

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 2 of 46

X -----X

the public bidding conducted relative thereto was rigged. In SB-16-CRM-0640 and 0641, they allegedly rigged the bidding in the transactions involving the purchase of one (1) unit of EFI Engine from Evolution-R Enterprises, and two (2) units of Duplo Digital Duplicator from GAKKEN Philippines, Inc., respectively.

In SB-16-CRM-0642, the accused allegedly entered into a transaction with Evolution-R Enterprises, which was grossly disadvantageous to the government, by rigging the bidding in the purchase of one (1) unit of EFI Engine.

Accused Pangilinan died on September 28, 2015, prior to the filing of the Informations with the Court. Consequently, the present cases were dismissed as to him.³

The accusatory portion of the remaining Informations read:

SB-16-CRM-0639
(Violation of Sec. 3[e] of R.A. No. 3019)

That on or about December 2, 2005 or sometime prior or subsequent thereto, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, accused Manuel R. Pangilinan, a high-ranking public officer, being then the President of Marikina Polytechnic College (MPC) (Salary Grade 29), and accused Efren F. Azares, Saturnino N. Quintal, Alejandrina P. Ancheta, Ermielinda T. Flaminiano, being then members of the Bids and Awards Committee (BAC), and Juanito J. Macapanas, Procurement Officer, of the MPC while in the performance of their official functions, committing the offense in relation to their offices, taking advantage of their official positions, through manifest partiality, evident bad faith or gross inexcusable negligence and in conspiracy with one another, did then and there willfully, unlawfully and criminally give unwarranted benefit to Adriana Printing Company, Inc. by procuring from the latter the printing of 2500 pieces of the MPC Journal covered by Purchase Order No. 2005/156 dated December 2, 2005 paid under Disbursement Voucher No. 2005-12-386 dated December 14, 2005, and Landbank Check No. 179050 dated December 21, 2005 in the amount of Fifty Nine Thousand Seven Hundred Thirteen & 50/100 (Php59,713.50), despite knowledge that the public bidding conducted relative thereto was rigged as the said Purchase Order was issued ahead of Adriana Printing Company, Inc.'s actual bid on December 16, 2005 to the damage and prejudice of the government and the public interest.

CONTRARY TO LAW.

³ SB-16-CRM-0634 to 0638, wherein accused Pangilinan was the sole accused, were dismissed in the Resolution dated April 18, 2017. The present cases (SB-16-CRM-0639 to 0642) were dismissed as to him in the Resolution dated June 7, 2021.

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 3 of 46

X -----X

SB-16-CRM-0640 (Violation of Sec. 3[e] of R.A. No. 3019)

That on or about February 14, 2006 or sometime prior or subsequent thereto, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, accused Manuel R. Pangilinan, a high-ranking public officer, being then the President of Marikina Polytechnic College (MPC) (Salary Grade 29), and accused Efren F. Azares, Saturnino N. Quintal, Alejandrina P. Ancheta, Ermielinda T. Flaminiano, being then members of the Bids and Awards Committee (BAC) and Juanito J. Macapanas, Procurement Officer, of the MPC, while in the performance of their official functions, committing the offense in relation to their offices, taking advantage of their official positions, through manifest partiality, evident bad faith or gross inexcusable negligence and in conspiracy with one another, did then and there willfully, unlawfully and criminally give unwarranted benefits to Evolution-R Enterprises by rigging the bidding when accused-members of the BAC passed two Resolutions both dated February 14, 2006 and bearing the same Resolution Number 2, s. 2006, declaring an alleged re-bidding for the purchase of one (1) unit EFI Engine with compartment and complete air-conditioning accessories, front suspension, dash board and steering wheel, when in fact, Purchase Order No. 2006-06 dated February 9, 2006 issued by reason of said alleged re-bidding in the amount of P55,968.00 duly signed by accused Pangilinan contains a higher unit cost, to include and cover costs of EVAT and VAT thereby favoring Evolution-R Enterprises, than what was indicated in the first Purchase Order, also numbered 2006-06 and dated February 9, 2006 in the amount of P48,000.00, to the damage and prejudice of the government and the public interest.

CONTRARY TO LAW.

SB-16-CRM-0641 (Violation of Sec. 3[e] of R.A. No. 3019)

That on or about December 13, 2006 or sometime prior or subsequent thereto, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, accused Manuel R. Pangilinan, a high-ranking public officer, being then the President of Marikina Polytechnic College (MPC) (Salary Grade 29), and accused Efren F. Azares, Alejandrina P. Ancheta, Ermielinda T. Flaminiano, being then members of the Bids and Awards Committee (BAC) and Juanito J. Macapanas, Procurement Officer of the MPC, while in the performance of their official functions, committing the offense in relation to their offices, taking advantage of their official positions, through manifest partiality, evident bad faith or gross inexcusable negligence and in conspiracy with one another, did then and there willfully, unlawfully and criminally give unwarranted benefit to GAKKEN Philippines, Inc. by rigging the bidding for the purchase of

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 4 of 46

X -----X

two (2) units of Duplo Digital Duplicators when accused-members of the BAC passed a Resolution on December 13, 2006 awarding the contract to GAKKEN Philippines, Inc. on the mere request of a certain Ronald Garry V. Reyes, and Sales Invoice Nos. 27484 and 27485 in the amount of P140,000.00 each covering the said purchases were all dated December 29, 2006, or just one day after GAKKEN Philippines, Inc. submitted its bid proposal on December 28, 2006, thereby depriving the government of a chance to secure the most advantageous offer, to the damage and prejudice of the government and the public interest in the aforesaid amounts.

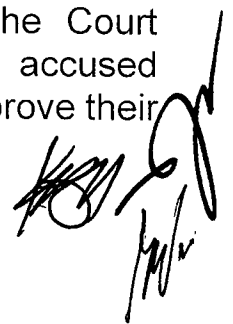
CONTRARY TO LAW.

SB-16-CRM-0642 (Violation of Sec. 3[g] of R.A. No. 3019)

That on or about February 14, 2006 or sometime prior or subsequent thereto, in the City of Marikina, Philippines and within the jurisdiction of this Honorable Court, accused Manuel R. Pangilinan, a high-ranking public officer, being then the President of Marikina Polytechnic College (MPC) (Salary Grade 29), and accused Efren F. Azares, Saturnino N. Quintal, Alejandrina P. Ancheta, and Ermielinda T. Flaminiano, being then members of the Bids and Awards Committee (BAC), and Juanito J. Macapanas, Procurement Officer, of the MPC, while in the performance of their official functions, committing the offense in relation to their offices, taking advantage of their official positions and in conspiracy with one another, did then and there willfully, unlawfully and criminally enter into a transaction with Evolution-R Enterprises, by rigging the bidding when accused-members of the BAC passed two Resolutions both dated February 14, 2006 and bearing the same Resolution Number 2, s. 2006, declaring an alleged re-bidding for the purchase of one (1) unit EFI Engine with compartment and complete air-conditioning accessories, front suspension, dash board and steering wheel, when in fact, Purchase Order No. 2006-06 dated February 9, 2006 issued by reason of said alleged re-bidding in the amount of P55,968.00 duly signed by accused Pangilinan contains a higher unit cost, to include and cover costs of EVAT and VAT thereby favoring Evolution-R Enterprises, than what was indicated in the first Purchase Order, also numbered 2006-06 and dated February 9, 2006 in the amount of P48,000.00, which transaction was grossly disadvantageous to the government, to the damage and prejudice of the government and the public interest.

CONTRARY TO LAW.

In the Decision promulgated on July 30, 2021, the Court rendered its judgment acquitting accused Azares, and accused Flaminiano and Macapanas, for the prosecution's failure to prove their



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 5 of 46

x -----x

guilt beyond reasonable doubt. The Court also ordered that these cases be archived pending the arrest of accused Quintal and Ancheta, who were still at large at the time.

These cases were revived after accused Ancheta submitted to the Court's jurisdiction by surrendering and posting her cash bail bond for her provisional liberty on November 25, 2021.⁴ During her arraignment *via* full remote hearing on December 7, 2021, accused Ancheta entered her plea of "Not Guilty" to the four (4) Informations in these cases.⁵ Accused Quintal remains to be at large.

During the pre-trial, the prosecution and accused Ancheta adopted the stipulations during the pre-trial conducted on October 20, 2017, and as enumerated in the Pre-Trial Order dated October 20, 2017,⁶ with the additional stipulation that accused Ancheta, as alleged in the Information, was a member of the BAC of MPC at the time material to the allegations in the Information.⁷

For convenience, hereunder are the stipulations of the prosecution and accused Azares, and accused Flaminiano and Macapanas, as enumerated in the said Pre-Trial Order dated October 20, 2017:⁸

I. STATEMENT OF ADMISSIONS/STIPULATIONS OF FACTS

A. As proposed by the prosecution, the following facts are admitted by accused Efren Azares, Ermie Linda Flaminiano and Juanito Macapanas:

1. At the time material to the allegations in the Informations, accused Efren Azares, Ermie Linda Flaminiano, and Juanito Macapanas were public officers.

B. As proposed by accused Efren Azares:

1. The personal circumstances of the said accused.
 - Admitted by the prosecution and accused Flaminiano and Macapanas

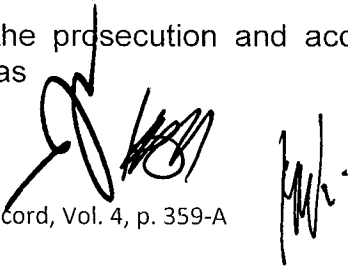
⁴ Resolution dated November 25, 2021; Record, Vol. 4, p. 359-A

⁵ Record, Vol. 4, pp. 368-369

⁶ Record, Vol. 2, pp. 91-114

⁷ Pre-Trial Order dated February 24, 2022; Record, Vol. 4, pp. 392-394

⁸ Pre-Trial Order dated October 20, 2017, pp. 1-3; Record, Vol. 2, pp. 91-93



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 6 of 46

X -----X

2. Accused Azares was the Chairman of the Bids and Awards Committee of the Marikina Polytechnic College.

- Admitted by the prosecution; denied by accused Flaminiano and Macapanas

C. As proposed by accused Flaminiano and Macapanas:

1. That prior to the filing of the complaint of Andres Morales (Morales, for brevity) with the Office of the Ombudsman (OMB) which led to the filing of the instant criminal cases against the accused, accused Flaminiano and Pangilinan filed criminal cases against Morales for nine (9) counts of Falsification of Public Documents docketed as Criminal Case Nos. 2007-9567 to 9575 before the Regional Trial Court (RTC) of Marikina City, Branch 263.

- Denied by the prosecution
- Adopted and admitted by accused Azares

2. That RTC, Branch 263, as per its Decision dated August 27, 2013, found Morales guilty beyond reasonable doubt in all nine (9) counts of Falsification of Public documents to which he was sentenced to suffer imprisonment. Said cases are now on appeal to the Sandiganbayan.

- Denied by the prosecution
- Adopted and admitted by accused Azares

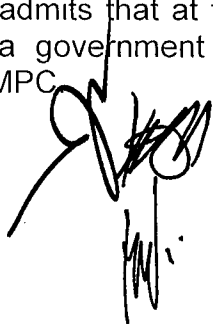
3. That at the time of the alleged incident, accused Macapanas was not a member of the BAC of MPC, but is merely designated as Storekeeper II.

- Denied by the prosecution
- Adopted and admitted by accused Azares

4. That both accused Flaminiano and Macapanas have had clean records in all their decades-long of government service up until the filing of the complaint of Morales with the OMB.

- Denied by the prosecution
- Adopted and admitted by accused Azares

5. Accused Flaminiano admits that at the time of the alleged incidents, she was a government employee serving as College Registrar of MPC.

A handwritten signature in black ink, appearing to be a stylized representation of the name 'Azares', is written over the bottom of the text in the fifth list item.

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 7 of 46

X -----X

6. Accused Macapanas admits that at the time of the alleged incidents, he was a government employee designated as Store Keeper II of MPC.

EVIDENCE FOR THE PROSECUTION

During the hearing on February 24, 2022, the prosecution manifested that it will adopt all the evidence it presented during the trial of accused Azares, and accused Flaminiano and Macapanas.⁹

During the trial of accused Azares, and accused Flaminiano and Macapanas, the prosecution presented as witnesses **Margarita E. Labuac**¹⁰ and **Andres S. Morales**.¹¹

In her Judicial Affidavit dated December 22, 2017, **Margarita E. Labuac**, State Auditor IV of the Commission on Audit (COA), identified Exhibits A to I and submarkings, N to S and submarkings, and VVVV to VVVV-14.¹² She further testified that the documents she certified are copies of the documents in her possession, which are not necessarily the originals, and which were submitted to her office in COA, stationed in Marikina Polytechnic College.¹³

In his Judicial Affidavit dated February 20, 2018, **Andres S. Morales**, Administrative Officer IV of the Marikina Polytechnic College, identified Exhibits FFF, GGG, KKK, LLL, HHHHH to HHHHH-116,¹⁴ and declared:

1. He executed and filed his Complaint-Affidavit (Exhibits HHHHH to HHHHH-16) against Manuel R. Pangilinan, Efren F. Azares, Saturnino N. Quintal, Alejandrina P. Ancheta, Ermie Linda T. Flaminiano and Juanito J. Macapanas, with the Office of the Ombudsman.¹⁵



⁹ Order dated February 24, 2022; Record, Vol. 4, pp. 384-A and 384-B

¹⁰ TSN, January 25, 2018; *Judicial Affidavit* dated December 22, 2017 (Record, Vol. 2, pp. 149-239)

¹¹ TSNs, February 26, 2018, March 1, 2018, March 15, 2018, April 3, 2018 and May 23, 2018; *Judicial Affidavit* dated February 20, 2018 (Record, Vol. 2, pp. 286-468)

¹² Witness Labuac also identified other documentary exhibits that were not included in the prosecution's *Formal Offer of Evidence*.

¹³ TSN, January 25, 2018, pp. 21-23

¹⁴ Witness Morales also identified other documentary exhibits that were not included in the prosecution's *Formal Offer of Evidence*.

¹⁵ *Judicial Affidavit* dated February 20, 2018, pp. 2-3 (Record, Vol. 2, pp. 287-288)

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 8 of 46

X -----X

2. The contract with, and payment to, Adriana Printing, Co. Inc., were irregular and anomalous because of the following reasons:
 - a. The Purchase Request (Exhibit C) for the printing of 2,500 pieces of MPC Journal came after the Invitation to Bid (Exhibits D to G and submarkings).¹⁶
 - b. The quotations of the bidders (Exhibits D to G) were submitted after the deadline for the submission of the same.¹⁷
 - c. The Abstract of Bids (Exhibit H) for said printing did not include the quotation submitted by J.C. Palabay Enterprises, Inc. Instead, the quotation of Four J Arts Printer was included.¹⁸
 - d. The Purchase Order (Exhibit I) was dated before the submission of the quotations of the bidders.¹⁹
3. There was a conspiracy to rig the bidding and award of one unit of EFI Engine to Evolution-R Enterprises because of the following reasons:
 - a. There was a rebidding in the transaction, as declared in two versions of the MPC BAC Resolution No. 2, S. 2006 (Exhibits X and Y).²⁰
 - b. The two purchase orders (Exhibits L and Z) are dated ahead of the deadline for the submission of the quotations of bidders, as shown in the two sets of the Invitations to Bid (Exhibits N, N-2, O, O-2, P, P-3, Q, Q-3, R, R-3, S, and S-3).²¹
 - c. The two purchase orders with the same date and same control PO Nos. have different amounts indicated.²²
4. The accused conspired to rig the bidding and award of two units of Duplo Digital Duplicators to Gakken Philippines, Inc., as shown by the following:
 - a. The two Purchase Orders (Exhibits FFF and GGG) covering said Duplo Digital Duplicators were issued

¹⁶ *Judicial Affidavit* dated February 20, 2018, p. 6 (Record, Vol. 2, p. 291)

¹⁷ *Judicial Affidavit* dated February 20, 2018, pp. 6-7 (Record, Vol. 2, pp. 291-292)

¹⁸ *Judicial Affidavit* dated February 20, 2018, p. 7 (Record, Vol. 2, p. 292)

¹⁹ *Judicial Affidavit* dated February 20, 2018, p. 9 (Record, Vol. 2, p. 294)

²⁰ *Ibid.*

²¹ *Judicial Affidavit* dated February 20, 2018, p. 10 (Record, Vol. 2, p. 295)

²² *Judicial Affidavit* dated February 20, 2018, p. 11 (Record, Vol. 2, p. 296)



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 9 of 46

X -----X

ahead of the quotation (Exhibit LLL) submitted by Gakken Philippines, Inc.²³

- b. The purchase was solely based on MPC BAC Resolution No. 10, S. 2006 and Resolution No. 11, S. 2006, both dated December 13, 2006. The said BAC Resolutions were issued prior to the submission of the quotation by Gakken Philippines.²⁴

He further testified:

1. He certified that the documents came into his possession sometime before he filed the complaint. At the time, they were in the possession of the office of the Administrative Division.²⁵
2. The documents were attached to the voucher, which passed through their office. The said documents were submitted to their office, and were subsequently forwarded to the COA as the final depository of official documents pertaining to the transactions of the agency.²⁶
3. With respect to the procurement of the EFI Engine, he was not present in the meeting of the Bids and Awards Committee (BAC).
4. After he certified Exhibit LLL, the Office of the President of the Marikina Polytechnic College pulled out the transaction.²⁷
5. His office is not the custodian of the subject documents, but the said documents passed through their office before the same were forwarded to the COA as the depository of documents.²⁸
6. He certified the documents by virtue of his position as Administrative Officer IV, despite not being the custodian of said documents.²⁹
7. The original of Exhibit LLL is not with the COA because the transaction was called off.³⁰
8. Exhibit LLL was not among the documents forwarded to the COA.³¹

²³ *Ibid.*

²⁴ *Judicial Affidavit* dated February 20, 2018, p. 12 (Record, Vol. 2, p. 297)

²⁵ TSN, February 26, 2018, pp. 7-10

²⁶ TSN, February 26, 2018, pp. 14-15

²⁷ TSN, March 1, 2018, p. 7

²⁸ TSN, March 1, 2018, p. 8

²⁹ TSN, March 1, 2018, p. 9

³⁰ TSN, March 1, 2018, p. 11

³¹ TSN, March 1, 2018, p. 12

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 10 of 46

X -----X

9. The documents passed through his office because, as Administrative Officer, he was directly in charge of accounting and personnel.³²
10. The submission of bids was not done exclusively through fax machine. Participating entities or corporations could also have personally submitted the same.³³
11. He was once a member of the BAC, around the year 2005.³⁴
12. The bid price of ₱25.41 submitted by Adriana Printing Company, as opposed to the bid price of ₱48.00 submitted by JC Palabay Enterprises, is more advantageous to the government. However, there were some conditions.³⁵
13. He never encountered the originals of the documents submitted by J. C. Palabay, R. O. Santos, Adriana Printing Co. and IPS Printing Services. Only fax copies were submitted.³⁶
14. He did not verify from Gakken Phils., Inc. the date when it submitted the document.³⁷
15. With respect to the printing of the MPC Journal, he saw that the fax copies of bids from the different suppliers were attached to the Abstract of Canvass forwarded to his office.³⁸
16. He presumed that the fax copies of bids from the different suppliers were valid and authentic because they were included in the Abstract of Bids. Otherwise, they would have been invalidated by the BAC during their deliberation.³⁹
17. He certified the documents for future use, because there were irregularities in the procurement.⁴⁰
18. If the transaction materialized, the pertinent documents that pass through his office are eventually submitted to the COA. However, the subject transactions did not push through because there was a change of leadership. The new leadership did not allow payment of the transactions.⁴¹

³² TSN, March 1, 2018, p. 17

³³ TSN, March 15, 2018, pp. 10-11

³⁴ TSN, April 3, 2018, p. 13

³⁵ TSN, March 15, 2018, pp. 13-14

³⁶ TSN, April 3, 2018, pp. 6-7

³⁷ TSN, April 3, 2018, pp. 11-12

³⁸ TSN, May 23, 2018, p. 5

³⁹ TSN, May 23, 2018, p. 6

⁴⁰ TSN, May 23, 2018, p. 9

⁴¹ TSN, May 23, 2018, p. 10

A handwritten signature in black ink, consisting of stylized, overlapping loops and strokes, located at the bottom right of the page.

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 11 of 46

X -----X

19. The copies of the bids attached to the Abstract of Bids appeared to be photocopies of the fax copies.⁴²
20. When he received the documents pertaining to the subject transactions, he wrote to the president, Dr. Manuel Pangilinan. He did not receive any reply from the latter.⁴³

Considering that the prosecution merely orally adopted the *Formal Offer of Documentary Evidence* it previously filed, and accused Ancheta orally adopted the *Comments* previously filed by accused Azares, and accused Flaminiano and Macapanas, the Court orally reissued the Resolution dated July 12, 2018,⁴⁴ admitting the following documentary exhibits offered by the prosecution in evidence.⁴⁵

Exhibit	Document
A	Disbursement Voucher No. 2005-12-386 dated December 14, 2005
B	Check dated December 21, 2005 in the amount of ₱59,713.50
B-3	Adriana Printing Company, Inc. Official Receipt No. 7753 dated December 22, 2005
C	Purchase Request No. 05-11-011 dated November 29, 2005
D	<i>Invitation to Bid</i> for MPC Journal, submitted by J. C. Palabay Enterprises, Inc.
E	<i>Invitation to Bid</i> for MPC Journal, submitted by R. O. Santos Enterprises
F	<i>Invitation to Bid</i> for MPC Journal, submitted by Adriana Printing Co.
G	<i>Invitation to Bid</i> for MPC Journal, submitted by IPS Printing Services
H	Abstract of Bids/Canvass for furnishing and delivery of supplies and/or materials for official use of MPC Journal
I	Purchase Order No. 2005/156 dated December 2, 2005
J	Letter dated December 16, 2005 of Andres S. Morales, addressed to Manuel R. Pangilinan
L	Purchase Order No. 2006-006 dated February 9, 2006
N	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Farcon Mktg. with date 2-15-6
N-2	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Farcon Marketing with date 02-08-06
O	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Satoshi Traders with date 2-14-06

⁴² TSN, May 23, 2018, p. 12

⁴³ TSN, May 23, 2018, p. 13

⁴⁴ Record, Vol. 3, pp. 265-266

⁴⁵ Order dated February 24, 2022; Record, Vol. 4, pp. 384-A and 384-B

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 12 of 46

X -----X

O-2	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Satoshi Traders with date 2-08-06
P	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Evolution R Enterprises with date 2-14-06
P-3	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Evolution R Enterprises with date 2-8-06
Q	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Dhandeels Enterprise with date 2-14-6
Q-3	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Dhandeels Enterprise with date 2-8-6
R	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Rota-Cool Ref. & Aircon with date 2/14-06
R-3	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by Rota-Cool with date 02/08/06
S	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by HM Marketing with date 2-14-06
S-3	<i>Invitation to Bid</i> for EFI Engine, etc., submitted by HM Marketing with date 2-8-06
X	MPC Bids and Awards Committee Resolution No. 2, S. 2006 (Version A)
Y	MPC Bids and Awards Committee Resolution No. 2, S. 2006 (Version B)
Z	Purchase Order No. 2006-006 dated February 9, 2006
FFF	Purchase Order No. 2006-114 dated December 21, 2006
GGG	Purchase Order No. 2006-115 dated December 21, 2006
KKK	MPC Bids and Awards Committee Resolution No. 11, S. 2006
LLL	Letter dated December 28, 2006 of Roy A. Bautista, addressed to Ms. Ermelinda Flaminiano
VVVV to VVVV-14	Audit Observation Memorandum No. 2006-9 dated February 9, 2007
HHHHH and series	Complaint-Affidavit dated August 11, 2008 of Andres S. Morales and attachments
JJJJJ	Decision dated October 6, 2017 in SB-15-A/R/0004
JJJJJ-1	Resolution dated December 8, 2017 in SB-15-A/R/0004

EVIDENCE FOR THE DEFENSE

During the hearing on February 24, 2022, accused Ancheta manifested that she is adopting the evidence presented by accused Azares, and accused Flaminiano and Macapanas, and will no longer present further evidence.⁴⁶

⁴⁶ *Ibid.*

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 13 of 46

X -----X

Accused Azares, and accused Flaminiano and Macapanas, previously presented as witnesses accused **Efren F. Azares**,⁴⁷ **Florencia D. Ilagan**,⁴⁸ **Limuel C. Cirineo**,⁴⁹ accused **Juanito J. Macapanas**⁵⁰ and accused **Ermielinda T. Flaminiano**.⁵¹

In his Judicial Affidavit dated March 1, 2019, accused **Efren F. Azares** declared:

1. He was the Head of the Elliptical Electronics Department of the Marikina Polytechnic College before he was dismissed from employment on March 17, 2016.⁵²
2. Mr. Andres Morales accused him and the BAC members of rigging the bidding for the printing of the MPC Journal.⁵³
3. He prepared the Invitations to Bid. However, the dates indicated in the faxed copies are fabricated.⁵⁴
4. Contrary to Mr. Morales' claim, all accomplished Invitations to Bid from interested suppliers were received on or before December 2, 2005, as shown by the dates indicated in the accomplished Invitations to Bid. It is highly dubious that the interested bidders would place dates way before the date they submitted the bids.⁵⁵
5. The bidders for the printing of the MPC Journal are Adriana Printing Co. Inc., Ibrahim Printing Services, R.G. Santos, Four J Arts Printers, and J.C. Palabay Enterprises, Inc. The last submitted its bid on December 7, 2005, after the deadline.⁵⁶
6. J.C. Palabay's bid was not included in the Abstract of Bids.⁵⁷
7. The BAC Secretariat prepared the said Abstract of Bids, then it was routed to the members, and thereafter, to him, as BAC

⁴⁷ TSNs, April 8, 2018, June 6, 2018, and June 18, 2018; *Judicial Affidavit of Witness Efren F. Azares* dated March 1, 2019 (Record, Vol. 3, pp. 355-376)

⁴⁸ TSNs, August 8, 2019 and August 22, 2019; *Amended Judicial Affidavit of Defense Witness Florencia Ilagan* dated August 2, 2019 (Record, Vol. 3, pp. 434-451)

⁴⁹ TSN, September 12, 2019; *Judicial Affidavit of Defense Witness Dr. Limuel Cirineo* dated September 3, 2019 (Record, Vol. 3, pp. 460-465)

⁵⁰ TSN, October 17, 2019; *Judicial Affidavit* dated September 16, 2019 (Record, Vol. 3, pp. 476-481)

⁵¹ TSNs, October 24, 2019 and November 22, 2019; *Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO)* dated November 14, 2019 (Record, Vol. 4, pp. 20-85)

⁵² *Judicial Affidavit of Witness Efren F. Azares* dated March 1, 2019, p. 3 (Record, Vol. 3, p. 357)

⁵³ *Judicial Affidavit of Witness Efren F. Azares* dated March 1, 2019, p. 4 (Record, Vol. 3, p. 358)

⁵⁴ *Ibid.*

⁵⁵ *Judicial Affidavit of Witness Efren F. Azares* dated March 1, 2019, p. 5 (Record, Vol. 3, p. 359)

⁵⁶ *Ibid.*

⁵⁷ *Judicial Affidavit of Witness Efren F. Azares* dated March 1, 2019, p. 6 (Record, Vol. 3, p. 360)

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 14 of 46

X -----X

Chairperson. After he signed it on December 8, 2005, It was forwarded to the Chief Accountant and the Office of the President of MPC for the preparation of the Purchase Order to the winning bidder.⁵⁸

8. They conducted two (2) biddings for the procurement of "an air conditioning unit EFI Engine with accessories [sic]." They conducted a second bidding because they previously failed to advise the bidders to incorporate the VAT and E-VAT to their bid price.⁵⁹
9. They issued a Resolution for each bidding.⁶⁰
10. He participated in the procurement of two (2) duplicators. No bidding was conducted. Instead, they contracted directly with Gakken Philippines, as indicated in the two (2) resolutions they issued.⁶¹

He further testified:

1. Then President Manuel L. Pangilinan appointed him as BAC Chair.⁶²
2. He issued the Invitations to Bid for the printing of the MPC Journal on November 21, 2005, and four (4) suppliers submitted their bids.⁶³
3. He does not have any document that would show that the Invitations to Bid were submitted on or before December 2, 2005, but as he recalls, they were submitted before December 2.⁶⁴
4. He does not have the receiving copies of the Invitations to Bid.⁶⁵
5. He does not have the originals of Exhibits D to G. They have photocopies only.⁶⁶
6. After receiving the individual bids of the potential suppliers, they forwarded the same to the BAC Secretariat, which prepared the Abstract of Bids.⁶⁷

⁵⁸ Judicial Affidavit of Witness Efren F. Azares dated March 1, 2019, pp. 6-7 (Record, Vol. 3, pp. 360-361)

⁵⁹ Judicial Affidavit of Witness Efren F. Azares dated March 1, 2019, p. 7 (Record, Vol. 3, p. 361)

⁶⁰ Judicial Affidavit of Witness Efren F. Azares dated March 1, 2019, p. 8 (Record, Vol. 3, p. 362)

⁶¹ Judicial Affidavit of Witness Efren F. Azares dated March 1, 2019, pp. 8-9 (Record, Vol. 3, pp. 362-363)

⁶² TSN, June 6, 2019, p. 21

⁶³ TSN, June 18, 2019, pp. 8-9

⁶⁴ TSN, June 6, 2019, pp. 15-16

⁶⁵ TSN, June 6, 2019, pp. 7-8

⁶⁶ TSN, June 18, 2019, pp. 15-16

⁶⁷ TSN, June 18, 2019, p. 10

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 15 of 46

X -----X

7. He did not see the signatories to the Abstract of Bids actually sign the document.⁶⁸
8. He concluded that the fax copies of the Invitations to Bid were fabricated because he signed the Abstract of Bids on December 8, 2005, and the members of the BAC signed the same before he did. It would have been impossible for the document to be dated December 16 and 19.⁶⁹
9. Regarding the procurement of the duplicator from Gakken Philippines, it was the Office of the Registrar that recommended the purchase of the Duplo brand of duplicator.⁷⁰
10. A duplicator is a photocopying machine.⁷¹
11. He knows that under the law, the purchase request for the machines should not be so specific, and should not mention a specific model. Nevertheless, they still proceeded with the purchase of the duplicator from Gakken Philippines.⁷²

In her Amended Judicial Affidavit dated August 2, 2019, **Florencia D. Ilagan** declared:

1. She prepared the purchase request for the printing of MPC Journal.⁷³
2. After preparing the said purchase request, she conducted a canvass of at least four (4) potential suppliers and inquired about their rates. She received offers to print—or price quotations—from said potential suppliers.⁷⁴
3. They required the said suppliers to place their bids in the Invitations to Bid sent out by the BAC.⁷⁵ The originals of the offers to bid were submitted to the COA. She kept photocopies for her personal files.⁷⁶

⁶⁸ TSN, June 18, 2019, p. 16

⁶⁹ TSN, June 18, 2019, p. 5

⁷⁰ TSN, June 18, 2019, pp. 13-14

⁷¹ TSN, June 6, 2019, p. 20

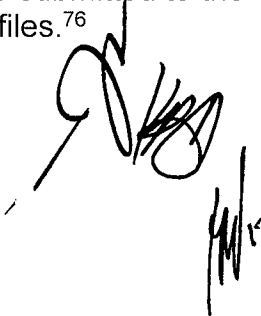
⁷² TSN, June 6, 2019, pp. 20-21

⁷³ *Amended Judicial Affidavit of Defense Witness Florencia Ilagan* dated August 2, 2019, p. 2 (Record, Vol. 3, p. 435)

⁷⁴ *Amended Judicial Affidavit of Defense Witness Florencia Ilagan* dated August 2, 2019, pp. 2-3 (Record, Vol. 3, pp. 435-436)

⁷⁵ *Amended Judicial Affidavit of Defense Witness Florencia Ilagan* dated August 2, 2019, p. 3 (Record, Vol. 3, p. 436)

⁷⁶ *Ibid.*



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

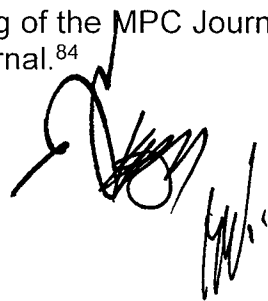
Page 16 of 46

X -----X

4. Thereafter, the BAC Secretariat prepared the Abstract of Bids, which contained the names and prices submitted by the interested suppliers.⁷⁷
5. It appears that there are some fabrications in the Invitations to Bid:
 - a. The name of sender and date in the faxed copies were fabricated.⁷⁸
 - b. The dates in the offers to print are much earlier than the dates indicated in the faxed copies.⁷⁹
6. The regular mode for the submission of bids is by personally submitting it to the MPC. However, for expediency, suppliers may send their bids by fax.⁸⁰
7. The Office of the President received the bids of the suppliers because it was the only office that had a fax machine at the time.⁸¹
8. The supposed Invitations to Bid from R.G. Santos Enterprises and IPS Printing Services appear to have been sent through the fax machine from the Office of the President, Marikina Polytechnic Office.⁸²

She further testified:

1. She was not a member of the Bids and Awards Committee in 2005. Neither was she a part of the Technical Working Group at the time.⁸³
2. She conducted the canvass for the printing of the MPC Journal in her capacity as adviser of the MPC Journal.⁸⁴



⁷⁷ Amended Judicial Affidavit of Defense Witness Florencia Ilagan dated August 2, 2019, pp. 3-4 (Record, Vol. 3, pp. 436-437)

⁷⁸ Amended Judicial Affidavit of Defense Witness Florencia Ilagan dated August 2, 2019, p. 4 (Record, Vol. 3, p. 437)

⁷⁹ *Ibid.*

⁸⁰ *Ibid.*

⁸¹ Amended Judicial Affidavit of Defense Witness Florencia Ilagan dated August 2, 2019, p. 5 (Record, Vol. 3, p. 438)

⁸² *Ibid.*

⁸³ TSN, August 22, 2019, p. 5

⁸⁴ *Ibid.*

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 17 of 46

X -----X

3. After she conducted her canvass, she received the offers to print. Thereafter, people from the Supply Office⁸⁵ instructed her to give the Invitations to Bid to the suppliers.⁸⁶
4. She does not know who submitted the offers to bid to the COA.⁸⁷
5. She saw some, but not all, members of the Bids and Awards Committee sign the Abstract of Bids.⁸⁸
6. Some of the bids were submitted personally, and others, by fax.⁸⁹
7. R.G. Santos, Adriana Printing Press, and Ibrahim submitted the bids by fax.⁹⁰
8. Dr. Manuel Pangilinan, the President of the MPC at the time, designated her as adviser of the Campus Press.⁹¹
9. When she conducted the canvass, she inquired about the prices offered for a 36-page 8½ x 12 news magazine, and the suppliers submitted their offers to print through fax sometime in November 2005.⁹²
10. She conducted the canvass from November 5 to December 2, 2005. It was her schedule because the semester was about to end, and the release of the first issue of the school paper will be too late.⁹³
11. Two (2) issues of the MPC Journal are released in a year, one for each semester.⁹⁴
12. Her copy of the faxed offer to print came from the Office of the President.⁹⁵

In his Judicial Affidavit dated September 3, 2019, **Limuel C. Cirineo**, a retired teacher, declared:

⁸⁵ Witness Ilagan also testified that someone from the Accounting Office instructed her to give the Invitation to Bid to the suppliers.

⁸⁶ TSN, August 22, 2019, pp. 8-9

⁸⁷ TSN, August 22, 2019, p. 6

⁸⁸ TSN, August 22, 2019, p. 7

⁸⁹ TSN, August 22, 2019, p. 9

⁹⁰ TSN, August 22, 2019, pp. 9-10

⁹¹ TSN, August 22, 2019, pp. 10-11

⁹² TSN, August 22, 2019, pp. 11-12

⁹³ TSN, August 22, 2019, p. 12

⁹⁴ TSN, August 22, 2019, p. 13

⁹⁵ TSN, August 22, 2019, p. 15

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 18 of 46

X -----X

1. He was instructed by then MPC President Manuel Pangilinan to spearhead a team that will present a project at the GoNegosyo event. The instruction was given only ten (10) days before the event.⁹⁶
2. He then conducted a canvass of at least four (4) potential suppliers of Electronic Fuel Injection engine with air conditioning accessories, front suspension, dashboard and steering wheel (EFI engine, etc.). He submitted the result of his canvass to the Bids and Awards Committee (BAC).⁹⁷
3. The BAC processed the result based on their usual procedure for procurement by canvass until the purchase order from the Office of the President of the MPC was made to the winning supplier.⁹⁸
4. He knows that the Office of the President of the MPC made the purchase order because he was designated as the point person to handle the project to be showcased in the said upcoming event.⁹⁹
5. After the issuance of the purchase order, Evolution-R Enterprises, the winning bidder, delivered the half-cut car with EFI engine, etc.¹⁰⁰
6. Before they could test the engine, Evolution-R Enterprises demanded the pullout of the half-cut car because the amount paid by MPC was insufficient, as it did not include the VAT.¹⁰¹
7. He reported the matter to Mr. Pangilinan. The latter advised him to use said half-cut car for the GoNegosyo event, and told him that he (Pangilinan) would instruct the BAC to reprocess the procurement of the half-cut car to include the VAT.¹⁰²
8. They were able to finish the project showcased in the GoNegosyo event.¹⁰³

He further testified.



⁹⁶ *Judicial Affidavit of Defense Witness Dr. Limuel Cirineo* dated September 3, 2019, p. 3 (Record, Vol. 3, p. 462)

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

¹⁰⁰ *Judicial Affidavit of Defense Witness Dr. Limuel Cirineo* dated September 3, 2019, p. 4 (Record, Vol. 3, p. 463)

¹⁰¹ *Ibid.*

¹⁰² *Ibid.*

¹⁰³ *Ibid.*

DECISION

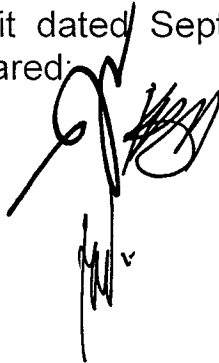
People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 19 of 46

X -----X

1. He is a Doctor of Education, and was an automotive instructor.¹⁰⁴
2. The idea of using a half-cut car as an exhibit in the GoNegosyo event came from him.¹⁰⁵
3. He did not actually see the bid of Evolution-R. He was directed to retrieve the bids. After collecting them, he submitted the same to the BAC.¹⁰⁶
4. After Evolution-R won the bid, the car with EFI engine, etc. was sent directly to the service shop, which was under his office, and not to the Supplies Office.¹⁰⁷
5. Evolution-R Enterprises communicated with him regarding the pullout of said piece of equipment, and he was the one who reported the matter to Mr. Pangilinan.¹⁰⁸
6. The decision to include the VAT in the price came solely from the office of Mr. Pangilinan.¹⁰⁹
7. The procurement of the half-cut car with EFI engine was made through canvass. He does not know why it was made through canvass instead of public bidding.¹¹⁰
8. Evolution-R's demand for the pullout of the half-cut car was made verbally.¹¹¹
9. The half-cut car was not pulled out because the procurement was reprocessed.¹¹²
10. Dr. Manuel Pangilinan, then the MPC President, instructed him to conduct the canvass.¹¹³

In his Judicial Affidavit dated September 16, 2019, accused **Juanito J. Macapanas** declared:



¹⁰⁴ TSN, September 12, 2019, p. 8

¹⁰⁵ TSN, September 12, 2019, pp. 8-9

¹⁰⁶ TSN, September 12, 2019, p. 10

¹⁰⁷ TSN, September 12, 2019, pp. 10-11

¹⁰⁸ TSN, September 12, 2019, p. 11

¹⁰⁹ TSN, September 12, 2019, p. 12

¹¹⁰ TSN, September 12, 2019, p. 13

¹¹¹ TSN, September 12, 2019, pp. 13-14

¹¹² TSN, September 12, 2019, p. 14

¹¹³ TSN, September 12, 2019, p. 15

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 20 of 46

X -----X

1. He had no participation in the award in the subject procurements.¹¹⁴
2. In December 2005, February 2006 and December 2006, he held the position of Store Keeper II. Thereafter, he held the position of Admin Aide VI at the Marikina Polytechnic College.¹¹⁵
3. He was not the procurement officer at the time of the procurement of the MPC Journal, EFI engine and Duplo Digital Duplicators. The procurement officer was Mr. Perez. He was merely designated as procurement officer for one month.¹¹⁶
4. He was not a member of the BAC. Mr. Morales questioned his appointment, and as a result he did not act as a member of the BAC.¹¹⁷
5. He did not sign the Abstract of Bids/Canvass (Exhibit HHHHH-23). The original of said document will show that it is not his signature.¹¹⁸
6. He was included in the cases only because he was close to Mr. Pangilinan. There was animosity between Mr. Pangilinan and Mr. Morales after the former removed the latter from the BAC, and he was caught up in their conflict.¹¹⁹
7. When he mentioned that he was close to Mr. Pangilinan, he meant that Mr. Pangilinan relied on him to file documents and do errands.¹²⁰
8. The Journal and EFI engines passed through their office, but he does not remember if he was the one who received them. The duplicators were not sent to the supply office. He recalls that they were sent directly to the registrar.¹²¹

He further testified:

1. The signature above the name "Juanito Macapanas" in the Abstract of Bids is not his. It is different from his signature, as seen in his Judicial Affidavit.¹²²

¹¹⁴ Judicial Affidavit dated September 16, 2019, p. 1 (Record, Vol. 3, p. 476)

¹¹⁵ Judicial Affidavit dated September 16, 2019, p. 2 (Record, Vol. 3, p. 477)

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ Judicial Affidavit dated September 16, 2019, pp. 2-3 (Record, Vol. 3, pp. 477-478)

¹²² TSN, October 17, 2019, pp. 11-12

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 21 of 46

X -----X

2. On November 24, 2005, he was in the Supply Office.¹²³
3. He does not remember signing the Abstract of Bids. It is the first time he has seen the said document.¹²⁴
4. He does not have the originals of the documents attached to his Judicial Affidavit. He only went to the school to get the certified true copies.¹²⁵
5. His employment in the school ended when he retired on October 21, 2013, his birthday.¹²⁶
6. The Service Record attached to his Judicial Affidavit was required by the GSIS upon retirement.¹²⁷ He has a more recent copy of his Service Record, but he did not bring it because he did not think that he will need it.¹²⁸
7. Mr. Perez, the Procurement Officer, was an instructor in the school. He cannot remember the complete name of Mr. Perez.¹²⁹
8. He does not remember the exact date when he was a procurement officer.¹³⁰
9. His designation as Procurement Officer is not reflected in the Service Record.¹³¹
10. He does not remember when he was appointed as a member of the BAC. He does not remember attending even one BAC meeting.¹³²
11. He did not appear in the mediation proceedings before the CHED regarding his membership in the BAC. The agreement¹³³ was signed in the school.¹³⁴
12. Dr. Pangilinan/ did not explain to him the contents of the agreement.¹³⁵

¹²³ TSN, October 17, 2019, p. 12

¹²⁴ TSN, October 17, 2019, p. 15

¹²⁵ TSN, October 17, 2019, p. 16

¹²⁶ TSN, October 17, 2019, pp. 16-17

¹²⁷ TSN, October 17, 2019, p. 16

¹²⁸ TSN, October 17, 2019, pp. 17-18

¹²⁹ TSN, October 17, 2019, p. 19

¹³⁰ *Ibid.*

¹³¹ TSN, October 17, 2019, p. 29

¹³² TSN, October 17, 2019, p. 32

¹³³ Exhibit 6-A (Macapanas)

¹³⁴ TSN, October 17, 2019, p. 33

¹³⁵ TSN, October 17, 2019, p. 34

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 22 of 46

X -----X

In her Amended Judicial Affidavit dated November 14, 2019, accused **Ermielinda T. Flaminiano** declared:

1. The present cases against them are baseless. They were instituted by Mr. Morales, who was motivated by anger and revenge.¹³⁶
2. On August 2, 2005, she filed an Affidavit/Complaint against Mr. Morales before the Ombudsman. The said case was about the anomalies in the issuance of Certification of grades of the students at the Marikina Polytechnic College.¹³⁷
3. The RTC in Marikina rendered its judgment¹³⁸ convicting Mr. Morales of nine (9) counts of Falsification of Public Documents through Negligence.¹³⁹
4. After she instituted the case against Mr. Morales, the latter executed a Complaint-Affidavit against the BAC. Around that time, he fabricated evidence to make it appear that they (herein accused) committed a crime.¹⁴⁰
5. Mr. Morales did not present the original documents. The purported evidence against them consists of fax copies and certified photocopies only. Someone with a malicious motive could have changed the details in the documents.¹⁴¹
6. Mr. Morales was a member of the BAC until February 26, 2006. The documents related to the bidding passed through Mr. Morales, as a member of the BAC. He also attended the BAC meetings, but did not sign the documents. At the time, there was animosity between him and Dr. Pangilinan, which probably arose, in part, because of the case against Mr. Morales.¹⁴²
7. In the documents submitted by Mr. Morales,¹⁴³ it is obvious that the dates from December 16 to December 19 were fabricated to

¹³⁶ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 2 (Record, Vol. 4, p. 21)

¹³⁷ *Ibid.*

¹³⁸ Exhibit 2 (MF)

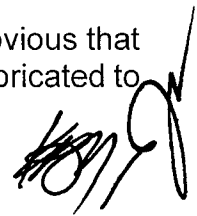
¹³⁹ *Supra*. Note 137

¹⁴⁰ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, pp. 2-3 (Record, Vol. 4, pp. 21-22)

¹⁴¹ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 3 (Record, Vol. 4, p. 22)

¹⁴² *Ibid.*

¹⁴³ Exhibits 11-A, 12 and 13 (MF)



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 23 of 46

X -----X

make it appear that the Invitations to Bid were submitted after the deadline.¹⁴⁴

8. The dates indicated in the Invitations are different from those in the documents submitted by the suppliers using their respective letterheads.¹⁴⁵
9. The Price Quotation¹⁴⁶ submitted by Adriana Printing Company Inc. would show that the date indicated and the fax details are November 25, 2005. For IPS Printing,¹⁴⁷ it is also November 25, 2005. For Four J Arts,¹⁴⁸ it is November 30, 2005.¹⁴⁹
10. The cases are based on the faxed copies submitted by Mr. Morales. The origins of the said fax copies are suspicious because the dates indicated by almost all bidders are in November but the faxed copies are all dated December 16 and 19. Moreover, the fax copies all came from within the MPC.¹⁵⁰
11. She does not remember if they actually issued the two (2) resolutions¹⁵¹ subject of SB-16-CRM-0640. However, an examination of the same would show that they used different forms.¹⁵²
 - a. The letterheads in the two (2) forms are very different. In one, the school logo is larger and has double lines at the bottom. In the other, the school logo is smaller and has a single line at the bottom.¹⁵³
 - b. If the two (2) resolutions were indeed prepared on the same day, the same form would have been used. Mr. Morales did not present the originals so he might have fabricated the said documents.¹⁵⁴
12. There are discrepancies in the two (2) Purchase Orders¹⁵⁵ and the ones that came from the COA.¹⁵⁶

¹⁴⁴ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 4 (Record, Vol. 4, p. 23)

¹⁴⁵ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, pp. 4-5 (Record, Vol. 4, pp. 23-24)

¹⁴⁶ Exhibit 14 (MF)

¹⁴⁷ Exhibit 15 (MF)

¹⁴⁸ Exhibit 16 (MF)

¹⁴⁹ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 5 (Record, Vol. 4, p. 24)

¹⁵⁰ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, pp. 5-6 (Record, Vol. 4, pp. 24-25)

¹⁵¹ Exhibits 17 and 18 (MF)

¹⁵² Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 6 (Record, Vol. 4, p. 25)

¹⁵³ *Ibid.*

¹⁵⁴ *Ibid.*

¹⁵⁵ Exhibits 19 and 20 (MF)

¹⁵⁶ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 6 (Record, Vol. 4, p. 25)

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 24 of 46

X -----X

13. In the documents certified by COA,¹⁵⁷ the date indicated is February 15, 2006, with PO No. 2006-007. The amount is ₱55,968.00 for both. The same thing was done with Purchase Order No. 2006-007¹⁵⁸ issued to Rota-Cool Ref & Aircon System.¹⁵⁹
14. There are also differences in the signature of Edwin Canete and the handwritten amount on the lower-right portion of the Purchase Order.¹⁶⁰
15. There was no splitting in the transaction subject of SB-16-CRM-0641. Two resolutions¹⁶¹ were issued on December 13, 2006. Resolution No. 10, S. 2006 was issued for the request of Garry Reyes, and Resolution No. 11, S. 2006 was issued for the request of her office, the Registrar's Office.¹⁶²
16. No unwarranted benefits were given to GAKKEN Philippines. In March 2007, the BAC I, of which she was a member, wrote a letter to Mr. Lauro, the Chairperson of BAC II. In the said letter, they explained that they wrote a letter to then President Dr. Pangilinan for permission to be allowed to use an Alternative Method because they were sorely in need of a copier. At the time, they had to photocopy diplomas, transcripts and certificates.¹⁶³
17. They chose Gakken on the basis of the actual demonstrations of three (3) suppliers. The Duplo Machine had the highest capacity for photocopying large documents such as certificates and diplomas. Duplo was also the lowest bid.¹⁶⁴
18. When the Office of the President learned that the Registrar's Office made a request for a copier, the president also made a similar request for his office.¹⁶⁵
19. The date "December 28, 2006" was falsified in Gakken's bid proposal.¹⁶⁶ The text and font used for the date are different

¹⁵⁷ Exhibit 21 (MF)

¹⁵⁸ Exhibits 22 and 23 (MF)

¹⁵⁹ *Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO)* dated November 14, 2019, p. 7 (Record, Vol. 4, p. 26)

¹⁶⁰ *Ibid.*; Exhibits 22-A, 22-B, 23-A and 23-B (MF)

¹⁶¹ Exhibits 24 and 25 (MF)

¹⁶² *Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO)* dated November 14, 2019, pp. 7-8 (Record, Vol. 4, pp. 26-27)

¹⁶³ *Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO)* dated November 14, 2019, p. 8 (Record, Vol. 4, p. 27)

¹⁶⁴ *Ibid.*

¹⁶⁵ *Ibid.*

¹⁶⁶ Exhibits 26 and 26-A (MF)

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 25 of 46

X -----X

from the text and font used for the other contents in the bid. Changing the date is easy, especially since the original of the document was not presented.¹⁶⁷

20. In the letter¹⁶⁸ they sent to Mr. Gundaway [Lauro], the issues raised were limited to the manner of procurement and splitting. If the PO was indeed prepared on December 21 and the bid was indeed submitted only on December 28, the matter would also have been raised so they could explain it. The issue regarding the dates came out only after Mr. Morales filed the case with the Ombudsman. He could have falsified the documents, considering that he had access to the BAC's documents.¹⁶⁹
21. The transaction subject of SB-16-CRM-0642 was not grossly disadvantageous to the government. The Abstract of Bids¹⁷⁰ would show that Evolution Enterprises submitted the lowest bid.¹⁷¹
22. When Mr. Morales filed the case against them in August 2008, Dr. Pangilinan told them that he will take care of it, and that he will engage the services of a lawyer for them. As a result, they were not able to examine the documents and evidence submitted by Mr. Morales, and they were not able to show that according to the COA,¹⁷² all transactions subject of these cases were implemented. They were surprised when they learned that the present cases were filed with the Court.¹⁷³
23. She did not file a case against Mr. Morales for fabricating evidence against them because she is already old. She only wants the present cases to end so she can live her remaining years in peace.¹⁷⁴

She further testified:

1. She does not have the originals of Exhibits 14 to 16 (MF).¹⁷⁵
2. She does not have proof that the said documents were indeed submitted to the MPC.¹⁷⁶

¹⁶⁷ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 9 (Record, Vol. 4, p. 28)

¹⁶⁸ Exhibit 28 (MF)

¹⁶⁹ *Supra.* Note 167

¹⁷⁰ Exhibit 29 (MF)

¹⁷¹ *Supra.* Note 167

¹⁷² Exhibits 4 and 5 (MF)

¹⁷³ Amended Judicial Affidavit (For the accused ERMIE LINDA FLAMINIANO) dated November 14, 2019, p. 10 (Record, Vol. 4, p. 29)

¹⁷⁴ *Ibid.*

¹⁷⁵ TSN, November 22, 2019, pp. 18-19

¹⁷⁶ TSN, November 22, 2019, p. 19

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 26 of 46

X -----X

3. The alternative method of procurement they resorted to for the procurement of the copier was direct purchasing.¹⁷⁷
4. She can no longer remember the other companies that submitted the quotations for the copier.¹⁷⁸
5. Prior to the purchase of the copiers, MPC photocopied documents outside.¹⁷⁹
6. She does not have proof that Gakken's Bid Proposal dated December 28, 2006 was falsified, but most of the documents of Mr. Morales are falsified.¹⁸⁰
7. She was not present when Gakken prepared the letter.¹⁸¹
8. The Annual Audit Report for 2007 and 2008 can no longer be accessed from COA's website, but she did not file a request with COA for copies of the same.¹⁸²
9. She filed a case against Mr. Morales when she discovered that he issued the Certification of Proficiency to students who had incomplete units.¹⁸³
10. Mr. Morales was the Acting Registrar before she arrived.¹⁸⁴
11. Upon her discovery of the Certifications, she reported the matter to Dr. Manuel Pangilinan, then the President of the college.¹⁸⁵
12. Dr. Pangilinan told her that an investigation on the matter will be conducted. The investigation did not proceed because Mr. Morales refused to recognize the persons designated by the President to conduct the investigation.¹⁸⁶
13. She does not have the originals of the documents attached to her Judicial Affidavit. As far as she knows, they are with Mr. Morales because he declared in his Judicial Affidavit that he was the custodian of the documents before they were submitted to the COA.¹⁸⁷

¹⁷⁷ TSN, November 22, 2019, p. 23

¹⁷⁸ TSN, November 22, 2019, p. 24

¹⁷⁹ *Ibid.*

¹⁸⁰ *Ibid.*

¹⁸¹ TSN, November 22, 2019, p. 34

¹⁸² TSN, November 22, 2019, p. 25

¹⁸³ TSN, November 22, 2019, pp. 27-28

¹⁸⁴ TSN, November 22, 2019, p. 27

¹⁸⁵ TSN, November 22, 2019, p. 28

¹⁸⁶ *Ibid.*

¹⁸⁷ TSN, November 22, 2019, p. 30

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 27 of 46

X -----X

14. She filed the case against Mr. Morales in her personal capacity, not as a representative of the Marikina Polytechnic College.¹⁸⁸

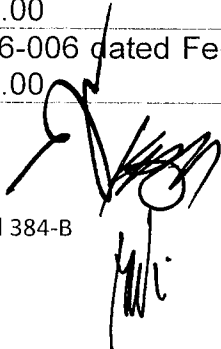
Considering that accused Ancheta merely orally adopted the *Formal Offers of Evidence* dated February 14, 2020 and August 19, 2020 previously filed by accused Flaminiano and Macapanas, and accused Azares, respectively, and the prosecution orally adopted its previously filed *Consolidated Comment* dated September 11, 2020, the Court orally reissued the Resolution dated November 20, 2020,¹⁸⁹ admitting the following documentary exhibits offered by accused Azares, and accused Flaminiano and Macapanas, in evidence:¹⁹⁰

Accused Macapanas and Flaminiano	
Exhibit	Document
1 (MF) and series	Affidavit/Complaint dated August 1, 2005 of Ermie Linda T. Flaminiano
2 (MF) and series	Decision dated August 27, 2013
4 (MF)	<i>Status of Implementation of Prior Year's Audit Recommendations</i>
5 (MF)	<i>Status of Implementation of Prior Year's Audit Recommendations</i>
6-A (Macapanas)	Agreement between Andres Morales and Manuel Pangilinan, signed on December 6, 2005
8-A (Macapanas)	Service Record of Macapañas Juanito J.
11-A (MF)	<i>Invitation to Bid</i> for Adriana Printing Co.
12 (MF)	<i>Invitation to Bid</i> for IPS Printing Services
13 (MF)	<i>Invitation to Bid</i> for R.O. Santos Enterprises
14 (MF)	Price Quotation dated November 25, 2005 of Adriana Printing Company, Inc.
15 (MF)	Specification dated November 25, 2005 of Ibrahim Printing Services
16 (MF)	Quotation dated November 23, 2005 of R.O. Santos Enterprises & Co.
17 (MF)	Resolution No. 2, S. 2006
18 (MF)	Resolution No. 2, S. 2006
19 (MF)	Purchase Order No. 2006-006 dated February 9, 2006 with the amount ₱48,000.00
20 (MF)	Purchase Order No. 2006-006 dated February 9, 2006 with the amount ₱55,968.00
21 (MF)	Purchase Order No. 2006-006 dated February 15, 2006 with the amount ₱55,968.00

¹⁸⁸ TSN, November 22, 2019, pp. 33-34

¹⁸⁹ Record, Vol. 4, pp. 220-221

¹⁹⁰ Order dated February 24, 2022; Record, Vol. 4, pp. 384-A and 384-B



DECISION

People vs. Pangilinan, et al.

SB-16-CRM-0639 to 0642

Page 28 of 46

X -----X

22 (MF)	Purchase Order No. 2006-007 dated February 9, 2006
23 (MF)	Purchase Order No. 2006-007 dated February 9, 2006
24 (MF)	Resolution No. 10, S. 2006
25 (MF)	Resolution No. 11, S. 2006
26 (MF)	Price Quotation dated December 28, 2006
28 (MF)	Letter dated March 6, 2007, addressed to Mr. Gundaway F. Lauro
29 (MF)	Abstract of Bids for EFI Engine, etc.

Accused Azares	
Exhibit	Document
2	Disbursement Voucher No. 2005-12-386 dated December 14, 2005
3	Check Voucher for payment to Adriana Printing Co., Inc.
4	Purchase Request No. 05-11-011 dated November 29, 2005
5	Purchase Order No. 2005/156 dated 02-Dec-05
6	Purchase Order No. 2006-006 dated February 15, 2006
7	Purchase Request No. 06-02-04 dated 02-08-06
8	BAC Resolution No. 2, S. 2006
9	BAC Resolution No. 2, S. 2006
10	Purchase Order No. 2006-007 dated February 9, 2006
11	Disbursement Voucher No. 2006-02-043 dated February 15, 2006
12	Disbursement Voucher No. 2006-02-044 dated February 15, 2006
13	Purchase Order No. 2006-114 dated 21-Dec-2006
14	Purchase Order No. 2006-115 dated 21-Dec-2006
15	GAKKEN (Phils.), Inc. Sales Invoice No. 27484 dated December 29, 2006
16	GAKKEN (Phils.), Inc. Sales Invoice No. 27485 dated December 29, 2006

During the hearing on February 24, 2022, the Court gave the parties thirty (30) days within which to file their respective memoranda.¹⁹¹ The Court did not receive the parties' respective memoranda.



¹⁹¹ *Ibid.*

DECISION

People vs. Pangilinan, et al.

SB-16-CRM-0639 to 0642

Page 29 of 46

X -----X

FINDINGS OF FACTS

SB-16-CRM-0639

Sometime in November 2005, Florencia D. Ilagan, then the Journal Adviser at the Marikina Polytechnic College (MPC), prepared Purchase Request No. 05-11-011¹⁹² dated November 29, 2005, for the printing of 2,500 copies of the first issue of the MPC Journal. In connection with the said Purchase Request, she conducted a canvass of suppliers by inquiring about their rates, and received from the said suppliers their price quotations, personally and through fax. Thereafter, the said suppliers were given the *Invitation to Bid* forms from the Bids and Awards Committee (BAC), and were requested to accomplish the same.¹⁹³

Sometime thereafter, the BAC Secretariat prepared the Abstract of Bids/Canvass,¹⁹⁴ which the members of the BAC, including accused Alejandrina P. Ancheta, signed on different dates from November 29, 2005 to December 8, 2005.¹⁹⁵ Meanwhile, accused Manuel R. Pangilinan, then the President of MPC, issued Purchase Order No. 2005/156¹⁹⁶ dated December 2, 2005 to Adriana Printing Co. Inc. (Adriana Printing), for the printing of 2,500 copies of the MPC Journal.

On December 16, 2005, the accomplished *Invitation to Bid* forms of Adriana Printing¹⁹⁷ and IPS Printing Services¹⁹⁸ were sent through fax, and were received by the Office of the President of the MPC. At the time, only the said office had a fax machine.¹⁹⁹ On December 19, 2005, the accomplished *Invitation to Bid* forms of J.C. Palabay Enterprises, Inc.²⁰⁰ and R.O. Santos Enterprises²⁰¹ were similarly sent through fax to the Office of the President of the MPC.

Thereafter, in Disbursement Voucher No. 2005-12-386 dated December 14, 2005, accused Pangilinan approved payment in the

¹⁹² Exhibit C

¹⁹³ *Amended Judicial Affidavit of Defense Witness Florencia Ilagan* dated August 2, 2019, pp. 2-3 (Record, Vol. 3, pp. 435-436)

¹⁹⁴ Exhibit H

¹⁹⁵ Exhibits H-1 to H-6

¹⁹⁶ Exhibit I

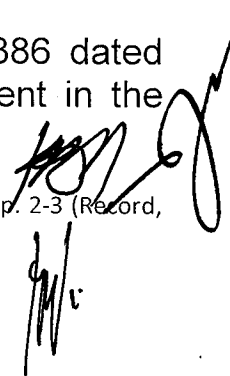
¹⁹⁷ Exhibits F and F-2

¹⁹⁸ Exhibits G and G-3

¹⁹⁹ *Amended Judicial Affidavit of Defense Witness Florencia Ilagan* dated August 2, 2019, p. 5 (Record, Vol. 3, p. 438)

²⁰⁰ Exhibits D and D-2

²⁰¹ Exhibits E and E-2

Handwritten signature and initials in black ink, located at the bottom right of the page. The signature appears to be 'Pangilinan' and the initials are 'M.R.'.

X -----X

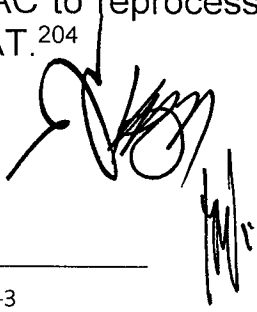
amount of ₱59,713.50 to Adriana Printing, and Land Bank Check No. 179050 dated December 21, 2005, in the same amount, was issued. Adriana Printing received the said check on December 22, 2005 and issued Official Receipt No. 7753 therefor.²⁰²

SB-16-CRM-0640 and 0642

Limuel C. Cirineo, then an automotive instructor at the MPC, prepared Purchase Request No. 06-02-04²⁰³ dated February 8, 2006 for the procurement of the following items which will be used in the upcoming Go Negosyo event:

1	unit	EFI engine w/ compartment & complete air-conditioning accessories, front suspension, dash board & steering wheel
1	cyl.	R-134-a 13.6 kgs.
1	set	Compound gauge manifold Uniweld brand USA (system analyser)

In connection with the said Purchase Request, he conducted the canvass of four (4) potential suppliers for the electronic fuel injection (EFI) engine with compartment and complete air-conditioning accessories, front suspension, dash board and steering wheel (“EFI engine” for brevity), and submitted the results of the canvass to the BAC. Eventually, the Office of the President of the MPC issued the purchase order to Evolution-R Enterprise (Evolution-R), which delivered a half-cut car with the EFI engine. Before they could test the engine, Evolution-R demanded the pullout of the half-cut car because the amount paid by MPC, which did not include the VAT, was insufficient. After witness Cirineo reported the matter to accused Pangilinan, the latter advised him to use the half-cut car in the Go Negosyo event. Accused Pangilinan also told Cirineo that he will instruct the BAC to reprocess the procurement of said half-cut car to include the VAT.²⁰⁴



²⁰² Exhibits A, B and B-3
²⁰³ Exhibit HHHHH-30
²⁰⁴ Judicial Affidavit of Defense Witness Dr. Limuel Cirineo dated September 3, 2019, pp. 3-4 (Record, Vol. 3, pp. 462-463)

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 31 of 46

X -----X

On February 14, 2006, the BAC, of which accused Ancheta was a member, issued two (2) resolutions, both entitled "Resolution No. 2, S. 2006." One of the said resolutions²⁰⁵ reads:

**REBIDDING OF DR. LIMUEL CIRENEO'S [sic] PURCHASE
REQUEST FOR THE EQUIPMENT TO BE USED IN THE "GO
NEGOSYO" ON FEBRUARY 23-24, 2006 AT THE MARKET
MARKET IN MAKATI CITY**

WHEREAS, this is the first time the winning suppliers do business with a government entity.

WHEREAS, the winning suppliers are not aware that the school will deduct a VAT and E-VAT from the quoted price.

WHEREAS, the winning suppliers' quoted price is the least they could offer.

WHEREAS, because of the urgency of the need for the equipment for the Go Negosyo, the Bids and Awards Committee decided to do a re-bid of the equipment.

**BE IT RESOLVED AS IT IS HEREBY RESOLVED TO HAVE A
REBIDDING FOR EQUIPMENT REQUESTED BY DR. CIRENEO
[sic] FOR THE GO NEGOSYO.**

The other resolution,²⁰⁶ also entitled "Resolution No. 2, S. 2006," reads:

**REBIDDING OF DR. LIMUEL CIRENEO'S [sic] PURCHASE
REQUEST FOR THE EQUIPMENT TO BE USED IN THE "GO
NEGOSYO" ON FEBRUARY 23-24, 2006 AT THE MARKET
MARKET IN MAKATI CITY**

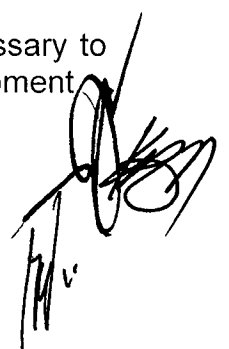
WHEREAS, the Chairman and Members of the Bids and Awards Committee decided to have the above mentioned purchase request rebidded.

WHEREAS, the Bids and Awards Committee came up with the above cited decision due to the E-VAT for the above purchase.

WHEREAS, the Bids and Awards Committee finds it necessary to incorporate the E-VAT to the price of said equipment.

²⁰⁵ Exhibit X

²⁰⁶ Exhibit Y



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 32 of 46

X -----X

BE IT RESOLVED AS IT IS HEREBY RESOLVED TO HAVE
REBIDDING FOR EQUIPMENT REQUESTED BY DR. CIRENEO
[sic] FOR THE GO NEGOSYO.

In connection with the transaction with Evolution-R, two (2) Purchase Orders, both numbered 2006-006 and dated February 9, 2006, were issued by accused Pangilinan. One, wherein the amount indicated is ₱48,000.00, was signed by a certain Eduardo P. Felix, who appears to be the representative of Evolution-R,²⁰⁷ on February 14, 2006. The other, wherein the amount indicated is ₱55,968.00, was signed by the same person on February 15, 2006. The Court notes that the details in the copy²⁰⁸ of the second Purchase Order that was purportedly submitted to the Commission on Audit (COA) appear to be the same as those in the copy certified by Nimfa J. Francisco, Administrative Assistant III at the MPC. However, the copy purportedly in the custody of the COA is dated February 15, 2006, and the handwritten figures, while being the same as those in the copy in the custody of the MPC, have slight differences in appearance, indicating that the two (2) are not exact copies of each other.

Two sets of accomplished *Invitation to Bid* forms were submitted in connection with the said transaction. For convenience, the pertinent details of the said accomplished forms are summarized hereunder:²⁰⁹

Supplier	First Set		Second Set	
	Date	Unit Price/ Total Price	Date	Unit Price/ Total Price
Farcon Marketing	02/08/2006 (Exhibit N-2)	60,000.00	02/15/2006 (Exhibit N)	60,000.00
Satoshi Traders, Inc.	02/08/2006 (Exhibit O-2)	80,000.00	02/14/2006 (Exhibit O)	80,000.00
Evolution R	02/08/2006 (Exhibit P-3)	48,000.00	02/14/2006 (Exhibit P)	55,968.00

The two (2) Abstracts of Bids/Canvass,²¹⁰ each pertaining to one set of accomplished *Invitation to Bid* forms, were signed by the members of the BAC, including accused Ancheta

²⁰⁷ Exhibits P and P-3

²⁰⁸ Exhibit 21 (MF)

²⁰⁹ The *Invitation to Bid* forms of Dhandeels Enterprise (Exhibits Q and Q-3), Rota-Cool (Exhibits R and R-3) and HM Marketing (Exhibits S and S-3) are not included because they pertain to the other items listed in the *Invitation to Bid* forms.

²¹⁰ Exhibits HHHHH-38 and 47

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 33 of 46

X -----X

SB-16-CRM-0641

On December 13, 2006, the BAC issued two (2) resolutions signed by the members of the BAC, including accused Ancheta. The resolutions read:

RESOLUTION NO. 10, S. 2006²¹¹

AWARDING OF THE PURCHASE REQUEST OF MR. RONALD GARRY V. REYES, TO GAKKEN (Philippines), INC.

WHEREAS, GAKKEN (Philippines), INC., is the exclusive distributor of all Duplo products in the Philippines.

WHEREAS, Gakken (Philippines), INC., is the exclusive distributor of Duplo Digital Duplicator Model DP 205 and KYOCERA Copiers.

WHEREAS, The mode of procurement of [sic] being applied to GAKKEN (Philippines), INC., is in accordance to Section 50 (c) of the [sic] Republic Act 9184.

BE IT RESOLVED AS IT IS HEREBY RESOLVED THAT THE REQUEST OF MR. RONALD GARRY V. REYES IS BEING AWARDED TO GAKKEN (Philippines), INC.

RESOLUTION NO. 11, S. 2006²¹²

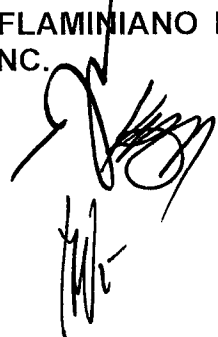
AWARDING OF THE PURCHASE REQUEST OF MRS. ERMIE LINDA T. FLAMINIANO, TO GAKKEN (Philippines), INC.

WHEREAS, GAKKEN (Philippines), INC., is the exclusive distributor of all Duplo products in the Philippines.

WHEREAS, Gakken (Philippines), INC., is the exclusive distributor of Duplo Digital Duplicator Model DP 205 and KYOCERA Copiers.

WHEREAS, The mode of procurement of [sic] being applied to GAKKEN (Philippines), INC., is in accordance to Section 50 (c) of the [sic] Republic Act 9184.

BE IT RESOLVED AS IT IS HEREBY RESOLVED THAT THE REQUEST OF MRS. ERMIE LINDA T. FLAMINIANO IS BEING AWARDED TO GAKKEN (Philippines), INC.

A handwritten signature in black ink, appearing to be a stylized name, possibly 'J. Reyes' or similar, written over the resolution text.

²¹¹ Exhibit HHHHH-76

²¹² Exhibits HHHHH-77/KKK

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 34 of 46

x -----x

Thereafter, accused Pangilinan issued Purchase Orders No. 2006-114²¹³ and 2006-115,²¹⁴ both dated December 21, 2006. Each Purchase Order was for the purchase of 1 unit "DP 205 with free Kyocera Multi- Functional Copier" in the amount of ₱140,000.00 from GAKKEN (Philippines), INC. (Gakken). The transaction did not proceed because it was called off by the Office of the President of the MPC.²¹⁵

SB-16-CRM-0639 to 0642

On August 11, 2008, Andres S. Morales filed his Complaint-Affidavit²¹⁶ dated August 11, 2008 against the accused, with the Office of the Ombudsman. The filing of the said Complaint-Affidavit eventually led to the filing of the Informations in these cases.

DISCUSSION

SB-16-CRM-0639 to 0641 (Violation of Sec. 3[e] of R.A. No. 3019)

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

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

x x x

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

In *Leonardo v. People*,²¹⁷ it was held that the elements of the offense are as follows:

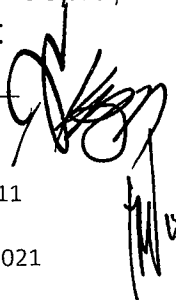
²¹³ Exhibit HHHHH-72

²¹⁴ Exhibit HHHHH-73

²¹⁵ TSN, March 1, 2018, pp. 7, 10-11

²¹⁶ Exhibit HHHHH

²¹⁷ G.R. No. 246451, February 3, 2021



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 35 of 46

x -----x

The elements of the offense are: (1) the accused must be a public officer discharging administrative, judicial or official functions; (2) he or she must have acted with manifest partiality, evident bad faith or inexcusable negligence; and (3) his or her action caused injury to any party, including the government, or giving any party unwarranted benefits, advantage or preference in the discharge of his or her official functions.

The first element is present as to accused Ancheta. During the pre-trial, the parties stipulated that she was a member of the BAC of the MPC at the time material to these cases.²¹⁸ Furthermore, the prosecution's documentary evidence would show that accused Ancheta acted as a member of the BAC in connection with the transactions subject of SB-16-CRM-0639 to 0641.

For the second element, there are three (3) modes by which Violation of Sec. 3(e) of R.A. No. 3019 may be committed. In *Cruz v. People*,²¹⁹ the Supreme Court explained these modes as follows:

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

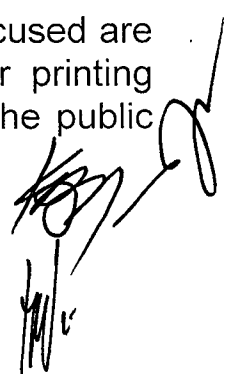
x x x There is "**manifest partiality**" when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. "**Evident bad faith**" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will 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.

In SB-16-CRM-0639 to 0641, this Court finds that although the prosecution's evidence proved that there was gross inexcusable negligence, at the very least, on the part of the members of the BAC, including accused Ancheta, the prosecution failed to prove the allegations in the Informations beyond reasonable doubt.

In SB-16-CRM-0639, accused Ancheta and her co-accused are charged with procuring services from Adriana Printing for printing 2,500 pieces of the MPC Journal despite knowledge that the public

²¹⁸ Pre-Trial Order dated February 24, 2022, p. 1 (Record, Vol. 4, p. 392)

²¹⁹ G.R. Nos. 197142 and 197153, October 19, 2019



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 36 of 46

X -----X

bidding conducted relative thereto was rigged. In SB-16-CRM-0640, they are charged with rigging the bidding in the transaction involving the purchase of the EFI engine from Evolution-R by issuing two (2) resolutions, both entitled "Resolution No. 2, s. 2006," and both dated February 14, 2006. Finally, in SB-16-CRM-0641, they are charged with rigging the bidding for the purchase of two (2) units of Duplo Digital Duplicators when the BAC passed a Resolution on December 13, 2006 awarding the contract to GAKKEN Philippines, Inc.

The charges against the accused all involve rigging the public bidding conducted in connection with the subject transactions. However, the evidence on record shows that no competitive bidding was conducted for the transactions subject of SB-16-CRM-0639 to 0641. In SB-16-CRM-0639, the accused could not have procured printing services from Adriana Printing despite knowledge that the public bidding was rigged, because no competitive bidding was conducted in the first place. Similarly, in SB-16-CRM-0640 and 0641, they could not have rigged the bidding because there was also no bidding to speak of.

In SB-16-CRM-0639 and 0640, while the words "bid" and "bidding" appear in the documents pertaining to the subject transactions, and witnesses for both the prosecution and the defense repeatedly and consistently referred to the method of procurement for the subject transactions as "bidding," it is clear from the evidence on record that no competitive bidding—as contemplated in Republic Act No. 9184 (R.A. No. 9184) and the Implementing Rules and Regulations Part A (IRR-A)—was in fact conducted for the transactions subject of said cases.

The Purchase Orders²²⁰ in the transactions involving the printing of the MPC Journal and the purchase of the EFI engine invariably show that the "Mode of Procurement" was "canvass." The testimonies of defense witnesses Ilagan and Cirineo, that they conducted a canvass by obtaining price quotations from different suppliers and submitted the results to the BAC, further show that no competitive bidding was conducted. Instead, price quotations were requested from the different suppliers, and the same were used as the basis for choosing the suppliers of the goods being procured.

²²⁰ Exhibits I, HHHHH-29 and HHHHH-43



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 37 of 46

X -----X

On the other hand, in SB-16-CRM-0641, a cursory reading of Resolutions No. 10 and 11, S. 2006,²²¹ which awarded the contracts for the purchase of duplicators to Gakken, would show that the method of procurement resorted to was direct contracting under Sec. 50(c) of R.A. No. 9184.

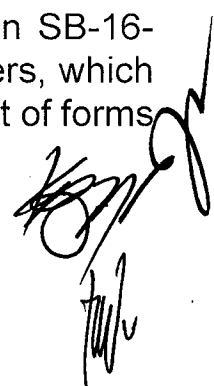
This Court notes that in the transactions subject of SB-16-CRM-0639 to 0641, there was no attempt on the part of any of the accused, or on the part of any person, for that matter, to make it appear that competitive bidding, as contemplated in R.A. No. 9184 and IRR-A, was conducted; or to conceal the fact that no competitive bidding was conducted. From the testimonies of the witnesses, both of the prosecution and of the defense, it appears that the use of the words "bids" and "bidding" in the documents pertaining to the subject transactions was due to insufficient knowledge or understanding of the applicable law and the pertinent rules and regulations on government procurement, rather than to make it appear that competitive bidding was conducted.

In SB-16-CRM-0639, it appears that the Abstract of Bids/Canvass signed by the members of the BAC, including accused Ancheta, was based on the price quotations²²² obtained by defense witness Florencia D. Ilagan, and not the *Invitation to Bid* forms prepared by accused Azares. The said price quotations are dated November 23 and 25, 2005, well before members of the BAC signed the Abstract of Bids/Canvass. As witness Ilagan testified, after she received the price quotations, the suppliers were requested to put their price quotations in the *Invitation to Bid* forms from the BAC. Had there been competitive bidding, the invitation to bid would not have been given directly to potential suppliers, but instead, would have been posted at a conspicuous place within the MPC's premises, as provided in Sec. 21 of R.A. No. 9184 and Sec. 21.2.3 of IRR-A. Furthermore, as provided in Sec. 25 of R.A. No. 9184, the bids would have been submitted in two (2) sealed envelopes—one for the technical proposal, and the other for the financial proposal—instead of the same *Invitation to Bid* form being submitted through fax.

Similarly, the two (2) sets of *Invitation to Bid* forms in SB-16-CRM-0640 appear to have been given directly to the suppliers, which indicated their price quotations in the said forms. The first set of forms

²²¹ Exhibits HHHHH-76 and HHHHH-77/KKK

²²² Exhibits 14 to 16 (MF)

Handwritten signature and initials in black ink, located in the bottom right corner of the page. The signature appears to be 'Kemp' or similar, with 'JL' written below it.

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 38 of 46

x -----x

was submitted on February 8, 2006. After Evolution-R demanded the pullout of the half-cut car with the EFI engine, the BAC issued two (2) Resolutions entitled Resolution No. 2, S. 2006, both dated February 14, 2006, stating that there will be a "rebidding." However, no bidding actually took place. Instead, the same suppliers were requested to submit new price quotations using the said *Invitation to Bid* forms, and the second set of forms was submitted on February 14 and 15, 2006. Had there been competitive bidding, the procedures for bidding, as provided in Sections 17 to 36 of R.A. No. 9184, or a semblance thereof, would have been followed. The bids would not have been submitted as early as the date the two (2) BAC resolutions were issued.

Finally, in SB-16-CRM-0641, there is no reference to "bidding" in the pertinent documents on record. Instead, the documents expressly state that the method of procurement was direct contracting under Sec. 50(c) of R.A. No. 9184.

This Court must emphasize that its conclusion that the prosecution failed to prove beyond reasonable doubt the second element of Violation of Sec. 3(e) of R.A. No. 3019, as alleged in the Information, does not mean that there were no irregularities in the subject transactions. As previously discussed, there was no competitive bidding in the subject transactions.

Sec. 10 of R.A. No. 9184 provides that "[a]ll Procurement shall be done through Competitive Bidding, except as provided for in Article XVI of this Act." It is clear that as a rule, all procurement shall be done through competitive bidding. The procuring entity, as an exception, may resort to the alternative methods of procurement provided in Art. XVI of R.A. No. 9184, subject to the prior approval of the Head of the Procuring Entity (HoPE) or a duly authorized representative, and if justified by the conditions provided in said Act.²²³

As previously discussed, the method of procurement used in the transactions subject of SB-16-CRM-0639 and 0640 was "canvass," which is not among the alternative methods of procurement enumerated in R.A. No. 9184 and IRR-A. This Court notes that "canvass," which involved requesting price quotations from suppliers, is similar to Shopping under Sec. 52 of IRR-A. The provision reads

²²³ R.A. No. 9184. Sec. 48. *Alternative Methods*. – Subject to the prior approval of the Head of the Procuring or his duly authorized representative, and whenever justified by the conditions provided in this Act, the Procuring Entity may, in order to promote economy and efficiency, resort to any of the following alternative methods of Procurement: x x x

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 39 of 46

x -----x

Section 52. Shopping

Shopping is a method of procurement of goods whereby the procuring entity simply requests for the submission of price quotations for readily available off-the-shelf goods or ordinary/regular equipment to be procured directly from suppliers of known qualifications. This method of procurement shall be employed only in any of the following cases:

- a) When there is an unforeseen contingency requiring the immediate purchase: *Provided, however,* That the amount shall not exceed fifty thousand pesos (P50,000); or
- b) Procurement of ordinary or regular office supplies and equipment not available in the Procurement Service involving an amount not exceeding two hundred fifty thousand pesos (P250,000): *Provided, however,* That the procurement does not result in splitting of contracts, as provided in Section 54.1 of this IRR-A; *Provided, further,* That at least three (3) price quotations from bona fide suppliers shall be obtained.

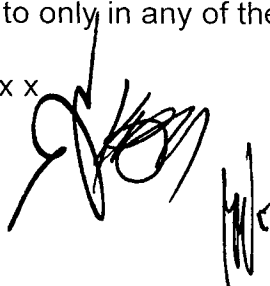
The above amounts shall be subject to a periodic review by the GPPB. For this purpose, the GPPB shall be authorized to increase or decrease the said amount in order to reflect the changes in economic conditions and for other justifiable reasons.

Even taking into account the fact that the transactions subject of SB-16-CRM-0639 and 0640 happened prior to the issuance of Government Procurement Policy Board (GPPB) Resolution No. 012-2006 dated June 14, 2006, which recognized that the relatively broad scope of the term "ordinary or regular office supplies" may have resulted in abuse in the resort to shopping as an alternative method of procurement, and accordingly clarified the scope of the said term, this Court finds that herein accused's resort to "canvass" was still unjustified because it was not shown that there was prior approval from the HoPE to resort to such method of procurement.

In the transaction subject of SB-16-CRM-0641, there was also no justification for resorting to direct contracting under Sec. 50(c) of R.A. No. 9184, which reads:

Sec. 50. Direct Contracting. – Direct Contracting may be resorted to only in any of the following conditions:

x x x

Handwritten signature and initials in black ink, appearing to be 'J. Pangilinan' and 'M. C.'.

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 40 of 46

X -----X

(c) Those sold by an exclusive dealer or manufacturer, which does not have sub-dealers at lower prices and for which no suitable substitute can be obtained at more advantageous terms to the Government.

The aforequoted provision must be read together with Sec. 18²²⁴ of R.A. No. 9184, which expressly provides that in the specifications for the procurement of goods, reference to brand names shall not be allowed.

The letter dated March 6, 2007²²⁵ of the members of the BAC to a certain Mr. Gundaway F. Lauro would show that while there may have been prior approval from the HoPE to resort to direct contracting under Sec. 50(c) of R.A. No. 9184, the requirement that the supplier be the exclusive dealer or manufacturer of the goods to be procured was not met. The pertinent portion of the letter reads:

We would like to bring to your attention that the process in the procurement of two (2) sets of copier and xerox machines is in order. The BAC resorted to direct purchase because the need is very urgent. There are documents in the Registrar's office that have to be reproduced already like Transcript of Records (TOR), Certifications, Clearance, Flyers and others. The list of students and other papers have to be xeroxed and it encumbers the office in having to pay for the xeroxing outside. The BAC sent a letter to the former President asking permission to use the alternative method to [sic] the urgency of the matter. This is allowed in R.A. 9184. The agency head approved our request.

x x x

The choice of the supplier where the aforementioned equipment will be purchased is a result of the actual demonstration held by three (3) suppliers and the proposals they submitted. It is very clear that the winning supplier is the best because of performance of the machine and more importantly the price of the unit and its consumables. They are the lowest among the three (3) suppliers.

(underscoring supplied)

Gakken may have been the exclusive distributor Duplo Digital Duplicator Model DP 205 and KYOCERA Copiers—specific brands of

²²⁴ **Sec. 18. Reference to Brand Names.** – Specifications for the Procurement of Goods shall be based on relevant characteristics and/or performance requirements. Reference to brand names shall not be allowed.

²²⁵ Exhibits HHHHH-79/28 (MF)

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 41 of 46

X -----X

duplicators or copiers. However, as seen in the letter, there were other suppliers of duplicators and copiers.

In several cases,²²⁶ the Supreme Court affirmed the conviction of therein accused public officers who awarded contracts without competitive bidding, and without providing any valid justification for dispensing with the same. There is no doubt that by dispensing with competitive bidding without valid justification, the BAC, including accused Ancheta, acted with gross inexcusable negligence, at the very least. Such acts may be the basis for conviction of Violation of Sec. 3(e) of R.A. No. 3019 had the Informations in these cases alleged the same.

However, the Informations in the present cases alleged different acts, *i.e.*, that the accused procured services despite knowledge that the bidding was rigged (SB-16-CRM-0639) and that they rigged the bidding (SB-16-CRM-0640 and 0641). Convicting accused Ancheta for acts not alleged in the Information will violate her constitutional right to be informed of the nature and cause of the accusation against her. In *Burgos v. Sandiganbayan*,²²⁷ it was held:

In criminal cases, where the life and liberty of the accused is at stake, due process requires that the accused be informed of the nature and cause of the accusation against him [or her]. An accused cannot be convicted of an offense unless it is clearly charged in the complaint or information. To convict him [or her] of an offense other than that charged in the complaint or information would be a violation of this constitutional right.

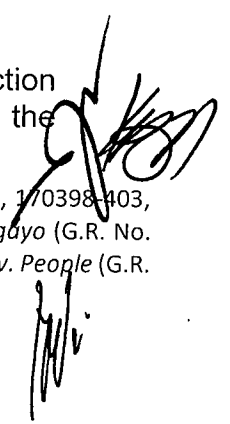
The important end to be accomplished is to describe the act with sufficient certainty in order that the accused may be appraised of the nature of the charge against him [or her] and to avoid any possible surprise that may lead to injustice. Otherwise, the accused would be left in the unenviable state of speculating why he [or she] is made the object of a prosecution.

Applying the foregoing principles to the case at bar, the Court finds the petitions to be meritorious.

Needless to say, there are a number of ways by which Section 3(e) of R.A. No. 3019 may be violated. But, recognizing the

²²⁶ *Ong v. People* (G.R. No. 176546, September 25, 2009), *Sison v. People* (G.R. Nos. 170339, 170398-403, March 9, 2010), *Cabrera v. People* (G.R. No. 191611-14, July 29, 2019), *People v. Naciongayo* (G.R. No. 243897, June 8, 2020), *Lee v. Sandiganbayan* (G.R. Nos. 234664-67, January 12, 2021), *Tio v. People* (G.R. Nos. 230132 and 230252, January 19, 2021)

²²⁷ G.R. Nos. 123144, 123207 and 123536, October 15, 2003



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 42 of 46

X - - - - -X

accused's constitutional right to due process, conviction may only be obtained under what has been charged, or included, in the complaint or information. It is of no consequence that the designation of the offense given by the statute has been specified and the facts proven fall under said designation. The real nature of the crime charged is determined not by the title of the complaint, nor by the specification of the provision of the law alleged to have been violated, but on the facts recited in the complaint or information. More particularly, the prosecution must show that the act alleged, in the manner stated in the information has been committed by the accused, regardless of the technical name of the crime charged. As explained by Justice Moreland in *U.S. v. Lim San*:

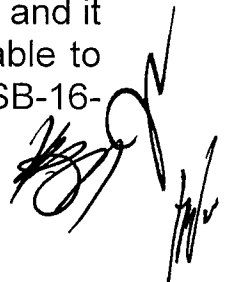
From a legal point of view, and in a very real sense, it is of no concern to the accused what is the technical name of the crime of which he [or she] stands charged. It in no way aids him [or her] in a defense on the merits. Whatever its purpose may be, its result is to enable the accused to vex the court and embarrass the administration of justice by setting up the technical defense that the crime set forth in the body of the information and proved in the trial is not the crime characterized by the fiscal in the caption of the information. That to which his [or her] attention should be directed, and in which he [or she], above all things else, should be most interested, are the facts alleged. The real question is not did [the accused] commit a crime given in the law some technical and specific name, but did he [or she] perform the acts alleged in the body of the information in the manner therein set forth ... The real and important question to [the accused] is "Did you perform the acts alleged in the manner alleged?" not, "Did you commit a crime named murder?" If [the accused] performed the acts alleged, in the manner stated, the law determines what the name of the crime is and fixes the penalty therefor... If the accused performed the acts alleged in the manner alleged, then he [or she] ought to be punished and punished adequately, whatever may be the name of the crime which those acts constitute.

There is no question that the manner of commission alleged in the information and the act the Sandiganbayan found to have been committed are both violations of Section 3(e) of R.A. 3019. Nonetheless, they are and remain two different means of execution and, even if reference to Section 3(e) of R.A. 3019 has been made in the information, appellants' conviction should only be based on that which was charged, or included, in the information. Otherwise, there would be a violation of their constitutional right to be informed of the nature of the accusation against them.

(underscoring supplied)

Hence, the Court is constrained to acquit accused Ancheta.

The prosecution failed to prove the second element of the offense beyond reasonable doubt in SB-16-CRM-0639 to 0641, and it is now unnecessary to discuss whether the prosecution was able to prove the third element. This Court, however, notes that in SB-16-



DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 43 of 46

X -----X

CRM-0641, prosecution witness Morales testified that the transaction was eventually called off. Thus, although there was no justification for resorting to direct contracting under Sec. 50(c) of R.A. No. 9184, no unwarranted benefits were given to Gakken because it appears that the transaction did not proceed.

SB-16-CRM-0642 **(Violation of Sec. 3[g] of R.A. No. 3019)**

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

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

x x x

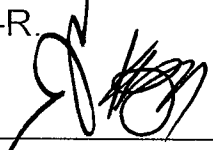

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

In *Caunan v. People*,²²⁸ it was held that the elements of the offense are as follows:

For a charge under Section 3(g) to prosper, the following elements must be present: (1) that the accused is a public officer; (2) that he [or she] entered into a contract or transaction on behalf of the government; and (3) that such contract or transaction is grossly and manifestly disadvantageous to the government.

As previously discussed, the prosecution proved the first element. Accused Ancheta was a public officer at the time material to the case. However, the prosecution failed to prove the other elements.

Accused Ancheta, as a member of the BAC, signed the two (2) Resolutions for the rebidding of the contract for the purchase of the EFI engine, and also signed the two (2) sets of Abstracts of Bids/Canvass. But she did not enter into a contract or transaction on behalf of the government. The Purchase Orders would show that it was accused Pangilinan alone, on behalf of MPC, who entered into the contract with Evolution-R.


²²⁸ G.R. Nos. 181999 and 182001-04, September 2, 2009


DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 44 of 46

X -----X

For the third element, the Supreme Court's discussion in *Castillo-Co v. Sandiganbayan*²²⁹ is instructive. To wit:

Section 3(g) of R.A. No. 3019 is intended to be flexible in order to give judges some latitude in determining whether the disadvantage to the government, occasioned by the act of a public officer in entering into a particular contract is, indeed, gross and manifest. Otherwise stated, there is no hard and fast rule against which the disadvantageous acts complained of should be calibrated. The determination of whether the disadvantage caused was gross and manifest, as contemplated by Section 3(g), should be done on a case-to-case basis.

"Gross" connotes something "glaring, reprehensible, flagrant, or shocking." On the other hand, "manifest" is defined as "evident to the senses, open, obvious, notorious, and unmistakable."

Here, there is no question that Evolution-R's second price quotation was higher than its first price quotation, by ₱7,968.00. However, there is doubt as to whether the purchase of the EFI engine in the amount of ₱55,968.00 was grossly and manifestly disadvantageous to the government because the Abstract of Bids/Canvass shows that Evolution-R still offered the lowest price. The price under the contract entered into by accused Pangilinan with Evolution-R may have been higher than the amount in the first price quotation, but it cannot be said that the contract was grossly and manifestly disadvantageous to the government.

CONCLUSION

In SB-16-CRM-0639 to 0641, the prosecution failed to prove beyond reasonable doubt that accused Ancheta committed Violation of Sec. 3(e) of R.A. No. 3019, as alleged in the Informations.

In SB-16-CRM-0642, the prosecution failed to prove beyond reasonable doubt the second and third elements of Violation of Sec. 3(g) of R.A. No. 3019 as to accused Ancheta.

WHEREFORE, in **SB-16-CRM-0639 to 0642**, accused ALEJANDRINA P. ANCHETA is hereby **ACQUITTED** for failure of the prosecution to prove her guilt beyond reasonable doubt.

²²⁹ G.R. No. 184766, August 15, 2018

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 45 of 46

X -----X

Let the hold departure order against her by reason of these cases, be lifted and set aside, and her cash bond be released, subject to the usual accounting and auditing procedure.

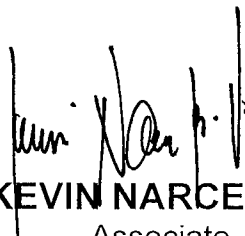
Let the cases against accused SATURNINO N. QUINTAL be archived pending his arrest.

SO ORDERED.


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

We Concur:


KARL B. MIRANDA
Associate Justice


KEVIN NARCE B. VIVERO
Associate Justice

DECISION

People vs. Pangilinan, et al.
SB-16-CRM-0639 to 0642

Page 46 of 46

X -----X

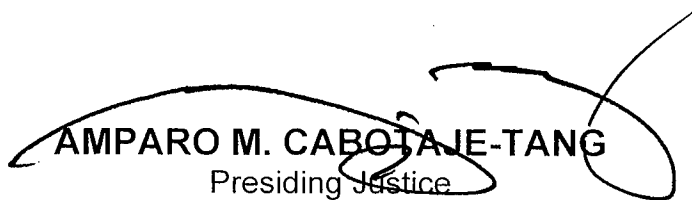
ATTESTATION

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


SARAH JANE T. FERNANDEZ
Associate Justice
Chairperson

CERTIFICATION

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


AMPARO M. CABOTAJE-TANG
Presiding Justice

