



REPUBLIC OF THE PHILIPPINES  
**Sandiganbayan**  
Quezon City

SIXTH DIVISION

PEOPLE OF THE PHILIPPINES, **SB-17-CRM-1670**  
Plaintiff, For: Violation of Sec. 3(e)  
of R.A. No. 3019

*Present*

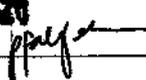
- versus -

ROGER C. CHIO, ET AL.

Accused.

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

*Promulgated:*

**AUG 13 2020**  


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**RESOLUTION**

**FERNANDEZ, SJ, J.**

This resolves the following:

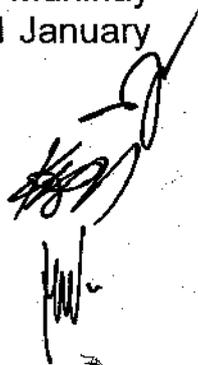
1. *Motion for Reconsideration on the Decision dated 30 January 2020*<sup>1</sup> filed by accused Romulo S. Palcon, Alma B. Mahinay and Godofredo A. Ramos;
2. *Motion for Reconsideration [RE: Decision dated 30 January 2020]*<sup>2</sup> filed by accused Roger C. Chio; and,
3. The prosecution's *Comment/Opposition (Re: Decision dated January 30, 2020)*.<sup>3</sup>

In their *Motion for Reconsideration*, accused Palcon, Mahinay and Ramos pray that the Court set aside its Decision dated January

<sup>1</sup> Dated February 13, 2020; Record, Vol. 2, pp. 501-509

<sup>2</sup> Dated February 14, 2020; Record, Vol. 2, pp. 510-528

<sup>3</sup> Dated February 28, 2020; Record, Vol. 3, pp. 18-29



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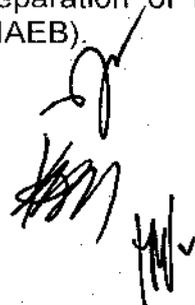
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30, 2020,<sup>4</sup> and issue a new one acquitting them for the prosecution's failure to prove their guilt beyond reasonable doubt. They aver:

1. The prosecution failed to establish that there were no pre-procurement and pre-bid conferences.
  - a. To overcome the presumptions of innocence, and of regularity in the performance of their official duties, the prosecution must show clear and convincing evidence that no pre-procurement and pre-bid conferences were conducted. The Court, on the other hand, must be convinced beyond reasonable doubt, not by mere reasonable inference that said conferences were not conducted.
  - b. The absence of the documents pertaining to the pre-bid and pre-procurement conferences in the records of the Office of the Audit Team Leader, COA DA-RFU XI and in those of the BAC Secretariat of DA-RFU XI, does not necessarily lead to the conclusion that no pre-bid and pre-procurement conferences were conducted.
  - c. The possibility that said documents may be found in offices other than those previously mentioned, or the prosecution's failure to establish that all efforts to locate the documents were futile, creates a doubt, which must be resolved in the favor of the accused.
  - d. Victoria Grupo, current Head of the BAC Secretariat, testified that the BAC Secretariat's record contains files only from 2016 onwards.
  - e. Auditor Verdad confirmed that the seven documents listed in the Certification dated 20 July 2018 (Exhibit JJ) are no longer in the COA's possession because the same are more than ten (10) years old. Under COA regulations, documents must be kept only for ten (10) years.
  - f. Investigator Labang admitted that he was not able to secure all the documents pertaining to the subject transaction.
2. The correct amount of the Approved Budget for the Contract (ABC) is ₱2,591,435.40.
  - a. The Purchase Request (Exhibit L-5), which was approved by accused Chio, was the basis for the preparation of the Invitation to Apply for Eligibility and to Bid (IAEB).

<sup>4</sup> Record, Vol. 2, pp. 453-476



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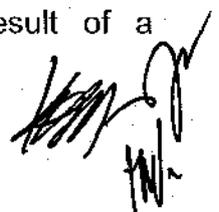
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- b. The definition of ABC under Sec. 5 of R.A. No. 9184 does not state that the ABC is the IAEB, but a budget duly approved by the Head of the Procuring Entity, as provided in the General Appropriations Act and/or continuing appropriation.
- c. The omission of the ₱0.40 in the IAEB was a mere typographical error caused by the BAC Secretariat.

In his *Motion for Reconsideration*, accused Chio similarly prays that this Court reverse its Decision dated January 30, 2020, and that he be acquitted. He contends:

1. The Court relied on a single document, the IAEB, when it declared that the ABC for the project was ₱2,591,435.00. However, the ABC of a government project is not determined by the IAEB. *Volume II of the Manual of Procedures for the Procurement of Goods* provides that the ABC of a government project is the budget duly approved by the HOPE, as provided for in:
  - a. The GAA, continuing and automatic appropriation, in case of NGAs;
  - b. The corporate budget for the contract approved by the governing board, pursuant to E.O. No. 518, series of 1979, in the case of GOCCs and GFIs; and RA No. 8292, in the case of SUCs; or
  - c. The budget approved by the Sanggunian through an appropriations ordinance, in the case of LGUs.
2. There is still doubt with regard to the correct value of the ABC.
3. He could not have acted with gross inexcusable negligence for not failing to reject PZA Trading's bid, considering that the rest of the documents submitted to him by the BAC reflect the amount of ₱2,591,435.40 as the ABC.
4. Assuming that he did not notice the difference in the amount of the ABC appearing in the IAEB and those in the other documents, such failure to notice the difference was due to mere inadvertence and not willful and intentional, with conscious indifference to the consequences insofar as other persons may be affected.
5. The difference between the ABC as indicated in the IAEB and in the other documents may have been a result of a



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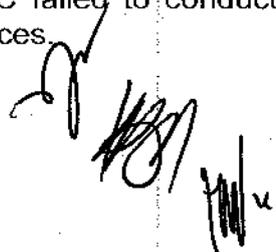
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typographical error, or of rounding off. In Non-Policy Matter (NPM) 129-2013, the Government Procurement Policy Board (GPPB) opined that the BAC may adopt the generally accepted rules on the number of decimal places that will be maintained in rounding off bid prices, and uniformly apply such rules in evaluating all the bids.

6. Sec. 31 of R.A. No. 9184 provides that bid prices that exceed the ABC are disqualified outright. However, under the 2003 IRR, the BAC is given enough leeway to evaluate a bid price and make arithmetic corrections of the same.
7. The fact that the difference between the bid amount and the ABC in the amount of ₱0.40 is miniscule negates any finding of supposed unwarranted benefits, advantage or preference to PZA Trading.

In its *Comment/Opposition*, the prosecution counters:

1. The ABC is the amount reflected in the IAEB, or ₱2,591,435.00. The IAEB serves as the notice to the public and all interested parties of the procurement and bidding opportunities of the procuring entity. The details contained therein, including the ABC, are the guidelines for prospective bidders.
2. The details in the IAEB are presumed to be the result of a thorough deliberation by the BAC. The Head of the Procuring Entity (HoPE) reviews the details contained in the IAEB before approving the same. Thus, the details in the IAEB cannot be hastily made before the same is published.
3. In NPM 119-2004, the GPPB opined that although it appears that R.A. No. 9184 and its IRR-A do not expressly prohibit a procuring entity from initiating a review of the responsiveness of its ABC for a particular procurement to the current market prices, it is nonetheless prohibited from adjusting the same accordingly from the time the invitation to bid for the procurement project has been issued or advertised until after there has been a second failure of bidding.
4. The prosecution also established that the SBAC failed to conduct the pre-procurement and pre-bid conferences. Accused Palcon, Mahinay and Ramos cannot rely on the presumption of regularity in the performance of official duties because such presumption was overturned when the prosecution proved that the SBAC failed to conduct the pre-procurement and pre-bid conferences.



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5. The defense failed to rebut the prosecution's evidence. Accused Mahinay's testimony does not suffice to overcome the allegations in the information.
6. The fact that there was no record on file of any notice of disallowance does not disprove the accused's failure to conduct the pre-procurement and pre-bid conferences and the presence of irregularities in the bidding.
7. The Court's Decision dated February 14, 2020 in SB-17-CRM-2149 to 2151, involving the same accused, would show their propensity to disregard the mandatory pre-procurement and pre-bid conferences. It also affirmed the presence of irregularities in PZA's bid which exceeded the ABC indicated in the published IAEB.
8. Had the pre-procurement and pre-bid conferences been conducted, the supposed error in the amount of the ABC indicated in the IAEB, as insisted by the accused, would have been corrected.

THE COURT'S RULING

The respective *Motions for Reconsideration* of accused Chio, Palcon, Mahinay and Ramos are bereft of merit and must be denied.

In *People v. Rodrigo*,<sup>5</sup> the Supreme Court held that the prosecution has the burden of overcoming the presumption of innocence enjoyed by the accused through proof of the accused' guilt beyond reasonable doubt. Once this presumption is overcome, the burden of evidence shifts to the defense, which shall test the prosecution's case by showing that no crime was in fact committed, that the accused could not have committed the imputed crime, or by casting doubt on the guilt of the accused. *viz.:*

While an accused stands before the court burdened by a previous preliminary investigation finding that there is probable cause to believe that he committed the crime charged, the judicial determination of his guilt or innocence necessarily starts with the recognition of his constitutional right to be presumed innocent of the charge he faces. This principle, a right of the accused, is enshrined no less in our Constitution. It embodies as well a duty on the part of the court to ascertain that no person is made to answer for a crime unless his guilt is proven beyond reasonable doubt. Its primary

<sup>5</sup> G.R. No. 176159, September 11, 2008

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consequence in our criminal justice system is the basic rule that the prosecution carries the burden of overcoming the presumption 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. Once the prosecution overcomes the presumption of innocence by proving the elements of the crime and the identity of the accused as perpetrator beyond reasonable doubt, the burden of evidence then shifts to the defense which shall then test the strength of the prosecution's case either by showing that no crime was in fact committed or that the accused could not have committed or did not commit the imputed crime, or at the very least, by casting doubt on the guilt of the accused. x x x

Before this Court discusses the matter of whether or not the prosecution was able to prove the accused' guilt of Violation of Sec. 3(e) of R.A. No. 3019 beyond reasonable doubt, it will, first, discuss the matter of the conduct of the pre-procurement and pre-bid conferences, the same, not being relevant to the award of the subject contract to PZA Trading (PZA).

Accused Palcon, Mahinay and Ramos insist that the absence of the documents pertaining to the pre-procurement and pre-bid conferences in the records of the Office of the Audit Team Leader, COA DA-RFU XI and those of the BAC Secretariat of DA-RFU XI does not necessarily lead to the conclusion that no pre-procurement and pre-bid conferences were conducted because such documents may be found elsewhere. They contend that the prosecution must prove the absence of said conferences beyond reasonable doubt. It must exert all efforts to show that there were no documents pertaining to the pre-procurement and pre-bid conferences. This Court is not persuaded.

The charge of Violation of Sec. 3(e) of R.A. No. 3019 in the present case is predicated on a negative allegation, *i.e.*, that the accused SBAC members did not conduct the pre-procurement and pre-bid conferences. In *People v. Manalo*,<sup>6</sup> the Supreme Court explained how a negative allegation is proved. To wit:

The general rule is that if a criminal charge is predicated on a negative allegation, or a negative averment is an essential element of a crime, the prosecution has the burden to prove the charge. However, this rule admits of exceptions. Where the negative of an issue does not permit of direct proof, or where the facts are more immediately within the knowledge of the accused, the *onus probandi* rests upon him. *Stated otherwise, it is not incumbent on the*

<sup>6</sup> G.R. No. 107623, February 23, 1994

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prosecution to adduce positive evidence to support a negative averment the truth of which is fairly indicated by established circumstances and which, if untrue, could readily be disproved by the production of documents or other evidence within the defendant's knowledge or control. For example, where a charge is made that a defendant carried on a certain business without a license (as in the case at bar, where the accused is charged with the sale of a regulated drug without authority), the fact that he has a license is a matter which is peculiarly within his knowledge and he must establish that fact or suffer conviction. Even in the case of *Pajenado*, this Court categorically ruled that although the prosecution has the burden of proving a negative averment which is an essential element of a crime, the prosecution, in view of the difficulty of proving a negative allegation, "need only establish a *prima facie* case from the best evidence obtainable." In fact, *Pajenado* was acquitted of the charge of illegal possession of firearm for the Court found that, in said case, the prosecution was not able to establish even a *prima facie* case upon which to hold him guilty of the crime charged.

In the assailed Decision, this Court found that the prosecution was able to establish a *prima facie* case from the best evidence obtainable. The pertinent portion<sup>7</sup> of the Decision reads:

To be sure, the fact that the transaction occurred back in 2006 may make it difficult to find certain documents involved. But considering that documents pertaining to the conduct of the pre-procurement and pre-bid conferences could not be found in the records of both the Office of the Audit Team Leader, COA DA-RFU XI<sup>8</sup> and those of the BAC Secretariat of DA-RFU XI,<sup>9</sup> together with the fact that other documents pertaining to the subject transaction were found, it can be reasonably inferred that the documents pertaining to the conduct of the pre-procurement and pre-bid conferences did not exist. Had such documents existed, the originals, or the copies thereof, would have been found along with the other documents pertaining to the subject transaction. There being no evidence that the pre-procurement and pre-bid conferences were conducted, this Court cannot conclude otherwise.

Requiring the prosecution to prove that the documents pertaining to the pre-procurement and pre-bid conferences could not be found in all possible locations where they may be kept would be asking for the impossible. That the prosecution was able to show that the documents were not in the records wherein such documents would be found in the ordinary course of procedure is sufficient. It is then incumbent upon

<sup>7</sup> p. 17; Record, Vol. 2, p. 469

<sup>8</sup> Exhibit JJ

<sup>9</sup> Exhibit LL

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the accused, who have knowledge as to the conduct of said conferences, to adduce evidence showing that the same were indeed conducted. This, the accused failed to do.

In any event, it is unnecessary to belabor the point because the Court did not consider the failure to conduct the pre-procurement and pre-bid conferences as one of the bases for convicting the accused of Violation of Sec. 3(e) of R.A. No. 3019.

The Court will now discuss the matter of whether or not the prosecution was able to prove the accused' guilt of Violation of Sec. 3(e) of R.A. No. 3019 beyond reasonable doubt.

The prosecution was able to overcome the presumption of innocence enjoyed by the accused when it proved beyond reasonable doubt that accused Palcon, Mahinay and Ramos recommended the award of, and accused Chio awarded, the subject contract to PZA notwithstanding the fact that PZA's bid amount exceeded the ABC, as indicated in the Invitation to Apply for Eligibility and to Bid (IAEB).

The IAEB clearly shows that the ABC was ₱2,591,435.00.<sup>10</sup> Accused Palcon, Mahinay and Ramos nonetheless recommended the award of the subject contract to PZA despite the fact that its bid amount was ₱2,591,435.40, which exceeded the ABC by ₱0.40.<sup>11</sup> Accused Chio, the Head of the Procuring Entity (HoPE), who was expected to have reviewed the SBAC's Resolution and the supporting documents, then awarded the subject contract to PZA.<sup>12</sup>

The burden of evidence was then shifted to the defense, to prove that no crime was committed, that the accused could not have committed the crime, or to introduce doubt as to their guilt.

The accused argued, and in their respective *Motions for Reconsideration*, insist, that the omission of the ₱0.40 in the IAEB was due to a typographical error. However, they miserably failed to prove their claim that the correct ABC was ₱2,591,435.40.

Sec. 5(a) of R.A. No. 9184 provides for the definition of the Approved Budget for the Contract (ABC). To wit:

<sup>10</sup> Exhibits I, I-1-d, I-2, I-2-e, and I-3

<sup>11</sup> Exhibits K to K-8

<sup>12</sup> Exhibit N

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- (a) Approved Budget for the Contract (ABC) – refers to the budget for the contract duly approved by the Head of the Procuring Entity, as provided for in the General Appropriations Act and/or continuing appropriations, in the National Government Agencies; the Corporate Budget for the contract approved by the governing Boards, pursuant to E.O. No. 518, series of 1979, in the case of Government Financial Institutions and State Universities and Colleges; and the Budget for the contract approved by the respective Sanggunian, in the case of Local Government Units.

On the other hand, Sec. 5(b) of the Implementing Rules and Regulations Part A of Republic Act No. 9184 (IRR-A) similarly defines ABC as follows:

- b) **Approved Budget for the Contract.** Refers to the budget for the contract duly approved by the head of the procuring entity, as provided for in the General Appropriations Act (GAA) and/or continuing appropriations, in the case of national government agencies (NGAs); the corporate budget for the contract approved by the governing board, pursuant to Executive Order No. 518, series of 1979 ("E.O. 518"), in the case of GOCCs and GFIs, and Republic Act No. 8292 in the case of SUCs; and the budget approved by the *Sanggunian* in the case of LGUs. For purposes of, and throughout, this IRR-A, the terms "ABC," "Approved Budget for the Contract" and "Approved Budget" shall have the same meaning and shall be used interchangeably.

In Resolution No. 011-2005 dated May 26, 2005, the Government Procurement Policy Board (GPPB), noting the confusion as to the interpretation of said provisions, clarified the interpretation thereof as follows:

The Approved Budget for the Contract (ABC), insofar as National Government Agencies are concerned, refers to the budget for the contract duly approved by the Head of the Procuring Entity (HOPE) which is contained in the Agency Budget as reflected in the General Appropriations Act (GAA) or to be proposed in succeeding GAAs. Thus, the ABC referred to in the R.A. 9184 and its IRR-A basically refers to the proposed budget for the project approved by the HOPE based on the Annual Procurement Plan (APP) as consolidated from various Procurement Project Management Plans (PPMPs).

(underscoring supplied)

Indeed, as pointed out by accused Chio, the ABC is not determined by the IAEB. But there is also nothing in the aforequoted

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provisions of R.A. No. 9184 and IRR-A that would support the accused' contention that the Purchase Request<sup>13</sup> proves that the correct ABC was ₱2,591,435.40. They could have presented the APP or the PPMP showing that the ABC was indeed ₱2,591,435.40, as they claim, or they could have presented the person who prepared the IAEB to prove that a typographical error was indeed made, but they did not do so. Thus, this Court has no basis to conclude that the amount of the ABC is other than that indicated in the IAEB.

Aside from insisting that the discrepancy in the amount of the ABC is due to a typographical error, accused Chio further contends (1) that the discrepancy in the ABC may be the result of rounding off; and (2) his failure to notice the same was due to mere inadvertence.

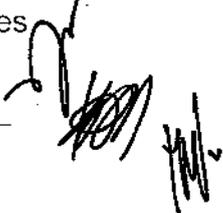
But these arguments contradict each other, and also contradict his previous insistence that the discrepancy in the amounts was due to a typographical error. Assuming that there was indeed a typographical error in the IAEB, then there would be no need to round off the bid amount during the bid evaluation. On the other hand, if the BAC rounded off the amount of PZA's bid, then the ABC was indeed ₱2,591,435.00, as indicated in the IAEB. Finally, if accused Chio inadvertently failed to notice the discrepancy in the amounts, then, either there was no typographical error, or there was no rounding off.

The Court is not convinced that the discrepancy was a result of rounding off. Sec. 32.4.1(b) of IRR-A provides:

32.4.1 To determine the Lowest Calculated Bid (LCB) for the procurement of goods and infrastructure projects, after the preliminary examination of bids, the BAC shall immediately conduct a detailed evaluation of all bids rated "passed," using a non-discretionary criteria, as stated in the Invitation to Apply for Eligibility and to Bid and the Instructions to Bidders, which shall include a consideration of the following:

- a) x x x
- b) Minor arithmetical corrections to consider computational errors, omissions and discounts if allowed, in the bidding documents to enable proper comparison of all eligible bids. Any adjustment shall be calculated in monetary terms to determine the calculated prices.

<sup>13</sup> Exhibits L and L-5



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Without doubt, in evaluating the bids, the BAC may make arithmetic corrections to enable proper comparison of all eligible bids. Such corrections are applied to the bids, without modifying the ABC. Here, there are no computational errors to correct. The total amount of PZA's bid was correctly indicated as ₱2,591,435.40.<sup>14</sup> It is unexplained why PZA submitted a bid higher than the ABC, as indicated in the published IAEB.

In NPM 125-2013, and NPM 129-2013, cited by accused Chio, both dated December 27, 2013, the GPPB opined that rounding off may be considered to be an arithmetical correction. *Viz.*:

NPM 125-2013

Requesting Entity: Overseas Workers Welfare Association (OWWA)

Issues Concern: Arithmetical Corrections

Details

1. Is the process of rounding off number considered an arithmetical correction?
2. Can the TWG do an arithmetical correction during bid evaluation?

Arithmetical correction of bids are done in accordance with Section 32.2.1 (b)<sup>15</sup> of the revised Implementing Rules and Regulations (IRR) of Republic Act (RA) No. 9184. In order to enable proper comparison of all eligible bids, arithmetical corrections are done by considering computational errors and omissions, including bid modifications and discrepancies in bid prices. Necessarily, the process of rounding off numbers may be construed as an arithmetical correction for the determination of the LCB. However, the details on how the prices should be rounded off should be clearly stated by the procuring entity in its Invitation to Bid (IB), and applied similarly to all bids so as to ensure that bids are evaluated on equal footing, to ensure fair and competitive bid evaluation.

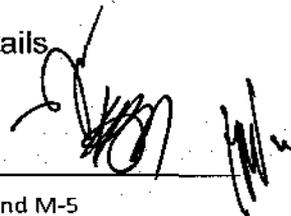
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NPM 129-2013

Requesting Entity: Duty Free Philippines Corporation (Duty Free)

Issues Concern: Rounding off Decimals

Details



<sup>14</sup> Exhibit M and M-5

<sup>15</sup> Sec. 32.4.1(b) of IRR-A

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**Whether there are restrictions or limitations in the exercise of bid evaluation pertaining to rounding off the amounts indicated in bids into decimal places.**

Unless the Bidding Documents require that bids should follow a specific number of decimal places for bid prices, differences in the number of decimal places will not render the bid incomplete and non-responsive. In the absence of such instruction, the Bids and Awards Committee (BAC) may adopt the generally accepted rules on the number of decimal places that will be maintained in rounding off bid prices, and uniformly apply such rules in evaluating all the bids.

But the aforementioned opinions of the GPPB do not bind this Court because (1) said opinions pertain to non-policy matters, and as such, apply only to the particular queries addressed by the respective opinions; and (2) the Court cannot ascertain if the circumstances surrounding such queries are similar to those in the present case.

Besides, NPM 125-2013 points out that the details on how the price should be rounded off should be clearly stated in the IAEB. This does not appear to be the case here. On the other hand, the query in NPM 129-2013 refers to the number of decimal places. Notably, in both NPMs, it does not appear that any of the bids considered were higher than the IAEB, which under R.A. No. 9184 may be subjected to outright disqualification.

Furthermore, an examination of BAC III Resolution No. 56 Series of 2006, recommending the award of the subject contract to PZA, would clearly show that there was no rounding off. The pertinent portion<sup>16</sup> of said document reads:

**WHEREAS, the results of the opening of bids held on November 7, 2006 at DA-Conference Room, Bangoy St., Davao City disclosed that PZA TRADING a lone bidder complied with the two (2) envelope system requirements and submitted a bid with a total amount of Two Million Five Hundred Ninety One Thousand Four Hundred Thirty Five Pesos and 40/100. (=P=2,591,435.40) which is the same with the Approved Budget for the Contract (ABC);**

(underscoring supplied)

Had the bid amount merely been rounded off, it would have been stated in said BAC Resolution, and the ABC would have been indicated

<sup>16</sup> Exhibits K and K-8

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as ₱2,591,435.00, not “x x x (=P=2,591,435.40) which is the same with the Approved Budget for the Contract (ABC).”

The Court may have been inclined to rule that there was no manifest partiality, evident bad faith or gross inexcusable negligence on the part of accused Chio for inadvertently failing to notice the discrepancy in the amounts, had he raised such argument at the outset, and not for the first time in his *Motion for Reconsideration*, after the Court had rendered its judgment finding him guilty of Violation of Sec. 3(e) of R.A. No. 3019.

Considering that the discrepancy in the amounts is miniscule, it is not totally implausible that accused Chio inadvertently failed to notice the same. However, his—and the other accused’—insistence that there was a typographical error in the IAEB—which they failed to prove—betrays the fact that they knowingly caused the award of the subject contract to PZA in willful disregard of the provisions of R.A. No. 9184 and of IRR-A. Accused Chio’s contradicting arguments in his *Motion for Reconsideration* appear to be nothing but a last-ditch effort to evade liability.

Accused Chio’s argument that the fact that the discrepancy is only ₱0.40 negates the unwarranted benefits, advantage or preference given to PZA deserves equally scant consideration.

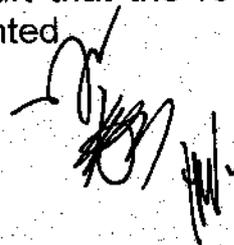
Sec. 31 of R.A. No. 9184 provides:

**Sec. 31. Ceiling for Bid Prices.** – The ABC shall be the upper limit or ceiling for the Bid prices. Bid prices that exceed this ceiling shall be disqualified outright from further participating in the bidding. There shall be no lower limit to the amount of the award.

(underscoring supplied)

It is not the payment of the excess ₱0.40 that constitutes the unwarranted benefits, advantage or preference given to PZA, but the award of the contract thereto, notwithstanding the fact that its bid amount exceeded the ABC, in violation of the aforequoted provision.

In fine, the accused’ respective *Motions for Reconsideration* have failed to convince this Court that the reversal of the Decision dated January 30, 2020 is warranted.



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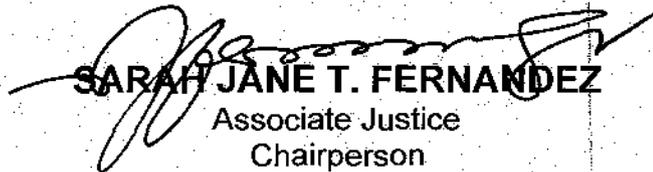
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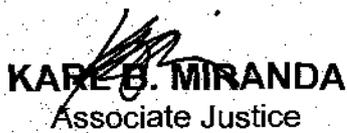
**WHEREFORE**, the Court rules as follows:

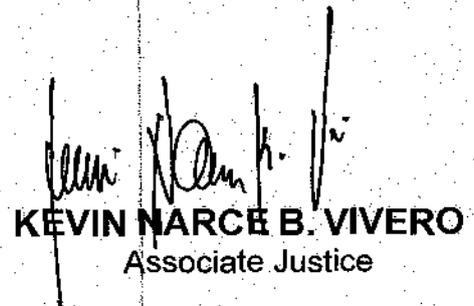
1. Accused Palcon, Mahinay and Ramos' *Motion for Reconsideration* is hereby DENIED for lack of merit.
2. Accused Chio's *Motion for Reconsideration* is hereby DENIED for lack of merit.

**SO ORDERED.**

  
**SARAH JANE T. FERNANDEZ**  
Associate Justice  
Chairperson

**We Concur:**

  
**KAREL B. MIRANDA**  
Associate Justice

  
**KEVIN NARCE B. VIVERO**  
Associate Justice