



Republic of the Philippines  
**Sandiganbayan**  
Quezon City

**FIFTH DIVISION**

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

- versus -

**ORLANDO R. RAVANERA,**  
*Accused.*

**SB-19-CRM-0010**

For: Violation of Section 3(e),  
R.A. No. 3019, as amended

Present:

LAGOS, J., *Chairperson,*  
MENDOZA-ARCEGA, and  
CORPUS-MAÑALAC, JJ.

Promulgated:

X ----- May 05, 2023 ----- X  
*[Signature]*

**DECISION**

**CORPUS-MAÑALAC, J.:**

Before this Court is the Information dated March 19, 2018 against accused **Orlando R. Ravanera**, Chairperson, Cooperative Development Authority (CDA), for violation of Section 3(e) of Republic Act (R.A.) No. 3019,<sup>1</sup> as amended.

The accusatory portion of the Information, quoted *verbatim*, reads:

That in March 2015, or sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused, public officer ORLANDO RAVANERA Y REVILLA, being the Chairperson of the Cooperative Development Authority (CDA), while in the performance of his official functions, committing the offense in relation to his office, with manifest partiality, evident bad faith or gross inexcusable negligence, did then and there willfully, unlawfully and criminally give unwarranted benefit, advantage or preference to Davao del Norte Electric Cooperative (DANECO), a faction group of DANECO, Inc., by issuing to said DANECO a Certificate of Good Standing and by approving the Registration of Amendment of Articles of Cooperation and By-laws, and by attending the reopening of its office and its general assembly, despite contrary orders or directives as to

<sup>1</sup> Anti-Graft and Corrupt Practices Act.

*[Handwritten signature]*

DANECO's leadership and recognition, as contained in the 30 April 2012 Decision of the National Electrification Administration and Resolutions of the Court of Appeals dated 29 June 2012, 29 August 2012, 26 September 2012 and 22 August 2013, among other documents, to the damage and prejudice of DANECO, Inc. and the public.

CONTRARY TO LAW.

### **The Antecedent Proceedings**

This case stemmed from a Complaint<sup>2</sup> dated November 27, 2015 filed by the Davao del Norte Electric Cooperative, Inc. (DANECO, Inc.), represented by its OIC<sup>3</sup> General Manager, Engr. Maximo S. Roxas, Jr., against the accused before the Office of the Ombudsman on December 2, 2015, docketed as OMB-C-C-15-0482, for preliminary investigation.

In its complaint, DANECO, Inc. made the following allegations:

x x x x

41. [T]he malicious actions of respondent and the giving of undue advantage and unwarranted preference and manifest partiality by the respondent to the DANECO-CDA Group, were done not only once but for several times, namely:

- 1) The issuance of the Certificate of Good Standing on 19 June 2012;
- 2) The issuance of the Certificate of Good Standing on 23 March 2015;
- 3) The issuance of CERTIFICATE OF REGISTRATION OF AMENDMENT on June [3],<sup>4</sup> 2015;
- 4) The spearheading of the respondent in the opening of the DANECO-CDA Office/Collection Center at [the Philippine Cooperative Union (PCU)]<sup>5</sup> Building, Magdum, Tagum City, Davao del Norte [on June 24, 2015]<sup>6</sup> despite knowledge of the fact that the very same office was padlocked and closed by the National Electrification Administration (NEA) [in July 2014]<sup>7</sup> by reason of the implementation of its CEASE and DESIST ORDER;
- 5) For attending in his official capacity as Chairperson of Cooperative Development Authority in the illegally called general assembly of member-consumers of DANECO by the DANECO-CDA Group in Tagum City, Davao del Norte, Philippines last September 26, 2015.

<sup>2</sup> Records, Vol. 1, pp. 23-35.

<sup>3</sup> Officer-in-Charge.

<sup>4</sup> Records, Vol. 1, pp. 29, 31 (Complaint, pp. 7, 9).

<sup>5</sup> *Id.* at 29 (*Id.* at 7).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 30 (*Id.* at 8).

42. The aforementioned CERTIFICATES were issued by the respondent despite of the following, to wit:

1. The pendency of the case before his own office, questioning the validity of the registration [*sic*] DANECO with prayer for cancellation and revocation;
2. The pendency of the PETITION FOR REVIEW ON CERTIORARI before the Supreme Court filed by the DANECO-CDA Group questioning among others the decision of the Court of Appeals declaring all acts of the DANECO-CDA Group, the referendum and election of its present Board of Directors[,] as illegal;
3. The validity and effectivity of the Writ of Preliminary Injunction of the Court of Appeals and the Cease and Desist Order issued by the NATIONAL ELECTRIFICATION ADMINISTRATION (NEA) against the DANECO-CDA Group;
4. There was no comprehensive audit conducted by his own office pertaining to the collections made by the DANECO-CDA Group of the power bill payments of the member-consumers from the year 2012 until 2015[.]<sup>8</sup>

On March 10, 2016, the accused filed his Counter-Affidavit.<sup>9</sup> In a Resolution<sup>10</sup> dated May 31, 2017, the Office of the Ombudsman found probable cause against him for one count of violation of Section 3(e) of R.A. No. 3019, the relevant portions of which read:

This Office finds probable cause to indict respondent for violation of Section 3(e) of RA No. 3019.

X X X X

All the elements are present. *First*, respondent is a public officer. *Second*, he acted with evident bad faith, manifest partiality, or at the very least, gross inexcusable negligence when he issued the CGS on 23 March 2015 and approved the Registration of Amendment on 3 June 2015 in favor of DANECO, despite full knowledge of the following:

NEA Decision dated April 30, 2012, finding the officials of DANECO, Inc. guilty of Grave Misconduct and Gross Neglect of Duty and removing them from office with ancillary penalties.

NEA's Letter dated 3 May 2012, directing the BOD of DANECO, Inc. to hold in abeyance the conduct of the referendum until such time the rules are complied with and issues have been clarified.

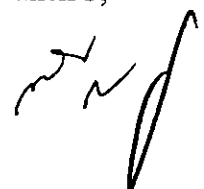
CA Resolution dated 29 June 2012 with a TRO issued, prohibiting and enjoining the BOD, among other things, from further exercising its powers as officers of DANECO, Inc.

WPI issued by the CA on 29 August 2012, enjoining officers and persons acting on their behalf from enforcing the Order of RTC, Branch 3, Nabunturan, Compostela Province.

<sup>8</sup> *Id.* at 32-33 (*Id.* at 10-11).

<sup>9</sup> *Id.* at 161-168.

<sup>10</sup> *Id.* at 5-16.



CA Resolution dated 26 September 2012 amending CA Resolution dated 29 August 2012 and issuing a WPI prohibiting and enjoining the BOD, its agents and representatives, among others, from further exercising its powers as officers of DANECO.

NEA Order dated 13 December 2013 directing the turn-over of management and control to NEA-recognized DANECO, Inc. and for respondents and their agents to cease from performing acts of management and/or control of the electric cooperative or any portion of its franchise area.

CA Decision dated 22 August 2013 ruling that any and all actions taken by ousted members of the BOD after NEA-Adcom's Decision are null and void and have no legal effect. The same was affirmed by the Supreme Court on 23 February 2015.

*Third*, respondent gave unwarranted benefit, advantage or preference to DANECO. [x x x].

Considering that there are contrary orders and directives to DANECO's leadership and recognition, respondent's issuance of the CGS 23 March 2015 and Registration of Amendment 3 June 2015 was unjustified and unauthorized. The CGS and Registration of Amendment allowed DANECO to collect payments from its members and exercise other privileges of a cooperative under the law. Respondent's giving of unwarranted preference to DANECO became more pronounced with his attendance at the reopening of DANECO's office and its general assembly.

Respondent's claim that this Office has already resolved the same issues on OMB-M-C-14-0120 deserves scant consideration. Said case pertains to different parties with issues exclusive to them.<sup>11</sup>

By Order<sup>12</sup> of March 19, 2018, the Office of the Ombudsman denied his motion for reconsideration. On January 25, 2019, the Office of the Special Prosecutor filed the Information<sup>13</sup> with the *Sandiganbayan*.

### **Proceedings before this Court**

On February 6, 2019, the Court found probable cause for the issuance of a warrant of arrest<sup>14</sup> and issued a Hold Departure Order<sup>15</sup> against the accused. On February 7, 2019, the Court issued a warrant of arrest,<sup>16</sup> fixing the bail amount at Php30,000.00. On February 18, 2019, the accused posted the cash bail bond in the said amount in the Regional Trial Court of Misamis Oriental, Cagayan de Oro City.<sup>17</sup> On March 6, 2019, the Court noted the admission to bail of the accused.<sup>18</sup>

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<sup>11</sup> *Id.* at 11-14.

<sup>12</sup> *Id.* at 18-21.

<sup>13</sup> The Information dated March 19, 2018 was approved by Ombudsman Conchita Carpio Morales on June 28, 2018, and likewise approved by her successor, Ombudsman Samuel R. Martires, on January 18, 2019.

<sup>14</sup> Records, Vol. 1, p. 292.

<sup>15</sup> *Id.* at 293.

<sup>16</sup> *Id.* at 295.

<sup>17</sup> *Id.* at 310-328.

<sup>18</sup> *Id.* at 330.

On March 29, 2019, the accused entered a plea of not guilty during arraignment.<sup>19</sup> On April 24, 2019, the preliminary conference was conducted.<sup>20</sup> On May 17, 2019, the pre-trial was terminated,<sup>21</sup> and the parties, including the counsel for the accused, all signed their conformity to the Pre-Trial Order<sup>22</sup> of even date, in which the following stipulations of facts were admitted, viz.:

1. Orlando Revilla Ravanera is the same person being charged in this case;<sup>23</sup>
2. The accused signed and issued a Certificate of Good Standing dated June 19, 2012 in favor of the Davao del Norte Electric Cooperative with CIN 0101110774;<sup>24</sup>
3. The Court of Appeals Resolutions dated June 29, 2012, August 29 2012, September 26, 2012 and August 22, 2013;<sup>25</sup> and
4. The Davao del Norte Electric Cooperative was issued several Certificates of Good Standing as a duly registered cooperative under the Cooperative Development Authority.<sup>26</sup>

The prosecution presented its witnesses **Atty. May Flor C. Abuedo** on July 17, 2019<sup>27</sup> and **David B. Lagunzad** on August 28, 2019,<sup>28</sup> October 24, 2019<sup>29</sup> and January 23, 2020,<sup>30</sup> while **Iris Valerie A. Cabang**, **Atty. Roderick M. Orallo**, **Atty. Nubbin Paul C. Lagumbay** and **Marc Philipp E. Jilhaney** were no longer called to the stand upon the parties' stipulations on their testimonies on January 19, 2021,<sup>31</sup> March 16, 2021,<sup>32</sup> May 18, 2021<sup>33</sup> and June 8, 2021,<sup>34</sup> respectively.

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<sup>19</sup> *Id.* at 350-351, 354.

<sup>20</sup> *Id.* at 360.

<sup>21</sup> *Id.* at 428.

<sup>22</sup> *Id.* at 429-442.

<sup>23</sup> *Id.* at 429 (Pre-Trial Order, p. 1).

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at 430 (*Id.* at 2).

<sup>26</sup> *Id.* at 431 (*Id.* at 3).

<sup>27</sup> *Id.* at 541.

<sup>28</sup> Records, Vol. 2, p. 173.

<sup>29</sup> *Id.* at 188.

<sup>30</sup> *Id.* at 195. The next hearing was scheduled on March 25, 2020 at the Regional Trial Court of Davao City. In a Minute Resolution dated January 28, 2020, the Court changed the venue of the scheduled hearing to the Sandiganbayan (*Id.* at 200). The scheduled hearing did not push through, apparently in view of the COVID-19 pandemic. On July 1, 2020, the prosecution filed a *Motion to Reset* the hearing to October 2020 or a later date, in view of the COVID-19 pandemic (*Id.* at 208-210). After the defense interposed no objection in its comment (*Id.* at 218-219), the Court set the next hearing on November 4, 2020 (*Id.* at 221). On September 30, 2020, the prosecution filed another *Motion to Reset* the hearing to January 2021 or a later date, in view again of the COVID-19 pandemic (*Id.* at 230-232). With no objection from the defense (*Id.* at 237-238), the Court reset the hearing to January 19, 2021 (*Id.* at 240).

<sup>31</sup> *Id.* at 398 (via videoconferencing).

<sup>32</sup> *Id.* at 444-445 (via videoconferencing).

<sup>33</sup> *Id.* at 467 (via videoconferencing).

<sup>34</sup> *Id.* at 495 (via videoconferencing).



On December 22, 2021, the prosecution filed its *Formal Offer of Evidence*<sup>35</sup> dated December 16, 2021. On February 7, 2022, the defense filed its *Comment*<sup>36</sup> of even date. By Minute Resolution<sup>37</sup> of February 17, 2022, the Court resolved to admit all of the documentary exhibits offered by the prosecution, viz.: Exhibits “A” and “A-3” to “A-5”, “A-1”, “A-2”; “B”, “C”, “D”, “D-1”, “D-2”, “E”, “E-1”, “E-2”, “F”, “G”, “H”, “H-1”, “I”, “J”, “K”, “L”, “M” to “M-1”, “N”, “O”, “P”, “Q”, “R”, “S” and “V”.

On February 28, 2022, the accused filed a *Motion for Leave of Court to File Demurrer to Evidence*<sup>38</sup> of even date. On March 7, 2022, the prosecution filed its *Opposition*<sup>39</sup> of even date. In a Resolution<sup>40</sup> dated March 23, 2023, the Court denied the *Motion for Leave of Court to File Demurrer to Evidence*.

The defense presented the **accused** on August 3, 2022<sup>41</sup> while witness **Abigail A. Pizarra**s was no longer called to the stand upon the parties’ stipulations on her testimony on October 11, 2022.<sup>42</sup> On December 2, 2022, the defense filed its *Formal Offer of Evidence*<sup>43</sup> of even date. On January 3, 2023, the prosecution filed its *Comment*<sup>44</sup> of even date. By Minute

<sup>35</sup> Records, Vol. 3, pp. 44-62, 445-463. The next hearing was scheduled on August 10, 2021. Per Supreme Court Administrative Circular No. 56-2021 directing the physical closure of all courts in the National Capital Region on August 2-20, 2021, as it was placed under Enhanced Community Quarantine on August 6-20, 2021, the Court reset it to October 6, 2021 (*Id.* at 5). The prosecution filed a *Manifestation with Motion*, informing the Court that it had already presented all its witness, and moved for the cancellation of the October 6, 2021 hearing and for a period of thirty (30) days to file its formal offer of evidence (*Id.* at 7-9, 12-14A), which the Court granted (*Id.* at 11). On November 24, 2021, the prosecution filed an *Omnibus Motion* to transfer of markings to the certified true copies of its documentary evidence, to be allowed to present other witnesses, and to defer the filing of its formal offer of evidence (*Id.* at 17-20). After comment from the defense (*Id.* at 26-28), the Court, in a Minute Resolution dated December 2, 2021, denied the prayer to present additional witnesses, for being “devoid of particularities with regard to the alluded potential witnesses,” but gave the prosecution five (5) days from notice to transfer the markings and ten (10) days from said transfer of markings to file its formal offer of evidence (*Id.* at 30-31).

<sup>36</sup> *Id.* at 430-444.

<sup>37</sup> *Id.* at 465-466.

<sup>38</sup> *Id.* at 472-478.

<sup>39</sup> *Id.* at 485-494.

<sup>40</sup> *Id.* at 496-499.

<sup>41</sup> Records, Vol. 4, p. 173 (via videoconferencing). The initial presentation of defense evidence was set on March 30, 2022, which the Court reset to May 26, 2022 (Records, Vol. 3, p. 522) after the defense filed an *Urgent Motion to Reset* due to the accused’s medical condition (*Id.* at 514-519). The Court reset it to June 28, 2022 (*Id.* at 538) after the defense filed another *Motion to Reset and Conduct Hearings via Videoconferencing* (*Id.* at 530-533), but for lack of quorum, it was reset to July 19, 2022 (Records, Vol. 4, p. 148), and reset again to August 3, 2022 due to the absence of the accused and his counsel, with a directive to explain their failure to appear (*Id.* at 153). After the July 19, 2022 hearing, the Court received via electronic mail the defense’s *Motion to Reset and Conduct Presentation of Accused via Videoconferencing*, which also explained the reason for their absence (*Id.* at 154-157).

<sup>42</sup> *Id.* at 369. Prior to the next hearing set on September 7, 2022 (*Id.* at 173), the defense filed a *Manifestation and Motion to Reset* that its intended witness, Iris Valerie A. Cabang, was no longer the records officer of the Cooperative Development Authority, and prayed that it be allowed to change its witness to Abigail A. Pizarra, the new records officer (*Id.* at 184-189). The Court reset the hearing to October 11, 2022 and granted the change of witness (*Id.* at 212-214).

<sup>43</sup> *Id.* at 381-389. The Court granted (*Id.* at 376) the defense’s *Manifestation with Motion* (*Id.* at 372-373) for the cancellation of the next hearing set on November 15, 2022 (*Id.* at 369) due to its intention to rest its case and file the formal offer of evidence.

<sup>44</sup> *Id.* at 392-397, 600-605. On December 16, 2022, the prosecution filed a *Manifestation* that the copy of the defense’s *Formal Office of Evidence* had no attached copies of the exhibits being offered (*Id.* at 390-391). On December 19, 2022, the defense submitted copies of the exhibits to the Court (*Id.* at 400-401).

Resolution<sup>45</sup> of January 5, 2023, the Court resolved to admit all of the documentary exhibits offered by the defense, viz.: Exhibits “1”, “2”, “3”, “4”, “5”, “6”, “7”, “8”, “9”, “10”, “11”, “12”, “14”, “15”, “16”, “17”,<sup>46</sup> “18”, “19”,<sup>47</sup> “20”, “21”, “22”,<sup>48</sup> “23”,<sup>49</sup> “24”,<sup>50</sup> “25” and “26.”

On January 25, 2023, the prosecution filed its *Memorandum*<sup>51</sup> dated January 23, 2023 and the defense filed its *Memorandum*<sup>52</sup> of even date.

### The Exhibits

The admitted exhibits in chronological order are as follows:<sup>53</sup>

Exh. “A-2” is the Decision dated April 30, 2012 of the National Electrification Administration (NEA) in Administrative Case No. 01-10-11, entitled *Gregorio T. Ybañez et al. v. Board of Directors Dean C. Briz, et al.*, which found OIC General Manager Felix P. Hibionada and ten (10) members of the Board of Directors, including President Dean C. Briz, of the **Davao del Norte Electric Cooperative, Inc.** (hereinafter as “**DANECO, Inc.**” or “**DANECO-NEA**”) guilty of grave misconduct and gross neglect of duty and meted out the penalty of removal.<sup>54</sup>

<sup>45</sup> *Id.* at 611-614.

<sup>46</sup> Also as Exh. “R” of the prosecution.

<sup>47</sup> Also as Exh. “E-1” of the prosecution.

<sup>48</sup> Also as Exh. “H-1” of the prosecution.

<sup>49</sup> Also as Exh. “L” of the prosecution.

<sup>50</sup> Also as Exh. “J” of the prosecution.

<sup>51</sup> *Id.* at 632-643.

<sup>52</sup> *Id.* at 617-631.

<sup>53</sup> In box quotation in order to save space.

<sup>54</sup> The dispositive portion reads, quoted *verbatim*:

ACCORDINGLY, AND VIEW OF THE PREMISES, judgment is hereby rendered finding the following Respondents GUILTY OF GRAVE MISCONDUCT and GROSS NEGLECT OF DUTY, for which We impose the penalty of REMOVAL, with ancillary penalties [cancellation of eligibility to run for the position of EC director, forfeiture of retirement benefits, and perpetual disqualification for re-employment in any rural electric cooperative] enumerated in the immediately preceding paragraph:


1. DEAN C. BRIZ
2. ROBERTO C. ALAM
3. ANANIAS B. DARJAN
4. ROMAN C. CALICDAN
5. BRENDON T. CENIZA
6. MIGUEL F. FERNIL
7. ROBERTO S. BINASBAS
8. EUGENIO S. RAMONIDA
9. DAN P. GERVACIO
10. RAMON L. ZAFRA
11. OIC-GM FELIX P. HIBIONADA

We likewise order the forfeiture of the retirement benefits of the Respondent HIBIONADA as OIC-General Manager of DANECO, as well as those benefits accruing in favor of the Respondents Board of Directors.

Respondent NELSON BALANGAN is found guilty of SIMPLE NEGLECT OF DUTY, for which We impose the penalty of SUSPENSION of THIRTY (30) DAYS.

DANECO is hereby directed to institute any course of action to ensure that the amounts disbursed for the disallowed fuel/lube/oil allocation by the Respondents be restituted, including but not limited to, the filing of a civil action against the concerned Respondents.

Pursuant to Rule V, Section 15 of the ADCOM Rules, this Decision shall take effect immediately.  
SO ORDERED.



Exh. "A-1" is the Notice dated May 2, 2012 of NEA in Administrative Case No. 01-10-11 regarding its Decision dated April 30, 2012.

Exh. "C" is the Letter dated May 3, 2012 of Edith S. Bueno, NEA Administrator, directing the Board of Directors of DANECO, Inc. "to hold in abeyance the conduct of the referendum until such time that rules are complied with and all issues shall have been clarified and understood by the member-consumers and all sectors in your coverage area."

Exh. "B" is the Order dated May 16, 2012 of the Regional Trial Court (RTC) of Tagum City, Davao del Norte in Civil Case No. 4299, entitled *Gregorio T. Ybañez et al. v. Board of Directors Dean C. Briz, et al.*, issuing a 72-hour temporary restraining order (TRO) commanding the defendants therein "to refrain from conducting a referendum on May 19 and 20, 2012."

Exh. "1" is Board Resolution No. 249 dated May 21, 2012 of DANECO, Inc., entitled *A RESOLUTION CERTIFYING TO THE RESULT OF THE VOTE APPROVED THROUGH A REFERENDUM PER CERTIFICATION ISSUED BY THE ELECTION COMMITTEE APPROVING THE REGISTRATION OF DAVAO DEL NORTE ELECTRIC COOPERATIVE (DANECO), INC. WITH THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA) IN COMPLIANCE WITH ARTICLE 128, CHAPTER 17 OF RA 9520*, approved by Briz, stating that "the member-consumers of DANECO overwhelmingly voted for the conversion of its electric cooperative into a stock cooperative under the [CDA], and authorizing Briz to apply for a certificate of registration of DANECO, Inc. with the CDA.


Exh. "26" is the Letter dated May 21, 2012 of Hibionada to Emmanuel M. Santiaguél, CDA Chairman, endorsing certain documents "relative to the application of DANECO as [the] real people's cooperative and [to] be registered with the [CDA]." Attached to this Letter were Board Resolution No. 249, s. of 2012 (Exh. "1"), Audited Financial Statements for 2008-2010 (Exh. "3"<sup>55</sup>), Constitution and By-Laws (Exh. "2"), Fidelity Guarantee Policy (Exh. "6"), list of Board of Directors (Exh. "4"), and Deed of Undertaking (Exh. "5").

Exh. "20" is the Certificate of Registration dated May 21, 2012 issued by Santiaguél, CDA Chairman, to "Davao del Norte Electric Cooperative" (hereinafter as "DANECO-CDA"), with CIN 0101110774, under Registration Number 9520-11021778.

Exh. "L" (also Exh. "23") is the Certificate of Good Standing dated June 19, 2012 issued by the accused as Acting Executive Director, CDA, to DANECO-CDA.

Exh. "D" is the Resolution dated June 29, 2012 of the Court of Appeals in CA-G.R. SP No. 04944-MIN, entitled *Gregorio T. Ybañez et al. v. Hon. Hilarion P. Clapis, Jr., in his capacity as Presiding Judge, Regional Trial Court of Nabunturan, Compostela Valley, Branch 3, and Board of Directors Dean C. Briz, et al.*, issuing a TRO for a period of sixty (60) days "prohibiting and enjoining the public respondent [judge] from implementing his Order dated May 23, 2012, issued in SP Civil Case

<sup>55</sup> Exh. "3" refers only to the Audited Financial Statements as of December 31, 2009.





No. 108, which granted private respondents' prayer for WPI<sup>56</sup> [against NEA in enforcing its Decision dated April 30, 2012 in Administrative Case No. 01-10-11, Exh. "A-2"], and that "private respondents are prohibited and enjoined from further exercising powers as members of the Board of Directors, or as responsible officers of DANECO."

Exh. "D-1" is the Writ of Preliminary Injunction (WPI) dated August 29, 2012 of the Court of Appeals in CA-G.R. SP No. 04944-MIN issued against the respondents therein.

Exh. "O" Letter-Memorandum dated August 22, 2012 of Felix B. Pepito, Jr., Chief, Legal Division, Revenue Region No. 19, Davao City, Bureau of Internal Revenue (BIR), to the Revenue District Officer, Revenue District Office No. 112, Tagum City, stating that, quoted *verbatim*, "the fact that the CDA-formed DANECO is not registered with BIR Tagum we are of the opinion that in so far as the BIR is concerned the rightful authority to apply for Authority to Print is DANECO-NEA, this being the entity that is registered with BIR Tagum."

Exh. "K" is the Letter dated September 4, 2012 of Atty. Eleonor T. Hernandez, Director, Legal and Registration Department, CDA, to Hibionada, stating that it was "constrained to defer the processing of your application [for registration of the proposed amendments to the DANECO Articles of Cooperation and By-Laws] until the [Court of Appeals] issue[s] a favorable subsequent Order" [in view of the WPI issued in CA-G.R. SP No. 04944-MIN].

Exh. "E" is the Entry of Appearance dated September 12, 2012 of the Office of the Solicitor General (OSG) as counsel for the Cooperative Development Authority (CDA) in CA-G.R. SP No. 04944-MIN.

Exh. "D-2" is the Resolution dated September 26, 2012 of the Court of Appeals in CA-G.R. SP No. 04944-MIN, amending its Resolution dated August 29, 2012 which granted the WPI.<sup>57</sup>

Exh. "E-1" (also Exh. "19") is the Order dated September 28, 2012 issued by Santiaguell, CDA Chairman, entitled *IN RE: LETTER-COMPLAINT AGAINST THE REGISTRATION OF THE DAVAO DEL NORTE ELECTRIC COOPERATIVE (DANECO)*, "suspend[ing] the effects of the CDA Certification of Registration of Davao del Norte Electric Cooperative [DANECO-CDA] under Registration No. 9520-11021778, issued on 21 May 2012, pending the result of its investigation and until

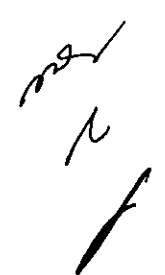
<sup>56</sup> Writ of preliminary injunction.

<sup>57</sup> The dispositive portion partly reads:

WHEREFORE, the Court resolves to:

1. AMEND the Resolution dated August 29, 2012, to read as follows:

ACCORDINGLY, the application for a Writ of Preliminary Injunction is hereby GRANTED. Let a Writ of Preliminary Injunction be issued, effective immediately and during the pendency of the present action and/or until otherwise ordered by this Court, prohibiting and enjoining the public respondent and its deputies/agents and all persons acting in its behalf and/or instruction from implementing the Order of the RTC Nabunturan dated May 23, 2012, issued in SP Civil Case No. 108, which granted private respondents' prayer for Writ of Preliminary Injunction. Consequently, private respondents are prohibited and enjoined from further exercising powers as members of the Board of Directors, or as responsible officers of DANECO. This necessarily includes private respondents' agents and representatives, including MR. REY BANDALA, and all persons taking orders from him and/or acting for and in his behalf. (Underscoring in the original)



such time [that] the Court of Appeals [x x x] resolves the case [CA-G.R. SP No. 04944-MIN] before it,” and directing “all persons acting by virtue of the issued Certificate of Registration [x x x] to cease and desist from further performing and exercising their powers and functions.”

Exh. “P” is Letter dated February 4, 2013 of Francis Saturnino C. Juan, Executive Director, Energy Regulatory Commission, to Benedicto D. Ongking, OIC General Manager, DANECO, Inc. [DANECO-NEA], and Jerold M. Osorio, OIC General Manager, DANECO-CDA, stating that “the Commission shall recognize solely DANECO-NEA [DANECO, Inc.] and its officers, as the legitimate representatives of DANECO.”

Exh. “8” is the Order dated May 21, 2013 of the CDA, signed by Santiaguél, CDA Chairman, and three Administrators, entitled *CANCELLATION OF THE CERTIFICATE OF REGISTRATION OF DANECO WITH CDA*, lifting its Order dated September 28, 2012 (Exh. “E-1”).

Exh. “21” is the Certificate of Good Standing dated May 27, 2013 issued by Santiaguél, CDA Chairman, to DANECO-CDA.

Exh. “E-2” is the Partial Motion for Reconsideration dated June 4, 2013 of complainants in *IN RE: LETTER-COMPLAINT AGAINST THE REGISTRATION OF THE DAVAO DEL NORTE ELECTRIC COOPERATIVE (DANECO)* of the Order dated May 21, 2013 (Exh. “8”) of the CDA.

Exh. “F” is the Decision dated August 22, 2013 of the Court of Appeals in CA-G.R. SP No. 04944-MIN and other related cases,<sup>58</sup> which held null and void, *inter alia*, the Orders issued by the RTC of Nabunturan, Compostela Valley restraining and enjoining the implementation of the NEA Decision dated April 30, 2012 in Administrative Case No. 01-10-11 (Exh. “A-2”),<sup>59</sup> and ruled that “all actions done by the ousted BODs of the DANECO are without legal effect” and that private respondents Briz, et al. “were stripped of their powers as Board of Directors upon receipt of NEA-ADCOM’s decision on May 2, 2012 [Exh. “A-1” and “A-2”], and being such they could no longer hold any meeting and all actions taken by them are all null and void, and have no legal effect, there is no question that private respondents[?] [Albert M. Omega, et al.] elections and/or appointments [as members of the BOD of DANECO-CDA] are invalid.”

<sup>58</sup> CA-G.R. SP No. 04926-MIN (*NEA v. Hon. Hilarion P. Clapis, Jr., et al.*), CA-G.R. SP No. 05148-MIN (*Gregorio T. Ybañez et al. v. Dean C. Briz, et al.*), CA-G.R. SP No. 05149-MIN (*Gregorio T. Ybañez et al. v. Abenir Labja, et al.*), CA-G.R. SP No. 05246-MIN (*Dean C. Briz, et al. v. Renato Suarez*), CA-G.R. SP No. 05418-MIN (*Gregorio T. Ybañez et al. v. Jerold Osorio, et al.*) and CA-G.R. SP No. 05453-MIN (*Edita S. Bueno, et al. v. Hon. Virginia D. Tehano Ang, et al.*).

<sup>59</sup> The dispositive portion partly reads, quoted *verbatim*:

WHEREFORE, in view of the foregoing, the three (3) Petitions for Certiorari with docket numbers CA-G.R. SP NOs. 04926-MIN, 04944-MIN and 05453-MIN are GRANTED. The following assailed Orders are hereby declared NULL and VOID for having been issued in grave abuse of discretion, to it:

FOR CA-G.R. SP NOs. 04926-MIN, 04944-MIN

- i.) ORDER dated May 3, 2012 which ordered the issuance of a seventy-two (72)-hour Temporary Restraining Order enjoining NEA and their officers, representatives, agents and any other person assisting them to [*sic*] enforce, implement and effect the Decision dated April 30, 2012 in NEA Administrative Case No. 01-10-11;
- ii.) ORDER dated May 7, 2012 which extended the Temporary Restraining Order to Twenty (20) days;
- iii.) ORDER dated May 23, 2012 which granted the issuance of the Writ of Preliminary Injunction.

Exh. "H" is the Order dated December 13, 2013 of NEA in Administrative Case No. 01-10-11, directing the respondents Board of Directors Dean C. Briz, et al. and all those acting on their behalf under DANECO-CDA to turn over the management and control of DANECO, Inc. to the NEA-recognized management team (DANECO-NEA) and to cease and desist from further performing any and all acts of management and control of the electric cooperative.<sup>60</sup>

Exh. "S" is the Resolution dated June 17, 2014 of the Court of Appeals in CA-G.R. SP No. 04944-MIN and CA-G.R. SP No. 04926-MIN<sup>61</sup> denying the consolidated motion for reconsideration of the Decision dated August 22, 2013 (Exh. "F").

Exh. "15" is the Order dated August 19, 2014 of the Office of the Ombudsman in OMB-M-C-14-0120, entitled *Benedicto D. Ongking, et al. v. Emmanuel M. Santiaguel, et al.*, for violation of Section 3(e) of R.A. No. 3019, directing the respondents to file their respective counter-affidavits.

Exh. "16" is the Joint Counter-Affidavit dated September 15, 2014 of respondents Atilano E. Garcia, et al. in OMB-M-C-14-0120.

Exh. "G" is the Notice of Resolution dated February 23, 2015 of the Supreme Court in G.R. Nos. 213243-48, entitled *Ramon L. Zafrá, et al. v. Gregorio T. Ybañez, et al.*, which denied the appeal from the Decision dated August 22, 2013 of the Court of Appeals in CA-G.R. SP No. 04944-MIN and other related cases.

Exh. "18" is the Appointment dated March 11, 2015 of the accused as Chairman, Board of Administrators, CDA.

Exh. "J" (also Exh. "24") is the Certificate of Good Standing dated March 23, 2015 issued by the accused as CDA Chairman to DANECO-CDA.

Exh. "A" and "A-3" to "A-5" are the Board Resolution No. 78-A dated March 30, 2015 of DANECO, Inc., entitled *A RESOLUTION AUTHORIZING ENGR. MAXIMO S. ROXAS, JR., OFFICER-IN-CHARGE, OFFICE OF THE GENERAL MANAGER, TO FILE ANY APPROPRIATE*

<sup>60</sup> The dispositive portion reads, quoted *verbatim*:

ACCORDINGLY, and pursuant to the powers vested upon the National Electrification Administration (NEA) under Presidential Decree No. 269, as amended by Republic Act No. 10531, We direct the Respondents and all those acting on their behalf under the denomination of DANECO-CDA to TURN OVER the management and control of the Davao del Norte Electric Cooperative to the NEA-recognized management team, including all vehicles and other related equipment used for the operation of an electric distribution utility, effective upon receipt hereof.

Further, the said Respondents and their agents are directed to CEASE AND DESIST from further performing any and all acts of management and/or control of the electric cooperative or any portion of its franchise area, such as but not limited to the meter reading, generation and collection of electric bills, disconnection or re-connection of consumer connections.

Consistent with Section 4(r) of the NEA Reform Act which authorizes that National Electrification Administration to "deputize local law enforcement agencies to enforce or implement its orders," the Philippine National Police (PNP) is hereby deputized to implement this Order.

Furnish the Honorable Secretary of Interior and Local Government and the PNP Director General, the Regional Police Director, Provincial Police Directors of Davao del Norte and Compostela Valley, the local chief executives of the LGUs within the franchise area of DANECO as well as the concerned parties with copies of this Order.

SO ORDERED.

<sup>61</sup> CA-G.R. SP No. 04926-MIN (*NEA v. Hon. Hilarion P. Clapiñ, Jr., et al.*).

*CRIMINAL, ADMINISTRATIVE AND CIVIL CASES AGAINST ANY INDIVIDUAL OR ENTITY TO ADVANCE, PROTECT AND DEFEND THE INTEREST OF DANECO, INC.*, attested by Gregorio T. Ybañez, Board President and Presiding Officer, and confirmed by Engr. Godofredo N. Guya, NEA Project Supervisor for DANECO.

Exh. "H-1" (also Exh. "22") is the Certificate of Registration of Amendment dated June 3, 2015 issued by the accused as CDA Chairman to DANECO-CDA, which approved the latter's application "to amend its Articles of Cooperation and Bylaws by substitution," under Amendment No. 9520-11021778-1.

Exh. "14" is the Resolution dated September 3, 2015 of the Office of the Ombudsman in OMB-M-C-14-0120, which dismissed the complaint, for lack of probable cause.

Exh. "I" is the Program of the 3<sup>rd</sup> Annual General Assembly of DANECO-CDA on September 26, 2015, with its "BOD & Management Report."

Exh. "N" is the Notice of Resolution dated November 23, 2015 of the Supreme Court in G.R. Nos. 213243-48, which denied "with finality" the therein petitioners' consolidated motion for reconsideration of the Resolution dated February 23, 2015 (Exh. "G").

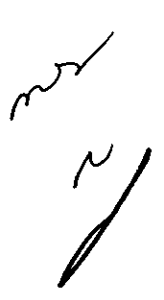
Exh. "M" is the Complaint dated November 27, 2015 of DANECO, Inc., represented by OIC General Manager Engr. Maximo R. Roxas, Jr., against the accused before the Office of the Ombudsman, docketed as OMB-CC-15-0482 for violation of Section 3(e) of R.A. No. 3019.

Exh. "V" is the Entry of Judgment dated January 26, 2016 of the Supreme Court in G.R. Nos. 213243-48.

Exh. "M-1" is the Amended Complaint dated February 11, 2016 of DANECO, Inc., represented by OIC General Manager Engr. Roxas, Jr., against the accused before the Office of the Ombudsman in docketed OMB-CC-15-0482.

The other admitted exhibits are as follows:

Exh. "7" (Office Circular No. 2009-02 dated September 10, 2009 of Lecira Juarez, CDA Chairperson, entitled *IMPLEMENTING THE CITIZEN'S CHARTER OF THE COOPERATIVE DEVELOPMENT AUTHORITY*), "9" (Memorandum Circular No. 2010-10 dated October 26, 2010 of the CDA, entitled *PROCEDURAL GUIDELINES IN THE CONDUCT OF REFERENDUM OF ELECTRIC COOPERATIVES (ECs) REGISTERED WITH THE NATIONAL ELECTRIFICATION ADMINISTRATION (NEA) UNDER P.D. 269, AS AMENDED, WHICH OPT TO REGISTER WITH THE COOPERATIVE DEVELOPMENT AUTHORITY (CDA) AS PROVIDED IN ARTICLE[S] 127, 128 AND 134(2) OF REPUBLIC ACT 9520*), "12" (Memorandum Circular No. 2011-16 dated May 6, 2011 of the CDA, entitled *REVISED GUIDELINE GOVERNING THE ISSUANCE OF CERTIFICATE OF GOOD STANDING*), "10" (Memorandum Circular No. 2011-22 dated October 5, 2011 of the CDA, entitled *GUIDELINES ON POST REFERENDUM ACTIVITIES IN THE REGISTRATION OF ELECTRIC*



*COOPERATIVES WITH CDA*), and “11” (Memorandum Circular No. 2012-04 dated January 30, 2012 of the CDA, amending Memorandum Circular No. 2010-10 dated October 26, 2010 (Exh. “9”).

Exh. “Q” is the Memorandum dated February 11, 2014 of Giovanni T. Platero, Deputy Executive Director, CDA, entitled *DISSEMINATION OF POLICY IN ELECTRIC COOPERATIVES (ECs) REGISTRATION*, to all CDA Registered Electric Cooperatives, with the Memorandum dated January 30, 2014 of Secretary Cesar V. Purisima, Department of Finance, entitled *Policy in Electric Cooperatives (ECs) Registration*, to Santiaguel, CDA Chairman.

Exh. “R” (also Exh. “17”) is the Letter dated February 14, 2014 of Santiaguel, CDA Chairman, to Finance Secretary Purisima.

Exh. “25” is the Judicial Affidavit dated June 24, 2022 of the accused.

### The Evidence for the Prosecution

While witness **Abuedo**, OIC Corporate Ssecretary, National Electrification Administration (NEA), was called to the stand, the parties stipulated on her testimony that she was authorized to issue the certified true copies of two NEA issuances marked as Exh. “A-2” and “H”, and that such copies were a faithful reproduction of the original documents.<sup>62</sup>

The parties stipulated<sup>63</sup> that witness **Lagunzad**, a member of the Board of Directors (BOD), DANECO, Inc., could identify his Judicial Affidavit<sup>64</sup> dated August 20, 2019. He identified Exh. “A” and “A-3” to “A-5”, “A-2”, “D”, “D-1”, “D-2”, “E”, “F”, “H”, “H-1”, “I”, “J”, “M”, “M-1” and “N”.

Sometime in 2014, NEA implemented its cease-and-desist order (Exh. “H”) and padlocked the DANECO-CDA office and collection centers and it recovered vehicles and equipment. On June 24, 2015, in a congressional hearing, he heard the accused declare openly that DANECO-CDA’s referendum and registration under the CDA were legal, directing the group’s officers to go on with its operation. After the said hearing, he saw the accused spearheading the reopening, with ribbon cutting, of DANECO-CDA’s padlocked Philippine Cooperative Union (PCU) office.<sup>65</sup> DANECO-CDA used the certificates (Exh. “J” and “H-1”) issued by the accused “to justify [its] illegal operations which caused confusion to the member consumers allowing [it] to collect and profit from some consumers without cost.”<sup>66</sup>

<sup>62</sup> TSN, July 17, 2019, pp. 5-6. See also Abuedo’s Judicial Affidavit dated July 1, 2019 (Records, Vol. 1, pp. 503-505).

<sup>63</sup> TSN, August 28, 2019, p. 8.

<sup>64</sup> Records, Vol. 2, pp. 6-16.

<sup>65</sup> *Id.* at 12-13 (Lagunzad’s Judicial Affidavit dated August 20, 2019, pp. 7-8.)

<sup>66</sup> *Id.* at 14-15 (*Id.* at 9-10).

According to him, DANECO-CDA was “distributing electricity through illegal re-connections to the consumers using the facilities, lines, sub-stations and power suppliers”<sup>67</sup> of DANECO, Inc., without paying nor having their own contract with the power suppliers. This affected the operations of DANECO, Inc. because some of the consumers were paying their electricity bills to DANECO-CDA, while DANECO, Inc. was maintaining the facilities and paying the power suppliers resulting in increased systems loss.

As for witness **Cabang**,<sup>68</sup> Records Officer II, CDA, “[t]he parties stipulated on the matters covered by the prosecution’s offer of testimony [x x x] [that the witness identified Exh. “E-1”, “E-2”, “H-1”, “J”, “K”, “L”, “Q” and “R”; that the witness brought the original copies and identified the certified true copies thereof; and that the witness’ testimony was to prove the existence and authenticity of the said exhibits],<sup>69</sup> with a counter-stipulation by the defense that the [x x x] witness has no personal knowledge about the transactions mentioned therein, to which the prosecution agreed.”<sup>70</sup> For the proposed stipulation that the witness identified Exh. “I” and issued a certified photocopy on file of said exhibit based on the document on file with the CDA Legal Division,<sup>71</sup> “the prosecution admitted that the [x x x] witness does not have custody of [said exhibit]”<sup>72</sup> and the defense “agreed to stipulate also on this matter.”<sup>73</sup>

The parties agreed to stipulate that witness **Atty. Orallo**, OIC Assistant Chief, Legal Division, BIR Revenue Region No. 19, Davao City, would identify the certified true copy of Exh. “O”, subject to the defense’s stipulation “that the witness has no personal knowledge as to the circumstances included in the [said exhibit].”<sup>74</sup>

In a separate prosecution’s offer for stipulation unrelated to the witness, the defense admitted the existence and authenticity of the certified true copies of Exh. “G”, “N” and “V”.<sup>75</sup>

As for witness **Atty. Lagumbay**, Branch Clerk of Court, RTC of Tagum City, Davao del Norte, the parties stipulated that he would identify the certified true copy of Exh. “B”, subject to the defense’s stipulation that the witness has no personal knowledge of the facts stated in the said exhibit.<sup>76</sup>

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<sup>67</sup> *Id.* at 15 (*Id.* at 10).

<sup>68</sup> See also Cabang’s Judicial Affidavit dated March 4, 2020 (Records, Vol. 2, pp. 255-260).

<sup>69</sup> Records, Vol. 2, p. 252 (Prosecution’s Manifestation dated January 7, 2021, p. 2).

<sup>70</sup> *Id.* at 398.

<sup>71</sup> *Id.* at 252 (Prosecution’s Manifestation dated January 7, 2021, p. 2).




<sup>72</sup> *Id.* at 398.

<sup>73</sup> *Id.*

<sup>74</sup> *Id.* at 444-445.

<sup>75</sup> *Id.* See prosecution’s Manifestation dated March 10, 2021, pp. 2-3 and the defense’s Comment dated March 15, 2021, p. 1 (Records, Vol. 2, pp. 409-410, 425).

<sup>76</sup> *Id.* at 467.



The parties likewise agreed to stipulate that witness **Jilhaney**, Records Officer II, Reporter's Division, Court of Appeals, Cagayan de Oro City, would identify the certified true copy of Exh. "S", subject to the defense's stipulation that the witness has no personal knowledge of the facts indicated in the said exhibit.<sup>77</sup>

### The Evidence for the Defense

The **accused** identified his Judicial Affidavit<sup>78</sup> dated June 24, 2022 as his direct testimony.<sup>79</sup> Therein, he identified Exh. "1" to "6", "7", "8", "9" to "12", "14" to "16", "18", "19", "20", "21", "22", "23" and "24".

He testified that CDA Memorandum Circular No. 2010-10 dated October 26, 2010 (Exh. "9"), Memorandum Circular No. 2011-16 dated May 6, 2011 (Exh. "12"), Memorandum Circular No. 2011-22 dated October 5, 2011 (Exh. "10") and Memorandum Circular No. 2012-04 dated January 30, 2012 (Exh. "11") constituted the basis for the issuance of a Certificate of Good Standing (CGS) to a cooperative. The issuance of a CGS only means that "a cooperative was able to comply with the checklist of documents required to be submitted"<sup>80</sup> and that "[t]hese documents are appreciated 'on its face' and are given [the] presumption of regularity."<sup>81</sup> Moreover, before the CGS is endorsed for his signature, "it passes through the regular process of compliance and due diligence of different concerned offices of CDA."<sup>82</sup>

On the Certificate of Registration of Amendment (CRA), he testified that its issuance is based on the "completeness of the document submitted."<sup>83</sup> DANECO-CDA had "an existing and valid registration issued by [former CDA Chairman] Santiaguel."<sup>84</sup> The issuance of the CRA is "ministerial on the part of the CDA, [x x x], upon submission of [the] required documents."<sup>85</sup>

He claimed to not understand "how can there be [a] violation of law in simple attendance to reopening of an office and a general assembly, when the law, specifically Sec. 3 of R.A. No. 6939, encourages CDA to support voluntary organization and consensual development of activities that promote cooperative movements."<sup>86</sup>

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<sup>77</sup> *Id.* at 495.

<sup>78</sup> Records, Vol. 4, pp. 4-20.

<sup>79</sup> TSN, August 3, 2022, pp. 11-12.

<sup>80</sup> Records, Vol. 4, p. 15 (Accused's Judicial Affidavit dated June 24, 2022, p. 12).

<sup>81</sup> *Id.* (*Id.*).

<sup>82</sup> *Id.* (*Id.*).

<sup>83</sup> *Id.* at 14 (*Id.* at 11).

<sup>84</sup> *Id.* (*Id.*).

<sup>85</sup> *Id.* (*Id.*).

<sup>86</sup> *Id.* at 17 (*Id.* at 14).



He added that “NEA’s [cease-and-desist order, Exh. “H”] pertains to the operation of [DANCEO-CDA] as to meter reading, generation and collection of electric bills, disconnection or re-connection of consumer connections only”<sup>87</sup> and “[i]t does not include the reopening of DANECO-CDA’s office and the conduct of a general assembly.”<sup>88</sup> Moreover, “the certificate of registration of DANECO-CDA is subsisting at the time in question”<sup>89</sup> and, “[f]or all intents and purposes, they are a legitimate cooperative.”<sup>90</sup>

As for witness **Pizarra**s, Acting Records Officer II, CDA, the parties stipulated on her testimony, particularly in identifying Exh. “1”, “5”, “7”, “9”, “10”, “11”, “12”, “17”, “18”, “19”, “20”, “22”, “23” and “26”, which are the documents that the witness had certified as true copies based on the original copies, as well as Exh. “2”, “3”, “4”, “6”, “21” and “24” or the documents that the witness did not certify because only the photocopies thereof are on file.<sup>91</sup>

“Exhibits “22”, “23” and “24” [also Exh. “H-1”, “L” and “J”, respectively] have already been stipulated upon, while the rest of the exhibits proposed for stipulation [by the defense] have been admitted as to their existence, with the counter-stipulation that the [x x x] witness has no personal knowledge on the transaction[s].”<sup>92</sup> Exh. “17” and “19” are also Exh. “R” and “E-1”, respectively.<sup>93</sup>

### Issue

The issue here is whether the accused is guilty of violation of Section 3(e) of R.A. No. 3019, particularly for allegedly having acted with manifest partiality, evident bad faith or gross inexcusable negligence, giving unwarranted benefits, advantage or preference to DANECO-CDA.

### Ruling

At the outset, it bears to stress that the issue of correctness of the issuance of the CGS and CRA by the accused in favor of DANECO-CDA is not the matter before this Court. Nor is the question of legitimacy of DANECO-CDA an issue in this case. Rather, the present case is criminal in nature which involves the determination of whether the accused is guilty of the offense charged.

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

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<sup>87</sup> *Id.* at 18 (*Id.* at 15).

<sup>88</sup> *Id.* (*Id.*).

<sup>89</sup> *Id.* (*Id.*).

<sup>90</sup> *Id.* (*Id.*).

<sup>91</sup> See Pizarra’s Judicial Affidavit dated October 10, 2022 (Records, Vol. 4, pp. 226-233).

<sup>92</sup> Records, Vol. 4, p. 369.

<sup>93</sup> *Id.* at 384 (Defense’s *Formal Offer of Evidence*, p. 4).



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 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 order to convict the accused for the offense charged, the following elements must be proven beyond reasonable doubt, viz.:<sup>94</sup>

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

There are two different modes of committing the offense, as pronounced in a string of decisions:

R.A. 3019, Section 3, paragraph (e), as amended, provides as one of its elements that the public officer should have acted by causing any undue injury to any party, including the Government, or by giving any private party unwarranted benefits, advantage or preference in the discharge of his functions. The use of the disjunctive term “or” connotes that either act qualifies as a violation of Section 3 paragraph (e), or as aptly held in *Santiago*, as two (2) different modes of committing the offense. This does not however indicate that each mode constitutes a distinct offense, but rather, that an accused may be charged under either mode or under both.<sup>95</sup>

A cursory reading of the Information shows that the accused stands charged with a violation of Section 3(e) of R.A. No. 3019 under the *second mode* of giving any private party, particularly DANECO-CDA, unwarranted benefits, advantage or preference in the discharge of his functions, through the acts recited therein, allegedly committed with manifest partiality, evident bad faith or gross inexcusable negligence.

<sup>94</sup> *Cabrera v. Sandiganbayan*, G.R. Nos. 162314-17, 25 October 2004.

<sup>95</sup> *Saludaga v. Sandiganbayan*, G.R. No. 184537, 23 April 2010, citing *Santiago v. Garchitorena*, G.R. No. 109266, 2 December 1993, *Bautista v. Sandiganbayan*, G.R. No. 136082, 12 May 2000, *Evangelista v. People*, G.R. Nos. 108135-36, 14 August 2000, and *Cabrera v. Sandiganbayan*, *supra*.

At this juncture, it is important to note that the Court is guided by the pronouncement in *Martel v. People*,<sup>96</sup> particularly on how the guilt of the accused for violation of this offense must be determined:

[x x x]. Accordingly, **it is through the lens of the anti-graft and corruption law**, and not the procurement laws, **that the guilt of the accused for violation of Section 3(e) of R.A. 3019 must be determined.**

Thus, in order to successfully prosecute the accused under Section 3(e) of R.A. 3019 based on a violation of procurement laws, the prosecution cannot *solely* rely on the fact that a violation of procurement laws has been committed. **The prosecution must prove beyond reasonable doubt** that: (1) the violation of procurement laws caused undue injury to any party, including the government, or gave any private party unwarranted benefits, advantage or preference, and (2) the accused acted with evident bad faith, manifest partiality, or gross inexcusable negligence. [x x x].

x x x x

[T]he Court emphasizes the spirit that animates R.A. 3019. As its title implies, and as what can be gleaned from the deliberations of Congress, R.A. 3019 was crafted as an anti-graft and corruption measure. At the heart of the acts punishable under R.A. 3019 is *corruption*. As explained by one of the sponsors of the law, Senator Arturo M. Tolentino, “[w]hile we are trying to penalize, **the main idea of the bill is graft and corrupt practices.** x x x Well, **the idea of graft is the one emphasized.**” **Graft entails the acquisition of gain in dishonest ways.** (Emphasis supplied, underscoring and italics in the original)

While *Martel* involved an alleged violation of procurement laws on which the offense charged was based, the above pronouncement is necessarily applicable in this case which similarly involves an alleged violation of Section 3(e) of R.A. No. 3019.

The presence of the first element is undisputed. On March 11, 2015, the accused was appointed for a term of six years as Chairman of the Board of Administrators in the CDA,<sup>97</sup> a government agency created under the Office of the President in R.A. No. 6939 (*CDA Charter*), as amended by R.A. No. 11364 (*CDA Charter of 2019*). As CDA Chairman, the accused was a public officer performing official functions at the time material to the charge, or when he issued the CGS<sup>98</sup> dated March 23, 2015 and the CRA<sup>99</sup> dated June 3, 2015 to DANECO-CDA. In the same vein, according to the accused himself, his attendance to the reopening of DANECO-CDA’s office on June 24, 2015<sup>100</sup> and its general assembly on September 26, 2015<sup>101</sup> was also done in the discharge of his official duties.

<sup>96</sup> G.R. Nos. 224720-23, 2 February 2021.

<sup>97</sup> Exh. “18”.

<sup>98</sup> Exh. “J” (also Exh. “24”).

<sup>99</sup> Exh. “H-1” (also Exh. “22”).

<sup>100</sup> TSN, August 3, 2022, p. 18.

<sup>101</sup> Records, Vol. 4, p. 621 (Defense’s Memorandum, p. 5).

The CGS<sup>102</sup> dated June 19, 2012 issued by the accused, as then CDA Acting Executive Director, to DANECO-CDA does not appear to be part of his acts pleaded in the indictment. It was dated “March 2015, or sometime prior or subsequent thereto” and the prosecution’s memorandum limited the issuances of the accused to the CGS dated March 23, 2015 and the CRA dated June 3, 2015:

As to the 1<sup>st</sup> element, the accused [x x x], a public officer, being then the Chairperson of the Cooperative Development Authority (CDA), at the time material to this case [*sic*]. The accused admitted that he issued the Certificate of Registration of Amendment (*Exhibit “H-1”*) and Certificate of Good Standing (*Exhibit “J”*) to the DANECO (CDA) in his official capacity.

With regard to the 2<sup>nd</sup> element, [x x x.]

x x x x

In this case, accused Ravanera acted with manifest partiality, evident bad faith and gross inexcusable negligence when he issued the Certificate of Registration of Amendment (*Exhibit “H-1”*) on 3 June 2015 and Certificate of Good Standing (*Exhibit “J”*) on 23 March 2015 in favor of DANECO [x x x.]<sup>103</sup>

On the second element, *Uriarte v. People*<sup>104</sup> defines *manifest partiality, evident bad faith, and gross inexcusable negligence*:

Section 3(e) of R.A. 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa* as when the accused committed gross inexcusable negligence. There is “**manifest partiality**” when there is a clear, notorious or plain inclination or predilection to favor one side or person rather than another. “**Evident bad faith**” connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. It contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. “**Gross inexcusable negligence**” refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected. (Emphasis in the original)

In the present case, the theory of the prosecution is that the accused acted with evident bad faith, manifest partiality or gross inexcusable negligence in the performance of the questioned acts, because he did so “despite full knowledge”<sup>105</sup> of certain issuances<sup>106</sup> from NEA, the Court of

<sup>102</sup> Exh. “L” (also Exh. “23”).

<sup>103</sup> Records, Vol. 4, pp. 635-636 (Prosecution’s Memorandum, pp. 4-5).

<sup>104</sup> G.R. No. 169251, 20 December 2006.

<sup>105</sup> Records, Vol. 4, p. 636 (Prosecution’s Memorandum, p. 5).

<sup>106</sup> *Id.* at 636-637 (*Id.* at 5-6). Exh. “A-2”, “C”, “D”, “D-1”, “D-2”, “F”, “H” and “G”.

Appeals and the Supreme Court that allegedly “present issues as to the legitimacy of [DANECO-CDA] and its officers.”<sup>107</sup>

Given that the accused was with the CDA prior to and subsequent to the Entry of Appearance<sup>108</sup> dated September 12, 2012 of the OSG as counsel for the CDA in CA-G.R. SP No. 04944-MIN, in view of his issuance of the CGS<sup>109</sup> dated June 19, 2012, “[he] had full knowledge of the proceedings against [DANECO-CDA] and was fully aware of the issues as to its establishment or question as to the legitimacy of its officers when he issued the certificates.”<sup>110</sup> Moreover, Section 8(d) of CDA Memorandum Circular No. 2011-16<sup>111</sup> dated May 6, 2011, which purportedly provides for the non-issuance of the CGS due to the existence of the question on legitimacy of leadership, allegedly proves that the duty of the accused was not ministerial in nature.<sup>112</sup>

The prosecution posits that despite proof that the legitimacy of DANECO-CDA was in question, including also Exh. “K”, “O”, “P” and “Q”, the accused issued the certificates in violation of CDA Memorandum Circular No. 2011-16.<sup>113</sup> On June 24, 2015, in a congressional hearing, prosecution witness Lagunzad allegedly “heard [the accused] declare openly”<sup>114</sup> that DANECO-CDA’s referendum and registration under the CDA were legal, and that the accused directed its officers to go on with its operation. Thereafter, the accused, together with the said group, proceeded with the reopening of its padlocked PCU office, despite NEA’s cease-and-desist order dated December 13, 2013 (Exh. “H”).

Thus, the crux of the prosecution’s case is that by committing the questioned acts, despite “the issues as to [DANECO-CDA’s] establishment or question as to the legitimacy of [its] officers”<sup>115</sup> or “contrary orders or directives as to [DANECO-CDA’s] leadership and recognition,”<sup>116</sup> the accused acted with evident bad faith, manifest partiality or gross inexcusable negligence.

To this Court, the evidence on record is insufficient to prove beyond reasonable doubt that there was evident bad faith, manifest partiality or gross inexcusable negligence on the part of the accused when he issued the CGS dated March 23, 2015 and the CRA dated June 3, 2015 to DANECO-CDA and when he attended the reopening of its office on June 24, 2015 and its general assembly on September 26, 2015.

<sup>107</sup> *Id.* at 638 (*Id.* at 7).

<sup>108</sup> Exh. “E”.

<sup>109</sup> Exh. “L” (also Exh. “23”).

<sup>110</sup> Records, Vol. 4, p. 637 (Prosecution’s Memorandum, p. 6).

<sup>111</sup> Exh. “12” (*REVISED GUIDELINE GOVERNING THE ISSUANCE OF CERTIFICATE OF GOOD STANDING*).

<sup>112</sup> Records, Vol. 4, p. 638 (Prosecution’s Memorandum, p. 7).

<sup>113</sup> *Id.* at 639 (*Id.* at 8).

<sup>114</sup> *Id.* (*Id.*).

<sup>115</sup> *Id.* at 640 (*Id.* at 9).

<sup>116</sup> See the Information.

The prosecution carries the burden of overcoming the constitutional right to be presumed innocent through proof of guilt of the accused beyond reasonable doubt. Thus, a criminal case rises or falls on the strength of the prosecution's case, not on the weakness of the defense.<sup>117</sup>

Indeed, the prosecution has the burden to hurdle a high bar. *Martel* stressed anew that, citing *Sistoza v. Desierto*,<sup>118</sup> "mere bad faith or partiality and negligence *per se* are not enough for one to be held liable under the law since the act of bad faith or partiality must in the first place be *evident* or *manifest* [while the negligent deed should both be *gross* and *inexcusable*]."

In *Martel*, the Supreme Court pronounced that "[i]t is not enough that the accused violated a provision of law or that the provision of law violated is clear, unmistakable and elementary," because "evident bad faith requires that the accused acted with a malicious motive or intent, or ill will" or "with fraudulent intent," to wit:

[x x x]. Simply put, [evident bad faith] partakes of the nature of fraud.

The presence of evident bad faith requires that the accused acted with a malicious motive or intent, or ill will. It is not enough that the accused violated a provision of law or that the provision of law violated is clear, unmistakable and elementary. To constitute evident bad faith, it must be proven that the accused acted with fraudulent intent.

In evident bad faith, according to *Martel*, "[m]istakes, no matter how patently clear, committed by a public officer are not actionable absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith" because the accused must be "spurred by any corrupt motive," thus:

Because evident bad faith entails manifest deliberate intent on the part of the accused to do wrong or to cause damage, it must be shown that the accused was "spurred by any corrupt motive." Mistakes, no matter how patently clear, committed by a public officer are not actionable "absent any clear showing that they were motivated by malice or gross negligence amounting to bad faith."

Even granting *arguendo* that the accused, following *Martel*, may have violated a provision of law or rules and regulations or that the provision violated is clear, unmistakable and elementary, or that the accused may have committed patently clear mistakes, no evidence was presented showing that he acted with a malicious motive or intent, or ill will or with fraudulent intent, or that he was motivated by malice or gross negligence amounting to bad faith.

<sup>117</sup> *People v. Lumikid*, G.R. No. 242695, 23 June 2020.

<sup>118</sup> G.R. No. 144784, 3 September 2002.

That the accused committed the questioned acts, despite “the issues as to [DANECO-CDA’s] establishment or question as to the legitimacy of [its] officers”<sup>119</sup> or “contrary orders or directives as to [DANECO-CDA’s] leadership and recognition,”<sup>120</sup> is not enough by and of itself to conclude beyond reasonable doubt that he acted in *evident* bad faith. Stated differently, such circumstances, assuming *arguendo* that the accused was bound thereby, merely direct him, at most, to refrain from performing the said acts. That the accused nonetheless committed the same, despite such circumstances, does not *ipso facto* lead to a violation of the offense charged or automatically result in finding him liable under Section 3(e) of R.A. No. 3019.

In other words, there was no evidence presented whatsoever that the accused was spurred by any corrupt motive or that he “consciously and intentionally did so in order to commit fraud, to purposely commit a crime, or to gain profit for [himself] so as to amount to fraud”<sup>121</sup> or that he was “animated by fraudulent motives.”<sup>122</sup> On the contrary, the evidence shows that the accused believed that his actions were proper. As reflected in his testimony during direct examination:

[On the CGS dated March 23, 2015]

45. Q: You are faulted again for issuing the Certificate of Good Standing in favor of DANECO-CDA when you already became the CDA Chairperson. Could you state the basis for the issuance of the same, if any?

A: The issuance of the same was in compliance with the aforementioned Memorandum Circular No. 2011-16.

46. Q: What does the issuance of the Certificate of Good Standing (CGS) signify?

A: The issuance of the CGS simply signifies that a cooperative was able to comply with the checklist of documents required to be submitted [to] the CDA. These documents are appreciated “on its face” and are given presumption of regularity once notarized. Before the CGS is endorsed for my signature, it passes through the regular process of compliance and due diligence of different concerned offices of CDA.

47. Q: I am showing you a copy of the Certificate of Good Standing in favor of DANECO-CDA dated 23 March 2015. Do you recognize this document?

A: Yes, Atty. That is the Certificate of Good Standing in favor of DANECO-CDA dated 23 March 2015.<sup>123</sup>


<sup>119</sup> *Supra* note 115.

<sup>120</sup> *Supra* note 116.

<sup>121</sup> See *Martel v. People*, *supra* note 96.

<sup>122</sup> *Id.*

<sup>123</sup> Records, Vol. 4, p. 15 (Accused’s Judicial Affidavit dated June 24, 2022, p. 12).

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**[On the CRA dated June 3, 2015]**

41. Q: We proceed to the other act you allegedly committed in violation of the law. You mentioned that you were faulted for issuing the Certificate of Registration of Amendment to Articles and By Laws dated 03 June 2015 for DANECO-CDA. Could you state the basis for the issuance of the same, if any?

A: The issuance of the Certificate of Registration of Amendment was anchored on the completeness of the documents submitted by DANECO. Remember that they have an existing and valid registration issued by [former CDA Chairman] Santiaguel. Its issuance is actually ministerial on the part of CDA, as regulators and supervisors of cooperatives in the Philippines, upon submission of required documents. Thus, under the obtaining circumstances, it is required upon the Head of the Agency to admit and issue said certificate, considering that upon compliance with the requirements, the Authority is mandated by law as its ministerial duty to do so.

42. Q: I am showing you a copy of the Certificate of Registration of Amendment dated 03 June 2015. Please go over it and tell us if this is the document you are referring to.

A: Yes, Atty.<sup>124</sup>


**[On the accused's attendance to the reopening of  
DANECO-CDA's office on June 24, 2015 and  
its general assembly on September 26, 2015]**

54. Q: Finally, you are being alleged of violating the law simply by attending a ribbon-cutting for the reopening of the office of DANECO-CDA, as well as their general assembly. They claim that these acts constitute manifest partiality, evident bad faith, or gross inexcusable negligence to give them unwarranted benefit, advantage, or preference all made in violation of the issuances and resolution of NEA and different courts. Do you have any comment on this?

A: Yes, Atty. I do not understand how can there be violation of law in simple attendance to reopening of an office and a general assembly, when the law, specifically Sec. 3 of R.A. No. 6939, encourages CDA to support voluntary organization and consensual development of activities that promote cooperative movements.

x x x x

NEA's CDO [cease-and-desist order] pertains to the operation of DANECO as to meter reading, generation and collection of electric bills, disconnection or re-connection of consumer connections only. It does not include the reopening of DANECO-CDA's office and the conduct of a general assembly.



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<sup>124</sup> *Id.* at 14 (*Id.* at 11).

Moreover, also as admitted by Atty. Lagunzad, the certificate of registration of DANECO-CDA is subsisting at the time in question. For all intents and purposes, they are legitimate cooperative. The Certificate of Registration issued to DANECO-CDA must first be cancelled by the CDA, as the R.A. No. 10531 or the NEA Law does not give the NEA the power to cancel its Certificate of Registration.<sup>125</sup>

As can be gathered above, it cannot be concluded that the accused was “spurred by any ill or corrupt motive”<sup>126</sup> in performing the questioned acts. The testimony of prosecution witness Lagunzad that “[the accused] declare[d] openly that the referendum and registration of [DANECO-CDA] Group with the [CDA were] legal and he directed the [DANECO-CDA] Group officers and officials to go on with [its] operation”<sup>127</sup> is not proof enough of any ill, fraudulent or corrupt motive on the part of the accused. At most, it simply acknowledged the fact that DANECO-CDA had a valid and subsisting Certificate of Registration<sup>128</sup> dated May 21, 2012 at the time issued by former CDA Chairman Santiaguel.

Parenthetically, for the issuance of the Certificate of Registration dated May 21, 2012 and the CGS<sup>129</sup> dated May 27, 2013 by Santiaguel, prior to the CGS and CRA issued by the accused, the Office of the Ombudsman, in a Resolution<sup>130</sup> dated September 3, 2015, dismissed the complaint for violation of Section 3(e) of R.A. No. 3019 against Santiaguel and other respondents in OMB-M-C-14-0120, entitled *Benedicto D. Ongking, et al. v. Emmanuel M. Santiaguel, et al.*, as follows:

This case is bereft of evidence to prove that respondent Santiaguel, in conspiracy with his co-respondents, acted with evident bad faith, manifest partiality or gross inexcusable negligence, in the discharge of his official functions to favor and give unwarranted benefits, advantage or preference to the CDA Group. It is uncontroverted that the application for registration of DANECO was compliant with the existing rules and regulations of the CDA. Moreover, the Certificate of Good Standing was regularly issued considering that a pending case for cancellation of registration is not a ground for its non-issuance as per CDA Memorandum Circular No. 2011-16, Series of 2011. On the issue of the lifting of the suspension order previously issued by respondent Santiaguel, it must be emphasized that the decision ordering the same was a collective act of the CDA Board of Administrators. The contention that the reversal of the suspension order was tainted with evident bad faith or manifest partiality is not supported by the evidence on record.

All considered, there is no probable cause to indict respondents for violation of Section 3(e) of R.A. No. 3019.<sup>131</sup>

<sup>125</sup> *Id.* at 17-18 (*Id.* at 14-15).

<sup>126</sup> See *Martel v. People*, *supra* note 96.

<sup>127</sup> Records, Vol. 2, p. 13 (Lagunzad’s Judicial Affidavit dated August 20, 2019, p. 8).

<sup>128</sup> Exh. “20”.

<sup>129</sup> Exh. “21”.

<sup>130</sup> Exh. “14”.

<sup>131</sup> Records, Vol. 4, pp. 499-500 (Ombudsman Resolution, pp. 5-6).

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To reiterate, neither the issue of correctness of the issuance of the CGS and CRA nor the question of legitimacy of DANECO-CDA is the matter before this Court. What in issue here is whether the questioned acts of the accused were committed in the context of the offense under Section 3(e) of R.A. No. 3019, particularly as interpreted in *Martel*.

The evidence on record does not support the conclusion that the accused “possessed a state of mind operating with furtive design or some motive of self-interest or ill will for ulterior purposes.”<sup>132</sup> Thus, evident bad faith in the offense under Section 3(e) of R.A. No. 3019 is not present.

Similar to evident bad faith, manifest partiality is in the nature of *dolo*.<sup>133</sup> It must be proven that the accused had “malicious and deliberate intent to bestow unwarranted partiality”<sup>134</sup> upon DANECO-CDA.

No evidence was presented to “establish in any manner any deceitful intent and motivation”<sup>135</sup> on his part behind the commission of the questioned acts. Nor was there evidence presented to prove that he committed the questioned acts “purposely and intently [x x x] to fraudulently benefit”<sup>136</sup> himself and DANECO-CDA, or that he was “animated by fraudulent and devious motives.”<sup>137</sup>

Simply put, the evidence on record fails to establish beyond reasonable doubt that the accused was “animated with malicious intent and consciously pursued a notorious scheme to deliberately favor”<sup>138</sup> DANECO-CDA.

As quoted above, the accused was able to explain during direct examination how the questioned acts came about. To repeat, the commission of the questioned acts by the accused does not automatically lead to his conviction of the offense charged. Whether the questioned acts were performed according to the provisions of the relevant law or rules and regulations on the matter is not so much what this case is about.

In the present case, the prosecution was not even able to show the existence of partiality on the part of the accused, much less one that is *manifest* enough “that would show an ulterior motive or purpose.”<sup>139</sup> Thus, manifest partiality in the offense under Section 3(e) of R.A. No. 3019 is not present.

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<sup>132</sup> See *Martel v. People*, *supra* note 96.

<sup>133</sup> *Id.*

<sup>134</sup> *Id.*

<sup>135</sup> *Id.*

<sup>136</sup> *Id.*

<sup>137</sup> *Id.*

<sup>138</sup> *Id.*

<sup>139</sup> *Id.*



Under Section 3(e) of R.A. No. 3019, gross inexcusable negligence varies from evident bad faith and manifest partiality; the latter two are acts committed through *dolo* while the former is committed by means of *culpa*.<sup>140</sup>

Gross inexcusable negligence under Section 3(e) of R.A. 3019, a culpable felony, does not require fraudulent intent or ill-will. A public officer is guilty of gross inexcusable negligence when there is a *breach of duty* that is committed *flagrantly, palpably*, and with *willful indifference*. Hence, a public officer who *seriously* breaches his or her duty in a *blatant and extremely careless manner* is guilty of gross inexcusable negligence under Section 3(e) regardless of whether such breach of duty was done with malicious intent.<sup>141</sup> (Additional italics supplied)

There is no evidence on record showing that the accused acted with gross inexcusable negligence in the discharge of his duties when he performed the questioned acts. His testimony, as quoted above, provides the bases for his belief that his questioned acts were proper, viz.: for the CGS dated March 23, 2015, *the Memorandum Circular No. 2011-16*; for the CRA dated June 3, 2015, *the valid and subsisting Certificate of Registration dated May 21, 2012 and the completeness of the documents submitted by DANECO-CDA*; and for attending the reopening of DANECO-CDA's office on June 24, 2015 and its general assembly on September 26, 2015, *the Section 3 of R.A. No. 6939, particularly paragraph (c)*.<sup>142</sup>

Whether the accused committed mistakes in the performance of his duty, particularly in the appreciation of these bases for his questioned acts, is of no moment. The fact remains, however, that the evidence is insufficient to prove a *serious breach of duty* on his part, as CDA Chairman, that was committed *flagrantly, palpably* and with *willful indifference* or in a *blatant and extremely careless manner*. Thus, gross inexcusable negligence in the offense under Section 3(e) of R.A. No. 3019 is not present.

In fine, the second element of the offense charged is absent.

In *Martel*, the absence of the second element for violation of Section 3(e) of R.A. No. 3019 is enough to acquit the accused.

[x x x]. Considering that the prosecution miserably failed to prove the second element of the crime charged, there is no more reason for the Court to discuss the third element. The absence of the second element for violation of Section 3(e) of R.A. 3019 is enough to acquit petitioners.

<sup>140</sup> *Id.*

<sup>141</sup> *Id.*

<sup>142</sup> Sec. 3. *Powers, Functions and Responsibilities.* - The [Cooperative Development Authority] shall have the following powers, functions and responsibilities:

x x x x

(c) Support the voluntary organization and consensual development of activities that promote cooperative movements and provide assistance towards upgrading managerial and technical expertise upon request of the cooperatives concerned[.]

Nonetheless, the Court finds that the third element, particularly the second mode charged in the Information, that is, giving unwarranted benefits, advantage or preference to DANECO-CDA, is equally absent in this case. *Libunao v. People*<sup>143</sup> reiterates:

The third element requires that the act constituting the offense must consist of *either* (1) causing undue injury to any party, including the government, *or* (2) **giving any private party any unwarranted benefits, advantage or preference in the discharge by the accused of his official, administrative or judicial functions.** [x x x] As for the latter act, it suffices that the accused has given unjustified favor or benefit to another [x x x]. The word “unwarranted” means lacking adequate or official support; unjustified; unauthorized or without justification or adequate reason. “Advantage” means a more favorable or improved position or condition; benefit, profit or gain of any kind; benefit from some course of action. “Preference” signifies priority or higher evaluation or desirability; choice or estimation above another. (Emphasis supplied)

As for preference, there is no evidence on record to show that priority or higher evaluation or desirability, or a choice or estimation above another, was given by the accused to DANECO-CDA in relation to the questioned acts. In fact, only DANECO-CDA applied for registration under the CDA, while its opposing entity, DANECO, Inc., did not. As such, the accused only dealt with DANECO-CDA, as the registered entity, and not with DANECO, Inc.

Whatever benefits or advantage that DANECO-CDA might have derived from the questioned acts of the accused was, in actuality, only incidental. Assuming *arguendo* that DANECO-CDA indeed used the CGS and CRA issued by the accused, as testified to by prosecution witness Lagunzad, allegedly “to justify [its] illegal operations which caused confusion to the member consumers allowing [it] to collect and profit from some consumers without cost,”<sup>144</sup> this does not mean that it was the accused who had actually caused such a situation.

The issuance of the CGS and CRA by the accused is one thing. Quite another thing is the alleged non-compliance of DANECO-CDA with NEA’s orders and directives, including Exh. “H”, from which it derived whatever benefits or advantage it had acquired, assuming it did, such as, according to prosecution witness Lagunzad:

51. Q: How is the DANECO-CDA Group operating without cost?

A: They are distributing electricity through illegal re-connections to the consumers using the facilities, lines, sub-stations and power suppliers of the DANECO, Inc. while they do not pay nor have their own contract with the power suppliers.

<sup>143</sup> G.R. Nos. 214336-37, 15 February 2022.

<sup>144</sup> Records, Vol. 2, pp. 14-15 (Lagunzad’s Judicial Affidavit dated August 20, 2019, pp. 9-10).

52. Q: How has this affected the operations of DANECO, Inc?

A: Some of the consumers pay their electricity bills to the DANECO-CDA Group causing financial losses to DANCO, Inc. which maintains the facilities and pay the power suppliers resulting to increase[d] systems loss to the legitimate distribution utility which is Davao del Norte Electric Cooperative, Inc. (DANECO, Inc.).<sup>145</sup>

As a matter of statutory command, it is incumbent upon all electric cooperatives, including DANECO-CDA, despite opting to register under the CDA, to comply with NEA's orders and directives, considering that Section 32 of Presidential Decree No. 269,<sup>146</sup> as amended by R.A. No. 10531, provides that NEA retains its supervisory and disciplinary power over them *in the conduct of their operation as electric distribution utilities*:

Sec. 32. *Registration of All Electric Cooperatives.* – All electric cooperatives may choose to remain as a non-stock, non-profit cooperative or convert into and register as: (a) a stock cooperative under the CDA; or (b) a stock corporation under the SEC, [x x x].

X X X X

[The] supervisory and oversight functions of the NEA, [x x x], shall be applicable to both stock and non-stock cooperatives.

X X X X

**Despite the registration of the electric cooperatives under the CDA or the SEC, the NEA shall retain its supervisory and disciplinary power over them in the conduct of its operation as electric distribution utilities.** (Emphasis supplied)

Stated differently, the full extent of DANECO-CDA's actions, including the consequences thereof, must not be attributed to the questioned acts of the accused. DANECO-CDA is not the accused, and *vice versa*. In the words of *Martel*, "[i]t is simply absurd to criminally punish every minute mistake that incidentally caused a benefit to private parties even when these acts were not done with *corrupt intent*" or when there is no *breach of duty* that is committed *flagrantly, palpably* and with *willful indifference*.

In this case, the prosecution failed to discharge its burden of overcoming the constitutional right to be presumed innocent. Therefore, the accused has in his favor the presumption of innocence which the Bill of Rights guarantees:

Proof beyond reasonable doubt charges the prosecution with the immense responsibility of establishing moral certainty. [x x x]. Should the prosecution fail to discharge its burden, acquittal must follow as a matter of course.

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<sup>145</sup> *Id.* at 15 (*Id.* at 10).

<sup>146</sup> *National Electrification Administration Decree.*

X X X X

While not impelling such a degree of proof as to establish absolutely impervious certainty, the quantum of proof required in criminal cases nevertheless charges the prosecution with the immense responsibility of establishing moral certainty, a certainty that ultimately appeals to a person's very conscience. While indeed imbued with a sense of altruism, this imperative is borne, not by a mere abstraction, but by constitutional necessity[.]<sup>147</sup>

In sum, the Court finds the accused not guilty in this case, considering that the evidence of the prosecution failed to prove his guilt and the act or omission from which the civil liability might arise did not exist.<sup>148</sup>


**WHEREFORE**, the Court hereby renders judgment in Criminal Case No. **SB-19-CRM-0010**, finding accused **ORLANDO R. RAVANERA NOT GUILTY** and, therefore, **ACQUITTED** of the offense of violation of Section 3(e) of R.A. No. 3019. No civil liability is adjudged as the act or omission from which the same might arise did not exist.

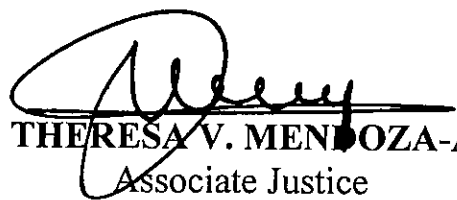
The Hold Departure Order issued against him is hereby **LIFTED** and **SET ASIDE**, and his cash bail bond is ordered **RETURNED**.

**SO ORDERED.**

  
**MARYANN E. CORPUS-MAÑALAC**  
Associate Justice

**WE CONCUR:**

  
**RAFAEL R. LAGOS**  
Associate Justice  
Chairperson


  
**MARIA THERESA V. MENDOZA-ARCEGA**  
Associate Justice

<sup>147</sup> *Daayata v. People*, G.R. No. 205745, 8 March 2017.

<sup>148</sup> See Rules of Criminal Procedure, Rule 120, Sec. 2, second paragraph.

### ATTESTATION

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

  
**RAFAEL R. LAGOS**  
Chairperson

### CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision had been 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

