



REPUBLIC OF THE PHILIPPINES

Sandiganbayan
QUEZON CITY

SEVENTH DIVISION

PEOPLE OF THE PHILIPPINES,
Plaintiff,

SB-22-CRM-0117

- versus -

For: Violation of Sec. 3(e) of RA
No. 3019, as amended

MARC RED ARCADIO
MARIÑAS,

Accused.

Present:

Trespeses, J., *Acting Chairperson,*
Cabotaje-Tang, P.J. and
Hidalgo, J.

Promulgated:

September 21, 2023 *JP*

DECISION

TRESPESES, J.:

Accused Asliyah Alonto Maruhom, Immigration Officer II, was charged with Violation of Sec. 3(e) of R.A. No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, committed as follows:

That in the year 2017 to 2020, or sometime prior or subsequent thereto, in Pasay City, Philippines, and within this Honorable Court's jurisdiction, accused **Marc Red Arcadio Mariñas**, a high-ranking public officer, being then the Officer-in-Charge Deputy Commissioner with Salary Grade 27, Port Operations Division, Bureau of Immigration (BI), with **Grifton San Pedro Medina**, **Erwin Santibañez Ortañez**, **Glenn "GC" Ford Silang Comia a.k.a. "Orange"**, **Benlado "Bien" Javier Guevarra**, **Danieve "Den" Hije Binsol a.k.a. "Denden"**, **Deon Carlo "Nancy" Garcia Albao A.K.A. "DA"**, **Arlan Edward Dioso Mendoza**, **Anthony "Al" Dacanay Lopez**, **Cecille Jonathan Pacheco Orozco**, **Francis Dennis "DR" Torres Robles**, **Bradford Allen Lim So**, **Vincent Bryan Del Rosario Allas**, **Rodolfo "Totoy" Imperial Magbuhos Jr.**, **ER German "10th Man" Tegio Robin**, **Gabriel Ernest "Gabe" Mitra Estacio**, **Ralph Ryan "RG GarciaRalph" Macahilo Garcia**, **Phol "Vexana III" Bendaña Villanueva**, **Abdul Fahad "Sharpedge Calaca" Guro Calaca**, **Danilo "DeudorDanilo" Caro Deudor**, **Mark "Fakehappy" Dollete Macababbad**, **Aurelio "Amboy" Somera Lucero III**, **George Villaram Bituin**, **Salahudin Pacalna Hadjinoor**, **CherryPie**

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“Chepie” Payabyab Ricolcol, Chevy Chase Reyes Naniong, Carl Jordan Cabanela Perez, Abdulhafez “HB” Dela Tonga Hadjibasher, Clint John Querol Simene, Asliyah Alonto Maruhom, Maria Victoria Cabuello Jogo, Paul Erik “Liza” Closa Borja a.k.a. “PB”, Hamza Usudan Pacasum, Manuel Brillante Sarmiento III, Fidel Santoc Mendoza, Dimple Mahyumi Ricafrente Mallari, Angela Baltazar Omampo, Yanni Mondido Hao, George Gilbert Tan Ong, Cathy DEvela Cu, Gerrymyle “Gem” Gutierrez Franco, John Michael Sitchon Angeles, Frances Meeka Enrique Flores, Sadruddin Cruz Usudan, John Kessler Bareno Cortez, Mohammad Sahary Bagul Lomondot, John Derrick Yu Go, Aira Garcia Inoue, and Rován Rey Sinadjan Manlapas, all of the BI, while in the performance of their administrative and/or official functions and duties, and acting with evident bad faith, manifest partiality, or gross inexcusable negligence, conspiring and confederating with one another and with private person Liya Wu (Wu), Owner/Proprietress/Representative of Empire International Travel and Tours (Empire Travel), did then and there willfully, unlawfully and criminally give unwarranted benefits, preference, or advantage to foreign passengers, and cause undue injury and damage to the government, through a scheme of facilitating the entry of foreign passengers into the country without going through regular profiling or screening process in violation of existing immigration rules and procedures, in exchange for monetary consideration of more or less Ten Thousand Pesos (PHP10,000.00) per passenger, involving around One Hundred Forty Three (143) foreign passengers with an aggregate amount of more or less One Million Four Hundred Thirty Thousand Pesos (PHP1,430,000.00), carried out by BI personnel causing the seamless entry and/or VIP treatments to the said foreign nationals in exchange for receiving the said monetary consideration, to the damage and prejudice of the government and public interest.¹

CONTRARY TO LAW.

On 10 June 2022, accused Maruhom posted a cash bond for her provisional liberty.²

On 13 June 2022, a Hold Departure Order was issued against accused.³ After an assessment of the records in this case, the court issued a minute resolution dated 20 June 2022 finding the existence of probable cause for issuance of a warrant of arrest against all accused.⁴ Considering that accused Maruhom already posted bail, the actual issuance of the warrant against her was withheld. The arraignment and pre-trial was initially set on 8 July 2022.

On 1 July 2022, the prosecution filed a Motion to Defer Arraignment and Pre-trial⁵ in view of the fact that an accused has filed a motion for reinvestigation, and nineteen accused filed motions for reconsideration with

¹ Record, Vol. 7, pp. 120-129 (Amended Information).

² Record, Vol. 1; pp. 35-40, 41.

³ Record, Vol. 2, pp. 440-A to 440-E.

⁴ Record, Vol. 3, pp. 191-199.

⁵ Record, Vol. 3, pp. 521-529.

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the Ombudsman. On 6 July 2022, the court issued a Resolution⁶ granting the prosecution a period of 60 days within which to resolve the motions filed in its office. The arraignment and pre-trial was reset to 9 September 2022.

Also on 6 July 2022, accused Maruhom filed a Motion to Quash Warrant of Arrest⁷ on the ground that there was no probable cause to justify its issuance. On 18 July 2022, the court issued a Resolution⁸ denying accused's motion for lack of merit. Accused Maruhom's Motion for Reconsideration was likewise denied in the Resolution dated 9 August 2022.⁹

Thereafter, on 5 September 2022, the prosecution filed a Compliance with Motion for Leave to Amend and to Admit Amended Information.¹⁰

On 9 September 2022, in open court, the court granted leave to the prosecution for the amendment of the Information. Consequently, the court admitted the Amended Information, over the objection of the defense. Thereafter, arraignment proceeded wherein accused Maruhom, assisted by her counsel, pleaded "Not Guilty" to the charge.¹¹

On 5 September 2023, the court received the Manifestation of the Office of the Special Prosecutor (OSP) dated 4 September 2023 alleging that the proposal of accused Maruhom to be allowed to plead guilty to the lesser offense of Section 7(d) of Republic Act No. 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees has been approved by the Office of the Ombudsman. Acting on the manifestation, the court set the case for hearing on 21 September 2023.

PLEA BARGAINING AGREEMENT

During the hearing on 21 September 2023, the prosecution manifested that it is willing to accept the plea bargain offer of accused Maruhom. The Office of the Special Prosecutor further manifested that it had secured authority from the Ombudsman to consent to the guilty plea offer of accused to a lesser offense of committing Sec. 7(d) of R.A. No. 6713).

The court inquired from accused Maruhom whether she voluntarily offered to plea to a lesser offense and whether she understood the consequences of her plea. She was further apprised of the consequences thereof. Thereafter, with the assistance of her counsel, accused Maruhom manifested to the court that she voluntarily offered to plead guilty to a lesser

⁶ Record, Vol. 5, pp. 96-113.

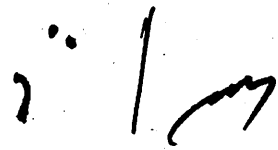
⁷ Record, Vol. 5, pp. 59-95.

⁸ Record, Vol. 6, pp. 187-196.

⁹ Record, Vol. 6, pp. 525-532.

¹⁰ Record, Vol. 7, pp. 109-131.

¹¹ Record, Vol. 7, pp. 572-576 (Order dated 9 September 2022).



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offense and that she fully understood the consequences of such plea.

RULING BY THE COURT

After reviewing the facts of the case and the manifestations of the parties, the court allows the parties to enter into a plea bargaining wherein accused, with the consent of the prosecution, is allowed to plead guilty to the lesser offense of Section 7(d) of R.A. No. 6713.

Plea bargaining in criminal cases is a "process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval. It usually involves the defendant pleading guilty to a lesser offense or to only one or some of the counts of a multi-count indictment in return for a lighter sentence than that for the graver charge."¹²

In *Estipona, Jr. y Asuela v. Lobrigo*,¹³ the Supreme Court explained the nature of plea bargaining, to wit:

In this jurisdiction, plea bargaining has been defined as "a process whereby the accused and the prosecution work out a mutually satisfactory disposition of the case subject to court approval." There is give-and-take negotiation common in plea bargaining. The essence of the agreement is that both the prosecution and the defense make concessions to avoid potential losses. Properly administered, plea bargaining is to be encouraged because the chief virtues of the system — speed, economy, and finality — can benefit the accused, the offended party, the prosecution, and the court.

Considering the presence of mutuality of advantage, the rules on plea bargaining neither create a right nor take away a vested right. Instead, it operates as a means to implement an existing right by regulating the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for a disregard or infraction of them.

The decision to plead guilty is often heavily influenced by the defendant's appraisal of the prosecution's case against him and by the apparent likelihood of securing leniency should a guilty plea be offered and accepted. In any case, whether it be to the offense charged or to a lesser crime, a guilty plea is a "serious and sobering occasion" inasmuch as it constitutes a waiver of the fundamental rights to be presumed innocent until the contrary is proved, to be heard by himself and counsel, to meet the witnesses face to face, to bail (except those charged with offenses punishable by *reclusion perpetua* when evidence of guilt is strong), to be convicted by proof beyond reasonable doubt, and not to be compelled to be a witness against himself.

¹² *People v. Vianzon y Mayor*, G.R. No. 255031 (Notice), 17 January 2023.

¹³ *Estipona, Jr. y Asuela v. Lobrigo*, G.R. No. 226679, 15 August 2017 (816 PHIL 789-820).

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The essence of a plea-bargaining agreement is that both the prosecution and the defense make concessions to avoid potential losses. Properly administered, plea bargaining is to be encouraged because the chief virtues of the system — speed, economy, and finality — can benefit the accused, the offended party, the prosecution, and the court.¹⁴ Thus, Section 1(a), Rule 118 of the Revised Rules of Criminal Procedure requires the court to consider plea bargaining during pre-trial proceedings, thus:

Section 1. *Pre-trial; mandatory in criminal cases.* — In all criminal cases cognizable by the Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court in Cities, Municipal Trial Court and Municipal Circuit Trial Court, the court shall after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for in special laws or circulars of the Supreme Court, order a pre-trial conference to consider the following:

- (a) plea bargaining;
- (b) stipulation of facts;
- (c) marking for identification of evidence of the parties;
- (d) waiver of objections to admissibility of evidence;
- (e) modification of the order of trial if the accused admits the charge but interposes a lawful defense; and
- (f) such matters as will promote a fair and expeditious trial of the criminal and civil aspects of the case. (Sec. 2 & 3, Cir. 38-98)

Plea bargaining is governed by Sec. 2, Rule 116 of the Revised Rules of Criminal Procedure, which reads:

Section 2. *Plea of guilty to a lesser offense.* — At arraignment, the accused, with the consent of the offended party and the prosecutor, may be allowed by the trial court to plead guilty to a lesser offense which is necessarily included in the offense charged. After arraignment but before trial, the accused may still be allowed to plead guilty to said lesser offense after withdrawing his plea of not guilty. No amendment of the complaint or information is necessary.

Based on the foregoing, the basic requisites for bargaining are: that it be done with the consent of the offended party, and the prosecutor, and that the plea of guilt be to a lesser offense which is necessarily included in the offense charged.

The consent of the prosecutor is a condition precedent before an accused may validly plead guilty to a lesser offense. It is because the prosecutor has full control of the prosecution of criminal actions.¹⁵ It bears

¹⁴ *Cereza v. Suarez*, G.R. No. 242722, 10 October 2022.

¹⁵ *People v. Sabater y Ulan*, G.R. No. 249459, 14 June 2021.

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stressing that the acceptance of a plea bargain is purely upon the discretion of the prosecutor. Here, it is undisputed that the prosecution consented to accused Maruhom pleading guilty to a lower offense.¹⁶

Further, Sec. 2, Rule 116 of the Revised Rules of Criminal Procedure allows an accused to enter a guilty plea to a lesser offense only if such offense is necessarily included in the offense charged. It is settled that an offense charged necessarily includes another when some of the essential elements or ingredients of the former, as alleged in the complaint/information, constitute the latter.¹⁷ However, a reading of Sec. 2, Rule 116 demonstrates that it is not necessary for the existence of the elements to be precisely on point for plea bargaining. It merely requires that some, if not all, of its elements were included.

In this case, accused Maruhom is charged with Violation of Sec. 3(e) of R.A. No. 3019. She proposes to plead guilty to the lesser offense of committing Sec. 7(d) of R.A. No. 6713.

The matrix below shows the respective elements of both offenses:

Sec. 3(e) of R.A. No. 3019	Sec. 7(d) of R.A. No. 6713
1.) the offender is a public officer;	1.) that the accused is a public official or employee;
2.) the act was done in the discharge of the public officer's official, administrative or judicial functions;	2.) that the said act was done in the course of the accused's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office.
3.) the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence; and	
4.) the public officer caused any undue injury to any party, including the Government, or gave unwarranted benefits, advantage or preference to any private party.	

¹⁶ (see Manifestation of the prosecution dated 4 September 2023)

¹⁷ **Section 5. When an offense includes or is included in another.** — An offense charged necessarily includes the offense proved when some of the essential elements or ingredients of the former, as alleged in the complaint or information, constitute the latter. And an offense charged is necessarily included in the offense proved, when the essential ingredients of the former constitute or form a part of those constituting the latter.

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	3.) that the accused solicited or accepted any loan or anything of monetary value from any person. ¹⁸
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Clearly, both offenses have the elements of public office and the act being performed in the course of their official duties.

In Sec. 3(e) of R.A. No. 3019, there must be a showing that accused acted with manifest partiality, evident bad faith, or gross inexcusable negligence. On the other hand, Sec. 7(d) of R.A. No. 6713 provides that accused solicited or accepted any loan or anything of monetary value from any person. Accused's act of soliciting money and accepting of gifts from another in exchange of favorable action resulting in the infringement of laws and regulations are clear acts done for a dishonest purpose. Thus, the element of solicitation of acceptance of loan or anything of monetary value from any person under Sec. 7(d) of R.A. No. 6713 is tantamount to the element that the act was done through manifest partiality, evident bad faith, or gross inexcusable negligence of Sec. 3(e) of RA No. 3019. Further, solicitation of monetary or non-monetary gifts naturally causes undue injury to any party or to the government.

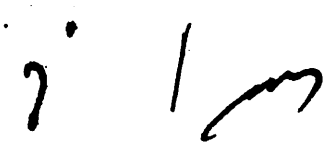
Thus, the court finds that Sec. 7(d) of R.A. No. 6713 is necessarily included in a Violation of Sec. 3(e) of R.A. No. 3019, as the elements of the former is necessarily included in the elements of the latter.

While it is well established that a defendant has no constitutional right to plea bargain, the court must defer to prosecution's determinations over who to prosecute when it comes to giving consent to plea bargaining proposals. This is especially true where there is no showing that the plea-bargaining deal was entered into with ill-motive or bad faith, as in this case. Therefore, in the absence of a clear showing of irregularity or grave abuse of discretion, the court will ordinarily limit itself to the legal and technical concerns surrounding a plea-bargaining agreement.

Accordingly, the parties are authorized to enter into plea bargaining agreement.

During arraignment on 21 September 2023, accused Maruhom entered a plea of not guilty to the charge of Violation of Sec. 3(e) of R.A. No. 3019. Considering that she entered into a plea-bargaining agreement with the prosecution, she moved for the withdrawal of such plea and, in lieu thereof, enter a guilty plea under Sec. 7(d) of R.A. No. 6713.

¹⁸ *People v. Palaña*, G.R. Nos. 243547-48 (Notice), 16 June 2021.



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The prosecution manifested to the court that they are not opposing the accused's change of plea. Certainly, the OSP, upon authority of the Ombudsman, has the power to enter into a plea-bargaining agreement. The prosecution informed the court that Ombudsman Samuel R. Martinez authorized them to enter into a plea-bargaining agreement with the accused. The court deems the prosecution's manifestation as sufficient to allow the withdrawal of accused's former plea and to permit him to enter a plea of guilty to a lesser offense.

Pursuant to Section 2 of Rule 116 of the Revised Rules on Criminal Procedure, no amendment of the Information is necessary when withdrawing a plea of not guilty and pleading guilty to a lesser offense.

Thus, the motion of accused Maruhom to withdraw her earlier plea of not guilty is **GRANTED**.

Upon re-arraignment of the information for the lesser offense of Section 7(d) of R.A. No. 6713- *Prohibited Acts and Transactions*, accused Maruhom entered a plea of **guilty**. She was assisted by her counsel, Atty. Melissa Roe R. Mendoza and Atty. Edward Ignacio.

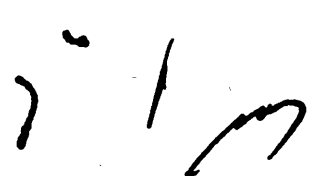
Accordingly, let a plea of **guilty** be re-entered into the records of accused Maruhom for the charges against her.

Violation of Sec. 7(d) of RA No. 6713 carries with it the following penalties:

Section 11. Penalties. - (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

x x x

Considering that accused has in her favor the mitigating circumstance of the voluntary plea of guilty as the change of plea was made prior to the presentation of evidence by the prosecution, she is imposed the penalty of **FINE of FIVE THOUSAND PESOS (P5,000.00)**.



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WHEREFORE, judgment is rendered finding accused **Asliyah Alonto Maruhom GUILTY** beyond reasonable doubt of the lesser offense of violation of *Prohibited Acts and Transactions* defined and penalized under Section 7(d) of Republic Act No. 6713, otherwise known as the "*Code of Conduct and Ethical Standards for Public Officials and Employees.*"

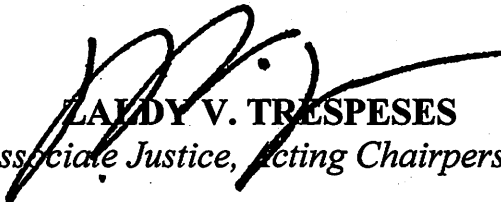
Appreciating the mitigating circumstance of the plea of guilty to the lesser offense, accused Asliyah Alonto Maruhom is imposed a **FINE of FIVE THOUSAND (₱5,000.00) only.**

The cash bond posted by the accused shall be released to her or her representative upon payment of the fine.

The Hold Departure Order (HDO) issued against accused Asliyah Alonto Maruhom is ordered **LIFTED.**

SO ORDERED.

Quezon City, Philippines.


LADY V. TRESPESES
Associate Justice, Acting Chairperson

WE CONCUR:


GEORGINA D. HIDALGO
Associate Justice


AMPARO M. CABOTAJE TANG
Presiding Justice

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ATTESTATION

I attest that the conclusions in the above Decision were reached in consultation, after deliberations were held in compliance with Section 1, Rule IX of the 2018 Internal Rules of the Sandiganbayan, before the case was assigned to the writer of the opinion of the Court's Division.


ZALDY V. TRESPESES
Associate Justice, Acting Chairperson

CERTIFICATION

Pursuant to Article VIII, Section 13 of the Constitution, and the Division Acting 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