



REPUBLIC OF THE PHILIPPINES
SANDIGANBAYAN
Quezon City

Third Division

PEOPLE OF THE PHILIPPINES,
Plaintiff,

Crim. Case No.
SB-18-CRM-0458
*For: Violation of Section
Section 3(e), R.A. No.
3019, as amended*

-versus-

**RENATO P. MANILLA,
ET AL.,**
Accused.

Present:

Cabotaje-Tang, A.M., *PJ,*
Chairperson
Fernandez, B.R., *J.* and
Moreno, R.B. *J.*

PROMULGATED:

SEPTEMBER 29, 2020

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RESOLUTION

Moreno, J.:

For resolution is the *Motion for Leave to Plead Guilty to Lesser Offense*¹ filed by accused Renato P. Manilla, Porferio E. Calderon, Jr.,

¹ Record, pp. 192-220.

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Fernando R. Balbin, Elizer R. Balbin and Alfredo G. Lim dated January 10, 2020, to which the prosecution (through the Office of the Special Prosecutor) filed its *Manifestaion/Comment x x x*² on August 31, 2020.

In their Motion, accused Manilla, et al. prayed that they be allowed to be re-arraigned and enter their plea to a lesser offense for violation of Section 7(a) of Republic Act No. 6713 (or the Code of Conduct and Ethical Standards for Public Officials and Employees), and that the corresponding penalty of ₱5,000.00 be imposed on them.³

Manilla, et al. alleged that Section 7(a) of R.A. No. 6713 is necessarily included in Section 3(e) of R.A. No. 3019, as reinforced by the pronouncement of the Sandiganbayan (7th Division) in Criminal Case No. SB-16-CRM-0529 (*People of the Philippines v. Rommel P. Yogore, et al.*) stating that “a violation of Section 7(a), RA 6713 can be deemed as necessarily included in the offense penalized under Section 3(e) of RA 3019 x x x.”⁴ They likewise alleged that the prosecution never questioned the validity and legality of the original contract, as well as the validity, fairness and legality of the public bidding held on September 5, 2007.

Manilla and his co-accused claimed that they entered a plea of ‘not guilty’ because they “honestly believed that they have complied with all of the requirements of the law in procuring the services of DK Jocson for the rentals of heavy equipment and trucks”,⁵ and that the City of Sipalay did not suffer financial losses. They also pointed out that the Court of Appeals had already absolved them of any administrative liability in CA-G.R. No. 11635.

In the same motion, Manilla, et al. implored the Office of the Ombudsman and the Trial Prosecutor to extend to them “necessary support and mercy, so that they would be afforded the second chance to live life freely at their retirement age.”⁶ The accused added that they wanted to be “freed from the burden of engaging into the uncertainty of litigation”,⁷ and also to “put a stop to their psychological torture in entertaining the possibility of being put behind bars.”⁸

In its *Manifestation/Comment*, the People of the Philippines (through the Office of the Special Prosecutor) prayed for the denial of the subject motion. It argued that the Sandiganbayan case relied upon by the accused – *People v. Yogore* – was not on all fours with the circumstances attendant in the present case. The People explained that the Information in *Yogore*

² *Id.* at 252-270.

³ In their motion, the accused also prayed that warrants of arrests and hold departure orders, if issued, be permanently cancelled.

⁴ *Supra*, note 1 at 198.

⁵ *Id.* at 200.

⁶ *Id.* at 195.

⁷ *Id.* at 201.

⁸ *Ibid.*

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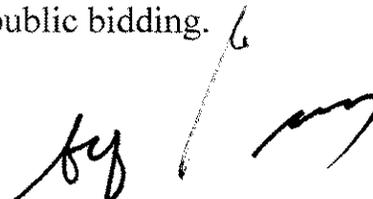
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alleged the possession of a prohibited interest, which is gravamen of Section 7(a) of R.A. No. 6713. The Amended Information in the present case, on the other hand, did not allege the financial or material interest in the transaction that would render it as an essential element or ingredient of the proposed lesser offense.

The People explained that *Yogore* “involved a single contract for the procurement of construction materials worth x x x Php230,395.31,”⁹ and that the contract was “unlawfully and criminally awarded by the accused to the hardware store owned by the brother-in-law of accused *Yogore* without the benefit of public bidding.”¹⁰ The present case, on the other hand, involved three transactions tainted by various irregularities, such as the lack of prior authority from the *Sangguniang Panlungsod* on the original lease contract; lack of bidder’s bond and performance bond; and the renewal of the lease contract on two occasions without a public bidding.

The People added that criminal and administrative cases are distinct, and the decision of the Court of Appeals in CA-G.R. No. 11635 absolving the accused of any administrative liability does not have any effect on the resolution of the present motion.

The prosecution also pointed out that the more appropriate lesser offense to which the accused may enter a guilty plea would be violation of paragraph 1, Article 213 of the Revised Penal Code, that is, *Frauds against the public treasury and similar offenses*.¹¹ It explained that the Amended Information alleged the essential elements of this crime, as follows: (a) the accused are public officers; (b) while in the performance of their respective functions and taking advantage of their positions, they recommended, awarded, caused and/or ensured the award of the renewals of the contract of lease in favor of D.K. Jocson Construction despite the unauthorized/irregular contract of lease, the lack of public bidding, and the unjustified resort to repeat order; and (c) they entered into contracts for the renewal of the lease without prior authority from the *Sangguniang Panlungsod* of the City of Sibalay.

Finally, the prosecution refuted the claim of the accused that it did not question the validity and legality of the original contract and public bidding. 

⁹ Supra, note 2 at 258

¹⁰ *Id.*

¹¹ Art. 213. Frauds against the public treasury and similar offenses. The penalty of *prision correccional* in its medium period to *prision mayor* in its minimum period, or a fine ranging from 200 to 10,000 pesos, or both, shall be imposed upon any public officer who:

1. In his official capacity, in dealing with any person with regard to furnishing supplies, the making of contracts, or the adjustment or settlement of accounts relating to public property or funds, shall enter into an agreement with any interested party or speculator or make use of any other scheme, to defraud the Government; x x x

THE COURT'S RULING:

After due consideration, we **DENY** the present motion.

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. The essence of the agreement is that both the prosecution and the defense make concessions to avoid potential losses.¹²

Plea bargaining is a vital component of restorative justice. In giving preference to working out a mutually satisfactory resolution of the case sanctioned by the court over lengthy and protracted trial, both the state and the accused benefit. The plea bargaining mechanism affords speedy disposal and cost efficiency which significantly contribute to the restorative justice process.¹³

Nonetheless, a plea bargain still requires mutual agreement of the parties and remains subject to the approval of the court. The acceptance of an offer to plead guilty to a lesser offense is not demandable by the accused as a matter of right but is a matter addressed entirely to the sound discretion of the trial court.¹⁴

Section 2, Rule 116 of the Rules of Court expressly states:

Sec 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.

Section 2, Rule 116 of the Rules of Court presents the basic requisites upon which plea bargaining may be made, *i.e.*, that it should be with the consent of the offended party and the prosecutor, and that the plea of guilt should be to a lesser offense which is necessarily included in the offense charged. The rules however use word *may* in the second sentence of Section 2, denoting an exercise of discretion upon the trial court on whether to allow the accused to make such plea. Trial courts are exhorted to keep in mind that a plea of guilty for a lighter offense than that actually charged is not supposed to be allowed as a matter of bargaining or compromise for the convenience of the accused.¹⁵

¹² See *Estipona, Jr. v. Hon. Lobrigo*, G.R. No. 226679, August 15, 2017.

¹³ See *Nurullaje Sayre y Malampad v. Hon. Dax Gonzaga Xenos*, G.R. Nos. 244413 and 244415-16, February 18, 2020.

¹⁴ *Id.*, citing *Daan v. Sandiganbayan*, 573 Phil. 368, 377 (2008).

¹⁵ See *Joselito Raniera Daan v. Hon. Sandiganbayan*, G.R. Nos. 163972-77, March 28, 2008.

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Section 5, Rule 120 of the Rules of Court states when an offense includes or is included in the other, as follows:

SEC. 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 part of those constituting the latter.

An offense may be said to necessarily include another when some of the essential elements or ingredients of the former as alleged in the complaint or information constitute the latter. And vice versa, an offense may be said to be necessarily included in another when the essential ingredients of the former constitute or form part of those constituting the latter.¹⁶

In the present case, the accused had been charged with violation of Section 3(e) of R.A. No. 3019, as amended. A violation under this provision requires that: (1) the accused is a public officer discharging administrative, judicial or official functions; (2) the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and (3) the accused caused undue injury to any party including the Government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.¹⁷

On the other hand, Section 7(a) of R.A. No. 6713 (to which the accused wanted to enter a plea of guilty to) reads:

Section 7. *Prohibited Acts and Transactions.* - x x x

(a) *Financial and material interest.* - Public Officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

The Supreme Court expounded on this provision in *National Electrification Administration v. Civil Service Commission*¹⁸ in this wise:

A reading of the conflict of interest rule reveals that the prohibition against NEA personnel from participating in any question pertaining to a public service entity where he is directly or indirectly interested has the purpose of preventing such personnel from exercising the power of his office for personal pecuniary gain, which may cause grave damage and prejudice to public interest. **In the same manner, government officials and employees are prohibited under Section 7 (a) of RA No. 6713 from having direct or indirect financial or**

¹⁶ Ibid.

¹⁷ See *Danilo O. Garcia and Joven SD. Brizuela v. Sandiganbayan*, G.R. No. 197204, March 26, 2014.

¹⁸ G.R. No. 149497, January 25, 2010 (Emphasis supplied).

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material interest in any transaction requiring the approval of their office, since personal interest would be involved.

Simply put, a violation of Section 7(a) of R.A. No. 6713 requires the public official or employee to have a direct or indirect financial or material interest in any transaction requiring the approval of their office.

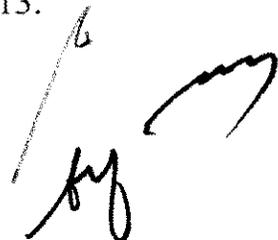
In the present case, the Amended Information alleged that the accused high-ranking public officers (being the City Treasurer/BAC Chairman, City Budget Officer, City Engineer, City General Services Officer, and Executive Assistant, respectively), acting with evident bad faith, manifest partiality and/or gross inexcusable negligence, gave D.K. Jocson Construction unwarranted benefit, advantage or preference by:

- (1) Recommending, awarding, causing and/or ensuring the award of the renewals of the contract of lease executed on September 10, 2007 in favor of D.K. Jocson Construction involving several heavy equipment, for the periods: 1 March 2008 to 31 December 2008 and January 2009 to March 31, 2009, which were intended for the rehabilitation and gravelling of dike and various farm-to-market roads in the city, despite the following irregularities: (a) unauthorized/irregular original contract of lease; (b) lack of public bidding; and (c) unjustified resort to repeat order; and
- (2) Entering into contracts for the renewal of lease without prior authority from the Sangguniang Panlungsod of the City of Sibalay, in violation of existing laws, rules and regulations to the damage and prejudice of the government.

Significantly, this Amended Information **did not allege the possession by any of the accused of any financial or material interest – whether directly or indirectly – in the transaction requiring the approval of their office.**

In stark contrast, the Information in *Yogore* alleged the material and financial interest on the part of accused Municipal Mayor Romel P. Yogore by stating that the procurement of construction materials for the repair and improvement of the Rural health Unit of the Municipality of Valladolid worth ₱230, 395.31 had been unlawfully awarded to JB Nieve Hardware & Construction Supplies, owned by accused Yogore's brother-in-law, Jonie B. Nieve. As the Court stated in *Yogore* itself, *it is necessary that the ingredients of the offense of violation of Section 7(a) of RA No. 6713, the provision to which the accused seeks to plead guilty to, be found in the Information.*

It bears stressing that the Court cannot just assume that in giving unwarranted benefit, advantage or preference to D.K. Jocson Construction, the accused had any financial or material interest in the transactions. We emphasize that the existence of these prohibited financial or material interests is the gravamen of Section 7(a) of R.A. No. 6713.



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Taking into account all the foregoing considerations, coupled with the prosecutor's refusal to give its consent to the offer to plea bargain, the denial of the present motion is in order. In addition, the Court of Appeal's decision in CA G.R. SP No. 11635 is irrelevant to the issue of plea bargaining.

We note, too, that the prosecution made a counter-proposal for the accused to plead guilty to violation of paragraph 1 of Article 213 of the Revised Penal Code, as amended, instead of Section 7(a) of R.A. No. 6713. The accused, through their counsel, refused this proposal.¹⁹

We additionally point out that Section 7(a) of R.A. No. 6713 allows the courts – at its discretion – to impose only a fine of not exceeding ₱5,000.00. In fact, the accused prayed that in the event this Court grants their present motion, only the penalty of ₱5,000.00 fine be imposed on them. To our mind, allowing the accused to plead guilty to Section 7(a) would tend to trivialize the seriousness of the charges against them. At any rate, a plea of guilty for a lighter offense than that actually charged is not supposed to be allowed as a matter of bargaining or compromise for the convenience of the accused.

The Court's pronouncement in *Estipona, Jr. v. Hon. Lobrigo*²⁰ is particularly instructive, thus:

Yet a defendant has no constitutional right to plea bargain. No basic rights are infringed by trying him rather than accepting a plea of guilty; the prosecutor need not do so if he prefers to go to trial. Under the present *Rules*, the acceptance of an offer to plead guilty is not a demandable right but depends on the consent of the offended party and the prosecutor, which is a condition precedent to a valid plea of guilty to a lesser offense that is necessarily included in the offense charged. The reason for this is that the prosecutor has full control of the prosecution of criminal actions; his duty is to always prosecute the proper offense, not any lesser or graver one, based on what the evidence on hand can sustain.

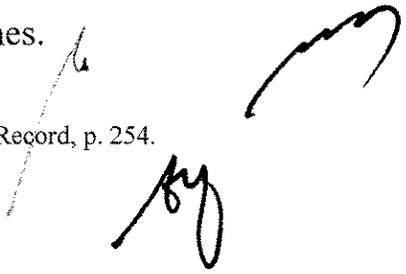
The Court's pronouncements in this resolution should not be seen in any way as favoring the prosecution. To be sure, the prosecution is still bound to prove the guilt of the accused for the crime charged beyond reasonable doubt. Failure to meet this degree of proof would result in the acquittal of the accused.

WHEREFORE, in light of all the foregoing, the present motion filed by accused Renato P. Manilla, et al. is **DENIED** for lack of merit.

SO ORDERED.

Quezon City, Philippines.

¹⁹ Manifestation/Comment x x x, Record, p. 254.
²⁰ Supra, note 12.

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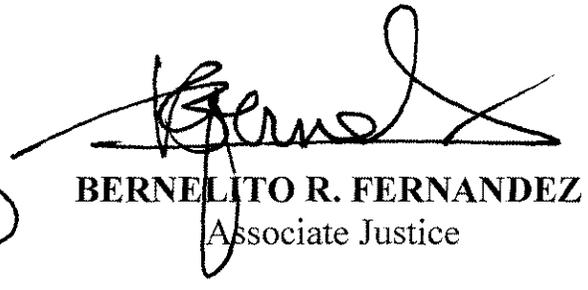


RONALD B. MORENO
Associate Justice

WE CONCUR:



AMPARO M. CABOTAJE-TANG
Presiding Justice
Chairperson



BERNELITO R. FERNANDEZ
Associate Justice