (Procurement of Medicines)
"22"	PhilGEPS Bid Notice Abstract with reference no. 1859045
"24"	Letter dated May 7, 2012 of Pilapil to Jerusalem
"25"	Letter dated June 19, 2012 of Pilapil to the President of the PICE Cebu Chapter
"26"	Letter dated June 19, 2012 of Pilapil to Dir. Aguilar
"28"	Attendance sheet dated July 6, 2012

For SB-17-CRM-2173:

Exhibit	Description
"23"	ITB (Procurement of Materials for the Maintenance of Public Buildings – Bid Opening July 6, 2012)
"80"	PhilGEPS Bid Notice Abstract with reference no. 2069900
"81"	ITB (Procurement of Materials for the Maintenance of Public Buildings – Bid Opening May 22, 2012)
"82"	Letter dated December 17, 2012 of Pilapil to Jerusalem
"83"	Letter dated December 17, 2012 of Pilapil to the President of the PICE Cebu Chapter
"84"	Letter dated December 17, 2012 of Pilapil to COA Regional Office VII Director Sabiniano G. Cabatuan (Dir. Cabatuan)
"86"	Attendance sheet dated December 8, 2012

For SB-17-CRM-2174:

Exhibit	Description
"29"	PhilGEPS Bid Notice Abstract with reference no. 1859024
"30"	ITB (Completion of Butong Health Center [Supply of Materials])
"31"	Letter dated May 7, 2012 of Pilapil to Jerusalem

Exhibit	Description
"32"	Letter dated June 19, 2012 of Pilapil to the President of the PICE Cebu Chapter
"33"	Letter dated June 19, 2012 of Pilapil to Dir. Aguilar
"34"	BAC Resolution No. 2012-09 dated July 10, 2012 (Declaring LCRB and Recommending Approval in favor of B.F. Sardalla Construction & Supply)
"35"	Attendance sheet dated July 6, 2012

For SB-17-CRM-2175:

Exhibit	Description
"36"	PhilGEPS Bid Notice Abstract with reference no. 1859024
"37"	ITB (Procurement of Materials for the Maintenance of the Municipal Water System)
"38"	Letter dated May 7, 2012 of Pilapil to Jerusalem
"39"	Letter dated June 19, 2012 of Pilapil to the President of the PICE Cebu Chapter
"40"	Letter dated June 19, 2012 of Pilapil to Dir. Aguilar
"41"	BAC Resolution No. 2012-11 dated July 10, 2012 (Declaring LCRB and Recommending Approval)
"42"	Attendance sheet dated July 6, 2012

For SB-17-CRM-2176:

Exhibit	Description
"43"	PhilGEPS Bid Notice Abstract with reference no. 1858990
"44"	ITB (Construction of 2CL School Building at Madanglog Elementary School, Vive, Ronda, Cebu)
"45"	Letter dated May 7, 2012 of Pilapil to Jerusalem
"46"	Letter dated June 19, 2012 of Pilapil to the President of the PICE Cebu Chapter
"47"	Letter dated June 19, 2012 of Pilapil to Dir. Aguilar
"49"	BAC Resolution No. 2012-05 dated July 10, 2012 (Recommending Award in favor of Higtech Construction)
"50"	Attendance dated July 6, 2012

For SB-17-CRM-2177:

Exhibit	Description
"51"	PhilGEPS Bid Notice Abstract with reference no. 18589008
"52"	ITB (Construction of Langin Barangay Hall Phase I at Langin, Ronda, Cebu)
"53"	Letter dated May 7, 2012 of Pilapil to Jerusalem
"54"	Letter dated June 19, 2012 of Pilapil to the President of the PICE Cebu Chapter
"55"	Letter dated June 19, 2012 of Pilapil to Dir. Aguilar
"57"	BAC Resolution No. 2012-06 dated July 10, 2012 (Recommending Award in favor of Higtech Construction)
"58"	Attendance sheet dated July 6, 2012

For SB-17-CRM-2178:

Exhibit	Description
"72"	PhilGEPS Bid Notice Abstract with reference no. 2070837
"73"	ITB (Construction of Emergency Access Road Phase II)
"74"	Letter dated December 17, 2012 of Pilapil to Jerusalem

Exhibit	Description
"75"	Letter dated December 17, 2012 of Pilapil to the President of the PICE Cebu Chapter
"76"	Letter dated December 17, 2012 of Pilapil to Dir. Cabatuan
"77"	Letter dated March 22, 2013 addressed to COMELEC Officer Rigel S. Poloyapoy
"79"	Undated attendance sheet

For SB-17-CRM-2179:

Exhibit	Description
"87"	PhilGEPS Bid Notice Abstract with reference no. 2069900
"88"	ITB (Procurement of Electrical Supplies)
"89"	Letter dated December 17, 2012 of Pilapil to Jerusalem
"90"	Letter dated December 17, 2012 of Pilapil to the President of the PICE Cebu Chapter
"91"	Letter dated December 17, 2012 of Pilapil to Dir. Cabatuan
"93"	Undated attendance sheet

For SB-17-CRM-2180:

Exhibit	Description
"94"	PhilGEPS Bid Notice Abstract with reference no. 2069900
"95"	ITB (Supply of Materials for the Construction of Butong Daycare Center Phase I)
"96"	Letter dated December 17, 2012 of Pilapil to Jerusalem
"97"	Letter dated December 17, 2012 of Pilapil to the President of the PICE Cebu Chapter
"98"	Letter dated December 17, 2012 of Pilapil to Dir. Cabatuan
"100"	Undated attendance sheet

For SB-17-CRM-2181:

Exhibit	Description
"101"	PhilGEPS Bid Notice Abstract with reference no. 2088055
"102"	ITB (Construction of Legislative Building Phase IV)
"103"	Letter dated January 11, 2013 of Pilapil to Jerusalem
"104"	Letter dated January 11, 2013 of Pilapil to the President of the PICE Cebu Chapter
"105"	Letter dated January 11, 2013 of Pilapil to Dir. Cabatuan
"107"	Attendance sheet dated February 14, 2013

For SB-17-CRM-2182:

Exhibit	Description
"108"	PhilGEPS Bid Notice Abstract with reference no. 2153524
"109"	ITB (Construction of Langin Barangay Hall Phase III)
"110"	Letter dated March 15, 2013 of Pilapil to Jerusalem
"111"	Letter dated March 1, 2013 of Pilapil to the President of the PICE Cebu Chapter
"112"	Letter dated March 1, 2013 of Pilapil to Dir. Cabatuan
"114"	Attendance sheet dated March 20, 2013

For SB-17-CRM-2183:

Exhibit	Description
"115"	PhilGEPS Bid Notice Abstract with reference no. 2153524
"116"	ITB (Improvement of Palanas-Oval-Poblacion Roads Phase I)

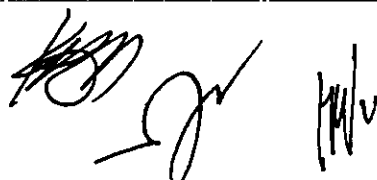


Exhibit	Description
"117"	Letter dated March 15, 2013 of Pilapil to Jerusalem
"119"	Letter dated March 1, 2013 of Pilapil to Dir. Cabatuan
"121"	Attendance sheet dated March 20, 2013
"122"	COA Annual Audit Report on the Municipality of Ronda, Cebu for the year ended December 31, 2012
"123"	COA Annual Audit Report on the Municipality of Ronda, Cebu for the year ended December 31, 2013
"125"	Certificate of Attendance of Pilapil in the PhilGEPS v1.1 Training for Buyers held on March 3 to 4, 2011
"126"	Certificate of Attendance of Pilapil in the GEPS Hands-on Training

On November 20, 2020, the Court admitted all exhibits offered by accused Pilapil, Landiza, Cabaron, Requilme, and Tan. The Court also noted Exhibit "22" which had an erroneous reference number and Exhibits "27", "48", and "56" which were not attached to said Formal Offer of Evidence.⁹²

On rebuttal, the Prosecution presented two witnesses, namely Reina F. Bailon (Bailon) and Jackielyn Q. Lucas (Lucas).

Bailon testified that:

- 1) She has been an Information Technology Officer II at the Procurement Service-PhilGEPS (PS-PhilGEPS) since 2016. Her duties and responsibilities include a) reviewing, providing input, and finalizing the Enterprise Architecture (EA), Information System Strategic Plan (ISSP), and e-Government Procurement (e-GP) Roadmap; b) coordinating and gathering inputs from other divisions in the PhilGEPS; c) monitoring the status of ICT projects; and d) performing other tasks as may be assigned by her superiors,⁹³
- 2) She received from Dir. Clemente a copy of the Subpoena dated March 4, 2020 requiring their office to submit a certification stating all the procurement projects of the Municipality of Ronda, Cebu that were posted and advertised in the PhilGEPS website from the time of its registration in the PhilGEPS up to 2015;⁹⁴
- 3) After receiving the requested relevant data and information from the e-GP Division, she prepared a certification which Dir. Clemente submitted to the OSP;⁹⁵
- 4) An "in preparation" notice status means that it is just a draft bid notice. Once the end-user clicks the "post" button, the system will change the notice status to "pending". A "closed" notice status means that the bid reached it's closing date and the submission of bid proposal in the bidding has been conducted.

⁹² Minutes of the Proceedings dated November 20, 2020, Records, Vol. 5, pp. 449-453.

⁹³ Judicial Affidavit dated January 19, 2021, Records, Vol. 5, pp. 468-469.

⁹⁴ *Id.* p. 469.

⁹⁵ *Id.* p. 470.

- Once the closing date as indicated in the bid notice is reached, the system will change the notice status to “closed”;⁹⁶
- 5) An “awarded” notice status means that the bidding has been conducted and the awardee has been determined. Once the procuring entity posts the award notice on the PhilGEPS website, the system will change the notice status to “awarded”;⁹⁷
 - 6) A “failed” status means that there is a failure of bidding or no notice of award has been issued. If the procuring entity indicated in the notice that there was a failure of bidding, the system will change the notice status to “failed”;⁹⁸ and
 - 7) There is no way of determining if the person assigned to post in the PhilGEPS is competent to complete the posting.⁹⁹

Lucas testified that:

- 1) She has been an Administrative Assistant III at the PS-PhilGEPS since January 2016. Her duties and responsibilities include organizing and maintaining files and performing other tasks as may be assigned by her superiors. Her immediate superior is Dir. Clemente;¹⁰⁰
- 2) Dir. Clemente instructed her to send to the OSP the PhilGEPS transmittal letter dated March 19, 2020, Certification dated March 19, 2020 of Dir. Clemente, and the list of all procurement projects of the Municipality of Ronda, Cebu that were posted and advertised in the PhilGEPS website from the time of its registration in the PhilGEPS up to 2015;¹⁰¹ and
- 3) She is familiar with Dir. Clemente’s signature because she saw the latter affixing her signature in other documents.¹⁰²

On February 22, 2021, the Court received the Formal Offer of Rebuttal Evidence with Motion to Transfer Markings and permanent Marking dated February 19, 2021 of the Prosecution which offered the following exhibits on rebuttal:¹⁰³

Exhibit	Description
“BBBBB” and sub-marking	Letter dated March 19, 2020 of Dir. Clemente to ASP Vargas
“CCCCC” and sub-marking	PhilGEPS Certification dated March 19, 2020 of Dir. Clemente
“DDDDD” and sub-markings	List of procurement projects posted on the PhilGEPS website from 2006 to 2015 (Municipality of Ronda, Cebu)

⁹⁶ Judicial Affidavit dated January 19, 2021, Records, Vol. 5, p. 471; TSN dated February 11, 2021, p. 27.

⁹⁷ *Id.*

⁹⁸ *Id.*

⁹⁹ TSN dated February 11, 2021, p. 25.

¹⁰⁰ Judicial Affidavit dated January 19, 2021, Records, Vol. 5, p. 489.

¹⁰¹ *Id.*, p. 490.

¹⁰² *Id.*

¹⁰³ Records, Vol. 6, pp. 58-63.

On March 16, 2021, the Court admitted all exhibits offered by the Prosecution on rebuttal.¹⁰⁴

On June 21, 2021, the Court received the Memorandum dated June 15, 2021 of the Prosecution.¹⁰⁵ On July 7, 2021, the Court received the Memorandum dated June 10, 2021 of Pilapil and Memorandum dated June 10, 2021 of Landiza, Requilme, Cabaron, and Tan.

On December 1, 2021, the Court dismissed the case against accused Oscar M. Pilapil on account of the latter's death.¹⁰⁶

THE COURT'S RULING

After a thorough review of the documentary and testimonial evidence on record, as well as the stipulations between the Prosecution and the Defense, the Court finds that **the Prosecution failed to prove beyond reasonable doubt** that accused Pilapil, Landiza, Cabaron, Requilme, and Tan violated Section 3(e) of R.A. No. 3019, or the Anti-Graft and Corrupt Practices Act.

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

Sec. 3. Corrupt practices by public officers.--In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practice 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 to officers and employees of offices of government corporations charged with the grant of licenses or permits or other concessions.

The elements of this crime are: (1) the accused must be a public officer discharging administrative, judicial, or official functions; (2) the accused must have acted with manifest partiality, evident bad faith, or gross inexcusable negligence; and (3) the accused caused any undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage, or preference in the discharge of his functions.¹⁰⁷ Since all 15

¹⁰⁴ Minutes of the Proceedings dated March 16, 2021, Records, Vol. 6, p. 97-A.

¹⁰⁵ Records, Vol. 6, pp. 236-281.

¹⁰⁶ Resolution dated December 1, 2021.

¹⁰⁷ *Fuentes v. People*, G.R. No. 186421, April 17, 2017; *Consigna v. People*, G.R. No. 175750-51, April 2, 2014; and *Cabrera v. Sandiganbayan*, G.R. Nos. 162314-17, October 25, 2004; and *Jacinto v. Sandiganbayan*, G.R. No. 84571, October 2, 1989.



Informations refer to the non-posting of the ITBs in the PhilGEPS, all 15 cases will be discussed jointly.

The first element of the crime is present. Accused Pilapil, Landiza, Cabaron, Requilme, and Tan were public officers discharging official and administrative functions at the times material to these cases.

Accused Pilapil, Landiza, Cabaron, Requilme, and Tan unequivocally admitted and stipulated in the Pre-trial Order dated February 6, 2019 that they were public officers at all times material to the cases, as summarized below:¹⁰⁸

ACCUSED	POSITION	
	LGU	BAC
Pilapil	Municipal Engineer	Chairman
Landiza	Municipal Budget Officer	Vice-Chairman
Cabaron	Municipal Assistant-Treasurer Designate	Member
Requilme	Clerk II	Member
Tan	Utility Worker I	Member

The Court is now left to determine only the second and third elements of violation of Section 3(e) of R.A. No. 3019.

The second element of the crime is absent. Under the circumstances prevailing in these cases, the failure of the accused to post the Invitations to Bid on the PhilGEPS does not constitute manifest partiality, evident bad faith, or gross inexcusable negligence.

Violation of Section 3(e) of R.A. No. 3019 may be committed through: 1) manifest partiality; 2) evident bad faith; or 3) gross inexcusable negligence.¹⁰⁹

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 a palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. Evident bad faith contemplates a state of mind affirmatively operating with a furtive design or

¹⁰⁸ Pre-Trial Order dated February 6, 2019, Records, Vol. 2, pp. 290C-D.

¹⁰⁹ *Alvarez v. People*, G.R. No. 192591, June 29, 2011.

with some motive of 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.¹¹⁰

The 15 Informations all dated October 4, 2017 charged accused Pilapil, Landiza, Cabaron, Requilme, and Tan of having acted with evident bad faith, manifest partiality, or gross inexcusable negligence.

There was substantial compliance with the requirements of Sections 8 and 21 of R.A. No. 9184¹¹¹ even without posting the ITBs in the PhilGEPS.

For transparency and competitiveness,¹¹² the general rule is that ITBs must be 1) published in a newspaper of general circulation; and 2) posted in the PhilGEPS and at any conspicuous place, as enumerated in Section 21.2.1 of the RIRR of R.A. No. 9184:¹¹³

21.2.1. Except as otherwise provided in Sections 21.2.2 and 54.2 of this IRR and for the procurement of common-use goods and supplies, the Invitation to Bid/Request for Expression of Interest shall be:

a) Advertised at least once in one (1) newspaper of general nationwide circulation which has been regularly published for at least two (2) years before the date of issue of the advertisement;

b) Posted continuously in the PhilGEPS website, the website of the procuring entity concerned, if available, and the website prescribed

¹¹⁰ *People v. Aienza*, G.R. No. 171671, June 18, 2012.

¹¹¹ R.A. 9184. Article III. Section 8. Procurement By Electronic Means. – To promote transparency and efficiency, information and communications technology shall be utilized in the conduct of procurement procedures. Accordingly, there shall be a single portal that shall serve as the primary source of information on all government procurement. The G-EPS shall serve as the primary and definitive source of information on government procurement. Further, the GPPB is authorized to approve changes in the procurement process to adapt to improvements in modern technology, provided that such modifications are consistent with the provisions of Section 3 of this Act.

To take advantage of the significant built-in efficiencies of the G-EPS and the volume discounts inherent in bulk purchasing, all Procuring Entities shall utilize the G-EPS for the procurement of common supplies in accordance with the rules and procedures to be established by the GPPB. With regard to the procurement of non-common use items, infrastructure projects and consulting services, agencies may hire service providers to undertake their electronic procurement provided these service providers meet the minimum requirements set by the GPPB.

¹¹² *Id.*, Section 21. Advertising and Contents of the Invitation to Bid. – In line with the principle of transparency and competitiveness, all Invitations to Bid contracts under competitive bidding shall be advertised by the Procuring Entity in such manner and for such length of time as may be necessary under the circumstances, in order to ensure the widest possible dissemination thereof, such as, but not limited to, posting in the Procuring Entity's premises, in newspapers of general circulation, the G-EPS and the website of the Procuring Entity, if available. The details and mechanics of implementation shall be provided in the IRR to be promulgated under this Act.

¹¹³ The Revised IRR was approved by the Government Procurement Policy Board (GPPB) through its Resolution 03- 2009, dated 22 July 2009, and published in the Official Gazette on 3 August 2009. It took effect thirty (30) days after its publication or on 2 September 2009.

by the foreign government/foreign or international financing institution, if applicable, for seven (7) calendar days starting on date of advertisement; and

c) Posted at any conspicuous place reserved for this purpose in the premises of the procuring entity concerned for seven (7) calendar days, if applicable, as certified by the head of the BAC Secretariat of the procuring entity concerned. (*Emphasis supplied*)

Section 8.2.1 of the RIRR of R.A. 9184 expounds on the requirement for posting of ITBs on the PhilGEPS:

8.2.1. The Electronic Bulletin Board

a) The G-EPS shall have a centralized electronic bulletin board for posting procurement opportunities, notices, awards and reasons for award. **All Procuring Entities are required to post all procurement opportunities, results of bidding and related information in the PhilGEPS bulletin board.**

b) Procuring Entities shall post the Invitation to Bid for goods and infrastructure projects or the Request for Expression of Interest for consulting services, in the electronic bulletin board in accordance with Section 21 of this IRR. (*Emphasis supplied*)

On its face, the failure of the accused to post the ITBs in the PhilGEPS violates the foregoing section. There is no question, however, that the accused posted the said ITBs at conspicuous places in front of the municipal hall, the public market, and along the road beside their church.¹¹⁴ Coupled with accused Pilapil's efforts in posting in the PhilGEPS, albeit failed, the Court views such efforts as substantial compliance with the law. In *Rivera v. People*,¹¹⁵ the Supreme Court explained the idea of substantial compliance with respect to the advertising requirements of R.A. 9184, to wit:

The fact that Rivera directly inquired from the BAC Secretariat on the requirement to publish in a newspaper of general circulation surely indicated the sincere intention to satisfy the requirement for publication. **In other words, the non-publication did not at all result from the petitioners' evident bad faith or gross inexcusable negligence towards Elixir, or from their gross inexcusable negligence as members of the PSC-BAC.**

In all likelihood, the non-publication might have been engendered also by the petitioners already regarding the actual publication of the ITB in the PhilGEPS, and its posting in the PSC's website itself as well as in conspicuous places like the PSC-BAC's bulletin board as sufficient compliance with the requirement for the publication. As we see it, the actual posting of the ITB in the PhilGEPS and in the PSC-BAC's bulletin board was entirely consistent with the legal requirement for making the procurement as public as possible, instead

¹¹⁴ TSN dated January 29, 2020, pp. 18-19.

¹¹⁵ G.R. No. 228154, October 16, 2019.



of being concealed. Even if hindsight wisdom may enlighten us now that the petitioners did not faithfully discharge their responsibility as PSC-BAC members, it is not fair or reasonable to judge them as grossly negligent or having acted with evident bad faith under the circumstances obtaining at the time of the procurement. (*Emphasis supplied*)

There is substantial compliance by the accused with the law even if these cases do not have the same set of facts as in *Rivera*.

The evidence shows that accused Pilapil utilized the PhilGEPS to post the ITBs. He was, however, not able to complete the process of posting. The printouts of the Bid Notice Abstracts offered by the accused all show that the notice statuses of the subject procurement projects were 'In-Preparation'.¹¹⁶ Prosecution witness PS-PhilGEPS Dir. Clemente explained that "In-Preparation" status means that the bid notice is still just a draft and is not yet published publicly in the PhilGEPS' Electronic Bulletin Board.¹¹⁷ She then went through the steps in posting an ITB:

Q: As the one in charge of the office that manages and operates the PhilGEPS, can you walk us through the process of advertising and posting the invitation to bid at the PhilGEPS website as part of the procurement process?

A: The procedure is the following:

- a) The registered procuring entity will have to log-in at the PhilGEPS website (<http://www.philgeps.gov.ph>) using its user ID and password;
- b) It will go to the "Create Notice" module to create the bid notice;
- c) The steps to be followed in bid notice creation are (i) input the basic information; (ii) input the Notice Description by indicating the specific title and description of the item to be procured, i.e., the contents of the ITB; (iii) add associated components, which means that bid documents and other supporting documents will be uploaded to the system; (iv) review and check the correctness of the notice; and (v) click the Post button to complete the notice creation process;
- d) The bid notice will go to batch processing – "In-Preparation," status of the notice will then become "Pending". The system will change the status to "Active" once the bid notice reach the publish date provided by the procuring entity and will be available for public viewing.¹¹⁸

x x x x

Q: Let's go through it step by step. If the entity only opens the portal, nothing will come out as status, right?

A: Yes, Your Honor.

¹¹⁶ Marked as exhibits "2", "8", "16", "22", "29", "36", "43", "51", "72", "80", "87", "94", "101", "108", and "115".

¹¹⁷ Amended Judicial Affidavit dated March 4, 2019, Records. Vol. 2. p. 267.

¹¹⁸ *Id.*, pp. 267-268.

Q: Okay. So the first thing that they will do is create notice?

A: Yes, Your Honor.

Q: And once they go to the create notice module and they did not do anything else what will be the status still nothing?

A: Yes, Your Honor.

Q: Okay. Now, if they put in the basic information only and nothing else, what happens?

A: It will be saved as (sic) an In-Preparation with notice.

Q: It will be saved as In-Preparation?

A: Yes, Ma'am.

Q: So any of the steps here 1, 2, 3, under letter c 1, 2, 3, 4 and it will be saved and as an uncompleted transaction.

A: Yes, Your Honor.

Q: And then it will go to In-Preparation?

A: Yes, Your Honor.¹¹⁹

Accused Pilapil, who was not computer literate, was the only one in their municipality who attended training by the PS-DBM on PhilGEPS matters. He initially refused to attend the trainings. However, he had to attend as all municipal employees were also computer illiterate.¹²⁰ His limited knowledge on how to use Microsoft Word made him the most qualified to be trained.¹²¹ There were only two computers in the Municipality and only the one in the Mayor's office had an internet connection.¹²²

The first training he had was in 2005. It involved how to register in the PhilGEPS and how to sign in and out of the account. He was then able to register his municipality in the system.¹²³ When he was appointed BAC Chairman in 2011, he attended a second training where he was taught how to use the PhilGEPS and to post ITBs. Unfortunately, he was only able to use the computer for a few minutes due to the limited number of computers available.¹²⁴ He testified that he was not able to grasp the technical topics due to his computer illiteracy:

Q: So what did you learn in the seminar, if any?

A: They taught us how to post the invitation to bid online. There were a lot of steps to be done. Since I don't really know how to use the computer I took down step by step notes since I just remember it was a long process. There was a lot of information and instructions that I did not understand that's why I just took down notes as much as I can.

Q: Do you mean that you still did not learn how to use the computer in 2011?

A: Yes. I am still not very good with computers, especially with the PhilGEPS. The last I used PhilGEPS was back in 2005 when I registered the PhilGEPS then after that it was already in 2011 when I had to practice using a computer again.

¹¹⁹ TSN dated March 13, 2019, pp. 29-30.

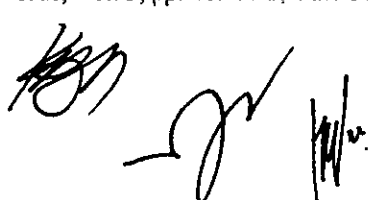
¹²⁰ TSN dated November 20, 2019, p. 16.

¹²¹ Judicial Affidavit dated June 10, 2019, Records, Vol. 3, pp. 220-221.

¹²² TSN dated January 29, 2020, pp. 14-15.

¹²³ Judicial Affidavit dated June 10, 2019, Records, Vol. 3, pp. 219-221; Date of registration found on Exhibit "C-1".

¹²⁴ *Id.*, pp. 221-222.



Q: Were there changes in the training for the use of the PhilGEPS from the 2005 and 2011?

A: Yes. The training in 2005 was only for the registration but the one in 2011 was for the posting of the Invitation to Bid online and it was more comprehensive and even harder for me to understand.

Q: So were you able to understand the training and all the changes?

A: No, I did not.¹²⁵

The Court gives credence to the good faith exhibited by accused Pilapil. Armed only with knowledge on how to use Microsoft Word, he attended a technical training on how to use the PhilGEPS. Even with limited computer time during trainings, he exerted his best efforts to create notes on what he learned. Based on his notes, he posted the ITBs material to these cases.

In 13 of the ITBs posted, there was more than one bidder present during the public bidding. Only the projects involved in both SB-17-CRM-2169 and 2170 have one bidder each, with the first round of bidding being declared a failure.¹²⁶ The table below summarizes the projects and bidders:

CASE NUMBER	BIDDERS INVOLVED
SB-17-CRM-2169	1. Higtech Construction & Supply ¹²⁷
SB-17-CRM-2170	
SB-17-CRM-2171	1. B.F. Sardalla Construction & Supply 2. QM Builders ¹²⁸
SB-17-CRM-2172	1. Sanjo Medifarma 2. Jehu-Nissi Phaema 3. Pharmatek Distributors ¹²⁹
SB-17-CRM-2173	1. B.F. Sardalla Construction & Supply 2. QM Builders ¹³⁰
SB-17-CRM-2174	1. QM Builders 2. B.F. Sardalla Construction & Supply 3. Sophos Marketing ¹³¹
SB-17-CRM-2175	1. B.F. Sardalla Construction & Supply 2. QM Builders ¹³²
SB-17-CRM-2176	1. Higtech Construction & Supply 2. Antecristo Builders ¹³³
SB-17-CRM-2177	1. Higtech Construction & Supply 2. B.F. Sardalla Construction & Supply ¹³⁴
SB-17-CRM-2178	1. B.F. Sardalla Construction & Supply 2. Higtech Construction & Supply ¹³⁵

¹²⁵ Judicial Affidavit dated June 10, 2019, Records, Vol. 3, pp. 222-223.

¹²⁶ Exhibit "6".

¹²⁷ Exhibit "G".

¹²⁸ Exhibit "BBB".

¹²⁹ *Id.*

¹³⁰ Same project as in SB-17-CRM-2171; Exhibit "BBB".

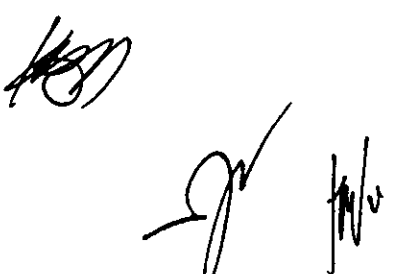
¹³¹ Exhibit "BBB".

¹³² *Id.*

¹³³ *Id.*

¹³⁴ Exhibit "BBB".

¹³⁵ Exhibit "KKK".



CASE NUMBER	BIDDERS INVOLVED
SB-17-CRM-2179	1. Leanas Electrical Supply 2. Sophos Marketing ¹³⁶
SB-17-CRM-2180	1. B.F. Sardalla Construction & Supply 2. Sophos Marketing 3. QM Builders ¹³⁷
SB-17-CRM-2181	1. Antecristo Builders 2. Higtech Construction & Supply ¹³⁸
SB-17-CRM-2182	1. Antecristo Builders 2. Higtech Construction & Supply ¹³⁹
SB-17-CRM-2183	1. B.F. Sardalla Construction & Supply 2. Higtech Construction & Supply ¹⁴⁰

Like *Rivera*,¹⁴¹ there was substantial compliance with the requirements of R.A. No. 9184 as the non-posting on the PhilGEPS was not due to the manifest partiality, evident bad faith, or gross inexcusable negligence of the accused. Manifest partiality was not proven beyond reasonable doubt because the number of bidders present per project negates any clear, notorious, or plain inclination favoring one company. Evident bad faith was not proven beyond reasonable doubt because the evidence and testimonies showed that accused Pilapil tried to post the ITBs to the best of his knowledge, although internet connection was unstable and he was computer illiterate. Gross inexcusable negligence was not proven beyond reasonable doubt. The accused complied with bidding procedures – from posting of ITBs in public places to post-bid qualifications. The problem is that Pilapil, in trying to post the ITBs on the PhilGEPS, failed to press “Post”. This resulted in the non-posting of the ITBs on the PhilGEPS. While this may be considered negligence, it is not the gross inexcusable kind that could result in the conviction of the accused.

The procuring entity must have stable internet connection to be able to post on the PhilGEPS website.

Former Chief Justice Peralta explained in *Jomadio v. Arboleda* that posting on the PhilGEPS requires a stable network of the procuring entity:¹⁴²

On the issue of non-posting of the ITB on the PhilGeps website, respondent did not show that the Municipality of Looc had an electronic registry with the PhilGeps nor that it had access to the internet. **Posting on the PhilGeps website requires not only prior coordination with the Geps but also a stable network of the procuring entity.** Since the

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ Exhibit “UUU”.

¹³⁹ Exhibit “AAAA”.

¹⁴⁰ *Id.*

¹⁴¹ In other words, the non-publication did not at all result from the petitioners' evident bad faith or gross inexcusable negligence towards Elixir, or from their gross inexcusable negligence as members of the PSC-BAC. G.R. No. 228154, October 16, 2019.

¹⁴² *Jomadio v Arboleda*, G.R. No. 230322, February 19, 2020.

viability of posting on the PhilGeps website had not been duly proven during trial, the Court could not postulate on the assumption that the lack of posting on PhilGeps was deliberate. (*Emphasis supplied*)

Accused Pilapil said he had no written proof to substantiate the allegation that their internet was unstable at the time material to these cases.¹⁴³ However, he testified:

Q: And, would you agree with me, sir that to be able to post the Invitation to Bids in the PhilGEPS website, the procuring (sic) must have a computer and working internet connection?

A: **Yes, but the internet is slow in our area and unstable.**

Q: You are claiming that you were able to complete the process for the posting of the Invitation to Bid for the procurement activities covered by the 15 information. Is it correct to state, sir that at that time that you were allegedly, you were able to post the Invitation to Bids in the PhilGEPS website, the municipality of Ronda has no working internet connections? Just yes or no, sir.

A: **Unstable working internet connection, ma'am.**¹⁴⁴
(*Emphasis supplied*)

Accused Requilme, who was computer illiterate, testified that she would often hear accused Pilapil complain about the internet connection in their municipality:

Q: What else happened, if any?

A: I remember that there were times when Engr. Pilapil would complain about the internet connection in the Mayor's Office.

Q: Why was he complaining about the internet connection?

A: He was saying that the **internet connection was very bad and unreliable**. At that time, I did not know it was related to the PhilGEPS posting.

Q: Do you remember what year this was?

A: Based on my recollection, the LGU of Ronda was equipped with internet connection back in 2011. From that time until I resigned in 2015, I normally hear Engr. Pilapil **complain about the sluggish internet connection**. When I came back to work in the LGU of Ronda in 2016 pursuant to a Job Order, I would still hear Engr. Pilapil complain about the internet connection since the connection would fluctuate from time to time.

Q: Have you tried using the internet in the Mayor's Office?

A: I have not since I do not know how to connect to the internet in the Mayor's Office.

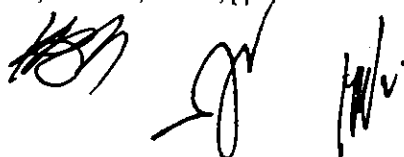
Q: How about during the time when these projects complained of were being bid out?

A: The projects were being bid out during 2012 and 2013. During those times, I recall that Engr. Pilapil was complaining about the internet connection.¹⁴⁵ (*Emphasis supplied*)

¹⁴³ TSN dated November 20, 2019, p. 19.

¹⁴⁴ *Id.*, p. 18.

¹⁴⁵ Judicial Affidavit dated January 23, 2020, Records, Vol. 4, pp. 181-182.



Section 8.2.3 of the RIRR of R.A. No. 9184 contemplates the situation where the procuring entity has no internet access:

8.2.3. The Electronic Catalogue

c) Procuring Entities without internet access **may avail of the PhilGEPS Public Access Terminals which shall be installed at DBM-designated locations in the provinces and in Metro Manila:** Provided, however, That they shall comply with Section 8.3¹⁴⁶ of this IRR. (*Emphasis supplied*)

The Prosecution, however, failed to prove that there were any PhilGEPS Public Access Terminals installed near the Municipality of Ronda, Cebu. The records are silent as to these terminals. Similar to *Jomadiao*,¹⁴⁷ the internet access of the municipality was unstable. The un rebutted testimonies of accused Pilapil and Requilme prove that there were problems with respect to the internet access of the Municipality of Ronda. The lack of a stable internet network of the procuring entity and the lack of any PhilGEPS Public Access Terminals prevented the accused from successfully posting any ITB online.

The ITBs were posted at conspicuous places.

The act of posting the ITBs at conspicuous places was not contested. The Certification dated November 3, 2016 issued by BAC Secretariat Head Pascualado shows that said ITBs were duly posted in said places.¹⁴⁸ This was also testified to by accused Requilme, and corroborated by the testimonies of accused Landiza, Cabaron, and Tan:¹⁴⁹

Q: Do you know if the Invitation to Bid was posted in conspicuous places in the Municipal Hall of Ronda?

A: Yes, Your Honor.

Q: It was posted?

A: Three (3) places in our Municipality.

Q: What were these places?

A: In front of the municipal hall, in the public market, and along the road beside our church.

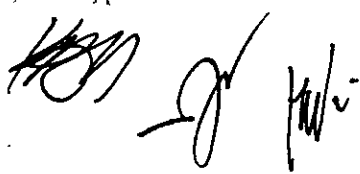
¹⁴⁶ RIRR of R.A. No. 9184, Section 8.3. Use of the PhilGEPS

8.3.1. All Procuring Entities are mandated to fully use the PhilGEPS in accordance with the policies, rules, regulations, and procedures adopted by the GPPB and embodied in this IRR. In this connection, all Procuring Entities shall register with the PhilGEPS and shall undertake measures to ensure their access to an on-line network to facilitate the open, speedy and efficient on-line transmission, conveyance and use of electronic data messages or electronic documents. The PS-DBM shall assist Procuring Entities to ensure their on-line connectivity and help in training their personnel responsible for the operation of the PhilGEPS from their terminals.

¹⁴⁷ Posting on the PhilGeps website requires not only prior coordination with the Geps but also a stable network of the procuring entity. Since the viability of posting on the PhilGeps website had not been duly proven during trial, the Court could not postulate on the assumption that the lack of posting on PhilGeps was deliberate. G.R. No. 230322, February 19, 2020.

¹⁴⁸ Exhibits "WWW" and "7".

¹⁴⁹ Order dated January 29, 2020, Records, Vol. 4, p. 205.



Q: How do you know this?

A: There were bulletin boards in those places and whenever I go to the market, I have seen the bulletin board.¹⁵⁰

The ITBs were not posted on the municipality's website because said website did not exist.

The accused did not post the ITBs on the website of the municipality because such website did not exist. The Prosecution failed to rebut the following testimony of accused Pilapil:

Q: Now these purchases, did you post them in the website of the Municipality of Ronda?

A: No, Your Honor. The Municipality of Ronda has no website until now.

Q: No website?

A: Yes, Your Honor.¹⁵¹

Non-posting due to the absence or non-availability of a municipal website is legally permissible. The language used in Section 21.2.1(b) of the RIRR of R.A. No. 9184¹⁵² provides that posting of ITBs on the municipal website is conditioned upon the existence of such website. There was no violation of the law because there was no municipal website to speak of.

The ITBs need not be published in newspapers of general circulation as the projects fall within the non-publishing exception

Section 21.2.2 of said RIRR provides for an exception to the requirement of publishing ITBs in a newspaper of general circulation. When the contracts are worth Two Million Pesos (PhP 2,000,000.00) and below for procurement of goods¹⁵³ and Five Million Pesos (PhP 5,000,000.00) and

¹⁵⁰ TSN dated January 29, 2020, pp. 18-19.

¹⁵¹ TSN dated January 23, 2020 (afternoon), p. 7.

¹⁵² b) Posted continuously in the PhilGEPS website, the website of the procuring entity concerned, if available, and the website prescribed by the foreign government/foreign or international financing institution, if applicable, for seven (7) calendar days starting on date of advertisement; and

¹⁵³ R.A. 9184. Section 5. Definition of Terms. -- For purposes of this Act, the following terms or words and phrases shall mean or be understood as follows:

x x x x

(h) Goods – refer to all items, supplies, materials and general support services, except consulting services and infrastructure projects, which may be needed in the transaction of public businesses or in the pursuit of any government undertaking, project or activity, whether in the nature of equipment, furniture, stationery, materials for construction, or personal property of any kind, including non-personal or contractual services such as the repair and maintenance of equipment and furniture, as well as trucking, hauling, janitorial, security, and related or analogous services, as well as procurement of materials and supplies provided by the procuring entity for such services.

below for procurement of infrastructure projects. ITBs are not required to be published in a newspaper of general circulation.¹⁵⁴

21.2.2. Advertisement of the Invitation to Bid/Request for Expression of Interest in a newspaper of general nationwide circulation provided in Section 21.2.1(a) shall not be required for contracts to be bid with an approved budget of Two Million Pesos (P2,000,000.00) and below for the procurement of goods, Five Million Pesos (P5,000,000.00) and below for the procurement of infrastructure projects, and One Million Pesos (P1,000,000.00) and below or those whose duration is four (4) months or less for the procurement of consulting services.

These cases involve 15 separate procurement activities undertaken by the Municipality of Ronda, Cebu for the projects summarized below:

CASE NUMBER	APPROVED BUDGET FOR CONTRACT	KIND OF CONTRACT
SB-17-CRM-2169	PhP 1,023,567.80 ¹⁵⁵	Goods
SB-17-CRM-2170		
SB-17-CRM-2171	PhP 112,673.00 ¹⁵⁶	Goods
SB-17-CRM-2172	PhP 229,531.00 ¹⁵⁷	Goods
SB-17-CRM-2173	PhP 77,159.00 ¹⁵⁸	Goods
SB-17-CRM-2174	PhP 49,865.00 ¹⁵⁹	Goods
SB-17-CRM-2175	PhP 58,070.10 ¹⁶⁰	Goods
SB-17-CRM-2176	PhP 1,451,003.58 ¹⁶¹	Infrastructure Project
SB-17-CRM-2177	PhP 688,382.50 ¹⁶²	Infrastructure Project
SB-17-CRM-2178	PhP 270,000.00 ¹⁶³	Infrastructure Project
SB-17-CRM-2179	PhP 72,420.00 ¹⁶⁴	Goods
SB-17-CRM-2180	PhP 190,094.25 ¹⁶⁵	Goods
SB-17-CRM-2181	PhP 2,050,000.00 ¹⁶⁶	Infrastructure Project
SB-17-CRM-2182	PhP 640,000.00 ¹⁶⁷	Infrastructure Project
SB-17-CRM-2183	PhP 80,000.00 ¹⁶⁸	Goods

¹⁵⁴ R.A. 9184. Section 5. Definition of Terms. – For purposes of this Act, the following terms or words and phrases shall mean or be understood as follows:

x x x x

(k) Infrastructure Projects – include the construction, improvement, rehabilitation, demolition, repair, restoration or maintenance of roads and bridges, railways, airports, seaports, communication facilities, civil works components of information technology projects, irrigation, flood control and drainage, water supply, sanitation, sewerage and solid waste management systems, shore protection, energy/power and electrification facilities, national buildings, school buildings, hospital buildings and other related construction projects of the government.

¹⁵⁵ Exhibits “E” and “F”.

¹⁵⁶ Exhibit “PPP”.

¹⁵⁷ Exhibit “R”.

¹⁵⁸ Exhibit “Y”.

¹⁵⁹ Exhibit “FF”.

¹⁶⁰ Exhibit “MM”.

¹⁶¹ Exhibit “TT”.

¹⁶² Exhibit “AAA”.

¹⁶³ Exhibit “JJJ”.

¹⁶⁴ Exhibit “QQQ”.

¹⁶⁵ Exhibit “SSS”.

¹⁶⁶ Exhibit “TTT”.

¹⁶⁷ Exhibit “ZZZ”.

¹⁶⁸ Exhibit “III”.

The ITBs in these cases need not be published in a newspaper of general nationwide circulation because their amounts fall within the exception. SB-17-CRM-2176 to 2178 and SB-17-CRM-2181 to 2182 are all infrastructure projects with a maximum value of Two Million Fifty Thousand Pesos (PhP 2,050,000.00) which did not exceed the threshold value of PhP 5,000,000.00. The remaining projects are contracts for the procurement of goods. The maximum value of the contracts in these cases is One Million Twenty-Three Thousand Five Hundred Sixty-Seven Pesos and Eighty Centavos (PhP 1,023,567.80) which did not exceed the threshold value of PhP 2,000,000.00.

*The accused complied with the other
procedures of the procurement process*

Sections 12 and 13 of R.A. No. 9184 provides an overview of the procurement process:

Section 12. Functions of the BAC. - The BAC shall have the following functions: advertise and/or post the invitation to bid, conduct pre-procurement and pre-bid conferences, determine the eligibility of prospective bidders, receive bids, conduct the evaluation of bids, undertake post-qualification proceedings, recommend award of contracts to the Head of the Procuring Entity of his duly authorized representative:

x x x x

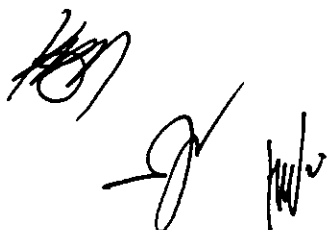
Section 13. Observers. - To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the Commission on Audit, at least two (2) observers to sit in its proceedings, one (1) from a duly recognized private group in a sector or discipline relevant to the procurement at hand, and the other from a non-government organization: Provided, however, That they do not have any direct or indirect interest in the contract to be bid out. The observers should be duly registered with the Securities and Exchange Commission and should meet the criteria for observers as set forth in the IRR.

Section 13 of the RIRR discusses the requirements for observers:

Section 13. Observers.

13.1. To enhance the transparency of the process, the BAC shall, in all stages of the procurement process, invite, in addition to the representative of the COA, at least two (2) observers, who shall not have the right to vote, to sit in its proceedings where:

1. At least one (1) shall come from a duly recognized private group in a sector or discipline relevant to the procurement at hand, for example:



a) For infrastructure projects, national associations of constructors duly recognized by the Construction Industry Authority of the Philippines (CIAP), such as, but not limited to the following:

- (1) Philippine Constructors Association, Inc.;
- (2) National Constructors Association of the Philippines, Inc.; and
- (3) Philippine Institute of Civil Engineers (PICE).

b) For goods, a specific relevant chamber-member of the Philippine Chamber of Commerce and Industry.

c) For consulting services, a project-related professional organization accredited or duly recognized by the Professional Regulation Commission or the Supreme Court, such as, but not limited to:

- (1) PICE;
- (2) Philippine Institute of Certified Public Accountants (PICPA); and
- (3) Confederation of Filipino Consulting Organizations; and

2. The other observer shall come from a non-government organization (NGO).

13.2. The observers shall come from an organization duly registered with the Securities and Exchange Commission (SEC) or the Cooperative Development Authority (CDA), and should meet the following criteria:

- a) Knowledge, experience or expertise in procurement or in the subject matter of the contract to be bid;
- b) Absence of actual or potential conflict of interest in the contract to be bid; and
- c) Any other relevant criteria that may be determined by the BAC.

Prosecution witness Pasculado summed up how the accused followed the procedure enumerated in the law:

Q: Now, Madam Witness as the head of the BAC Secretariat, you will also agree with me that you attended procurement activities conducted by the Bids and Awards Committee, am I correct?

A: Yes, sir.

Q: You will also agree with me, that the Bids and Awards Committee conducted a pre-procurement and pre-bid conferences, correct?

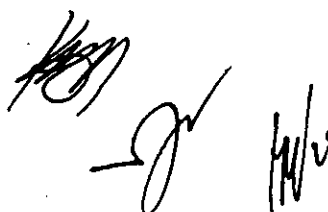
A: Yes, sir.

Q: Also the determination of eligibility of respective bidders, am I correct?

A: Yes, sir.

Q: You also conducted evaluation of bids, am I correct?

A: Yes, sir.



Q: And in addition to this, Madam Witness you will also agree with me that the accused in this case, also invited observers during the bidding process?

A: Yes, sir.

Q: Namely; a representative from the Commission on Audit, a representative from the Philippine Institute of Civil Engineers, including a representative from the Senior Citizens Association of Ronda, am I correct?

A: Yes, sir.¹⁶⁹

The accused followed the proper procedure. The various Minutes of the Opening of Bids show that they adhered to the law and RIRR as they determined the eligibilities of the bidders, evaluated the lowest calculated bids, and post-qualified the lowest calculated and responsive bids (LCRB).¹⁷⁰ The BAC issued resolutions pertaining to the LCRBs. Not all these resolutions, however, were offered in evidence. The various attendance sheets prove that they were able to invite the requisite observers.¹⁷¹

Finally, the COA Annual Audit Reports on the Municipality show that the Commission did not see any irregularities with their transactions during the times material to these cases.¹⁷²

The third element of the crime is absent. Unwarranted benefits, advantage or preference were not given to a single entity.

The third element in the violation of Section 3(e) of R.A. No. 3019 is present when the acts of the accused are proven to have caused undue injury to any party, including the government, or have given any private party unwarranted benefits, advantage, or preference.

The accused may be charged under either mode or both. The presence of one is sufficient to convict them.¹⁷³ In this case, the accused were charged with both.

In *Guadines v. Sandiganbayan and People*,¹⁷⁴ the Supreme Court explained undue injury:

¹⁶⁹ TSN dated April 10, 2019, pp. 7-8.

¹⁷⁰ Minutes of the Meetings marked as exhibits "G" for bids opened on March 26, 2012, "BBB" for bids opened on July 6, 2012, "KKK" for bids opened on December 28, 2012, "UUU" for bids opened on February 14, 2013, and "AAAA" for bids opened on March 20, 2013.

¹⁷¹ Attendance sheets marked as exhibits "12", "20", "28", "35", "42", "50", "58", "79", "86", "93", "100", "107", "114", and "121".

¹⁷² COA Annual Audit Reports on the Municipality of Ronda marked as exhibits "122" and "123".

¹⁷³ *Sison v. People*, G.R. Nos. 170339, 170398-403, March 9, 2010.

¹⁷⁴ G.R. No. 164891, June 6, 2011, citing *Santos v. People*, G.R. No. 151877, March 23, 2006.

The term undue injury in the context of Section 3 (e) of the Anti-Graft and Corrupt Practices Act punishing the act of causing undue injury to any party, has a meaning akin to that civil law concept of actual damage. The Court said so in *Llorente vs. Sandiganbayan*, thus:

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. (*Emphasis supplied*)

In *Sison v. People*,¹⁷⁵ the Supreme Court defined unwarranted benefits, advantage, or preference:

The word “unwarranted” means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. “Advantage” means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. “Preference” signifies priority or higher evaluation or desirability; choice or estimation above another.

R.A. No. 9184 requires that procurements be competitive, transparent, and undergo competitive bidding. These requirements were complied with after multiple bidders submitted their bids for each of the 15 projects. Only the procurement project for the supply of materials for the construction of the 2CL school building at Madanglog Elementary School had one bidder.¹⁷⁶ This second bidding resulted from a failure of bidding as no prospective bidder submitted a letter of intent.¹⁷⁷ The only bidder that submitted the required documents during the second posting complied with the requirements of the law. Consequently, the BAC declared it the single lowest calculated and responsive bidder and recommended the award of the contract to it.¹⁷⁸

The number of bidders coupled with the LCRB documents show that all the awards were warranted. Prosecution witness Pascualado testified that all projects involved in these cases have been completely implemented:

Q: You will also agree with me Madam Witness that with respect to the projects complained of in these cases, these projects have already been one hundred percent (100%) implemented, am I correct?

A: Yes, sir.

Q: That they are also being enjoyed by the constituents of the municipality of Ronda?

¹⁷⁵ *Sison v. People*, G.R. Nos. 170339, 170398-403, March 9, 2010.

¹⁷⁶ SB-CRM-17-2169 and 2170.

¹⁷⁷ Exhibit “6”.

¹⁷⁸ Exhibits “H” and “I”.

A: Yes, sir.¹⁷⁹

The Prosecution was not able to prove that there were any unwarranted benefits, advantage, or preference given to a single party.

The Court will not dwell on the allegation of overpayment with respect to SB-17-CRM-2170. This was not alleged in any of the Informations and was only raised in the Memorandum of the Prosecution.¹⁸⁰ Section 8, Rule 110 of the Rules of Court provides that the designation given to the offense by the statute and a statement of the acts or omissions so complained of as constituting the offense should be included in the information. An accused cannot be convicted of an offense upon the failure of the Prosecution to state these acts or omissions in the Information.¹⁸¹

Conspiracy amongst the BAC
members was not proven.

Conspiracy is present when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.¹⁸² Conspiracy need not be proven by direct evidence of prior agreement to commit the crime.¹⁸³ In criminal law, where the quantum of evidence required is proof beyond reasonable doubt, direct proof is not essential to show conspiracy as it may be deduced from the mode, method, and manner by which the offense was perpetrated, or inferred from the acts of the accused themselves when such acts point to a joint purpose and design, concerted action, and community of interest.¹⁸⁴

In *Aquino v. Paiste*,¹⁸⁵ the Supreme Court said:

“To be held guilty as a co-principal by reason of conspiracy, the accused must be shown to have performed an overt act in pursuance or furtherance of the complicity. Once proved, the act of one becomes the act of everyone. All the conspirators are answerable as co-principals regardless of the extent or degree of their participation.”

The Court finds that the accused did not conspire with each other not to post the ITBs on the PhilGEPS. The failure of accused Pilapil to complete the posting of the ITBs was due to his computer illiteracy and the municipality's unreliable internet connection. The rest of the accused, being computer illiterate as well, simply relied on Pilapil to do the said posting. It was only

¹⁷⁹ TSN dated April 10, 2019, pp. 7-8.

¹⁸⁰ Records, Vol. 6, p 279.

¹⁸¹ *People vs. Padal, Jr.*, G.R. No. 232070, October 2, 2019.

¹⁸² Article 8 of the Revised Penal Code.

¹⁸³ *People v. Quirol*, G.R. No. 149259, October 20, 2005.

¹⁸⁴ *Philippine Airlines, Inc. v. Court of Appeals*, G.R. No. 159556, May 26, 2005.

¹⁸⁵ *Aquino v. Paiste*, G.R. No. 147782, June 25, 2008.

Pilapil who had training on the matter, although very limited. There is neither direct proof nor evidence where conspiracy can be deduced from.

CONCLUSION

The law does not require the impossible.¹⁸⁶ Accused Pilapil described himself to be computer illiterate. Evidence was introduced showing that Ronda's internet connection was unreliable. Both factors made the posting of ITBs on the PhilGEPS almost impossible.

However, computer illiteracy and internet connection cannot excuse compliance with the procurement postings required by law. Nevertheless, the accused's failure to do so, under the circumstances, do not constitute manifest partiality, evident bad faith, or gross inexcusable negligence. They are, thus, entitled to an acquittal.

A final word. The PhilGEPS aims to make public procurement as economical and efficient as possible. This can only succeed if procuring entities are properly equipped with the computers and internet connection they need. The fifth-class Municipality of Ronda only had two computers and one unstable internet connection at the time relevant to these cases.

Again, other government offices must help in the procurement effort. The PS-DBM is mandated to assist procuring entities in ensuring their online connectivity and to provide access terminals for those who do not have internet.¹⁸⁷ The records are, however, bereft of this kind of assistance from the PS-DBM. Without proper internet connection, the goal to make public procurement as economical and efficient as possible is defeated. Those without internet access are immediately put in jeopardy. Those with unreliable internet connection, like the accused, are no different.

WHEREFORE, in view of the failure of the Prosecution to prove beyond reasonable doubt that accused Landiza, Cabaron, Requilme, and Tan conspired with each other and with accused Blanco, and accused Pilapil to violate Section 3(e) of R.A. No. 3019, judgment is hereby rendered as follows:

1. Accused **THELMA RODRIGUEZ LANDIZA, BRIGIDA MENDEZ CABARON, FRAULINE FAUNILLAN REQUILME, and EVELINA MORALES TAN**, are **ACQUITTED** of the charges of violation of Section 3(e) of R.A. No. 3019 in SB-17-CRM-2169 to 2183 for failure of the Prosecution to prove their guilt beyond reasonable doubt.

¹⁸⁶ *Lex non cogit ad impossibilia*; Lee. Handbook of Legal Maxims, 2002 Ed.

¹⁸⁷ *Jomidiao v Arboleda*, G.R. No. 230322, February 19, 2020; Section 8.2.3 of the IRR of R.A. 9184.

2. No civil liability may be adjudged against the accused as the act or omission from which the civil liability might arise did not exist.

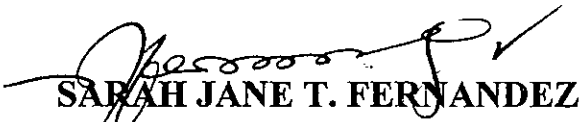
3. The hold departure order issued against them by reason of these cases is hereby **LIFTED** and **SET ASIDE**, and the bonds posted by them are **RELEASED** subject to the usual accounting and auditing procedures.

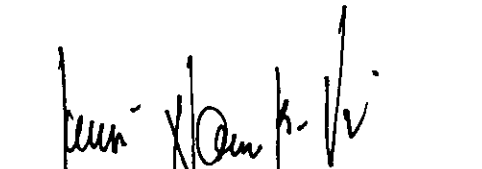
4. Furnish the PS-DBM with a copy of this Decision.

SO ORDERED.


KARL B. MIRANDA
Associate Justice

WE CONCUR:


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson


KEVIN NARCEB. VIVERO
Associate Justice

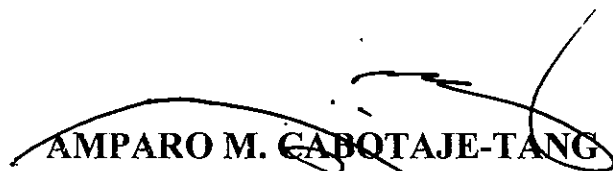
ATTESTATION

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
Chairperson, Sixth Division

CERTIFICATION

Pursuant to Article VII, 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. GABOTAJE-TANG
Presiding Justice